



THE TEXAS A&M UNIVERSITY SYSTEM

Office of Procurement and HUB Program

REQUEST FOR PROPOSAL

RFP NUMBER: RFP01-CIO-24-168

ONLINE PROCTORED TESTING

PROPOSAL MUST BE RECEIVED PRIOR TO:

2:00 P.M. Central time on February 23, 2024

EMAIL RFP RESPONSES TO:

soprocurement@tamus.edu

SUBJECT LINE: CIO-24-168 Online Proctored Testing

Attn: Jeff Zimmermann

NOTE: Proposal response must be received by The Texas A&M University System Office of Procurement and HUB Program before the date and time specified for receipt of proposal as stated within Section 2.3 of this RFP. After the due date and time, only the names of respondents will be made public.

REFER INQUIRIES TO:

Jeff Zimmermann, Executive Director
Procurement and Business Services | HUB Program
The Texas A&M University System
Email: soprocurement@tamus.edu

All proposals shall become the property of The Texas A&M University System and the State of Texas upon receipt. Proposals may be subject to public review after contracts have been executed. Refer to Section 5G for more information regarding confidential and proprietary information.

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SECTION 1 - INTRODUCTION

1.1 **Scope**

The Texas A&M University System ("A&M System") Office of Information Technology ("IT") is seeking proposals of the implementation of online proctored testing systems ("solution") to ensure we have the best available tools for our faculty and students to improve their teaching, learning, and testing processes. In addition, A&M System IT wishes to ensure the solution(s) are robust enough to support any Member in the A&M System, assist with the change management process of consolidating systems, enable the faculty at a single institution to meet all of their teaching, learning, and testing goals, and accomplish all of this with a sustainable economic process.

It is the intent of A&M System to establish a master services agreement ("Agreement") with one or more firms (referred to as "Respondent" or "Vendor") to meet the needs of its Members per the requirements listed in Section 3.

By submitting responses, each Respondent certifies that it understands this Request for Proposal ("RFP") and has full knowledge of the scope and nature of the opportunity described herein. Each Respondent also certifies that it understands that all costs relating to preparing and responding to this RFP will be the sole responsibility of the Respondent. Proposals shall be in accordance with the terms, conditions, and requirements set forth in this RFP.

1.2 **About The A&M System**

The Texas A&M University System is one of the largest systems of higher education in the nation, with a budget of \$7.2 billion. Through a statewide network of 11 universities, a comprehensive health science center, eight state agencies, and the RELIS Campus, the Texas A&M System educates more than 152,000 students and makes more than 24 million additional educational contacts through service and outreach programs each year. System-wide, research and development expenditures exceed \$1 billion and help drive the state's economy. More information about the A&M System and all its members can be found the [A&M System About](#) page.

1.3 **Priorities/Expectations**

Respondents should note the following priorities/expectations with regard to the possibility of A&M System establishing a contractual relationship with any Respondent:

- (a) *Ensuring a Quality Level of Service.* This priority encompasses the quality of the level of service that can be provided to all A&M System Members in a timely, cost-effective manner. A&M System is seeking a Respondent or Respondents that will ensure the provision of such quality in its delivery of service through proven techniques and established metrics.
- (b) *Level of Experience and Expertise.* Respondent must demonstrate its capabilities in providing the utmost level of experience and expertise to ensure successful completion of services as determined by A&M System.
- (c) *Delivery Efficiency as it Relates to Total Costs.* Respondent must demonstrate its ability to deliver the required services in a cost-effective and timely manner while not sacrificing the quality required by the A&M System.

1.4 Calendar of Events

<u>Activity</u>	<u>Date</u>
Release of Request for Proposal	December 18, 2023
Deadline to Submit Questions	January 19, 2024
Release of Addendum (if applicable)	February 2, 2024
Responses Due	February 23, 2024 by 2:00 p.m. Central Time
Interviews (at A&M System's option)	anticipated the week of March 4, 2024
Selection of Respondents	Anticipated by March 29, 2024

A&M System will make every effort to adhere to the above schedule. The schedule, however, is subject to change. This may be in the event that further clarification of responses or terms of contract are in the best interest of A&M System and/or in the event A&M System requires more time to ensure that the selection of the Respondent is in accordance with its policies, rules and regulations, as well as actual timing needs.

1.5 Performance Period

Should A&M System, in its sole discretion, enter into an Agreement with one or more successful Respondents as a result of this RFP, the resultant Agreements shall be effective upon execution for a period of five (5) years. Any resultant Agreement may be extended for up to two (2) additional two (2) year terms, providing all parties mutually agree in writing on the extension. Any extensions shall be at the same terms and conditions plus any approved changes to be determined by the A&M System and negotiated in writing with the successful Respondent. The A&M System reserves the right to amend the terms of any resultant agreement as necessary to meet state or federal requirements.

SECTION 2 - INSTRUCTIONS FOR RESPONDENTS

2.1 General Information

The A&M System is seeking proposals from qualified companies for innovative approaches to implement online proctored testing for its Members. This RFP outlines the scope and requirements within Section 3. While it is the intent of the A&M System to establish an Agreement with a pool of qualified providers for the services stated within this RFP, there is no guarantee that an award will be made or any agreement executed. If a pool of providers is established as a result of this RFP, Members will have the option to choose services and providers from the pool at their discretion.

Submittals are to be in accordance with the outline and specifications contained herein, are to remain in effect a minimum of 120 days from the date of submission, and may be subject to further extensions as negotiated. A statement to this effect should be contained in the Respondent's cover letter.

This RFP contains specific requests for information. Respondents are encouraged to examine all sections of this RFP carefully, as the degree of interrelationship between sections is critical. In responding to this RFP, Respondents are encouraged to provide any additional information they believe relevant.

Clause headings appearing in this RFP have been inserted for convenience and ready reference. They do not purport to define, limit or extend the scope of intent of the respective clauses. Whenever the terms "must" "shall" "will" "is required" or "are required" are used in the RFP, the subject being referred to is to be a required feature of this RFP and critical to the resulting submittal.

In those cases where mandatory requirements are stated, material failure to meet those requirements could result in disqualification of the Respondent's response. Any deviation or exception from RFP specifications must be clearly identified by the Respondent in its submittal.

Expenses for developing and presenting proposals shall be the entire responsibility of the Respondent and shall not be chargeable to the A&M System. All documentation submitted with the proposal response will become the property of the A&M System.

2.2 Examination of the Request for Proposal

Before submitting, each Respondent will be held to have examined A&M System requirements outlined in Section 3 and satisfied itself as to the existing conditions under which it will be obligated to perform in accordance with specifications of this RFP.

No claim for additional compensation will be allowed due to unfamiliarity with the specifications and/or existing conditions. It shall be understood that the Respondent has full knowledge of all of the existing and/or revised conditions and accepts them "as is."

2.3 Submittal Instructions

All proposals must be received by the A&M System, no later than **2:00:00 p.m. Central Time, February 23, 2024** electronically via email to soprocurement@tamus.edu with the subject line of **"RFP01 CIO-24-168 – Online Proctored Testing."** The sent time indicated within the A&M System email server shall be used for the receipt and acceptance of the response. It is each Respondent's responsibility to ensure that the entire submittal response is received by the A&M System by the

deadline stated above regardless of submission method. **Late proposal responses will not be considered under any circumstances.**

A file sharing tool may be used to submit the proposal response if large file sizes are an issue. If opting to use a file sharing tool it is recommended that Respondents send a test file prior to the due date.

Submittal File Format: Submission shall be saved as two (2) separate files in Adobe Portable Document Format (PDF) according to the items listed below and named as such; **I) “company name – Proposal”** and **II) “company name – Forms.”**

2.4 Proposal Components

The following documents and all requirements from noted sections are to be returned as part of your proposal submittal. Failure to include these documents may be basis for response disqualification.

I. Proposal

- ✓ Cover Letter to include a brief introduction with interest and capability of the Respondent.
- ✓ Table of Contents
- ✓ Proposal, to include Sections 4.1 – 4.3
- ✓ Pricing Proposal, Section 4.4

II. Forms

- ✓ Signed Execution of Offer (Exhibit A)
- ✓ Non-Collusion Affidavit (Exhibit B) – signed and notarized
- ✓ HUB Subcontracting Plan (Section 4.6)

Proposal format: The proposal response shall be presented in the order listed above with sections noted accordingly for easy reference. The Table of Contents shall provide page numbers for each section of the proposal.

Note: Additional information regarding the Execution of Offer and Non-Collusion Affidavit.

- Execution of Offer: The signature in the Execution of Offer within the electronic copy shall serve as the official signature of record. Signature can be done electronically with DocuSign, Adobe or another similar tool.
- Non-Collusion Affidavit: The Respondent signature as well as the notarization on this document may be done electronically with DocuSign, Adobe or another similar tool. An agreement may not be executed with the awarded Respondent until this document is fully signed and notarized.

2.5 Inquiries and Interpretations

All questions concerning this RFP are to be directed, in writing, to Jeff Zimmermann, Executive Director, Procurement and Business Services to soprocurement@tamus.edu. Respondent may not contact other individuals at A&M System to discuss any aspect of this RFP, unless expressly

authorized by the A&M System Procurement office to do so.

Questions regarding the RFP, including questions for more data or information beyond that included in this RFP and any attachment, should be presented in writing. **Deadline for submission of questions is January 19, 2024.** The A&M System will publish all questions with responses according to the schedule in Section 1.4.

