



UNIVERSITY  
OF OREGON



**ALTERNATIVE PROCUREMENT FOR ANTI-RACISM, DIVERSITY,  
EQUITY AND INCLUSION TRAINING  
(Pool Procurement)**

AP Number: **PCS# 211000-00244-AP**

Issuing Office: **Purchasing and Contracting Services  
1600 Millrace Dr., Suite 306  
Eugene, OR 97403  
<https://pcs.uoregon.edu/content/business-opportunities>**

**Closing Date and Time: February 1, 2021 at 5:00 p.m. (Pacific Time)**  
Proposals must be received by the Issuing Office no later than the Closing Date and Time. Postmarks will not be considered.

## 1. GENERAL INFORMATION.

### 1.1. Purpose of this AP.

The University of Oregon, on behalf of its Division of Equity and Inclusion (University), is seeking proposals to provide trainings and other services related to anti-racism, diversity, and equity and inclusion for members of the University community. ***As will be discussed below, this is a pool procurement by which University seeks to retain multiple service providers that meet the evaluative criteria set forth herein.***

### 1.2. Background.

**1.2.1. The University of Oregon.** The University of Oregon is a public research university in Eugene, Oregon. Founded in 1876, University's 295-acre campus is along the Willamette River. Since July 2014, UO has been governed by the Board of Trustees of the University of Oregon.

The University exists to provide Oregonians and their peers from around the world access to an excellent education. The University challenges its students to question critically, think logically, communicate clearly, act creatively, and live ethically. The University serves the people of Oregon, the nation, and the world through research, teaching, and outreach that benefits humanity, drives innovation, strengthens the economy, and transforms lives.

The University is classified as an RI (very high research activity) institution by the Carnegie Classification of Institutions of Higher Education. The University was admitted to the Association of American Universities in 1969. The University is one of just two schools in the Pacific Northwest selected for membership in the prestigious Association of American Universities, a consortium of 62 leading public and private research institutions in the United States and Canada.

The University is comprised of nine schools and colleges and offers over 300 undergraduate and graduate degree programs in a wide range of disciplines. The University enrolls in excess of 23,500 students from all 50 states and from more than 100 countries. There are some 757 tenured and tenured-track faculty members with a total population of teaching and research faculty in excess of 2,000.

The University of Oregon is unsurpassed in its commitment to excellence in teaching, research, artistic expression, and the generation, dissemination, preservation, and application of knowledge. The University is devoted to educating the whole person, and to fostering the next generation of transformational leaders and informed participants in the global community. Through these pursuits, the University enhances the social, cultural, physical, and economic wellbeing of our students, Oregon, the nation, and the world.

The University promotes inclusive excellence through a commitment to institutional fairness and equality, eradication of discrimination and through celebrating and affirming

the strengths of a multicultural community. For further information about the University of Oregon, please visit <https://www.uoregon.edu/about>.

**1.2.2. Division of Equity and Inclusion (DEI).** DEI promotes inclusive excellence by working to ensure equitable access to opportunities, benefits, and resources for all faculty, administrators, students, and community members. The work of DEI is guided by the University *IDEAL* framework of **I**nclusion, **D**iversity, **E**valuation, **A**chievement, **L**eadership. DEI provides guidance to all campus units in the areas of diversity, equity and inclusion, which support and enhance our University priorities: creating more robust bridges for diverse students to enter the University; increasing diversity and equity among faculty, staff, administrators, and students; and creating a more inclusive and welcoming campus environment for all.

**1.2.3.** The University is a predominantly white institution, with 60% of all students, 82% of tenure-track faculty, 88% of non-tenure-track faculty, and 83% of staff identifying their race or ethnicity as white.

**1.3. Closing Date and Time. All Proposals must be received by University's Issuing Office by 5:00 p.m. (Pacific Time) on or before February 1, 2021 ("Closing Date and Time"). University intends to serially review proposals as they are received (and up through the Closing Date). University will make decisions on a rolling basis throughout the posting period. Proposers are encouraged to submit Proposals early as University seeks to commence professional development work in late October of 2020. Please see Section 4 of this AP for further submission instructions.**

**1.4. New Vendors. If you have not yet registered as a vendor in the University Purchasing Portal, please register by clicking the "Create New Account" button at: <https://apps.ideal-logic.com/uopcs>. Registration is required to submit a Proposal electronically. To expedite the submission of Proposals, please register in advance of the Closing Date.**

**1.5. Monitoring.** This AP will be posted on the University of Oregon Purchasing and Contracting Services (PCS) website, under "Business Opportunities," accessible at: <http://pcs.uoregon.edu/content/business-opportunities>. Any Addenda including, without limitations, extensions of the Closing Date and Time will be posted to the PCS website. Proposers are responsible for monitoring the PCS website on a periodic basis for any modifications to the AP. University is not required to issue individual notifications.

**1.6. Definitions.** As used in this Request for Proposal (unless otherwise stated), the capitalized terms shall have the meanings set forth in UO Policy IV 09 06 B.

## **2. OBJECTIVES, SUBJECT MATTER AREAS, DELIVERY OF SERVICES.**

**2.1. General Objectives.** University is currently embarking on series of

actions to align existing and new campus structures in embedding equity and explicitly anti-racist processes, policies and practices in the following specific areas: student learning and success; faculty and staff recruitment, retention and engagement; campus climate; and research excellence. The number of participants for each cohort will vary. University expects class sizes to average between 4 and 50.

**2.2. Subject Matter Areas.** University seeks Proposals to provide training and/or competencies in one or more of the following subject matter areas:

**2.2.1. *Racial Justice and Discrimination.*** Possible/suggested topics:

- Racialized achievement gaps in higher education, academic supports.
- Micro/macro aggressions in the classroom, workplace.
- Implicit/explicit bias.
- Racial and cultural literacy.
- Racial equity, equity lens in decision-making, equity analysis of systems.
- Title VI, VII and IX anti-discrimination policy and procedure.
- Discrimination and harassment investigation and adjudication.
- Restorative justice.
- Equity-minded faculty and staff recruitment processes.
- Identifying and disrupting white privilege in organizational culture, countering “white fragility.”
- Cultural identity development.
- Equity in student conduct processes.
- Use/analysis of data as a tool for assessing equity measures, metrics development.
- Intersectionality *e.g.*, gender, sexual orientation, disability, neurodiversity, socioeconomic background, religious identity, international, veteran, non-traditional students, first generation students, *etc.*
- Social and political history of Oregon and the Pacific Northwest.

**2.2.2. *Climate.*** Possible/suggested topics:

- Cultural competency / cultural agility.
- Leading difficult conversations.
- Leadership development, coaching, and assessment.
- Culturally responsive management, curriculum development, pedagogy.
- Organizational culture / behavior / development.
- Countering political partisanship, fostering open dialogue and critical thinking.
- Climate survey construction and data analysis.
- Exit interview design, implementation, and/or analysis.
- Conflict mediation/resolution.
- Employee engagement, team building.
- Diversity, equity, and inclusion in communications and marketing.

