



MASTER SERVICES AGREEMENT

KEY TERMS COVER SHEET

University Contract Number:

Effective Date: [DATE], 2020

University Address: The University of Chicago
6054 S. Drexel Avenue Suite 300
Chicago, Illinois 60637

Consultant Name/Address: [Insert Consultant Entity],
[Insert Type/State of Business Organization (e.g. an
Illinois corporation)]
Street Address
City, State, Zip

Individuals to Receive Notice:

If to the University: Procurement and Payment Services
6054 South Drexel Avenue Suite 300
Chicago, IL 60637
Email: pps@uchicago.edu

If to Consultant: xxxxxxxxxx, Project Manager
[ADDRESS]
Email: xxxxxx@uchicago.edu

With a copy to:

MASTER SERVICES AGREEMENT

This MASTER SERVICES AGREEMENT (this “**Agreement**”) dated as of the Effective Date set forth on the Key Terms Cover Sheet is made by and between The University of Chicago (the “**University**”) and _____ (“**Consultant**”).

WHEREAS, the University wishes to engage Consultant to perform various services; and

WHEREAS, Consultant is in the business of providing, and wishes to provide, such services.

NOW, THEREFORE, in consideration of the mutual agreements and covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

ARTICLE 1 **DEFINITIONS**

1.1 Definitions. Capitalized terms used herein without definition shall have the meanings ascribed to them on Exhibit A.

ARTICLE 2 **CONSULTANT’S RESPONSIBILITIES**

2.1 Scope of Services. Consultant will provide the services set forth in and reasonably inferable from each statement of work entered into hereunder (each, a “**Statement of Work**”) or as otherwise necessary and appropriate to carry out the purposes thereof (together with all other services to be provided hereunder, the “**Services**”). Consultant shall be responsible for providing its own resources and equipment as necessary to provide the Services.

2.2 Deliverables. Consultant shall provide and deliver to the University each Deliverable described in the applicable Statement of Work: (i) on or before the due dates therefor as set forth in the applicable Statement of Work and (ii) in compliance with the requirements for each such Deliverable under this Agreement and the applicable Statement of Work. Each such Deliverable is subject to the University’s acceptance thereof pursuant to Article 4.

2.3 Milestones and Service Levels. Consultant shall perform all of its obligations in accordance with any milestone dates set forth in the applicable Statement of Work. Consultant shall provide the Services so as to meet or exceed any minimum service performance standards set forth in the applicable Statement of Work (such standards, the “**Service Levels**”).

2.4 Personnel.

2.4.1 Generally. Consultant shall staff its project team with qualified professionals, including without limitation, those individuals in key positions identified in the applicable Statement of Work (the “**Key Positions**”). Consultant shall maintain staffing levels as necessary to properly perform Consultant’s obligations under this Agreement. Consultant shall not voluntarily remove any individual in a Key Position during the performance of the applicable Statement of Work, or such individual’s replacement as approved under this Agreement, without the prior written approval of the University. Except as expressly provided in a Statement of Work, Consultant is responsible for providing all personnel necessary to provide the Services.

2.4.2 Key Positions. Consultant shall assign a project manager (the “**Consultant Project Manager**”) to interface with the University. Consultant acknowledges and agrees that the Consultant Project Manager will be a Key Position. The Consultant Project Manager shall be an experienced

manager with knowledge of Consultant's materials and services and shall direct the efforts in fulfilling Consultant's obligations hereunder.

2.4.3 Background Checks. Consultant shall, if requested by the University and only to the extent permitted by Applicable Law, perform background and criminal checks and drug tests on its personnel performing Services hereunder and shall not utilize hereunder any individual for whom the results of such checks and tests reveals material negative information.

2.4.4 Attrition; Replacements.

a. Consultant shall maintain reasonable continuity of all Consultant personnel performing Services.

b. Consultant shall replace any of its personnel that the University reasonably and legally requests to have replaced; provided, however, that with respect to any Consultant personnel performing Services on a fixed-fee or not-to-exceed basis and subject to Section 2.4.3, Consultant shall have no obligation to replace such Consultant personnel unless the University reasonably believes that: (i) such Person's performance is inadequate or has had, or could reasonably be expected to have, an adverse effect on the University's operations; (ii) such Person's behavior is inappropriate; or (iii) such Person has violated any confidentiality obligations to which he or she is bound, including any such obligations set forth in this Agreement or a Statement of Work; or (iv) such Person has violated, or has caused the University to violate, any Applicable Law.

c. Any replacement personnel, whether replaced upon request of the University or otherwise, shall be individuals possessing comparable or greater experience, qualifications and credentials as the Persons being replaced. In the case of Key Positions, any such replacement personnel shall be subject to the University's prior written approval.

2.4.5 Use of Subcontractors. Consultant shall not use any Subcontractors without the prior written consent of the University. Consultant shall not be relieved of its obligations under this Agreement by use of any such Subcontractors. If the University determines that the performance or conduct of any Consultant Subcontractor is unsatisfactory, the University may notify Consultant of its determination in writing, indicating the reasons therefor, in which event Consultant shall promptly take all necessary actions to remedy the performance or conduct of such Subcontractor and, if so requested by the University, to replace such Subcontractor.

2.4.6 Non-Solicitation. During the term of any Statement of Work, and for a period of twelve (12) months after the termination or expiration thereof, neither party shall hire, directly or through a staffing company or placement agency, without the other party's consent, or otherwise retain as an employee or independent contractor an employee or contractor who worked for the other party or an Affiliate of the other party and who had substantive contact with personnel of the other Party at any time during the course of such Statement of Work. This provision shall not restrict the right of either party to solicit or recruit through general solicitations (provided such solicitations are not directed to specific individuals or companies) which solicitations are made through media advertisements or similar forms of solicitations, including the use of search firms, as long as those search firms have not been given information obtained under this engagement.

2.5 Compliance With Applicable Laws. Consultant shall at its sole expense, perform its obligations hereunder in compliance with all Applicable Laws, and in such a manner as not to cause the University to violate any Applicable Laws. Consultant shall obtain all licenses, permits and certifications required by Applicable Laws, if any, to perform the Services and shall pay all fees, taxes and related costs associated therewith.

2.6 Compliance With University Policies. Consultant shall, and shall cause its personnel and Subcontractors to, comply with the University's security rules and requirements for the protection of the

University's facilities, materials, equipment, and personnel while on University premises. Consultant shall, and shall cause its personnel and Subcontractors to, comply with all University policies concerning access to computers and use of computer data and software.

ARTICLE 3 **UNIVERSITY RESPONSIBILITIES**

3.1 Generally. The University shall perform its obligations as expressly set forth in applicable Statement of Work ("**University Functions**").

3.2 Personnel. The University shall assign a project manager (the "**University Project Manager**") to interface with the Consultant Project Manager and shall assign such other personnel as it deems appropriate to perform the University Functions.

ARTICLE 4 **ACCEPTANCE TESTING**

4.1 Testing Process. The University shall have the right to review and test any Deliverable and shall have the right to either accept or reject each such Deliverable. The University shall review and test Deliverables using the applicable test procedures and standards set forth in the applicable Statement of Work or such other standards as are mutually agreed upon in writing to determine whether such Deliverable meets the applicable specifications or acceptance criteria set forth in the applicable Statement of Work or as otherwise mutually agreed in writing. To the extent any Statement of Work does not set forth acceptance criteria for any Deliverable, the applicable acceptance criteria shall be whether such Deliverable meets the requirements of this Agreement and the applicable Statement of Work to the University's reasonable satisfaction.