Responses to inquiries which directly affect an interpretation or change to this RFP will be issued in writing by addendum/amendment and posted to the Electronic State Business Daily (ESBD) at the following site; <http://www.txsmartbuy.com/sp>. (Input Agency Number "710" and select "Posted" for the Status)

It is the responsibility of all Respondents to check the ESBD for any and all addenda issued for this RFP. All such addenda/amendments issued by the A&M System prior to the time that proposals are received shall be considered part of the RFP, and the Respondent shall consider and acknowledge receipt of such in Exhibit A – Execution of Offer. Only those A&M System inquiries receiving a public reply via formal written addenda shall be binding. Oral and other interpretations or clarifications will be without legal effect.

2.6 Selection Process

The evaluation of the proposals shall be based on the information provided that the A&M System deems to represent the **best value** to the A&M System. The RFP provides the information necessary to prepare and submit proposals for consideration by the A&M System. All properly submitted proposals will be reviewed, evaluated, and ranked by the A&M System. The A&M System will rank the Respondents in the order that they provide the overall "best value" to the A&M System based on an evaluation of the responses to the RFP. The A&M System may interview one or more of the top ranked Respondents as part of the evaluation process.

The A&M System will base its choice on demonstrated competence, knowledge, and qualifications, on the reasonableness of the proposed fees for the services, and on the demonstrated ability to include businesses certified as a Historically Underutilized Business (HUB) in the state of Texas in the performance of a percentage of the scope of work; and if other considerations are equal, give preference to a Respondent who is certified as a HUB in the state of Texas, whose principal place of business is in the state of Texas, or who will manage the contract wholly from an office in the state of Texas.

The Respondent selected will be the one whose experience and qualifications, as presented in response to this RFP, establish them, in the opinion of A&M System, as well-qualified and offering the greatest benefits, experience and value to A&M System. A&M System may cancel this RFP or reject proposals at any time prior to an award and is not required to furnish a statement of the reasons why a particular proposal was not deemed to be the most advantageous. Should A&M System determine in its sole discretion that only one Respondent is fully qualified, or that one Respondent is clearly more highly qualified than the others under consideration, a contract may be negotiated and executed with that Respondent. The contract will be an agreement incorporating by reference all the requirements, terms and conditions of the solicitation and the Respondent's proposal as negotiated.

The most qualified Respondents as determined by A&M System MAY BE REQUIRED to interview with the evaluation committee before the final selection(s). If interviews are required, they will be done online through video conferencing, or in person if allowed at the time by A&M System guidelines and agreed to by both parties. A&M System will not provide compensation to

Respondents for any expenses incurred by the Respondent(s) for proposal preparation, submission or interviews that may be conducted.

Submission of proposals indicates Respondent's acceptance of the evaluation techniques and the recognition that subjective judgments must be made by A&M System during the evaluation process. The selection of the successful proposal(s) may be made by A&M System on the basis of the proposals initially submitted, without discussion, clarification, or modification. In the alternative, selection of the successful proposal(s) may be made by A&M System on the basis of negotiation with any of the Respondents. A&M System shall not disclose any information derived from the proposals submitted by competing Respondents in conducting such discussions.

All proposals must be complete and convey all of the information requested to be considered responsive. If a proposal fails to conform to the essential requirements of the RFP, A&M System alone will determine whether the variance is significant enough to consider the proposal susceptible to being made acceptable, and therefore a candidate for further consideration, or not susceptible and therefore not considered for award.

A&M System may perform reference checks and seek further information, as needed from all Respondents whose proposals A&M System, at its discretion, considers viable, based on the initial evaluation and scoring. The Respondent's response to this requirement officially authorizes A&M System to contact these organizations to discuss the services and other considerations that the Respondent has provided to such organizations and authorizes the organizations to provide such information to A&M System and Respondent shall and hereby does release and hold harmless A&M System, the state of Texas, and the organization of any and all liability whatsoever, in connection with providing and receiving all such information. Any negative responses received from reference checks may be grounds for disqualification of the proposal.

A&M System reserves the right to accept or reject any or all offers, to waive informalities and technicalities, to accept the offer considered most advantageous, and/or to make the award to the most responsive Respondent(s).

SECTION 3 - SCOPE AND SUPPORT

3.1 General

The A&M System is requesting proposals for online proctored testing for use within each Member of the A&M System to include services for the implementation and operation. Ease of accomplishing the required scope will be included in the evaluation of every response within the Scope of Work. Discuss the steps to accomplish each task whenever possible. The solution offered must meet the requirements stated in each section below.

3.2 System Administration, Security, and Support

3.2.1 System Requirements

The end users of online proctored testing services use a wide range of devices to complete their coursework and tests. Online proctoring solutions must work on the devices used by end users.

- a) What web browsers do you support?
- b) What desktop/laptop operating systems do you support?
- c) What mobile operating systems do you support?
- d) Describe the minimum bandwidth required for proctoring (e.g., dial-up, 3G, 4G).

3.2.2 System Implementation and Ongoing Support

Institution and agency staff may require assistance and guidance in implementing and maintaining the solution integration. End users, faculty, and support staff also require support and documentation after implementation. Online proctoring solutions must provide appropriate levels of support and documentation during and after implementation.

- a) Describe the levels of technical support you provide for implementation?
- b) Describe the documentation you provide to support implementation?
- c) Describe what access to student computers/devices are required for proctoring.
- d) Describe the implementation process and timeline.
- e) Describe the general support and training you provide to system administrators, faculty, and students. If there is an additional cost for your system to provide different levels of support, then specify in the cost criteria of this RFP.
- f) What provided training and support is outsourced to third parties?
- g) Do you provide 24/7 support to administrators, faculty, and students?

3.2.3 System Security and Disaster Recovery

System institutions and agencies have specific system security and disaster recovery requirements. This includes security of student identifiable information. Online proctoring solutions must meet State, System, and institutional security and data recovery requirements.

- a) Are systems stored on U.S. based servers?
- b) Can services be limited to U.S. based servers?
- c) Are live proctors U.S. based?
- d) Can live proctors be limited to U.S. based?
- e) Describe how you monitor system security.

- f) Describe how you communicate security issues or events with the customer.
- g) Do you have a published disaster recovery plan.
- h) How often do you test your disaster recovery plan?
- i) Describe how you coordinate disaster recovery tests with the customer.
- j) Describe the reports and documentation you provide relating to disaster recovery plans and tests?
- k) Does data collection and storage meet FERPA requirements?
- l) What student data is stored during the authentication process?
- m) What student biometric data is stored during the authentication process?
- n) Describe how student data is protected.

3.2.4 Product Integration

System institutions and agencies are not standardized on tools and technologies used in their learning environments, identity management, and learning content providers. The online proctoring solution must work with multiple internal and external system.

- a) What Learning Management Systems (LMS) do you support through integration and how do you integrate with them?
- b) What single sign-on authentication do you support (e.g., SAML, LTI, API)
- c) In what ways do you integrate or support third party content (e.g., Cengage, McGraw-Hill, Pearson)

3.2.5 Accessibility

Under Texas Government Code Chapter 2054, Subchapter M, Texas Administrative Code 206.70 and Texas Administrative Code 213 and implementing policy of the Texas A&M Systems Regulations 29.01.04, Texas A&M University System must procure Products that comply with the accessibility standards when such products are available in the commercial marketplace or when such Products are developed in response to a procurement solicitation. Accordingly, the Respondent must provide electronic and information resources and associated Product documentation and technical support that comply with the Accessibility Standards.

- a) Provide your Accessibility Conformance Report (ACR) with your RFP response. At a minimum your ACR should address accessibility, keyboard navigation, and screen reader accessibility. <https://www.itic.org/policy/accessibility/>
- b) Provide Policy Driven Adoption Vendor Self-Assessment (PDAA) with your RFP response. This Information and Communications Technology (ICT) accessibility assessment is for vendor organizations to describe how they are currently implementing accessibility policy and practices within their organizations. [http://publishingext.dir.texas.gov/portal/internal/resources/DocumentLibrary/Policy Driven Adoption Vendor Self-Assessment.docx](http://publishingext.dir.texas.gov/portal/internal/resources/DocumentLibrary/Policy%20Driven%20Adoption%20Vendor%20Self-Assessment.docx)
- c) Are all areas of your application fully Unicode compliant in terms of both data entry and display?
- d) Does your application fully support the major world orthographies (i.e., Chinese, Japanese, Arabic), including those with non-English directionality (R-L, or top to bottom)? Can it accommodate any practical orthographic tradition (i.e., Cherokee syllabics) that can be handled within Unicode?
- e) What is your timeline for making the solution fully accessible?

3.3 Online Proctoring Services

3.3.1 Proctoring Services

System institutions and agencies require different end user identification and proctoring levels. End users come from a wide technical background and possess different technical skills. Online proctoring solutions should provide the widest range of services while maintaining ease of use for all users.

- a) Describe the levels of identity verification and proctoring you provide (e.g., identity verification only, levels of proctoring). Provide cost of each type in the proposal.
- b) Describe the methods of proctoring you provide (e.g., biometric, live proctoring, AI, hybrid).
- c) Describe the scheduling methods, timelines, and associated costs for each proctoring methods.
- d) Describe each process of proctoring from the student perspective.
- e) Describe each process of proctoring from the faculty perspective.
- f) Describe how many users each proctor observes for each proctoring method.
- g) Describe the student authentication process to ensure their identity and enrollment in the course to begin the exam.
- h) Describe the process to ensure student identity throughout the assessment.

3.3.2 Exam Security

Exams and assessments have varying security and academic integrity requirements. Online proctoring solutions should be versatile in meeting faculty proctoring needs.

