



# REQUEST FOR PROPOSAL

<b>REQUEST FOR PROPOSAL:</b>	RP-004-23
<b>DATE ISSUED:</b>	06/24/2022
<b>TITLE:</b>	BENEFITS ACCOUNTS
<b>CONTRACT ADMINISTRATOR NAME:</b>	Phil Wieseemann
<b>EMAIL CONTACT:</b>	philip.wieseemann@louisville.edu
<b>METHOD OF AWARD:</b>	COMPETITIVE NEGOTIATION

The University of Louisville’s – Department of Procurement Services will receive proposals emailed to Phil Wieseemann at [Phil.wieseemann@louisville.edu](mailto:Phil.wieseemann@louisville.edu).

**PROPOSALS MUST BE RECEIVED NO LATER THAN: 07/15/2022 @ 2:00 PM, EST**

Proposals will not be opened and read publicly. Proposals and any subsequent negotiations shall be held confidential until a final contract agreement is awarded, at which time the file shall be made a matter of public record and may be reviewed by any requesting party.

**AUTHENTICATION OF PROPOSAL AND STATEMENT OF NON-COLLUSION AND NON-CONFLICT OF INTEREST**

I hereby swear (or affirm) under the penalty for false swearing as provided by KRS 523.040:

- That I am the Offeror (if the Offeror is an individual), a partner in the Offeror (if the Offeror is a partnership), or an officer or employee of the bidding corporation having authority to sign on its behalf (if the Offeror is a corporation);
- That the attached Request for Proposal covering University of Louisville’s - Department of Procurement Services, have been arrived at by the Offeror independently and have been submitted without collusion with, and without any agreement, understanding or planned common course of action with, any other vendor of materials, supplies, equipment or services described in the Request for Proposal, designed to limit independent bidding or competition;
- That the contents of the proposal(s) have not been communicated by the Offeror or its employees or agents to any persons not an employee or agent of the Offeror or its surety; on any bond furnished with the proposal(s) and will not be communicated to any such person prior to the official proposal(s);
- That the Offeror is legally entitled to enter into the contracts with the Commonwealth of Kentucky and is not in violation of any prohibited conflict of interest, including those prohibited by the provision of KRS 45A.325, 45A.330 to 45A.340, 45A.990 and 164.821(7).
- Offeror and its affiliates are duly registered with the Kentucky Department of Revenue to collect and remit the sales and use tax imposed by KRS Chapter 139 to the extent required by Kentucky law; and will remain registered for the duration of any contract awarded. Furthermore, Offeror is not delinquent on any state taxes or fees owed to the Commonwealth of Kentucky and will remain in good standing for the duration of any contract awarded.
- That I have fully informed myself regarding the accuracy of the statements made above.

**NOTICE**

- Any agreement of collusion among Offerors or prospective Offerors which restrains, tends to restrain, or is reasonably calculated to restrain competition by agreement to bid at a fixed price, or to refrain from bidding, or otherwise, is prohibited.
- Any firm/person who violates any provisions of Kentucky Revised Statute 45A.325 shall be guilty of a felony and shall be punished by a fine not less than five thousand dollars (\$5,000) not more than ten thousand dollars (\$10,000), or be imprisoned not less than one year nor more than five years, or both such fine and imprisonment.

<b>Name of Company:</b>		<b>Date:</b>
<b>Address:</b>		<b>Phone:</b>
<b>City:</b>	<b>State:</b>	<b>Zip:</b>
<b>Payment Terms:</b>	<b>This offer is valid for _____ calendar days from the date this proposal is received</b>	<b>E-Mail Address:</b>
		<b>Web Address:</b>
<b>Shipping Terms:</b> FOB Destination, Freight Prepaid and Added to Invoice	<b>Print Name:</b>	
<b>Federal Employer ID:</b>	<b>Signature:</b>	

**VENDOR IS TO COMPLETE THIS COVER SHEET AND SUBMIT WITH PROPOSAL**

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**NO BID RESPONSE**

**RP Number: RP-004-23**

Please be advised that our company does not wish to submit a proposal in response to the above-mentioned proposal for the following reason(s):

- Too busy at this time
  - Not engaged in this type of work
  - Project is too large or small
  - Cannot meet mandatory specifications (Please specify below)
  - Other (Please specify)
- 
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Company Name

Name

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Street Address

Authorized Signature and Date

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City, State, Zip

Title

Please return to: University of Louisville Department of Procurement Services Service Complex Bldg Louisville, KY 40292
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## **Request for Proposal**

UofL is requesting proposals for administration of their employee assistance program.

## **Timeline**

<b><u>Event</u></b>	<b><u>Timing</u></b>
<b><u>RFP release date</u></b>	<b><u>June 24, 2022</u></b>
<b><u>Vendor questions due</u></b>	<b><u>July 1, 2021</u></b>
<b><u>Answers to submitted questions</u></b>	<b><u>July 8, 2021</u></b>
<b><u>RFP responses due</u></b>	<b><u>July 15, 2021</u></b>
<b><u>Finalist interviews</u></b>	<b><u>July 28-29 &amp; August 1-3</u></b>
<b><u>Intent to Award Notification</u></b>	<b><u>August 26, 2022</u></b>
<b><u>Contracting</u></b>	<b><u>September 2022</u></b>
<b><u>Implementation</u></b>	<b><u>October – December 2022</u></b>
<b><u>Go Live</u></b>	<b><u>January 1, 2023</u></b>

## **Background**

University of Louisville (UofL) strives to maintain a productive and efficient work environment for employees by increasing understanding and ownership of their own health. UofL's population is 47% male and 53% female. The average age of the 6,000 medically enrolled employees is 46.2 years old and the average age of the 7,200 eligible employees is 35.2.

## **UofL's current vendors include:**

<b><u>Vendor</u></b>	<b><u>Healthcare Benefit</u></b>
<b><u>Anthem of Kentucky</u></b>	<b><u>Medical, Telemedicine, Complex Care, Nurseline</u></b>
<b><u>Express Scripts</u></b>	<b><u>Pharmacy</u></b>
<b><u>MetLife</u></b>	<b><u>Dental, Life, AD&amp;D, Long Term Disability</u></b>
<b><u>Davis Vision</u></b>	<b><u>Vision</u></b>
<b><u>Health Advocate</u></b>	<b><u>Wellbeing, Disease Management, Advocacy</u></b>
<b><u>Human Development Company</u></b>	<b><u>Employee Assistance Program</u></b>
<b><u>Fidelity and TIAA</u></b>	<b><u>403(b) and 457(b)</u></b>
<b><u>Optum Financial</u></b>	<b><u>Health Reimbursement Account, COBRA, Flexible Spending Accounts, Direct Bill</u></b>
<b><u>Livongo</u></b>	<b><u>Diabetes Management</u></b>

2023 Medical Benefit Provisions		EPO	PPO	ULH		PCA High	PCA Low
		In Network	In Network	UofL Provider	In Network	In Network	In Network
HRA / HSA Seed		N/A	N/A	N/A	N/A	\$500 / \$1,000 / \$2,000	\$500 / \$1,000 / \$2,000
Medical Deductible	Individual	\$0	\$250	\$0	\$500	\$1,000	\$2,000
	Family	\$0	\$750	\$0	\$1,000	\$3,000	\$4,000
	Embedded/ Aggregate	Embedded	Embedded	Embedded		Embedded	Embedded
Medical Out-of-Pocket Max (Excl. Ded.)	Individual	\$2,000	\$2,000	\$2,000	\$4,000	\$3,000	\$3,000
	Family	\$4,000	\$4,000	\$4,000	\$8,000	\$6,000	\$6,000
Medical Out-of-Pocket Max (Inc. Ded)	Individual	\$2,000	\$2,250	\$2,000	\$4,500	\$4,000	\$5,000
	Family	\$4,000	\$4,750	\$4,000	\$9,000	\$9,000	\$10,000
Coinsurance		90%	90%	90%	70%	90%	80%
Office Visits	UofL Physician	\$0	\$0	\$0	N/A	\$20 discount, then 90%	\$20 discount, then 80%
	Non-UofL Physician	\$20	\$20	N/A	\$25	90%	80%
	Specialist	\$35	\$35	\$0	\$50	90%	80%
	Urgent Care	\$35	\$30	\$30	\$50	90%	80%
Emergency Room		\$150	\$150	\$150	\$150	90%	80%
Inpatient Stay		90%	90%	\$300	70%	90%	80%
Imaging (CT/MRI)		90%	90%	\$75	70%	90%	80%
Outpatient Surgery		90%	90%	\$100	70%	90%	80%
Therapy (PT/ST/OT/Chiro)		\$35	90%	\$20	70%	90%	80%
Prescription Drug Out-of-Pocket Max	Individual	\$4,600	\$4,600	\$2,600		\$2,600	\$1,600
	Family	\$9,200	\$9,200	\$5,200		\$4,200	\$3,200

In terms of administration, UofL has a partnership with PeopleSoft but will be implementing Workday for January 1, 2023.