- Coalition-building, community building.

**2.2.3. *Ethic of Care.*** Possible/suggested topics:

- Health and wellness supports, particularly for underrepresented populations (mental, emotional, physical).
- Trauma-informed counseling, pedagogy, coaching, conduct processes, and/or advising.

**2.3. Delivery of Services.** Methods for the delivery services should include:

- Trainings and other professional development.
- Workshop, retreat, listening session facilitation.
- Train-the-trainer coaching.
- Executive coaching and leadership development.
- Change management and leadership.
- Communications.
- Conflict mediation/resolution.
- Policy/procedural audits or reviews (Title VI, VII, IX compliance, *etc.*).
- Campus climate reviews.
- Interview, survey design.
- Wellness and community care.
- Employee engagement programming.
- Team building; team coaching.
- Community/Constituent/Donor engagement.

**3. SUBMITTALS AND QUALIFICATIONS.** *Proposers may submit Proposals to provide services in all or any one of the subject matter areas set forth in Sections 2.2.1 – 2.2.3 of this AP.* For consideration, you must provide all requested information in accordance with the procedures set forth in this AP. Specifically, your Proposal should directly address each required submittal and identify the section number that corresponds to the submittal. Your submittals must include the following for each proposed subject area (page number maximums listed in each):

**3.1. Approach.** A concise description of how you would approach each subject matter area (identified in Section 2.2) for which you are interested in providing services, and what methods of service delivery (identified in Section 2.3) you anticipate using. Provide a clear sense of your specializations and what services you are offering. (1/2 page per subject area.)

**3.2. Experience.** A description demonstrating your experience in providing similar services to clients (including institutions of higher learning), the methodologies and standards you have employed, as well as your ability to effectively communicate subject matter concepts and speak with a depth of understanding and vocabulary about race, ethnicity and equity issues. If proposing survey-related services, describe what surveys you have created sought to measure

(race, gender, etc.), and whether they were both quantitative and qualitative. Include certifications, education, and/or relevant professional experience.

**3.3. Prior Clients.** A list of approximately three clients for whom you have performed similar services within the last five years. You must submit contact information for those clients identified. These clients may be contacted by University for an evaluation and assessment of your performance. (1/2 page.)

**3.4. Mode of Delivery.** If relevant, a description of how you intend to present course content to University e.g., master course and cohorts, training videos, online, live, hybrid, interactive, other media and technology. ***Please include length, in hours, of proposed course work for each class, subject area, and/or cohort.***

**3.5. Illustrative Materials.** Samples of course materials, presentations, syllabi, instructional activities, surveys, or other relevant materials or deliverables. Include links to materials and information available on the web.

**3.6. Data Security.** A description of the data you collect from individuals/institutions, whether/how it is used, and the steps taken to ensure the security of such data.

**3.7. Key Personnel.** A list of key personnel who will be assigned to this project. This list must include each individual's name, title, qualifications, areas of expertise, experience with projects of similar scope and nature and a concise business biography or resume.

**3.8. Management Procedures.** A detailed description of procedures and other aspects of the working relationship expected between Proposer's project manager and University's representative, as well as any other information deemed necessary for the fulfillment of the awarded contract.

**3.9. Evaluation.** A description of an evaluation plan demonstrating the impact and effectiveness of services provided, e.g., a sample report that reflects attendance, participation, performance outcomes, and/or reviews by attendees of the quality of course content, delivery, materials, and instruction.

**3.10. Itemized Budget.** An itemized budget of costs as well as a total price for the services you contemplate providing under this agreement. Among other things, please include, as applicable:

- Description of your pricing model.
- Price per subject area, class and/or cohort.
- Price per participant and/or size of training (minimum/maximum number).
- An itemization of all recurring costs/fees.
- A fixed fee for all proposed services.

- All other fees and/or costs not previously mentioned.

#### 4. INSTRUCTIONS FOR SUBMISSION OF PROPOSALS.

4.1. **Overview.** Proposer **MUST** comply with all Proposal procedures and follow all Proposer instructions set forth in this Section.

#### 4.2. **Requests for Clarification or Change of Proposal.**

4.2.1. **Timing.** Requests for clarifications, changes or protests of solicitation specifications must be transmitted electronically and received by University no later than ten calendar days prior to the Closing Date and Time. No requests for change or protests of solicitation specifications will be considered after the deadline stated above.

4.2.2. **Requirements.** If requesting changes or protests, such requests for change or protests must include the reasons for the request for change or protest, the specific specifications and provisions sought to be changed, and the proposed changes to the specifications or provisions. Envelopes or e-mails containing requests for change or protest must be marked **SOLICITATION SPECIFICATION REQUEST FOR CHANGE or CONTRACT PROVISION PROTEST**, and must identify the AP Title, AP Number and the Closing Date and Time. University reserves the right to amend this AP, extend the Closing Date and Time, or deny the request or protest.

4.2.3. **Submission of Requests.** All requests must be submitted to:

Purchasing and Contracting Services  
1600 Millrace Dr., Suite 306  
Eugene, OR 97403  
[competitionsupport@uoregon.edu](mailto:competitionsupport@uoregon.edu).

4.2.4. **Vendor Questions.** Please note that University will not respond directly to individual inquiries. University will not address inquiries that are unique to a specific Proposer, are non-substantive, and/or are already addressed in this AP. University only addresses inquiries through a posted addendum when it determines the information will assist all interested parties in preparing responsive Proposals. University will not respond to oral inquiries. **Vendor questions must be submitted to:** [competitionsupport@uoregon.edu](mailto:competitionsupport@uoregon.edu).

4.2.5. **Proposer Requests Not Addenda.** Only documents issued as Written Addenda by University serve to change the AP in any way. No other direction received by the Proposer, written or verbal, serves to change the AP. University will post Addenda on the PCS website.

#### 4.3. **Proposal Preparation.**

4.3.1. **Completeness.** Unless Proposers are specifically authorized by this AP to take exceptions or to leave terms open to negotiation, Proposals will be a complete offer

and will be subject to the terms of this AP. To be evaluated and considered for award, Proposals must include all information required herein. Failure to do so may be deemed sufficient cause for rejection of the Proposal as “non-responsive.”

**4.3.2. Organization.** Proposals must follow the organization and format described in this AP. Proposals must clearly identify the question or request to which the Proposer is addressing and restate the appropriate AP Section. All Proposals must be organized in the order in which the question or request was presented in the AP. Proposals that do not follow the format described in this AP may at University’s sole discretion be deemed “non-responsive,” and receive no further consideration.