4.2 Acceptance. No Deliverable shall be deemed to have been accepted by the University until the University has notified Consultant in writing that acceptance has occurred ("**Acceptance**").

4.3 Deliverable Milestones. In the event any milestone or deadline is tied to the delivery of any Deliverable, such milestone or deadline shall be deemed to have been met only upon Acceptance of such Deliverable.

ARTICLE 5 **CHANGE ORDER PROCESS**

5.1 Change Orders. The University may request, at any time and from time to time, that Consultant modify its performance of any Services or perform additional services for the University under an existing Statement of Work. Within a reasonable period (not to exceed ten (10) Business Days) after receiving such a request from the University, Consultant shall prepare and submit a written proposal in the form of a change order ("**Change Order**") to the University that: (a) if applicable, assesses the expected impact of such request on any Services or Deliverables then being provided hereunder; (b) defines and describes how Consultant would fulfill or satisfy such request, and describes any additional Services and Deliverables to be provided by Consultant pursuant thereto in reasonable detail; (c) sets forth pricing, specifications, implementation plans and time schedules, with appropriate milestone and completion dates, anticipated by Consultant in connection with fulfilling such request; (d) contains proposed completion and acceptance criteria; and (e) sets forth any other information Consultant considers appropriate for inclusion. The parties shall thereafter negotiate in good faith to finalize such Change Order. No Change Order shall be binding upon the University or Consultant unless executed and delivered by an authorized signatory of such party. Once executed and delivered by an authorized signatory of each party, such Change Order shall constitute an amendment to, and shall be deemed part of, the applicable Statement of Work.

ARTICLE 6
PRICE AND PAYMENTS

6.1 Total Price. Except as specifically provided in this Paragraph 6.1, the total consideration payable to Consultant under this Agreement shall consist of the fees set forth in a Statement of Work (the “**Fees**”), and no other fees or charges of any kind whatsoever shall be payable or reimbursable under this Agreement in respect of the Deliverables or Consultant’s obligations to provide Services in connection with the Deliverables or provide any Services hereunder. The Fees do not include charges for Consultant’s out-of-pocket expenses, which shall be reimbursable solely to the extent provided in Paragraph 6.2.

6.2 Travel Expenses. The University shall reimburse Consultant for reasonable and necessary travel expenses, actually incurred by Consultant personnel directly providing Services under a Statement of Work, only if and to the extent incurred in accordance with both: (i) Consultant’s Travel and Expense Billing Policy attached as Exhibit B to this Agreement; and (ii) the University’s Financial Policy 1202 - Travel.

6.3 Invoicing and Payment

6.3.1 Invoicing.

- a. With respect to any Statement of Work, or portion thereof, that designates Fees to be paid on a milestone basis, upon the occurrence of each event designated as a milestone, Consultant may invoice the University for the amount specified in the Statement of Work to be paid upon completion of such milestone.
- b. With respect to any Statement of Work, or portion thereof, that designates Fees to be paid on a time-and-materials basis, a not-to-exceed basis, or does not designate a specific fee structure, Consultant may invoice for Fees as and when specified on such Statement of Work; provided, that, if such Statement of Work does not specify when Consultant may invoice the University, Consultant may invoice the University monthly in arrears for all Fees incurred during such month.

6.3.2 Detailed invoices. Each invoice rendered by Consultant shall include a reasonably detailed summary of the Fees and expenses reflected therein, separately identifying the Fee and expense components thereof by category and also separately identifying that portion of the Fees that are for consulting services and any amounts invoiced that are for delivery of any software and other products.

6.3.3 Payment. The University shall pay each invoice properly issued by Consultant hereunder within forty five (45) calendar days after its receipt thereof. The University may, however, withhold payment of any invoiced amounts that the University disputes in good faith, pending resolution of the matter pursuant to Paragraph 7.2.

6.4 No Excess Charges. For any Services to be performed on a fixed-fee or not-to-exceed-fee basis, absent the University’s specific prior written consent, the University shall have no obligation to pay Consultant any amounts in excess of such fixed or not-to-exceed fee amount, notwithstanding anything to the contrary set forth in the Statement of Work applicable to such Services or any assumptions set forth therein.

6.5 Taxes. The University shall pay any and all applicable taxes, however designated, incurred as a result of or otherwise in connection with this Agreement or the Services, excluding taxes based upon or measured by the net income of Consultant. Consultant shall not be entitled to gross up charges in order to offset any tax assessed on a Consultant or a Subcontractor.

6.6 Performance Credits. For any Statement of Work for which Service Levels are applicable, if the applicable Statement of Work also establishes performance credits or other monetary adjustments, however

designated (“**Performance Credits**”), to be applied in the event that Consultant fails to achieve an applicable Service Level, Consultant shall include with each invoice a credit in an amount equal to the aggregate Performance Credit applicable during the period of that invoice. If the amount of any Performance Credits exceeds the amount otherwise to be invoiced, Consultant shall carry such credits forward on each subsequent invoice until fully credited to the University, and, if a credit balance remains at the end of the Term, Consultant shall then refund the credit balance to the University. Performance Credits are intended to reflect, to some extent, the diminished value of Consultant’s Services as a result of the failure of Consultant to meet the Service Level requirements and constitute agreed fee reductions. Performance Credits do not constitute penalties or liquidated damages.

6.7 Records; Audits. During the term of this Agreement and for a period of three (3) years after the termination thereof, Consultant shall maintain accurate and complete records of its performance under this Agreement. Such records shall include documentation of any price, cost, or budget computations. During the term of this Agreement and for a period of three (3) years after the termination thereof, upon reasonable notice to Consultant, but not more than once in any six (6) month period, the University or its designated representative may audit or cause to be audited and verify the accuracy of Consultant’s records and invoices to the University and Consultant’s Subcontractors’ invoices to Consultant. Notwithstanding the foregoing, the University may not designate a representative to conduct such audit if such representative’s compensation is contingent or dependent on the amount of any recovery from Consultant. Consultant shall provide the University and its authorized agents and representatives reasonable access during normal business hours to inspect Consultant’s and its Subcontractor’s premises, and copy Consultant’s books and records for purposes of such audit during normal business hours. Consultant shall reasonably cooperate with the University or its representatives in the conduct of such audit. Such audit shall be at the University’s sole cost and expense; provided, however, that if such audit discloses that an error of five percent (5%) or more regarding invoices during the audited period was made in favor of Consultant or any Consultant subcontractor, Consultant shall pay the entire cost of such audit.

