



REQUEST FOR PROPOSALS

UCO 1015

Plagiarism Detection Solution

Issue Date: June 23, 2026

Proposal Submission Due: July 29th, 2026 2:00 PM

Designated Contact:

Joanne Gill

Director Strategic Sourcing

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FORMS THAT MUST BE SUBMITTED WITH THE PROPOSAL

- ☐ Form 1: Proper Information and Authorized Signature; Acceptance of Contract Terms; Proper Certifications; Confidential Information; Signed RFP Addenda; and References
- ☐ Form 2: Offeror's Affirmation of Understanding of And Agreement pursuant to State Finance Law § 139-j(3) and § 139-j(6)(b)
- ☐ Form 3: Offeror's Disclosure of Prior Non-Responsibility Determinations and Certification of Compliance with State Finance Law § 139-j and § 139-k
- ☐ Form 4: Diversity Practices Questionnaire
- ☐ Form 5: Supplier Diversity (M/WBE/SDVOB) Utilization Plan and/or Supplier Diversity (MWBE/SDVOB) Request for Waiver Form. Also see Supplier Diversity Provisions in Part 9.
- ☐ Form 6: RFP Checklist
- ☐ Form 20: Gender-Based Violence and the Workplace Certification

FORMS THAT CUNY MAY REQUIRE FROM THE PRESUMPTIVE AWARDEE

If required by CUNY, the Presumptive Awardee selected as a result of this solicitation (the "Presumptive Awardee") shall complete, sign, and submit the following forms and certifications as described in **Section 2.3.5** through **2.3.12** of Part 10 of this RFP.

- ☐ Form 7: Executive Law Article 15-A – Minority and Women-Owned Business Enterprises and Equal Employment Opportunity Policy Statement

- Form 8: Evidence in form and substance satisfactory to the University that the Contractor maintains workers' compensation coverage and disability insurance coverage as required by the New York State Workers' Compensation Law, or is exempt from this requirement.
- Form 9: New York State Vendor Responsibility Questionnaire (NYS VendRep)
- Form 10: New York City Vendor and Principal Questionnaire (NYC PASSPort)

FORMS THAT THE CONTRACTOR MUST SUBMIT UPON REQUEST BY CUNY BEFORE, DURING AND AFTER THE PROPOSED CONTRACT TERM

- Form 11: CUNY Substitute W-9 Form
- Form 12: Workforce Utilization Report
- Form 13: Supplier Diversity (MWBE/SDVOB) Quarterly Contractor Compliance & Payment Report
- Form 14: State Consultant Services – Contractor's Planned Employment (Consultant Disclosure Form A)
- Form 15: State Consultant Services Contractor's Annual Employment Report (Consultant Disclosure Form B)
- Form 16: Tax Law §5-a, Form ST-220-CA – Contractor Certification (Contractor to send to the University)
- Form 17: Tax Law §5-a, Form ST-220-TD – Contractor Certification (Contractor to send to the State)
- Form 18: Certified Weekly Payroll Report
- Form 19: Contractor's Safety Protocols
- "Accessibility Conformance Report ("ACR") or a completed Voluntary Product Accessibility Template ("VPAT") (MUST be submitted by Proposer, reviewed, verified, and accepted by CUNY prior to award of Contract, and Proposer MUST provide test temporary credentials for the appropriate University staff person to perform a test of the Services to ensure the Services meet the requisite accessibility standards)."

Part 1: Key Events and Dates; Designated Contacts; Proposal Due Location; Contract Term

Key Events and Dates

Action	Date
CUNY issues RFP for a Plagiarism Detection Solution	June 23th, 2026
Pre-Proposal Conference/Site-Visit* <input checked="" type="checkbox"/> Mandatory <input type="checkbox"/> Optional	(indicate date, location, and whether pre-registration is required.
Submission of Written Questions Due Date 1	July 7, 2026 at 1:00 pm Eastern Standard Time
Submission of Written Questions Due Date 2	July 16, 2026 at 1:00pm Eastern Standard Time
Proposal Submission Due Date and Time	July, 29 th 2026 at 2:00 pm Eastern Standard Time

***If the Pre-Proposal Conference is mandatory, a Proposer's failure to attend will render their Proposal non-responsive.**

Proposers are advised to read all sections of this RFP document carefully, including all terms and conditions of the Part 7 - Form of Contract. By tendering a response to this solicitation, each proposer agrees that it accepts all terms and conditions in this RFP solicitation package without exception. If a proposer requires clarification, or if a proposer seeks to propose a change or an exception to, any of the terms and conditions contained in this RFP solicitation package, including to any of the terms and conditions to the form of contract in Part 7, then proposer must make any and all such requests in writing as part of a submission of written questions prior to the Written Questions Due Dates listed above. Requests for revisions or exceptions will be evaluated on a case-by-case basis, and determinations will be published in an addendum to the RFP. Proposers are not to rely upon an exception agreed to for a prior contract award to govern the terms of this solicitation – all proposed exceptions must be introduced and incorporated via addendum issued specifically for this solicitation. A proposer who submits requests for changes to the contract terms to the solicitation after the Written Questions Due Dates may result in the proposer's proposal submission being deemed non-responsive by the University and not considered for contract award. For the avoidance of doubt, the University will not consider any requests to revise the contract terms after the Proposal Submission Due Date, and the University will not consider any requests to revise the contract terms after tentative Contract award.

CUNY reserves the right to amend any or all of the above dates and will issue such change in writing.

I. Designated Contact(s):

In compliance with the Procurement Lobbying Law, the individual(s) identified below are the Designated Contact(s) for this Request for Proposals solicitation and may be contacted

for all inquiries regarding this solicitation:

The City University of New York
205 East 42nd Street,
New York, NY 10017
Attention: Joanne Gill
Email: Joanne.Gill@cuny.edu

New York State Procurement Lobbying Law permits rejection of a Proposal if a Proposer has made any unauthorized contact during the Restricted Period (as defined in the Procurement Lobbying Law). Multiple violations of procurement lobbying restrictions regarding permissible contacts may lead to a Proposer's being debarred from participating in future New York State procurements.

II. Proposal Due Location:

CUNY is not responsible for the delivery or submission of Proposals. Only Proposals that are sent, and accepted by the Designated Contact, shall be accepted. CUNY is not responsible for Proposals received after the deadline, regardless of the reason for lateness. On a case-by-case basis, CUNY may deem it acceptable for Proposals to be submitted via e-mail.

For this solicitation, CUNY will be accepting proposals via email.

- a) Proposals submitted via e-mail must include scans of original (wet) signatures and notarizations to be considered a valid Proposal.
- b) Proposals (including any Excel spreadsheets) must be clearly labeled with three (3) separate pdf attachments clearly named for Volume I (Forms), Volume II (Technical Proposal), and Volume III (Price Proposal).
- c) Proposals submitted via e-mail must be clearly labeled with Proposer's name and the RFP's Project name by including the following subject line:

[Firm's Name] – UCO - 1015 Plagiarism Detection Platform Proposal Submission

III. Anticipated Number of Contracts

CUNY anticipates awarding one (1) contract based on an evaluation of best value, as further described in Part 6 of this RFP.

IV. Anticipated Contract Term:

The Contract Term will be for an initial term of three (3) years, commencing on the date that the Contract is approved by the Attorney General and the New York State Comptroller, with an optional renewal of up to two (2) additional years at CUNY's discretion. CUNY anticipates implementation to begin in January 2027, but no specific start date is guaranteed.

V. Questions and Clarifications Regarding RFP Requirements:

All questions, requests for clarifications, or requests for a revision to any term or condition of this RFP must be submitted to the College's designated contact (see Section I above) prior to the applicable due date(s) for submission of written questions. CUNY will not consider proposed revisions to the terms and conditions set forth in the RFP after such date(s) and will not negotiate the terms and conditions set forth in the RFP at any other time.

With respect to any requests for revisions to Part 7: Terms and Conditions, please be advised that such requests must be in the following format: a copy of the specific clause with the suggested revisions in redline form. The University will not consider requests for revisions to Part 7 that fail to follow this format.

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Part 2: Proposer Qualifications and Requirements; and Diversity Participation Goals

Paragraph I: Minimum Proposer Qualifications [mandatory qualifications]:

CUNY is seeking (an) appropriately qualified firm with experience in providing these Services. To be considered for Contract award, the Proposer and any Subcontractor(s) must meet the following minimum qualifications:

- a. Have at least **three (3) years** of verifiable experience providing plagiarism detection and academic integrity solutions to **higher education institutions** comparable in size and complexity to CUNY.
- b. Demonstrate successful implementation of its solution at **three (3) colleges or universities**, including systemwide or multi-campus environments.
- c. Demonstrate experience operating in environments subject to **FERPA, GDPR, and WCAG 2.2** compliance requirements.
 - a. The online content and functionality of the Proposer's Services must demonstrably conform to the most current version of the Web Content Accessibility Guidelines adopted by the World Wide Web Consortium for accessibility ("WCAG Standards"), as verified in the ACR and/or VPAT to be submitted by the Proposer, and tested and verified by the University.
- d. Proposer's solution shall support **Single Sign-On (SSO)** and **multi-factor authentication (MFA)** integrations with enterprise systems.
- e. Proposer's solution shall comply with all mandatory requirements listed in Part 3.
- f. Proposer must be authorized to do business in the State of New York and be compliant with all applicable New York State procurement and contracting requirements.
- g. Subcontractors, if proposed, must also meet relevant qualifications and are subject to CUNY's review and approval.

Paragraph II: Non-Mandatory Proposer Qualifications: N/A

Paragraph III: Supplier Diversity Participation Goals

- a) CUNY has established a 30% participation goal (based on the current availability of qualified MWBEs) in the aggregate for New York State certified Minority-Owned Business Enterprise ("MBE") and Women-Owned Business Enterprises ("WBE", and, together with MBE, "MWBEs") and a 6% participation goal (based on the current availability of qualified SDVOBs) for New York State certified Service-Disabled Veteran-Owned Businesses ("SDVOB"), to be part of the proposed team to provide the Services as subcontractor(s) or suppliers (the "Subcontractor(s)"). The Contractor shall be required to use good faith efforts to meet these participation goals.
- b) Proposers may identify potential MWBE Subcontractor(s) by, among other means, referencing the directory of New York State certified MWBEs found at the following internet address:
<https://ny.newnycontracts.com/>
- c) Proposers may identify potential SDVOB Subcontractor(s) by, among other means, referencing the list of New York State certified SDVOBs found at the following internet address:
<https://ogs.ny.gov/veterans>.

As part of the proposer's response, a Supplier Diversity — MWBE/SDVOB Utilization Plan or a Request for Waiver form that is accompanied by supporting documentation must be submitted in order for the proposal to be considered responsive. The selected Contractor will be required to complete a Quarterly Contractor Compliance & Payment Report accompanied by proof of payment to MWBE/SDVOB Subcontractor(s), in such format as shall be required by CUNY on a quarterly basis during the term of the contract. Sample CUNY Supplier Diversity forms and reports may be found at <https://www1.cuny.edu/sites/selltocuny/>.

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Part 3: Project Objectives and Scope; Detailed Specifications and Deliverables; and Contract-Specific Provisions

3. Project Objectives and Scope:

The City University of New York (CUNY) is seeking proposals from qualified vendors to provide a robust, scalable, and institution-wide Plagiarism Detection and Academic Integrity Platform. This platform will serve as a critical component in supporting academic integrity, improving student writing outcomes, and enhancing instructional workflows through reliable detection of unoriginal content, AI-generated writing, and other academic misconduct.

The selected solution must provide integration with CUNY's primary Learning Management System (Brightspace by D2L) and support usage as a standalone platform. It must also accommodate multi-campus configurations, offer accessibility for diverse learners, and ensure compliance with all relevant data privacy regulations including the Family Educational Rights and Privacy Act (FERPA) and the General Data Protection Regulation (GDPR). Vendors should demonstrate a strong track record of serving higher education institutions at scale and the ability to deliver implementation, training, support, and change management services within a defined project timeline.

CUNY is the largest urban public university system in the United States, comprising 26 campuses and serving over 230,000 students. As the University transitions to a more integrated and data-driven academic environment, this platform will play a vital role in upholding academic standards across multiple institutions while enabling CUNY faculty, administrators, and students to engage in transparent, fair, and efficient assessment practices.

3.1 Detailed Specification and Deliverables:

The purpose of this Request for Proposals (RFP) is to solicit submissions from qualified vendors capable of delivering a comprehensive, secure, and scalable plagiarism detection and academic integrity platform to serve the City University of New York (CUNY) system. The selected solution will enhance CUNY's ability to maintain high academic standards across its campuses by detecting plagiarism, text manipulation, and AI-generated content, while also providing rich instructional feedback features.

The proposed solution must:

1. **Uphold Academic Integrity**
Identify potential plagiarism, paraphrasing, text manipulation, translation plagiarism, and contract cheating — including content generated by AI tools — across a wide range of disciplines and submission types.
2. **Support Faculty in Instruction and Assessment**
Provide instructors with detailed similarity and authorship reports, integrated feedback tools (e.g., inline commenting, rubrics), and administrative features to support grading, student engagement, and instructional transparency.
3. **Enable Student Learning and Self-Correction**
Promote student understanding of academic integrity by offering configurable access to reports, citations, and instructional resources that support responsible scholarship and revision practices.
4. **Ensure System Integration and Standalone Usability**
Integrate seamlessly with CUNY's primary LMS (Brightspace by D2L) via LTI 1.3, and support full functionality outside the LMS environment via a secure, web-based interface.
5. **Provide Scalable Multi-Institutional Architecture**
Operate across all CUNY colleges with isolated campus-level configurations, permissions, and data governance — while enabling centralized oversight by CUNY Central Office.

6. **Comply with Data Privacy, Security, and Accessibility Standards**

Ensure FERPA and GDPR compliance, adhere to WCAG 2.2 accessibility guidelines, and provide secure storage, encryption, and data ownership options aligned with CUNY policy.

7. **Deliver Actionable Analytics and Administrative Reporting**

Offer dashboards and reporting tools to track usage trends, academic integrity incidents, and system-wide activity for instructors, departments, and institutional leaders.

8. **Support Long-Term Adoption and Innovation**

Provide implementation services, training for all user roles, technical support, and a development roadmap responsive to emerging academic integrity challenges, including those introduced by generative AI.

3.2 Functional Requirements

The proposed platform must deliver the following core functional capabilities, organized into categories reflecting the end-to-end student support lifecycle. All features must be available in a secure, accessible, cloud-hosted environment and support both institution-wide use and campus-level customization. The platform must include the following capabilities:

A. Core Functional Requirements

1. Real-time plagiarism detection leveraging web, academic, and institutional databases
2. **Accuracy Rates for Plagiarism Detection:** The solution must maintain a minimum detection accuracy rate of 95%, including the identification of paraphrased, and translated content, cross-submission and cohort-based comparison to detect collusion
3. Text manipulation detection (e.g., white text, character substitution, spacing anomalies)
4. Contextual and translated similarity detection across multiple languages
5. Interactive similarity reports with match highlighting, exclusion options, and comment tagging
6. Customizable thresholds, scoring, and review statuses (e.g., Accept/Reject/Revise)
7. Feedback tools including rubric integration, inline comments, and downloadable reports
8. Authorship Verification and Stylometrics (Preferred but not required)
 - b.1 Stylometric comparison across verified student writing samples
 - b.2 Metadata analysis (file creation/edit times, author ID, tool usage)
 - b.3 Identification of anomalies and discrepancies in writing style or document origin
 - b.4 Reporting interface for manual investigation or escalation

B. Multi-Institution Settings

1. Segregated environments for each CUNY campus with unique settings, roles, and permissions
2. Configurable workflows and policies per institution without cross-campus data visibility
3. Global administrator interface for CUNY Central to monitor license usage and aggregate reporting

C. Reporting & Analytics

1. Instructor and administrator dashboards for tracking submissions, reports, and outcomes
2. Exportable data and reports (e.g., Excel, PDF, CSV)
3. Usage analytics and trend reports, including AI authorship rates and similarity score distribution
4. Cohort-level comparison and audit trails for academic integrity monitoring

D. Implementation & Transition Plan

1. Implementation plan including testing, LMS integration, configuration, and go-live support
1. Post-go-live support, performance monitoring, and update management

E. Enhancements and Features

As part of the continuous growth and improvement of systems and technologies, CUNY expects that during the term of the contract, Contractor will:

- notify CUNY of any system enhancements and features for CUNY stakeholders to decide if this can be deployed in the CUNY environment and when it should be deployed
- allow CUNY to enable/disable or deploy any features (including any AI Feature) that may be available in the platform, so it is unusable by any user of the system
- involve CUNY in validating new features, pilot deployments, or A/B testing—prior to production rollout. Specifically, Proposer must work with CUNY to develop the following:
 - Scope of the pilot (e.g., number of users and campuses).
 - Feedback mechanisms for participants including surveys and focus groups.
 - Success criteria for moving to full deployment. The success criteria is based on the requirements that CUNY specifies as part of the scope of the pilot.

F. Training

1. Onboarding services and up to 75 hours of training for administrators, instructors, and support staff .
 - Training types should include the following:
 1. Administrator Training
 2. End-User Training (Train-the-Trainer model)
 3. Ad-hoc training (for future enhancements, features)
2. Provision of training manuals, video guides, and self-service resources.
3. Live and asynchronous delivery methods, including materials provided
4. Written step-by-step help guides and recorded video tutorials for all features and interfaces of the product suite for end-users who will be utilizing the system.
5. All training material must be available for CUNY to own, take, and modify as needed for internal purposes
6. The Contractor must provide comprehensive end-user and technical administrator training consistent with Section 508 and WCAG requirements, available in accessible formats (e.g., PDF/HTML with captions and alt-text) and supporting diverse learning modes (live, virtual, asynchronous).

G. Support and Maintenance

1. 24/7 end-user and administrator technical support via phone, email, and chat
2. Access to a support portal, product documentation, and release notes
3. Support for feature requests, roadmap engagement, and regular maintenance updates
4. Defined SLA response times, case prioritization, and escalation management (e.g. response within 2 hours for high-priority cases; low-medium difficulty cases are closed within 24 hours; tier 2 and 3 tickets automatically escalated to CUNY CIS for shared response)

5. The platform must support modular enhancements, allowing CUNY to adopt new feature sets or service packages as they become available. The contract shall include provisions to amend scope and pricing to accommodate such additions during the contract term, without requiring a re-procurement, provided they align with the original intent and functional scope.

In addition, the Contractor must meet the **SLA** as defined in Part 8.

H. Technical Architecture and Integration

H. 1 Information Technology Performance Requirements

The Contractor must comply with the Information Technology Performance Requirements of The City University of New York (CUNY), as set forth in the University's standard "Information Technology Performance Requirements (Terms to be Included in Solicitations and Contracts)."

These include, but are not limited to, the following mandatory areas of compliance:

- a) **Accessibility:** All web and digital content must conform to Section 508 of the Rehabilitation Act, NY Executive Law § 170-f, and the most current version of the Web Content Accessibility Guidelines (WCAG 2.2 AA or successor). Vendors must provide a current Accessibility Conformance Report (ACR) or Voluntary Product Accessibility Template (VPAT) reflecting the current software release.
- b) **Authentication and Access Control:** The solution must integrate with CUNY Login (Oracle Access Management), supporting Single Sign-On (SSO) using SAML 2.0, OpenID Connect (OIDC), or OAuth 2.0, and must support CUNY's session management, attribute mapping (emplID, email, roles), and Single Logout requirements.
- c) **IT Security:** The solution must adhere to CUNY's Service Provider Standard and cybersecurity policies, including annual submission of SOC 2 (Type II) or SSAE 18 reports (and PCI compliance reports if applicable). All data must be encrypted in transit (TLS 1.2 or higher) and at rest (AES-256), with layered protection and incident-response protocols consistent with the CUNY Information Security framework.
- d) **Integration with Enterprise Systems:** The solution must support robust integration with CUNY's ecosystem, specifically
 1. Full LTI 1.3 integration with Brightspace by D2L, with support for assignments, quizzes, and discussions
 2. RESTful API access for integration with external systems (e.g., SIS, data warehouses)
 3. Operable as a standalone solution via secure web-based portal with equivalent functionality
 4. Real-time synchronization of course rosters, submissions, and grades
 5. Support for Single Sign-On (SSO) using protocols including SAML 2.0, OAuth 2.0, and LDAP
 6. Role-based user provisioning and automatic account creation through institutional identity management
- e) **Project Management:** The Contractor must adhere to CUNY's project-management standards, including providing a comprehensive project plan, risk log (RAID), governance documentation, testing strategy, and change-order approval process. Status reports must include progress, risks, and resource utilization.
- f) **Service Standards:** The Contractor must maintain at least 99.5 percent uptime per month, with no more than 16 hours of scheduled maintenance outside of business hours and must provide 24 × 7 monitoring and escalation procedures. Initial support-response times shall meet the following standards:
 - Priority I (Service Unavailable): 1 hour
 - Priority II (Major Module Down): 2 hours
 - Priority III (Function Degraded): 1 business day
 - Priority IV (General Inquiry): 2 business days.

CUNY reserves the right to assess performance credits as defined in the Information Technology Performance Requirements document for failure to meet up time or response standards.

I. Accessibility, Privacy, and Security

The solution must conform to accessibility and privacy requirements, including:

- A. FERPA and GDPR compliance, with clear data ownership and deletion protocols
 - 1. Role-based access controls and detailed audit trails
 - 2. Demonstrate full functional parity between native apps and modern mobile browsers; resolve layout issues on up-to-date iOS/Android browsers
 - 3. Commit to continuous mobile/responsive QA with quarterly accessibility regression testing
 - 4. Full functional parity between native mobile apps and modern mobile browsers
 - 5. Vendor must conduct quarterly accessibility regressions to ensure WCAG 2.2 conformance for all mobile surfaces

f. Pilot Testing and Evaluation

The proposer shall outline a plan for a pilot phase, including:

- a) Scope of the pilot (e.g., number of users and campuses).
- b) Feedback mechanisms for participants.
- c) Success criteria for moving to full deployment.

3.3 Implementation Timeline and Milestones

The selected Contractor will be expected to work closely with CUNY Central and designated campus stakeholders to ensure a coordinated, phased implementation of the Plagiarism Detection Platform across the University system. The platform must be fully operational at pilot campuses on or about January 2027, with subsequent rollouts occurring on a defined schedule approved by CUNY.

A detailed project plan must be submitted as part of the Technical Proposal and must include proposed activities, milestones, staffing, dependencies, and delivery dates.

Anticipated Project Timeline

Milestone	Target Date
Contract Award	Fall 2026
Project Kickoff Meeting	Within 10 business days of contract execution
Technical Integration & Configuration Begins	Q1 2027
Training & Sandbox Environment Deployment	Q1 2027
Pilot Go-Live (selected campuses)	Q2 2027
University-Wide Phased Rollout	Q3/Q4 2027
Final Platform Acceptance	Q3/Q4 2027

A. Required Implementation Deliverables

The Proposer's project team must deliver and maintain the following throughout the implementation phase:

- 1. A designated Implementation Project Manager responsible for coordination with CUNY

2. A detailed Project Implementation Plan including scope, timelines, staffing, and dependencies
3. Integration documentation for Brightspace (LMS), and identity management systems
4. A campus onboarding toolkit that includes user configuration guides, communications templates, and training materials
5. Vendor-led change-management program including:
 - a) communications playbook for effective student messaging
 - b) webinars on advising best practices
6. Weekly project status reports including issue logs, risk mitigation, and milestone tracking
7. Go-live readiness checklist and phased launch approval from each participating campus
8. A Post-Implementation Review report summarizing deployment outcomes, user feedback, and any remaining issues

B. Ongoing Support After Go-Live

Following platform acceptance, the Contractor must:

1. Transition implementation team responsibilities to an assigned Account Manager
2. Provide monthly performance reports aligned with SLA metrics
3. Deliver any remaining or deferred training to new users

3.4 Subcontracting.

Contractor shall not subcontract any part or the entire Contract without the prior written consent of CUNY, which may be withheld, conditioned or rescinded at CUNY's sole and absolute discretion. CUNY may request information concerning the qualifications and experience of the proposed subcontractor, and Contractor shall provide such information promptly upon CUNY's request. CUNY reserves the right to require that any previously approved subcontractor be removed from the Project, and Contractor shall remove any such subcontractor following notice from CUNY by the deadline specified by CUNY in such notice.

3.4.1 Location of Services.

Contractor shall perform the Services at the campuses and buildings of CUNY Colleges and Central Office as required. Contractor shall provide and use its own equipment for its onsite staff providing the Services.

3.4.2 Project Team

- 3.4.2.1 Contractor shall provide documentation with respect to all proposed initial and replacement Key Team Members of the Contractor Project Team showing that these individuals meet the qualifications required to perform the Services. For the purposes of this effort, Contractor Project Team is defined as all individuals that will be assigned to work on this project, and Key Team Members are defined as individuals who have decision making authority on behalf of the Contractor _____.
- 3.4.2.2 All designated individuals and their replacements, if any, of the Contractor Project Team and Key Team Members are subject to CUNY's prior written approval.
- 3.4.2.3 Contractor shall make best efforts to maintain continuity of the Contractor Project Team and Key Team Members. Contractor shall notify CUNY in writing prior to any replacement of Key Team Members. CUNY reserves the right to approve or reject any employees proposed to replace Contractor Project Team employees.

- 3.4.2.4 Contractor shall designate a dedicated functional manager to serve as the main point of contact for implementation and ongoing support issues. This person will ensure that CUNY's student success platform meets the needs of the community.
- 3.4.2.5 Contractor shall designate a senior manager of Contractor as the Contract project manager for this project ("Senior Manager"). The Senior Manager shall:
 - 3.4.2.5.1 maintain control over the work duties, schedule, and performance of the Contractor Project Team and serve as principal liaison between CUNY and Contractor for purposes of administration of the Contract;
 - 3.4.2.5.2 be employed by the Contractor; and
 - 3.4.2.5.3 have full decision-making authority on behalf of Contractor and the authority to obligate Contractor.
- 3.4.2.6 For a mid-term change of Senior Manager, or during the absence of the Senior Manager, for any reason, Contractor shall promptly provide a detailed continuity plan for CUNY's review and shall obtain prior written approval for same.
- 3.4.2.7 Contractor shall ensure that CUNY shall have access at all times to an individual with full authority to make decisions on behalf of Contractor. Nothing in this section shall be deemed to preclude CUNY from discussing any matters relating to Contract with any other members of Contractor's organization.

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3.4.3 Communications

Contractor shall obtain CUNY's prior written approval before Contractor, or any of its officers, employees, agents or subcontractor(s), makes any statement to the press or issues any communication or publication concerning, or related to, the Project.

3.4.4 Document Delivery

- 3.4.4.1** Contractor shall provide all draft versions of the Deliverables (as described below) to CUNY in sufficient time for CUNY review, including time to make modifications and to provide final approval.
- 3.4.4.2** Contractor shall transmit each Deliverable to CUNY with a dated and signed transmittal letter.

3.4.5 Return of CUNY Information at Termination

Within ten (10) calendar days of termination of Services for any reason, Contractor shall, with respect to all CUNY documents and data, in whatever media, whether originally provided or created during performance of the Services:

- a. return them to CUNY; and
- b. destroy data and provide independent certification of destruction of all copies.

3.4.6 Invoices, Payment for Services, and Fee Adjustment

- 3.4.6.1** CUNY agrees to pay, and the Contractor agrees to accept the amounts indicated on the Price Proposal Breakdown Pages (Attachment 5) for the Implementation Milestones and Training provided under this Contract. The Prices proposed by the Contractor for Implementation and Training shall be fully-loaded rates, inclusive of all costs and expenses necessary to complete these requirements, including but not limited to labor, supplies, travel, insurance, and taxes. Proposers are further advised that Training, while a mandatory part of the Proposal Price Breakdown, will only be required at the University's discretion.
- 3.4.6.2** The Contractor shall provide annual pricing for the access and provisioning of the Solution, following go-live, based on the University wide enrollment figures provided therein, and which shall be subject to adjustment based on Sections 3.4.6.3 and 3.4.6.4 herein.
- 3.4.6.3** If, in any Service Year, the student enrollment FTE Count as reported and published on the Integrated Postsecondary Education Data System (IPEDS) website for the academic year most recently concluded prior to the beginning of such Service Year is 5% greater or more than the figure listed on the Price Proposal Breakdown Page, CUNY will pay the Contractor, within sixty (60) days following CUNY's notice to the Contractor of the Student FTE Count for such applicable academic year, an amount equal to the percentage of such increase, multiplied by the Annual Service Year fee paid or payable to the Contractor for the current Service Year.
- 3.4.6.4** Similarly, if in any Service Year, the student enrollment FTE count reported and published on the IPEDS website for the academic year most recently concluded prior to the beginning of such Service Year is 5% lower or lesser than the figure listed on the Price Proposal Breakdown Page, the Contractor will provide CUNY with

a service credit in an amount equal to the percentage of such decrease, multiplied by the the Annual Service Year fee paid or payable to CUNY for the current Service Year. Any such credit will be in the form of an offset of the Service Fee paid or payable for the subsequent Term Year. There will be no service credit payable to with respect to the final Service Year (whether in an Initial Term or Renewal Term), unless the parties enter into a new agreement for the Solution, following such final Term Year. In such event, the amount of the service credit payable to CUNY will be used as an offset for the first twelve (12) months of the term of the new agreement.