- a) Describe how authentication and security levels can be selected or customized per class or exam by the faculty member.
- b) Describe how authentication and security levels can be selected or customized at the university/institution or college/department level.
- c) Describe how the product ensures students cannot access resources outside of the testing environment.
- d) Describe process for “whitelisting” software tools and web sites for specific tests or exams.
- e) Describe the process to ensure the integrity of the testing environment.
- f) Describe the method used to ensure the security of testing materials during exam sessions.

3.3.3 Proctor Reporting

An important part of proctoring services is identification and reporting of possible academic integrity violations during testing. Evidence of such violations may be needed by faculty members, student, or staff for administrative action. Online proctoring solutions must provide secure and timely reporting of possible violations and maintain such evidence for sufficient time.

- a) Describe how possible violations of academic integrity are identified.
- b) Describe the method of reporting any breaches of academic integrity during the exam sessions.
- c) Describe the types of reports available to students, faculty, and staff.
- d) Describe your retention policy and timeline for storing records and evidence of

possible testing violations.

3.3.4 TX-RAMP Certification

Respondent's product must meet the Texas Department of Information Resources ("DIR") definition of a cloud computing service. Respondent shall provide A&M System with evidence of its TX-RAMP compliance and certification at least thirty (30) days prior to the start of any agreement.

SECTION 4 - PROPOSAL RESPONSE

The Respondent recognizes that in its selection process A&M System will rely, in part, on the answers provided in response to this Section. Accordingly, Respondent warrants to the best of its knowledge that all responses are true, correct and complete.

4.1 Company Profile

- A. Provide a contact name for this RFP response, including title, address, telephone number and email address.
- B. Number of years in business: _____
- C. Number of Employees: _____ (company wide) _____ (relevant branch office(s))
- D. Annual Sales Volume: _____(company wide)
- E. Is your company currently for sale or involved in any transaction to expend or to become acquired by another business entity? If yes, please explain the impact both in organizational and directional terms.
- F. Provide any details of all past or pending litigation or claims filed against your company that would negatively impact your company's performance under an agreement with the Agencies.
- G. Is your company currently in default on any loan agreement or financing agreement with any bank, financial institution, or other entity. If yes, specify date(s), details, circumstances, and prospects for resolution.

4.2 Technical Proposal

Respondent should describe how their online proctoring solutions and related services can address the overall needs and requirements of the A&M System as described in *SECTION 3 – SCOPE AND SUPPORT*.

In responding to these requirements Respondent shall:

- Discuss the steps to accomplish each requirement as identified and stated in Section 3.
- The Technical Proposal should be structured to address each sub-section in Section 3 (e.g., Grading, Scheduling, Examinations, etc.). Include screenshots, process flows, schedules, lists, etc. that demonstrate the scope of the system to meet the scope of work – sub section by sub section.

4.3 Vendor Qualifications

Respondent shall provide a response to the following items:

- A. Respondent must furnish at least four references from clients from the past three years for services provided similar in scope, size, and complexity to the scope of services described in Section 3 above. If possible, the A&M System requests that two of the references come from institutions of Higher Education and/or other public sector entities and ideally from schools within the A&M System.
 - Company/Agency name & address
 - Contact person name & title

- Contact phone number
 - Contact email address
 - Summary of services provided
- B. Has Respondent worked with the A&M System or any of its Members in the past two years? If yes, provide the specific member of the A&M System, point of contact (name, title, phone number, and email address), and a brief description of the work performed.
- C. Has Respondent had any work with A&M System Members non-renewed or cancelled for any reason in the past five years? If so, please provide details on work, agency, and time frame.
- D. Describe Respondent's core service offerings with particular reference to online proctored testing and the A&M System's preferred technologies as discussed in this RFP.

4.4 Pricing Proposal

Respondent shall provide a complete pricing proposal for the Services offered to include the following items as applicable.

- A. Initial Implementation or Set-Up Fee
- B. Annual recurring license or subscription – include all possible options in the pricing of this support and applicable terms
- C. Any other annual charges.

Note: This pricing shall be based with the understanding that each Member will determine which Online Proctoring tool to implement from the awarded Respondents according to its needs. Respondents may provide additional pricing options that would provide discounts if multiple Members selected its Online Proctoring tool.

4.5 Proposal Considerations

- A. Proposals must include the required A&M System Member resources (People, Processes, Capabilities) to ensure the model(s) success
- B. Proposal solution must include pricing and rate cards for three (3) years to coincide with the initial term of an Agreement.
- C. Proposal price must include cost of relevant tool licensing to deliver services
- D. Proposal must include how vendor proposes to accomplish connectivity, should service delivery approach require remote resources, including minimum required bandwidth
- E. Any additional costs such as travel must be quoted as a separate line item. Allowed travel expenses must be in compliance with the State of Texas Travel Guidelines as defined by the Comptroller of Public Accounts

4.6 Historically Underutilized Business (HUB) Requirements

It is the policy of the State of Texas and the A&M System to encourage the use of Historically Underutilized Businesses (HUBs) both directly and indirectly in prime contracting and subcontracting efforts. The goal of the HUB Program is to promote equal access and equitable opportunity in the A&M System contracting and purchasing activities.

A subcontracting opportunity is defined as any portion(s) of the scope contracted with a vendor

to work, supply commodities for, or contribute towards completing work for a governmental entity.

The Respondent is required to submit *either* a completed HUB Subcontracting Plan (HSP) form or a HUB Goal Achievement Plan detailing how they will conduct a good faith effort to attract and incorporate State of Texas HUB- certified vendors to perform a percentage of the scope of work defined within this RFP.

The HUB participation goal for this RFP is 15% and the Respondent is required to conduct a good faith effort to achieve this goal through subcontracting opportunities, mentor protégé relationships, or other means of meaningful business relationships to increase the capacity and utilization of HUB firms. Maximizing meaningful opportunities to HUBs is of the utmost importance to The Texas A&M University System.

The Respondent is required to complete and submit *either* a HUB Goal Achievement Plan or HUB Subcontracting Plan (HSP) form. Failure to submit a comprehensive, acceptable HUB Goal Achievement Plan or HSP form will be considered a material failure to comply with the requirements of this RFP and may result in rejection of the response. Refer to Section 2.6 for details on the A&M System's selection process.

HUB Goal Achievement (HUBA) Plan

If the Respondent elects to complete and submit a HUBA Plan, the plan is required to include details which outline and accurately represent the company's strategy, procedures, and steps to incorporate HUB certified companies in the performance of this scope.

Within this plan, the Respondent is required to address the following items:

1. The Respondent shall state whether it is a Texas certified HUB vendor.
2. The Respondent shall state its commitment to conduct a good faith effort to include HUB vendors in this engagement.
3. The Respondent shall discuss the method in which it will identify subcontracting opportunities related to the scope(s) of work within this RFP.
4. The Respondent shall describe the method in which it solicits HUB vendors regarding the subcontracting opportunities identified.
5. The Respondent shall discuss its existing relationships within the HUB community, including those with HUB-certified vendors, HUB-focused organizations, and non-HUB companies doing business with HUB-certified vendors. The Respondent shall also provide details on how these relationships will support their plan to connect with and invite HUB certified companies to bid on the subcontracting opportunities defined in Item 4 above.
6. If not already stated, the Respondent shall provide a list of the trade organizations or development centers that it intends to work with to inform and solicit HUBs to bid on the subcontracting opportunities identified in Item 4 above. Examples of these can be found at the following site:

<https://comptroller.texas.gov/purchasing/vendor/hub/resources.php>.

HUB Subcontracting Plan (HSP) Form

If the Respondent elects to complete an HSP form, the Respondent is required to review and

complete the [A&M System HSP form](#).

In all cases, the Respondent is required to:

- i. Complete Section 1, Section 2, and Section 4 of the HSP form.
- ii. Determine whether it is probable that they will subcontract any portion of the scope within this RFP.
- iii. Complete either Method A, Method B, or Section 3 as applicable based on the response to Section 2.

If the Respondent determines it is probable that they will subcontract any portion of the scope within this RFP, the applicable HUB participation goal for this RFP is 15%, and the Respondent is required to conduct and demonstrate a good faith effort to achieve this goal and list all anticipated subcontracting opportunities in Section 2b of the HSP form. **Note: In all cases, the HUB goal stated within this RFP takes precedence over the HUB goal stated on the downloaded HSP form.**

Please contact Ms. Porschia Tolbert, A&M HUB Program Director, at SO-HUBProgram@tamus.edu or (979) 458-3265 for assistance with completing the requirements of this section. Respondents can submit a draft of their HUB Goal Achievement Plan or HSP form prior to submittal of their response to the RFP for review by Ms. Tolbert. All drafts must be submitted at least five business days prior to the RFP due date.

If Awarded

Any Respondent awarded an Agreement as a result of this RFP will be expected to comply with all good faith effort requirements. The HUB plan submitted with the proposal response will be included within the Agreement and the A&M System will monitor compliance and progress with all requirements. Per Texas Government Code 2161.253(d), if a determination is made that the Vendor failed to implement the plan in good faith, the A&M System, in addition to any other remedies, may bar the Vendor from further contracting opportunities with the A&M System.

SECTION 5 - GENERAL TERMS AND CONDITIONS

- A. TERMS AND CONDITIONS: The A&M System reserves the right to accept, reject, modify, and/or negotiate any and all submittals received in conjunction with this RFP. It reserves the right to waive any defect or informality in the submittals on the basis of what it considers to be in its best interests. Any submittal which the A&M System determines to be incomplete, conditional, obscure, or which has irregularities of any kind, may be rejected. The A&M System reserves the right to award to the company, or companies, which in our sole judgment, will best serve our long-term interest.

This RFP in no manner obligates the A&M System to the eventual purchase of any products or services described, implied, or which may be proposed, until confirmed by written agreement, and may be terminated by the A&M System without penalty or obligation at any time prior to the signing of a contract.