**Scoring Criteria:**

Criteria	Weight
Company	20%
Services	30%
Capabilities	30%
Financials	20%
Total	100%

**To participate in the University of Louisville RFP, you must complete an electronic questionnaire via the Proposal Tech website as well as submit proposal document by email or hard copy. Proposals MUST be submitted to the email address indicated under Submission of Offers in addition to submitting the proposal electronically via Proposal Tech.**

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Access to the electronic questionnaire will begin on June 24, 2022, and close on July 15, 2022 at 2:00 PM, EST. Please make sure you complete and “Post” your response prior to the due date / due time. If you have not completed and posted your response by July 15, 2022 at 2:00 pm EST, you will be locked out of the system and unable to submit your final response. No extensions will be granted.

In addition, you may submit questions regarding the RFP between June 24 – July 1, 2022. Questions must be submitted in writing to Phil Wiesemann at [Philip.wiesemann@louisville.edu](mailto:Philip.wiesemann@louisville.edu). Questions and answers will be consolidated and provided on July 8, 2022 by an addendum posted to the University of Louisville’s purchasing website ([www.louisville.edu/purchasing](http://www.louisville.edu/purchasing)).

### **REQUESTING ACCESS TO THE ELECTRONIC PROPOSAL**

STEP ONE: To gain access to the electronic bid questionnaire, select the link listed below, enter the required registration code and click on “Begin Registration”.

Vendor Registration URL: <http://www.proposaltech.com/app.php/register>

Vendor Registration Code: EAPrpf2022

STEP TWO: Complete the required information on the registration page:

- a. Enter Company Name, First Name, Last Name, Telephone and Time Zone (Users with existing Proposal Tech accounts will confirm their account)
- b. Check the University of Louisville RFP under Requests of Interest
- c. Click “Register”

Once your information has been submitted and verified, you will receive an email invitation containing your username, password, and instructions on how to access the eRFP.

For technical questions or training on the Proposal Tech website, please contact the Proposal Tech support staff at [support@proposaltech.com](mailto:support@proposaltech.com) or 877-211-8316 ext. 84

**Any questions regarding the content of the RFP must be submitted ONLY to University of Louisville via email to the Contract Administrator on record, Phil Wiesemann, at [Philip.wiesemann@louisville.edu](mailto:Philip.wiesemann@louisville.edu). Any questions not submitted in writing by email to the Contract Administrator on record will not be addressed. Proposal Tech cannot answer questions relating to the content of the RFP.**

**Additional Note:** The Proposal Tech system allows multiple users from your organization to access the RFP questionnaire simultaneously. The primary contact is responsible for establishing permission for other individuals in the organization. Follow the instructions on the Proposal Tech site to establish additional permissions.

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## **INSTRUCTIONS TO PROPOSERS**

### **PREPARATION OF OFFERS**

Each Offeror shall furnish the information required by the solicitation. The Offeror shall sign the solicitation and print or type their Name, Company Name, Address, Telephone Number and Date. Erasures or other changes must be initialed by the person signing the offer. Offers signed by an agent are to be accompanied by evidence of their authority unless such evidence has been previously furnished to the University.

### **AUTHORITY TO CONTRACT**

Offeror and the Principal signing on its behalf, certify that it is validly organized with authority to do business and perform the terms hereunder, is qualified to do business in KY, if applicable, and is not prohibited from entering into or performing the terms of this agreement for any reason.

### **PRE-CONTRACTUAL EXPENSE**

The University shall not, in any event, be liable for any pre-contractual expenses incurred by the Offeror in the preparation of their proposal. Offeror shall not include any such expenses as part of their proposal.

Pre-Contractual expenses are defined as expenses incurred by the Offeror in:

- 1) Any and all expenses incurred in the preparation of the proposal in response to this RFP;
- 2) Any and all expenses incurred with submitting that proposal to the University;
- 3) Any and all expenses incurred while negotiating with the University any matter related to this proposal (such as travel expenses, etc.);
- 4) Any other expenses incurred by the Offeror prior to effective date of the contract.

### **MULTIPLE REQUEST FOR PROPOSALS**

Only one RFP response per company will be accepted.

### **AMENDMENTS TO REQUEST FOR PROPOSAL & ADDITIONAL INFORMATION**

Amendments to this Request for Proposal may be necessary prior to the closing date, and will be furnished in the form of written addenda that will be posted on the University of Louisville's BID/RFP Purchasing webpage - <http://louisville.edu/purchasing/bids>. Oral communication with any person(s) will not be construed as an amendment to the specifications, unless converted to the form of written addenda and posted to the University of Louisville's BID/RFP Purchasing webpage.

When necessary and as requested the University of Louisville will provide supplemental data via files to the vendor in one of two formats. The first choice will be to use the industry standard of EDI (Electronic Data Interchange) 834. If EDI is not appropriate for the type of information being transmitted a University standard format will be provided. It will be the vendor's responsibility to conform the data to fit the needs of their particular software. Vendor may be required to sign a University Confidentiality Form prior to release of such information should that information contain private or confidential information

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## **INTERPRETATION OF REQUEST FOR PROPOSAL**

If any potential Offeror contemplating the submission of a Request for Proposal has any doubt as to the true meaning of any part of the invitation, he/she should contact **Phil Wiesemann** via e-mail at philip.wiesemann@louisville.edu. Any interpretation of the specifications will be made by written addenda duly issued and posted on the Purchasing website.

## **RESTRICTIONS ON COMMUNICATIONS**

From the issue date of this RFP until the issuance of a Notification of Award, each Offeror's sole point of contact for this RFP will be:

• **Phil Wiesemann, University of Louisville, Department of Procurement Services philip.wiesemann@louisville.edu.**

No Offeror should attempt to contact or meet with any campus representatives. In order to insure fair and equal treatment, only questions submitted in writing by the date established within this Request for Proposal will be considered responsive. Written responses will then be distributed via addendum and posted at <http://louisville.edu/purchasing/bids>.

It is understood that an Offeror may have an existing business relationship with University representatives that must be maintained during the RFP process. Normal business contact is permitted. This contact cannot include any discussion of an active RFP process. Violation of this provision could result in the University rejecting any proposal from the offending Offeror.

## **QUESTIONS**

Any Offeror requesting clarifications to this Request for Proposal must submit their questions, in writing, for official response by the University. Questions should be submitted via email to Phil Wiesemann at philip.wiesemann@louisville.edu no later than July 1, 2022 at 2:00 PM EST. The University will provide a written response to all questions received by the stated date and time, by way of an addenda and posted on the Purchasing website - <http://louisville.edu/purchasing/bids>.

## **COVID-19 SAFETY REQUIREMENTS**

Bidders, awardees, their subcontractors and all associated personnel, while on any University of Louisville property or University controlled property, must be in full compliance with all current University, state, local, and/or federal public health guidance for the prevention of spread of COVID-19. These guidelines include, but are not limited to, practicing social distancing to the extent practicable, and wearing a mask that covers both the individual's nose and mouth. Further details regarding the University of Louisville COVID-19 safety procedures can be found here: <https://louisville.edu/coronavirus> Current CDC guidelines can be found here: <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/prevention.html>. Kentucky COVID-19 resources can be found here: [kycovid19.ky.gov](http://kycovid19.ky.gov)

## **SUBMISSION OF OFFERS**

Offers and modifications thereof shall be emailed to Phil Wiesemann at philip.wiesemann@louisville.edu. The email time stamp must be no later than 2:00 PM, EST on the specified due date. Please reference the RFP number in the subject line.