- 3.4.6.5** Contractor shall submit invoices to Central Office's Accounts Payable Department at a time interval and in a format approved by CUNY.
- 3.4.6.6 Contractor shall provide sufficient and appropriate documentation with invoices. CUNY reserves the right to request additional information at any time.
- 3.4.6.7 Contractor acknowledges and agrees that CUNY will pay Contractor only upon acceptance of properly prepared invoices with sufficient supporting documentation.
- 3.4.6.8 CUNY will not pay Contractor for work performed beyond the scope of this Project or for any change order not duly authorized.
- 3.4.6.9 Report preparation, including editing, printing and delivery to the University and Colleges shall be the sole responsibility of the Contractor and shall not be reimbursable as a direct cost. If unusual circumstances are encountered that make it necessary for the Contractor to do additional work, Contractor shall report such conditions to CUNY. No additional work may be performed unless authorized by CUNY in writing in advance.

3.4.7 Miscellaneous

- 3.4.7.1 Note: CUNY will identify a Contract Manager to act as the liaison with the Contractor. CUNY will provide Contractor with CUNY's holiday schedules.
- 3.4.7.2** Contractor acknowledges and agrees that CUNY will not provide clerical support.
- 3.4.7.3 Contractor acknowledges and agrees that Contractor will not be provided computer time or the use of computer hardware and software.

3.4.7.4 Access to reasonable work area, and photocopying of records will be made available to the Contractor at t CUNY for the purposes of performing the Services.].

3.5.1 Before performing any Work and during performance of this Contract and up to the date of final acceptance of the Work, Contractor shall procure and maintain with companies satisfactory to the University, the following types of insurance, in the amounts shown below.

3.5.1.1 Workers' Compensation Insurance: Statutory Workers' Compensation Insurance in accord with the Laws of the State on behalf of all employees who are to provide labor or service under this Contract.

3.5.1.2 Employer's Liability Insurance: Employer's Liability Insurance affording compensation for all employees providing labor or services for whom Workers' Compensation coverage is not a statutory requirement. Such insurance shall be in an amount not less than one million dollars (\$ per accident.

3.5.1.3 Commercial General Liability Insurance: Commercial general liability insurance policy (issued by a carrier admitted in the State) in Contractor's name and naming the University, the City, and the State as additional insureds. The policy shall protect the above-named entities, Contractor and its subcontractors from claims for property damage and/or bodily injury that arise from operations under this Contract. Such insurance shall be in an amount not less than one million to 2 million dollars aggregate (\$ 1,000,000 - \$2,000,000) per occurrence combined single limit.

3.5.1.4 Automobile Liability Insurance: Vehicle insurance covering all owned, non-owned and hired vehicles to be used in connection with this Contract. Such insurance shall be in an amount not less than one million dollars (\$1,000,000) per occurrence combined single limit.

3.5.1.5 Professional Liability/Errors& Omissions and Internet Policies: Professional Liability/Error & Omissions and Internet Policies in the Contractor's name and naming the University, the City, and the State as additional insureds. The policy(ies) shall include 44 of 119 coverage to the above-named entities for professional services, security and privacy, and include a waiver of subrogation in favor of the University. Such insurance shall be in an amount not less than two million dollars (\$2,000,000) per occurrence.

3.5.1.6 ID Theft and Cyber Extortion Policy: ID Theft and Cyber Extortion Policy in the Contractor's name and naming the University, the City and the State as additional insureds. The policy(ies) shall include coverage to the above-named entities for crisis management and public relations expense and include a waiver of subrogation in favor of the University. Such insurance shall be in an amount not less than five million dollars - \$10,000,000(\$5,000,000 – 10,000,000) per occurrence.

3.5.1.7 Umbrella or Excess Liability Insurance: Umbrella or Excess Liability Insurance shall include coverage to the above-named entities in an amount not less than five million dollars (\$5,000,000).

Part 4: Technical and Management Proposal Requirements (Proposal Volume II)

Proposer shall provide a brief history and description of: Proposer's business organization (with copies of organizational documents); its expertise and experience as it relates to the requirements discussed in the scope of work and specifications described in **Part 3**; its understanding of and approach to the project; its process and timeline for rendering the services; and plans for maintenance and support, to the extent applicable. The information should not exceed fifty (50) pages (excluding a Proposer's ACR and/or VPAT), double-sided and should include, but not be limited to:

The Technical Proposal must be organized using the following structure and section headings:

4.1 Proposer's Background:

1. Proposer's name and address and, if applicable, EIN. Also indicate the type of entity, for example, a corporation, partnership, or public organization.
2. name and title, address, email and telephone number of the person who receives correspondence and is authorized to make decisions or represent the Proposer. If these persons are different, include information for both.
3. total number of years Proposer has been providing the Services required by this RFP and description of operations, facilities and number of employees dedicated to the development of the Services required by this RFP
4. brief history of Proposer's operations to date, noting key milestones, challenges and successes, along with a statement and analysis of Proposer's organization going forward, including its goals, strategic outlook, projected growth, etc.
5. documentation of Proposer's organizational structure.

4.2 Minimum Qualifications & Staffing Plan

1. Discuss in detail how your firm meets each of minimum qualifications in **Part 2-Paragraph I** (a-g) are met. Clients provided should be those that your firm currently serves or have served within the last 3 years on a scope similar to this RFP. For each client provide, at a minimum, the following:
 - a. Name and contact information of the client executive at the company. Please note CUNY will use this information to obtain a reference for the referenced products/services.
 - b. Dates during which your products/services were used/provided
 - c. Description of the products/services provided
 - d. Any substantial differences between the Solution proposed for CUNY and that of the previous clients, where applicable. █
2. Number of current customers using the Services solicited as part of this RFP; identify how many of such customers are higher education institutions.
3. Proposed staffing plan for rendering the Services required by this RFP (including if plan to use any former CUNY employees triggering JCOPE filing requirement)
4. Biography and/or resumé for each Key Team Member, including personnel who would have direct contact with or provide services to the University. Indicate the roles they would play and describe their experience in performing the Services. For each, please include length of tenure with Proposer's organization.
5. Completed **Attachment A: Solution Requirements Matrix**

4.3 Understanding and Approach to Rendering the Services; Schedule for Implementation

4.3.1 Detection Capabilities

The proposed platform must offer robust and sophisticated detection mechanisms capable of identifying a wide range of academic integrity violations across diverse content types and languages. Please discuss in detail, how your proposed solution meets all the requirements as stated under Part 3.2 A

4.3.2 Implementation & Transition Plan

- a. Provide a detailed implementation plan, detailing the activities and timeline necessary to successfully complete installation of the Solution. The implementation plan shall also include an outline of the training plan proposed for the Solution. Proposers should include a Gantt chart outlining how its timeline will align with the deliverables outlined in Section 3.3.
- b. The implementation plan should identify resources required for this project (Vendor and CUNY) and procedures for testing and validating the system before full deployment.
- c. Provide a detailed transition plan, detailing the activities and timeline necessary to successfully transition the services to another provider if necessary.
- d. The transition plan should identify resources required for this project (Vendor and CUNY) and procedures for testing and validating that transition services were completed.

4.3.3 Training and Support

- a. Discuss in detail your firm's proposed training plan that meets all of requirements in **Section 3.2 F, G, and Section 3.3 B**
- b. Discuss in detail your firm's support plan and provide an escalation process.
- c. Provide examples of how your firm provides a sandbox or test environment—used for training, validating new features, pilot deployments, or A/B testing—prior to production rollout.

4.4 Artificial Intelligence (“AI”) Functionality

1. Discuss in detail your proposed solution AI functionality and how it can be utilized by CUNY.
2. To the extent applicable discuss:
 - I. How the AI component complies with Federal and State laws, regulations and ethical guidelines?
 - II. What security measures are in place to ensure the safeguarding of Personal Identifiable Information and protection of sensitive data?
 - III. How is data quality assessed and maintained?
 - IV. How is the AI model's accuracy monitored and validated?
 - V. How will the AI capabilities be verified to ensure appropriate decision making?

4.5 Data Protection

1. Discuss in detail how your firm will comply with the data security requirements described in Part 3 above.

4.6 Pilot Testing and Evaluation

1. Discuss how your firm will plan and support pilot testing and evaluation as discussed in Part 3 above.

4.7 Valued Added

1. Discuss any additional value, expertise, processes, technology, additional solution's capability, and the like to further the goals of the Project that Proposer can provide to CUNY at no additional cost.
 - a. Vendors are encouraged to propose additional capabilities or services that enhance the platform's instructional value, streamline workflows, or extend support for academic integrity beyond core requirements. These features will be considered in the evaluation process if offered at no additional cost to CUNY.

Examples of desirable value-added features include:

- a. Instructional Enhancement Tools
 - (a) Peer review workflows for collaborative assignments
 - (b) Instructor-created content libraries for reusable comments or feedback
 - (c) Audio or video feedback options within the grading interface
 - (d) Annotation layers for formative assessment or revision cycles
- b. Advanced Analytics and Prediction
 - (a) Predictive analytics models to identify risk of repeated violations
 - (b) Department-, course-, or cohort-level integrity insights
 - (c) Integration of similarity data with student success or academic support dashboards
- c. Workflow Automation and Customization
 - (a) Custom report templates or dashboards for academic integrity panels
 - (b) Configurable workflows for escalated review or appeal processes
 - (c) Event-based triggers (e.g., auto-flagging thresholds, automated routing of reports)
- d. Innovation and Research Partnership Opportunities
 - (a) Access to pilot features or experimental detection models (e.g., stylometrics, deep AI audit tools)
 - (b) Opportunities for collaborative research or validation studies with CUNY faculty
 - (c) Participation in product advisory boards or pedagogical design panels
 - (d) All proposed value-added features must be clearly described, including any technical requirements, administrative controls, or limitations.

4.8 License Agreement

1. A Proposer may include its standard End User License Agreement or similar document (“EULA”) for the Solution, as part of its Technical and Management Proposal. If awarded the Contract, the EULA will be deemed part of the Proposal and will become part of the Contract. The University reserves the right to reject the Proposal if the University deems the terms of the EULA to be unacceptable, in the University’s sole discretion. The University further reserves the right to negotiate such terms with the vendor, provided that the final terms must be equally favorable or more favorable to the University than the EULA terms contained in the Proposal.
2. A copy of any terms and conditions referenced in the EULA by hyperlink must be included in the Proposal. The University cannot incorporate terms by hyperlink alone.
3. The terms of this RFP, including but not limited to Parts 3 and 7, shall take precedence over any conflicting terms in the EULA, or any terms addressing the same subject matter as the RFP terms. Further, any of the following terms shall be deemed void and excluded from the Contractor’s EULA:
 - a. Neither the University nor any user of the Services may be required to defend, indemnify, or hold the Contractor harmless for any liabilities, claims, or expenses. The University’s indemnification obligations shall be solely as set forth in Part 7 (Terms and Conditions);
 - b. Neither the University nor any user of the Services shall be required to grant a license to Contractor to use, reproduce, or disclose any user information, confidential information, or any user or University intellectual property, as a condition of using the Services, except for the sole purpose of providing the Services;
 - c. Notwithstanding any disclaimer of warranties, Contractor warrants that the solution provided as part of the Services shall function in all material respects as required by this Contract and in accordance with the applicable product’s documentation, throughout the Term of the Contract;
 - d. Any mandatory arbitration clauses shall be deemed void;
 - e. Any limitations of liability shall be deemed void. Contractor’s liability shall be limited in accordance with Part 7 (Terms and Conditions) of this RFP;
 - f. The University shall not be required to pay any costs other than for services rendered. Therefore, any requirements that the University pay for costs such as taxes, interest, penalty or late fees, acceleration costs, cancellation charges, litigation costs, or attorneys’ fees shall be void;
 - g. The University shall not be required to forfeit rights granted by law or in equity, including, but not limited to: statutes of limitations, trial by jury, limitation of remedies, requirements to post bond for injunctions, to sue/or to

limit liability for direct damages for personal injury, death, or damage to real property, tangible property, or intellectual property attributable to the negligence or other tort of the Contractor, its officers, employees, or agents. The University also cannot agree to waive its right to sue or to limit the remedies available to the University against the Contractor, and any provisions indicating that the University has waived such rights or remedies shall be void;

- h. Notwithstanding any language to the contrary in the EULA or Proposal, the terms of this Contract, including all attachments of the RFP and Proposal, shall not be deemed confidential, except as permitted under Part 10 of this RFP;
- i. Any order of precedence or similar terms contained in the EULA or Proposal documents shall be void and not considered part of the Proposal;
- j. Any language purporting to disclaim a customer's (i.e. CUNY's) superseding terms, shall be void and not considered part of the Proposal;
- k. Any requirement that the University maintain insurance shall be void.

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Part 5: Proposal Price Breakdown Pages (Proposal Volume III)

Proposers must complete ALL line items in order for the Price Proposal to be deemed responsive. Failure to do so will result in the rejection of your Proposal. If there is no charge for a specific service, then state "\$0" for that service. Each Service is deemed separate and must be priced separately.

Please note that the Proposal Price is the figure that CUNY will review to compare the Proposers' offered pricing. Proposers must include all of their costs in the fees set forth in the table below. **CUNY will not pay for any additional costs outside of the fees listed in the table.**

Assume the following in your pricing:

- A. ~230,000 students across 26 institutions
- B. Phased campus rollout between 2026 and 2027
- C. Centralized procurement with distributed campus configuration
- D. Use of existing CUNY authentication and SIS/LMS integrations

1. Implementation Price (One-time, non-recurring). Please provide a detail breakout of these costs in accordance with the anticipated milestone chart below. \$ _____

Milestone	Cost
1. Project Kickoff Meeting / Finalized Implementation Plan	\$
2. Integration Document for Brightspace, Preliminary Technical Integration & Configuration	\$
3. Development of Campus Onboarding Toolkit Training & Sandbox Environment Deployment	\$
Change Management Program Development/ Go-Live Readiness Checklist	
4. Pilot Go-Live (selected campuses)	\$
5. University-Wide Phased Rollout	\$
6. Final Platform Acceptance/Post-Implementation Review	\$
Total Implementation Price (Sum of Milestones 1 through 6)	\$

2. Training. Please provide a detailed breakout of the costs and hours associated with the following types of training. Only training used will be paid. If Contractor anticipates or currently provides advanced training for admins and/or end-users, include pricing for this.

Training Type	Estimated Hours	Cost
Administrator Training	30	\$
End-User Training (Train-the-Trainer model)	30	\$
Ad-hoc training (for future enhancements, features)	15	\$
Total Training Cost		\$

3. Annual Price: (Complete the below table, as applicable. If any price is included in any other service,
4. indicate such for the respective service.

Service	License	Hosting	Maintenance and Support	Annual Price
Year One	\$	\$	\$	
Year Two				
Year Three				
Year Four (Optional)				
Year Five (Optional)				
Price for Five Years:				\$

* Licensing fees need to be prorated in the first year as applicable.

CUNY requires firm, fixed pricing for all core services

Proposal Price (Implementation, training Price and Services (license, hosting, Maintenance and support)

For Five Years): \$_____

Write Proposal Price in Words: _____

Part 6: Proposal Scoring Criteria and Weights

Step 1: Administrative Review

CUNY will conduct an administrative review of each Proposal to ensure that all content has been submitted in accordance with this RFP (including a completed Form 1 signed by an authorized representative of Proposer and completed Forms 2 and 3) and that Proposers meet the Minimum Qualifications set forth in this RFP. Proposals that do not include all required content will be deemed non-responsive and will not be granted any further consideration, unless CUNY deems such omissions non-material. Proposers are not permitted to alter or amend their Proposals after the Proposal Submission Due Date and Time. After a firm has been identified for award, all Proposers will be notified.

Step 2: Short-Listing Proposers

All firms that meet the minimum qualifications and the mandatory solution requirements as listed in Attachment A, will be shortlisted and invited for product demonstration either in person or remotely, as determined by CUNY.

Step 3: Scoring of Diversity Practices Questionnaire (5 Points)

Upon completion of its Administrative Review above, the University's Procurement Department will score the Diversity Practices Questionnaire. The Diversity Practices Questionnaire will be scored on the points system as indicated on the questionnaire. The total score received for each Diversity Practices Questionnaire will be proportionally converted for a maximum of up to five (5) points. The scores for Proposers' Diversity Practices Questionnaires will not be disclosed to CUNY's Technical Evaluation Committee ("Committee") prior to their completion of their evaluation and scoring of Proposers' Technical Proposals.

Step 4: Scoring of Volume II: Technical and Management Proposal (50 Points)

Members of the Committee will preliminarily score each Technical Proposal individually and then meet as a group to discuss and give final scores to the Technical Proposals. The preliminary Technical Score for each Proposal will consist of the sum of the scores given to the Technical Proposal by each of the Committee members, divided by the number of Committee members with a maximum score of one hundred (100) points. The technical scores will then be normalized to a score out of fifty (50) points. Then the members of the Committee will meet as a group to discuss the Technical and Management Proposals. After such group discussion, the Committee members will provide their individual final Technical Scores, which may or may not be the same as their preliminary Technical Scores, to the Procurement Office.

Step 5: Oral Presentation and Product Demonstration for Short-Listed Proposers (20 points)

The Short-Listed Proposers shall provide an Oral Presentation and Product Demonstration to the Committee in the form and manner requested by CUNY. The Committee will evaluate a Short-Listed Proposer's Oral Presentation and Product Demonstration and award a score with a maximum of twenty (20) points based on the following criteria:

- Product meets all the requirements stated in the RFP
- The capabilities of the Proposer's staff that will lead the engagement

- Discussion on examples of previous projects of a similar nature and resulting outcome
- Ability to answer questions regarding their proposal

Step 6: Scoring of Volume III: Price Proposal (25 Points)

The University's Procurement Department will score the Price Proposals. Only the University Procurement Office will be privy to pricing information until the Committee members have completed and submitted all final scoring, including for Technical and Management Proposals and for the Oral Presentations and Product Demonstrations for the RFP. The Proposer with the lowest proposed price, will receive a total of twenty-five (25) points, and higher proposed prices will receive proportionately lower points.

Step 7: Calculation of Short-Listed Proposer's Final Proposal Score

The Final Proposal Score is the sum of the Short-Listed Proposer's Diversity Practices Questionnaire, Technical, Price and Oral Presentation Scores for a possible maximum Final Proposal Score of one hundred (100) points.

CUNY reserves the right to request Best and Final Offers ("BAFOs") from those Proposals receiving an Oral Presentation, solely with respect to cost. Should CUNY exercise this right, CUNY will request a BAFO from each Short-Listed Proposer. A BAFO must be a lower price than the initial Proposal price. The cost score for the Short-Listed Proposers will be adjusted accordingly to determine the Proposer's final score.

Step 8: Selection of Proposer

The Proposer with the highest Total Score, as calculated above, for a maximum of 100 points may be recommended by the Committee to the University for Contract award, if at all.

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Table 1 Proposal Scoring Criteria and Weights

Title	Scoring Method	Item Weight	Section Score	Points out of 100
Minimum Proposer Requirements (See Part 2-Paragraph I)	Pass/Fail			N/A
Diversity Practices Questionnaire (for procurements with estimated value of \$250,000 or greater)				5
Technical and Management Proposal	Scored		100	50
Minimum Qualifications and Staffing Plan (Section 4.2)			10	
Detection Capabilities (Section 4.3.1)			35	
Implementation and Transition Plan (Section 4.3.2)			15	
Artificial Intelligence (“AI”) Functionality (Section 4.4)			15	
Data Protection (Section 4.5)			10	
Pilot Testing and Evaluation (Section 4.6)			10	
Value Added (Section 4.7)			5	
Oral Presentation /Product Demonstration by Short-Listed Proposers	Scored			20
Price Proposal	Scored			25
			Possible Score	100

Part 7: Terms and Conditions of Contract
TERMS AND CONDITIONS

Section 1 - Conflict of Terms

Unless otherwise set forth in this Contract, conflicts among documents shall be resolved in the following order of precedence:

1. Appendix A (Standard Clauses for New York State Contracts)
2. These Terms and Conditions
3. Scope of Work
4. Other exhibits, attachments and appendices attached hereto and incorporated herein, including the remainder of the RFP
5. The Contractor's Proposal
6. The Purchase Order

Section 2 - Definitions

The following words and expressions, if used in this Contract, shall be construed have the following meanings:

- 2.1 "approved", "directed", "required", "specified", unless specifically stated otherwise, mean approved, directed, required, or specified, as the case may be, by the University through its representative, the Business Manager.
- 2.2 "Business Days" means Mondays through Fridays (excluding Saturdays and Sundays), excluding holidays on which the College is officially closed.
- 2.3 "Business Manager" means the business manager of the College, acting either directly or through a designated representative in any matter. If this is a University-wide Contract, or one in which the Work is performed for more than one College or University unit, then references to the "Business Manager" shall be deemed to signify that person or persons designated by the University in writing.
- 2.4 "City" means the City of New York.
- 2.5 "College" means the College or the OUC, as named above, on behalf the constituent member of the University.
- 2.6 "Comptroller" means the Comptroller of the City or State of New York, as applicable.
- 2.7 "Contract" means this Contract, including the Scope of Work, Appendix A (Standard Clauses for New York State Contracts), and all other exhibits, attachments, and appendices attached hereto and incorporated herein, including the Purchase Order.
- 2.8 "Contractor" means the individual or other legal entity (including, but not limited to sole proprietor, partnership, limited liability corporation, firm or corporation) to which the University has awarded, or with which the University has entered into, this Contract, as specifically identified in the Contract Signature Page.
- 2.9 "Contract Price" means the price for which Contractor will deliver the Goods and perform the Services as set forth on the Contract Signature Page.

- 2.10 "Days" or "days" mean calendar days.
- 2.11 "Goods" means any goods, work products, supplies, materials, equipment, or processes to be furnished to the University under this Contract.
- 2.12 "Law" or "Laws" mean all applicable laws, regulations, rules, orders, requirements, and the like, of federal, state, and local governments, courts, governmental authorities, legislative bodies, boards, agencies, commissions, and the like.
- 2.13 "OUC" means the Office of University Controller - University Contracting.
- 2.14 "Products" means deliverable(s) under this Contract, which may include goods, commodities, services, and/or technology.
- 2.15 "Proprietary" means protected by secrecy, patent, copyright or trademark against commercial competition.
- 2.16 "Purchase Order" means the form that is used by the University when making a purchase or acquisition with a Contractor.
- 2.17 "Purchasing Office" means the Purchasing Office of the College or the OUC.
- 2.18 "Scope of Work" means the description of the Goods to be furnished and/or the Services to be performed under this Contract.
- 2.19 "Services" means the labor to be performed under this Contract.
- 2.20 "Site" means the physical area where Goods and Services are to be provided and where Contractor may provide any Work under this Contract.
- 2.21 "Software" means the set of instructions consisting of mathematical codes, programs, routines and other functions to execute specific tasks, whether accessed online or installed on individual computers.
- 2.22 "State" means the State of New York.
- 2.23 "University" means The City University of New York.
- 2.24 "Work" means the Goods to be furnished and the Services to be performed pursuant to this Contract.
- 2.25 "Workers" means all employees, representatives, subcontractors, or agents of Contractor performing Services under this Contract.

Section 3 - Term

- 1.1 The time of completion of this Contract, as set forth in the RFP, is the "Term."
- 1.2 Unless agreed to by CUNY in writing, Contractor shall complete the Work by the final date specified in this Contract and shall complete the corresponding portion of such Work by every interim date, if any, specified in the Scope of Work.
- 1.3 Acceptance of any Work after the time fixed to deliver the same shall not be deemed a waiver of any rights by the University.

Section 4 - Scope Changes

The University reserves the right to deduct from the Scope of Work and make an equitable adjustment in the Contract Price or delivery date if the change affects the cost or time of performance.

Section 5 - Contractor Performance

- 5.1 Contractor shall perform the Work for the Contract Price.
- 5.2 Contractor shall perform the Work within the time specified in the Scope of Work.
- 5.3 Contractor shall perform the Work at the direction of the University and in accordance with the specifications set forth in the Scope of Work, in a manner that will ensure the safety of the University community, as applicable.
- 5.4 Contractor shall perform the Work subject to all Laws. Contractor shall deliver all required licenses, permits, plans and certificates to the University before commencement of the Work.
- 5.5 If applicable, Contractor acknowledges and represents that it has carefully examined the Site(s). Contractor shall be presumed conclusively to have full knowledge of any and all conditions on, about, above, or below the Site relating to, or affecting in any way, the Work that were or should have been discovered by a reasonably prudent vendor.
- 5.6 Contractor shall at all times and in all respects follow best practices and industry standards that are applicable to Contractor's business. Where no specific requirements are given, Contractor shall conform the Work to the latest applicable standards of nationally recognized associations which sponsor the particular type of work involved.
- 5.7 Contractor shall maintain all records and reports required by this Contract, by Law, by best practices, and by industry standards. Immediately upon request from the University, Contractor shall provide access to all such records and reports to the University for review.

Section 6 - Performance and Responsibility Qualifications

The University reserves the right to investigate or inspect at any time whether or not the Work and/or qualifications offered by Contractor meet the requirements set forth in this Contract. Contractor shall at all times during the Contract Term remain responsible and responsive. Contractor must be prepared, if requested by the University, to present evidence of legal authority to do business in the State, integrity, experience, ability, prior performance, and organizational and financial capacity. If the University determines that the conditions and terms of this Contract are not complied with, that the Work proposed to be furnished does not meet the specified requirements, or that the legal authority, integrity, experience, ability, prior performance, or organization and financial capacity or facilities are not satisfactory, then the University may terminate this Contract.

Section 7 - Guarantee

Unless otherwise set forth in the Scope of Work:

- 7.1 Contractor guarantees all Work provided by the Contractor will conform with the specifications set forth in the RFP, the Contractor's proposal, and any other document referenced in or included in this Agreement.

year from the date of the completion of the Work.

7.2 All manufacturers and subcontractors' warranties shall run directly to the University as well as to Contractor and its subcontractor(s). Contractor shall obtain all manufacturers' warranties in writing in the name of the University and deliver the same to the University.

Section 8 - Legal Compliance

8.1 Contractor represents and warrants that it shall secure all notices and comply with all Laws, ordinances, rules and regulations of any governmental entity in conjunction with the performance of its obligations under this Contract, to the extent applicable to Contractor's business. Prior to award and during the Contract Term and any renewals thereof, Contractor must establish to the satisfaction of the University that it meets or exceeds all requirements of this Contract and any applicable Laws, including but not limited to, permits, insurance coverage, licensing, and proof of coverage for workers' compensation, and shall provide such proof as required by the University. Failure to comply or failure to provide proof may constitute grounds for the University to cancel or suspend this Contract, in whole or in part, or to take any other action deemed necessary by the University. Contractor also agrees to disclose information and provide affirmations and certifications to comply with Sections 139-j and 139-k of the State Finance Law.

8.2 Contractor affirms that to the best of Contractor's knowledge there exists no actual or potential conflict between the Work and Contractor's family, business, or financial interests, or those of any employee of Contractor, and no trustee, officer, or employee of the University, or other director, officer, employee, or person whose salary is payable in whole or in part from the treasury of the City or the State, is directly or indirectly interested in this Contract or in any portion of the profits thereof. Should this situation change during the Term of this Contract, Contractor shall promptly notify the University. The University reserves the right in its sole discretion to determine whether any of the interests required to be disclosed under this Section 8.2 shall disqualify Contractor from performing the Work.

8.3 If there is a conflict between or among any Laws and specific requirements of this Contract, then Contractor shall comply with the most stringent Law in each instance. By noting any specific Law with particularity in this Contract or in any other prior or future communication, Contractor is not relieved of any obligation to comply with all Laws, and the University does not waive any rights it may have with respect to such compliance.

Section 9 - Employees, Subcontractors, Agents

9.1 Contractor shall employ only competent personnel for this Contract. If Contractor is notified in writing that, in the reasonable opinion of the University, any Worker of Contractor, or any employee, agent, or representative of its subcontractors, is incompetent or otherwise unacceptable, then Contractor shall promptly replace such person and shall not assign such person to this Contract again. Nothing in this Contract shall be construed to impose any liability or duties upon the University for the performance of services by any third party hired or otherwise engaged by Contractor.

9.2 All Workers must comply fully with all security and administrative requirements of the University in performance of this Contract, including but not limited to physical, facility, documentary and cyber security rules, procedures and protocols. Contractor shall at all times enforce and maintain discipline, order, and cooperation between and among its Workers. The University reserves the

right to conduct a security background check or otherwise approve any Worker furnished by Contractor and to refuse access to or require replacement of any personnel for cause based on, including but not limited to, professional, technical or training qualifications, quality of work, or change in security status or non-compliance with the University's security or other requirements. Such approval shall not relieve Contractor of the obligation to perform all Work in compliance with this Contract.