ARTICLE 7
PROJECT MANAGEMENT AND DISPUTE RESOLUTION

7.1 Delays and Defaults. In the event of any delay or default by the University or its personnel that causes or can reasonably be expected to cause a delay in Consultant’s performance hereunder or increase the amount of services required of Consultant to perform the Services, Consultant shall, as soon as practicable after the occurrence of such delay or default, notify the University in writing of the particulars of such delay or default, the estimated impact of such delay or default on the applicable timetable under the Agreement and the estimated amount, if any, of additional Services required. If the University disputes any of the matters set forth in Consultant’s notice, the University shall promptly submit such matter to the dispute resolution process of Paragraph 7.2. If and to the extent that the University does not cure the delay or default and the delay or default causes a material increase in the time necessary to complete the tasks set forth in the applicable Statement of Work, or otherwise directly causes a failure by Consultant to comply with the requirements hereof, to the extent set forth in either (i) Consultant’s notice (if the University shall not have disputed such notice) or (ii) in a written agreement resulting from the dispute resolution process (if the University shall have initiated such process) and solely with respect to the matters described therein, Consultant shall be relieved of its obligation of timeliness hereunder. The University’s failure to provide Acceptance of a Deliverable hereunder shall not constitute a delay or default by the University if and to the extent that such Deliverable did not meet the requirements of this Agreement.

7.2 Dispute Resolution

7.2.1 Process.

- a. The parties will attempt to resolve any disputes that arise out of or in connection with this Agreement through good faith negotiation. If a dispute arises, the University Project Manager and the Consultant Project Manager shall first try to resolve it. If the dispute is not resolved within fifteen (15) Business Days, either party may escalate the dispute by contacting the following persons, who shall attempt to resolve the dispute by mutual agreement:

In the case of Consultant:

In the case of the University:

- b. If the dispute has not been resolved within ten (10) Business Days after either party escalates the process, either party may initiate non-binding mediation by sending notice in writing to the other party identifying the issues in dispute and requesting that they be resolved through mediation and proposing a neutral mediator. The party receiving the request for mediation shall have five (5) Business Days after receipt of the request to accept or reject the mediation request and to respond to the initiating party's suggestion of a mediator.
- c. If the request for mediation is rejected or the dispute has not been resolved within thirty (30) Business Days following the date of the request for mediation or such other date as is agreed upon by the parties, either party may commence any legal proceeding permitted by Applicable Law.

7.3 No Termination or Suspension of Services. Notwithstanding anything to the contrary contained herein, and even if any dispute arises between the parties, in no event shall Consultant interrupt or delay the provision of Services to the University, disable any Deliverable or any portion thereof, or perform any other action that prevents, slows down, or reduces in any way the provision of Services or the University's ability to conduct its operations.

7.4 Injunctive relief. Neither party shall be obligated to follow the procedures set forth in this Paragraph 7.2 in order to seek injunctive relief.

ARTICLE 8 **WORK PRODUCT AND PROPRIETARY MATERIALS**

8.1 Ownership of Pre-Existing Materials. All Work Product, General Knowledge and Intellectual Property Rights owned by Consultant and in existence prior to the Effective Date (collectively, "**Consultant Materials**"), shall continue to be owned exclusively by Consultant and the University shall not have any rights thereto except as provided herein. To the extent any Consultant Materials are used or embodied in Project Work Product or is used in the performance of the Services or otherwise delivered to the University hereunder, Consultant hereby grants the University and its Affiliates a worldwide, perpetual, transferable, sublicenseable, royalty-free license to use, copy, modify, display and transmit (including electronically and wirelessly) such Consultant Materials and to make, have made, use and sell any inventions therein in connection with the University's and its Affiliates' internal operations. Consultant shall identify in writing all Consultant Materials embodied in Project Work Product prior to incorporating such Consultant Materials in any Deliverables.

8.2 Project Work Product. Subject to Paragraph 8.1, all Project Work Product shall be owned exclusively by the University and, effective in each case upon its creation, is hereby assigned by Consultant to the University. Consultant is hereby granted a license to such Project Work Product solely for purposes of, and during the term of, carrying out its duties hereunder. To the extent that Project Work Product is created by the embedding or compiling of Consultant Materials with newly created Work Product, the University's ownership interest shall not extend to the Consultant Materials included therein, but shall include the compilation or combination of Work Product that is a part of the Project Work Product.

8.3 General Knowledge. The University hereby grants to Consultant a worldwide, perpetual, transferable, sublicenseable, royalty-free license to use, copy, modify, display and transmit (including electronically and wirelessly) such General Knowledge and any Intellectual Property Rights therein in connection with Consultant's internal operations; provided, that: (i) the foregoing license shall not include any right to use, copy, modify, display or transmit any University Marks; and (ii) THE UNIVERSITY

MAKES NO, AND HEREBY DISCLAIMS ALL, REPRESENTATIONS AND WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO SUCH GENERAL KNOWLEDGE.

ARTICLE 9
CONFIDENTIALITY AND DATA PROTECTION

9.1 Confidentiality. Each party agrees not to disclose the Confidential Information of the other to any third party and to treat it with the same degree of care as it would its own Confidential Information. Each party further agrees not to disclose the Confidential Information of the other to any officers, employees, legal advisors, contractors, or agents other than those with a need to have access to it, and to instruct such personnel on the need to maintain the confidentiality of the Confidential Information. Neither party shall use the Confidential Information of the other party except solely to the extent necessary in and during the performance of this Agreement or as expressly licensed hereunder. Each party shall be responsible for any improper use or disclosure of any Confidential Information by any of its personnel or former personnel.

9.2 Compelled Disclosure. A disclosure by a party of the Confidential Information of the other party to the extent required by Applicable Law shall not be a breach of this Agreement, provided the party so compelled promptly provides the other party with prior notice of such compelled disclosure (to the extent legally permitted) and provides reasonable assistance, at the other party's cost, if the other party wishes to contest such disclosure.

9.3 Data Ownership and Protection

9.3.1 University Data. Notwithstanding anything to the contrary herein, the University shall be and remain, at all times, the sole and exclusive owner of the University Data (including any modification, compilation, or derivative work therefrom and all intellectual or Intellectual Property Rights therein). The University hereby grants to Consultant a license to use and copy the University Data solely for purposes of carrying out its duties hereunder during the term and solely to the extent that Consultant requires access to such data to provide the Services.

9.3.2 FERPA. Consultant acknowledges that for the purposes of this Agreement it will be designated as a "school official" with "legitimate educational interests" in the University's Education records, as those terms have been defined under FERPA and its implementing regulations, and Consultant shall comply with the limitations and requirements imposed on school officials. Consultant will use the Education records only for the purpose of fulfilling its duties under this Agreement for the University's benefit, and will not share such data with or disclose it to any third party except as required by law, or authorized in writing by the University.

9.3.3 Data Privacy. Consultant shall comply with all Applicable Laws relating to data protection and privacy to the extent applicable to its performance of its obligations under this Agreement. This includes, without limitation, any applicable laws with respect to the creation, collection, use, disclosure, or transfer by the University or on its behalf of non-public information relating to Personally Identifiable Information, including FERPA. Consultant shall handle Personally Identifiable Information in accordance with the Client's written, reasonable instructions, as provided from time to time, and policies and procedures for such Personally Identifiable Information. Consultant shall also use appropriate administrative, physical and technical safeguards to secure such data from unauthorized or unlawful disclosure or use and accidental loss and destruction. Consultant shall be liable for any unauthorized or unlawful disclosure or use of Personally Identifiable Information by any of its personnel or Subcontractors. Consultant shall not: (i) use Personally Identifiable Information other than as necessary to perform the Services; (ii) disclose any Personally Identifiable Information to any other Person without the prior written consent of the University, which consent may be withheld in the University's sole discretion; or (iii) store or process any Personally Identifiable Information outside of the United States.