**4.4. Proposal Submission.**

**4.4.1. Form.** Proposals must be submitted electronically.

**4.4.1.1. Procedure for Electronic Submissions.** To submit a Proposal, please go to <https://pcs.uoregon.edu/content/business-opportunities>. **Please click the link “Submit a Proposal” to the right of this RFQ listing and follow the submission instructions.** For further information on how to submit a Proposal, see the Vendor Proposal Submission Instructions at:

[https://pcs.uoregon.edu/sites/pcs1.uoregon.edu/files/vendorproposalsubmitinst\\_final\\_topost.pdf](https://pcs.uoregon.edu/sites/pcs1.uoregon.edu/files/vendorproposalsubmitinst_final_topost.pdf).

The subject line must clearly state that it is a “**PROPOSAL**,” noting the AP Title, AP Number, and the Closing Date and Time. Electronic Proposals must be formatted in MS Word, Excel, or .pdf. Supporting documentation such as graphics, pictures, and financial statements may be in .pdf or other appropriate format. **Do not submit electronic copies through email, use of a Drop Box account, or other such Web or cloud based product. To ensure your Proposal is considered, do not submit your Proposal with embedded images and/or documents.** All Proposals must be submitted by individuals with legal authority to bind the Proposer.

**4.4.1.2. Accessibility.** If a Proposer is unable to comply with the above procedure, please contact the Issuing Office before the Closing Date for further instructions. Late submissions will not be accepted.

**4.4.1.3. Authorization.** Proposals must be submitted by Proposer’s authorized agent or representative. Proposer acknowledges that its Proposal shall remain firm for a period of six months after the Closing Date. By submitting its Proposal, Proposer represents and warrants that Proposer understands and agrees to be bound by all of the terms and conditions of this AP.

**4.4.2. Receipt of Proposal by University.** It is Proposer’s responsibility to ensure that the Proposal is received by the Issuing Office, prior to the Closing Date and Time, regardless of method used to submit the Proposal. University will not be responsible for the proper identification and handling of Proposals not submitted in the designated manner or format as required by this AP.

**4.5. Proposer's Costs.** University is not responsible for any costs of Proposers incurred in connection with submitting or presenting a Proposal. All Proposers who respond to solicitations do so solely at their own expense.

**4.6. Modification of Proposals.** Proposers may modify a previously submitted Proposal prior to the Closing Date and Time. Modifications must be submitted in the same manner as the original submission with the subject line stating "**PROPOSAL MODIFICATION,**" and clearly displaying this AP Title, AP Number, and the Closing Date and Time. Verbal modifications or corrections will not be recognized or considered.

**4.7. Withdrawal of Proposal.** Proposals may be withdrawn at any time prior to the scheduled Closing Date and Time. Withdrawal must be submitted in the same manner as the original submission with the subject line stating "**PROPOSAL WITHDRAWAL,**" and clearly displaying this AP Title, AP Number, and the Closing Date and Time.

Please note that University will not respond directly to individual inquiries. University will not address inquiries that are unique to a specific Proposer, are non-substantive, and/or are already addressed in this AP. University only addresses inquiries through a posted addendum when it determines the information will assist all interested parties in preparing responsive Proposals. University will not respond to oral inquiries.

**4.8. Pool Procurement. This procurement is open to all responsive proposers. This is a non-exclusive opportunity and University reserves the right to issue multiple awards. University intends to serially review proposals as they are received (and up through the Closing Date). University will make decisions on a rolling basis throughout the posting period. Proposers are encouraged to submit Proposals early.**

**4.9.** To be evaluated and considered for award, Proposals must include all information required by this AP. Failure to do so may be deemed sufficient cause for rejection of the Proposal as "non-responsive." Proposals must follow the organization and format described in this AP. Proposals must clearly identify the question or request to which the Proposer is addressing and restate the Section number with each Proposal. All Proposals must be organized in the order in which the question or request was presented in the AP.

**4.10.** Unless otherwise indicated herein, price will be one of many factors considered in any purchase. The factors considered are not limited to those addressed in this AP, the Proposals to this AP, or any other inquiries the University might make and Proposals it might receive. University has an obligation to seek a solution that provides it with the best value as will be reasonably determined upon its evaluation of all Proposals. In its sole discretion University may:

- Request additional information and/or clarifications of Proposals.

- Reduce the pool of Proposers to those whose Proposals have a reasonable likelihood of being selected for an award (Competitive Range).
- Require Proposers within the Competitive Range to present or demonstrate their proposed goods and services.
- Serially negotiate with one or more Proposers as described in Section 5.1 of this AP.
- Require a *Best and Final Offer* from one or more Proposers.

**4.11.** All Proposals submitted become the property of University. By submitting a Proposal to this AP, Proposer grants the University a non-exclusive, perpetual, irrevocable, royalty-free license for the rights to copy, distribute, display, prepare derivative works of and transmit the Proposal solely for the purpose of evaluating the Proposal, negotiating a contract, if awarded to Proposer, or as otherwise needed to administer the AP process, and to fulfill obligations under Oregon Public Records Laws. Proposals, including supporting materials, will not be returned to Proposer.

**4.12. Trade Secrets.** This AP and one copy of each original Proposal together with copies of all documents pertaining to the award of a contract, will be retained by requesting University department for the required retention period, and made a part of a file or record, which will be open to public inspection. If a Proposal contains any information that is considered a "trade secret" under ORS 192.345(2), the Proposer must mark each sheet of such information with the following legend:

*"This data constitutes a trade secret under ORS 192.345(2), and will not be disclosed except in accordance with the Oregon Public Records Law, ORS Chapter 192."*

Failure to mark a specific page with the legend set forth in this Section will conclusively establish that the information on that page does not constitute a trade secret as defined in ORS 192.345(2).

The Oregon Public Records law exempts from disclosure only bona fide trade secrets, and the exemption from disclosure applies "unless the public interest requires disclosure in the particular instance". See ORS 192.345(2). As such, non-disclosure of documents or any portion of a document submitted as part of a Proposal may depend upon official or judicial determinations made pursuant to the Public Records Law.

**Proposals in which the entire document is marked or otherwise identified in its entirety as confidential or a "trade secret" may be rejected. If the Proposal is not rejected, the Proposal will be deemed available for disclosure to the public.**

**4.13. Procurement Results.** University is not required to post selection or award results though, in its sole discretion, may elect to do so. University does not conduct post-award debriefings. All solicitations, Proposals, proposals, bids, award information, documents, and notices are confidential and not subject to public disclosure

until a contract is executed with the successful Proposer or the procurement is canceled. All protests of the selection or award must be made pursuant to the conditions and limitations of UO Policy IV 09 06 CC. All procurement documents are public records and may be requested from University's Office of Public Records at: <https://publicrecords.uoregon.edu>.

## **5. NOTICE OF CONDITIONAL AWARD.**

**5.1.** Prior to award, University may commence serial negotiations with the highest rated Proposer or commence simultaneous negotiations with all eligible Proposers. University may negotiate the statement of work, the contract price as it is affected by negotiating the statement of work, and any other terms and conditions determined by University in its sole discretion to be reasonably related to those expressly authorized for negotiation. Accordingly, Proposers will not submit and University will not accept for negotiation, any alternative terms and conditions that are not reasonably related to those expressly authorized for negotiation. Terms and conditions within any proposed contract may be further negotiated after award, but before legal review or execution of a contract.