9.3 Contractor shall not employ or utilize any labor, materials, or means whose employment or utilization during the course of this Contract may tend to or in any way cause or result in strikes, work stoppages, delays, suspension of work, or similar actions by Workers of Contractor, by any of the trades working in or about the buildings and premises where the Work is being performed under this Contract, or by Contractor or its subcontractors pursuant to other agreements or contracts, on or at the University or any other building or premises owned or operated by the City or the State and their respective agencies, departments, boards, or authorities. Any violation of this requirement by Contractor may be considered proper and sufficient cause for declaring Contractor to be in default under this Contract, and for the University, the City, the State, or any or all of them, to take such action against Contractor or any such other action as any of them may deem proper.

9.4 If Contractor has not designated an individual in the Scope of Work to perform similar functions, Contractor shall designate a competent employee to be responsible for the Work, to coordinate all of the Services to be performed, and to represent Contractor with authority to act for Contractor ("Contractor's Representative"). Contractor's Representative shall respond to the University and act as the liaison between the University and Contractor for purposes of administration of this Contract and shall have full decision-making authority on behalf of Contractor and the authority to obligate Contractor. Contractor's Representative shall be subject to the approval of the University and shall not be changed during the Term of this Contract without prior written permission of the University. Contractor shall identify Contractor's Representative and provide Contractor's Representative's name and contact telephone number(s) within three (3) calendar days of the University's notice to Contractor to proceed with the Work. Contractor shall also provide a telephone number where Contractor's Representative can be reached in the event of an emergency. Contractor shall ensure that the University shall have access at all times to Contractor's Representative. During any absence of Contractor's Representative, Contractor shall designate an alternate Contractor's Representative, under the same terms and conditions. Nothing in this section shall be deemed to preclude the University from discussing any matters relating to this Contract with any other member of Contractor's organization.

Section 10 - Independent Contractor

The parties understand and agree that the legal status of Contractor and its Workers under this Contract is that of an independent contractor, and in no manner shall they be deemed employees of the University, and therefore are not entitled to any of the benefits associated with such employment. During the Term of this Contract, Contractor agrees to maintain at Contractor's expense those benefits to which its employees would otherwise be entitled by Law, including health benefits, and all necessary insurance for its employees, including workers' compensation and disability and unemployment insurance, and to provide the University with certification of such insurance upon request. Contractor is responsible for all applicable federal, state and local taxes, and all FICA contributions.

Section 11 - Subcontractors and Suppliers

Contractor's performance obligations under this Contract may not be subcontracted or transferred without the prior written consent of an authorized representative of the University. The University reserves the right to reject any proposed subcontractor or supplier for bona fide business reasons, which may include, but are not limited to: the subcontractor or supplier is on the Department of Labor's list of companies with which the State cannot do business; the University determines that the subcontractor or supplier is not qualified; the University determines that the subcontractor or supplier is not responsible; or the subcontractor or supplier has previously provided unsatisfactory work or services.

Section 12 - Cooperation with Third Parties

Contractor shall be responsible for fully cooperating with any third party, including but not limited to other contractors or subcontractors of the University, as necessary to ensure delivery of Goods or coordination of performance of the Services.

Section 13 - Intellectual Property

13.1 University shall retain all right, title and interest in any Proprietary materials supplied to Contractor and grants Contractor all necessary rights and licenses for Contractor to fulfil its obligations under each Scope of Work. Contractor shall not be restricted in its use of ideas, concepts, know-how, data and techniques acquired or learned in the course of performing the Services, provided that Contractor shall not use or disclose any of University's Proprietary or Confidential Information.

13.2 To the extent permissible under applicable Law, all deliverable copyrightable works (including, but not limited to, reports, compilations of data, Software, pictorials, or graphics) created or prepared by Contractor in the course of the performance of the Work ("Copyrightable Works") shall be considered "works made for hire" pursuant to, and as defined under, the U.S. Copyright Act, 17 U.S.C. section 101 et seq. To the extent that any Copyrightable Works may not, by operation of Law, be works made for hire, Contractor hereby assigns to the University the copyright in and to the Copyrightable Works and the University shall have the right to obtain and hold in its own name copyrights, registrations, and similar protections that may be available in such Copyrightable Works. Contractor agrees to give the University or its designee all assistance reasonably required to perfect the University's rights in the Copyrightable Works. Contractor represents and warrants that Contractor is and shall be sole author of any and all Copyrightable Works, and that they are and shall be original works not subject to any prior agreement, lien, or other rights. Contractor further represents and warrants that the Copyrightable Works do not and shall not contain libelous, plagiarized, injurious, or other unlawful matter, and that they do not and shall not infringe on copyright or violate any other right of any person or party whatsoever.

13.3 Provided that Contractor complies with the confidentiality provisions of hereto and removes or redacts any Confidential Information from the Copyrightable Works, the University hereby grants the Contractor a nonexclusive, perpetual, irrevocable, worldwide, fully paid, royalty-free license: (i) to reproduce, modify, distribute, publicly perform, publicly display, and use the Copyrightable Works; and (ii) to sublicense any or all such rights to third parties.

13.4 Notwithstanding the above, the pre-existing intellectual property of Contractor shall remain the intellectual property of Contractor ("Contractor's IP"). Any invention, discovery, innovation or improvement related to Contractor's IP shall remain the exclusive property of Contractor and shall also be considered Contractor's IP. To the extent any such pre-existing intellectual property or intellectual property is incorporated into or necessary to use the Copyrightable Works, Contractor grants to the University a perpetual, worldwide, royalty free license to use Contractor's IP as necessary solely for internal use (subject to Freedom of Information Law). In no event may the University modify, sell, or sub-license Contractor's IP

- 13.5 All third-party materials furnished by Contractor and included in the Work shall be sublicensed or resold to the University in accordance with the applicable third-party terms, provided that such third-party terms are included in the Contractor's Proposal in the same section as its EULA. The University shall not be required to enter into an agreement with any third-party content provider and shall have no contractual relationship with any third party. Any such third-party terms shall be deemed part of the Proposal and incorporated into the Contract subject to the restrictions and exclusions set forth in Part 4 of the RFP, and all other relevant terms of the RFP.

Section 14 - Force Majeure

Each party shall be excused from performance hereunder for reasons beyond its reasonable control.

Section 15 - No Third-Party Beneficiaries

This Agreement is for the benefit of the parties only. None of the provisions of this Agreement are for the benefit of, or enforceable by, any third party. The parties agree that no third party shall have the right to (i) rely on the Services provided by Contractor or (ii) seek to impose liability on Contractor as a result of the Services or any Products furnished to the University.

Section 16 - Suspension of Work

Solely with respect to performance services, if any, the University reserves the right to suspend any or all activities under this Contract, at any time, in the best interests of the University. In the event of such suspension, Contractor will be given a formal written notice outlining the particulars of such suspension. Examples of the reason for such suspension include, but are not limited to, a budget freeze or reduction of State spending, declaration of emergency, contract compliance issues or other such circumstances. Upon issuance of such notice, Contractor is not to accept any Purchase Orders and shall comply with the suspension order. Activity may resume at such time as the University issues a formal written notice, within a reasonable amount of time in advance of the resumption of performance, authorizing a resumption of performance under this Contract.

Section 17 - Termination

- 17.1 For Cause: For a material breach that remains uncured for more than thirty (30) calendar days or other specified period after written notice to the breaching party by the non-breaching party, this Contract may be terminated for material breach by the other party if the breaching party does not cure the breach within the 10-day notice period. Such notice shall set forth in reasonable detail the nature of the asserted breach. In the event the University terminates for Contractor's uncured breach through failure of performing or meeting any requirements or qualifications set forth in this Contract, for non-performance, or upon any other actual event the University identifies to Contractor for which Contractor is responsible, Contractor shall reimburse the University for any pre-paid fees for the Services not performed and accepted by the University as of the termination date. In such event, the University may complete the contractual requirements in any manner it may deem advisable and pursue available legal or equitable remedies for breach.
- 17.2 Without Cause This Contract may be terminated by the University without cause (i) at any time prior to the completion of implementation, consulting, or other professional services and prior to the go-live date or final acceptance date for the Product (if applicable to the Work), upon written notice of thirty (30) Business Days or (ii) on any yearly anniversary of the Term upon prior written notice of thirty (30) calendar days, in each case without penalty or other early termination charges due. If this Contract is terminated pursuant to this paragraph, then the University shall remain liable for all accrued but unpaid charges incurred through the date of the termination. Contractor shall use due diligence and provide any outstanding deliverables.

- 17.3 For Violation of Sections 139-j and 139-k of the State Finance Law: The University reserves the right to terminate this Contract in the event it is found that the certification filed by Contractor in accordance with State Finance Law § 139-j and § 139-k was intentionally false or intentionally incomplete. Upon such finding, the University may exercise its termination right by providing written notification to Contractor.
- 17.4 For Violation of Revised State Tax Law Section 5a: The University reserves the right to terminate this Contract in the event it is found that the certification filed by Contractor in accordance with § 5-a of the State Tax Law is not timely filed during the Term of this Contract or the certification furnished was intentionally false or intentionally incomplete. Upon such finding, the University may exercise its termination right by providing written notification to Contractor.
- 17.5 Upon receipt of a notice of termination, Contractor:
- 17.5.1 shall immediately discontinue performance of this Contract, except for activities that may be necessary to carry out such termination and to minimize loss and damage to the University and shall follow the University's instructions.
 - 17.5.2 shall not be entitled to any further payments except for Work performed to the University's satisfaction prior to termination and subject to amounts owed by Contractor to the University.
- 17.5.2 shall coordinate the return of all University data that may be in the Contractor's custody in a format approved by the University.
- 17.6 Nothing in this Section 17 shall be deemed to limit or waive any other rights or remedies of the University under either Law or contract.

Section 18 - Remedies

Contractor understands and agrees that all rights and remedies afforded below shall be in addition to all remedies or actions otherwise authorized or permitted by Law:

- 18.1 Cover/Substitute Performance: In the event of Contractor's material breach, the University may, with or without formally bidding: (i) purchase from other sources or (ii) if the University is unsuccessful after making reasonable attempts, under the circumstances then existing, to timely obtain acceptable service or acquire replacement Product of equal or comparable quality, the University may acquire acceptable replacement service of lesser or greater quality. Such purchases may, in the discretion of the University, be deducted from the Contract quantity and payments due Contractor.
- 18.2 Withhold Payment: In any case where a question of non-performance by Contractor arises, payment may be withheld in whole or in part at the discretion of the University. Should the amount withheld be paid, a cash discount originally offered may be taken as if no delay in payment had occurred.
- 18.3 Bankruptcy: In the event that Contractor files a petition under the U.S. Bankruptcy Code during the Term of this Contract, the University may, at its discretion, make application to exercise its right to set-off against monies due the debtor or, under the doctrine of recoupment, credit the University the amounts owed by Contractor arising out of the same transactions.
- 18.4 Reimbursement of Costs Incurred: Contractor agrees to reimburse the University promptly for any and all additional costs and expenses incurred for acquiring acceptable services and/or replacement Products. Should the cost of cover be less than the Contract Price, Contractor shall have no claim to the difference. Contractor covenants and agrees that in the event suit is successfully prosecuted for any default on the part of Contractor, all costs and expenses expended or incurred by the University in connection therewith, including reasonable attorney's fees, shall be paid by Contractor.

18.5 Deduction/Credit: Sums due as a result of these remedies may be deducted or offset by the University from payments due, or to become due, Contractor on the same or another transaction. If no deduction or only a partial deduction is made in such fashion, Contractor shall pay to the University the amount of such claim or portion of the claim still outstanding, on demand. The University reserves the right to determine the disposition of any rebates, settlements, restitution, liquidated damages, etc., that arise from the administration of this Contract.

18.6 If the University elects to terminate this Contract for material breach, Contractor shall provide a refund of any payments made by the University for the Goods and Services. Such refund shall not serve to limit any of the University's rights or remedies under this Contract or as may be available at Law.

18.7 Nothing contained herein, including the exercise of any right by the University hereunder, shall waive, limit, satisfy, or affect in any way claims or demands against Contractor by the University or claims or demands against others arising from the failure of Contractor to perform under this Contract.

Section 19 - Estoppel

The University, and any of its officers, agents, or employees, shall not be precluded or estopped from showing at any time, either before or after the complete performance of this Contract and payment hereunder, the actual quantity, nature, and value of the Goods delivered or Services performed by Contractor, or any other person under this Contract, or from showing at any time that any certificate upon which payment is made for any or all of said Goods or Services is untrue, or that the Goods or Services or any part thereof delivered or performed by Contractor do not conform to this Contract. The University shall, in any such case, have the right to demand and recover from Contractor such damages as it may suffer by reason of Contractor's failure to comply with this Contract, notwithstanding any such certificate or any payments made for any or all of the Goods delivered or Services performed.

Section 20 - Taxes

The University is exempt from the payment of all State and local sales and use taxes. The Contract Price shall not include the amount of any such taxes, and Contractor shall not attempt to collect any taxes from the University.

Section 21 - Contract Billings

21.1 Contractor and the distributors/resellers designated by Contractor, if any, shall provide complete and accurate billing invoices to the University in order to receive payment. Billings to the University must contain all information required by this Contract and the Comptroller. The Comptroller shall render payment for the University, and such payment shall be made in accordance with ordinary State or City procedures and practices, as applicable. Contract purchases made by the University shall be billed directly by Contractor on invoices/vouchers and submitted together with complete and accurate supporting documentation as required by the University.

21.2 Submission of an invoice and payment thereof shall not preclude the University from reimbursement or demanding a price adjustment in any case where the Product delivered is found to deviate from the terms and conditions of this Contract or where the billing was inaccurate.

21.3 Contractor shall provide, upon request of the University, any and all information necessary to verify the accuracy of the billings. Such information shall be provided in the format requested by the University and in commercially available media from Contractor. The University reserves the right to request additional information at any time.

21.4 Contractor shall submit invoices to the address set forth below at a time interval set forth in the Scope of Work.

21.5 Contractor will submit the invoices to the address set forth below:

ADDRESS FOR INVOICES

Upon completion and acceptance of the Services by the University all invoices should be submitted to the email address or individual listed in the Purchase Order sent to Contractor, or as otherwise directed by the University.

Section 22 - Consulting

In accordance with New York State Law, if applicable, if Contractor is providing consulting services to the University under this Contract, including analysis, evaluation, research, training, data processing, computer programming, engineering, environmental, health, and mental health services, accounting, auditing, paralegal, legal, or similar services, for an amount equal to \$20,000 or more, then the following shall apply: Contractor is obligated under this Contract to complete, sign, and submit Form A "Disclosure of Planned Employment" before Contractor may begin providing the Services. Contractor also is obligated under this Contract to complete, sign, and submit promptly after March 31 of each year that this Contract is in effect Form B "Contractor's Annual Employment Report". These forms are available at <http://www.osc.state.ny.us/agencies/forms/ac3272s.doc>.

Section 23 - Expenses Prior to Contract Execution

The University is not liable for any costs incurred by Contractor for any Work performed prior to Contract execution.

Section 24 - Assignment of Claim

Contractor hereby assigns to the University any and all of its claims for overcharges associated with this Contract that may arise under the antitrust laws of the United States, 15 USC Section 1, et. seq., and the antitrust laws of the State, General Business Law Section 340, et. Seq, provided that such claims are directly related to this Contract and the Contractor is notified in writing and in advance. This grant shall not preclude the Contractor from participating in or recovering under any related legal action. The University's rights under this clause shall be limited to claims initiated within two years of contract termination and shall not extend to claims unrelated to this Contract or to amounts exceeding the total compensation paid to the Contractor under this Contract.

Section 25 - Confidentiality

25.1 Contractor acknowledges that Contractor and Contractor's Workers may, in the course of the performance of this Contract, be exposed to or acquire information that is confidential to the University, or its employees or students, including without limitation, security procedures, business operations information, or commercial Proprietary information in the possession of the University hereunder or received from a third party. Contractor shall treat all information obtained from the University or disclosed to Contractor while performing this Contract ("Confidential Information") in accordance with this paragraph, except for any such information that the University designates to Contractor in writing as excluded from Confidential Information. The University acknowledges it may be exposed to confidential and Proprietary information of Contractor, including Contractor's IP (also, "Confidential Information") and therefore Contractor shall mark as "confidential" any Confidential Information that it provides to the University in performance of the Services. Any information provided by the Contractor that is not marked as "confidential" shall be deemed not to be Confidential Information.

25.2 This obligation of confidentiality does not extend to any information that: (i) was in the possession of or rightfully known by the receiving party prior to the time of disclosure by the disclosing party without any obligation to maintain its confidentiality; (ii) is or becomes available to the general public without violation of this Contract; (iii) is obtained by the receiving party in good faith from

a third party having the right to disclose it without an obligation of confidentiality; (iv) is independently developed by the receiving party without the participation of individuals who have had access to it; (v) is required to be disclosed by court order, provided the receiving party gives the disclosing party prior written notice of such required disclosure (to the extent legally permitted or required under Freedom of Information Law) and reasonable assistance if the disclosing party wishes to contest the disclosure; or (vi) otherwise obtained under the Freedom of Information Act or applicable State Laws and regulations.

25.3 Contractor shall treat the Confidential Information with the same degree of care that Contractor would treat Contractor's own confidential information, and with no less than reasonable care.

Contractor shall not use the Confidential Information for purposes other than rendering the Work and shall limit access to Confidential Information to those of Contractor's Workers having a need to know such Confidential Information to perform the Work. Contractor shall not directly or indirectly disclose, distribute, republish or allow any third party to have access to any Confidential Information without such third party's executing a confidentiality and non-disclosure agreement with the University under the same terms, or terms at least as restrictive, as set forth in this Contract. Contractor shall take appropriate steps as to its Workers and such third parties to ensure compliance with the confidentiality obligations under this paragraph

25.4 At any time the University requests in writing, including upon termination or completion of the Work, Contractor shall return to the University, or destroy, all copies of the Confidential Information, in whatever media, and shall provide the University with a sworn certification that Contractor has complied with Contractor's obligations under this paragraph unless required by law, rule or regulation, or requested in any judicial or administrative proceeding or by any governmental or regulatory authority

25.5 Any confidential or proprietary information provided to the Contractor by the University prior to the Term of this Contract is considered to be Confidential Information under this Contract.

Section 26 - Liens

If at any time during performance of the Work or after the Work has been accepted by the University, any person or persons claiming to have performed any labor or furnished any material toward the performance or completion of this Contract shall file with the University and with the Comptroller any such notice as is described in the State Lien Law or any other Act of the legislature of the State, then, and in every such case, the University shall retain, anything herein contained to the contrary notwithstanding, from the monies under its control, and due or to become due under this Contract, so much of such monies as shall be sufficient to pay off, satisfy and discharge the amount in such notice alleged or claimed to be due to the person or persons filing such notice, together with the reasonable costs of any action or actions brought or that may be brought to enforce such claim or the lien created by the filing of such notice. The monies so retained shall be retained by the University until the lien thereon created by said Act and the filing of said notice shall be discharged pursuant to the provisions of said Act.

Section 27 - INDEMNIFICATION

27.1 Contractor shall be fully liable for the actions of its employees and subcontractors and subconsultants, and Contractor shall fully indemnify, and save harmless, and pay all damages finally awarded by a court of competent jurisdiction or settlement amounts agreed to, to the fullest extent permitted by Law the University, including all of its constituent entities, the City University Construction Fund (CUCF), Dormitory Authority of the State of New York (DASNY), the State of New York, and the City, and each officer, agent, trustee and employee of any of them (the "Indemnified Parties"), from loss and liability arising from all suits, third-party claims, demands, damages, fines, penalties, liens, actions and costs of any kind, including reasonable attorneys' fees, to which any or all of them may be subjected by reason of any or all of Contractor's negligence or willful misconduct on the part of Contractor, its employees, its subcontractors, and/or its subconsultants

in the performance of the Services in the performance of this Contract, and shall be solely responsible for any and all that leads to bodily injuries to persons including death and all damage to tangible property resulting therefrom without limitation; provided, however, that Contractor shall not indemnify for that portion of any claim, loss or damage arising hereunder due to the negligent act or negligent failure to act of the University. The whole or so much of the monies due or to become due to Contractor under this Contract as shall or may be considered necessary by the University may be retained by the University until all such suits or claims shall have been settled or otherwise disposed of, and evidence to that effect furnished to the reasonable satisfaction of the University Contractor's obligation to indemnify the Indemnified Parties for any claim is only applicable when the University (i) notify Contractor promptly in writing of any such claim; (ii) permit Contractor to UCO-981 RFID Asset Tracking Solution Addendum No. 8 Page 11 of 22 have sole control of the defense, compromise or settlement of such claim, including any appeals; (iii) not make any prejudicial statements or settlement offers without the prior written consent of Contractor; (iv) fully co-operate with Contractor in the defense or settlement of such claim; and (v) the claim does not arise as a result of any breach by the Indemnified Parties of a term of any applicable license." A. Accepted and rejected in part

27.2 To the extent that Contractor receives or has access to any non-public data of the University or any of its officers, employees, agents, trustees, faculty or students, the Contractor agrees to and shall comply with, and shall cause its subcontractors to comply with, the terms and conditions set forth on Appendix B hereto. Contractor shall be fully liable for the actions of its employees and subcontractors and subconsultants, and Contractor shall fully indemnify and save harmless to the fullest extent permitted by Law the Indemnified Parties from any third-party claim concerning a confirmed breach of said non-public data caused by Contractor or any of its subcontractors and subconsultants.

27.3 CUNY has hired Contractor, and is relying upon Contractor for its ability, capabilities, and expertise in performing the Services. The approval of the University of the methods of performing the Services or the failure of the University to call attention to improper or inadequate methods or to require a change in methods or to direct Contractor to take any particular precautions or to refrain from doing any particular thing shall not excuse Contractor in case of any liabilities hereunder.

INDEMNIFICATION RELATING TO INFRINGEMENT

27.4 Contractor also shall defend, indemnify, and hold the University harmless from all suits, actions, proceedings, claims, judgments, liabilities, losses, damages, expenses, and costs of every name and description (including reasonable attorneys' fees), relating to a claim or action of infringement of a patent, copyright, trademark, trade secret, or other Proprietary right provided such claim arises out of the products as supplied or used or utilized by Contractor, and not out of any modification to the products made by the University or by someone other than Contractor at the direction of the University without Contractor's approval; provided, however, that Contractor shall not be obligated to indemnify the University for any claim, loss or damage arising hereunder to the extent caused by the negligent act, failure to act, gross negligence, or willful misconduct of the University.

27.5 The University shall give Contractor: (i) prompt written notice of any action, claim, or threat of suit alleging infringement, (ii) the opportunity to take over, settle or defend such action, claim or suit at Contractor's sole expense, and (iii) assistance in the defense of any such action, claim or suit at the expense of Contractor. Notwithstanding the foregoing, the State reserves the right to join such action, at its sole expense, if it determines there is an issue involving a significant public interest.

27.6 If usage of a Product shall be enjoined for any reason or if Contractor believes that it may be enjoined, Contractor shall have the right, at its own expense and sole discretion to take action in the following order of precedence: (i) to procure for the University the right to continue usage; (ii) to modify the Service or Product so that usage becomes non-infringing, and is of at least equal quality

and performance; or (iii) to replace such Product or parts thereof, as applicable, with a non-infringing Product of at least equal quality and performance. If the above remedies are not available, the University may terminate the Contract, in whole or in part as necessary and applicable, provided that Contractor provides to the University a refund for any amounts paid for the period during which usage was not feasible.

- 27.7 In the event that an action or proceeding at Law or in equity is commenced against the University arising out of a claim that the University's use of the Product under the Contract infringes any patent, copyright, trademark, trade secret or Proprietary right, and Contractor is of the opinion that the allegations in such action or proceeding in whole or in part are not covered by the indemnification and defense provisions set forth in the Contract, Contractor shall immediately notify the University and the New York State Office of the Attorney General in writing and shall specify to what extent Contractor believes it is obligated to defend and indemnify under the terms and conditions of the Contract and to what extent it is not so obligated to defend and indemnify. Contractor shall in such event protect the interests of the University and attempt to secure a continuance to permit the State and the University to appear and defend their interests in cooperation with Contractor, as is appropriate, including any jurisdictional defenses the State and the University may have. In the event of a dispute regarding the defense, Contractor and the Attorney General shall try to reach an amicable resolution, but the Attorney General shall have the final determination on such matters. This constitutes the University's sole and exclusive remedy for infringement of a patent, copyright, trademark, trade secret, or other Proprietary right.

Section 28 - Limitation of Liability

- (a) Except with respect to liability for obligations relating to: (1) breaches of information security; (2) breaches of confidentiality; (3) intellectual property infringement; (4) injury to persons or property, or wrongful death, that may result from any negligence, willful misconduct, intentional wrongdoing, recklessness, bad faith, malpractice, or incompetence of Contractor, or of anyone employed or engaged by Contractor, in connection with the performance of this Agreement; (5) Contractor's obligations in Section 18.1; and (6) liabilities that result from or in relation to the willful misconduct, intentional wrongdoing, recklessness, bad faith, malpractice, or incompetence of Contractor, or of anyone employed or engaged by Contractor, in connection with the performance of this Agreement, Contractor's liability under this Contract shall be capped at 2x the contract value or the limits of applicable required insurance, whichever is greater.
- (b) Except with respect to costs and damages arising from Contractor's breach of the terms of Section 25, in no event shall Contractor or University be liable for any indirect, incidental, consequential or special damages or any damages whatsoever including, but not limited to, damages for loss of use, data or profits, arising out of or in any way connected with this Contract.

Section 29 - Insurance

- 29.1 Contractor shall deliver to the University certificates of such insurance or authority for self-insurance before Contractor commences the Work and/or upon request by the University.
- 29.2 Contractor shall ensure that no insurance policy required by this Contract shall be canceled, terminated, modified or changed by Contractor's insurer without prior written consent of the University.
- 29.3 No insurance policy required hereunder shall be invalidated by reason of any of the terms of any policy issued by the insurance company to Contractor.
- 29.4 Through an executed amendment to this Contract by the University and Contractor, the

University reserves the right to add additional insurance requirements and Contractor shall procure such additional insurance requirements within such period as the parties agree in the amendment.

- 29.5 The University reserves the right to request certified complete copies of required insurance policies at any time. Contractor shall provide such requested copies within three (3) calendar days of notice of request for same.

Section 30 - Additional Terms

30.1 The terms and conditions of Appendix A: Standard Clauses for New York State Contracts are attached hereto and incorporated herein. The term "State" in Appendix A includes the State and the University, which is a "contracting agency" and "State agency" for purposes of Appendix A.

30.2 Any terms and conditions that may be included or incorporated in the Contractor's Scope of Work or proposal shall be inapplicable and of no force and effect, including, in particular, references to incorporate any governing terms offered by Contractor, by hyperlink or otherwise, and/or attempts to nullify this Contract, the University's Purchase Order terms and conditions, or any other contract terms and conditions set forth herein.

30.3 Any terms and conditions that may be included in the Contractor's Scope of Work with respect to "acceptance" are explicitly rejected and shall be inapplicable and of no force and effect, including, for example, attempts to deem a lack of response of acceptance or non-acceptance by the University within a certain number of days to be acceptance of a deliverable.

Section 31 - Notices

All notices, letters, orders or other communications given pursuant to this Contract shall be in writing, shall be validly given when mailed by registered or certified mail, sent by overnight courier, or hand delivered, and shall be effective upon receipt by the other party. Notices to Contractor shall be sent to the address set forth for Contractor in the Contract Signature Page. Notices to the University shall be sent to the Office of General Counsel, The City University of New York, 205 East 42nd Street, New York, New York 10017. The parties may from time to time specify any address in the United States as its address for purpose of notices under this by giving fifteen (15) calendar days prior written notice to the other party.

Section 32 - Choice of Forum

All claims and actions brought under or arising from this Contract shall be brought either in the courts of the United States located in the City or in the courts of the State.

Section 33 - Survival of Obligations

The rights and obligations of both parties that expressly or by their nature would impliedly involve performance beyond the termination or expiration of this Contract, including but not limited to Contractor's representations and warranties, the provisions dealing with payment, ownership of intellectual property, indemnification, and confidentiality, and all obligations and liabilities that have accrued prior to the date of termination, shall so survive.

Section 34 - All Lawful Provisions Deemed Included

It is the intent and understanding of the parties to this Contract that each and every provision of Law required to be inserted in this Contract shall be and is inserted herein. Furthermore, it is hereby stipulated that every such provision is deemed to be inserted herein, and if through mistake or otherwise, any such provision is not inserted, or is not inserted in correct form, then this Contract shall forthwith upon the application of either party be amended by such insertion so as to comply strictly with the Law and without prejudice to the rights of either party hereunder.

Section 35 - Severability

The terms, clauses, and provisions of this Contract are intended to be severable. The unconstitutionality, illegality or unconscionability of any term, clause, or provision shall in no way defeat the effect or validity of any other term, clause, or provision.