**FAILURE TO SIGN AND RETURN THE COVER SHEET MAY DEEM YOUR PROPOSAL NON-RESPONSIVE**

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## **PROPRIETARY INFORMATION**

In the event that a response to this RFP contains information which is deemed by an Offeror as being of a proprietary nature, the pages containing such information must be clearly marked as ***PROPRIETARY INFORMATION*** and placed in a marked envelope. To the extent permitted by law, the University will disclose this information only to the members of the evaluation committee. An Offeror cannot classify any information pertaining to contract terms, experience, proposed products or proposed pricing as proprietary information. All information and material returned with each proposal should become part of any contract, which results from this proposal and will become a public record. All proposals are subject to the Kentucky Open Records Act (KRS 61.881).

## **MODIFICATION OR WITHDRAWAL OF OFFERS**

Offers may be modified by written notice received prior to the exact hour and date specified for receipt of offers. An offer may be withdrawn in person by an Offeror or his authorized representative, provided his identity is made known and he/she signs a receipt acknowledging the withdrawal, but only if the withdrawal is made prior to the exact hour and date set for receipt of offers. Offers received at the office designated in this RFP after the exact hour and date specified for receipt will not be considered. Proposals that have clerical errors or any irregularity are subject to correction only with concurrence of the Department of Procurement Services.

## **RECEIPT OF REQUEST FOR PROPOSALS**

Request for Proposals must be received via email to Phil Wiesemann at [Philip.wiesemann@louisville.edu](mailto:Philip.wiesemann@louisville.edu) not later than **2:00 PM**, local time, on the specified date. Proposals received after this time shall be deemed non-responsive as per 200 KAR 5:307 Section 4 and will not be considered for award.

## **INTERVIEW AND NEGOTIATION SESSIONS**

Request for additional information and / or interviews may be required with any Offeror submitting a responsive proposal. The University does however reserve the right to limit any on-campus and /or teleconference interviews to the top two or three evaluated proposals, or may elect to proceed with contract negotiations with the highest evaluated proposal if deemed to be in the best interest of the University and that proposal was clearly the best/only proposal received. Should negotiations with the highest evaluated proposal fail to produce a formalized contract, the University reserves the right to enter into negotiations with the next highest evaluated proposal or cancel the original RFP whichever would best serve the interest of the University. Regardless, all proposals and additional sessions shall be governed by KRS 45A.085.

## **RECIPROCAL PREFERENCE**

In accordance with KRS 45A.490 to 45A.494, a resident Offeror of the Commonwealth of Kentucky shall be given a preference against a nonresident Offeror. In evaluating proposals, the University will apply a reciprocal preference against any Offeror submitting a proposal from a state that grants residency preference equal to the preference given by the state of the nonresident Offeror. Residency and non-residency shall be defined in accordance with KRS 45A.494(2) and 45A.494(3), respectively. Any Offeror claiming Kentucky residency status shall submit with its proposal a notarized affidavit affirming that it meets the criteria as set for in the above referenced statute.

Forms can be found at <http://louisville.edu/purchasing/forms>.

## **DISPOSITION OF PROPOSALS**

All proposals become the property of the University of Louisville. The successful proposal will be incorporated into the



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resulting contract by reference.

## **REQUEST FOR PROPOSAL PROTESTS**

**(KRS 45A.285; KRS 164A.555 TO 164A.630)**

Any actual or prospective Bidder, Offeror, or Contractor who is aggrieved in connection with the solicitation or selection for award of a contract by the University of Louisville, may file a protest via Certified Mail addressed to the Chief Procurement Officer, within two calendar weeks after such aggrieved person knows or should have known the facts giving rise thereto. An up to date posting of current awards can be found at [http://louisville.edu/purchasing/bids/awarded\\_bids](http://louisville.edu/purchasing/bids/awarded_bids). All protests must be in writing and must use the phrase "**Request for Proposal Protest**" in the letter. The Chief Procurement Officer, shall review all facts presented and render a determination, in writing, promptly to the aggrieved person.

The aggrieved person may appeal the determination in writing via Certified Mail within four calendar days addressed to the Chief Operations Officer, who shall promptly issue a ruling in writing. A copy of such appeal must also be sent via certified mail to the Chief Operations Officer designee. The ruling of the Chief Operations Officer shall be the final action on behalf of the University. Copies of the bid procedure are available on request from the University of Louisville's Department of Procurement Services.

In the event of a bid protest, the University may notify the successful Offeror to suspend the contract/order while the protest is being reviewed. Depending on the outcome of the protest, the contract/order may be cancelled or confirmed. Any questions regarding this procedure should be addressed to the Chief Procurement Officer, (502) 852-8223.

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## **TERMS AND CONDITIONS**

The only acceptable Terms and Conditions are contained within this Request for Proposal and within the University's General Terms and Conditions for a Purchase Order which can be found at:

[http://louisville.edu/purchasing/vendors/PO\\_terms\\_and\\_conditions](http://louisville.edu/purchasing/vendors/PO_terms_and_conditions)

Offeror shall not include any additional Terms and Conditions. Inclusion of any additional Terms and Conditions of the Offeror may be cause for rejection of proposal.

### **FIRM PRICING**

Unless otherwise provided, negotiated, or otherwise agreed upon, proposed prices will be considered firm for the entire duration of the established contract period. Prices bid subject to qualifications such as: in effect on receipt of contract/order, escalation or other variables, may be rejected as non-responsive.

### **TAXES**

The University of Louisville is tax exempt from the provision of the Kentucky six percent (6%) Sales and/or Use Tax on materials and equipment under this solicitation. All Offeror's or contractors shall take this into consideration when submitting their proposal. Exemption certifications will be furnished to cover excise tax exemption where applicable and when requested by the vendor.

Offerors are informed that material purchased by the contractor, for the performance of this contract for the University of Louisville, are **not exempt** from the provisions of the Kentucky Sales and/or Use Tax. All adjustments and allowances for the current sales and/or use tax shall be provided for in the bid amount as no adjustments will be permitted and/or made after the fact.

#### Federal Excise Tax

The University of Louisville may be entitled to exemption from Federal Excise Tax. The Offeror shall take this into consideration when preparing their RFP response.

#### Taxes, Worker's Compensation, Etc.

The selected Offeror or Contractor will be required to accept liability for payment of all payroll taxes or deductions required by local and federal law, including but not limited to old age pension, social security or annuities. Worker's Compensation Insurance shall be carried to the full amount as required by Kentucky Statutes.

### **SUSTAINABILITY**

The University of Louisville is dedicated to acquiring products and services that are consistent with our commitment to sustainability. For the purpose of judging sustainability, the following considerations apply:

Sustainable Development is enhanced through sound Environmental, Social and Economic practices and technologies that minimize or eliminate waste and negative impacts on current resources.

The University seeks products and services that pose no significant risk to human health or environmental quality when compared with competing products or services that serve the same purpose. This comparison, where applicable, may consider raw materials and energy acquisition; production and manufacturing; packaging and distribution; and the operation, maintenance, reuse, recyclability or disposal of a product. Materials, products, and workers from the local region are preferred sources, along with companies/contractors that can demonstrate efforts to ensure worker protections

and to restore or enhance the environment.

**DAMAGES**

Failure of the University to invoke liquidated damages at the immediate time of the delay of delivery or installation, does not waive the right of the University to invoke said damages at a later date.

**DAMAGE TO PROPERTY**

This contractor will be responsible to repair to the satisfaction of the University any damage to grounds, buildings, vehicles, or other property belonging to the University or any of its employees or students, or property belonging to any member of the public present on campus for any legitimate purpose, where such damage is the direct or indirect result of any actions of the contractor employees.