**5.2.** The apparent successful Proposer(s) will be notified in writing of its status and negotiations will commence to achieve a final contract which will include terms and conditions as substantially set forth in the University Terms and attached as **Exhibit A** hereto. Unsuccessful Proposers will be notified in writing.

**5.3.** University reserves the right to accept or reject Proposals on each line separately, or as a whole, to award items separately or in aggregate, and to contract with one or more vendors, all as determined by University to be in the best interest of University.

**5.4.** All public agencies or public higher education institutions may utilize any contract(s) awarded as a result of this AP. The other public agencies and other public higher education institutions shall be individually responsible for their obligations to the awarded contractor(s). Likewise, the contractors shall be responsible to the public agencies or public higher education institutions for their obligations to those public agencies or public higher education institutions pursuant to any ensuing contract(s). Any such purchases shall be between the contractor and the participating public agencies or public higher education institutions and shall not impact the vendor's obligation to University of Oregon. University of Oregon makes no representation or guarantee as to the volume of University of Oregon's purchases or such additional purchases.

## **6. FINAL CONTRACT.**

**6.1.** A final contract is conditioned upon the successful negotiation of contract terms and conditions, statement of work and contract price. Proposer agrees that University will have the right to negotiate, review and/or require modification of any terms or definitions used in the final contract. By providing a Proposal to this AP, Proposer agrees to the terms and conditions set forth in **Exhibit A** hereto.

**6.2.** Modifications to **Exhibit A** must be submitted by Proposer as part of its Proposal. Proposed modifications must specifically identify the provisions to be modified and further include the proposed modified language. Failure to follow this procedure will render Proposer's proposed modification ineffective. Terms and conditions will not be negotiated post-award. If you condition your Proposal on any proposed modification, University, in its sole discretion may deem your Proposal non-responsive.

**6.3.** Additional or supplemental terms and conditions submitted by a Proposer as part of its Proposal may be evaluated or considered at the sole discretion of University. If additional or supplemental terms and conditions, either intentionally or inadvertently appear separately in a Proposal (e.g., in transmittal letters, specifications, literature, price lists, web links, or warranties), it is understood and agreed that the terms and conditions contained in this AP are the only terms and conditions applicable to this AP and any ensuing contract, and the Proposer's authorized signature affixed to its Proposal attests to this.

## **7. ANTICIPATED TERM.**

**7.1.** It is anticipated that the term of the contract awarded under this AP, will be for an initial term of three years, with the option, in University's discretion, to extend the contract for two additional two-year periods, for a total possible contract term of seven years.

**7.2.** If awarded a contract, proposal pricing must be held firm for the initial contract term. Thereafter, for each renewal period, Proposer may increase its price by the lesser of the yearly increase of the Consumer Price Index published by the U.S. Bureau of Labor Statistics of the U.S. Department of Labor or three percent. Comparisons shall be made using the index entitled "All Urban Consumers: Portland-Salem, OR-WA" or the nearest comparable data on changes in the cost of living, if such index is no longer published. The change shall be determined by comparison of the figure for a date which is twelve months prior to the adjustment date.

**EXHIBIT A**  
**ALTERNATIVE PROCUREMENT FOR ANTI-RACISM, DIVERSITY, AND EQUITY  
AND INCLUSION TRAINING  
(Pool Procurement)  
(PCS# 211000-00244-AP)**

**UNIVERSITY STANDARD TERMS AND CONDITIONS**

1. **DEFINITIONS:** (i) "Contract" means the entire written purchase order, contract, or agreement attached to these University Standard Terms and Conditions ("Standard Terms"), these Standard Terms, and any other contracts, agreements, sales quotations, order acknowledgements, or similar documents including terms and conditions incorporated in the Contract; (ii) "ORS" means the Oregon Revised Statutes; "OAR" means Oregon Administrative Rules; "UCC" means Uniform Commercial Code; "USC" means United States Code; (iii) "Deliverables" means goods and/or services provided to University by Contractor under this Contract; (iv) "University" and "UO" each mean the University of Oregon, making the purchase pursuant to this Contract, and mean an Oregon Cooperative Procurement Program ("OrCPP") member if the purchase is being made under the State of Oregon's cooperative purchasing program authorized by ORS 190.240; (v) "Contractor" means the party named in Contract with whom University has contracted for the purchase of goods or goods and services; (vi) "Unsupervised Contact" with minor students means contact that provides the person opportunity and probability for personal communication or touch with students under the age of 18 when not under direct University supervision; and (vii) University and Contractor are each a "Party" and collectively "Parties".

2. **CONTROLLING TERMS.** These Standard Terms shall govern the Contract between the Parties and replace and supersede any conflicting terms and conditions found in the Contract.

3. **INDEMNITY.** Contractor will be responsible for all damage to property, injury to persons, loss, expense, inconvenience, attorney's fees, and delay ("Harm") which may be caused by, or result from, any act or omission of Contractor, its subcontractors, agents, or employees. Contractor will defend, indemnify and hold University harmless, as well as University's governing board, trustees, directors, officers, agents, employees, and members, with respect to all claims, suits, and actions of any nature, or alleging Harm of any nature, resulting from or arising out of the acts or omissions of Contractor or its subcontractors, officers, agents, or employees. The University has no obligation to and will not indemnify, defend, or hold Contractor harmless with respect to any act or omission, or any Harm resulting therefrom, of the University, its governing board, trustees, directors, officers, agents, employees, and members.

4. **INDEMNITY FOR INFRINGEMENT CLAIMS.** Except to the extent arising from materials or modifications provided or made by University, which materials are utilized by Contractor in their unaltered form, and without limiting the generality of the indemnification clause above, Contractor expressly agrees to indemnify and hold University harmless, as well as University's directors, officers, employees, and agents, from and against any and all claims, suits, actions, losses, liabilities, costs, expenses, and damages arising out of or related to any claims that the Deliverables infringe any patent, copyright, trade secret, trademark, trade dress, mask work, utility design, or other proprietary right of any third party. In the event that a court of competent jurisdiction determines in a final, non-appealable order that the work is infringing in a manner for which Contractor is obligated to indemnify University pursuant to this Section, Contractor will, at its option: (1) procure for University the right to continue using such infringing work; (2) replace the infringing work with a non-infringing item of like form, fit or function; or (3) modify the work so that it no longer infringes.

5. **INSURANCE.**

5.1. Upon request by University, Contractor will secure at Contractor's expense and keep in effect during the term of this Contract either comprehensive general liability insurance with a broad form Commercial General Liability endorsement or broad form commercial general liability insurance with a minimum combined single limit of not less than \$1,000,000 for each occurrence and \$2,000,000 aggregate, covering bodily injury and property damage, and will include personal and advertising injury liability, products liability and contractual liability coverage for the indemnity provided under this Contract.