9.3.4 Breach Notification. Promptly upon becoming aware of an actual or suspected unauthorized access to or disclosure of any University Data, or of circumstances that could have resulted in

unauthorized access to or disclosure or use of University Data, Consultant will notify the University, fully investigate the incident, and cooperate fully with the University's investigation of and response to the incident. Except as otherwise required by law, Consultant will not provide notice of the incident directly to individuals whose Personally Identifiable Information was involved, regulatory agencies, or other entities, without prior written consent of the University.

ARTICLE 10 **REPRESENTATIONS AND WARRANTIES**

10.1 Mutual Warranties.

10.1.1 Authority. Each party represents and warrants to the other party that it has the right and authority to enter into this Agreement and perform its obligations hereunder.

10.1.2 No Conflicts. Each party represents and warrants to the other party that the execution and performance of this Agreement does not and will not violate, conflict with, or constitute a default under any contract, commitment, arrangement, understanding, agreement, or any adjudication, order, or injunction of any kind by any court or agency to which such party is bound.

10.2 Consultant's Warranties. Consultant represents and warrants to the University that:

10.2.1 Services. The Services will be performed in a timely, competent, and professional manner.

10.2.2 Deliverables. Each Deliverable furnished under this Agreement will include all of the elements, features and functionality described in the applicable Statement of Work and otherwise will meet all requirements for such Deliverable as provided for in such Statement of Work. In addition, each Deliverable will reflect professional quality standards and be free from any material defects.

10.2.3 Data Security. All Deliverables hereunder will be free from any virus, Trojan Horse, or other malicious software or device and all Services will be performed utilizing commercially reasonable security measures.

10.2.4 Intellectual Property. The Work Product and other Deliverables and Services provided by Consultant under this Agreement, and the University's will not infringe or otherwise violate any statutory or other rights of any third party in or to any Intellectual Property Rights therein.

10.2.5 Documentation. All user manuals, technical specifications, and other documentation (if any) required hereunder is, and shall continue to be, reasonably complete and shall accurately describe the Deliverables required to be described therein so as to enable University personnel with ordinary skills and experience to fully utilize the Deliverables for all purposes for which they are being acquired by the University.

10.2.6 Warranty Period. The Consultant warrants the Services for a period twelve months from the completion of the Services (the "Warranty Period"). If during the Warranty Period, Consultant receives written notice from the University of non-conformity with the performance of the Services, then Consultant will, at no additional cost to the University (a) promptly correct any Services that fail to meet this warranty; or (b) in the event Consultant is unable to correct such deficiencies after good-faith efforts, Consultant shall refund the University the fees paid for the non-conforming Services.

10.2.7 Accessibility. Consultant represents and warrants that the Services are and will remain in material conformance with all federal disability laws, including Section 508 of the Rehabilitation Act, that are applicable to the Services and will also remain in conformance with Level A and AA of the W3C Web Content Accessibility Guidelines 2.1, as applicable to the Services.

10.3 Disclaimer of Warranties. THE FOREGOING, TOGETHER WITH ALL EXPRESS WARRANTIES CONTAINED IN ANY EXHIBIT HERETO OR STATEMENT OF WORK HEREUNDER OR OTHERWISE INCORPORATED HEREIN, CONSTITUTES AND EXPRESSES THE ENTIRE STATEMENT OF THE PARTIES WITH RESPECT TO WARRANTIES. CONSULTANT AND THE UNIVERSITY DISCLAIM ALL OTHER WARRANTIES WITH RESPECT TO THIS AGREEMENT, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

ARTICLE 11
INDEMNIFICATION; INSURANCE

11.1 Indemnification.

11.1.1 General Indemnification. Consultant shall defend, indemnify and hold harmless the University and its Affiliates trustees, officers, employees, contractors, suppliers, licensors, representatives, and agents (the “**University Indemnitees**”) from and against all claims, actions, causes of action, damages, fines, liabilities and losses and all related costs and expenses (including reasonable attorneys’ fees and other reasonable legal, investigative and expert consulting costs, fees and expenses) (collectively, “**Losses**”) arising from: (i) injury or death to any person or damage to any tangible property arising or resulting from the presence of Consultants or its Personnel on the premises of the other party; or (ii) any allegations that, if true, would have arisen or resulted from a violation of Consultant’s obligations pursuant to Article 9 (or any sub-paragraph thereunder).

11.1.2 Intellectual Property Indemnification. Consultant shall defend, indemnify and hold harmless the University Indemnitees from and against any and all Losses based on any allegations that the Deliverables or Services, or any part or parts thereof, infringe or misappropriate the Intellectual Property Rights of any third party. Notwithstanding the foregoing, Consultant shall have no obligation to indemnify any University Indemnitees for any Losses to the extent arising or resulting from: (i) use of the Services or Deliverables other than as authorized by this Agreement; (ii) the combination, operation, or use of the Services or Deliverables, or any part or parts thereof, with software, hardware, or other materials not reasonably anticipated by the applicable Statement of Work or which are not reasonably necessary or customary to utilize the Services or Deliverables for their intended purposes, if such Losses would have been avoided by the use of the Services or Deliverables, or part or parts thereof, without such software, hardware or other materials; or (iii) any modification by the University of the Services or Deliverables not made or authorized by Consultant. In the event that any Deliverables or Services, or any part or parts thereof, are alleged or found to be misappropriated from, or to infringe, the Intellectual Property Rights of a third party, or if their use by any University Indemnitee is enjoined, then in addition to the foregoing indemnification obligation, and at the University’s option and Consultant’s sole expense, Consultant shall: (a) secure a license to use such portion to enable such Deliverables or Services to be utilized in a manner consistent with the terms of this Agreement, (b) replace the same with other materials with equally suitable, functionally equivalent, compatible, non-infringing assets or services, or (c) modify the Deliverables or Services so that they are no longer infringing.

11.1.3 Procedures. The University Indemnitees shall give to Consultant prompt written notice of any Losses for which it seeks indemnification or defense under this Paragraph 11.1 (including any sub-paragraph thereunder). Failure to give prompt notice shall not affect the indemnification obligations hereunder in the absence of actual prejudice to Consultant. The University shall have the right at its own expense to participate in the defense of such claim with counsel of its choosing. The University shall cooperate in all reasonable respects with Consultant, subject to Consultant’s reimbursement of the University’s reasonably incurred out-of-pocket expenses in so doing.

11.2 Insurance. Consultant shall maintain during the term of this Agreement at its sole expense any insurance required by Applicable Law, but in no event less than the levels set forth on Exhibit C. Such insurance will be placed with insurers that are reasonably acceptable to the University. Consultant shall

promptly upon the University's request: provide evidence of such insurance by providing a Certificate of Insurance with original endorsement of the University as Additional Insured, to the extent of the indemnity, and the University coverage as primary insured; and (ii) during and after the term of this Agreement as may be required relevant to events covered by this Agreement, provide certified copies of all insurance policies.