Section 36 - Paragraph Headings and Language Interpretation

36.1 The paragraph headings/captions contained herein are for reference only and shall not be considered substantive parts of this Contract. The use of the singular or plural form shall include the other form.

36.2 Contractor represents and warrants that it has examined the Contract documents carefully and before signing has requested, in writing, an interpretation, clarification, or correction of every ambiguity, inconsistency, deficiency, or error therein that should have been discovered by a reasonably prudent vendor. In addition, in the event of conflicting provisions between or among the Contract documents, Contractor is obligated to seek clarification from the University as soon as Contractor becomes aware of any conflicting provisions; in general, however, Contractor is obligated to provide the most expensive option, and the more specific provision will take precedence over the less specific, the more stringent will take precedence over the less stringent, and the more expensive option will take precedent over the less expensive option.

36.3 Any such interpretation, clarification, or correction will be provided in writing by the University, and no other interpretation or correction other than that given by University in writing shall be binding.

Section 37 - Waiver

Waiver by either party of a breach of any provision of or right under this Contract shall not operate or be construed as a waiver of any other or subsequent breach of the same provision or right or of any other provision or right of this Contract.

Section 38 - Modification of Contract

The terms and conditions set forth in this Contract shall govern all transactions by the University under this Contract. Contractor acknowledges and agrees that no change in or modification to or discharge of this Contract, in any form whatsoever, shall be valid or enforceable unless it is in writing and signed by an authorized representative of the party to be charged therewith.

Section 39 - Merger

This Contract, including the Purchase Order, if any, the Contract Signature Page, the Scope of Work, Standard Clauses for New York State Contracts, Terms and Conditions, and all other exhibits, attachments and appendices attached hereto, all of which are incorporated herein, contains all the terms and conditions agreed upon by the parties hereto, and no other agreement, oral or otherwise, regarding the subject matter of this Contract shall be deemed to exist or to bind any of the parties hereto, or to vary any of the terms contained herein.

Section 40 - Counterparts

This Contract may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

Section 41 - License Terms for Software

41.1 The solicitation document to which these Terms and Conditions are attached, including all
2094-6800-4870, v. 1

attachments and exhibits incorporated herein, shall, upon acceptance of a vendor's response to the solicitation and execution of all required documents, comprise the full agreement between CUNY and Contractor. This Contract supersedes any "click-through," "click-wrap," and all other electronically presented or posted End User License Agreement ("EULA") or other similar terms and conditions provided by Contractor or any parent or affiliate thereof, to the extent that the terms of such documents or agreements are inconsistent with the terms of this Contract. In addition to the other requirements stated herein, any terms or conditions of use of the Software that Contractor requires the University, College, an employee, agent, or contractor of the University or College, a student of the University or College, or other end user (collectively, "End Users") to accept shall be subject to the following requirements:

- 41.1.1 Contractor shall provide fully paid, non-transferrable, non-sublicensable, royalty free, non-exclusive, irrevocable licenses to use, display, and operate the Software for any of the College's educational, research, and other non-commercial uses, including all applications, modifications, updates, and upgrades and provide maintenance and support for same ("Support").
- 41.1.2 End Users shall not be required to grant a license to Contractor to use, reproduce, or disclose any End User-generated material, or any End User's intellectual property rights, as a condition of using the Software. Any such terms in Contractor's EULA or similar terms and conditions shall be void.
- 41.1.3 Notwithstanding any disclaimer of warranties Contractor's EULA or similar terms and conditions, Contractor warrants that the Software shall function in all material respects as required by this Contract and as described in Contractor's standard commercially available documentation describing the Software's functionality.
- 41.1.4 The University, College, and other End Users shall not be required to indemnify Contractor for any liabilities, claims, or expenses. Any such terms in the Contractor's EULA or similar terms and conditions shall be void.
- 41.1.5 End Users shall not be required to accept any mandatory arbitration clauses as a condition of using the Software. Any such terms in the Contractor's EULA or similar terms and conditions shall be void.
- 41.1.6 End Users shall not be required to accept any limitation of liability clauses as a condition of using the Software. Any such terms contained in Contractor's EULA or similar terms and conditions shall be void. Contractor's liability shall be in accordance with the terms of this Contract.
- 41.1.7 Contractor understands and agrees that all agreements that CUNY enters into, including this Contract, are public contracts and subject to disclosure pursuant to applicable Laws and directives. End Users shall not be required to maintain the confidentiality of the EULA or any documents or information furnished to such person or entity by the Contractor. Any such terms contrary to the terms of this section shall be void.
- 41.1.8 The University shall be solely responsible for daily back-up and other protection of its data and software against loss, damage or corruption. The University shall be solely responsible for reconstructing data (including but not limited to data located on disk files and memories) and software that may be lost, damaged or corrupted during the performance of Cloud Services.
- 41.2 Contractor represents, warrants and covenants that: (a) it has the full right, power and authority to license the Software; (b) to the knowledge of Contractor, the Software and all Proprietary information and content contained therein does not violate or infringe upon the patent, copyright, trademark, trade secret or other intellectual property, industrial or Proprietary rights or interests of any third party, or any applicable ordinance, Law, rule or regulation; and (c) Contractor will obtain and

maintain such insurance policies with reputable insurance companies as is usually carried by entities engaged in Contractor's business, covering the Term of this Contract.

Section 42 - Additional Terms and Conditions

- 42.1 Tasks, deliverables and responsibilities not explicitly addressed within this Contract and work plan are beyond the scope of this arrangement and can only be incorporated into this effort through an amendment signed between the parties.
- 42.2 CUNY Data. Contractor represents and warrants to CUNY that it shall not collect, use, store, display and/or transmit CUNY Data (including in a summary, extracted, redacted or de-identified form) other than as necessary to fulfill its obligations under this Contract.
- 42.3 Compliance with Security Policies and Procedures. Contractor shall stay aware of and comply with: (i) security requirements and obligations required by applicable Law; (ii) the CUNY Security Policies and Procedures, including internet security policies and procedures attached hereto as Exhibit 4, and the University's IT Administrative Policies, available at <https://www.cuny.edu/about/administration/offices/cis/it-policies/>; and (iii) Contractor's security standards, policies, guidelines and procedures, provided that the CUNY Security Policies and Procedures shall take precedence over any inconsistencies or conflicts with Contractor's security standards, policies, guidelines and procedures.
- 42.4 The Contractor shall comply with all applicable federal and state laws and regulations regarding the accessibility of the Services for those who are disabled. In accordance with Section 170 F of the New York State Executive Law, Contractor warrants and represents that the online content and functionality of all products and services under this Agreement conforms to the most current version of the Web Content Accessibility Guidelines adopted by the World Wide Web Consortium for accessibility and any successor standards that may be promulgated during the term of this Agreement ("WCAG Standards"), which are incorporated herein by reference. b. Contractor shall provide a completed Voluntary Product Accessibility Template ("VPAT") that clearly indicates the Services' compliance with the WCAG Standards. The VPAT must reflect the Vendor's current software release to CUNY. Vendor warrants that the Services' online content and functionality shall meet or exceed the accessibility standards specified in vendor's VPAT throughout the Term of this Agreement, which must be aligned with the WCAG Standards. If CUNY determines that a user of the Services requires a special modification in order to access the Services, then CUNY shall promptly submit a written request to Contractor for a modification to the software in writing, and Contractor shall use commercially reasonable efforts to provide such modification promptly. In the event that the requested modification requires more than commercially reasonable efforts, then the Contractor must agree to engage in good faith negotiations with CUNY to amend the Agreement as necessary to provide for the requested modification of the Services.
- 42.5 Contractor may not use the University's name or logo to imply endorsement by the University.
- 42.6 The University shall not use the name of Contractor to imply any endorsement by Contractor nor in any announcements, press releases or advertisements, or for any commercial purpose, without the prior written consent of the Contractor, not to be unreasonably withheld, except the University may include the Contractor as a vendor providing services.
- 42.7 Contractor shall not without the prior written consent of the University in each instance: (a) use in advertising, publicity or otherwise the name of the University or any other trade name, trademark, trade device, service mark, symbol or any abbreviation, contraction or simulation thereof owned by the University; (b) represent directly or indirectly, that any product or any service provided by either and/or both of them has been approved or endorsed by the University; (c) represent itself or create an inference that it, or any of its employees are an employee of the University.

42.8 Facility Rules. All Contractor personnel, including subcontractors and consultants, if any, shall, while on CUNY's premises, comply with all CUNY Policies, copies of which shall be made available to the Contractor upon request. Contractor shall ensure that any of its personnel performing work on CUNY's premises, or accessing CUNY's computer systems do so with CUNY's advance permission and according to all applicable security and workplace-related CUNY Policies, including the Security Policies and Procedures. Contractor shall not stop, delay or interfere with CUNY's day-to-day operations without the prior written consent of an authorized CUNY representative(s). If it becomes necessary to obtain written consent from an authorized CUNY representative(s), Contractor and CUNY will work together to minimize the impact on CUNY's day-to-day operations. In addition, if such consent is necessary, CUNY shall not unreasonably withhold such written consent.

42.9 Removal of Contractor Personnel by CUNY. If CUNY has concerns over Contractor personnel (staff or subcontractors, if any) assigned to a project and CUNY believes that the problem is capable of being corrected, CUNY shall bring such concerns to the attention of Contractor. Contractor shall have a period of seven (7) days following such disclosure to resolve any problems with respect to such person in a manner that is satisfactory to CUNY. If Contractor is unable to resolve the problem within such seven (7) day period to CUNY's satisfaction, then Contractor shall remove such person and provide a replacement as soon as reasonably possible thereafter (if possible, not to exceed fourteen (14) days following the seven (7)-day correction period), taking into consideration such person's duties and responsibilities. Nothing contained in this Section shall restrict CUNY from immediately removing Contractor's personnel if Contractor's personnel is engaging in a manner that is unlawful, non-compliant with CUNY Policies, or other exigent circumstances exist that require immediate removal.

42.10 Work Rules. While performing Services on-site, Contractor shall register with and sign in at reception and obtain temporary College identification cards for all Workers from the receptionist on the first day of work.

42.10.1 Contractor shall ensure that all Contractor personnel sign the project log ("Project Log") at reception at the beginning of each on-site work day, and that the Contractor personnel accurately state the Services to be performed in the Project Log, and sign out at the end of each work day.

42.10.2 Contractor shall perform all Services during the hours from 9 a.m. to 5 p.m., Monday through Friday, not including CUNY holidays, unless it receives prior written approval to change hours in the form of a schedule provided by CUNY.

42.10.3 Contractor personnel providing Services under this Contract, including any subcontractors, who shall have received approval from CUNY before beginning any work, shall be required to wear CUNY-issued photo identification badges at all times while on CUNY property.

42.10.4 Contractor shall protect from damage any and all property at CUNY's premises while performing any Work and promptly repair at its cost any damage caused by Contractor.

42.10.5 Contractor shall remove all debris caused by, or a result of Work on a daily basis.

42.11 Background Checks. CUNY, at its discretion may, on its own, or through a third party, conduct a criminal background check on Contractor personnel.

42.11.1 Contractor, prior to commencement of performance under this Contract shall submit an affirmation that none of the personnel assigned to perform services hereunder has been convicted of any of the following offenses:

- 42.11.1.1 manslaughter and negligent manslaughter;
- 42.11.1.2 robbery;
- 42.11.1.3 sexual assault (including rape);
- 42.11.1.4 aggravated assault;
- 42.11.1.5 burglary;
- 42.11.1.6 arson;
- 42.11.1.7 illegal use, carrying, or possession of a weapon; and/or
- 42.11.1.8 unlawful possession or sale of habit-forming narcotics.

42.11.2 Contractor, prior to commencement of performance under this Contract shall submit an affirmation that none of the personnel assigned or to perform services hereunder is on parole for having been convicted of any of the foregoing offenses.

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APPENDIX A – STANDARD CLAUSES FOR NEW YORK STATE CONTRACTS

STANDARD CLAUSES FOR NYS CONTRACTS

The parties to the attached contract, license, lease, amendment or other agreement of any kind (hereinafter, “the contract” or “this contract”) agree to be bound by the following clauses which are hereby made a part of the contract (the word “Contractor” herein refers to any party other than the State, whether a contractor, licensor, licensee, lessor, lessee or any other party):

1. EXECUTORY CLAUSE. In accordance with Section 41 of the State Finance Law, the State shall have no liability under this contract to the Contractor or to anyone else beyond funds appropriated and available for this contract.

2. NON-ASSIGNMENT CLAUSE. In accordance with Section 138 of the State Finance Law, this contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or otherwise disposed of without the State’s previous written consent, and attempts to do so are null and void. Notwithstanding the foregoing, such prior written consent of an assignment of a contract let pursuant to Article XI of the State Finance Law may be waived at the discretion of the contracting agency and with the concurrence of the State Comptroller where the original contract was subject to the State Comptroller’s approval, where the assignment is due to a reorganization, merger or consolidation of the Contractor’s business entity or enterprise. The State retains its right to approve an assignment and to require that any Contractor demonstrate its responsibility to do business with the State. The Contractor may, however, assign its right to receive payments without the State’s prior written consent unless this contract concerns Certificates of Participation pursuant to Article 5-A of the State Finance Law.

3. COMPTROLLER’S APPROVAL. In accordance with Section 112 of the State Finance Law, if this contract exceeds \$50,000 (or \$75,000 for State University of New York or City University of New York contracts for goods, services, construction and printing, and \$150,000 for State University Health Care Facilities) or if this is an amendment for any amount to a contract which, as so amended, exceeds said statutory amount, or if, by this contract, the State agrees to give something other than money when the value or reasonably estimated value of such consideration exceeds \$25,000, it shall not be valid, effective or binding upon the State until it has been approved by the State Comptroller and filed in his office. Comptroller’s approval of contracts let by the Office of General Services, either for itself or its customer agencies by the Office of General Services Business Services Center, is required when such contracts exceed \$85,000. Comptroller’s approval of contracts established as centralized contracts through the Office of General Services is required when such contracts exceed \$125,000, and when a purchase order or other procurement transaction issued under such centralized contract exceeds \$200,000.

4. WORKERS’ COMPENSATION BENEFITS. In accordance with Section 142 of the State Finance Law, this contract shall be void and of no force and effect unless the Contractor shall provide and maintain coverage during the life of this contract for the benefit of such employees as are required to be covered by the provisions of the Workers’ Compensation Law.

5. NON-DISCRIMINATION REQUIREMENTS. To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment, nor subject any individual to harassment, because of age, race, creed, color, national origin, citizenship or immigration status, sexual orientation, gender identity or expression, military status, sex, disability, predisposing genetic characteristics, familial status, marital status, or domestic violence victim status or because the individual has opposed any practices forbidden under the Human Rights Law or has filed a complaint, testified, or assisted in any proceeding under the Human Rights Law. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this contract shall be performed within the State of New York, Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 thereof, Contractor agrees that neither it nor its subcontractors shall by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. Contractor is subject to fines of \$50.00 per person per day for any violation of Section 220-e or Section 239 as well as possible termination of this contract and forfeiture of all moneys due hereunder for a second or subsequent violation.

6. WAGE AND HOURS PROVISIONS. If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 thereof, neither Contractor’s employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said statutes, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in

accordance with the Labor Law. Additionally, effective April 28, 2008, if this is a public work contract covered by Article 8 of the Labor Law, the Contractor understands and agrees that the filing of payrolls in a manner consistent with Subdivision 3-a of Section 220 of the Labor Law shall be a condition precedent to payment by the State of any State approved sums due and owing for work done upon the project.

7. NON-COLLUSIVE BIDDING CERTIFICATION. In accordance with Section 139-d of the State Finance Law, if this contract was awarded based upon the submission of bids, Contractor affirms, under penalty of perjury, that its bid was arrived at independently and without collusion aimed at restricting competition. Contractor further affirms that, at the time Contractor submitted its bid, an authorized and responsible person executed and delivered to the State a non-collusive bidding certification on Contractor's behalf.

8. INTERNATIONAL BOYCOTT PROHIBITION. In accordance with Section 220-f of the Labor Law and Section 139-h of the State Finance Law, if this contract exceeds \$5,000, the Contractor agrees, as a material condition of the contract, that neither the Contractor nor any substantially owned or affiliated person, firm, partnership or corporation has participated, is participating, or shall participate in an international boycott in violation of the federal Export Administration Act of 1979 (50 USC App. Sections 2401 et seq.) or regulations thereunder. If such Contractor, or any of the aforesaid affiliates of Contractor, is convicted or is otherwise found to have violated said laws or regulations upon the final determination of the United States Commerce Department or any other appropriate agency of the United States subsequent to the contract's execution, such contract, amendment or modification thereto shall be rendered forfeit and void. The Contractor shall so notify the State Comptroller within five (5) business days of such conviction, determination or disposition of appeal (2 NYCRR § 105.4).

9. SET-OFF RIGHTS. The State shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but not be limited to, the State's option to withhold for the purposes of set-off any moneys due to the Contractor under this contract up to any amounts due and owing to the State with regard to this contract, any other contract with any State department or agency, including any contract for a term commencing prior to the term of this contract, plus any amounts due and owing to the State for any other reason including, without limitation, tax delinquencies, fee delinquencies or monetary penalties relative thereto. The State shall exercise its set-off rights in accordance with normal State practices including, in cases of set-off pursuant to an audit, the finalization of such audit by the State agency, its representatives, or the State Comptroller.

10. RECORDS. The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under this contract (hereinafter, collectively, the "Records"). The Records

must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The State Comptroller, the Attorney General and any other person or entity authorized to conduct an examination, as well as the agency or agencies involved in this contract, shall have access to the Records during normal business hours at an office of the Contractor within the State of New York or, if no such office is available, at a mutually agreeable and reasonable venue within the State, for the term specified above for the purposes of inspection, auditing and copying. The State shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute") provided that: (i) the Contractor shall timely inform an appropriate State official, in writing, that said records should not be disclosed; and (ii) said records shall be sufficiently identified; and (iii) designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the State's right to discovery in any pending or future litigation.

11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION. (a) Identification Number(s). Every invoice or New York State Claim for Payment submitted to a New York State agency by a payee, for payment for the sale of goods or services or for transactions (e.g., leases, easements, licenses, etc.) related to real or personal property must include the payee's identification number. The number is any or all of the following: (i) the payee's Federal employer identification number, (ii) the payee's Federal social security number, and/or (iii) the payee's Vendor Identification Number assigned by the Statewide Financial System. Failure to include such number or numbers may delay payment. Where the payee does not have such number or numbers, the payee, on its invoice or Claim for Payment, must give the reason or reasons why the payee does not have such number or numbers.

(b) Privacy Notification. (1) The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the State is mandatory. The principal purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their tax liabilities and to generally identify persons affected by the taxes administered by the Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law. (2) The personal information is requested by the purchasing unit of the agency contracting to purchase the goods or services or lease the real or personal property covered by this contract or lease. The information is maintained in the Statewide Financial System by the Vendor Management Unit within the Bureau of State Expenditures, Office of the State Comptroller, 110 State Street, Albany, New York 12236.

12. EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITIES AND WOMEN. In accordance with

Section 312 of the Executive Law and 5 NYCRR Part 143, if this contract is: (i) a written agreement or purchase order instrument, providing for a total expenditure in excess of \$25,000.00, whereby a contracting agency is committed to expend or does expend funds in return for labor, services, supplies, equipment, materials or any combination of the foregoing, to be performed for, or rendered or furnished to the contracting agency; or (ii) a written agreement in excess of \$100,000.00 whereby a contracting agency is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon; or (iii) a written agreement in excess of \$100,000.00 whereby the owner of a State assisted housing project is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon for such project, then the following shall apply and by signing this agreement the Contractor certifies and affirms that it is Contractor's equal employment opportunity policy that:

(a) The Contractor will not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status, shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on State contracts and will undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination. Affirmative action shall mean recruitment, employment, job assignment, promotion, upgradings, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation;

(b) at the request of the contracting agency, the Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union or representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the Contractor's obligations herein; and

(c) the Contractor shall state, in all solicitations or advertisements for employees, that, in the performance of the State contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.

Contractor will include the provisions of "(a), (b) and (c)" above, in every subcontract over \$25,000.00 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work") except where the Work is for the beneficial use of the Contractor. Section 312 does not

apply to: (i) work, goods or services unrelated to this contract; or (ii) employment outside New York State. The State shall consider compliance by a contractor or subcontractor with the requirements of any federal law concerning equal employment opportunity which effectuates the purpose of this clause. The contracting agency shall determine whether the imposition of the requirements of the provisions hereof duplicate or conflict with any such federal law and if such duplication or conflict exists, the contracting agency shall waive the applicability of Section 312 to the extent of such duplication or conflict. Contractor will comply with all duly promulgated and lawful rules and regulations of the Department of Economic Development's Division of Minority and Women's Business Development pertaining hereto.

13. CONFLICTING TERMS. In the event of a conflict between the terms of the contract (including any and all attachments thereto and amendments thereof) and the terms of this Appendix A, the terms of this Appendix A shall control.

14. GOVERNING LAW. This contract shall be governed by the laws of the State of New York except where the Federal supremacy clause requires otherwise.

15. LATE PAYMENT. Timeliness of payment and any interest to be paid to Contractor for late payment shall be governed by Article 11-A of the State Finance Law to the extent required by law.

16. NO ARBITRATION. Disputes involving this contract, including the breach or alleged breach thereof, may not be submitted to binding arbitration (except where statutorily authorized), but must, instead, be heard in a court of competent jurisdiction of the State of New York.

17. SERVICE OF PROCESS. In addition to the methods of service allowed by the State Civil Practice Law & Rules ("CPLR"), Contractor hereby consents to service of process upon it by registered or certified mail, return receipt requested. Service hereunder shall be complete upon Contractor's actual receipt of process or upon the State's receipt of the return thereof by the United States Postal Service as refused or undeliverable. Contractor must promptly notify the State, in writing, of each and every change of address to which service of process can be made. Service by the State to the last known address shall be sufficient. Contractor will have thirty (30) calendar days after service hereunder is complete in which to respond.

18. PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS. The Contractor certifies and warrants that all wood products to be used under this contract award will be in accordance with, but not limited to, the specifications and provisions of Section 165 of the State Finance Law, (Use of Tropical Hardwoods) which prohibits purchase and use of tropical hardwoods, unless specifically exempted, by the State or any governmental agency or political subdivision or public benefit corporation. Qualification for an exemption under this

law will be the responsibility of the contractor to establish to meet with the approval of the State.

In addition, when any portion of this contract involving the use of woods, whether supply or installation, is to be performed by any subcontractor, the prime Contractor will indicate and certify in the submitted bid proposal that the subcontractor has been informed and is in compliance with specifications and provisions regarding use of tropical hardwoods as detailed in § 165 State Finance Law. Any such use must meet with the approval of the State; otherwise, the bid may not be considered responsive. Under bidder certifications, proof of qualification for exemption will be the responsibility of the Contractor to meet with the approval of the State.

19. MACBRIDE FAIR EMPLOYMENT PRINCIPLES. In accordance with the MacBride Fair Employment Principles (Chapter 807 of the Laws of 1992), the Contractor hereby stipulates that the Contractor either (a) has no business operations in Northern Ireland, or (b) shall take lawful steps in good faith to conduct any business operations in Northern Ireland in accordance with the MacBride Fair Employment Principles (as described in Section 165 of the New York State Finance Law), and shall permit independent monitoring of compliance with such principles.

20. OMNIBUS PROCUREMENT ACT OF 1992. It is the policy of New York State to maximize opportunities for the participation of New York State business enterprises, including minority- and women-owned business enterprises as bidders, subcontractors and suppliers on its procurement contracts.

Information on the availability of New York State subcontractors and suppliers is available from:

NYS Department of Economic Development
Division for Small Business and Technology Development 625
Broadway
Albany, New York 12245 Telephone:
518-292-5100

A directory of certified minority- and women-owned business enterprises is available from:

NYS Department of Economic Development
Division of Minority and Women's Business Development 633
Third Avenue 33rd Floor
New York, NY 10017 646-
846-7364
email: mwbebusinessdev@esd.ny.gov
<https://ny.newnycontracts.com/FrontEnd/searchcertifieddirectory.asp>

The Omnibus Procurement Act of 1992 (Chapter 844 of the Laws of 1992, codified in State Finance Law § 139-i and Public Authorities Law § 2879(3)(n)-(p)) requires that by signing this bid proposal or contract, as applicable, Contractors certify that whenever the total bid amount is greater than \$1 million:

(a) The Contractor has made reasonable efforts to encourage the participation of New York State Business Enterprises as suppliers and subcontractors, including certified minority- and women-owned business enterprises, on this project, and has retained the documentation of these efforts to be provided upon request to the State;

(b) The Contractor has complied with the Federal Equal Opportunity Act of 1972 (P.L. 92-261), as amended;

(c) The Contractor agrees to make reasonable efforts to provide notification to New York State residents of employment opportunities on this project through listing any such positions with the Job Service Division of the New York State Department of Labor, or providing such notification in such manner as is consistent with existing collective bargaining contracts or agreements. The Contractor agrees to document these efforts and to provide said documentation to the State upon request; and

(d) The Contractor acknowledges notice that the State may seek to obtain offset credits from foreign countries as a result of this contract and agrees to cooperate with the State in these efforts.

21. RECIPROCITY AND SANCTIONS PROVISIONS. Bidders are hereby notified that if their principal place of business is located in a country, nation, province, state or political subdivision that penalizes New York State vendors, and if the goods or services they offer will be substantially produced or performed outside New York State, the Omnibus Procurement Act 1994 and 2000 amendments (Chapter 684 and Chapter 383, respectively, codified in State Finance Law § 165(6) and Public Authorities Law § 2879(5)) require that they be denied contracts which they would otherwise obtain. NOTE: As of May 2023, the list of discriminatory jurisdictions subject to this provision includes the states of South Carolina, Alaska, West Virginia, Wyoming, Louisiana and Hawaii.

22. COMPLIANCE WITH BREACH NOTIFICATION AND DATA SECURITY LAWS. Contractor shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law §§ 899-aa and 899-bb and State Technology Law § 208).

23. COMPLIANCE WITH CONSULTANT DISCLOSURE LAW. If this is a contract for consulting services, defined for purposes of this requirement to include analysis, evaluation, research, training, data processing, computer programming, engineering, environmental, health, and mental health services, accounting, auditing, paralegal, legal or similar services, then, in accordance with Section 163 (4)(g) of the State Finance Law (as amended by Chapter 10 of the Laws of 2006), the Contractor shall timely, accurately and properly comply with the requirement to submit an annual employment report for the contract to the agency that awarded the contract, the Department of Civil Service and the State Comptroller.

24. PROCUREMENT

LOBBYING. To the extent this agreement is a “procurement contract” as defined by State Finance Law §§ 139-j and 139-k, by signing this agreement the contractor certifies and affirms that all disclosures made in accordance with State Finance Law §§ 139-j and 139-k are complete, true and accurate. In the event such certification is found to be intentionally false or intentionally incomplete, the State may terminate the agreement by providing written notification to the Contractor in accordance with the terms of the agreement.

25. CERTIFICATION OF REGISTRATION TO COLLECT SALES AND COMPENSATING USE TAX BY CERTAIN STATE CONTRACTORS, AFFILIATES AND SUBCONTRACTORS.

To the extent this agreement is a contract as defined by Tax Law § 5-a, if the contractor fails to make the certification required by Tax Law § 5-a or if during the term of the contract, the Department of Taxation and Finance or the covered agency, as defined by Tax Law § 5-a, discovers that the certification, made under penalty of perjury, is false, then such failure to file or false certification shall be a material breach of this contract and this contract may be terminated, by providing written notification to the Contractor in accordance with the terms of the agreement, if the covered agency determines that such action is in the best interest of the State.

26. IRAN DIVESTMENT ACT.

By entering into this Agreement, Contractor certifies in accordance with State Finance Law § 165-a that it is not on the “Entities Determined to be Non-Responsive Bidders/Offerers pursuant to the New York State Iran Divestment Act of 2012” (“Prohibited Entities List”) posted at: <https://ogs.ny.gov/iran-divestment-act-2012>. The state agency reserves the right to reject any bid, request for assignment, renewal or extension for an entity that appears on the Prohibited Entities List prior

to the award, assignment, renewal or extension of a contract, and to pursue a responsibility review with respect to any entity that is awarded a contract and appears on the Prohibited Entities list after contract award.

27. ADMISSIBILITY OF REPRODUCTION OF

CONTRACT. Notwithstanding the best evidence rule or any other legal principle or rule of evidence to the contrary, the Contractor acknowledges and agrees that it waives any and all objections to the admissibility into evidence at any court proceeding or to the use at any examination before trial of an electronic reproduction of this contract, in the form approved by the State Comptroller, if such approval was required, regardless of whether the original of said contract is in existence.