5.2. Upon request, Contractor will secure at Contractor's expense and keep in effect during the term of this Contract Professional Liability insurance with a combined single limit, or the equivalent, of not less than \$2,000,000 per occurrence and \$5,000,000 aggregate. If this insurance is arranged on a "claims made" basis, "tail" coverage will be required at the completion of this Contract for a duration of 24 months

5.3. Upon request by University, Contractor will secure at Contractor's own expense and keep in effect during the term of this Contract a Commercial Auto Liability insurance policy with a minimum combined single limit of \$1,000,000 per occurrence for each accident and \$2,000,000 aggregate. Any requested insurance policies are to be issued by an insurance company authorized to do business in the State of Oregon with a minimum financial rating of an AM Best rating of A- or higher. All liability insurance will be arranged on an "occurrence" basis. No insurance will be allowed on a "claims made" basis.

5.4. Contractor shall comply with ORS 656.017 and provide the required Worker's Compensation coverage. Contractor shall ensure that each of its subcontractors complies with these requirements.

5.5. If insurance is required by this Contract, upon request by University, Contractor must provide a Certificate of Insurance to University from the insuring company evidencing insurance coverage required by this Contract. The "Description of Operations" must include (using the following exact language) the **"State of Oregon, Board of Trustees to the University of Oregon, and University of Oregon, their respective officers, employees and members"** as additional insured. The certificate will provide that the insurance company will give a 30-days' written notice to University if the insurance is cancelled or materially changed.

5.6. There shall be no cancellation, material change, reduction of limits or intent not to renew the insurance coverage(s) without 30-days' written notice from Contractor or its insurer(s) to University, Purchasing and Contracting Services at the following address: 1600 Millrace Drive, Suite 306, Eugene, Oregon 97403.

6. PCI DSS COMPLIANCE. If, in the course of its engagement with University, Contractor has access to or will collect, access, use, store, process, dispose of, disclose, or otherwise influence the security of credit, debit or other payment cardholder information, Contractor shall, at its own cost and expense: (i) take responsibility for the security of said cardholder data PCI DSS Requirement 12.8.2); (ii) on an annual basis, provide University with an Attestation of Compliance (AOC); (iii) within seven (7) days, notify University if it falls out of compliance; (iv) if it detects unauthorized access to cardholder data: (a) notify University within 24 hours and, (b) comply with all applicable laws requiring notification, protection, and support of cardholders, (v) in the event it fails to comply with these provisions, indemnify, hold harmless, and defend University and its employee from any claims, damages or other harm related to its failure, as more specifically set forth in the Indemnity section of these Terms and Conditions.

7. UNSUPERVISED CONTACT WITH MINOR STUDENTS. Contractor shall ensure that none of its officers, employees, or agents, including subcontractors, will have direct, Unsupervised Contact with minor students while on University property. Contractor will work with University to ensure compliance with this requirement. If Contractor is unable to ensure through a security plan that none of its officers, employees, or agents, including subcontractors, will have direct, Unsupervised Contact with minor students in a particular circumstance or circumstances, then Contractor shall notify University before beginning any work that could result in such contact. Contractor authorizes University to obtain information about Contractor and its history and to conduct a criminal background check, including fingerprinting, of any Contractor officers, employees, or agents, including subcontractors, who will have Unsupervised Contact with minor students. Contractor shall cause its officers, employees, agents,

including subcontractors, if any, to authorize University to conduct these background checks. Contractor shall pay all fees assessed by University for processing the background check. University may deduct the cost of such fees from an interim or final payment to Contractor under this Contract, unless Contractor elects to pay such fees directly.

## 8. CONFIDENTIALITY.

8.1. DEFINITION. As used in this Contract, "Confidential Information" means information and materials provided by University to Contractor information or materials that (a) are identified as confidential at the time of disclosure, or (b) a reasonable person in the relevant industries should understand to be confidential based on the nature of the information and materials and all other relevant factors. For the avoidance of doubt, University Confidential Information includes, without limitation, University's non-public data and information, work product, privileged information and communications, information that is subject to existing non-disclosure agreements, Personal Identifying Information, the results of communications and reports arising from the services performed by Contractor, and all other non-public aspects arising in connection with Contractor's performance of the services described in this Contract.

8.2. PURPOSE. Contractor must not use any of University Confidential Information for any purpose other than carrying out Contractor's obligations or exercising its rights under this Contract (the "Purpose"). For the avoidance of doubt, use of Confidential Information in an aggregated and anonymized manner that does not include personally identifiable information and/or personal information is not prohibited.

8.3. PERMITTED DISCLOSURES AND OBLIGATIONS. Contractor must not disclose to any third party any Confidential Information, other than to Contractor's affiliates, contractors and consultants who (a) need to know such information in order to fulfill the Purpose, and (b) are bound by confidentiality obligations substantially similar to Contractor's under this Contract. Contractor must treat all University Confidential Information with the same degree of care Contractor gives to its own Confidential Information, but not less than reasonable care. Further, Contractor may not disclose publicly the existence or nature of any negotiations, discussions or consultations in progress between the Parties without the prior written consent of University. Contractor and its affiliates, contractors and consultants who receive Confidential Information hereunder must promptly notify University of any unauthorized use or disclosure of its Confidential Information of which Contractor becomes aware and reasonably assist University in remedying any such unauthorized use or disclosure.

8.4. EXCLUSIONS. Contractor's obligations under this section will not apply to any University Confidential Information that Contractor can prove: (a) is or becomes part of in the public domain through no fault of Contractor; (b) is rightfully in Contractor's possession free of any confidentiality obligation; (c) was independently developed by Contractor without use of any University Confidential Information; or (d) is communicated by University to an unaffiliated third party free of any confidentiality obligation. A disclosure by Contractor of any Confidential Information (i) in response to a valid order or other legal process issued by a court or other governmental body having jurisdiction, (ii) as otherwise required by law, or (iii) necessary to establish the rights of either Party under this Contract will not be a breach of this Contract if, to the extent legally permitted, Contractor gives 30 days written notice to University of its intent to disclose University Confidential Information along with the asserted grounds for disclosure.

8.5. OWNERSHIP AND DESTRUCTION OF CONFIDENTIAL INFORMATION. As between Contractor and University, all University Confidential Information is the property of University, and no license or other rights are granted or implied hereby. All materials provided to Contractor by University, whether or not they contain or disclose Confidential Information, are University's property. Promptly after any request by University, Contractor will (a) destroy or return to University all Confidential Information and materials in Contractor's possession or control, and (b) upon written request by University, confirm such return/destruction in writing. Contractor hereby acknowledges that any confidential information it discloses to University, or any duty of the University to destroy records upon completion of use, is subject to the provisions of the Oregon Public Records laws.