ARTICLE 12
MISCELLANEOUS

12.1 TERM.

12.1.1 Term. The term of this Agreement shall commence on the Effective Date and continue until terminated in accordance with this Paragraph 12.1 (including all sub-paragraphs thereunder).

12.1.2 Termination for Convenience. The University may terminate this Agreement or any Statement of Work at any time by giving Consultant thirty (30) days prior written notice of termination.

12.1.3 Termination for Cause.

a. Either party may terminate this Agreement or any Statement of Work immediately by providing written notice to the other party upon the occurrence of any of the following: (i) such other party becomes insolvent or subject to any proceeding under the federal bankruptcy laws or other similar laws for the protection of creditors; or (ii) such other party materially breaches this Agreement and such breach is not cured within thirty (30) days after such other party's receipt of written notice from the non-breaching party.

b. The University may terminate this Agreement or any Statement of Work immediately by providing written notice to Consultant upon the occurrence of any of the following: (i) Consultant's performance hereunder is delayed by a force majeure event for more than thirty (30) days; (ii) Consultant breaches any of its obligations pursuant to Paragraph 9.3 (or any sub-paragraph thereunder); (iii) the University reasonably believes that imminent and serious harm may occur to University property or personnel from the actions or inactions of Consultant or its personnel and such harm cannot reasonably be avoided by the University at no additional cost; or (iv) Consultant breaches Paragraph 2.5 and Consultant is not reasonably capable of promptly curing, or is unwilling to promptly cure, such breach in a timely manner at no additional cost to the University.

12.1.4 Effects of Termination.

a. Promptly upon termination or expiration of this Agreement, Consultant shall deliver to the University all Project Work Product and all Deliverables (whether or not completed) in existence at the point of termination. Consultant shall cooperate reasonably in the orderly wind-down of the Services and/or transition to another provider, such cooperation to include reasonable continuity of personnel during the transition with those providing Services hereunder.

b. In the event the University terminates this Agreement pursuant to Paragraph 12.1.2 or Consultant terminates this Agreement pursuant to Paragraph 12.1.3: (i) the University shall pay to Consultant all undisputed Fees due under any terminated Statements of Work for Services actually performed through the date of termination; (ii) the University shall reimburse Consultant for all travel expenses actually incurred prior to the date of termination pursuant to Paragraph 6.2; and (iii) Consultant shall promptly refund to the University any unused credit or overages in payment received by Consultant. Consultant shall submit all invoices for any amounts owed under this Paragraph within sixty (60) days after the date of termination or expiration of this Agreement. The University shall have no obligation to pay any invoice for any such amounts submitted after the expiration of such sixty (60)-day period.

c. Upon termination of this Agreement, all Statements of Work shall simultaneously terminate.

12.1.5 Survival. The obligations of the parties pursuant to the following sections shall survive termination or expiration of this Agreement: Articles 1, 8, 9, 11, and 12.

12.2 Amendments; Waivers. This Agreement may not be modified, amended or altered in any way except by a written agreement signed by the parties hereto that states it is an amendment to this Agreement. No purported waiver by any party of any default by any other party of any term or provision contained herein (whether by omission, delay or otherwise) will be deemed to be a waiver of such term or provision unless the waiver is in writing and signed by the waiving party. No such waiver in any event will be deemed a waiver of any subsequent default under the same or any other term or provision contained herein.

12.3 Assignment. Neither party may assign this Agreement or delegate any of its duties, in whole or in part, without the prior written consent of the other party, which consent such party may grant or withhold in its sole discretion; provided, that either party may assign this Agreement to any successor to the business of such party by merger, consolidation, or sale of assets. Each party acknowledges that its obligations hereunder are in the nature of personal services such that, under Applicable Law, such party may not assign this Agreement without the prior written consent of the other party. Such other party's consent will not be construed as discharging or releasing the assigning party in any way from the performance of its obligations under this Agreement. An assignee of either party will be bound by the terms of this Agreement and will have all of the rights and obligations of the assigning party set forth in this Agreement. If any assignee refuses to be bound by all of the terms and obligations of this Agreement or if any assignment is made in breach of the terms of this Agreement, then such assignment will be null and void and of no force or effect.

12.4 Notices. Any notice or other document or communication required or permitted hereunder to the parties hereto will be deemed to have been duly given only if in writing and delivered by any of the following methods: (i) certified U.S. mail, return receipt requested, postage prepaid, to the address of the receiving party as set forth on the Key Terms Cover Sheet or such other address as such party may dictate according to the notice provisions hereof (for notice being transmitted entirely within the United States); (ii) overnight courier service by Federal Express or other international courier of similar standing and reputation to the address of the receiving party as set forth on the Key Terms Cover Sheet or such other address as such party may dictate according to the notice provisions hereof; (iii) hand delivery to the person specified on the Key Terms Cover Sheet or any other person so designated according to the notice provisions hereof; or (iv) facsimile directed to the person specified on the Key Terms Cover Sheet at the facsimile number listed below, or such other person or facsimile number so designated according to the notice provisions hereof; with a copy of all such notices delivered to counsel specified below or as such party may dictate in accordance with the notice provisions hereof. Notices will be deemed delivered when received by the party being notified.

12.5 Counterparts. This Agreement may be executed in multiple counterparts, each of which will be deemed an original and all of which together will be deemed the same agreement.

12.6 Entire Agreement; Order of Precedence. This Agreement, together with all Statements of Work hereto, constitutes the complete and exclusive statement of the agreement of the parties with respect to the subject matter hereof and supersedes all prior proposals, understandings, and agreements, whether oral or written, between the parties with respect to the subject matter hereof, including but not limited to any non-disclosure agreements previously entered into by and between the parties. In case of conflict the order of precedence of the documents constituting this Agreement is as follows, each listed document superseding in the event of any conflicting provision in a later listed document: (1) Agreement text (including Exhibit A); (2) any Exhibits to this Agreement (other than Exhibit A); and (3) any Statements of Work.

12.7 Expenses. Except as expressly set forth in this Agreement, each party will be responsible for, and will pay, all costs and expenses paid or incurred by it in connection with the planning, negotiation, consummation, and performance of this Agreement.

12.8 Force Majeure. Neither party will be liable for any failure or delay in performing its obligations under this Agreement, or for any loss or damage resulting therefrom, due to acts of God, the public enemy, terrorist activities, riots, fires, and similar causes beyond such party's control. In the event of such failure or delay, the date of delivery or performance will be extended for a period not to exceed the time lost by reason of the failure or delay; *provided*, that the party affected by such delay is using commercially reasonable efforts to mitigate or eliminate the cause of such delay or its effects and, if events in the nature of the force majeure event were reasonably foreseeable, used commercially reasonable efforts prior to its occurrence to anticipate and avoid its occurrence or effect. Neither party will have an obligation to make any payments to the other during the period of such other party's failure or delay. Each party will notify the other in writing promptly of any failure or delay in, and the effect on, its performance.

12.9 Governing Law; Currency. Illinois law governs this Agreement. The parties will bring all actions and proceedings arising out of or related to this Agreement only in a state or federal court located in Cook County, Illinois, and the parties consent to such venue and to the jurisdiction of such courts over the subject matter of such proceeding and themselves. **EACH PARTY WAIVES ITS RIGHT TO A JURY TRIAL IN CONNECTION WITH ANY DISPUTE OR LEGAL PROCEEDING ARISING OUT OF THIS AGREEMENT OR THE SUBJECT MATTER HEREOF.** All amounts stated herein are in United States Dollars.