The Respondent must include a formal copy of any Respondent terms and conditions applicable to this transaction. Evaluation and acceptance and/or modification of these terms and conditions by the A&M System Office of General Counsel are essential prior to execution of any resultant agreement. In the event the Respondent does not supply terms and conditions with their submittal, A&M System terms and conditions will govern this transaction.

- B. GOVERNING LAW: Respondent agrees that, in the event of a dispute, laws of the State of Texas will prevail.
- C. NON-DISCRIMINATION: The parties agree that in the performance of any contract they shall not discriminate in any manner on the basis of race, color, national origin, age, religion, sex, genetic information, veteran status or disability protected by law. Such action shall include, but is not limited to, the following: employment, upgrading, demotion, transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation. By submitting a submittal, Respondent certifies that it will conform to the provisions of the federal Civil Rights Act of 1964, as amended.
- D. CIVIL RIGHTS REQUIREMENTS: All Respondents must comply with applicable civil rights laws.
- E. IMMIGRATION REFORM AND CONTROL ACT OF 1986: By submitting a proposal, the Respondent certifies that it does not, and will not, during the performance of any resultant Agreement, employ illegal alien workers or otherwise violate the provisions of the federal Immigration Reform and Control Act of 1986, as amended.
- F. DEBARMENT STATUS: By submitting a proposal, Respondent certifies that it is not currently debarred from submitting submittals on contracts nor is it an agent of any person or entity that is currently debarred from submitting bids on contracts.
- G. PUBLIC INFORMATION: Respondent is hereby notified that the A&M System strictly adheres to all statutes, court decisions, and the opinions of the Texas Attorney General with respect to disclosure of public information. The A&M System may seek to protect from disclosure all information submitted in response to this RFP until such time as the resultant Agreement is executed. Upon execution of the resultant Agreement, the A&M System will consider all information, documentation, and other materials requested to be submitted in response to this RFP to be of a non-confidential and non-proprietary nature and therefore subject to public disclosure under the Texas Public Information Act, Texas Government Code, Chapter 552. Respondent will be advised of a request for public information that implicates its materials and

will have the opportunity to raise any objections to disclosure to the Texas Attorney General.

- H. ALTERNATE PROPOSALS: A&M System reserves the right to consider alternate proposals submitted by Respondents. Alternate proposals shall be clearly marked "Alternate" with the proposed alternates clearly defined and all pricing/cost advantages included, if applicable.
- I. ANTITRUST: Respondent hereby assigns to the A&M System, any and all claims for overcharges associated with any contract resulting from this RFP which arise under the antitrust laws of the United States 15 U.S.C.A. Section 1, et seq. (1973) and which arise under the antitrust laws of the State of Texas, Texas Business and Commercial Code Ann. Sec. 15.01, et seq. (1967).
- J. EXECUTIVE HEAD OF A STATE AGENCY AFFIRMATION: In accordance with Section 669.003 of the Texas Government Code, relating to contracting with the executive head of a state agency, Respondent certifies that it is not (1) the executive head of the A&M System or any of its Members, (2) a person who at any time during the four years before the date of the contract was the executive head of the A&M System or any of its Members, or (3) a person who employs a current or former executive head of the A&M System or any of its Members.
- K. INSURANCE: Respondent shall obtain and maintain, for the duration of any resultant Agreement or longer, the minimum insurance coverage set forth on Exhibit C attached hereto.
- L. REQUIRED CONTRACT TERMS: The terms and conditions contained in the draft agreement attached as Exhibit D or, in the sole discretion of the A&M System, terms and conditions substantially similar to those contained in the attached agreement, will constitute and govern any Agreement that results from this RFP. If Respondent takes exception to any terms or conditions set forth in the attached agreement, Respondent will submit a list of the exceptions as part of its proposal. Respondent's exceptions will be reviewed by the A&M System and may result in disqualification of Respondent's proposal as non-responsive to this RFP. If Respondent's exceptions do not result in disqualification of Respondent's proposal, then the A&M System may consider Respondent's exceptions when the A&M System evaluates the Respondent's proposal.

**EXHIBIT A
EXECUTION OF OFFER**

RFP01 CIO-24-168

DATE: _____

In compliance with this RFP, and subject to all the conditions herein, the undersigned offers and agrees to furnish any or all commodities or services at the prices quoted.

A.1 Respondent Affirmation

NOTE TO RESPONDENTS: SUBMIT ENTIRE SECTION WITH RESPONSE.

This execution of offer must be completed, signed, and returned with the respondent's proposal. Failure to complete, sign and return this execution of offer with the proposal may result in rejection of the proposal.

Signing a false statement may void the submitted proposal or any agreements or other contractual arrangements, which may result from the submission of respondent's proposal. A false certification shall be deemed a material breach of contract and, at owner's option, may result in termination of any resulting contract or purchase order.

Addenda Acknowledgment

Receipt is hereby acknowledged of the following addenda to this RFP by entering yes or no in space provided and indicating date acquired. Enter "N/A" if none received.

No. 1 _____ Date _____

No. 2 _____ Date _____

A.2 Signature

By signing below, the Respondent hereby certifies as follows, and acknowledges that such certifications will be included in any resulting contract:

- (i) the Response and all statements and information prepared and submitted in response to this RFP are current, complete, true and correct;
- (ii) it is not given, nor intends to give at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount trip, favor or service to a public servant in connection with the submitted response or any subsequent proposal. Failure to sign below, or signing a false statement, may void the response or any resulting contracts at A&M System' option, and the Respondent may be removed from all future proposal lists at this state agency;
- (iii) the individual signing this document and the documents made part of the RFP is authorized to sign such documents on behalf of the Respondent and to bind the Respondent under any contract which may result from the submission of the Response;
- (iv) no relationship, whether as a relative, business associate, by capital funding agreement or by any other such kinship exists between Respondent and an employee of A&M System;
- (v) Respondent has not been an employee of A&M System within the immediate twelve (12) months prior to the RFP response;
- (vi) no compensation has been received for participation in the preparation of this RFP (ref. Section 2155.004 Texas Government Code);
- (vii) all services to be provided in response to this RFP will meet or exceed the safety standards established and promulgated under the Federal Occupational Safety and Health law (Public Law 91-596) and its regulations in effect as of the date of this solicitation;

- (viii) Respondent complies with all federal laws and regulations pertaining to Equal Employment Opportunities and Affirmative Action;
- (ix) to the best of its knowledge, no member of the Board of Regents of The Texas A&M University System, or the Executive Officers of the Texas A&M University System or its member institutions or agencies, has a financial interest, directly or indirectly, in the Project;
- (x) if the Respondent is subject to the Texas franchise tax, it is not currently delinquent in the payment of any franchise tax due under Chapter 171, Texas Tax Code, or is exempt from the payment of such taxes. A false certification may result in the Respondent’s disqualification;
- (xi) under Section 231.006, Family Code, the Respondent or applicant certifies that the individual or business entity named in this RFP, bid, or application is not ineligible to receive the specified grant, loan, or payment and acknowledges that any resultant agreement may be terminated and payment may be withheld if this certification is inaccurate; and,
- (xii) under Section 2155.006, Government Code, the Respondent certifies that the individual or business entity named in this bid or contract is not ineligible to receive the specified contract and acknowledges that any resultant agreement may be terminated and payment withheld if this certification is inaccurate.

Respondent shall provide their Federal Employer Identification Number (EIN), full VENDOR name, address and contact information in the spaces below. Failure to sign manually or with electronic signature (such as DocuSign or Adobe Sign) below will disqualify the proposal response. The person signing the submittal should show title or authority to bind his/her firm in contract.

Federal EIN/Taxpayer ID #: _____

Vendor/Company Name: _____

Authorized Signature: _____

Name: _____

Title: _____

Street: _____

City/State/Zip: _____

Telephone No.: _____

Fax No.: _____

E-mail: _____

* By signing this RFP, Respondent certifies that if a Texas address is shown as the address of the respondent, respondent qualifies as a Texas Resident Bidder as defined in Texas Government Code, § 2252.001(4).

**EXHIBIT B
NON-COLLUSION AFFIDAVIT**

The undersigned, duly authorized to represent the persons, firms and corporations joining and participating in the submission of the foregoing Proposal (such persons, firms and corporations hereinafter being referred to as the "Respondent"), being duly sworn, on his or her oath, states that to the best of his or her belief and knowledge no person, firm or corporation, nor any person duly representing the same joining and participating in the submission of the foregoing Proposal, has directly or indirectly entered into any agreement or arrangement with any other Respondents, or with any official of A&M System or any employee thereof, or any person, firm or corporation under contract with A&M System whereby the Respondent, in order to induce acceptance of the foregoing Proposal by said A&M System, has paid or is to pay to any other Respondent or to any of the aforementioned persons anything of value whatever, and that the Respondent has not, directly or indirectly entered into any arrangement or agreement with any other Respondent or Respondents which tends to or does lessen or destroy free competition in the letting of the contract sought for by the foregoing Proposal.

The Respondent hereby certifies that neither it, its officers, partners, owners, providers, representatives, employees and parties in interest, including the affiant, have in any way colluded, conspired, connived or agreed, directly or indirectly, with any other Respondent, potential Respondent, firm or person, in connection with this solicitation, to submit a collusive or sham bid, to refrain from bidding, to manipulate or ascertain the price(s) of other Respondents or potential Respondents, or to obtain through any unlawful act an advantage over other Respondents or A&M System.

The prices submitted herein have been arrived at in an entirely independent and lawful manner by the Respondent without consultation with other Respondents or potential Respondents or foreknowledge of the prices to be submitted in response to this solicitation by other Respondents or potential Respondents on the part of the Respondent, its officers, partners, owners, providers, representatives, employees or parties in interest, including the affiant.