8.6. CONFIDENTIAL PERIOD. Contractor's obligations with respect to University's Confidential Information under this section will remain in effect for the term of this Contract and for three (3) years after any expiration or termination of this Contract.

9. INDEPENDENT CONTRACTOR STATUS. Any services rendered under this Contract are those of an independent contractor. Contractor certifies that Contractor is not an employee of the University and neither Contractor nor any of Contractor's agents or employees are entitled to any of the benefits that University provides for its employees. Nothing in this Contract will be construed to create a partnership, joint venture, franchise, agency, or employment relationship between the Parties.

10. OWNERSHIP OF WORK PRODUCT. All Deliverables that result from this Contract ("Work Product") are the exclusive property of University. University and Contractor intend that such Work Product be deemed "work made for hire" of which University will be deemed the author. If, for any reason, the Work Product is not deemed "work made for hire", Contractor irrevocably assigns to University all its rights, title, and interest in, and to any and all of the Work Product, whether arising from copyright, patent, trademark, trade secret, or any other state or federal intellectual property law or doctrine. Contractor will execute such further documents and instruments as University may reasonably request in order to fully vest such rights in University. Contractor forever waives any and all rights relating to the Work Product, including without limitation, any and all rights arising under 17 USC 106A or any other rights of identification of authorship or rights of approval, restriction or limitation on use or subsequent modifications.

11. UNIVERSITY DATA. University's data ("University Data") which shall also be known and treated by Contractor as Confidential Information) shall include: (a) University's data collected, used, processed, stored, or generated as the result of the use of the Services; (b) regulated sensitive data e.g., data governed by state, federal and, if applicable, international law laws, agreements, treaties, such as the Family Educational Rights and Privacy Act, Health Insurance Portability and Accountability Act, Gramm–Leach–Bliley Act, and the Oregon Consumer Identity Theft Protection Act, EU General Data Protection Regulation, and other federal, state, or local laws, or contractual obligations; (c) unregulated sensitive data e.g., data that is not regulated by statute, but still considered sensitive due to proprietary, ethical, or privacy considerations, including all forms of research, and any information that can be used to assist an attacker in compromising the confidentiality, integrity or availability of University information systems and data; and (d) personally identifiable information ("PII") collected, used, processed, stored, or generated as the result of the use of the Services, including, without limitation, information that: (i) identifies or can be used to identify an individual (including, without limitation, names, signatures, addresses, telephone numbers, email addresses, government issued IDs, IP address or web cookies, and other unique identifiers); or (ii) can be used to authenticate an individual including, without limitation, employee identification numbers, government-issued identification numbers, social security number, passwords or PINs, financial account numbers, credit and debit card numbers, credit report information (with or without any required security code, access code, personal identification number or password, that would permit access to an individual's financial account), biometric or health data, genetics, race or ethnic origin, sex life or sexual orientation, political opinions, religious or philosophical belief, criminal convictions answers to security questions and other personal identifiers. University Data is and shall remain the sole and exclusive property of University and all right, title, and interest in the same is reserved by University. Contractor shall implement safeguards consistent with accepted industry practices to protect University Data. Contractor's use of University is for the sole and exclusive purpose of providing the goods and services hereunder, and for no other purpose. This Section shall survive the termination of this Contract.

12. FEDERAL REQUIREMENTS. If this Contract is federally funded in whole or in part, Contractor must comply with all applicable provisions of the Office of Management and Budget's Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. Further, if Federal Funding Accountability and Transparency Act ("FFATA") applies, Contractor is required to submit certain information to University. If Contractor fails to timely submit such required information, University reserves the right to cancel this Contract or, if work has been performed, withhold payment until such required submittals have been received.

13. EXCLUSIVITY. University is not bound by exclusivity provisions.

14. REPRESENTATIONS AND WARRANTIES. Contractor represents and warrants that (1) Contractor has the power and authority to enter into and perform this Contract; (2) The individual signing for Contractor is authorized to execute this Contract on behalf of Contractor; (3) This Contract, when executed and

delivered, will be a valid and binding obligation of Contractor, enforceable in accordance with its terms; (4) The work under this Contract will be performed in a good and workmanlike manner and in accordance with the highest professional standards; (5) Contractor will, at all times during the term of this Contract, be qualified, professionally competent, and duly licensed to perform the work; and (6) Contractor's name, as it appears in this Contract, is Contractor's legal name, as it will appear in Contractor's W-9, and if Contractor is an entity rather than an individual, that the entity named in this Contract is validly existing and in good standing. Unless otherwise stated in the Contract, all Deliverables will be new and current models and will carry full manufacturer warranties. Contractor warrants all Deliverables delivered to be free from defects in labor, material, and manufacture and to be in compliance with solicitation specifications. All implied and expressed warranty provisions of the UCC (ORS chapter 72) are incorporated in this Contract. All warranties will inure to the benefit of University. The warranties set forth in this Section are in addition to, and not in lieu of, any other warranties provided.

15. INSPECTIONS. Deliverables furnished under this Contract will be subject to inspection and test by University at times and place determined by University. If University finds Deliverables furnished to be incomplete or not in compliance with solicitation specifications, University may reject the Deliverables and require Contractor to either correct them without charge, or provide at a reduced price, at University's discretion. If Contractor is unable or refuses to cure any defects within a time deemed reasonable by University, University may reject the Deliverables and cancel this Contract in whole or in part. Nothing in this paragraph will in any way affect or limit University's rights as buyer, including the rights and remedies relating to rejection under ORS 72.6020 and revocation of acceptance under ORS 72.6080.

16. TERMINATION. (a) This Contract may be terminated at any time by mutual written consent of both Parties. (b) University may, at its sole discretion, terminate this Contract in whole or in part upon 30-days' written notice to Contractor. (c) University may terminate this Contract effective immediately upon delivery of written notice to Contractor, or at such later date as may be established by University if: (i) Contractor is in violation of applicable federal, state, or local laws, rules, regulations, ordinances, or guidelines or any University policy (found at <http://policies.uoregon.edu/>) ("Applicable Laws"), including, but not limited to any policy related to sexual harassment and sexual misconduct (ii) Applicable Laws are modified or interpreted in such a way that any Deliverables or services to be provided by Contractor under this Contract are no longer allowable or appropriate for purchase by University or are no longer eligible for the funding proposed for payment authorized by this Contract; (iii) any license or certificate required by Applicable Laws to be held by Contractor to provide Deliverables under this Contract is denied, revoked, or not renewed for any reason; (iv) if Contractor becomes insolvent or admits in writing its inability to pay its debts as they mature, or makes an assignment for the benefit of creditors; (v) if a petition under any foreign, state, or United States bankruptcy act, receivership statute, or the like, as they now exist, or as they may be amended, is filed by Contractor; or (vi) if such a petition is filed by any third party, or an application for a receiver is made by anyone and such petition or application is not resolved favorably to Contractor within ninety (90) calendar days. (d) University may terminate this Contract for default (including breach of contract) if (i) Contractor fails to provide Deliverables called for by this Contract within the time specified in this Contract or any extension of this Contract; or (ii) Contractor fails to perform any of the other provisions of this Contract, or so fails to pursue the work as to endanger performance of this Contract in accordance with its terms, and after receipt of notice from University, fails to correct such failures within ten business days. (e) Contractor may terminate this Contract upon 30-days' written notice to University if University fails to pay Contractor pursuant to the terms of this Contract and University does not cure such failure to pay within 30-business days after receipt of Contractor's written notice, or such longer period as Contractor may specify.