12.10 Independent Contractor. Nothing in this Agreement will be construed to create a partnership, joint venture, or agency relationship between the parties. Each party is solely responsible for payment of all compensation owed to its employees and agents, as well as employment related taxes. Neither party will, and each party will ensure that its agents and employees do not, act or hold themselves out as agents or employees of the other party.

12.11 Trademarks; Publicity. Without the other party's express prior written consent, which it may provide or withhold in its sole discretion, neither party will use any Mark of the other party. Except as expressly set forth in this Agreement or as mutually agreed between the parties, neither party will issue any press release or other public statement about this Agreement or the transactions contemplated hereby.

12.12 No Third Party Beneficiaries. Except with respect to University Indemnitees, this Agreement is made and entered into for the sole benefit of the parties hereto and both parties acknowledge and agree that none of the rights or obligations granted or undertaken herein shall inure to the benefit of any third parties.

12.13 Severability. If any provision of this Agreement is held to be unenforceable or invalid, in whole or in part, then all of the remaining provisions shall nevertheless continue in full force and effect.

12.14 Network Security. Consultant understands that network security is highly important to University and its clients. Therefore Consultant agrees to fully comply with the Security Agreement terms and conditions that are attached hereto and made a part of this Agreement as Exhibit D.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed and delivered by their respective, duly authorized representatives.

THE UNIVERSITY OF CHICAGO

By:

By:

Title:

Title:

Exhibit A

Definitions

“**Acceptance**” has the meaning set forth in Paragraph 4.2.

“**Affiliate**” of any Person means any Person which, directly or indirectly, controls, is controlled by or is under common control with such entity, where control means the ability to direct the affairs of an entity through ownership of voting interest, contract rights or otherwise.

“**Agreement**” has the meaning set forth in the introduction.

“**Applicable Law**” means, with respect to any Person, any federal, state, provincial, foreign, supranational or local law (statutory, common or otherwise), constitution, treaty, convention, ordinance, code, rule, regulation, order, injunction, judgment, decree, ruling or other similar requirement enacted, adopted, promulgated or applied by a governmental authority that is binding upon or applicable to such Person or such Person’s assets or properties.

“**Business Day**” means any weekday other than a day designated as a holiday under the then applicable University holiday schedule.

“**Change Order**” has the meaning set forth in Paragraph Article 5.

“**Confidential Information**” means information, whether provided or retained in writing, verbally, by electronic or other data transmission or in any other form or media whatsoever and whether furnished or made available before or after the date of this Agreement, that is confidential, proprietary or otherwise not generally available to the public; provided, that with respect to Consultant, the foregoing shall only constitute Consultant’s Confidential Information to the extent expressly labeled “Confidential” in writing at the time of disclosure to the University. The University Data is University Confidential Information. Confidential Information does not include information that a receiving party demonstrates was: (i) at the time of disclosure to such receiving party, in the public domain, or after disclosure to such party, published or otherwise entered the public domain through no fault of the receiving party; (ii) in the possession of the receiving party at the time of disclosure to it, if such receiving party was not then under a contractual, legal or fiduciary obligation of confidentiality with respect thereto; (iii) received after disclosure to the receiving party from a third party who had a lawful right (without any contractual, legal or fiduciary non-disclosure restrictions) to disclose such information; or (iv) independently developed by the receiving party, without reference to Confidential Information of the other party.

“**Consultant**” has the meaning set forth in the introduction.

“**Consultant Project Manager**” has the meaning set forth in Paragraph **Error! Reference source not found.**

“**Deliverable**” means any item delivered or produced by Consultant or required to be delivered or produced by Consultant as the result of Services rendered hereunder. Deliverables may include, but are not limited to, tangible and intangible work product, reports, designs, memoranda, lists, diagrams, schedules, analyses, procedures, specifications, programs, computer systems, documentation and like items, whether in hard copy or electronic media, incidental to, and containing or embodying the results of, the Services performed hereunder.

“**Effective Date**” has the meaning set forth in the introduction.

“**Fees**” has the meaning set forth in Paragraph 6.1.

[EFFECTIVE DATE]

“General Knowledge” means knowledge of a general abstract character, or that may be generally reused, including any such knowledge that comprises methodologies; delivery strategies, approaches and practices; generic software tools, routines, and components; generic content, research and background materials; training materials; application building blocks; templates; analytical models; project tools; development tools; inventions; solutions and descriptions thereof; ideas; and know-how; provided, however, that General Knowledge does not include any University Confidential Information.

“Intellectual Property Rights” means (i) patents, (ii) Marks, (iii) copyrights, (iv) trade secrets, (v) any other similar type of proprietary intellectual property right and (vi) all rights to sue or recover and retain damages and costs and attorneys’ fees for past, present and future infringement or misappropriation of any of the foregoing.

“Key Positions” has the meaning set forth in Paragraph 2.4.1.

“Losses” has the meaning set forth in Paragraph 11.1.1.

“Marks” means all trademarks, service marks, trade dress, logos, domain names, rights of publicity, trade names, corporate names, and other indications of origin (whether or not registered) in the United States and all other nations throughout the world.

“Performance Credits” has the meaning set forth in Paragraph 6.6.

“Person” means an individual, corporation, partnership, limited liability company, association, trust or other entity or organization.

“Personally Identifiable Information” includes but is not limited to: personal identifiers such as name, address, phone number, date of birth, Social Security number, and student or personnel identification number; “personal information” as defined in 815 ILCS 530/5 and/or any successor laws; personally identifiable information contained in student education records as that term is defined in the Family Educational Rights and Privacy Act, 20 USC 1232g; “protected health information” as that term is defined in the Health Insurance Portability and Accountability Act, 45 CFR Part 160.103; nonpublic personal information as that term is defined in the Gramm-Leach-Bliley Financial Modernization Act of 1999, 15 USC 6809; credit and debit card numbers and/or access codes and other cardholder data and sensitive authentication data as those terms are defined in the Payment Card Industry Data Security Standards; other financial account numbers, access codes, driver’s license numbers; and state- or federal-identification numbers such as passport, visa or state identity card numbers.

“Project Work Product” means all Work Product and Deliverables, created by or for or provided to the University (whether solely by Consultant or Consultant’s agents, or jointly by one or more of them and the University or its agents) in the course of performing Services.

“Service Level” has the meaning set forth in Paragraph 2.2.1.

“Services” has the meaning set forth in Paragraph 2.1.

“Statement of Work” has the meaning set forth in Paragraph 2.1.

“Subcontractor” means any Person (including any Consultant Affiliate) other than Consultant that provides Services to the University on behalf of Consultant.

“University” has the meaning set forth in the introduction.

“University Data” means all Personally Identifiable Information and other information that is not intentionally made generally available by the University on public websites, including but not limited to business, administrative and financial data, and patient, student and personnel data.

[EFFECTIVE DATE]

“University Functions” has the meaning set forth in Paragraph 3.1.

“University Indemnitees” has the meaning set forth in Paragraph 11.1.1.