CONFLICT OF INTEREST

The undersigned Respondent and each person signing on behalf of the Respondent certifies, and in the case of a sole proprietorship, partnership or corporation, each party thereto certifies as to its own organization, under penalty of perjury, that to the best of their knowledge and belief, no member of A&M System, nor any employee, or person, whose salary is payable in whole or in part by A&M System, has a direct or indirect financial interest in the award of this Proposal, or in the services to which this Proposal relates, or in any of the profits, real or potential, thereof, except as noted otherwise herein.

Signature _____

Company Name _____

Date _____

Notary _____

Subscribed and sworn to before me this

_____ day of _____, 2024.

Notary Public in and for the County of _____, State of

_____. My commission expires: _____

EXHIBIT C INSURANCE

The Respondent shall obtain and maintain, for the duration of this Agreement or longer, the minimum insurance coverage set forth below. With the exception of Professional Liability (E&O), all coverage shall be written on an occurrence basis. All coverage shall be underwritten by companies authorized to do business in the State of Texas or eligible surplus lines insurers operating in accordance with the Texas Insurance Code and have a financial strength rating of A- or better and a financial strength rating of VII or better as measured by A.M. Best Company or otherwise acceptable to A&M System. By requiring such minimum insurance, A&M System shall not be deemed or construed to have assessed the risk that may be applicable to Respondent under this Agreement. Respondent shall assess its own risks and if it deems appropriate and/or prudent, maintain higher limits and/or broader coverage. Respondent is not relieved of any liability or other obligations assumed pursuant to this Agreement by reason of its failure to obtain or maintain insurance in sufficient amounts, duration, or types. No policy will be canceled without unconditional written notice to A&M System at least ten days before the effective date of the cancellation.

<u>Coverage</u>	<u>Limit</u>
1. <u>Worker's Compensation</u>	
Statutory Benefits (Coverage A)	Statutory
Employers Liability (Coverage B)	\$1,000,000 Each Accident \$1,000,000 Disease/Employee \$1,000,000 Disease/Policy Limit

Workers' Compensation policy must include under Item 3.A. on the information page of the workers' compensation policy the state in which work is to be performed for A&M System. Workers' compensation insurance is required, and no "alternative" forms of insurance will be permitted

2. Automobile Liability

Business Auto Liability Insurance covering all owned, non-owned or hired automobiles, with limits of not less than \$1,000,000 Single Limit of liability per accident for Bodily Injury and Property Damage;

If a separate Business Auto Liability policy is not available, coverage for hired and non-owned auto liability may be endorsed on the Commercial General Liability policy.

3. Commercial General Liability

Each Occurrence Limit	\$1,000,000
General Aggregate Limit	\$2,000,000
Products / Completed Operations	\$1,000,000
Personal / Advertising Injury	\$1,000,000
Damage to rented Premises	\$300,000
Medical Payments	\$5,000

The required commercial general liability policy will be issued on a form that insures Respondent's or its subcontractors' liability for bodily injury (including death), property damage, personal and advertising injury assumed under the terms of this Agreement.

4. Cyber Liability

Contractor shall procure and maintain for the duration of the contract insurance claims arising out of their services and including, but not limited to loss, damage, theft or other misuse of data,

infringement of intellectual property, invasion of privacy and breach of data. Cyber Liability policy with limits not less than \$2,000,000 per occurrence or claim, \$2,000,000 aggregate. Coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by Contractor in this **agreement and shall include, but not limited to, claims involving infringement of intellectual property**, trademark, trade dress, invasion of privacy violations, information theft, damage to or destruction of electronic information, release of private information, alteration of electronic information, extortion and network security.

The policy shall provide coverage for breach response costs as well as regulatory fines and penalties as well as credit monitoring expenses with limits sufficient to respond to these obligations. Such insurance shall be maintained and in force at all times during the term of the agreement and for a period of two years thereafter for services completed during the term of the agreement. [SYSTEM AND/OR MEMBER] shall be given at least 30 days notice of the cancellation or expiration of the aforementioned insurance for any reason.

If the Contractor maintains broader coverage and/or higher limits than the minimums shown above, the System and its members require and shall be entitled to the broader coverage and/or higher limits maintained by the Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the System and its members.

5. **Additional Endorsements**

The Auto and Commercial General Liability Policies shall name the Texas A&M University System Board of Regents for and on behalf of The Texas A&M University System and the Respondent as additional insureds.

6. Respondent will deliver to A&M System:

Evidence of insurance on a Texas Department of Insurance approved certificate form verifying the existence and actual limits of all insurance after the execution and delivery of this Agreement and prior to the performance of any services by Respondent under this Agreement. Additional evidence of insurance will be provided on a Texas Department of Insurance approved certificate form verifying the continued existence of all required insurance no later than thirty (30) days after each annual insurance policy renewal.

All insurance policies, with the exception of worker's compensation, employer's liability and professional liability will be endorsed and name The Board of Regents for and on behalf of The Texas A&M University System, The Texas A&M University System and A&M System as Additional Insureds up to the actual liability limits of the policies maintained by Respondent. Commercial General Liability and Business Auto Liability will be endorsed to provide primary and non-contributory coverage. The Commercial General Liability Additional Insured endorsement will include on-going and completed operations and will be submitted with the Certificates of Insurance.

All insurance policies will be endorsed to provide a waiver of subrogation in favor of The Board of Regents of The Texas A&M University System, The Texas A&M University System and A&M System. No policy will be canceled without unconditional written notice to A&M System at least ten days before the effective date of the cancellation.

All insurance policies will be endorsed to require the insurance carrier providing coverage to send notice to A&M System ten (10) days prior to the effective date of cancellation, material change, or non-renewal relating to any insurance policy required in this Section.

Any deductible or self-insured retention must be declared to and approved by A&M System prior to

the performance of any services by Respondent under this Agreement. Respondent is responsible to pay any deductible or self-insured retention for any loss. All deductibles and self-insured retentions will be shown on the Certificates of Insurance.

Certificates of Insurance and Additional Insured Endorsements as required by this Agreement will be mailed, faxed, or emailed to the following A&M System contact:

The Texas A&M University System
301 Tarrow Street
College Station, TX 77840
Attn: Jeff Zimmermann
Facsimile Number: 979-458-6101
Email Address: zimmermann@tamus.edu

The insurance coverage required by this Agreement will be kept in force until all services have been fully performed and accepted by A&M System in writing.

EXHIBIT D
REQUIRED CONTRACT TERMS

A&M SYSTEM and PROVIDER hereby agree as follows:

1. SERVICES

- A. This Agreement is not a contract to perform specific work but is intended to establish the terms and conditions under which the A&M SYSTEM and its member universities and agencies (hereafter referred to as "Member" or "Members") may enter into a contract individually with the PROVIDER to license and use PROVIDER's platform and/or other services set forth in Exhibit A of this Agreement ("Services") by executing an order form or purchase order (each an "Order Form") with PROVIDER. The A&M SYSTEM makes no guarantee of execution of an Order Form. The Services requested by a Member shall be delivered and/or licensed by PROVIDER to the Member during the term of this Agreement in accordance with the rights, obligations and pricing set forth herein.
- B. The terms of this Agreement shall be incorporated into any Order Form executed by a Member and PROVIDER for delivery and/or license by PROVIDER of the Services during the term of this Agreement and the Order Form shall reference this Agreement. The Order Form shall grant the Member a non-exclusive non-sublicenseable right and license to access and use the Services. Upon execution of such Order Form, such Member is only responsible for its own compliance with the terms and conditions of this Agreement.

2. TERM AND TERMINATION

- A. The term of this Agreement begins on the Effective Date and continues for a period of _____ unless earlier terminated as provided herein; provided, however, that the terms of this Agreement shall remain applicable to any Order Form that was executed prior to the expiration or termination of this Agreement but whose period of performance extends beyond the expiration or termination of this Agreement. This Agreement may be extended for ___ () additional ___ () year periods upon mutual written agreement executed by the Parties.
- B. Either Party may terminate this Agreement effective upon written notice to the other Party if the other Party materially breaches any term of this Agreement and fails to cure such breach within ___ () days after receiving written notice of the breach. Furthermore, A&M SYSTEM may terminate this Agreement at any time upon _____ () days prior notice to PROVIDER.
- C. The period of performance of any Order Form will be as provided in the Order Form. Either party to the Order Form may terminate such Order Form effective upon written notice to the other party if the other party materially breaches any term of this Agreement or the Order Form and fails to cure such breach within ___ () days after receiving written notice of the breach. In the event that the Member terminates the Order Form pursuant to this Section, the Member shall receive a pro-rata refund of any pre-paid fees. Furthermore, Member may terminate the Order Form at any time upon _____ () days prior notice to PROVIDER. The termination of any one Order Form will not affect any other Order Form or this Agreement.

3. PAYMENT TERMS

- A. The A&M SYSTEM shall not pay any costs or fees as a direct result of this Agreement. The fees paid by Member to PROVIDER for the Services requested under the Order Form, shall be calculated based on the fee rate schedule attached as Exhibit B and made a part of this Agreement. The rate schedule may be renegotiated at the discretion of A&M SYSTEM upon renewal of this Agreement. Additional rates and fees may be negotiated on a Member specific Order Form, provided no less favorable than under this Agreement.
- B. PROVIDER shall invoice Member for amounts due consistent with the payment schedule as negotiated under the Order Form. Each invoice must reference the Order Form and Member's purchase order number (if applicable) and include a description of services provided along with documentation that Member may reasonably request to support the invoice amount. Member will make payment on a properly prepared and submitted invoice in accordance with Chapter 2251, Texas Government Code (the "Texas Prompt Payment Act"), which shall govern remittance of payment and remedies for late payment and non-payment.
- C. As an agency of the State of Texas, the A&M System and its Members are tax exempt. Tax exemption certification will be furnished to PROVIDER upon request.