17. TERMINATION DUE TO NONAPPROPRIATION OF FUNDS. University may terminate this Contract upon written notice to Contractor if University has: (a) Not received from the Oregon Legislative Assembly appropriations, limitations, or other expenditure authority; (b) Not received allotments pursuant to ORS Chapter 291 sufficient to allow University, in the exercise of its reasonable administrative discretion, to pay the amounts of this Contract; or, (c) Determined that, due to a material loss of revenue, from whatever source, it is no longer commercially reasonable to fund this Contract.

18. REMEDIES. (a) Contractor's sole remedy under this Contract will be a claim for the sum designated

for providing and/or completing the Deliverables multiplied by the percentage of Deliverables provided and/or completed and accepted by University, less previous amounts paid and any claim(s) which University has against Contractor. If previous amounts paid to Contractor exceed the amount due to Contractor under this subsection, Contractor will pay any excess to University upon demand. (b) University's remedies under this Contract include any remedy available to it in law or equity. If it is determined for any reason that Contractor was not in default of this Contract pursuant to Section 16(d), the rights and obligations of the Parties will be the same as if the Contract was terminated pursuant to Section 16(b). (c) Upon receiving a notice of termination of this Contract, Contractor will immediately cease all activities under this Contract, unless University expressly directs otherwise in writing. Upon termination of this Contract, Contractor will deliver to University all Work Product, documents, information, works-in-progress and other materials that are or would be Deliverables or otherwise the property of University had the Contract been completed. Upon University's request, Contractor will surrender to anyone University designates, all documents, research or objects or other tangible things needed to complete the work.

19. ALCOHOL. If Contractor is engaged by University to sell or serve alcohol, Contractor is solely responsible and liable for any Harm (as defined in Section 3 above) which may be caused by, or result from, any act or omission of Contractor and its subcontractors, agents, or employees. Contractor will indemnify University with respect to the sale or service of alcohol on the same terms as set forth in Section 3 above. Contractor must possess, maintain, and ensure compliance with all necessary licenses, certifications, and other authorizations. Alcohol must be sold or served in compliance with applicable state and federal law.

20. SUBCONTRACTS AND ASSIGNMENTS. Notwithstanding any provision to the contrary, Contractor may not subcontract, assign, transfer, or any of its interest in this Contract or delegate its responsibilities without obtaining prior written approval from University, such consent may be withheld by University in its sole discretion. As a condition to requesting prior written approval, Contractor must provide a written copy of any such proposed assignment or subcontract to University. University's consent to any assignment or subcontract will not relieve Contractor of any of its duties or obligations under this Contract. Any assignment or subcontract in contravention of this Section will be null and void. This Contract will be binding upon and will inure to the benefit of the Parties and their respective authorized successors and assignees.

21. CONFLICT OF INTEREST. Contractor covenants that it presently has no interest and will not acquire any interest, direct or indirect, which would conflict in any manner with or prohibit Contractor's full performance of this Contract. Contractor also covenants that in the performance of this Contract no person having any such interest will be employed. Contractor further covenants that its performance of this Contract will not cause any employee or volunteer of University to violate ORS Chapter 244.

22. NON-RESIDENT FOREIGN CONTRACTORS. For non-resident foreign Contractors with United States ("US") sourced income, University will withhold Federal Tax at the applicable tax rate from Contractor's fee unless Contractor is eligible for tax treaty benefits, or qualifies for exemption under other areas of the tax code. Contractor must provide a completed and signed US Internal Revenue Service ("IRS") Form to claim tax treaty benefits (8233 or appropriate W8 form). Contractor must have a US reporting Identification Number, a Social Security Number ("SSN"), IRS Tax Identification Number ("ITIN"), or Employer Identification Number ("EIN") to be eligible for tax treaty benefits. If applicable, Contractor will enter the US in a legal status allowing Contractor to work for University as evidenced by the US Citizenship and Immigration Services ("USCIS") I-94 stamped or attached to Contractor's passport or this Contract is void.

23. NOTICES. Except as otherwise expressly provided in this Contract, any communications between the Parties or notices to be given under this Contract will be given in writing by personal delivery, facsimile, email, or mailing the same, postage prepaid, to Contractor or University at the address or number as set forth in this Contract, or to such other addresses or numbers as either Party may indicate. Any communication or notice so addressed and mailed will be deemed to be received five days after mailing. Any communication or notice delivered by facsimile will be deemed to be given when receipt of the transmission is generated by the transmitting machine. To be effective against University, such facsimile transmission must be confirmed by

telephone notice to University's supervising representative. Any communication or notice by personal delivery will be given when actually delivered. Any communication sent by email will be deemed received on the date that the email is acknowledged as received by recipient, with an automatic "read receipt" not constituting acknowledgment of an email for purposes of this section.

24. ACCESS TO RECORDS. Contractor will maintain records, sufficient to accurately document its performance of this Contract, including, but not limited to costs claimed to have been incurred and anticipated to be incurred. University and, if applicable, the federal government will have access to the records of Contractor for the purpose of determining compliance with this Contract. Contractor will retain all such records, for a minimum of six years following final payment under or termination of this Contract, or such longer period as may be required by Applicable Laws or to conclude any audit, review, or controversy.

25. OREGON PUBLIC RECORDS LAW. Contractor hereby acknowledges this this Contract is subject to the requirements of Oregon public records law (ORS 192.410 – 192.505) and that information Contractor discloses to University may be subject to public disclosure. University is not in breach of any provision of the Contract if, according to the University's interpretation of public records law, it discloses or maintains records of any information provided by the Contractor.

26. FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT. Contractor will protect the confidentiality of student education records, including personally identifiable information found in education records, in compliance with the Family Educational Rights and Privacy Act of 1974 ("FERPA") and its implementing regulations, specifically 20 U.S.C. § 1232g, 34 C.F.R. § 99.1 et seq., and University Policy III.05.03. Contractor will not use personally identifiable information from student education records it receives for any purpose other than performing its obligations under this Contract. Contractor may not disclose or redisclose any personally identifiable information from student education records obtained from the University or collected by Contractor on the University's behalf without the University's written authorization. Any unauthorized disclosure of student education records or personally identifiable information by Contractor may result in damages owed pursuant to the indemnity section above.