**INSURANCE**

Insurance Requirements for Standard Contracts

Before the selected Offeror becomes entitled to any rights under this procurement and prior to taking any action under any resulting award/contract, Offeror shall have a Certificate of Insurance indicating the organization’s in-force insurance for the following policies and limits. Vendor agrees to provide proof of such insurance upon request.

**MINIMUM COVERAGE AMOUNT**

<b>Type of Insurance</b>	<b>Minimum Limits of Liability</b>
<b>Commercial General Liability*</b> Including: Completed Products Personal and Advertising Injury <b>Products/Completed Operations</b>	\$1,000,000.00 Each Occurrence  \$2,000,000.00 General Aggregate
Auto Liability* (all owned, hired and non-owned vehicles)	\$1,000,000.00 Combined Single Limit (Bodily Injury, Property Damage)
<b>Workers Compensation</b>	Statutory Limits – Kentucky and the state(s) of domicile of the organization and any subcontractors(s). The all state and voluntary compensation endorsement is to be attached to the policy.
<b>Employers Liability</b>	\$1,000,000.00 (each employee, each accident and policy limit)
<b>Data Breach Liability (Including response and remediation)</b>	\$1,000,000 Each Occurrence \$1,000,000 General Aggregate
<b>Professional Liability</b>	\$1,000,000 Each Occurrence \$1,000,000 General Aggregate
<b>Property Insurance</b>	Replacement Cost, Open Perils, Property Insurance for all Personal Property used/stored by the vendor involved procurement on University Property.

\*Occurrence coverage is required. Claims-made coverage is not acceptable.

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These policies (except Workers' Compensation) shall name the University, its trustees, officers, employees and agents as Additional Insured and shall contain a covenant requiring no less than thirty (30) days written notice to the University before cancellation, reduction or other modification of coverages.

These policies shall be primary and noncontributing with any insurance carried by the University and shall contain a severability of interest clause in respect to cross liability, protecting each Additional Insured as through a separate policy had been issued to each. Certificate of the above policies shall be furnished, to the University, at least thirty (30) days prior to the commencement of services provided under this Contract.

All Certificates of Insurance must clearly state that the organization's insurance(s) is PRIMARY. If organization's policy has deductibles, self-insured retentions or co-insurance penalties, then all such costs shall be solely borne by organization and not by the University. The University will not share in any policy deductibles.

It is hereby agreed that in event of a claim arising under this policy, the organization will not deny liability by reason of the Additional Insured being a state, county, municipal corporation or governmental agency.

The limits listed above may be accomplished through a combination of primary and excess/umbrella liability policies written on a "follow form" basis or forms no more restrictive than the primary policies.

### **AWARD OF CONTRACT - COMPETITIVE NEGOTIATION**

A contract will be awarded to the Offeror whose proposal conforms to the terms, conditions and the scope of this RFP and is deemed by the University as offering the best value to the University, with price and other evaluation factors considered.

Prior to contract award, Procurement Services shall complete a review of the contractor(s) against appropriate governmental exclusion/debarment/suspension lists. Any vendors who are identified as potential matches will be reported to the Institutional Compliance Office for verification procedures prior to contract award. Procurement Services will not proceed with a contract award to any contractor verified as a positive match, without consultation with the Institutional Compliance Office and appropriate University Administration.

The University reserves the right to reject any or all offers and to waive informalities and minor irregularities in offers received.

It is the University's intent to award a single contract. A written award (or acceptance of offer) mailed (or otherwise furnished) to the successful Offeror shall be deemed to result in a binding contract without further action by either party, and all terms and conditions of this Request for Proposal are hereby incorporated into any such contract.

### **CONTRACT PERIOD**

It is currently the intent of the University, unless mutually agreed to, that the contract established by this Request for Proposal will be for the period of three (3) years, with the option to renew for two (2) additional one (1) year periods. All initial prices shall be firm for the first three (3) years of the contract. The University of Louisville, upon agreement with all parties, shall have the option to extend the contract up to one year.

### **CONTRACT CHANGES**

During the period of the contract, no change will be permitted in any of its conditions and specifications unless the Contractor receives written approval from the University, which will be formally memorialized by way of a written contract amendment signed by both parties.

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Should the Contractor find at any time that existing conditions make modification of the requirements necessary, they shall promptly report such matter to the University of Louisville, Department of Procurement Services for consideration and decision.

### **AMENDMENTS**

It is recognized that subsequent written amendments to the awarded contract may be necessary; and all such amendments will require the mutual agreement of the parties.

### **CONTRACT RENEWAL**

Any contract resulting from this RFP may be renewed by mutual agreement between the vendor and the University. Renewal shall be based on satisfactory performance of the vendor for the work described in the specifications. The vendor shall submit a request for renewal of contract no later than sixty (60) days prior to expiration of the contract. The University may make an evaluation of market conditions and, if justified, an increase or decrease of contract prices can be made based upon a present increase or decrease in prices of raw goods. An agreed upon renewal will be recorded by way of an amendment to the contract.

### **CONTRACT CANCELLATION**

#### **TERMINATION OF CONTRACT FOR CONVENIENCE OR NECESSITY**

The University of Louisville, Department of Procurement Services, reserves the right to terminate this contract for its own convenience without cause upon a thirty (30) day written notice to the Vendor. Upon receipt of the University "Notice of Termination", the Vendor shall discontinue all services with respect to the applicable contract by the date stated in the notification. The Vendor will be compensated for all products shipped and received, work performed, services completed in whole or in part, and for material(s) which have been shipped (or which was otherwise allocated to the project which was terminated). Compensation for services provided by the Vendor will be calculated at a mutually agreed upon amount for services performed prior to "Notice of Termination". A fixed fee contract will be pro-rated (as appropriate).

The University reserves the right to cancel any established contract if any policy or procedural changes occur that would warrant discontinued use of the established contract. Additionally, if a protest is filed, depending on the outcome of the protest, the contract/order may be cancelled or confirmed.

While it is unlikely, it is possible the University and/or Vendor may need to cancel a contract based on changes to State Statute and/or Kentucky's Model Procurement Code for which the University and/or Vendor become unable to comply.

#### **TERMINATION OF CONTRACT FOR NON-PERFORMANCE**

The Assistant Director of Procurement Services may terminate this contract for non-performance, as determined by the University. Such causes could include, but not be limited to:

- Mal-performance, non-performance, substitution of commodities, or failure to comply with specifications given herein in whole or part by the Vendor.
- Failure to provide satisfactory quality of; product or service, including, failure to maintain adequate personnel, whether arising from labor disputes, or otherwise any substantial change in ownership or proprietorship of the Contractor, which in the opinion of the University is not in its best interest, or failure to comply with the terms of this contract.
- Failure to keep or perform, within the time period set forth herein, or violation of, any of the covenants, conditions, provisions or agreements herein contained.

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- Adjudication as a voluntarily bankrupt, making a transfer in fraud of its creditors, filing a petition under any section from time to time, or under any similar law or statute of the United States or any state thereof, or if an order for relief shall be entered against the Contractor in any proceeding filed by or against contractor thereunder. In the event of any such involuntary bankruptcy proceeding being instituted against the Contractor, the fact if said petition in order that Contractor might during the sixty (60) days period have the opportunity to seek dismissal if the involuntary petition or otherwise cure said potential default.
  - Making a general assignment for the benefit of its creditors, or taking the benefit of any insolvency act, if a permanent receiver or trustee in bankruptcy shall be appointed for the Contractor.

#### **TERMINATION OF CONTRACT FOR CONTRACTOR VIOLATIONS**

- Failure by Contractor for violations including but not limited to:
  1. Commonwealth and University, Conflict of Interest Policies
  2. Commonwealth Campaign Finance Laws
  3. OSHA, Labor and Tax Collection Violations
  4. Governmental Program Certification
  5. Failure to register firm with the Kentucky Secretary of State
  6. Failure to post requested bond if required
  7. Failure to maintain required Insurance

#### **FISCAL FUNDING OUT CLAUSE**

The University reserves the right to cancel and/or suspend the established contract if funds for the continuation of these contracted services are eliminated or are not fully appropriated in subsequent years. The University will make all efforts, though annual budget requests to meet financial obligations for continuing contractual obligations; however this does not guarantee that funds will be made available from one fiscal year to the next.