4. DATA PRIVACY AND SECURITY

- A. The A&M SYSTEM or the applicable Member shall retain all right, title, and interest in and to all information, data or other content that the A&M SYSTEM, the Members, their employees, contractors, students, or any other third party on behalf of MEMBER enter, submit or upload to Services or otherwise provide to PROVIDER under this Agreement (collectively, the "A&M System Data"). A&M System Data may include information relating to employees and students, including, but not limited to personally identifiable information, social security numbers, credit card numbers, or data protected or made confidential or sensitive by applicable federal, state, and local laws, rules, and regulations.
- B. PROVIDER shall safeguard and maintain the confidentiality of the A&M SYSTEM Data in accordance with applicable federal, state, and local laws, rules, and regulations. PROVIDER shall only use or disclose A&M SYSTEM Data for the purpose of fulfilling PROVIDER's obligations under this Agreement, as required by law, or as otherwise authorized in writing by A&M SYSTEM or the applicable Member. PROVIDER shall restrict disclosure of the A&M SYSTEM Data solely to those employees, subcontractors or agents of PROVIDER that have a need to access the A&M SYSTEM Data in order for PROVIDER to perform its obligations under this Agreement. PROVIDER shall require any such subcontractors or agents to comply with the same restrictions and obligations imposed on PROVIDER in this Agreement and PROVIDER agrees that it shall be responsible for its subcontractors' and agents' compliance with such obligations.
- C. PROVIDER must promptly notify A&M SYSTEM or the applicable Member of any legal request for A&M SYSTEM Data from a third party and take (and assist A&M SYSTEM or Member in taking) appropriate steps not to disclose such A&M SYSTEM Data.
- D. PROVIDER shall, within two (2) business days of discovery, report to A&M SYSTEM or the applicable Member any use or disclosure of A&M SYSTEM Data not authorized by this Agreement or in writing by A&M SYSTEM or the applicable Member. PROVIDER's report must identify: (a) the nature of the unauthorized use or disclosure, (b) the A&M SYSTEM Data used or disclosed, (c) who made the unauthorized use or received the unauthorized

disclosure, (d) what PROVIDER has done or will do to mitigate any deleterious effect of the unauthorized use or disclosure, and (e) what corrective action PROVIDER has taken or will take to prevent future similar unauthorized use or disclosure. PROVIDER shall provide such other information, including a written report, as reasonably requested by A&M SYSTEM or the applicable Member.

- E. Within thirty (30) days of the expiration or termination of this Agreement or an Order Form, PROVIDER, as directed by A&M SYSTEM or the applicable Member, shall return in acceptable electronic format all A&M SYSTEM Data in its possession (or in the possession of any of its subcontractors or agents) to A&M SYSTEM or, at A&M SYSTEM's option, delete all such A&M System Data, if return is not feasible. PROVIDER shall provide A&M System with at least ten (10) days' written notice of PROVIDER's intent to delete such A&M System Data, and shall confirm such deletion in writing.

5. CONFIDENTIALITY

- A. The Parties anticipate that under this Agreement it may be necessary for a Party (the "Disclosing Party") to transfer information of a confidential nature ("Confidential Information") to the other Party (the "Receiving Party"). The Disclosing Party shall clearly identify Confidential Information at the time of disclosure by (i) appropriate stamp or markings on the document exchanged, or (ii) written notice, with attached listings of all material, copies of all documents, and complete summaries of all oral disclosures (under prior assertion of the confidential nature of the same) to which each notice relates, delivered within thirty (30) days of the disclosure to the other party.
- B. Confidential Information shall not include A&M System Data. "Confidential Information" does not include information that: (i) is or becomes publicly known or available other than as a result of a breach of this Agreement by the Receiving Party; (ii) was already in the possession of the Receiving Party as the result of disclosure by an individual or entity that was not then obligated to keep that information confidential; (iii) the Disclosing Party had disclosed or discloses to an individual or entity without confidentiality restrictions; or (iv) the Receiving Party had developed or develops independently before or after the Disclosing Party discloses equivalent information to the Receiving Party.
- C. The Receiving Party shall handle Confidential Information with the same care that the Receiving Party uses to protect its own information of comparable sensitivity, but not less than reasonable care. The Receiving Party may use Confidential Information only for purposes of performing its obligations under this Agreement and may disclose Confidential Information only to the Receiving Party's employees, contractors, agents, and other representatives ("Representatives") having a need to know the Confidential Information for purposes of performing its obligations under this Agreement, provided that they are subject to confidentiality obligations not less restrictive than those set forth herein, and the Receiving Party remains responsible for its Representatives' compliance with the obligations under this Section.
- D. The Receiving Party shall promptly notify the Disclosing Party of any known unauthorized disclosure, misappropriation, or misuse of Confidential Information and shall take prompt and effective steps to prevent a recurrence of such misappropriation or misuse.
- E. If the Receiving Party is legally required to disclose Confidential Information, the Receiving Party shall, to the extent allowed by law, promptly give the Disclosing Party written notice of the requirement so as to provide the Disclosing Party a reasonable

opportunity to pursue appropriate process to prevent or limit the disclosure. If the Receiving Party complies with the terms of this Section, disclosure of that portion of the Confidential Information, which the Receiving Party is legally required to disclose, will not constitute a breach of this Agreement.

- F. The Receiving Party shall, upon request of the Disclosing Party, promptly return or destroy all materials embodying Confidential Information other than materials in electronic backup systems or otherwise not reasonably capable of being readily located and segregated without undue burden or expense, except that the Receiving Party may securely retain one (1) copy in its files solely for record purposes. The Receiving Party's obligations as to Confidential Information will survive the termination or expiration of this Agreement for a period of three (3) years.

6. INTELLECTUAL PROPERTY

- A. PROVIDER shall retain all rights, title, and interest in and to the Services. PROVIDER represents and warrants that: (i) it has the full right, power, and authority to grant the rights and licenses to Members; (ii) the Services do not infringe upon or violate any copyright, patent, trademark, or other proprietary or intellectual property rights of any third party; (iii) the Services will perform substantially in accordance with PROVIDER's marketing materials and documentation, including without limitation, any user guides, technical specifications, training materials, instructions, documented policies or other written materials regarding the Services that are posted, delivered or otherwise made available by PROVIDER to Members; and (iv) PROVIDER and each of its employees, subcontractors, or agents who will perform the Services has the necessary knowledge, skill, experience, and qualifications to provide and perform the Services in accordance with this Agreement, and the Services will be performed for and delivered to Members in a diligent, professional, workmanlike manner in accordance with industry standards.
- B. PROVIDER shall indemnify and hold harmless the A&M SYSTEM, Members, and their regents, employees, and agents (collectively, the "A&M System Indemnitees") from any Claim arising from or related to (i) an allegation that any of the Services infringe upon or violate the intellectual property rights of a third party ("Infringement Claim") or (ii) PROVIDER's breach of any of its representations or warranties in this Agreement. If the Services become or are likely to become the subject of an Infringement Claim, then PROVIDER may, at its expense and option, either: (a) replace or modify the Services to make them non-infringing, while maintaining equivalent functionality; (b) procure for the Members the right to continue using the Services pursuant to this Agreement; or (c) terminate this Agreement and refund the Members, on a pro-rata basis, the amount of any pre-paid fees.

7. COMPLIANCE WITH LAWS

- A. PROVIDER shall comply with all federal, state, and local laws, rules, and regulations applicable to the performance of its obligations under this Agreement.
- B. Each Party shall comply with U.S. export control regulations. If either Party desires to disclose to the other Party any information, technology, or data that is identified on any U.S. export control list, the disclosing Party shall advise the other Party at or before the time of intended disclosure and may not provide export-controlled information to the other Party without the written consent of the other Party. PROVIDER certifies that none

of its personnel participating in the activities under this Agreement is a “restricted party” as listed on the Denied Persons List, Entity List, and Unverified List (U.S. Department of Commerce), the Debarred Parties Lists (U.S. Department of State), the Specially Designated Nationals and Blocked Persons List (U.S. Department of Treasury), or any similar governmental lists.

- C. If applicable, for purposes of the Family Educational Rights and Privacy Act (“FERPA”), Member hereby designates PROVIDER as a school official with a legitimate educational interest in any education records (as defined in FERPA) that PROVIDER is required to create, access, receive, or maintain in order to fulfill its obligations under this Agreement. PROVIDER shall comply with FERPA as to any such education records and is prohibited from redisclosure of the education records except as provided for in this Agreement or otherwise authorized by FERPA or Member in writing. PROVIDER is only permitted to use the education records for the purpose of fulfilling its obligations under this Agreement and shall restrict disclosure of the education records solely to those employees, subcontractors or agents who have a need to access the education records for such purpose. PROVIDER shall require any such subcontractors or agents to comply with the same restrictions and obligations imposed on PROVIDER in this Section, including without limitation, the prohibition on redisclosure. PROVIDER shall implement and maintain reasonable administrative, technical, and physical safeguards to secure the education records from unauthorized access, disclosure or use.

8. INDEMNIFICATION

PROVIDER shall indemnify and hold harmless the A&M System Indemnitees from and against any third-party claim, damage, liability, expense or loss asserted against the A&M System Indemnitees (each, a “Claim”) arising out of (i) PROVIDER’s negligent or willful errors or omissions under this Agreement, or (ii) PROVIDER’s breach of any representation or warranty contained herein.