“University Project Manager” has the meaning set forth in Section 3.2.

“Work Product” means tangible and intangible work product, ideas, concepts, know-how and information and the writings in which any of the same are fixed (including, without limitation, all reports, computer software systems, routines, data models, technical data, processes, designs, code and documentation and systems, concepts and business information) and all Intellectual Property Rights therein.

Exhibit B

Consultant's Travel and Expense Billing Policy

Actual Costs:

All travel and living expenses (with the exception of per diem meal allowances) are at the actual costs incurred, with receipts for such costs retained by Consultant in accord with IRS guidelines.

Airfare:

Consultants purchase airline coach class tickets as early as possible consistent with University schedules in order to obtain a reasonable fare. Discounted fares are normally non-refundable.

Lodging:

Consultants acquire lodging consistent with business travel rates for the area of the University's offices. Consultants use the lower of Consultant's or the University's corporate rate at designated national brand hotels whenever possible.

Per Diem:

Meal expenses are calculated on a per diem basis using the allowed rate for a specific local or metropolitan area under the General Service Administration ("GSA") tables applicable to Federal employees traveling at government expense. GSA publishes Continental US (CONUS) per diem tables for each local or metropolitan area annually on October 1. The per diem rate includes all meals, meal tips, and incidental expenses. The per diem rate is prorated for partial days of travel away from home according to the GSA guidelines. Refer to the GSA website for per diem rates at www.gsa.gov/perdiem, and the meal per diem breakdown at www.gsa.gov/mie. Foreign Per Diem Rates can be found at http://aoprals.state.gov/web920/per_diem.asp.

Car Rental:

Car rental is for a four-door mid-sized car. Consultants attempt to share transportation whenever possible.

Taxis/Trains:

For any non-local Consultant personnel, the University is billed for the cost of taxi, bus, shuttle, or train fare to the University's offices. Consultants attempt to use the most cost and time effective means for commuting to the University's site.

Parking/Tolls:

For any non-local Consultant personnel, the University is billed for the cost of parking and tolls associated with transportation to and from the University's site, as well as airport parking and mileage to and from the airport.

Mileage:

Mileage is billed at the current published IRS mileage rate.

[EFFECTIVE DATE]

Exhibit C

THE UNIVERSITY OF CHICAGO

Consultant Insurance Requirements

Technology Errors & Omissions

CONSULTANT'S INSURANCE

Consultant shall procure and maintain during the life of this Agreement, at Consultant's sole expense, such insurance as shall protect Consultant and any subcontractor performing work covered by this Agreement from claims for damages for personal injury, including death, resulting therefrom as well as for property damage, which may arise from operations under this Agreement, whether such operations be by Consultant or by any subcontractor or by anyone directly or indirectly employed by either of them.

A. Minimum Scope of Coverage

Coverage shall be at least as broad as:

1. Commercial General Liability insurance coverage insuring all operations by or on behalf of the Consultant and including, without limitation, coverage for:
 - a. Premises and operations
 - b. Products and completed operations,
 - c. Contractual liability insuring the obligations assumed by the Consultant under this Agreement,
 - d. Personal injury liability, and
 - e. Broad form property damage.
2. Automobile Liability insurance covering all owned, hired and non-owned vehicles including coverage for Automobile Contractual Liability.
3. Workers' Compensation insurance as required by applicable law or regulations or statutes and Employer's Liability insurance.
4. Technology Errors and Omissions Liability insurance, including coverage for technology services, technology products, mediate content, network breaches, unauthorized access, and violation of information handling.
5. Property insurance covering Consultant's property in, on or about the University's premises, against "all-risks" of physical damage including theft, and shall provide replacement cost coverage.

B. Minimum Limits of Insurance

Consultant shall maintain limits of liability of at least:

[EFFECTIVE DATE]

1. Commercial General Liability:

\$1,000,000 each occurrence bodily injury and property damage
\$1,000,000 personal and advertising injury
\$1,000,000 products and completed operations aggregate
\$2,000,000 general aggregate

2. Automobile Liability:

\$1,000,000 for a combined single limit per accident for bodily injury and property damages

3. Workers' Compensation:

Coverage as required by law

4. Employer's Liability:

\$500,000 bodily injury by accident

\$500,000 disease each employee

\$500,000 disease aggregate

5. Technology Errors & Omissions Liability:

\$2,000,000 for each error or omission
\$2,000,000 aggregate for all errors or omissions

6. Property:

Limit equal to the full replacement cost of Consultant's property

C. Other Insurance Provisions

1. Claims-made coverage

If the insurance required by this insurance clause is written on a "claims-made" policy form, the policy and all certificates of insurance as required hereunder shall show the "retroactive date." If the "retroactive date" is later than the date of this Agreement and the Consultant was previously insured under a "claims-made" insurance policy during any portion of the period between the date of this Agreement and the "retroactive date" of the Consultant's current "claims-made" insurance policy, the Consultant shall furnish a certificate of insurance showing that the Consultant has purchased the "extended reporting period" or "supplemental tail" endorsement under the previous policy to extend the period during which a claim may first be made.

[EFFECTIVE DATE]

2. The University of Chicago as Additional Insured

The University of Chicago, The University of Chicago Medical Center, their affiliates, subsidiaries, officers, directors, trustees, volunteers, and employees (collectively "Additional Insureds") shall be named as additional insureds under the Commercial General Liability and the Automobile Liability policies. Such policies shall stipulate that the insurance afforded the Additional Insureds shall apply as primary insurance and that any other insurance carried by the Additional Insureds will be excess only and will not contribute with Consultant's insurance. These policies shall contain the usual cross liability wording indicating that except for limits of liability, the policies shall operate as though separate policies were issued to each insured and shall not contain any exclusion of suits by additional insureds.

3. Waiver of subrogation

All insurers shall agree to waive all rights of subrogation against the Additional Insureds.

4. Consultant's failure to comply with policy provisions

All liability policies shall stipulate that Consultant's failure to comply with reporting provisions of the policies shall not affect coverage provided to Additional Insureds.

5. Notice of Cancellation

Consultant shall endeavor to provide at least thirty (30) days' prior written notice by certified mail, return receipt requested to the University of Chicago prior to cancellation or non-renewal of the coverage herein.

D. Acceptability of Insurers

Insurance is to be placed with insurers with an AM Best rating of at least A-, VII and are otherwise acceptable to the University of Chicago. The University of Chicago shall not unreasonably withhold its approval to such insurers.

E. Verification of Coverage

[EFFECTIVE DATE]

Consultant shall furnish the University of Chicago with certificates of insurance before any work is done and any materials are delivered. Insurance certificates shall clearly identify all insurance coverages and special conditions as required by this insurance clause including key limits and deductibles/ self- insured retentions.

The certificates are to be signed by a person authorized by the insurer to bind coverage on its behalf. The University of Chicago reserves the right to require certified copies of endorsements affecting coverage required by this insurance clause or to require a certified copy of any or all required insurance policies, at any time.

F. Subcontractors

Consultant shall include all subcontractors as insured under its policies or Consultant shall maintain separate certificates for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.

G. Protection of Persons and Property

Consultant shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with this Agreement. Vender shall take all reasonable precautions to prevent injury, damage or loss to all people and property. Consultant shall comply with all applicable laws, ordinances, rules, regulations and order of public authority having jurisdiction. Consultant shall endeavor to advise the University of Chicago of any concerns.