Appendix B
Information Security

- (a) **Protected Information, Generally.** CONTRACTOR acknowledges that its performance of Services under this Agreement may involve access to confidential information of CUNY or Users including, but not limited to, personally identifiable information, student records, protected health information, or individual financial information (collectively, “Protected or Private Information”) that is subject to state or federal law/rules restricting the use and disclosure of such information, including, but not limited to; the federal Gramm Leach Bliley Act (15 U.S.C. §§ 6801(b) and 6805(b)(2)); the federal Family Educational Rights and Privacy Act (20 U.S.C. § 1232g); and the privacy and information security aspects of the Administrative Simplification provisions of the federal Health Insurance Portability and Accountability Act (45 CFR Part 160 and Subparts A, C, and E of Part 164); the Payment Card Industry Data Security Standards.

CONTRACTOR agrees to comply with all applicable federal and state laws restricting the access, use and disclosure of Protected Information. CONTRACTOR agrees to include all of the terms and conditions contained in all subcontractor or agency contracts providing services under this Agreement.

- (b) **Prohibition on Unauthorized Use or Disclosure.** CONTRACTOR agrees to hold CUNY’s and its Users’ Protected or Private Information, and any information derived from such information, in strictest confidence. CONTRACTOR shall not access, use or disclose Protected or Private Information except as permitted or required by the Agreement or as otherwise authorized in writing by CUNY, or applicable laws. If required by a court of competent jurisdiction or an administrative body to disclose Protected or Private Information, CONTRACTOR shall notify CUNY in writing immediately upon receiving notice of such requirement and prior to any such disclosure, to give CUNY an opportunity to oppose or otherwise respond to such disclosure (unless prohibited by law from doing so). Any transmission, transportation or storage of Protected or Private Information outside the United States is prohibited except on prior written authorization by CUNY.
- (c) **Data Storage and Access.** All CUNY Data transferred to CONTRACTOR must be stored, housed, process, backed-up, archived and otherwise retained on systems physically located in the continental United States. This requirement extends to any subcontractors of data storage. CONTRACTOR shall ensure that all CUNY Data is stored in a controlled access environment to ensure data security and integrity. All facilities proposed for use in storing CUNY Data must have adequate security systems in place to protect against unauthorized access to the facilities and the data stored therein. Access to the facilities must be restricted through an access control system that requires positive identification of authorized individuals as well as maintains a log of all access (including, without limitation, time, date and identity). CONTRACTOR shall have in place a formal procedure for granting computer system access to the data and to track access by its own employees.

More specifically, all CUNY Data shall remain in the Continental United States (“CONUS”). Any CUNY Data stored, or acted upon, must be located solely in Data Centers in CONUS. Services which directly or indirectly access CUNY Data may only be performed from locations within CONUS. All CUNY Data in transit must be handled in accordance with FIPS-140-2 or TLS1 or TLS2 (or successor).

Support Services. All helpdesk, online and support services which access any CUNY Data must be performed within CONUS. At no time will any Follow the Sun support be allowed to access CUNY Data directly, or indirectly, from outside CONUS.

Infrastructure Support Services. Infrastructure support services that do not directly or indirectly access CUNY Data may be provided in a Follow the Sun format, if expressly outlined within the Authorized User Agreement.

- (d) Data Exchange. Except as otherwise set forth in the Agreement, CONTRACTOR shall make arrangements to receive or exchange all CUNY Data via CUNY's systems of record. CONTRACTOR shall use reliable means of electronically transferring data between CUNY of its offices or facilities. Such means must ensure the confidentiality and integrity of data while in transit.
- (e) Data Protection. CONTRACTOR shall use appropriate means to preserve and protect CUNY Data, including, without limitation, use of stable storage media, regular data back-ups and archiving, password protection of volumes, and data encryption.
- (f) Data Return and Destruction. Upon CUNY's written request, at any time during the term of the Agreement and upon termination or expiration of the Agreement, CONTRACTOR shall promptly return to CUNY, in the format and on the media requested by CUNY, all or part of the CUNY Data. Upon termination of the Agreement, and following the return of the CUNY Data as described in the preceding sentence (if applicable), CONTRACTOR shall employ the technical measures necessary to assure the secure, irreversible, and complete erasure or destruction of all data storage formats to eliminate any and all data collected by CONTRACTOR or provided by CUNY or its Users unless explicit provisions for the retention of some data sets have been stipulated in the Agreement. Upon CUNY's request, CONTRACTOR shall provide written certification of the completion of the foregoing.
- (g) Breaches of Protected Information.

Definition. For purposes of this Section, the term, "Breach," has the meaning given to it under the applicable New York State or federal law.

Reporting of Breach. Immediately upon discovery of a confirmed or suspected Breach, CONTRACTOR shall report both orally and in writing to CUNY. In no event shall the report be made more than two (2) Business Days after CONTRACTOR knows or reasonably suspects a Breach has or may have occurred. In the event of a suspected Breach, CONTRACTOR shall keep CUNY informed regularly of the progress of its investigation until the uncertainty is resolved. CONTRACTOR's report shall identify:

- (i) The nature of the unauthorized access, use or disclosure,
- (ii) The Protected or Private Information accessed, used or disclosed,
- (iii) The person(s) who accessed, used and disclosed and/or received Protected or Private Information (if known),
- (iv) What CONTRACTOR has done or will do to mitigate any deleterious effect of the unauthorized access, use or disclosure, and
- (v) What corrective action CONTRACTOR has taken or will take to prevent future unauthorized access, use or disclosure.

CONTRACTOR shall provide such other information, including a written report, as reasonably requested by CUNY.

- (h) Coordination of Breach Response Activities. In the event of a Breach, CONTRACTOR shall:

- (i) Immediately preserve any potential forensic evidence relating to the Breach;
 - (ii) Promptly (within 2 Business Days) designate a contact person to whom CUNY will direct inquiries, and who will communicate its responses to CUNY's inquiries;
 - (iii) As rapidly as circumstances permit, apply appropriate resources to remedy the Breach condition, investigate, document, restore CUNY's service(s) as directed by CUNY, and undertake appropriate response activities;
 - (iv) Provide status reports to CUNY on Breach response activities, either on a daily basis or a frequency approved by CUNY;
 - (v) Coordinate all media, law enforcement, or other Breach notifications with CUNY in advance of such notification(s), unless expressly prohibited by law;
 - (vi) Make all reasonable efforts to assist and cooperate with CUNY in its Breach response efforts; and
 - (vii) Ensure that knowledgeable CONTRACTOR staff are available on short notice, if needed, to participate in CUNY-initiated meetings and/or conference calls regarding the Breach.
- (i) Costs Arising from Breach. Notwithstanding anything to the contrary in this Agreement, in the event of a Breach by CONTRACTOR or its staff, it shall promptly reimburse all costs to CUNY arising from such Breach, including but not limited to costs of notification of individuals, establishing and operating call center(s), credit monitoring and/or identity restoration services, time of CUNY personnel responding to Breach, civil or criminal penalties levied against CUNY, attorney's fees, court costs, etc. Any Breach may be grounds for immediate termination of this Agreement by CUNY.
- (j) Security Audit. Upon request by CUNY, CONTRACTOR may be asked to provide a recent independent audit report on security controls. CUNY shall have the right to send its officers and employees into CONTRACTOR's offices and data centers for inspection of the facilities and operations used in the performance of any work under the Agreement. On the basis of such inspection, specific measures may be required in cases where CONTRACTOR is found to be non-compliant with data security safeguards.
- (k) Assistance in Litigation or Administrative Proceedings. CONTRACTOR shall make itself and any employees, subcontractors, or agents assisting it in the performance of its obligations under the Agreement available to CUNY at no cost to CUNY to testify as witnesses in the event of an unauthorized disclosure caused by CONTRACTOR that results in litigation or administrative proceedings against CUNY, its directors, officers, agents or employees based upon a claimed violation of laws relating to security, privacy or arising out of this Agreement.
- (l) Family Educational Rights and Privacy Act (FERPA). CONTRACTOR agrees that it may create, receive from or on behalf of CUNY and its Users, or have access to, records and information that are subject to the Family Educational Rights and Privacy Act ("FERPA"), 20 U.S.C. Section 1232g (collectively, the "FERPA Records"). CONTRACTOR represents, warrants, and agrees that it will: (1) hold the FERPA Records in strict confidence and will not use or disclose the FERPA Records except as (a) permitted or required by this Agreement, (b) required by law, or
- (c) otherwise authorized by CUNY in writing; (2) safeguard the FERPA Records according to commercially reasonable administrative, physical and technical standards that are no less rigorous than the standards by which it protects its own confidential information; and (3) continually monitor its operations and take any action necessary to assure that the FERPA Records are safeguarded in accordance with the terms of this Agreement. At the request of

CUNY, CONTRACTOR shall provide CUNY with a written summary of the procedures CONTRACTOR uses to safeguard the FERPA Records.

- (m) General Data Privacy Regulation (GDPR). CONTRACTOR has been advised that data stored in the Product by [CUNY and its Authorized Users] in accordance with the permitted uses hereunder may include personal data subject to the requirements of the General Data Protection Regulation (GDPR) (EU 2016/679). CONTRACTOR has also been advised that any data it collects from [CUNY or its Authorized Users] may include personal data subject to the requirements of the GDPR. CONTRACTOR certifies that whether it acts hereunder as a Controller or a Processor of such data, it has implemented appropriate technical and organizational measures in such a manner that processing will meet the requirements of the GDPR and ensure personal data is subject to the GDPR.

Part 8: Service Level Agreement

This Service Level Agreement ("SLA") sets forth the service level and performance objectives of the Contractor in providing SaaS (the "Services") to CUNY. The Contractor will use reasonable efforts to meet the following service level and performance objectives to support the operation of the facilities, server(s), computer equipment, operating software and connectivity used to provide the Services to CUNY. The SLA is the process and interactive agreement that regulates activities and guides all parties toward the targeted successful outcome.

(a) Uptime Commitment

The Contractor will use reasonable efforts to ensure the Contractor's Systems are available a minimum of 99.5% of the time (the "Uptime Commitment"). All Uptime Commitment will be measured within the Contractor's System on a monthly basis calculated to include twenty-four (24) hours per day over each month, but excluding from the numerator and denominator in the calculation the duration in time of any temporary shutdowns due to scheduled maintenance (which will not exceed in the aggregate sixteen (16) hours per month outside of normal business hours), telecommunications or power disruptions caused by third parties, and any other causes beyond Contractor's reasonable control. The Contractor agrees to notify CUNY promptly of any factor, occurrence, or event coming to its attention that may affect the Contractor's ability to meet the Uptime Commitment, or that is likely to cause any material interruption in the Services.

(b) Exclusive Remedy

The Contractor will use reasonable efforts to correct any material problems in the Services, including any failure to satisfy the Uptime Commitment. In the event that the Contractor fails to satisfy the Uptime Commitment for a given month, CUNY's sole and exclusive remedy will be to receive a service credit equal to the following percentage of the monthly fees for the Services for the stated uptime:

- a. 98% to 99.5% – 10%
- b. 95% to 97.9% – 25%
- c. 92% to 94.9% – 40%
- d. 90% to 91.9% – 60%
- e. Below 90% – 100%

In no event will the service credit exceed the monthly fees paid by CUNY for the Services. CUNY acknowledges and agrees that if the remedies set forth in this section are applied, any failure of the Contractor to meet the requirements in this SLA will not constitute a breach of the Agreement."

(c) Monitoring

Contractor shall monitor and maintain Contractor's Systems in working order each day (24 x 7). Contractor shall proactively manage and monitor all application server hardware devices and software to ensure optimal performance and reliability as well as to detect abnormal events or exceeded utilization or performance thresholds. Contractor shall proactively monitor the status of the operating systems (e.g., CPU, disk I/O, memory, processes, etc.), critical application layer daemons and processes and trigger appropriate event notification alarms caused by errors, exceeded thresholds, etc.

(d) Maintenance

Contractor shall operate, monitor and administer all servers, applications and networks supporting the Services. In

order to provide such coverage, Contractor may utilize a mixture of on-site and on-call support staff, automated server monitoring and automated paging technology. Contractor's on-site coverage is during Contractor's normal business hours, Monday through Friday, excluding holidays recognized by Contractor and previously identified to CUNY."

(e) Scheduled Outages

Maintenance outages, if necessary, shall be conducted at a time and in a manner to minimize adverse impacts on the Services. Maintenance outages may include, but are not limited to the installation of upgrades, service packs and routine server or application configuration changes. Other maintenance outages may be necessary from time to time. Contractor shall provide CUNY with reasonable advance written notice of scheduled outages, and CUNY reserves the right to require Contractor to schedule such planned outages at a different time.

(f) Change Control

Contractor shall install new equipment, software, releases, upgrades, fixes, patches and other items necessary to maintain Contractor's Systems to industry standards. Contractor shall proactively gather information from appropriate server, peripheral, operating system or database vendors regarding upgrades, defect patches or fixes.

(g) Notice

Contractor shall use reasonable efforts to give CUNY three (3) days' notice prior to all non-routine management, maintenance, change control or other actions by Contractor that may materially impact the Solution adversely.

(h) Support

Contractor shall provide an online CRM for CUNY to report, manage, and track support issues as well as a toll free support number. Contractor shall provide end-user support during business hours (Mon–Fri), and downed system support 24x7. Initial response times to support issues are as follows:

Response Level	Description	Initial Response
I	SaaS Service is unavailable	1 hr.
II	Production module is inoperable	2 hr.
III	Module feature working incorrectly / performance issue	1 business day
IV	Non-performance related incidents, general questions, documentation questions, enhancement requests	2 business days

In the event of Downtime (which shall consist of a Response Level I or II in the chart above), Contractor shall provide an online Downtime Status page to be updated in real-time until resolution of such Downtime event. All incidents of Downtime which are known by Contractor, and which affect CUNY shall be communicated via a support case or by email.

Part 9: Supplier Diversity Provisions

Contractor Requirements and Procedures for Participation by New York State-certified Minority, Women, and Service-Disabled Veteran-Owned Businesses and Equal Employment Opportunities for Minority Group Members and Women

This Attachment describes certain requirements and procedures applicable to the (1) Request for Quotes ("RFQ"), Invitation for Bids ("IFB"), or Request for Proposals ("RFP") of which this Attachment is a part, (the "Solicitation") and to all Respondents, and (2) any contract or purchase order resulting from this Solicitation (the "Contract") and to any contractor selected as a result of this Solicitation (the "Contractor"). The term "Respondent" as used herein shall mean any person or entity responding to the Solicitation, including, without limitation, Bidders responding to an IFB, Proposers responding to an RFP, or Respondents providing Quotes pursuant to an RFQ. Failure by any Respondent to timely provide any of the documents, plans, and the like contemplated in this Attachment that are required to be delivered to CUNY prior to Contract award shall be grounds for CUNY to reject such Respondents' Quote, Bid Submission, or Proposal as non-responsive. In addition, failure by any Contractor to comply with any of the following requirements may, in the sole and absolute discretion of CUNY unless otherwise noted, result in a finding of non-responsibility and/or a breach of the Contract, leading to the withholding of funds, assessment of liquidated damages, suspension or termination of the Contract and/or such other actions or enforcement proceedings as allowed by the Contract, law or equity. Capitalized terms used but not defined in this Attachment shall have the meaning set forth in the Solicitation of which this Attachment is a part. The term "College-Designated Contact" as used in this Attachment shall mean the CUNY employee identified in the Solicitation for correspondence relating to the procurement of goods and/or services hereunder, including, without limitation, a "College-Designated Contact" identified in an IFB, a "Designated Contact" identified in an RFP, an "RFQ Administrator" identified in an RFQ, or the like. All forms required by the Attachment may be obtained from the College-Designated Contact or from www.cuny.edu/selltocuny/forms, if not attached hereto.

1. Solicitation Provisions. The following provisions apply to the Solicitation and to any Contract awarded under the Solicitation. All Respondents responding to this Solicitation are subject to the following provisions.

A. New York State Law

Pursuant to New York State Executive Law Article 15-A, Parts 140-145 of Title 5 of the New York Codes, Rules and Regulations, and CUNY policy, CUNY is required to promote opportunities for the maximum feasible participation of New York State-certified Minority- and Women-owned Business Enterprises and the employment of minority group members and women in the performance of CUNY contracts.

Pursuant to New York State Executive Law Article 17-B, Parts 252 of Title 9 of the New York Codes, Rules and Regulations, and CUNY policy, CUNY is required to promote meaningful participation in public procurement by New York State certified Service-Disabled Veteran-Owned Businesses ("SDVOB"), thereby further integrating such businesses into New York State's economy. In recognition of the service and sacrifices made by service-disabled veterans and in recognition of their economic activity in doing business in New York State, Respondents are expected to consider SDVOBs in the fulfillment of the requirements of the Contract. Such participation may be as subcontractors or suppliers, as protégés, or in other partnering or supporting roles.

B. Business Participation Opportunities for MWBEs and SDVOBs

CUNY may have established (1) an overall participation goal for New York State-certified minority- and women-owned business enterprises ("MWBE"), and (2) specific participation goals for New York State-certified minority-owned business enterprises ("MBE") and New York State-certified women-owned business enterprises ("WBE"), for the Contract (based on the current availability of qualified MBEs and WBEs) (collectively, "MWBE Goals") and/or (3) an overall SDVOB participation goal for the Contract, based on the current availability of qualified SDVOBs ("SDVOB Goal"). The term "Supplier Diversity Goals" used herein shall mean any MWBE Goals,

SDVOB Goals, or both, established by CUNY for the Contract. Any such Supplier Diversity Goals will be set forth in the Solicitation. If no Supplier Diversity Goals appear in the Solicitation, or if the Solicitation indicates that there are no Supplier Diversity Goals, then CUNY will be deemed to have set no Supplier Diversity Goals for the Solicitation and the Contract, and no Supplier Diversity Goals will apply.

As discussed further below, if Supplier Diversity Goals have been set for this Solicitation, the Contractor must document its good faith efforts to provide meaningful participation by MWBEs and/or SDVOBs as subcontractors or suppliers in the performance of the Contract. To that end, by submitting a response to this Solicitation, Bidder agrees that CUNY may withhold payment pursuant to any Contract awarded as result of this Solicitation pending receipt of the required MWBE or SDVOB documentation. For the purposes of providing meaningful participation by MWBEs and SDVOBs, the Respondents and Contractor should reference the directory of New York State Certified MWBEs found at: <https://ny.newnycontracts.com> and the list of New York State Certified SDVOBs found at: <https://ogs.ny.gov/Veterans/>. For guidance on how CUNY will determine a Contractor's "good faith efforts," refer to 5 NYCRR §142.8 in relation to MWBEs and 9 NYCRR §252.2(n) in relation to SDVOBs.

Bidder understands that only sums paid to MWBEs and SDVOBs for the performance of a commercially useful function, as that term is defined in 5 NYCRR §140.1 in relation to MWBEs and 9 NYCRR §252.1(f) in relation to SDVOBs, may be applied towards the achievement of the corresponding MWBE Goal and SDVOB Goal. For Contracts that are determined to be construction contracts by CUNY, acting in its sole and absolute discretion ("Construction Contracts"), the portion of a Construction Contract with an MWBE serving as a supplier that shall be deemed to represent the commercially useful function performed by the MWBE shall be 60 percent of the total value of the Construction Contract. The portion of a Construction Contract with an MWBE serving as a broker that shall be deemed to represent the commercially useful function performed by the MWBE shall be the monetary value for fees, or the markup percentage, charged by the MWBE. For all Contracts that are not Construction Contracts, the portion of a contract with an MWBE serving as a broker that shall be deemed to represent the commercially useful function performed by the MWBE shall be 25 percent of the total value of the contract.

In accordance with 5 NYCRR §142.13 the Bidder acknowledges that if it is found to have willfully and intentionally failed to comply with the MWBE participation goals set forth in the Contract, such finding constitutes a breach of Contract and CUNY may withhold payment as liquidated damages. Such liquidated damages shall be calculated as an amount equaling the difference between: (1) all sums identified for payment to MWBEs had the Contractor achieved the contractual MWBE Goals; and all sums actually paid to MWBEs for work performed or materials supplied under the Contract.

In accordance with 9 NYCRR § 252.2(s), any Contractor found to have willfully and intentionally failed to comply with the SDVOB Goals set forth in the Contract, shall be found to have breached the Contract and Contractor shall pay damages as set forth therein.

By submitting a response to this Solicitation, the Respondent agrees to demonstrate and document its good faith efforts to achieve the Supplier Diversity Goals by submitting evidence thereof to CUNY, including, without limitation, all forms, documents, data, information, and the like contemplated in this Attachment. The Respondent, and any selected Contractor, shall submit all forms, documents and correspondence required to be submitted under this Attachment to the College-Designated Contact, in the form and manner required by CUNY, and to any other individual and address otherwise designated in writing by CUNY for such purposes from time to time. Notwithstanding anything to the contrary herein, if and to the extent required by CUNY from time to time, the Respondent and any selected Contractor shall submit all MWBE-related forms, documents, data, information, and the like contemplated in this Attachment electronically, including, without limitation, to the New York State Contract System (which can be viewed at <https://ny.newnycontracts.com>). Contractor shall make any such electronic submissions in the manner and format required by CUNY from time to time, and such

electronic submissions shall be in addition to the original copies to be submitted to CUNY using the forms contemplated in this Attachment.

Additionally, if Supplier Diversity Goals have been set for this Solicitation, the Respondent agrees to submit the following documents and information as evidence of compliance with the foregoing:

- i. For RFQs and IFBs: The Respondent is required to submit a Supplier Diversity (MWBE/SDVOB) Utilization Plan ("Utilization Plan") using the form attached hereto within ten business days (or such shorter period as may be required by CUNY) after receiving notice from CUNY that the Respondent to an RFQ has been selected for Contract award or that the Bidder to an IFB is the apparent low bidder, as the case may be.
- ii. For RFPs: A Proposer is required to submit a Utilization Plan using the form attached hereto with its Proposal.
- iii. The Utilization Plan shall list the MWBEs and/or SDVOBs that the Respondent intends to use to perform the Contract, a description of the work that the Respondent intends the MWBE and/or SDVOB to perform to meet the Supplier Diversity Goals on the Contract, the estimated dollar amounts to be paid to a MWBE and/or SDVOB, or, if not known, an estimate of the percentage of Contract work the MWBE and/or SDVOB will perform.
- iv. CUNY will review the submitted Utilization Plan and advise the Respondent of CUNY acceptance or issue a notice of deficiency within 30 days of receipt.
- v. If a notice of deficiency is issued, the Respondent will be required to respond to the notice of deficiency within seven (7) business days of receipt by submitting to the College-Designated Contact a written remedy in response to the notice of deficiency. If the written remedy that is submitted is not timely or is found by CUNY to be inadequate, CUNY shall notify the Respondent and direct the Respondent to submit, within five (5) business days, a request for a partial or total waiver of the Supplier Diversity Goals using the Supplier Diversity (MWBE/SDVOB) – Request for Waiver Form ("Request for Wavier"). Failure to file the waiver form in a timely manner may be grounds for disqualification of the Respondent's Bid Submission, Proposal, or Quote, as the case may be.
- vi. In addition to and without limiting any rights CUNY may have, if the Supplier Diversity Goals have been set for the Solicitation, then CUNY may disqualify a Respondent as being non-responsive under the following circumstances:
 - a. If a Respondent fails to submit a Utilization Plan;
 - b. If a Respondent fails to submit a written remedy to a notice of deficiency;
 - c. If a Respondent fails to submit a Request For Waiver; or
 - d. If CUNY determines that the Respondent has failed to document good faith efforts.

By signing the Utilization Plan, the Respondent acknowledges that making false representations or providing information that shows a lack of good faith as part of, or in conjunction with, the submission of a Utilization Plan is prohibited by law and may result in penalties including, but not limited to, termination of a contract for cause, loss of eligibility to submit future Bid Submissions, Proposals, or Quotes, and/or withholding of payments.

As discussed further below, the Contractor will be required to attempt to utilize, in good faith, any MBE, WBE, or SDVOB identified within its Utilization Plan, during the performance of the Contract. Requests for a partial or total waiver of established goal requirements made subsequent to Contract Award may be made at any time during the term of the Contract to CUNY, but must be made no later than prior to the submission of a request for final payment on the Contract.

If awarded a Contract, the Contractor certifies that it will follow the submitted Utilization Plan for the

performance of MWBEs and/or SDVOBs on the Contract pursuant to the prescribed Supplier Diversity Goals. Contractor further agrees that a failure to use MWBEs and/or SDVOBs as agreed in the Utilization Plan shall constitute a material breach of the terms of the Contract. Upon the occurrence of such a material breach, CUNY shall be entitled to any remedy provided herein, including but not limited to, a finding of Contractor non-responsibility.

If Supplier Diversity Goals have been set for the Solicitation, the Contractor will be required to submit a Supplier Diversity (MWBE/SDVOB) - Quarterly Contractor Compliance & Payment Report or on a form required by CUNY, along with supporting documentation, no later than the 10th day following each end of quarter over the term of the Contract documenting the progress made toward achievement of the Supplier Diversity Goals of the Contract.

C. Equal Employment Opportunity Requirements

By submission of a Bid Submission, Proposal, or Quote in response to this Solicitation, the Respondent agrees with all of the terms and conditions of Appendix A, Standard Clauses for New York State Contracts, including without limitation Clause 12 - Equal Employment Opportunities for Minorities and Women. The Respondent shall submit to CUNY a Minority and Women-Owned Business Enterprises and Equal Employment Opportunity Policy Statement in form and substance acceptable to CUNY and within 10 days of CUNY's request, as more fully described below.

The Contractor is required to ensure that it and any subcontractors awarded a subcontract for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work"), except where the Work is for the beneficial use of the Contractor, undertake or continue programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. For these purposes, equal opportunity shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, termination, and rates of pay or other forms of compensation. This requirement does not apply to: (i) work, goods, or services unrelated to the Contract; or (ii) employment outside New York State.

If awarded a Contract, the Contractor shall submit a Workforce Utilization Report and shall require each of its subcontractors to submit Workforce Utilization Reports, in such form, manner, and frequency as may be required by CUNY during the term of the Contract.

Pursuant to Executive Order #162, contractors and subcontractors will also be required to report the gross wages paid to each of their employees for the work performed by such employees on the contract utilizing the Workforce Utilization Report on a quarterly basis.

Further, pursuant to Article 15 of the Executive Law (the "Human Rights Law"), all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor and subcontractors will not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

2. Contract Provisions. The following provisions apply to any Contract awarded pursuant to this Solicitation that is described in paragraph A(i) below, and to any respective Contractor.

A. General Provisions

- i. Contractor and CUNY hereby agree that the provisions of New York State Executive Law Article 15-A and

Parts 140-145 of Title 5 of New York Codes, Rules and Regulations (as amended or supplemented from time to time, the "MWBE Regulations") and New York State Executive Law Article 17-B and Parts 252 of Title 9 of New York Codes, Rules and Regulations (as amended or supplemented from time to time, the "SDVOB Regulations") shall apply to the Contract and are incorporated herein by reference if this is a contract (1) in excess of \$25,000 for labor, services, equipment, materials, or any combination of the foregoing or (2) in excess of \$100,000 for real property renovations and construction.

- ii. The contractor to the subject contract ("Contractor" and the "Contract," respectively) agrees, in addition to any other nondiscrimination provision of the Contract and at no additional cost to CUNY, to fully comply and cooperate with CUNY in the implementation of New York State Executive Law Article 15-A and Article 17-B, and the MWBE Regulations and SDVOB Regulations. These requirements include equal employment opportunities for minority group members and women ("EEO") and contracting opportunities for New York State certified minority, women, service-disabled veteran-owned businesses. The Contractor's demonstration of "good faith efforts" pursuant to 5 NYCRR §142.8 in relation to MWBEs and 9 NYCRR §252.2(n) in relation to SDVOBs shall be a part of these requirements. These provisions shall be deemed supplementary to, and not in lieu of, the nondiscrimination provisions required by New York State Executive Law Article 15 (the "Human Rights Law") and other applicable federal, state and local laws.
- iii. Failure to comply with all of the requirements herein may result in a finding of non-responsiveness, non-responsibility and/or a breach of contract, leading to the withholding of funds or such other actions, damages (including, without limitation, liquidated damages contained in this Attachment) or enforcement proceedings as allowed by the Contract, law, or equity.
- iv. Contractor shall submit all forms, documents, data, information, and the like required under this Attachment to the College-Designated Contact, and to any other individual and address otherwise designated in writing by CUNY for such purposes from time to time. Notwithstanding anything to the contrary herein, if and to the extent required by CUNY from time to time, Contractor shall submit all forms, documents, data, information, and the like contemplated in this Attachment electronically. Contractor shall make any such electronic submissions in the manner and format required by CUNY from time to time, and such electronic submissions shall be in addition to the original copies to be submitted to CUNY using the forms contemplated in this Attachment.