9. INSURANCE

Insurance requirements as stated within Exhibit C, attached hereto.

10. INFORMATION TECHNOLOGY

- A. **Electronic and Information Resources.** PROVIDER represents and warrants that the electronic and information resources and all associated information, documentation, and support that it provides to A&M SYSTEM and Members under this Agreement (collectively, the “EIRs”) comply with the applicable requirements set forth in Title 1, Chapter 213 of the Texas Administrative Code and Title 1, Chapter 206 of the Texas Administrative Code (as authorized by Chapter 2054, Subchapter M of the Texas Government Code) (the “EIR Accessibility Warranty”). If PROVIDER becomes aware that the EIRs, or any portion thereof, do not comply with the EIR Accessibility Warranty, PROVIDER shall, at no cost to A&M SYSTEM and Members, either (1) perform all necessary remediation to make the EIRs satisfy the EIR Accessibility Warranty or (2) replace the EIRs with new EIRs that satisfy the EIR Accessibility Warranty. In the event that PROVIDER fails or is unable to do so, A&M SYSTEM and Members may immediately terminate this Agreement, and PROVIDER will refund to A&M SYSTEM and Members all amounts paid by A&M SYSTEM and Members under this Agreement within thirty (30) days following the effective date of termination.

- B. **Access to Agency Data.** Pursuant to Section 2054.138, Texas Government Code, PROVIDER shall implement and maintain appropriate administrative, technical, and physical security measures, including without limitation, the security controls available at <https://cyber-standards.tamus.edu>, as may be amended from time to time (the "Security Controls"), to safeguard and preserve the confidentiality, integrity, and availability of A&M SYSTEM Data. PROVIDER shall periodically provide A&M System and Members with evidence of its compliance with the Security Controls within thirty (30) days of A&M System or Member's request.
- C. **Cloud Computing Services.** As of the Effective Date, PROVIDER represents and warrants that it complies with the then-current requirements of the risk and authorization management program established by the Texas Department of Information Resources ("TX-RAMP"). Pursuant to Section 2054.0593, Texas Government Code, PROVIDER shall maintain RAMP compliance and certification, as may be amended from time to time, throughout the Term, including any renewal term of this Agreement. PROVIDER shall provide A&M System and Members with evidence of its TX-RAMP compliance and certification within thirty (30) days of A&M System and Members request and at least thirty (30) days prior to the start of any renewal term of this Agreement. In the event that PROVIDER fails to maintain TX-RAMP compliance and certification throughout the Term, including any Renewal Term, A&M System and Members may immediately terminate this Agreement, and PROVIDER will provide a refund to A&M System and Members of any prepaid fees.

Cybersecurity Training Program. Pursuant to Section 2054.5192, Texas Government Code, PROVIDER and its employees, officers, and subcontractors who have access to A&M SYSTEM's or Members' computer system and/or database must complete a cybersecurity training program certified under Section 2054.519, Texas Government Code, and selected by A&M SYSTEM and Members. The cybersecurity training program must be completed by PROVIDER and its employees, officers, and subcontractors during the Term and any renewal period of this Agreement. PROVIDER shall verify completion of the program in writing to A&M SYSTEM and Members within the first thirty (30) calendar days of the Term and any renewal period of this Agreement. PROVIDER acknowledges and agrees that its failure to comply with the requirements of this Section are grounds for A&M SYSTEM and Members to terminate this Agreement for cause.

11. MISCELLANEOUS

- A. **Entire Agreement.** This Agreement constitutes the entire and only agreement between the Parties hereto and supersedes any prior understanding, written or oral agreements between the Parties, or "side deals" which are not described in this Agreement. This Agreement may be amended only by a subsequent written agreement signed by authorized representatives of both parties. In the event of a conflict between the terms of this Agreement and any other documents constituting part of this Agreement, the terms of this Agreement shall control.
- B. **Authority to Contract.** Each Party represents and warrants that it has full right, power and authority to enter into and perform its obligations under this Agreement, and that the person signing this Agreement is duly authorized to enter into this Agreement on its behalf.

- C. **Representations & Warranties.** If PROVIDER is a business entity, PROVIDER warrants, represents, covenants, and agrees that it is duly organized, validly existing and in good standing under the laws of the state of its incorporation or organization and is duly authorized and in good standing to conduct business in the State of Texas, that it has all necessary power and has received all necessary approvals to execute and deliver this Agreement, and the individual executing this Agreement on behalf of PROVIDER has been duly authorized to act for and bind PROVIDER.
- D. **Independent Contractor.** Notwithstanding any provision of this Agreement to the contrary, the Parties hereto are independent contractors. No employer-employee, partnership, agency, or joint venture relationship is created by this Agreement or by PROVIDER's Service to A&M SYSTEM and Members. Except as specifically required under the terms of this Agreement, PROVIDER (and its representatives, agents, employees and subcontractors) will not represent themselves to be an agent or representative of A&M SYSTEM or Members. As an independent contractor, PROVIDER is solely responsible for all taxes, withholdings, and other statutory or contractual obligations of any sort, including but not limited to workers' compensation insurance. PROVIDER and its employees shall observe and abide by all applicable A&M SYSTEM and Members policies, regulations, rules and procedures, including those applicable to conduct on its premises.
- E. **Use of Name.** Each Party acknowledges that all rights in any trademarks, service marks, slogans, logos, designs, and other similar means of distinction associated with that Party (its "Marks"), including all goodwill pertaining to the Marks, are the sole property of that Party. Neither Party may use the Marks of the other without the advance written consent of that Party, except that each Party may use the name of the other Party in factual statements that, in context, are not misleading. The Parties will mutually agree in advance upon any public announcements, or communications to the media regarding this Agreement or the Services to be provided pursuant to this Agreement.
- F. **Non-Assignment.** PROVIDER shall neither assign its rights nor delegate its duties under this Agreement without the prior written consent of A&M SYSTEM or Members.
- G. **Severability.** In case any one or more of the provisions contained in this Agreement shall, for any reason, be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provisions hereof, and this Agreement shall be construed as if such invalid, illegal, and unenforceable provision had never been contained herein. The Parties agree that any alterations, additions, or deletions to the provisions of the Agreement that are required by changes in federal or state law or regulations are automatically incorporated into the Agreement without written amendment hereto and shall become effective on the date designated by such law or by regulation.
- H. **Survival.** Any provision of this Agreement that may reasonably be interpreted as being intended by the Parties to survive the termination or expiration of this Agreement will survive the termination or expiration of this Agreement.
- I. **Force Majeure.** Neither Party shall be held liable or responsible to the other Party nor be deemed to have defaulted under or breached this Agreement for failure or delay in fulfilling or performing any obligation under this Agreement if and to the extent such failure or delay is caused by or results from causes beyond the affected Party's reasonable control, including, but not limited to, acts of God, strikes, riots, flood, fire, epidemics,

natural disaster, embargoes, war, insurrection, terrorist acts or any other circumstances of like character; provided, however, that the affected Party has not caused such force majeure event(s), shall use reasonable commercial efforts to avoid or remove such causes of nonperformance, and shall continue performance hereunder with reasonable dispatch whenever such causes are removed. Either Party shall provide the other Party with prompt written notice of any delay or failure to perform that occurs by reason of force majeure, including describing the force majeure event(s) and the actions taken to minimize the impact of such event(s).

- J. **Notices.** Any notice required or permitted under this Agreement must be in writing, and shall be deemed given: (i) three (3) business days after it is deposited and post-marked with the United States Postal Service, postage prepaid, certified mail, return receipt requested, (ii) the next business day after it is sent by overnight carrier, (iii) on the date sent by email transmission with electronic confirmation of receipt by the party being notified, or (iv) on the date of delivery if delivered personally. A&M SYSTEM and PROVIDER can change their respective notice address by sending to the other Party a notice of the new address. Notices should be addressed as follows:

A&M SYSTEM: The Texas A&M University System
 301 Tarrow St., Suite 273
 College Station, Texas 77840
 Attention: Jeff Zimmermann
 Phone: (979) 458-6410
 E-mail: jzimmermann@tamus.edu

PROVIDER: [_____]
 [_____]
 Attention: _____
 Phone: _____
 Email: _____

- K. **Governing Law.** The validity of this Agreement and all matters pertaining to this Agreement, including but not limited to, matters of performance, non-performance, breach, remedies, procedures, rights, duties, and interpretation or construction, shall be governed and determined by the Constitution and the laws of the State of Texas.
- L. **Venue.** Pursuant to Section 85.18(b), *Texas Education Code*, mandatory venue for all legal proceedings against A&M SYSTEM or Members is to be in the county in which the principal office of A&M SYSTEM's or Member's governing officer is located.
- M. **Non-Waiver.** A&M SYSTEM and Members are an agency of the state of Texas and under the Constitution and the laws of the state of Texas possesses certain rights and privileges, is subject to certain limitations and restrictions, and only has authority as is granted to it under the Constitution and the laws of the state of Texas. PROVIDER expressly acknowledges that A&M SYSTEM and Members are an agency of the state of Texas and nothing in this Agreement will be construed as a waiver or relinquishment by A&M SYSTEM and Members of their right to claim such exemptions, remedies, privileges, and immunities as may be provided by law, including the sovereign immunity of A&M SYSTEM and Members.