The University also reserves the right to cancel and/or suspend the established contract if changes in University policy and/or the way business are conducted regarding contracted services.

The University reserves the right to cancel and/or suspend the award/procurement if funds for the continuation of these contracted goods or services are eliminated or are not fully appropriated in subsequent years. The University also reserves the right to cancel and/or suspend the established contract if changes in University policy and/or the way business are conducted regarding contracted services.

#### **PAYMENT OF INVOICES**

The vendor shall be paid, upon the submission of proper invoices, to the "Billing Address" shown on the purchase order, at the prices stipulated for items delivered and accepted, or services rendered. Unless otherwise specified, payment will not be made for partial deliveries.

The University reserves the right to make payment for orders via the University corporate Visa procurement card.

#### **INDEMNIFICATION**

Any provision in the terms and conditions or agreement provided by the vendor that requires or otherwise specifies that the University will indemnify the vendor or any of its subcontractors or otherwise specify the University being liable or responsible for the actions/inactions of the vendor or other third party shall only be to the extent permitted by Kentucky

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Revised Statutes (KRS 49.010 through 49.180) by the powers and authority vested in the Kentucky Claims Commission and KRS 45A.225 through 45A.275 (Contract Claims).

The vendor shall defend, indemnify and hold harmless the University, its affiliated entities, their trustees, officers, employees and agents from and against all costs, losses and expenses (including reasonable cost of attorney's fees) by reason of liability imposed by law upon the vendor for damages resulting from the vendor's performance or because of bodily injury, including death, personal injury, data breach/loss at any time resulting there from, sustained by any person or persons including the vendor's employees, or on account of damage to property, including loss of use thereof, to the extent arising out of or in consequence of the negligent or intentional action or omission, or willful misconduct of the vendor, provided however, that nothing contained herein shall require the vendor to indemnify the University for such injuries to persons or damage to property to the extent arising out of, or in consequence to the negligent or intentional action, omission or willful misconduct of the University, its officers, employees and agents. Any cap or limitation on the amount of the liability included by vendor in its response or standard agreement is rejected. Any limitation of liability requires specific acceptance by the University (e.g. via an amendment signed in writing by the University).

### **ARBITRATION**

Any provision in the vendor's terms and condition or agreement that specifies binding arbitration to resolve a controversy or claim arising out of or relating to this contract, or breach thereof, is rejected and deleted. Mediation or other forms of non-binding alternative dispute resolution may be used in lieu of binding arbitration.

### **CONFLICT OF INTEREST**

Any Offeror responding to the Request for Proposal is required to disclose any potential conflict of interest. If the owner of your organization is related to a University of Louisville employee, that relationship must be disclosed in writing and made part of the bid response.

For purposes of disclosure of a conflict, a person is a related person if related to a University employee in any of the following ways, and includes those within these categories who are referred to as adopted, step-, foster, grand-, half-, in-law, spouse of, or great- :

- parent
- child or ward
- sibling
- uncle or aunt
- first cousin
- nephew or niece
- spouse, domestic partner, significant other

### **KENTUCKY CAMPAIGN LAWS**

By signing this proposal document, the Offeror representative certifies that neither he/she nor any member of his/her immediate family hold an interest of 10% or more in any business entity involved in the performance of this contract; or has contributed more than the amount specified in KRS121.056(2) to the campaign of the gubernatorial candidate elected at the election last preceding the date of this contract. The signee further swears under the penalty of perjury that neither he/she or the Company which he/she represents has knowingly violated any provisions of the campaign laws of the Commonwealth; and, that the award of a contract to him/her or the Company which he/she represents will not violate any provisions of the campaign finance laws of the Commonwealth.

### **COMPLIANCE - STATE LAWS**

It is agreed and understood that this procurement, and the rights and obligations of the parties hereto, shall be governed by and construed under the laws of the Commonwealth of Kentucky. This provision shall control any conflicting provision



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in the terms and conditions or agreement provided by the vendor. Any such conflicting provision is rejected.

All vendors are subject to and must comply with all applicable state and federal law to include but not limited to compliance with: Anti-Discrimination Laws & Requirements (<https://www.dol.gov/agencies/oasam/centers-offices/civil-rights-center>), federal, state and local Minimum Wage and/or Prevailing Wage Requirements including, to the extent applicable, full compliance with Davis Bacon Act (<http://www.dol.gov/whd/govcontracts/dbra.htm>) requirements for all work and services performed.

## **VIOLATIONS OF AND COMPLIANCE WITH KENTUCKY LAWS**

The Contractor shall reveal to the owner any final determination of a violation by the contractor or subcontractor with the previous five (5) year period pursuant to KRS Chapters 136, 139, 141, 337, 338, 341, and 342 that apply to the contractor or subcontractor. The contractor shall be in continuous compliance with the provisions of KRS Chapters 136, 139, 141, 337, 338, 341 and 342 the apply to the contractor or subcontractor for the duration of the contract.

Awarded Contractor will be required to register with the Department of Revenue to collect and remit the sales and use tax imposed by KRS Chapter 139 and in compliance with House Bill 609, date May 21, 2008.

## **EQUIPMENT SAFETY REQUIREMENTS**

All equipment offered against this Request for Proposal must be in full compliance with all current safety standards as established by Federal, State, and Local governments, including, but not limited to, all current OSHA standards applicable to the manufacture, distribution, and use of said equipment. Furthermore, all equipment, including the listing and labeling of the equipment, must meet the requirements stated in the current edition of the NFPA 70 National Electrical Code. Offerors, by completing and submitting a bid in response to this Request for Proposal, do certify that any equipment proposed shall be in full compliance with all of the above applicable safety standards.

## **ADA COMPLIANCE**

When applicable (e.g. webpages) the Contractor's products and services shall be in compliance with current Americans with Disability Act (ADA) requirements including the applicable current ADA Standards for Acceptable Design, WCAG 2.1, Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), Section 255 of the Communications Act, as amended and applicable regulations.

## **PCI COMPLIANCE**

**PCI Compliance:** To the extent Second Party has access to, stores, processes, transmits, redirects<sup>10</sup> or executes transactions with or containing Cardholder<sup>11</sup> Data<sup>12</sup> or Sensitive Authentication Data<sup>13</sup> or could impact the security of the Cardholder Data technical environment, Second Party acknowledges its responsibility for the security of Cardholder Data or Sensitive Authentication Data it has access to, stores, processes, transmits, redirects or executes transactions on behalf of the University of Louisville and its affiliates and ensuring that Second Party's subcontractors/agents/representatives/affiliates ensures that security as well (the preceding hereinafter collectively referred to as "uses/using Cardholder Data"); Second Party represents and warrants that software, hardware, and services provided, supplied, or used by Second Party<sup>14</sup> for using Cardholder Data shall be compliant with and will maintain compliance with throughout the term of the Agreement the then-current version of the following laws and standards, each as updated from time to time by the responsible entity: (1) applicable laws and regulations, (2) the standards established by the PCI Security Standards Council (PCISSC) (see [https://www.pcisecuritystandards.org/security\\_standards/index.php](https://www.pcisecuritystandards.org/security_standards/index.php)) and (3) such other applicable standards/policies of the University of Louisville ("laws and standards"). Second Party agrees to provide proof of compliance at the signing of this Agreement, by submitting a compliance document such as a PCI DSS Attestation of Compliance (AOC) or another similar compliance document certifying compliance by a third party against the current DSS version in effect and have



aligned any mobile application, if applicable, to NIST development lifecycle guidelines and agrees to provide an updated proof of compliance of such compliance resulting from changes of laws and standards occurring after this Agreement was executed. Second Party shall promptly notify the First Party of any lapse in its obligations resulting in non-compliance issues or security data breach of these provisions within seventy-two hours (72 hours) at <http://louisville.edu/security/incident-reporting-and-response/vendor-external-party-incident-reporting/> pertaining to their operation (or that of their subcontractors/agents/ representatives/affiliates as applicable) and shall undertake immediate remediation of such incident within established timeframes and assume responsibility for informing such individuals in accordance with applicable laws. Furthermore Second Party agrees, as needed, to assist First Party in determining the extent and/or the nature of the loss of Cardholder Data or Sensitive Authentication Data should First Party need to notify individuals and/or the processor entity of such loss of Cardholder Data or Sensitive Authentication Data and paying all costs, including but not limited to, notification, investigation, mitigation, any fines or penalties, or card replacement, brand penalties in the event of a security breach of Cardholder Data or Sensitive Authentication Data caused by the actions or inactions of Second Party (or that of their subcontractors/agents/representatives/affiliates as applicable) (referred to collectively as “PCI Costs”). Second Party further agrees to indemnify, hold harmless and defend the University of Louisville and its affiliates and representatives from any claims damages or other harm connected to said breach. Further the Second Party hereby agrees that the First Party may withhold payment(s) owed to the Second Party for any violation of these security/reporting requirements or failure to pay PCI Costs. Second Party will provide proof of appropriate insurance (with UofL listed as an additional insured) to cover its obligations for compliance and/or breach under this Agreement.