B. Contract Goals

- i. CUNY may have established (1) an overall participation goal for New York State-certified minority- and women-owned business enterprises ("MWBE"), and (2) specific participation goals for New York State-certified minority-owned business enterprises ("MBE") and New York State-certified women-owned business enterprises ("WBE"), for the Contract (based on the current availability of qualified MBEs and WBEs) ("MWBE Goals") and/or (3) an overall SDVOB participation goal ("SDVOB Goal") for the Contract. Any such MWBE Goals and SDVOB Goal (collectively, "Supplier Diversity Goals") will be set forth in the Solicitation. If no Supplier Diversity Goals appear in the Solicitation, or if the Solicitation indicates that there are no Supplier Diversity Goals, then CUNY will be deemed to have set no Supplier Diversity Goals for the Solicitation and the Contract, and no Supplier Diversity Goals will apply.

For purposes of providing meaningful participation by MWBEs on the Contract and achieving any MWBE Goals, the Contractor should reference the directory of MWBEs found at the following internet address:

<https://ny.newnycontracts.com>. Additionally, the Contractor is encouraged to contact the Division of Minority and Woman Business Development at (212) 803-2414 to discuss additional methods of maximizing participation by MWBEs on the Contract.

For purposes of providing meaningful participation by SDVOBs on the Contract and achieving any SDVOB Goals, the Contractor should reference the list of New York State Certified SDVOBs found at:

<https://ogs.ny.gov/Veterans/> Questions regarding compliance with SDVOB Goals should be directed to the College-Designated Contact. Additionally, following Contract execution, Contractor is encouraged to contact the Office of General Services' Division of Service-Disabled Veterans' Business Development at 518-474-2015 or VeteransDevelopment@ogs.ny.gov to discuss additional methods of maximizing participation by SDVOBs on the Contract.

ii. Pursuant to 5 NYCRR §142.8 and 9 NYCRR §252.2(n), the Contractor must document "good faith efforts" to provide meaningful participation by MWBEs (where MWBE Goals have been established for the Contract) and SDVOBs (where an SDVOB Goal has been established for the Contract) as subcontractors or suppliers in the performance of the Contract. In accordance with 5 NYCRR §142.13 and 9 NYCRR §252.2(s), the Contractor acknowledges that if it is found to have willfully and intentionally failed to comply with any Supplier Diversity Goal set forth in the Contract, such a finding constitutes a breach of contract and the Contractor shall be liable to the CUNY for liquidated or other appropriate damages, as set forth herein or otherwise available under law, equity or contract. Contractor's documentation of such "good faith efforts" shall include, but not be necessarily limited to:

- a. Evidence of outreach to MWBEs and SDVOBs;
- b. Any responses by MWBEs and SDVOBs to the Contractor's outreach;
- c. Explanation of the specific reasons why any MWBE or SDVOB that responded to Respondents or Contractors' solicitation for MWBE or SDVOB subcontractors or suppliers was not selected.
- d. Copies of advertisements for participation by MWBEs and SDVOBs in appropriate general circulation, trade, and minority or women-oriented and veteran-business publications;
- e. The dates of attendance at any pre-bid, pre-award, or other meetings, if any, scheduled by CUNY with MWBEs and SDVOBs; and,
- f. Information describing specific steps undertaken by the Contractor to reasonably structure the Contract scope of work to maximize opportunities for MWBE and SDVOB participation.
- g. Other information CUNY deems relevant to any waiver request submitted by the Contractor.

iii. The Contractor understands that (1) only sums paid to MWBEs for the performance of a commercially useful function, as that term is defined in 5 NYCRR § 140, may be applied towards the achievement of the MWBE Goal and (2) only sums paid to SDVOBs for the performance of a commercially useful function, as that term is defined in 9 NYCRR § 252.1(f), may be applied towards the achievement of the applicable SDVOB Goal. For Contracts that are determined to be construction contracts by CUNY, acting in its sole and absolute discretion ("Construction Contracts"), the portion of a Construction Contract with an MWBE serving as a supplier that shall be deemed to represent the commercially useful function performed by the MWBE shall be 60 percent of the total value of the Construction Contract. The portion of a Construction Contract with an MWBE serving as a broker that shall be deemed to represent the commercially useful function performed by the MWBE shall be the monetary value for fees, or the markup percentage, charged by the MWBE. For all Contracts that are not Construction Contracts, the portion of a contract with an MWBE serving as a broker that shall be deemed to represent the commercially useful function performed by the MWBE shall be 25 percent of the total value of the contract.

C. Equal Employment Opportunity ("EEO")

i. The provisions of Article 15-A of the Executive Law and the rules and regulations promulgated thereunder pertaining to equal employment opportunities for minority group members and women shall apply to the Contract.

ii. In performing the Contract, the Contractor shall:

a. Ensure that each contractor and any subcontractor performing Work under the Contract shall undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. For these purposes, EEO shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation.

b. The Contractor shall submit or have submitted to CUNY a Minority and Women-Owned Business Enterprises and Equal Employment Opportunity Policy Statement in form and substance acceptable to CUNY ("EEO Policy Statement") within ten days of CUNY's request, and CUNY shall have the right to make the submission of an EEO Policy Statement a condition of Contract award.

c. If the Contractor or any of its subcontractors does not have an existing EEO Policy Statement, CUNY may require the Contractor or subcontractor to adopt a model EEO Policy Statement provided by CUNY.

d. The Contractor's EEO Policy Statement shall include the following language:

(1) The Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability or marital status, will undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination, and shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force.

(2) The Contractor shall state in all solicitations or advertisements for employees that, in the performance of the contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.

(3) The Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union, or representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the Contractor's obligations herein.

(4) The Contractor will include the provisions of Subdivisions (a) through (c) of this Subsection (iv) and Paragraph "E" of this Section 3 which provides for relevant provisions of the Human Rights Law, in every subcontract in such a manner that the requirements of the subdivisions will be binding upon each Subcontractor as to work in connection with the Contract.

iii. Staffing Plan

As required by CUNY, Contractor shall submit or have submitted an Equal Employment Opportunity Staffing Plan, using a form required by CUNY, to document the composition of the proposed workforce to be utilized in the performance of the Contract by the specified categories listed, including ethnic background, gender, and Federal occupational categories (a "Staffing Plan"). Contractors shall have completed and submitted the Staffing Plan within ten days of CUNY's request.

iv. Workforce Utilization Report ("Workforce Report")

a. The Contractor shall submit a Workforce Utilization Report, and shall require each of its subcontractors to submit Workforce Utilization Reports, in such form, manner, and frequency as may be required by CUNY during the term of the Contract.

b. Separate forms shall be completed by the Contractor and any subcontractors.

c. Pursuant to Executive Order #162, contractors and subcontractors are also required to report the gross

wages paid to each of their employees for the work performed by such employees on the contract on a quarterly basis.

- v. The Contractor shall comply with the provisions of the Human Rights Law, all other State and Federal statutory and constitutional non-discrimination provisions. The Contractor and its subcontractors shall not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

The following provisions contained in Sections D through F below apply to Contracts for which any Supplier Diversity Goals have been set.

D. Supplier Diversity (MWBE/SDVOB) Utilization Plan

- i. The Contractor represents and warrants that Contractor has submitted to CUNY a Supplier Diversity (MWBE/SDVOB) Utilization Plan ("Utilization Plan"), or shall submit a Utilization Plan at such time as may be required by CUNY, in the form and manner required by CUNY.
- ii. The Contractor agrees to adhere to such Utilization Plan in the performance of the Contract.
- iii. The Contractor further agrees that failure to submit and/or adhere to such Utilization Plan shall constitute a material breach of the terms of the Contract. Upon the occurrence of such a material breach, CUNY shall be entitled to any remedy provided herein, including but not limited to, a finding that the Contractor is non-responsive.
- iv. The Contractor acknowledges and agrees that firms that do not perform commercially useful functions (as defined in 5 NYCRR Part 140.1 and 9 NYCRR § 252.1(f)) may not be counted towards utilization of MWBEs or SDVOBs in the Utilization Plan. Contractor further acknowledges and agrees that making false representations or including information evidencing a lack of good faith as part of, or in conjunction with, the submission of a Utilization Plan is prohibited by law and may result in penalties including, but not limited to, termination of a contract for cause, loss of eligibility to submit future bid submissions, proposals, and/or withholding of payments.

E. Waivers

- i. Any request by the Contractor for a partial or total waiver of the Supplier Diversity Goals must be submitted in the form and manner required by CUNY (a "Request for Waiver").
- ii. Prior to submission of a request for a partial or total waiver, Contractor may speak to the College -Designated Contact at CUNY for guidance.
- iii. In accordance with 5 NYCRR § 142.7 and 9 NYCRR § 252.2(m), if Contractor, after making good faith efforts, is unable to achieve the Supplier Diversity Goals, the Contractor may submit a Request for Waiver. Such Request for Waiver must be supported by evidence of the Contractor's good faith efforts to achieve maximum feasible participation towards the Supplier Diversity Goals. If the Request for Waiver is complete, and the Contractor has provided to CUNY's satisfaction such additional documentation that may be required by CUNY, CUNY shall evaluate the Request for Waiver and issue a written notice of approval or denial within twenty (20) business days of receipt.
- iv. Contractor shall attempt to utilize, in good faith, the MWBEs and SDVOBs identified within its Utilization Plan, during the performance of the Contract. Requests for a partial or total waiver of established Supplier Diversity Goals made subsequent to Contract award may be made at any time during the term of the Contract to CUNY, but must be made no later than prior to the submission of a request for final payment on the Contract.

v. If CUNY, upon review of the Utilization Plan and updated Supplier Diversity (MWBE/SDVOB) - Quarterly Contractor Compliance & Payment Report described in Section 6 below, or any other relevant information, determines that the Contractor is failing or refusing to comply with the Contract goals and no waiver has been issued in regards to such non-compliance, CUNY may issue a notice of deficiency to the Contractor. The Contractor must respond to the notice of deficiency within seven (7) business days of receipt. Such response may include a request for partial or total waiver of MWBE Goals.

F. Supplier Diversity (MWBE/SDVOB) Quarterly Contractor Compliance & Payment Report

In accordance with 5 NYCRR § 142.11 and 9 NYCRR § 252.2(q), Contractor is required to report MWBE and/or SDVOB participation during the term of the Contract for the preceding three month's activity, documenting progress made towards achieving the Contract Supplier Diversity Goal. This information must be submitted using the Supplier Diversity (MWBE/SDVOB) - Quarterly Contractor Compliance & Payment Report form provided by CUNY from time to time, or otherwise in the form and manner required by CUNY, and must be completed by the Contractor and submitted to CUNY along with supporting documentation, by the 10th day following each end of quarter over the term of the Contract.

G. Breach of Contract and Damages

- i. Where CUNY determines that the Contractor is not in compliance with the requirements of this Attachment and the Contractor refuses to comply with such requirements, or if the Contractor is found to have willfully and intentionally failed to comply with the MWBE Goals, Contractor shall be obligated to pay to CUNY liquidated damages.
- ii. Such liquidated damages shall be calculated as an amount equaling the difference between:
 - a. All sums identified for payment to MWBEs had the Contractor achieved the contractual MWBE Goals; and
 - b. All sums actually paid to MWBEs for work performed or materials supplied under the Contract.
- iii. In the event a determination has been made which requires the payment of liquidated damages and such identified sums have not been withheld by CUNY, the Contractor shall pay such liquidated damages to CUNY within sixty (60) days after they are assessed by the CUNY. Provided, however, that if the Contractor has filed a complaint with the Director of the Division of Minority and Women's Business Development pursuant 5 NYCRR 142.12, liquidated damages shall be payable only in the event of a determination adverse to the Contractor following the complaint process.

In accordance with 9 NYCRR § 252.2(s), any Contractor found to have willfully and intentionally failed to comply with the SDVOB participation goals set forth in the Contract, shall be found to have breached the contract and Contractor shall pay damages as set forth therein. Such damages shall be calculated based on the actual cost incurred by CUNY related to the CUNY's expenses for personnel, supplies and overhead related to establishing, monitoring, and reviewing SDVOB programmatic goals.

Part 10: Important Notices to Proposers

1. Overview

The City University of New York is the nation's largest urban public university. Founded in New York City in 1847 as the Free Academy, CUNY is currently comprised of 25 institutions: 11 senior colleges, 7 community colleges, the William E. Macaulay Honors College at CUNY, CUNY Graduate Center, the Craig Newmark Graduate School of Journalism at CUNY, the CUNY School of Law, the CUNY Graduate School of Professional Studies, the CUNY Graduate School of Public Health and Health Policy and the CUNY School of Labor and Urban Studies. The University serves more than 275,000 degree-credit students and 275,000 adult, continuing and professional education students. College Now, the University's academic enrichment program for more than 20,000 high school students, is offered at CUNY campuses and more than 400 high schools throughout the five boroughs of the City of New York.

- 1.1 The City University of New York ("CUNY" or the "University"), on behalf of the University or on behalf of one of its Colleges ("College") is releasing this Request for Proposals ("RFP") to solicit proposals from qualified vendors to acquire the goods, licenses, and/or services as specified in **Part 3**. This RFP sets forth the terms, conditions, and all applicable information required for submitting a responsive proposal ("Proposal"). In order to submit a responsive Proposal, each proposer must follow the format and instructions in **Part 1**, as well as any other relevant requirement described in this RFP concerning the process for submitting a Proposal.

CUNY anticipates making one or more awards (as indicated in Part 1) on a "best value" basis (as defined by New York State Finance Law, Article 11, §163) as a result of this solicitation and anticipates issuing a contract ("Contract") to a Proposer(s) selected according to the process described herein ("Contractor").

This RFP is being conducted in compliance with all requirements of applicable New York State laws, including New York State Finance Laws §139-j and §139-k, all required internal and external oversight approvals, University regulations, and any federal or local laws whether or not referenced in this RFP.

1.2 Key Events and Dates

Part 1 sets forth the tentative schedule for important actions. If CUNY finds it necessary to change any of these dates, CUNY will notify Proposers by issuing an addendum or addenda ("Addendum" or "Addenda") to this RFP. The terms of each Addendum will become part of the resulting Contract and supersede any contrary terms in the RFP. Each Proposer must acknowledge receipt and acceptance of the terms of all issued Addenda.

1.3 Contract Term

The term of the Contract is stated on **Part 1**.

1.4 New York State Procurement Lobbying Law

In accordance with University policy and the New York State Procurement Lobbying Law, Proposers are prohibited from contacting anyone at the University or College (including, employees, administrators, and Board of Trustees members) regarding this solicitation to attempt to influence (or to give the appearance of attempting to influence) the procurement, from the date Procurement

Lobbying Law Restrictions Begin, as defined in Part 1, until a Contract has been registered (the "Restricted Period").

All questions and/or requests for clarification concerning this solicitation must be submitted in writing via email to the individual(s) identified as the Designated Contact(s) on **Part 1**.

In accordance with the Procurement Lobbying Law, CUNY may reject a Proposal if a Proposer makes any unauthorized contact during the Restricted Period. Multiple violations of procurement lobbying restrictions regarding permissible contacts may lead to a Proposer's being debarred from participating in future New York State procurements.

1.5 Important Notices to Proposers

- 1.5.1 Your receipt of this RFP does not indicate that CUNY has determined that you are qualified to receive a Contract award. CUNY will make such determination only after it evaluates the Proposals in the context of the requirements and specifications contained in this RFP, including whether a vendor satisfies the Minimum Proposer Qualifications, Vendor Responsibility, and any other requirements.
- 1.5.2 Issuance of this RFP does not obligate CUNY to award a Contract for Services and does not constitute an offer to contract. Similarly, acceptance or evaluation of any Proposal does not obligate CUNY to award a Contract for Services or constitute an offer to contract.
- 1.5.3 CUNY will undertake an initial administrative review of each Proposal received to determine if they are complete and if the Proposer meets the Minimum Proposer Qualifications described in **Section 2** below and **Part 2** of the RFP. To be complete, a Proposal must include all required information, forms, signatures and notarizations. CUNY will forward all complete Proposals that meet the Minimum Proposer Qualifications to the Evaluation Committee for further evaluation.
- 1.5.4 CUNY will have no obligation or liability to the Proposer selected (if any) as a result of this solicitation unless and until a Contract satisfactory to the University is signed by the Proposer and CUNY, all required internal and external oversight approvals have been received or any pertinent pre-audit review period has elapsed, and CUNY has issued a Notice to Proceed to Contractor.
- 1.5.5 Each Proposer is presumed conclusively to have full knowledge of all conditions affecting in any way the performance of the Services that were or should have been discovered by a reasonably prudent proposer. It is each Proposer's responsibility to familiarize itself with all obligations and relevant facilities at the University, and Proposer assumes full responsibility to provide Services that meet the Contract requirements for the Proposal Price (as set forth in Volume III: Price Proposal).
- 1.5.6 Under no circumstances shall CUNY be liable for any costs incurred by Proposers: (i) in preparation and/or production of a Proposal; (ii) for attending site visits; (iii) for preparing or participating in an Oral Presentation/Product Demonstration; (iv) for the negotiation of a Contract; or (v) for any Services performed prior to Contractor's receipt of a fully executed Contract approved by all required government authorities and receipt of a Notice to Proceed from CUNY. By submitting a Proposal, the Proposer agrees to not to make any claim against CUNY for, and acknowledges that it does not have any right to, damages because of

any misinterpretation or misunderstanding of the RFP requirements or specifications or because of any misinformation or lack of information.

1.6 Reservation of Rights by University

- 1.6.1 In addition to any other rights described in this RFP, CUNY reserves the right reject any or all Proposals, including, without limitation, if:
- A. a Proposer has taken exceptions to **Part 7: Terms and Conditions of Contract** that do not comply with this RFP because, for example, a Proposer did not accept the Terms and Conditions of Contract without qualification;
 - B. a Proposer has made alterations to the RFP solicitation or any of its Forms or Attachments;
 - C. a Proposer does not provide any part of the information or documents required by this RFP solicitation;
 - D. a Proposer misstates, misleads, or conceals any material fact in its Proposal or at any time in connection with this RFP;
 - E. a Proposal is not in compliance with law;
 - F. a Proposal is not responsive to the requirements of this RFP or the requirements of the **Form 1**;
 - G. any part of a Proposal, such as the Price Proposal, is conditional;
 - H. the Price Proposal, in the opinion of CUNY, contains unbalanced prices; or
 - I. a determination that the Proposer is not “responsible” (as defined by law) is made in accordance with law or CUNY regulations.
- 1.6.2 In addition to any other rights described in this RFP and in law, CUNY reserves the right to:
- A. withdraw this solicitation at any time in the University’s sole discretion;
 - B. waive any non-material requirements;
 - C. cancel this solicitation;
 - D. re-issue this solicitation with or without modifications;
 - E. correct any non-material arithmetic errors in Proposals;
 - F. use any and all ideas submitted in the Proposals, even if such Proposals are rejected;
 - G. negotiate modifications to the scope of work, Proposal Price, or components thereof with Presumptive Awardee prior to tentative Contract award;
 - H. (1) reject Proposals containing material variations, and/or (2) permit Proposer(s) to amend one or more non-material items in their Proposal(s) to comply with this RFP, and/or (3) waive or modify minor irregularities in Proposals.

1. In the event of a discrepancy between the Proposal Price as stated in words and as stated in numbers, or as stated on any other part of a Proposal, the University reserves the right to deem the lowest price to be the Proposal Price.
 2. In the event of arithmetic error(s) in Proposer's Proposal Price, the University reserves the right to make the arithmetic correction(s) and deem the corrected amount the Proposal Price.
- I. seek clarifications, corrections, and revisions of Proposals;
 - J. amend this RFP solicitation after releasing;
 - K. change any of the scheduled dates;
 - L. issue requests for additional information to Proposers, and Proposers' answers to such questions shall be returned to CUNY in writing and become part of the respective Proposers' Proposals;
 - M. to require Proposers to participate in Oral Presentations/Product Demonstrations;
 - N. to contact some or all of Proposers' references during the Proposal evaluation process;
 - O. short list Proposers and to ask short-listed Proposers for "best and final offers"; and
 - P. to negotiate with the Proposer with the next highest ranked Proposal score when discussions with a Presumptive Awardee are terminated due to an impasse.

1.7 Contract Award Subject to Internal and External Oversight Approvals

Any Contract award is subject to all required internal and external oversight approvals, including, as applicable, approvals by the University's Board of Trustees, the Office of the New York State Attorney General, the Office of the New York State Comptroller or any pertinent pre-audit review period, the New York City Law Department, and the Office of the New York City Comptroller, and shall be contingent on the availability of funds. Unless and until all of the required approvals are received and procedures complied with, CUNY has no obligation and no liability to Proposer.

1.8 Additional Considerations – *Workforce Development*

CUNY's Office of Workforce Development strives to operate as a front door to industry and employers seeking to engage the City's largest source of local, driven, talented workers: students from CUNY's 25 campuses. The Workforce Development team collaborates with employers to better understand their labor and skill needs, and then connects them with a pool of young professionals equipped with the right knowledge and technical training to be able to excel from day one.

CUNY welcomes the opportunity to work with Proposer to create talent pipelines through skill-building workshops, internships, and recruitment programs.

If Proposer is interested in learning more about CUNY's workforce development programs and opportunities, please contact Cheryl Baldwin at cheryl.baldwin@cuny.edu. Additional information is available at www.cuny.edu/careersuccess

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2. **Proposer Qualifications and Requirements**

Specific Proposer Qualifications and Requirements are set forth in **Part 2**.

Diversity Participation Goals are set forth in **Part 2**.

2.1 Minimum Proposer Qualifications

Each Proposer must meet the mandatory Minimum Proposer Qualifications (including Technical Requirements, if any) set forth in **Part 2, Paragraph I**. If a Proposer fails to demonstrate that it meets the Minimum Proposer Qualifications, its Proposal will be rejected as non-responsive. In addition, each Proposer must ensure that its subcontractors or suppliers (in either case, "Subcontractor") meet the Minimum Proposer Qualifications to the extent required by **Part 2**.

2.2 Preferred (Non-Mandatory) Proposer Qualifications

Qualifications that would be desirable in a Proposer but are not mandatory are set forth in **Part 2, Part II**.

2.3 Requirements

Sections 2.3.1 through 2.3.4 below describe the Forms each Proposer must submit with their Proposals.¹

2.3.1 Proposer Information and Authorized Signature; Acceptance of Contract Terms; Proposer Certifications; Confidential Information; Signed RFP Addenda; and References.

Each Proposer must submit Form 1 along with its RFP. Form 1 requires certain basic information about the Proposer, several certifications, and unqualified acceptance of Contract Terms and Conditions, including that:

- A. Minimum Proposer Qualifications Are Met. A statement certifying that the Proposer (and any subcontractors, if applicable) meets all the Minimum Proposer Qualifications (including Technical Requirements if any).
- B. No Conflicts of Interest. A statement affirming that neither Proposer nor any individual assigned to provide the Services to CUNY has any conflicts of interest with CUNY, its Colleges, or any of their respective governing bodies, constituent entities, or employees. If Proposer cannot provide such a statement because of a conflict of interest, it must state the nature of the conflict and describe the provisions that will be made to address the conflict.
- C. No Collusion. A statement affirming that Proposer has not colluded with anyone in connection with its Proposal required by New York State Finance Law §139-D or a statement detailing the reasons why such verification cannot be made.

¹ Proposers may contact a CUNY Procurement Technical Center for technical assistance with this RFP. Please note that this assistance is solely for technical purposes and that CUNY Procurement Technical Centers are third-party, independent resources. *In accordance with Section 1.2, all communications regarding this RFP must be*

with a Designated Contact (See Section 1.2).

D. Contract Terms and Conditions.

1. Proposers must confirm acceptance of the Terms and Conditions of Contract (see **Part 7**) without exception, as amended by any Addenda issued to this RFP that may have incorporated changes to address concerns or proposed exceptions that potential proposers raised, as provided herein and in **Section 4.1** below. If Proposer wishes to request changes to the contract terms, then the Proposer must submit Proposer's exceptions to the RFP ("Proposed Exceptions") by the Due Date(s) established for "Submission of Written Questions" set forth in Part 1. CUNY will consider all requests for changes submitted by the Due Date(s) and issue an Addendum that identifies all changes that CUNY agrees to make to the RFP. CUNY will not consider or negotiate any Proposed Exceptions unless they are submitted by the Questions Due Dates in **Part 1**. Changes to the RFP terms made via Addendum shall apply to all Proposers, and no Proposer shall be granted its own Terms and Conditions that differ from those Terms and conditions that apply to other Proposers.
 2. CUNY reserves the right to modify, supplement or replace the Terms and Conditions of Contract, reject any or all Proposed Exceptions submitted by any Proposer.
 3. As a New York State instrumentality, all CUNY contracts are subject to the terms and conditions set forth in APPENDIX A: Standard Clauses for New York State Contracts, which may not be modified in any way.
- E. By submitting a Proposal, Proposers also agree to the additional provisions set forth below in **Section 7 - Pandemic-Related and Health-Related Requirements**.
- F. Period of Validity. Proposer must certify that its Proposal, including the Price Proposal, will remain valid for at least two hundred seventy (270) calendar days.
- G. If indicated in **Part 1**, Proposers must attend any mandatory site visits prior to submitting a proposal to the RFP. Failure to attend a mandatory site visit, if required by the RFP, may be grounds for rejection of the Proposal.
- H. By submitting a proposal to the RFP, each Proposer and each person signing on behalf of any Proposer certifies, and in the case of a joint proposal each party thereto certifies as to its own organization, under penalty of perjury, that the Proposer has and has implemented a written policy addressing sexual harassment prevention in the workplace and provides annual sexual harassment prevention training to all of its employees. Such policy shall, at a minimum, meet the requirements of Section 201-G of the Labor Law. Proposals that do not contain the above certification may not be considered for award; provided however, that if the Proposer cannot make the certification, the Proposer shall so state and shall provide with the bid a signed statement which sets forth in detail reasons why the certification cannot be made.

2.3.2 Business Integrity; Procurement Lobbying Act Forms.

Proposers must include, as part of its Proposal, completed Procurement Lobbying Act Forms (see Forms 2 and 3.) CUNY will use Proposers' responses in these Forms in evaluating vendor responsibility and determining whether Proposers possess the requisite business integrity to justify the confidence of CUNY. For the duration of the Contract (inclusive of all

renewals and extensions), the Contractor must adhere to the highest standards of business conduct and professional responsibility when fulfilling its obligations under the Contract and as required under §139 (j), §139 (k) and §163(9)(f) of the New York State Finance Law.

2.3.3 Diversity Practices; Diversity Practices Questionnaire.

If included in the RFP, Proposers must complete Form 4- Diversity Practices Questionnaire as part of their Proposals, pursuant to New York State Executive Law Article 15-A. Visit: cuny.edu/diversitypractices for additional information.

2.3.4 MWBE/SDVOB Practices; Diversity Participation Goals; Supplier Diversity Utilization Plan.

- A. If **Part 2, Paragraph III** is included in the RFP, CUNY has established the participation goals set forth in **Part 2** for New York State-certified Minority-Owned Business Enterprises (“MBE”) and Women-Owned Business Enterprises (“WBE”, and, together with MBE, “MWBEs”) based on the current availability of MWBEs in the aggregate), and for New York State-certified Service-Disabled Veteran-Owned Businesses (“SDVOB”) (based on the current availability of qualified SDVOBs), to be part of the proposed team to provide the Services as subcontractor(s) or suppliers (the “Subcontractor(s)”). MWBE and SDVOB vendors who are interested in subcontracting/supplier opportunities on CUNY procurements with Supplier Diversity Participation Goals, may express interest through the Sell to CUNY website (cuny.edu/selltocuny) under “Current Procurements.” Contractor shall use good faith efforts to meet these participation goals. Additional MWBE, SDVOB and Equal Employment Opportunity requirements applicable to this RFP and to the Contract are described in **Sections 2.3.5** and **2.3.6**, below, and attached hereto as part of **Part 2**.
- B. Proposers may identify potential MWBE subcontractor(s) by, among other means, consulting the directory of NYS-certified MWBEs at <https://ny.newnycontracts.com/>.
- C. Proposers may identify potential SDVOB subcontractor(s) by, among other means, consulting the list of NYS-certified SDVOBs at <https://ogs.ny.gov/veterans>
- D. For a proposal to be considered responsive, Proposers must submit a Supplier Diversity – MWBE/SDVOB Utilization Plan and/or a Request for Waiver form that is accompanied by supporting documentation. See Form 5.

Sections 2.3.5 through **Sections 2.3.12** describe additional Requirements for Proposers in connection with this RFP solicitation. Proposers must complete, sign and submit Forms 7-19 (and any other documentation that CUNY may require) within ten (10) days of CUNY’s request therefor. Failure to timely provide any such documentation in form and substance acceptable to CUNY shall be grounds for rejection of a Proposer’s Proposal.

2.3.5 MWBE; SDVOB Additional Requirements.

- A. Within 10 days of CUNY’s request, Contractor shall submit its Minority- and Women-Owned Business Enterprises and Equal Employment Opportunity Policy Statement.
- B. Contractor shall submit a completed a Quarterly Contractor Compliance & Payment Report accompanied by proof of payment to MWBE/SDVOB Subcontractor(s), in such

format as shall be required by CUNY, on a quarterly basis during the term of the Contract. Sample Supplier Diversity forms and reports may be found at www.cuny.edu/selltocuny.