- N. **Dispute Resolution.** To the extent that Chapter 2260, Texas Government Code is applicable to this Agreement, the dispute resolution process provided in Chapter 2260, and the related rules adopted by the Texas Attorney General pursuant to Chapter 2260, shall be used by A&M SYSTEM, Members and PROVIDER to attempt to resolve any claim for breach of contract made by PROVIDER that cannot be resolved in the ordinary course of business. PROVIDER shall submit written notice of a claim of breach of contract under this Chapter to the Contracts Officer of A&M SYSTEM or the applicable Member, who shall examine PROVIDER's claim and any counterclaim and negotiate with PROVIDER in an effort to resolve the claim. This provision and nothing in this Agreement waives A&M SYSTEM's or Member's sovereign immunity to suit or liability, and A&M SYSTEM and Members have not waived their right to seek redress in the courts.
- O. **Public Information Act.** PROVIDER acknowledges that A&M SYSTEM and Members are obligated to strictly comply with the Public Information Act, Chapter 552, Texas Government Code, in responding to any request for public information pertaining to this Agreement, as well as any other disclosure of information required by applicable Texas law. Upon A&M SYSTEM's and Member's written request, PROVIDER will promptly provide specified contracting information exchanged or created under this Agreement for or on behalf of A&M SYSTEM or Members to A&M SYSTEM or Members in a non-proprietary format acceptable to A&M SYSTEM or Members that is accessible by the public. PROVIDER acknowledges that A&M SYSTEM and Members may be required to post a copy of the fully executed Agreement on its Internet website in compliance with Section 2261.253(a)(1), Texas Government Code. The requirements of Subchapter J, Chapter 552, Texas Government Code, may apply to this Agreement and PROVIDER agrees that this Agreement can be terminated if PROVIDER knowingly or intentionally fails to comply with a requirement of that subchapter.
- P. **Certification Regarding Business with Certain Countries and Organizations.** PROVIDER represents and warrants that it is not engaged in business with Iran, Sudan, or a foreign terrorist organization, as prohibited by Section 2252.152, Texas Government Code. PROVIDER acknowledges this Agreement may be terminated immediately if this certification is inaccurate.
- Q. **Delinquent Child Support Obligations.** A child support obligor who is more than 30 days delinquent in paying child support and a business entity in which the obligor is a sole proprietor, partner, shareholder, or owner with an ownership interest of at least 25 percent is not eligible to receive payments from state funds under an agreement to provide property, materials, or services until all arrearages have been paid or the obligor is in compliance with a written repayment agreement or court order as to any existing delinquency. Under Section 231.006, Texas Family Code, PROVIDER certifies that it is not ineligible to receive the payments under this Agreement and acknowledges that this Agreement may be terminated and payment may be withheld if this certification is inaccurate.
- R. **Payment of Debt or Delinquency to the State.** Pursuant to Sections 2107.008 and 2252.903, Texas Government Code, PROVIDER agrees that any payments owing to PROVIDER under this Agreement may be applied directly toward certain debts or delinquencies that PROVIDER owes the State of Texas or any agency of the State of Texas regardless of when they arise, until such debts or delinquencies are paid in full.

- S. **State Auditor's Office.** PROVIDER understands that acceptance of funds under this Agreement constitutes acceptance of the authority of the Texas State Auditor's Office, or any successor agency (collectively, "Auditor"), to conduct an audit or investigation in connection with those funds pursuant to Section 51.9335(c), Texas Education Code. PROVIDER agrees to cooperate with the Auditor in the conduct of the audit or investigation, including without limitation, providing all records requested. PROVIDER will include this provision in all contracts with permitted subcontractors.
- T. **HUB Subcontracting Plan.** It is the policy of the state of Texas, A&M SYSTEM and Members to encourage the use of Historically Underutilized Businesses ("HUB") in our contracts, purchasing transactions and through subcontracting opportunities. The goal of the HUB program is to promote equal access and equal opportunity to HUB vendors in A&M SYSTEM and Member contracting and purchasing. PROVIDER has indicated it will not subcontract any of its duties or obligations under this Agreement. If PROVIDER will subcontract any of its duties and obligations under this Agreement, PROVIDER will be required to provide prior written notice to A&M SYSTEM and Members and make a good faith effort to submit a HUB subcontracting plan as required under Section 20.285 of the Texas Administrative Code.
- U. **Certification Regarding Products from the Gaza Strip.** PROVIDER represents and warrants that the goods it provides to MEMBER under this Agreement, if any, are not produced in or exported from the Gaza Strip or from any organization or state actor with ties to Hamas.
- V. **Prohibition on Contracts with Companies Boycotting Israel.** To the extent that Chapter 2271, Texas Government Code, is applicable to this Agreement, PROVIDER certifies that (a) it does not currently boycott Israel, and (b) it will not boycott Israel during the Term of this Agreement. PROVIDER acknowledges this Agreement may be terminated and payment withheld if this certification is inaccurate.
- W. **Verification Regarding Discrimination Against Firearm Entities and Trade Associations.** To the extent that Chapter 2274, Texas Government Code, is applicable to this Agreement, PROVIDER verifies that (1) it does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association, and (2) will not discriminate during the term of this Agreement against a firearm entity or firearm trade association.
- X. **Verification Regarding Boycotting Energy Companies.** To the extent that Chapter 2274, Texas Government Code, is applicable to this Agreement, PROVIDER verifies that (1) it does not boycott energy companies, and (2) it will not boycott energy companies during the term of this Agreement. PROVIDER acknowledges this Agreement may be terminated and payment withheld if this verification is inaccurate.
- Y. **Loss of Funding.** Performance by A&M SYSTEM and Members under this Agreement may be dependent upon the appropriation and allotment of funds by the Texas State Legislature (the "Legislature"). If the Legislature fails to appropriate or allot the necessary funds, A&M SYSTEM and Members will issue written notice to PROVIDER and A&M SYSTEM and Members may terminate this Agreement without further duty or obligation hereunder. PROVIDER acknowledges that appropriation of funds is beyond the control of A&M SYSTEM and Members. In the event of a termination or cancellation under this

Section, A&M SYSTEM and Members will not be liable to PROVIDER for any damages that are caused or associated with such termination or cancellation.

- Z. **Prior Employment.** PROVIDER acknowledges that Section 2252.901, Texas Government Code, prohibits A&M SYSTEM and Members from using state appropriated funds to enter into an employment contract, a professional services contract under Chapter 2254, or a consulting services contract under Chapter 2254 with individual who has been previously employed by A&M SYSTEM and Members during the twelve (12) month period immediately prior to the effective date of the Agreement. If PROVIDER is an individual, by signing this Agreement, PROVIDER represents and warrants that it is not a former or retired employee of A&M SYSTEM or Members that was employed by A&M SYSTEM or Members during the twelve (12) month period immediately prior to the effective date of the Agreement.
- AA. **Conflict of Interest.** PROVIDER certifies, to the best of their knowledge and belief, that no member of the A&M System's Board of Regents, nor any officer of A&M SYSTEM or Members, has a direct or indirect financial interest in PROVIDER or in the transaction that is the subject of the Agreement.
- BB. **Franchise Tax Certification.** If PROVIDER is a taxable entity subject to the Texas Franchise Tax (Chapter 171, *Texas Tax Code*), then PROVIDER certifies that it is not currently delinquent in the payment of any franchise (margin) taxes or that PROVIDER is exempt from the payment of franchise (margin) taxes.
- CC. **Not Eligible for Rehire.** PROVIDER is responsible for ensuring that its employees involved in any work being performed for A&M SYSTEM or Members under this Agreement have not been designated as "Not Eligible for Rehire" as defined in System policy 32.02, *Discipline and Dismissal of Employees*, Section 4 ("NEFR Employee"). In the event A&M SYSTEM or Member becomes aware that PROVIDER has a NEFR Employee involved in any work being performed under this Agreement, A&M SYSTEM or Member will have the sole right to demand removal of such NEFR Employee from work being performed under this Agreement. Non-conformance to this requirement may be grounds for termination of this Agreement by A&M SYSTEM or Member.
- DD. **Campus Secure Areas; Research Activities; Confidentiality.** Only applicable to the extent A&M SYSTEM enters into an Order Form for the RELLIS Camus, the parties acknowledge that activities at the RELLIS Campus involve the conduct of research, which may be highly sensitive in nature. The parties agree that PROVIDER's access to the RELLIS Campus (including access by its employees, agents, and subcontractors) shall be restricted to the locations and purposes described herein, or otherwise authorized by A&M System. The parties agree that all research and testing information and activities ("Research Activities") conducted or accessed on the RELLIS Campus shall be considered Confidential Information (as defined herein) belonging to the A&M System or the individual researcher or licensee conducting the Research Activities. PROVIDER agrees that it (including its employees, agents, and subcontractors) shall comply with any security processes and procedures communicated to PROVIDER before or during PROVIDER's access to the RELLIS Campus, and shall not attempt to access the Research Activities at the RELLIS Campus. In the event that PROVIDER (including its employees, agents, and subcontractors) should view, receive, hear, observe, or access Research Activities of any entity at the RELLIS Campus (whether from air space, office, hangar, common area, electronically, or by any other means), PROVIDER (including its employees, agents, and

subcontractors) shall treat all such information as Confidential Information and shall use reasonable care to protect the Confidential Information from disclosure and not disclose, copy, photograph, record, retain, use or discuss any such Confidential Information. For purposes of this section, Confidential Information means any information not publicly known or available, including, but not limited to, sensitive, proprietary or other non-public information, or trade secrets, written or oral, whether or not it is marked as such, that is disclosed or made available to the receiving party, directly or indirectly, through any means of communication or observation. PROVIDER is responsible for ensuring compliance of its employees, agents and subcontractors with this section.

IN WITNESS WHEREOF, the Parties have entered into this Agreement as of the Effective Date.

The Texas A&M University System

[_____]

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

- Exhibit A – Service
- Exhibit B – Fee Rate Schedule
- Exhibit C - Insurance