Exhibit D
Security Agreement

This Security Agreement is hereby incorporated and made part of the attached AGREEMENT XXXXXX between Consultant and The University, and provides a list of system security requirements which are agreed to by both Parties.

1. University Designated Security Contact

Contact: IT Security

Email: security@uchicago.edu

Phone number: +1-773-702-2378

(If a call to the above number results in a transfer to voice-mail, follow the instructions after leaving a message to mark it as urgent and the IT Security Center staff will be paged.)

Should the University wish to change the Designated Security Contact, the University must notify Supplier in writing.

2. Security Incident Response

"Security Incident" is a security-relevant system event in which the system's security policy is disobeyed or otherwise breached.

In the event that Supplier becomes aware of a security incident related to the contracted products or services, Supplier will contact IT Security by e-mail or telephone as soon as commercially reasonable. Supplier will include information regarding the scope of the incident, timeframe, relevant information regarding the means with which it occurred, and remediation steps taken.

3. Security Issue Management

"Security Vulnerability" is a flaw or weakness in a system's design, implementation, or operation and management that could be exploited to violate the system's security policy.

Supplier will notify IT Security of newly discovered security vulnerabilities within any products or services supplied by Supplier as part of this agreement within a commercially reasonable time following Supplier becoming aware of them. This notification will be done via email communication which will include the details of the possible risk and an action plan for resolution of the vulnerability, as described below, if not already resolved.

In the event of a critical security vulnerability determined to be directly applicable to The University of Chicago's use of the contracted product(s) or service(s), Supplier will contact IT Security by e-mail or telephone. Telephone notification does not supersede or relieve Supplier from the obligation to provide the detailed e-mail notification described above.

If security issues are discovered or reasonably suspected by The University, Supplier shall assist The University in performing an investigation to determine the nature of the issue. In the event that said investigation determines that an actual security vulnerability exists, Supplier will develop an action plan for resolving the vulnerability as described below.

[EFFECTIVE DATE]

Supplier will provide to The University an action plan for resolution of security vulnerabilities. Each action plan should include the following information:

- Problem statement(s), including early evaluation of possible resolution
- Confirmation, when possible, that Supplier can reproduce the problem
- Problem status
- Actions required for resolution
- Who needs to perform the actions (where "who" may refer to Supplier, University, third parties, etc.)
- Projected date for resolution.

4. Encryption

Supplier agrees that the supplied product(s) or service(s) either directly support, or minimally don't conflict with, University policies that require that all network communications containing student records, protected health information, personally identifiable information, or system administration credentials will be encrypted using industry standard encryption mechanisms implemented through widely used and tested libraries and utilizing at least 128 bits of complexity for symmetric encryption or 2048 bits for asymmetric key based encryption.

5. Best Practices

Supplier agrees to provide secure products and services by following generally accepted industry best practices, including but not limited to:

- Applying and providing all relevant security fixes in a timely manner
- Use of secure coding techniques and tools for development
- Using a source code control system that authenticates and logs the team member associated with all changes to the software baseline and all related configuration and build files
- Coding defensively and implementing management controls to prevent vulnerabilities such as those identified by the SANS Top 20 and the OWASP Top Ten web application security vulnerabilities as well as testing to verify security against such well known threats

6. Malicious Code

Supplier agrees that neither software provided to The University nor software utilized by Supplier shall contain any code that does not support a software requirement and weakens the security of the application, including computer viruses, worms, time bombs, back doors, Trojan horses, Easter eggs, or all other forms of malicious code.

7. Security Breach Notification

Supplier agrees to comply with all applicable laws that require the notification of individuals in the event of unauthorized release of Confidential Information or personally identifiable information or other event requiring notification. In the event of a breach of any of Supplier's security obligations, or other event requiring notification under applicable law, Supplier agrees to:

[EFFECTIVE DATE]

- a. Notify the University Designated Security Contact by telephone and e-mail of such an event as soon as commercially reasonable but not later than within 24 hours of discovery, and
- b. Assume responsibility for informing all such individuals in accordance with applicable law, and
- c. Consult and coordinate with The University to create mutually agreed upon text for any such notifications, and
- d. Bear any/all costs related to breach or intrusion or unauthorized access to confidential or personally identifying information entrusted to Supplier deemed to be the fault of Supplier, and
- e. Indemnify, hold harmless and defend The University and its trustees, officers, and employees from and against any claims, damages, or other harm related to such Security Breach Event.

8. Security of the Hosting Environment

“Hosting Environment” means the hardware, software, Internet access and bandwidth, and physical environment used to provide the contracted for services.

The University recognizes that Supplier may engage one or more third party providers of data center hosting services to provide some or all of the Hosting Environment. However, it is Supplier’ responsibility to insure that any such third party complies with the terms of this agreement.

Supplier agrees with the following in regard to the Hosting Environment used to provide the service(s) proposed to The University:

- The Hosting Environment is designed, operated, and managed in accordance with generally accepted industry best practices for power, HVAC, fire detection and suppression, and physical security.
- There has been no security incident related to the Hosting Environment within the past 12 months.
- Supplier assumes responsibility for the physical security of the facilities provided as part of this agreement.
- Only authorized persons will be allowed physical access to these facilities, all physical access will be monitored and logged, and such access logs may be made available to The University upon request and in the event of a Security Incident.
- Supplier has implemented off-site backup practices and management policies which will prevent the loss or disclosure of any University data assets under their stewardship in the event of a disastrous disruption of service within the Hosting Environment.
- Any secondary locations used for business continuity or disaster recovery have security policies and practices in effect which are equivalent or better than those used within the primary, or production, Hosting Environment.
- That the security controls for the Hosting Environment are satisfactory to achieve the control objectives stated within the applicable security policy as represented by an unqualified opinion from the auditor for their most recent SSAE 16 Type 2 engagement.

9. Capacity Planning

Supplier acknowledges it is its responsibility to determine whether the provided services, Hosting Environment, and their combination will meet The University’s capacity, performance, or scalability needs. The University is responsible for notifying Supplier of any changes in University business environment or processes which The University reasonably anticipates may result in a requirement for additional capacity

[EFFECTIVE DATE]

to support changes in demand that may significantly increase Internet traffic, transaction volumes, data storage requirements, or otherwise increase system resource utilization.

10. Unrelated Use

Supplier agrees that the Hosting Environment will be operated and managed in such a way that no other use of the Hosting Environment unrelated to that of The University, e.g. any sharing of facilities with other of Supplier' customers, may adversely impact the confidentiality, integrity, or availability of the University's data residing within the Hosting Environment or the services being provided by Supplier to The University.

11. End of Agreement Data Handling

12. Supplier agrees that except as may be required by law it shall upon termination of this Agreement erase, destroy, and render unrecoverable all University data and certify in writing that these actions have been completed within 30 days of the termination of this Agreement or within 7 days of the request of an agent of University, whichever shall come first. At a minimum, a "Clear" media sanitization is to be performed according to the standards enumerated by the National Institute of Standards, Guidelines for Media Sanitization, SP800-88, Appendix A (see <http://csrc.nist.gov/>).