NO First Party will be merchant of record  YES \_\_\_\_\_  
Initial Date

If the above box is checked YES, Second Party shall be the merchant of record for all transactions associated with this Agreement, and solely bears all responsibility for such transactions as is normally borne by the merchant of record, and hereby represents and warrants that it shall fully comply with all such responsibilities.

NO No network connection is needed  YES \_\_\_\_\_  
Initial Date

If the box above is checked YES, First Party may provide one network connection to the Internet for a Second Party approved for connection to the University of Louisville network, if applicable to the relationship. All Second Party equipment will be placed into a virtual LAN with no connectivity to any other network. No additional access, wired or wireless, will be granted to the University’s network for processing Cardholder Data or Sensitive Authentication Data upon the date of this Agreement or in the future. It is up to the Second Party to provide equipment and labor to secure and connect their virtual LAN to the one network Internet connection and ensure a system for disaster recovery providing continuity of its business and security of all Cardholder Data and Sensitive Authentication Data should a major disruption or failure occur. Second Party must abide by all network security policies of the University and its network providers. Second Party agrees that it will not use:

- (1) a University provided network connection, or
- (2) other non-cellular wireless transmission method (e.g. Bluetooth)

for transmission of any information that the University has defined as Sensitive Information unless such use has received prior written approval by First Party. Any information stored (i.e. servers, backups) during the term of the Agreement must adhere to proper disposal methods per PCI standards upon termination of this Agreement.

Second Party further agrees to indemnify, hold harmless and defend the University of Louisville and its affiliates and representatives from any claims damages or other harm connected to any breach of the warranties or representations set forth in the PCI Compliance section above.

<sup>10</sup> E.g. Sends the web user to a third party which collects or processes the Cardholder Data and associated payment information.  
<sup>11</sup> Customer/individual to whom a payment card is issued to or any individual authorized to use the payment (e.g. debit/credit) card.  
<sup>12</sup> Cardholder data minimally consists of the full Primary Account Number (PAN) – the unique payment card number (typically for

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credit or debit cards) that identifies the issuer and the particular cardholder account. Cardholder data may also include the full PAN plus any of the following: cardholder name, expiration date and/or service code See Sensitive Authentication Data for additional data elements that may be transmitted or processed (but not stored) as part of a payment transaction.

<sup>13</sup> Security-related information (including but not limited to card validation codes/values, full track data (from the magnetic stripe or equivalent on a chip), PINs, and PIN blocks) used to authenticate cardholders and/or authorize payment card transactions.

<sup>14</sup> which includes its subcontractors/agents/representative/affiliates by the reference to “using Cardholder Data.”

## **ANTI-KICK BACK**

All Offerors shall comply with the Copeland "Anti-Kick Back" Act (18 USC 874) as supplemented in the Department of Labor Regulations (29 CFR, Part 3). This Act provides that each Offeror, subcontractor or subgrantee is prohibited from inducing, by any means, any person employed in the construction, completion or repair of public work to give up any part of the compensation to which he is otherwise entitled.

## **ELIGIBILITY TO PARTICIPATE IN GOVERNMENTAL PROGRAMS CERTIFICATION**

Offeror's signature on this RFP response certifies that the Offeror, and where applicable subcontract vendor, or any person performing services under this agreement (i) is not now nor have ever been excluded, suspended, debarred or otherwise deemed ineligible to participate in governmental healthcare, procurement, or other programs; (ii) is not now nor have ever been charged with or been convicted of a criminal offense related to the provision of government healthcare, procurement, or other programs and have not been reinstated in such programs after a period of exclusion, suspension, debarment, or ineligibility. If the Offeror, and where applicable subcontract vendor, or any person performing services under this agreement becomes ineligible for participation in such governmental programs in the future, vendor will have a process in place such that subcontract vendor(s) and any person performing services under this agreement will promptly notify the vendor of such ineligibility. The Offeror will notify the University buyer of record within seventy-two (72) hours of the vendor becoming aware of the governmental ineligibility of the vendor, any subcontract vendor, or any person performing services under this agreement.

## **AUDITED FINANCIAL STATEMENTS**

The University reserves the right to request Audited Financial Statements from any and all firms submitting proposals in order to adequately evaluate firm(s) financial stability in performing the services as outlined within this request for proposal. Upon request from the University, firm(s) shall provide the last two (2) years audited financial statements for review by the University. These statements shall be treated as Proprietary Information. They will be marked so in the RFP file and will not be subject to open records inspection/requests.

## **SUPPLIER CODE OF CONDUCT**

The University of Louisville is committed to conducting its contract administration and procurement business in an ethical, legal and socially responsible manner. The University expects its suppliers to share in this commitment and, therefore, has established a **Supplier Code of Conduct**. Each Offeror should review this Code of Conduct prior to submission of bid. Submission of Bid/Proposal and signature on this document indicates vendor's acceptance to this policy.

Supplier Code of Conduct: [Purchasing Policy 17.00](#).

## **SMOKE-FREE CAMPUS**

Smoking is not permitted on any University of Louisville campus. This prohibition includes buildings and all grounds.

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## **SUPPLIER CERTIFICATION**

The University of Louisville is committed to conducting its procurement practices in accordance with federal law and regulations and with firms committed to an Equal Employment Opportunity policy. Towards that end, the vendor is requested to review the attached Supplier Certification document and to complete any applicable information regarding conflict of interest requirements in the Supplier Certification. The attached Supplier Certification will be incorporated into the final contract/agreement resulting from this proposal. Awarded vendors will be required to agree to and comply with the applicable provisions of the Supplier Certification when conducting business with the University.

## **TREATMENT OF PERSONAL INFORMATION**

To the extent Company receives Personal Information<sup>1</sup> as defined by and in accordance with Kentucky's Personal Information Security and Breach Investigation Procedures and Practices Act, KRS 61.931-934 (the "Act"), Company shall secure and protect the Personal Information (and ensure the same of its agents or subcontractors having access to the Personal Information) by, without limitation: (i) complying with all requirements applicable to non-affiliated third parties<sup>2</sup> set forth in the Act; (ii) utilizing security and breach investigation procedures that are appropriate to the nature of the Personal Information disclosed, at least as stringent as University's and reasonably designed to protect the Personal Information from unauthorized access, use, modification, disclosure, manipulation, or destruction or that meet industry standard practices for protecting Personal Information from unauthorized access, use, modification, disclosure, manipulation, or destruction; (iii) notifying University of a security breach as specified at <http://louisville.edu/security/incident-reporting-and-response/vendor-external-party-incident-reporting/> relating to Personal Information in the possession of Company or its agents or subcontractors within seventy-two (72) hours of discovery of an actual or suspected breach unless the exception set forth in KRS 61.932(2)(b)2 applies and Company abides by the requirements set forth in that exception; (iv) paying all costs of notification, investigation and mitigation in the event of a security breach of Personal Information caused by the actions or inactions of Company ("NIM Costs"); (v) cooperate with University in complying with the response, mitigation, correction, investigation and notification requirements of the Act including undertaking a prompt and reasonable investigation of any security breach; and (vi) at University's discretion and direction, handling all administrative functions associated with notification, investigation and mitigation, in accordance with the Act's requirements. The Company hereby agrees that the University may withhold payment(s) owed to the Company for any violation of these identity theft prevention reporting requirements or failure to pay NIM Costs.