2.3.6 Workforce Employment Utilization Reporting Requirements.

- A. Contractor shall submit a Workforce Utilization Report (“Workforce Report”) and shall require each of its Subcontractors to submit a separate Workforce Report, in such format as shall be required by CUNY on a quarterly basis during the term of the Contract. Contractor and any Subcontractor(s) shall each complete separate forms.
- B. In limited instances, Contractor may not be able to separate out the workforce used in the performance of the Contract from Contractor’s and/or Subcontractor’s total workforce. When a separation can be made, Contractor shall submit the Workforce Report and indicate that the information provided related to actual workforce used on the Contract. When the workforce to be used on the Contract cannot be separated out from the Contractor’s and/or Subcontractor’s total workforce, Contractor shall submit the Workforce Report and indicate that the information provided is Contractor’s total workforce during the subject time frame, not limited to work specifically under the Contract.
- C. Contractor shall comply with the provisions of the Human Rights Law and all other State and Federal statutory and constitutional non-discrimination provisions. Contractor and Subcontractors shall not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status and shall follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.
- D. Pursuant to New York State Executive Order 162 of 2017, Contractors and Subcontractors also shall report the gross wages paid to each of their employees for the work performed by the employees under the Contract.
- E. Visit: www.cuny.edu/workforceutilizationreport for additional information and instructions on how to complete the Workforce Report.

2.3.7 Consultant Employment Disclosure Forms.

- A. If the Project involves consultant services, then, pursuant to New York State Finance Law §163(4)(g), all contractors, including subcontractors, that provide consulting services pursuant to a contract with CUNY shall submit an annual employment report for each such contract, such report to include for each employment category within the contract: (i) the number of employees employed to provide services under the contract, (ii) the number of hours they work, and (iii) their total compensation under the contract. Consulting services are defined as analysis, evaluation, research, training, data processing, computer programming, engineering, environmental, health, and mental health services, accounting, auditing, paralegal, legal, or similar services. Proposers may refer to Chapter XI.18.C (Consultant Disclosure Legislation) of the New York State Guide to Financial Operations, available at

<https://www.osc.state.ny.us/agencies/guide/MyWebHelp/#XI/18/C.htm%3FTocPath%3DXI.%2520Procurement%2520and%2520Contract%2520Management%7C18.%2520Miscellaneous%2520Legislative%2520Requirements%7C3>

on the State Comptroller's Web site to become familiar with Consultant Employment Disclosure requirements.

- B. Any vendor awarded a Contract as a result of this solicitation shall complete the "State Consultant Services-Contractor's Planned Employment" form and submit it when the Contract is signed. For each Contract year thereafter, the Contractor shall complete the "State Consultant Services Contractor's Annual Employment Report" form required by CUNY and submit copies to the Office of the State Comptroller and CUNY on or before May 15th of each year the Contract is in effect.

2.3.8 Workers' Compensation and Disability Insurance.

Contractor shall submit to CUNY proof of adequate workers' compensation and disability insurance required by New York State law before commencing work.

2.3.9 Procedure to Follow if Proposer Plans to Staff Project with Former CUNY Employee(s).

Each Proposer shall comply with the Public Officers Law by ensuring that it proposes staff who are eligible to work on the Project. Proposer acknowledges that before it authorizes any former CUNY employee (as hereinafter defined) to be part of its staff after receiving a tentative award, CUNY must first obtain an opinion from the New York State Joint Commission on Public Ethics ("JCOPE") that approves their participation in the Project. An individual constitutes a "former CUNY employee" for purposes of this provision if either (i) it is two years or less between the date that the individual is proposed and the individual's date of separation from the State or (ii) the individual proposed has worked on the Project while employed by CUNY regardless of how long ago they left CUNY. Failure to obtain New York State Joint Commission on Public Ethics approval for an individual's participation in a project may jeopardize the Contractor's designation for the Project. Contractor shall provide a copy of the JCOPE opinion to CUNY prior to providing any services. Contractor shall keep a copy of the JCOPE opinion on file in the Contractor's office and make it available for review by CUNY if requested.

2.3.10 Vendor Responsibility Information.

A contract award, if made at all, will be made on the "basis of best value to a responsive and responsible offerer" in accordance with New York State Finance Law §163. The Presumptive Awardee shall provide vendor responsibility information to CUNY before a contract award is made.

- A. CUNY recommends that vendors file the required Vendor Responsibility Questionnaire online via the New York State VendRep System. To enroll in and use the New York State VendRep System, go to <https://www.osc.state.ny.us/vendor/enroll.htm>. Vendors must provide their New York State Vendor Identification Number when enrolling. To request assignment of a Vendor ID or for VendRep System assistance, go to

<https://www.osc.state.ny.us/portal/contactbuss.htm>.

Vendors opting to complete a paper questionnaire can obtain the appropriate questionnaire from the VendRep website www.osc.state.ny.us/vendrep or may contact CUNY or the Office of the State Comptroller's Help Desk.

- B. Proposers must submit to CUNY a hard copy of vendor responsibility forms for solicitations valued in excess of \$100,000 within 10 days of CUNY's request.

2.3.11 Tax Law Certifications.

Proposers are hereby notified that pursuant to Section 5-a of the NYS Tax Law, all vendors selected for contracts in excess of \$100,000 for the sale of goods or services must complete and submit (Contractor Certifications) Form ST-220-TD to the State and Form ST-220-CA to the University. Proposers can download these forms to complete by visiting the following Web sites:

<http://www.tax.ny.gov/pdf/publications/sales/pub223.pdf>
http://www.tax.ny.gov/pdf/current_forms/st/st220ca_fill_in.pdf
http://www.tax.ny.gov/pdf/current_forms/st/st220td_fill_in.pdf

- 2.3.12 If directed by CUNY, the Contractor shall submit a copy of its protocols and safety plan to address COVID-19 and related health concerns ("Contractor's Safety Protocols"). The Contractor's Safety Protocols should include, among other things, a description of how Contractor will comply with the CUNY Visitor Policy and how CUNY will verify compliance (e.g., use of Cleared4, etc.).

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3. Scope of Work

- 3.1 The Project Objectives and Scope; Detailed Specifications and Deliverables; and Contractor Responsibilities (as set forth in **Part 3**) describes:
 - 3.1.1 CUNY's objectives for issuing this RFP solicitation document,
 - 3.1.2 the services and/or commodities required to meet CUNY's needs,
 - 3.1.3 the technical specifications,
 - 3.1.4 the deliverables, and
 - 3.1.5 the performance standards that will be used to assess the Contractor's compliance with the Contract's requirements.

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4. RFP Questions and Clarifications; Addenda to RFP

4.1 RFP Questions and Clarifications

Please submit all questions and/or requests for clarification concerning this solicitation and any Proposed Exceptions in writing via email to the Designated Contact(s) as early as possible following receipt of this RFP and by the Due Dates and Times for Submitting Written Questions, forth in **Part 1**. Questions received after the Due Dates and Times for Submitting Written Questions may not be answered. Each question must cite the particular page, section, and paragraph number, where applicable, to which it applies. If Proposers submit the questions and Proposed Exceptions to CUNY prior to the Due Dates and Times for Submitting Written Questions, then CUNY has the opportunity to address the questions and Proposed Exceptions in an Addendum to this RFP. The purpose of requiring all Proposed Exceptions prior to the Proposal Due Date and to address all Proposed Exceptions in the Addenda is to permit all Proposers to submit Proposals based on the same set of terms and conditions. CUNY will review all such questions, clarifications, and Proposed Exceptions and determine whether any changes will be made to the RFP.

4.2 Addenda to RFP

All clarifications, corrections, interpretations, additions, amendments, and answers to all questions of a substantive nature and responses to Proposed Exceptions, together with the questions and Proposed Exceptions submitted, will be distributed in writing by email by CUNY as an Addendum to the RFP to each entity recorded as having requested or been sent a copy of the RFP, and will be uploaded to the New York State Contract Reporter Website at <https://www.nyscr.ny.gov>. Each Addendum (all Addenda) shall become a part of the RFP and be binding on all Proposers. Proposers must sign each Addendum and submit it/them as part of Volume I of its Proposal.

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5. How to Submit a Proposal

5.1 Proposal Parts

Technical and Management Proposal Requirements (set forth in **Part 4**)

Proposal Price Breakdown Pages (set forth in **Part 5**)

To be responsive to this RFP, and for the purposes of evaluation, each Proposal must consist of the following three parts:

5.1.1 Volume I: Required Forms

Volume I must contain completed Forms 1 through 6 and any other document required by **Part 2** of the RFP. Form 1 (page 1) will serve as a cover letter. Form 1 must be signed by an authorized representative of the Proposer. Forms 2 through 6 must be completed and, if required by their terms, signed and notarized.

If Volume I contains any pricing information, the Proposal may be rejected and returned to the Proposer as non-responsive.

5.1.2 Volume II: Technical and Management Proposal

Volume II must contain all of the information required by **Part 4**.

If Volume II contains any pricing information, the Proposal may be rejected and returned to the Proposer as non-responsive.

5.1.3 Volume III: Price Proposal

Proposer must submit its Price Proposal on **Part 5** as Volume III. Proposer must provide pricing for all spaces indicated/provided on the Price Proposal. Failure to complete all spaces may result in a Proposal being deemed non-responsive. Because CUNY is exempt from the payment of all New York State, local sales, and use taxes, Proposer must not include the amount of any such taxes in the Price Proposal.

5.2 Proposal Packaging

If CUNY requires hard copy submissions, Proposer must submit three (3) copies of its Proposal: two (2) paper copies and one (1) electronic copy (in PDF format) on a flash drive.

All copies of the Proposal and the flash drive must be submitted together in one package that is securely sealed and clearly labeled with Proposer's name and the RFP's Project name.

The contents of the package must include:

- The flash drive containing the electronic copy of the Proposal clearly labeled with Proposer's name and the RFP's Project name; there should be one PDF for Volume I (identified by "Proposer's name, RFP Project name, Volume I"), a second PDF for Volume II (identified by

“Proposer’s name, RFP Project name, Volume II”) and a third PDF for Volume III (identified by “Proposer’s name, RFP Project name, Volume III”)

The Volume I package, the Volume II package and the Volume III package must be separately identified by Proposer’s name, the RFP Project name, and the Volume number (I, II or III).

5.3 Proposal Submission and Receipt by CUNY

By signing and submitting a Proposal, Proposer affirms that: (a) it has read this RFP solicitation document in its entirety, including Addenda; (b) it accepts the terms of this RFP; and (c) it is able and willing to sign and execute the Contract if it is awarded the Contract.

The Terms and Conditions of Contract and any appendices or exhibits thereto, together with this RFP, any Addenda (including, without limitation, any formal questions and answers provided during the evaluation process), and the contents of the selected Proposal, shall be incorporated into and constitute the Contract. Proposer shall, without exception, accept **Part 7: Terms and Conditions of Contract**, as the Terms and Conditions may have been amended by Addenda issued to this RFP.

Proposals must be received by CUNY by the time and on the day and in the location indicated in **Part 1, time being of the essence**.

Proposers assume all risks in connection with the delivery of their Proposals. Proposers are strongly encouraged to arrange for delivery of Proposals prior to the Proposal Submission Due Date and Time.

- The University accepts no responsibility for the delivery of Proposals.
- The University is not responsible for any costs incurred by a Proposer related to the preparation of a Proposal
- Proposals received after the Proposal Submission Due Date and Time may be rejected in the University’s sole discretion.

5.3.1 Consistent Information.

Proposer shall ensure that information is consistent across submitted documents. CUNY reserves the right to:

- reject Proposals submitted with conflicting information;
- view non-compliance with this section or failure to provide information and/or required forms as non-responsive; and/or
- determine that a Proposer has substantially met the requirements of this RFP and/or to ask for additional information after the Proposal Submission Due Date.

5.3.2 No Changes to Documents Permitted.

Proposers shall not make any changes to the documents of this RFP solicitation. Any changes to or attempts to change the RFP solicitation may render a Proposal non-responsive; any changes to the RFP solicitation are not binding on the University.

5.3.3 Confidentiality.

CUNY's records, including its solicitation documents, proposals received, and contracts, are subject to inspection pursuant to the Freedom of Information Law ("FOIL") of the Public Officers Law. Accordingly, Proposers must identify those page(s) of their Proposal that they believe contain such information and mark it as "confidential and proprietary." In addition, Proposers must explain the reason(s) why this information should be considered exempt from public disclosure under FOIL, including the identification of pages that contain "confidential and proprietary information" and the reasons for exemption of such "confidential and proprietary information" in Form 1. CUNY will *not* consider a request that an entire proposal be kept confidential. Similarly, pricing information, discounts, makes, model and catalog numbers of goods offered, terms of delivery and terms of payment are not considered proprietary and Proposers must not designate them as such. To the extent permitted by law (including FOIL), CUNY will deny public access to information submitted as described in this paragraph. If Proposers do not follow these instructions, CUNY will not be responsible for the confidentiality of the information.

5.3.4 Proposals Become CUNY Property.

All Proposals, upon submission to CUNY, shall become CUNY's property for use as deemed appropriate.

5.3.5 No Public Opening of Proposals.

There will not be a public opening of Proposals. The University will review Proposals in accordance with **Section 6** below and make a determination of each Proposer's qualifications after the Proposal Submission Due Date.

5.3.6 Withdrawal of Proposal.

Proposals submitted, including Price Proposals, are firm and binding for 270 days of the Proposal Due Date indicated in Part 1. However, CUNY may consider a withdrawal of a Proposal only in the following cases:

- A. Timing: A Proposer may withdraw its Proposal at any time before the Proposal Submission Due Date and Time. A request to withdraw a Proposal must be made in writing on letterhead from the person who signed the Proposal. The request-to-withdraw letter may be submitted as an attachment to an email only if the original signed letter is then sent by United States mail to the Proposal Due Location.
- B. Errors: Upon notification of a material error by CUNY, a Proposer may request to withdraw its Proposal. Such request must be received in writing on letterhead from the

person who signed the Proposal within 3 business days of the notification by CUNY. Proposer may submit this letter as an attachment to an email only if the original letter is then sent by United States mail to the Proposal Due Location set forth in **Part 1**. CUNY will determine whether to grant such request for withdrawal of the Proposal and will respond in writing to the Proposer with its decision.

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6. Proposal Evaluation and Selection Process

Proposal Scoring Criteria and Weights (set forth in **Part 6**)

6.1 Overview

6.1.1 Administrative Review. Before a proposal is evaluated by the evaluation committee, CUNY will undertake an administrative review of each Proposal to determine that:

- A. Proposer has accepted all Terms and Conditions of Contract without taking any exceptions;
- B. Proposer has properly completed and submitted Required Forms 1-6 (constituting Volume I);
- C. Proposer has properly completed and submitted Volumes II and III; and
- D. Proposer (and any Subcontractor(s)) meets the Minimum Proposer Qualifications (including the Technical Requirements, if any) described in **Section 2.1** and **Part 2, Paragraph I**.

Proposals that do not include all required content will be deemed non-responsive and will not be granted any further consideration unless CUNY deems omissions non-material.

6.1.2 Evaluation and Scoring of Proposals. Proposals that have passed the administrative review will be referred for evaluation as described in **Part 6**.

6.2 Best Value Evaluation Method

CUNY may make a tentative award of the Contract on the basis of best value to a responsive and a responsible Proposer as these terms (“best value”, “responsive” and “responsible”) are defined by New York State Finance Law Article 11, Section 163, and based on the technical and price criteria established by this RFP solicitation and otherwise in accordance with the terms and conditions of this RFP solicitation.

6.3 Notification to Unsuccessful Proposers

After (and if) a firm has been identified for tentative award, CUNY will notify all Proposers. Unsuccessful Proposers may request a debriefing of their Proposal by sending a request in writing, postmarked within 15 calendar days of being notified of being unsuccessful, to the Designated Contact for this solicitation.

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7. Pandemic-Related and Health-Related Requirements

- 7.1 By submitting a proposal to the RFP, Proposers are agreeing to the pandemic-related and health-related requirements set forth herein ("Health Requirements"). Without limiting the generality of the terms and conditions set forth in RFP and Contract, Contractor covenants, represents, warrants and agrees, at Contractor's sole cost and expense, to comply, and to cause its employees, staff, principals, subcontractors, suppliers, agents, representatives, and invitees to comply, with requirements and guidance issued by the federal, state, and local governments and all agencies and instrumentalities thereof, relating to the pandemic-related requirements and health-related requirements, as the same may change from time to time, applicable to Contractor and its operations at the University and College, including, without limitation, with all permits and health care requirements and recommendations of the New York City Department of Health and New York State Department of Health (collectively, as they apply at the relevant time and to the area or operations in question, "Government Guidance and Rules"), such as, by way of example, ensuring physical distancing, conducting temperature checks, and supplying and enforcing the proper use of protective personal equipment, cleaning disinfectants, and hand sanitizer.
- 7.2 Contractor shall cooperate with the University and the College so that the University and College are able to effectively comply with all Government Guidance and Rules applicable to the University and College. Contractor shall, and shall cause all of its employees, staff, principals, subcontractors, suppliers, agents, representatives, and invitees to comply with the University's and College's rules and procedures, which may be provided and updated from time to time as needs and requirements change, in connection with any Government Guidance and Rules, which notice shall be provided to Contractor's email address for notices.
- 7.3 In particular, but without limitation, Contractor shall ensure that all of its employees, staff, principals, subcontractors, suppliers, agents, representatives, and invitees comply with the CUNY Visitor Policy, available at <https://www.cuny.edu/coronavirus/cuny-access-pass/visitor-policy/> as may be updated from time to time. If required by the Visitor Policy, non-CUNY personnel planning to come to a CUNY campus must use the Cleared4 app to verify vaccination against COVID-19 or confirm that they have provided a negative COVID-19 PCR test based on a sample taken within the seven days prior to the visit. A Guide and FAQ regarding use of the Cleared4 app are available at https://cuny.service-now.com/sys_attachment.do?sys_id=e67a9b781bb63cd06f9821be6e4bcbe0. Contractor acknowledges and agrees that it will comply with these requirements every time an individual comes to a CUNY campus.
- 7.4 Contractor's safety protocols and plan to address health and safety concerns are annexed hereto as Form 19 ("Contractor's Safety Protocols"). Contractor agrees that it shall comply with its safety protocols. Contractor shall promptly notify College of any modifications to the Contractor's Safety Protocols, and any proposed modification shall be subject to the College's prior approval. Contractor agrees that Contractor's Safety Protocols are not and shall not be deemed to be an assumption by, or transfer to, College of liability for such protocols, and that Contractor shall remain liable for establishing and implementing such protocols and for the acts and omissions of Contractor and its employees, staff, principals, subcontractors, suppliers, agents, representatives, and invitees.
- 7.5 Contractor acknowledges and agrees that the maximum number of persons permitted to enter the College campus or any particular building or area, may be modified by College or University due to pandemic-related and health-related considerations at any time during the Term.

- 7.6 Contractor shall promptly provide notice to the University or to the College, as applicable, with relevant details upon becoming aware of any individual who (a) accessed the University or College premises, and (b) tested positive for COVID-19 or became symptomatic for COVID-19 or was in close proximity to an individual who tested positive for COVID-19 or became symptomatic for COVID-19.
- 7.7 Contractor hereby acknowledges and agrees that Contractor's use of the building and University or College premises, as applicable, will involve risks and hazards due to the health pandemic and that the health pandemic presents unique health risks, especially to those with underlying conditions, and that there may be other risks not known or reasonably foreseeable. Contractor shall advise all individuals accessing the University or College premises in connection with the Contract of the foregoing and shall ensure that such individuals have voluntarily accepted and assumed all of the risks associated with such access. Contractor agrees to fully indemnify, defend, and hold harmless the College, the University, DASNY, CUCF, the State of New York, and the City of New York, in accordance with the indemnification provisions set forth in the Contract for any claims, causes of action, costs, fees, or the like related to COVID-19 or any related health pandemic by individuals accessing the building and University or College premises in connection with the work of the Contract.
- 7.8 Proposers and Contractor acknowledge that, due to the effects of the health pandemic, the scope of the work and that the terms and conditions of this RFP and Contract may be subject to change in order to adhere to the Health Requirements including Government Guidance and Rules. In addition, Proposers and Contractor acknowledge that certain requirements and certain processes under the RFP and Contract may be modified based upon restrictions resulting from the health pandemic. College will endeavor to provide advance notice for such changes.
- 7.9 Contractor acknowledges and agrees that the inability of the College or University to provide access to the site to Contractor to perform maintenance or other services shall not void any warranties or guarantees available to the College or University under the Contract or at law. An extension of time shall be Contractor's only remedy for any delays that may occur in connection with access to the College premises and Health Requirements. As applicable, to the extent the College is not open during the times preventative maintenance is scheduled to be performed, Contractor shall perform all past due maintenance immediately upon regaining access to the facilities.
- 7.10 Notwithstanding anything to the contrary contained in the Contract, Contractor's failure to comply with the terms and conditions contained in the Health Requirements herein shall be a material breach of the Contract, and College reserves the right to cure such breach at Contractor's cost after providing notice of Contractor's default; however, given the serious nature of any default related to the Health Requirements herein, College shall not be required to provide Contractor with an opportunity to cure before College undertakes such cure at the cost and expense of Contractor, which cost shall be paid by Contractor promptly upon notification by College of the costs due.
- 7.11 Notwithstanding anything to contrary contained in the Contract, in the event of Contractor's breach of the terms of this **Section 7**, College shall have the right to cancel the Contract upon giving written notice to Contractor.
- 7.12 The provisions of these Health Requirements shall survive the expiration or earlier termination of the term of the Contract. In the event of a conflict between or among any laws, regulations, orders, directives, requirements, and the like, of federal, state, and local governments, courts, governmental authorities, legislative bodies, Guidance and Rules, and University requirements

("Laws/Requirements"), Contractor shall comply with the most stringent Laws/Requirements in each instance. In the event of a conflict between the terms and conditions of these Health Requirements and the terms and conditions of the Contract, the terms and conditions of these Health Requirements shall take precedence.

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8. Contract Award Protest Procedures

8.1 Intent

The University offers any Protesting Party an opportunity to administratively resolve any Contract Award Protests as it relates to procurement actions pursuant to the *Procurement Policy and Procedures of The City University of New York* as adopted by the CUNY Board of Trustees on February 21, 2017 and amended on December 16, 2019. All such matters will be accorded full, impartial and timely consideration.

8.2 Definitions

As used in this **Section 8**, the following terms shall have the respective meanings set forth below: CUNY or University – The City University of New York, including its Central Office, senior and community colleges, professional and graduate schools. For purposes of this Policy, “CUNY” and “University” also includes the following types of entities and their subsidiaries: college associations, student services corporations, childcare centers, performing arts centers, and art galleries. These Procedures do not apply to college foundations, separately incorporated alumni associations or auxiliary enterprise corporation; however, those entities are strongly encouraged to establish contract award protest procedures of similar scope to provide for open and free competition to the maximum extent practicable and consistent with the NYS Not-for-Profit Corporation Law.

Contract Award – a written determination by the University to an offeror stating that the University has accepted a bid submission, proposal or offer.

Designated Contact – the authorized procurement contact person for the subject procurement or contract during the procurement process, except where otherwise authorized by law or University policy.

Purchasing Director – CUNY College Director of Purchasing (or equivalent title) or designee who is directly responsible for the acquisition of goods and services at their respective CUNY college or school, including CUNY Central Office.

Protest – a written challenge by a Protesting Party to a Contract Award.

Protesting Party – an actual or prospective bidder or offeror whose direct economic interest would be affected by the award of a contract or by the failure to award a contract.

Vice President of Finance and Administration – CUNY College Vice President of Finance and Administration (or equivalent title) or designee, who is to receive, review and determine Contract Award Protests.

Solicitation or Contract Number – a unique identifier assigned by CUNY to each procurement and/or Contract Award.

8.3 Submission of a Contract Award Protest.

8.3.1 After attempting to informally resolve any questions, the Protesting Party may submit a Protest to the Vice President of Finance and Administration, in writing, setting forth the

basis on which the Protesting Party challenges a Contract Award by CUNY.

8.3.2 The Protest must include the following:

- A. Name, address, e-mail address, telephone numbers of the Protesting Party or its Designated Agent.
- B. Solicitation and/or Contract Number.
- C. Detailed statement of the legal and factual grounds for the protest, including a description of resulting prejudice to the Protesting Party.
- D. Copies of all relevant documents.
- E. Statement of the relief requested.
- F. Request for a determination by the Vice President of Finance and Administration.
- G. Information establishing that the protest or inquiry was timely filed in accordance with this Contract Award Protest Procedures.

8.3.3 Contract Award Protests concerning a pending or awarded contract must be filed by the Protesting Party within ten (10) business days of the earliest to occur of the following, as determined by the Vice President of Finance and Administration: (1) after the Protesting Party knows or should have known of the facts which form the basis of the protest; or (2) after the Protesting Party received a debriefing offered by CUNY. An untimely Protest will not be considered and will be returned to the Protesting Party.

8.3.4 All Protests must be sent by certified mail return receipt requested or a similar tracked mail delivery service to the Vice President of Finance and Administration at the address provided in the solicitation document for the Designated Contact.

8.3.5 A copy of all correspondence and supporting documentation accompanying a Protest must also be sent by certified mail return receipt requested or a similar tracked mail delivery service to the following two addresses:

- A. University Office of Budget and Finance, Attn: Chief Procurement Officer, 230 West 41st Street – 5th Floor, New York, NY, 10036
- B. University Office of the General Counsel, Attn: General Counsel, 205 East 42nd St – 11th Floor, New York, NY 10017.

8.3.6 The Purchasing Director may, at his or her discretion, suspend, modify, or cancel the disputed procurement action prior to the review or issuance of a formal dispute decision.

8.4 CUNY's Review and Response of Contract Award Protest.

8.4.1 Upon receipt of the Protest, the Vice President of Finance and Administration shall review the documentation submitted by the Protesting Party and any other documents available to CUNY.

8.4.2 The Vice President of Finance and Administration may take any action or make any requests he or she deems necessary in order to investigate the Protest in order to obtain all evidence and other pertinent information.

- 8.4.3 The Vice President of Finance and Administration, at his or her discretion, may convene an informal conference with the Protesting Party, and/or any other interested party to resolve the Protest by mutual consent.
- 8.4.4 The Vice President of Finance and Administration shall issue a written determination within thirty (30) business days after receipt of the Protest, where feasible.
 - A. The Vice President of Finance and Administration reserves the right to waive or extend the time requirements for decisions and final determination on appeals herein prescribed when, in its sole judgment, circumstances so warrant.
- 8.4.5 A copy of the written determination, stating the reason(s) upon which it is based and informing the Protesting Party of the right to appeal the determination to the College President shall be sent to the Protesting Party or its agent by certified mail.

8.5 Appeals.

- 8.5.1 The written determination rendered by the Vice President of Finance and Administration to resolve the Protest shall be final and conclusive, unless, within ten (10) business days after receipt of the written determination, the Protesting Party appeals the determination to the College President.
 - A. The appeal must be in writing and sent by certified mail return receipt requested or a similar tracked mail delivery service to the President at the address provided for in the solicitation document or as stated in the written determination sent by the Vice President of Finance and Administration.
 - B. A copy of all correspondence and supporting documentation to an appeal must also be sent by certified mail return receipt requested or a similar tracked mail delivery service to the following two addresses:
 - 1. University Office of Budget and Finance, Attn: Chief Procurement Officer, 230 West 41st Street – 5th Floor, New York, NY 10036.
 - 2. University Office of the General Counsel, Attn: General Counsel, 205 East 42nd St – 11th Floor, New York, NY 10017.
 - C. The College President, at his or her discretion, may designate a cabinet level employee of the College, other than the Vice President of Finance and Administration, to review relevant documents and make a final determination.
 - D. The College President, at his or her discretion may suspend, modify, or cancel the disputed procurement action prior to issuance of a formal appeal decision.
- 8.5.2 The final determination on the appeal shall be issued within thirty (30) business days of receipt of the appeal and shall be sent to the Protesting Party or its agent by certified mail.
 - A. The College President may take any action or make any requests he or she deems necessary, including extending the time to issue a decision in order to render a written decision on the appeal to the College President.
- 8.5.3 An appeal of the decision made by the Vice President of Finance and Administration shall not include new facts and information unless requested in writing by the College President.

8.5.4 Unless otherwise provided in 8.6 below, the decision of the College President shall be the University's final and conclusive determination of the Protest.

8.6 Appeals to the Office of the New York State Comptroller.

If the Contract Award let by the University is from a New York State operated institution, specifically including the senior colleges, and graduate, honors and professional schools, and the Contract Award is subject to approval of Office of the New York State Comptroller pursuant to State Finance Law section 112 and Education Law section 6218, or is otherwise submitted to the Office of State Comptroller for approval, then the Protesting Party may submit an appeal of the College President's determination to the Office of the New York State Comptroller in accordance with the guidelines on Contract Award Protest Procedure as fully set out at Part 24 of Title 2 of the New York Codes, Rules and Regulations.