27. **EQUAL EMPLOYMENT OPPORTUNITY NOTICES**. **This Contractor and any subcontractor shall abide by the requirements of 41 CFR 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, disability or veteran status.**

28. COMPLIANCE WITH APPLICABLE LAW. Contractor will comply with all Applicable Laws. As required by University policy, Contractor certifies that Contractor has not discriminated against historically underrepresented businesses, including Minority Business Enterprises, Women Business Enterprises, and Emerging Small Businesses. Contractor will, when applicable, have made good faith efforts to work with or obtain materials to be used in performing the Contract from minority-owned, women-owned, and emerging small business enterprises.

29. GOVERNING LAW; JURISDICTION; VENUE. This Contract will be governed and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, or suit between University and Contractor will be brought and conducted solely and exclusively in the Circuit Court for Lane County for the State of Oregon. However, if any claim, action, or suit must be brought in a federal forum, it will be brought and conducted exclusively in the United States District Court for the District of Oregon. **BY EXECUTION OF THIS CONTRACT, CONTRACTOR CONSENTS TO IN PERSONAM JURISDICTION OF SUCH COURTS.** In no event will any part of this Contract be construed as a waiver by University of its sovereign and governmental immunities.

30. MATERIAL SAFETY DATA SHEET. In accordance with OR-OSHA Hazard Communication Rules in

OAR chapter 437, Contractor will provide University with a Material Safety Data Sheet for any Deliverables provided under this Contract, which may release, or otherwise result in exposure to a hazardous chemical under normal conditions of use. In addition, Contractor must label, tag, or mark such Deliverables.

31. SURVIVAL. All provisions of this Contract that would reasonably be expected to survive the termination of this Contract will do so.

32. SEVERABILITY. If any term or provision of this Contract is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions will not be affected. The Parties agree to attempt to substitute for any illegal or unenforceable provision a valid or enforceable one that achieves the economic, legal, and commercial objectives of the illegal and unenforceable provision to the greatest extent possible.

33. NO THIRD PARTY BENEFICIARIES. University and Contractor are the only parties to this Contract and are the only parties entitled to enforce its terms. Nothing in this Contract gives, is intended to give, or will be construed to give any benefit or right, whether directly, indirectly or otherwise, to third persons, unless such third persons are individually identified by name and expressly described in this Contract as intended beneficiaries.

34. TIME IS OF THE ESSENCE. Contractor agrees that time is of the essence under this Contract.

35. PAYMENT. Unless a different payment date is specified in the Contract, payment for goods and services under the Contract will be made within 45 days following the date the entire order is delivered, services completed, if applicable, or the date the invoice is received, whichever is later. Payment of overdue account charges by University will be subject to University Policy IV 09 06 J. Contractor will not be compensated by any other party for work performed under this Contract.

36. LIMITATION OF LIABILITY. Contractor agrees that to the fullest extent permitted by law, University shall not be liable to Contractor for any special, indirect or consequential damages whatsoever, whether caused by negligence, errors, omissions, strict liability, breach of contract, breach of warranty or other cause or causes whatsoever, including but not limited to, loss of profits or revenue.

37. FOREIGN CONTRACTOR. If Contractor is not domiciled or registered to do business in the State of Oregon, Contractor will promptly provide to the Oregon Department of Revenue and the Secretary of State, Corporation Division, all information required by those agencies relative to this Contract. Contractor will demonstrate its legal capacity to perform these services in the State of Oregon prior to entering into this Contract.

38. USE BY OTHER PUBLIC ENTITIES. If this Contract is the result of a public procurement, all public agencies or public higher education institutions may utilize this Contract. The other public agencies and other public higher education institutions shall be individually responsible for their obligations to Contractor. Likewise, Contractor shall be responsible to the public agencies or public higher education institutions for its obligations to those public agencies or public higher education institutions in any ensuing contract. Any contract between Contractor and other public agencies and/or public higher education institutions shall be separate and independent from, and not affect, the obligations owed by Contractor to University under this Contract. University of Oregon makes no representations, guarantees, or warranties regarding any contract made between Contractor and other public agencies or public higher education institutions.

39. FORCE MAJEURE. Neither University nor Contractor will be held responsible for delay or default due to causes beyond its reasonable control. Such delays or defaults include, but are not limited to, fire, explosion, flood, pandemics, epidemics, quarantines, diseases, riot, acts of nature, terrorist acts, or other acts of political sabotage, or war, governmental legislation, acts, orders, or regulation, strikes or labor difficulties, to the extent not occasioned by the fault or negligence of the delayed Party. Contractor will, however, make all reasonable efforts to remove or eliminate such a cause of delay or default and will, upon the cessation of the cause,

diligently pursue performance of its obligation under this Contract. However, if a default or delay due to a force majeure event continues for an unreasonable time, as determined by the University, then the University is entitled to terminate the Contract.

40. WAIVER. The failure of University to enforce any provision of this Contract will not constitute a waiver by University of that or any other provision.

41. ATTACHMENTS. All attachments, addenda, schedules, and exhibits which are referred to in this Contract are incorporated in this Contract.

42. MERGER. THIS CONTRACT CONSTITUTES THE ENTIRE AGREEMENT BETWEEN THE PARTIES. THERE ARE NO UNDERSTANDINGS, AGREEMENTS, OR REPRESENTATIONS, ORAL OR WRITTEN, NOT SPECIFIED IN THIS CONTRACT REGARDING THIS CONTRACT. NO AMENDMENT, CONSENT, OR WAIVER OF TERMS OF THIS CONTRACT WILL BIND EITHER PARTY UNLESS IN WRITING AND SIGNED BY ALL PARTIES. ANY SUCH AMENDMENT, CONSENT, OR WAIVER WILL BE EFFECTIVE ONLY IN THE SPECIFIC INSTANCE AND FOR THE SPECIFIC PURPOSE GIVEN.

43. USE OF UNIVERSITY'S PROPRIETARY MARKS AND INFORMATION. Contractor is not permitted to use the University's marks, logos, trade names or other proprietary information for marketing, advertising, or other any other purpose other than performing the Contract without advance written approval by the University. All such uses must comply with University's Style and Grammar Guide and University's brand management strategy available at <https://brand.uoregon.edu/>.

44. AMBIGUITIES. Each party has participated fully in the review and revision of this Contract and neither party shall be considered the "drafter" for the purposes of any rule of construction that might cause any provision to be construed against the drafter of this Contract.

45. CAPTIONS. The captions or headings in this Contract are for convenience only and in no way affect the meaning or interpretation of this Contract.

46. EXECUTION AND COUNTERPARTS. This Contract may be executed in counterparts, and via facsimile or electronically transmitted signature (i.e. emailed scanned true and correct copy of the signed Contract), each of which will be considered an original and all of which together will constitute one and the same Contract. At the request of a Party, the other Party will confirm facsimile or electronically transmitted signature by delivering the Contract with an original signature to the requesting Party.