## **OTHER INFORMATION**

Any questions regarding this Request for Proposal should be directed to: Phil Wiesemann at [Philip.wiesemann@louisville.edu](mailto:Philip.wiesemann@louisville.edu).

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<sup>1</sup> "Personal Information" is defined in accordance with KRS 61.931(6) as "an individual's first name or first initial and last name; personal mark; or unique biometric or genetic print or image, in combination with one (1) or more of the following data elements:

a) An account, credit card number, or debit card number that, in combination with any required security code, access code or password, would permit access to an account;

b) A Social Security number;

c) A taxpayer identification number that incorporates a Social Security number;

d) A driver's license number, state identification card number or other individual identification number issued by an agency;

e) A passport number or other identification number issued by the United States government; or

f) Individually Identifiable Information as defined in 45 C.F.R. sec. 160.103 (of the Health Insurance Portability and Accountability Act), except for education records covered by the Family Education Rights and Privacy Act, as amended 20 U.S.C. sec 1232g."

<sup>8</sup>Per KRS 61.931(5), a "non-affiliated third party" means "any person or entity that has a contract or agreement with the Commonwealth and receives (accesses, collects or maintains) personal information from the Commonwealth pursuant to the contract or agreement."



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# University of Louisville

## SUPPLIER CERTIFICATION

The following certifications and acknowledgements are applicable as indicated by the particular provision.

The term “Supplier,” as used in this document, refers to the entity that is supplying the goods or services to the University of Louisville or one of its affiliated corporations. In related documents, the entity may also be referred to as Bidder, Offeror, Applicant, Proposer, Seller, Second Party, Subcontractor or other similar term.

The term “Contract”, as used in this document, refers to the agreement, purchase order, memorandum of understanding, subcontract, subaward, personal services agreement/contract or other similar document specifying the provisions under which the Supplier is providing goods or services to the University of Louisville or one of its affiliated corporations.

The term “UofL affiliated entity” refers to the University of Louisville, the University of Louisville Research Foundation, Inc., the University of Louisville Athletic Association, or the University of Louisville Foundation.

### 1. EQUAL OPPORTUNITY CLAUSE

(Applicable to Suppliers exceeding \$10,000 in Contracts with a UofL affiliated entity in a twelve month period)

This Contract is subject to the requirements of Executive Orders 11246 and 11375 and the rules and regulations of the U.S. Secretary of Labor (41 CFR Chapter 60) in promoting Equal Opportunities.

During the performance of this Contract the Supplier agrees as follows:

- a. Supplier will not discriminate against any employee or applicant for employment because of race, religion, color, sex, or national origin. Supplier will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, religion, color, sex, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation, and selection for training, including apprenticeship. Supplier agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Government setting forth the provisions of this nondiscrimination clause.
- b. Supplier will, in all solicitations or advertisements for employees placed by or on behalf of the Supplier, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, or national origin.
- c. Supplier will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice advising the labor union or workers' representative of Supplier's commitments under Section 202 of Executive Order 11246 of September 24, 1965, as amended, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- d. Supplier will comply with all provisions of Executive Order 11246 of September 24, 1965, as amended, and of the rules, regulations, and relevant orders.
- e. Supplier will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders, or pursuant thereto, and will permit access to

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his books, records, and accounts by the contracting agency and the Affirmative Action Office for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

- f. In the event of Supplier's noncompliance with the nondiscrimination clauses of this Contract or with any of such rules, regulations, or orders, this Contract may be canceled, terminated, or suspended in whole or in part, and Supplier may be declared ineligible for further Government contracts in accordance with the procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- g. Supplier will include the provisions of Paragraphs (a) through (g) in every subcontract or purchase order unless exempted by the rules, regulations, or orders issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, so that such provision will be binding upon each subcontractor or vendor. Supplier will take such action with respect to any subcontract or purchase order as the Government or Buyer may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that in the event Supplier becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, Supplier may request the United States to enter into such litigation to protect the interests of the United States.<sup>3</sup>

## **2. AFFIRMATIVE ACTION FOR DISABLED VETERANS AND VETERANS OF THE VIETNAM ERA**

(Applicable to Suppliers exceeding \$10,000 in Contracts with a UofL affiliated entity)

This Contract is subject to the requirements of Executive Order 11701 and the regulations of the U.S. Secretary of Labor (41 CFR Chapter 60, Part 60-250) in promoting employment opportunities for disabled and Vietnam veterans.

During the performance of this contract or purchase order, Supplier agrees as follows:

- a. To provide special emphasis to the employment of qualified disabled veterans and veterans of the Vietnam era. The Supplier also agrees that all suitable employment openings of the Supplier which exist at the time of execution of this Contract and those which occur during the performance of this Contract, including those not generated by this Contract and including those occurring at an establishment of the Supplier other than the one wherein the Contract is being performed but excluding those of independently operated corporate affiliates, shall be offered for listing at an appropriate local office of the State Employment Service system wherein the opening occurs and to provide such reports to such local office regarding employment openings and hires as may be required: provided, that if the Contract or purchase order is for less than \$10,000 or if it is with a state or local government, the reports set forth in Paragraphs (c) and (d) of this clause are not required.
- b. Listing of employment openings with the employment service system pursuant to this clause shall be made at least concurrently with the use of any other recruitment service or effort and shall involve the normal obligations which attach to the placing of a bona fide job order, including the acceptance of any particular job applicant or from any particular group of job applicants, and nothing herein is intended to relieve the Supplier from any requirements in Executive Order or regulations regarding nondiscrimination in employment.

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<sup>3</sup> For federally-assisted construction contracts, the Supplier further agrees that it shall comply with the requirements of 41 CFR 60-1.4(b), which is specifically incorporated by reference herein.

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- c. The reports required by Paragraph (a) of this clause shall include, but not be limited to, periodic reports which shall be filed at least quarterly with the appropriate local office or where the Supplier has more than one establishment in a state, with the central office of the state employment service. Such reports shall indicate for each establishment (1) the number of individuals who were hired during the reporting period; (2) the number of those hired who were disabled veterans; and (3) the number who were nondisabled veterans of the Vietnam era.
  - d. The Supplier shall submit a report within 30 days after the end of each reporting period wherein any performance is made on this contract or purchase order. The Supplier shall maintain copies of the reports submitted until the expiration of one year after final payment under the Contract, during which time they shall be made available, upon request, for examination by any authorized representatives of the contracting officer or of the University's Affirmative Action Office.
  - e. Whenever the Supplier becomes contractually bound to the listing provisions of this clause, he shall advise the employment service system in each state wherein he has establishments of the name and location of each such establishment in the state. As long as the Supplier is contractually bound to these provisions and has so advised the state system, there is no need to advise the state system of subsequent contracts or purchase orders. The Supplier may advise the state system when it is no longer bound by this contract clause.
  - f. This clause does not apply to the listing of employment openings which occur and are filled outside of the 50 states, the District of Columbia, Puerto Rico, Guam, and the Virgin Islands.
  - g. This clause does not apply to openings which the Supplier proposed to fill from within his own organization or to fill pursuant to a customary and traditional employer-union hiring arrangement. This exclusion does not apply to a particular opening once an employer decides to consider applicants outside of his own organization or employer-union arrangement for that opening.
  - h. As used in this clause:
    - 1. "All suitable employment openings" includes, but is not limited to, openings which occur in the following job categories: production and nonproduction; plant and office; laborers and mechanics; supervisory and nonsupervisory; technical, and executive administrative, and professional openings which are compensated on a salary basis of less than \$18,000 per year. This term includes full-time employment, temporary employment of more than three days' duration, and part-time employment. It does not include openings which the Supplier proposes to fill from within his own organization or to fill pursuant to a customary and traditional employer-union hiring arrangement. Under the most compelling circumstances an employment opening may not be suitable for listing, including the situations where the needs of the Government cannot reasonably be otherwise supplied, where listing would be contrary to national security, or where the requirement of listing would otherwise not be for the best interest of the Government
    - 2. "Appropriate office of the state employment service system" means the local office of the federal-state national system or public employment offices with assigned responsibility for serving the area where the employment opening is to be filled, including the District of Columbia, Guam, Puerto Rico, and the Virgin Islands.
    - 3. "Openings which the Supplier proposes to fill from within his own organization" means employment openings for which no consideration will be given to persons outside the Supplier's organization (including any affiliates, subsidiaries, and the parent companies) and includes any openings which the Supplier proposes to fill from regularly established "recall" or "rehire" lists.