8.7 Legal Appeals.

Nothing contained in these provisions is intended to limit or impair the rights of any vendor to seek and pursue remedies of law through the judicial process.

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Attachment B – Information Technology Performance Requirements

The complete text of CUNY's *Information Technology Performance Requirements (Terms to be Included in Solicitations and Contracts)* is incorporated herein by reference and attached in full.

Introduction

The City University of New York (the "University" or "CUNY") is committed to ensuring that all technology products and services adhere to required and industry standards of accessibility, security, and compatibility with existing enterprise systems.

These terms set forth essential requirements and standards that contractors must meet when providing technology solutions to CUNY - including accessibility, authentication and access control, IT security, PeopleSoft/CUNYfirst/Workday integrations, project management, and preferred service standards.

CUNY places a high priority on contractors providing exceptional technical support, customer service, and a positive user experience for the University's constituents; all contractors (the "Contractor(s)") must ensure that their products, solutions, applications, platforms, and services ("Services") are user-friendly, reliable, and supported by highly responsive customer service teams.

The language of the Solicitation or Contract is directed at Contractor unless specifically stated otherwise. The Solicitation or Contract language and attachments are complementary, and what is called for by one shall be as binding as if called for by all. In the event of conflicting provisions within or among the specifications, and the terms and conditions, Contractor is obligated to seek clarification from University as soon as Contractor becomes aware of any conflicting provisions; in general, however, Contractor is obligated to provide the most expensive option, and the more specific provision will take precedence over the less specific; the more stringent will take precedence over the less stringent; and the more expensive item will take precedence over the less expensive item.

Contractor shall comply with all laws, regulations, rules, orders-including executive orders, requirements, and the like of federal, state, and local governments, courts, governmental authorities, legislative bodies, boards, agencies, commissions, and the like ("Law(s)") with respect to this Solicitation or Contract. If there is a conflict between or among any laws and specific requirements of this Solicitation or Contract, then Contractor shall comply with the most stringent Law in each instance. By noting any specific Laws with particularity in this Solicitation or Contract or in any other prior or future communication, Contractor is not relieved of any obligation to comply with all Laws, and the University does not waive any rights it may have with respect to such compliance.

Accessibility

The Contractor must comply with all applicable federal and state laws and regulations regarding the accessibility of the Services for those who are disabled. Any network-based information and applications development, or programming, including, but not limited to, websites delivered to or by the State of New York pursuant to this contract or procurement, will comply with Section 508 of the Rehabilitation Act of 1973, as amended, Executive Law Section 170-f, as amended, and be consistent with New York State Enterprise IT Policy NYS-P08-005, Accessibility of Information Communication Technology, as such policy may be amended, modified, or superseded (the "Accessibility Policy"). The Accessibility Policy requires, and Contractor must ensure that State Entity Information Communication Technology shall be accessible to all users, including those with disabilities as determined by accessibility compliance testing. Such accessibility compliance testing will be conducted by CUNY and any report on the results of such testing must be satisfactory to CUNY, as an explicit condition of being awarded the Contract.

In accordance with Section 170-f of the New York State Executive Law, Contractor represents and warrants that the

Services' online content and functionality shall conform to the most current version of the Web Content Accessibility Guidelines adopted by the World Wide Web Consortium for accessibility or any successor guidelines/standards ("WCAG Standards"), that are incorporated herein by reference.

Upon request and **prior to Contract Award**, vendors seeking to be awarded a contract by the University must provide an Accessibility Conformance Report ("ACR") or a completed Voluntary Product Accessibility Template ("VPAT") that includes vendor's representation and warranty that the Services comply with the WCAG Standards. Please note that an ACR or VPAT need not be submitted with a Bid Submission, Proposal or Quote but if requested, then vendor must submit an ACR or VPAT upon request within the timeframe required by the University as an explicit condition prior to being awarded a Contract. The ACR or VPAT must reflect the vendor's current software release of the Services. Vendor will be required to warrant that the Services' online content and functionality shall meet or exceed the accessibility standards specified in its ACR or VPAT throughout the Term of this Contract.

Upon request, Contractor also must provide temporary test credentials to the University so that the University is able to perform a test of the Services to verify that the Services meet the requisite accessibility standards.

CUNY will need to review, verify, and accept Contractor's ACR or VPAT prior to the award of a contract.

If after award of a contract to a vendor ("Contractor"), CUNY determines that a user of the Services requires a special modification in order to comply with WCAG Standards, then the University shall submit a written request to the Contractor for a modification to the Services, and the Contractor shall use commercially reasonable efforts to provide necessary modification(s) promptly. In the event that compliance with WCAG standards requires more than commercially reasonable efforts, then the Contractor shall engage in good faith negotiations with CUNY to amend the Contract. In the event that the Contractor cannot modify the Services to comply with WCAG Standards following good faith negotiations to amend the Contract, then the University shall have the right to terminate the Contract upon thirty (30) days' written notice.

The University will not award a Contract to any vendor that: (a) if requested, fails to promptly submit an ACR or completed VPAT that verifies the Services' compliance with WCAG Standards; (b) submits an ACR or completed VPAT that does not meet WCAG Standards; (c) does not provide the necessary credentials to allow the University to test and verify the accessibility of the online content and functionality of the proposed Services; or (d) provides temporary test credentials that result in a determination that demonstrates that the Services do not meet requisite accessibility standards.

Authentication and Access Control

All Services must meet the following Single Sign-On (SSO) and Authentication Requirements.

Contractor must ensure that the fully configured software solution that it provides as part of the Services and deploys at CUNY, including all updates and patches ("Solution") integrate with CUNY Login, the centralized authentication system powered by the Oracle Access Management (OAM) suite. Contractor must support seamless integration of the Solution with CUNY Login to enable Single Sign-On (SSO) and secure authentication for all CUNY users.

To ensure compatibility and successful integration, the Contractor must ensure that the Solution must:

1. Support Standard Authentication Protocols:

- The Contractor must ensure that the Solution support one or more of the following standard authentication mechanisms to integrate with CUNY Login:
 - SAML 2.0: The Contractor must ensure that the Solution act as a Service Provider (SP) and accept SAML assertions from CUNY Login.
 - OpenID Connect (OIDC): The Solution must support OIDC flows for authentication.
 - OAuth 2.0: If API-level access is required, the Solution must support OAuth 2.0 for token-based authentication.
 - Header-Based Authentication: For Solutions hosted within CUNY's data centers, the Solution can support header-based authentication as an alternative mechanism provided by OAM if any of the federation protocols are not supported. The Solution must securely validate headers and handle user attributes passed through them.

2. Enable SSO Workflow:

- The Solution must redirect unauthenticated users to CUNY Login for authentication.
 - The Solution must process the authentication response from OAM to establish user sessions.
3. Session Management:
- The Contractor must ensure that the Solution support session timeout and Single Logout (SLO) mechanisms as defined by CUNY Login. If the Contractor's Solution does not support SAML SLO or SAML Logout, then the Solution must support the use of the IdP's logout redirect URL to ensure that sessions are cleared gracefully at the IdP level.
 - In cases where logout-related options are unavailable, the Contractor, through its application development team, must work toward an enhancement solution in collaboration with CUNY's IT team. The Contractor will submit the resulting solution to CUNY for review by CUNY and must be approved by CUNY prior to implementation.
4. Attribute Handling:
- The Contractor must ensure that the Solution supports the mapping of user attributes provided by CUNY Login, such as emplID, email, roles, and other custom attributes required for authorization and personalization.
5. Security and Compliance:
- The Contractor must ensure that the Solution uses secure protocols (e.g., HTTPS) for communication with CUNY Login.
 - The Contractor must ensure that the Solution complies with CUNY's security policies and relevant regulatory requirements for data protection.

IT Security

The University's Information Security division provides a comprehensive management framework that includes policies, assessments, tools, and tested procedures to build defensive strategies and capabilities for effective responses.

The Contractor's Services must adhere to industry best practices - including regular intrusion detection, firewalls, and layered security including anti-virus and anti-spam protection where applicable. The Solution must include/have measures to ensure that data records are transported, stored, and accessed in a secure manner and that information being displayed on websites or transmitted over internet has not been altered in any way by an unauthorized party.

To ensure the highest standards of IT security during the term of the Contract, Contractor must adhere to the CUNY [Service Provider Standard](#), including incident response protocols during the term of the Contract. Also, annually, the Contractor must timely submit all required reports, including SOC2, PCI, or SSAE.

In addition, where applicable (e.g., vendor processes credit card payments for CUNY), the Contractor must provide a PCI report to demonstrate compliance with industry standards and safeguard sensitive information when Contractor is required to provide the SOC report.

Vendors must follow CUNY's cybersecurity best practices to maintain a secure working environment, including adhering to the CUNY Policy on [Acceptable Use of Digital Assets](#) and Resources and the [CUNY-Data-Classification-Standard](#)

PeopleSoft/CUNYfirst/Workday Integrations

Integration with PeopleSoft

The Contractor acknowledges and understands that CUNY is currently running Oracle PeopleSoft Campus Solutions (CS), Human Capital Management (HCM), and Finance modules and that these modules support a range of functions within the organization, including student enrollment and academic management through Campus Solutions, employee lifecycle management such as recruitment, payroll, and benefits through Human Capital Management, and financial management, including accounting, budgeting, and procurement through Finance. This integrated suite of PeopleSoft applications enables CUNY to efficiently manage its core operational processes and ensure seamless data

flow across different departments.

The Contractor shall be responsible for integrating contractor's solution with PeopleSoft, acknowledges and understands that integrating with PeopleSoft (Application 9.2 or higher and PeopleTools 8.60.14 or higher) requires using REST APIs, File Processing, or a Third-Party Plug-and-Play Solution. With a focus on improving both operational and functional efficiency this integration will assist in streamlining the data flows within CUNY's suite of enterprise applications. When necessary, as determined by CUNY, the integration methods must support real-time data exchange via APIs, batch file processing for large data sets, and plug-and-play solutions that minimize customization. The Contractor must ensure that the Solution is compatible with the version of Oracle PeopleSoft being used and meets any specific security, compliance, and data handling requirements. When applicable, as determined by CUNY, the Contractor must carry out the integration method that was required by CUNY or, in the manner proposed by the Contractor and approved by CUNY, across three distinct environments: Development, UAT (User Acceptance Testing), and Production. The Development Environment will be isolated from the production system and used for initial coding, debugging, and testing. The Contractor must ensure that the UAT Environment mimic the production setup, utilizing anonymized or test data for thorough validation by end-users to demonstrate that proposed solution will work in Production environment. The Contractor acknowledges that clear access control and environment isolation are critical to prevent issues in one environment from affecting others and will ensure clear access control and environment isolation if the solution is hosted by the Contractor and take all necessary actions to ensure that clear access control and environmental isolation are in place – this is critical to prevent one environment from affecting the others.

Once thoroughly tested, the Solution will be deployed by CUNY and the Contractor to the Production environment, which Contractor must ensure is secure, highly available, and optimized for handling live data if solution is hosted by Contractor. CUNY and Contractor will share responsibility for deployment in accordance with roles and responsibilities that will be developed and mutually agreed upon in the project planning phase (these roles and responsibilities are often represented by a RACI chart.) The solution will not be deployed until a production readiness check is conducted and approved by the CUNY. If CUNY determines that project is not ready for deployment into Production environment, Contractor is responsible for addressing all CUNY production concern to ensure that solution is Production ready.

For successful data integration, the Contractor must ensure that all data is properly mapped between and among systems, with clear transformation rules to ensure consistency. The Contractor must exchange data using REST APIs or file-based integration, depending on the use case. The Contractor must ensure that APIs support secure data transmission (e.g., TLS/SSL) and that file-based exchanges follow agreed-upon formats (e.g., CSV, XML, JSON). The Contractor also must implement robust data validation and error handling mechanisms to ensure data integrity across the integration process.

The Contractor acknowledges and understands that CUNY has a central role-based repository to manage all access to third-party systems. These third-party systems are required to share or replicate security roles to PeopleSoft via REST APIs or file transfer methods. The Contractor must be capable of integrating with this system to log security events and consume role-based security definitions from PeopleSoft. In addition, the Contractor must crosswalk or map PeopleSoft/SIS roles to product-specific roles, ensuring that the governance of authorization is handled centrally. The PeopleSoft role synchronization integration will allow for the effective management of user access and enable the revocation of access directly from the source system, ensuring consistent and secure role-based access control across all integrated platforms.

The Contractor acknowledges and agrees that security is a priority, with strong encryption methods, authentication protocols, and access control measures in place for all environments. The Contractor will ensure that the Solution complies with the standards as described in the "IT Security" section of this document, these Performance Requirements, and data protection regulations, including FERPA, GDPR or HIPAA, as applicable, and provides detailed

auditing and logging to track access and changes to sensitive data. The Contractor must have in place and maintain a disaster recovery plan for the Production Environment, with regular backups and a clear recovery process to minimize downtime.

The Contractor also must provide a clear timeline for the implementation services or other professional services to be provided by Contractor, including the setup and configuration of all environments, testing schedules, and production deployment. The Contractor must provide, throughout the term of the Agreement, documentation for the integration and ongoing maintenance of the Solution, including environment configuration and system architecture.

Integration with Workday for HR and Finance

For the HR and Finance modules within Workday (CUNY will soon use Workday to manage various functions, including employee lifecycle management, payroll, benefits, and financial operations) – the Contractor must ensure seamless integration with Workday using REST APIs, file processing, or third-party plug-and-play solutions and the integration must support real-time data exchange via APIs, batch file processing for large data sets, and plug-and-play solutions that minimize customization. The Contractor must ensure compatibility with the current version of Workday being used and meet any specific security, compliance, and data handling requirements.

When applicable, as determined by CUNY, the Contractor must carry out the integration method that was required by CUNY or, in the manner proposed by the Contractor and approved by CUNY, across three distinct environments: Development, UAT (User Acceptance Testing), and Production. The Development Environment will be used for initial coding, debugging, and testing. The UAT Environment will mimic the production setup, utilizing anonymized or test data for thorough validation by end-users. Once thoroughly tested, the Solution will be deployed to the Production Environment, which Contractor must ensure is secure, highly available, and optimized for handling live data if production environment is hosted by the Contractor. Clear access control and environment isolation are critical, and must be ensured by Contractor, to prevent issues in one environment from affecting others. The Contractor acknowledges that clear access control and environment isolation are critical to prevent issues in one environment from affecting others and will ensure clear access control and environment isolation if the solution is hosted by the Contractor and take all necessary actions to ensure that clear access control and environmental isolation are in place – this is critical to prevent one environment from affecting the others.

For successful data integration with Workday, the Contractor must ensure that all data is properly mapped between and among systems, with clear transformation rules to ensure consistency. The Contractor will exchange data using REST APIs or file-based integration, depending on the use case. APIs must support secure data transmission (e.g., TLS/SSL), and file-based exchanges must follow agreed-upon formats (e.g., CSV, XML, JSON). The Contractor also must implement robust data validation and error handling mechanisms to ensure data integrity across the integration process.

The Contractor also must provide a clear timeline for the implementation services or other professional services to be provided by Contractor, including the setup and configuration of all environments, testing schedules, and production deployment. The Contractor must provide, throughout the term of the Agreement, documentation for the integration and ongoing maintenance of the Solution, including environment configuration and system architecture.

Project Management

The Contractor must execute detailed project management activities throughout the project lifecycle, ensuring that all deliverables are met on time, within scope, and according to the agreed-upon quality standards. Specific project management requirements include:

Project Planning and Documentation

The Contractor must develop, provide, and maintain:

1. A project plan in a system/format agreed upon with CUNY, including timelines, CUNY's tasks, milestones, resource allocation, and risk management strategies.
2. A detailed scope document, outlining project objectives, deliverables, and success criteria, must be provided and approved before project initiation.
3. Documentation to support data cleansing, data migration, data conversion and data validation.
4. Documentation to support system architecture.
5. Documentation to support all phases of testing.
6. Requirements Traceability Matrix.
7. Project Governance including plans for change order management, issues/risk management and status reporting. The Contractor must manage and document any changes to the project scope, timeline, or deliverables, including change requests from CUNY. The Contractor must submit change requests to CUNY. CUNY will evaluate such change requests for impact, and all change requests must be approved by CUNY in a signed, written Change Order before implementation.

Regular Status Reporting

1. The Contractor must provide weekly or bi-weekly status reports to CUNY (as set forth in the scope of work), detailing progress, challenges, risks, and any adjustments to the project timeline.
 - a) These reports must include metrics on progress against key milestones, resource utilization, and any issues that may affect project delivery.

Project Meetings

1. The Contractor shall organize and lead regular project meetings, including kick-off meetings, status meetings, and any ad-hoc meetings required to address project challenges.
2. CUNY will be invited to participate in these meetings, and meeting summaries and agenda must be recorded and shared promptly.

Risk and Issue Management

1. The Contractor will provide a fully functioning RAID (Risks, Assumptions, Issues, and Decisions) log to CUNY weekly. The Contractor must identify potential risks and issues early in the project, provide mitigation strategies, and escalate critical issues to CUNY as appropriate.

Quality Assurance and Testing

1. The Contractor is responsible for defining and executing a quality assurance (QA) and testing strategy, including functional, integration, performance, and user acceptance testing (UAT) as it pertains to the Contractor's role in the UAT process.
2. The Contractor must document and share testing results, issues identified, and resolutions with CUNY, and the Contractor must ensure that the Solution meets all functional and technical requirements.

Change Management and Organizational Readiness (where applicable)

If indicated in the Scope of Work included in solicitation documents or contract to which these requirements are attached, the Contractor must provide change management and organizational readiness services to CUNY including

1. Communications Management
2. Training (User training and system administration training)
3. Institutional buy in and acceptance plan
4. Readiness plan to adopt the system

Post-Implementation Support During Stabilization Period

1. At the completion of go-live activities, the Contractor shall assist in the execution of the provided post-implementation support for a minimum four (4) weeks (or longer, if indicated in the Scope of included in solicitation documents or contract to which these requirements are attached) during CUNY's standard stabilization period to ensure smooth deployment and resolution of any issues that may arise.

Project Closure

1. At the conclusion of the project, the Contractor must provide a formal project closure report, including an evaluation of project outcomes, lessons learned, and any outstanding tasks.
2. Upon proposed project completion the Contractor will convene a final review meeting between Contractor and CUNY. The final review meeting will be held to confirm all deliverables have been completed, and the project will be officially closed. It is mandatory that Contractor's project manager and business lead attend this meeting. It is also mandatory that Contractor provide any other personnel who have worked on this project if CUNY requests such personnel to attend the final review meeting.

Training

The Contractor must provide comprehensive training programs to ensure effective adoption and utilization of the technology solutions by both end-users and system administrators. The Contractor must tailor training to address the specific needs of different user groups and support ongoing proficiency and system management. The Contractor must provide the CUNY CIS Training Team with a training plan that includes:

Training Goals and Objectives

- Audience Segmentation - Training designed to meet the needs of diverse user groups, including end-users and administrators.
- Methodology and Content - A blend of instructional strategies to address varied learning styles, with emphasis on hands-on, interactive learning.
- Delivery Methods - Options for in-person, virtual, and self-paced training to maximize accessibility.
The Contractor shall deliver user training to ensure end-users are proficient in system functionalities and features. This training must include:
Essential System Knowledge: Navigation, task execution, and troubleshooting common issues.
- Comprehensive Materials: Accessible user guides, video tutorials, and FAQs to support ongoing learning. All materials must be in accordance with current Federal and New York State regulations, such as Section 508 of the Rehabilitation Act of 1973, NY Executive Law Section 170-f, and New York State Enterprise IT Policy NYS-P08-005.
- Customizable Formats: Training resources available in multiple formats to accommodate varying needs.
- Ongoing Maintenance of Training Materials
In addition to user training, the Contractor must provide thorough systems administration training to enable staff to manage the system efficiently. Contractor must design the training for both technical and non-technical personnel and include:
Step-by-Step Guidance: Clear and easy-to-follow instructions for system management tasks.
- Interactive Sessions: Hands-on practice in a controlled environment for real-world application.
- Supporting Documentation: Detailed manuals, best practices guides, and access to an online support portal for ongoing assistance

Service Standards/Service Level Agreements

The Contractor will be required to meet the following service standards. If service standards are not met, CUNY will be entitled to performance credits as described below.

Performance Service Levels

This Service Level Agreement ("SLA") sets forth the service level and performance objectives of the Contractor in providing its Solution (the "Services") to CUNY. The Contractor will use reasonable efforts to meet the following service level and performance objectives to support the operation of the facilities, server(s), computer equipment, operating software and connectivity used to provide the Services to CUNY.

(a) Uptime Commitment

The Contractor will use reasonable efforts to ensure the Contractor's Systems are available a minimum of 99.5% of the time (the "Uptime Commitment"). All Uptime Commitment will be measured within the Contractor's System on a monthly basis calculated to include twenty-four (24) hours per day over each month, but excluding from the numerator and denominator in the calculation the duration in time of any temporary shutdowns due to scheduled maintenance (which will not exceed in the aggregate sixteen (16) hours per month outside of normal business hours), telecommunications or power disruptions caused by third parties, and any other causes beyond Contractor's reasonable control. The Contractor agrees to notify CUNY promptly of any factor, occurrence, or event coming to its attention that may affect the Contractor's ability to meet the Uptime Commitment, or that is likely to cause any material interruption in the Services.

(b) Exclusive Remedy

The Contractor will use reasonable efforts to correct any material problems in the Services, including any failure to satisfy the Uptime Commitment. In the event that the Contractor fails to satisfy the Uptime Commitment for a given month, CUNY's sole and exclusive remedy will be to receive a service credit equal to the following percentage of the monthly fees for the Services for the stated uptime:

- a. 98% to 99.5% 10%
- b. 95% to 97.9% 25%
- c. 92% to 94.9% 40%
- d. 90% to 91.9 60%
- e. Below 90% 100%

In no event will the service credit exceed the monthly fees paid by CUNY for the Services. CUNY acknowledges and agrees that if the remedies set forth in this section are applied, any failure of the Contractor to meet the requirements in this SLA will not constitute a breach of the Agreement.

(c) Monitoring

Contractor shall monitor and maintain Contractor's Systems in working order each day (24 x 7). Contractor shall proactively manage and monitor all application server hardware devices and software to ensure optimal performance and reliability as well as to detect abnormal events or exceeded utilization or performance thresholds. Contractor shall proactively monitor the status of the operating systems (e.g., CPU, disk I/O, memory, processes, etc.), critical application layer daemons and processes and trigger appropriate event notification alarms caused by errors, exceeded thresholds, etc.

(d) Maintenance

Contractor shall operate, monitor and administer all servers, applications and networks supporting the Services. In order to provide such coverage, Contractor may utilize a mixture of on-site and on-call support staff, automated server monitoring and automated paging technology. Contractor's on-site coverage is during Contractor's normal business hours, Monday through Friday, excluding holidays recognized by Contractor and previously identified to CUNY.

(e) Scheduled Outages

Maintenance outages, if necessary, shall be conducted at a time and in a manner to minimize adverse impacts on the Services. Maintenance outages may include, but are not limited to the installation of upgrades, service packs and routine server or application configuration changes. Other maintenance outages may be necessary from time to time. Contractor shall provide CUNY with reasonable advance written notice of scheduled outages, and CUNY reserves the right to require Contractor to schedule such planned outages at a different time.

(f) Change Control

Contractor shall install new equipment, software, releases, upgrades, fixes, patches and other items necessary to maintain Contractor's Systems to industry standards. Contractor shall proactively gather information from appropriate

server, peripheral, operating system or database vendors regarding upgrades. defect patches or fixes.

(g) Notice

Contractor shall use reasonable efforts to give CUNY three (3) days' notice prior to all non-routine management, maintenance, change control or other actions by Contractor that may materially impact the Solution adversely.

(h) Support

Contractor shall provide an online CRM for CUNY to report, manage, and track support issues as well as a toll- free support number. Contractor shall provide end-user support during business hours (Mon-Fri), and downed system support 24x7. Initial response times to support issues are as follows:

Response Level	Description	Initial Response
I	SaaS Service is unavailable	1 hr.
II	Production module is inoperable	2 hr.
III	Module feature working incorrectly; general performance issue	1 business day
IV	Non-performance related incidents, including: general questions, requests for information, documentation questions, and enhancement	2 business days

In the event of Downtime (which shall consist of a Response Level I or II in the chart above), Contractor shall provide an online Downtime Status page to be updated in real-time until resolution of such Downtime event. All incidents of Downtime which are known by Contractor, and which affect CUNY shall be communicated via a support case or by email.

Transaction and Utilization Times

Below are preferred transaction and utilization times. Vendors must provide a response regarding if they can meet such preferences and if not, what their support response times would be for each level of severity.

- Solution average transaction response time: less than 2,000 milli seconds
- Solution Server CPU Utilization: under 60%
- Database CPU utilization: under 50%

In addition, Contractor must provide detailed metrics on concurrent sessions during peak hours, concurrent sessions per minute during peak hours, and hits per hour to ensure comprehensive performance evaluation.

Support Response Times

The chart below represents required support response times. Contractor must meet such requirements; if a Contractor would like to suggest alternate support response times for each level of severity, then it must do so by submitting questions by the Questions Due Date; if the required support response times are revised, then all vendors will be provided a revised support response times through an Addendum to the RFP solicitation document.

Support Response Times

Severity	Definition	Response Time	Resolution Time
Critical	Complete system outage; business-critical impact to any CUNY entity serviced by vendor (e.g., college, Central Office, Research Foundation).	15–30 minutes	4–8 hours
High	Severe disruption to core functions; significant impact to any CUNY entity serviced by vendor (e.g., college, Central Office, Research Foundation).	1 hour	1 business day
Medium	Limited disruption; workarounds may exist to any CUNY entity serviced by vendor (e.g., college, Central Office, Research Foundation).	4 hours	2–3 business days
Low	Minor issues or general inquiries to any CUNY entity serviced by vendor (e.g., college, Central Office, Research Foundation).	1 business day	5–7 business days

Contractor shall ensure availability of network and communication channels between Platform and its Disaster Recovery sites in support of the availability requirements outlined above.

Helpdesk Availability

Preferred Helpdesk availability is as follows. Vendors must provide a response regarding if they can meet such preferences and if not, what their Helpdesk availability is.

[State the requirements – not “preferences”]:

The Contractor must provide 24-7 Helpdesk availability; however, Helpdesk or similar service must be available at minimum during normal business hours (M-F 9am to 5pm EST) via the following contact channels:

1. Phone: Toll-free or direct support line for real-time assistance.
2. Email: For logging tickets or non-urgent queries.
3. Live Chat: Instant messaging platform for quicker resolutions.
4. Self-Service Portal: Ticket submission, knowledge base access, and status tracking.

Monitoring and Maintenance

The Contractor is responsible for monitoring the platform and have in place a monitoring system to provide real-time information about the platform and ensure the environment is monitored and maintained according to industry standards. For example, the Contractor must ensure that the monitoring system must be capable of tracking key performance indicators (KPIs) such as system uptime, downtime, response times, and error rates. The Contractor must ensure that the Solution provide alerts for any anomalies or potential issues, allowing for proactive maintenance and quick resolution of problems. The Contractor must ensure that the system include a dashboard, or comparable information reporting tool, that displays real-time metrics and historical data, enabling administrators to make informed decisions and ensure the platform's optimal performance.

The Contractor is required to notify CUNY by email no later than 30 days in advance of any periods of scheduled maintenance and required repairs. The Contractor acknowledges that this advance notification is essential to minimize disruptions and allow CUNY to plan accordingly. The notification period must align with industry standards, ensuring

that CUNY is well-informed and can take necessary actions to mitigate any impact on operations.

Backup

For SaaS based Solutions, the Contractor must ensure high availability for the Solution. High availability is defined as the ability for the Solution to operate as designed with zero downtime, unless for regular maintenance. In addition, the Contractor must have service running in multiple datacenters (minimum of two) and prefers 99.999% uptime; in addition, for a hosted Solution, when moving the service from one datacenter to another the Contractor must ensure zero downtime. The Contractor shall provide comprehensive redundant backups by implementing a backup strategy that includes performing daily backups (deltas between previous day's backup) with at least weekly full backup rotation; the Contractor must retain backup data for 90 days. The Contractor must provide cold storage option if CUNY determines that cold storage option is needed.

In addition, the Contractor shall provide a Disaster Recovery plan where data is replicated to an offsite location. In the event of a disaster, the Contractor will restore service according to the agreed Recovery Time Objective (RTO) and Recovery Point Objective (RPO).

- RTO: 24 hours
- RPO: 12 hours

Data Portability

The Contractor must ensure that all data stored within the platform can be securely exported in a standard, non-proprietary format upon request or contract termination, to facilitate seamless data migration or compliance with CUNY's archival requirements.

Chronic System Failure

In the event of a Chronic SLA Failure, CUNY reserves the right to terminate the affected Service without penalty.

Chronic SLA Failure is defined as 3 consecutive months or 5 months within any 12-month period during which the Contractor does not meet the Performance Standards for System Availability.