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4. "Openings which the Supplier proposes to fill pursuant to a customary and traditional employer-union hiring arrangement" means employment openings for which no consideration will be given to persons outside of a special hiring arrangement, including openings which the Supplier proposes to fill from union halls, which is part of the customary and traditional hiring relationship which exists between the Supplier and representatives of his employees.
  5. "Disabled veteran" means a person entitled to disability compensation under the law administered by the Veterans' Administration for disability rates at 30 per centum or more, or a person whose discharge or release from active duty was for a disability incurred or aggravated in line of duty.
  6. "Veterans of the Vietnam era" means a person (1) who (i) served on active duty for a period of more than 180 days, any part of which occurred after August 05, 1964, and was discharged or released therefrom with other than a dishonorable discharge, or (ii) was discharged or released from active duty for service-connected disability if any part of such duty was performed after August 05, 1964, and (2) who was so discharged or released within the 48 months preceding his application for employment covered under this part.

### **3. CERTIFICATE OF NONSEGREGATED FACILITIES**

(Applicable to Suppliers exceeding \$10,000 in Contracts with a UofL affiliated entity)

This Contract is subject to the requirements of Executive Order 11246 and the regulations of the U.S. Secretary of Labor (41 CFR Part 60-1.8) prohibiting segregated facilities based upon race, color, religion, sex or national origin.

The undersigned Supplier certifies to the University of Louisville and the Federal Government agencies with which it contracts that he does not maintain or provide for his employees any segregated facilities at any of his establishments, and that he does not permit the employees to perform their services at any location under his control where segregated facilities are maintained. Supplier certifies further that he will not maintain or provide for his employment any segregated facilities at any of his establishments, and that he will not permit his employees to perform their services at any location under his control where segregated facilities are maintained. The undersigned bidder, Offeror, applicant, supplier, or subcontractor agrees that a breach of this certification is a violation of the Equal Opportunity Clause in this Contract. As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, restrooms and washrooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation and housing facilities provided for employees which are segregated by explicit directive or are, in fact, segregated on the basis of race, creed, color, or national origin, because of habit, local custom, or otherwise. He further agrees that (except where he has obtained identical certifications from proposed subcontractors for specific time period) he will obtain identical certifications from proposed subcontractors prior to the award of subcontractors exceeding \$10,000 which are not exempt from the provisions of the Equal Opportunity Clause, that he will retain such certification in his files, and that he will forward the following notice to such proposed subcontractors (except where the proposed subcontractors have submitted identical certification for specific time periods):

#### **NOTICE TO PROSPECTIVE SUBCONTRACTORS OF REQUIREMENT FOR CERTIFICATION OF NONSEGREGATED FACILITIES**

A Certification of Nonsegregated Facilities must be submitted prior to the award of a subcontract exceeding \$10,000 which is not exempt from the provision of the Equal Opportunity Clause. The Certification may be submitted either for each subcontract or for all subcontracts or for all



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subcontracts during a period (i.e., quarterly, semiannually, or annually).

Note: The penalty for making false statements in offers is prescribed in 18 U.S.C. 1001.

#### **4. EMPLOYMENT OF INDIVIDUALS WITH DISABILITIES**

(Applicable to Suppliers exceeding \$10,000 in Contracts with a UofL affiliated entity)

This Contract is subject to the requirements of Executive Order 11758, section 503 of the Rehabilitation Act of 1973, as amended, and the regulations of the U.S. Secretary of Labor (41 CFR Part 60-741.5) to promote the employment and advancement of qualified handicapped individuals.

During the performance of this Contract, Supplier agrees as follows:

a. that it will not discriminate against any employee or applicant for employment because of physical or mental disability in regard to any position for which the employee or applicant for employment is qualified. The contractor agrees to take affirmative action to employ, advance in employment and otherwise treat qualified individuals with disabilities without discrimination based on their physical or mental disability in all employment practices, including the following:

- i. Recruitment, advertising, and job application procedures;
- ii. Hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, right of return from layoff and rehiring;
- iii. Rates of pay or any other form of compensation and changes in compensation;
- iv. Job assignments, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists;
- v. Leaves of absence, sick leave, or any other leave;
- vi. Fringe benefits available by virtue of employment, whether or not administered by the contractor;
- vii. Selection and financial support for training, including apprenticeship, professional meetings, conferences, and other related activities, and selection for leaves of absence to pursue training;
- viii. Activities sponsored by the contractor including social or recreational programs; and
- ix. Any other term, condition, or privilege of employment.

b. that it will comply with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the act.

c. that in the event of noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the act.

d. that it will post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Deputy Assistant Secretary for Federal Contract Compliance Programs, provided by or through the contracting officer. Such notices shall state the rights of applicants and employees as well as the contractor's obligation under the law to take affirmative action to employ and advance in employment qualified employees and applicants with disabilities. The contractor must ensure that applicants and employees with disabilities are informed of the contents of the notice (e.g., the contractor may have the notice read to a visually disabled individual, or may lower the posted notice so that it might be read by a person in a wheelchair).

e. that it will notify each labor organization or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the contractor is bound by the terms of section 503 of the Rehabilitation Act of 1973, as amended, and is committed to take affirmative action to employ and advance in employment individuals with physical or mental disabilities.

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f. that it will include the provisions of this clause in every subcontract or purchase order in excess of \$10,000, unless exempted by the rules, regulations, or orders of the Secretary issued pursuant to section 503 of the act, as amended, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the Deputy Assistant Secretary for Federal Contract Compliance Programs may direct to enforce such provisions, including action for noncompliance.

## **5. AFFIRMATIVE ACTION PROGRAM REQUIREMENT**

(Applicable to Suppliers employing 50 or more employees and exceeding \$50,000 in Contracts with a UofL affiliated entity)

This Contract is subject to the requirements of Executive Order 11758, section 503 of the Rehabilitation Act of 1973, as amended, and the regulations of the U.S. Secretary of Labor (41 CFR Part 60-741.40) in promoting affirmative action in Employment of the Handicapped. Supplier agrees to conform to its requirements as outlined in 41 CFR Part 60-741.44.

Furthermore, Supplier agrees to develop a written Affirmative Action Compliance Program for each of its establishments as required by 41 CFR 60-2.1.

## **6. FILING CERTIFICATE**

(Applicable to Suppliers employing 50 or more employees and exceeding \$50,000 in Contracts with a UofL affiliated entity)

Supplier has filed or will file the necessary compliance reports, including Standard Form 100 (EEO-1) where and when required by law and applicable regulations, including, without limitation, the Civil Rights Act of 1964 as amended by the Equal Employment Opportunity Act of 1972 and regulations in 41 CFR 60-1.7. Supplier further agrees that it shall require similar certification and filing from its nonexempt subcontractors and suppliers. The Supplier agrees to submit a copy of his Affirmative Action Program to the Affirmative Action Office, University of Louisville, within 30 days after the award to him of a Contract. Subsequent reports shall be submitted annually in accordance with 41 CFR 60-1.7(a)(1).

## **7. AFFIRMATIVE ACTION CERTIFICATE**

(Applicable to Suppliers employing 50 or more employees and exceeding \$50,000 in Contracts with a UofL affiliated entity)

Supplier has developed, is maintaining, and will continue to maintain the written affirmative action compliance program to guarantee equal employment opportunity to minority groups required by applicable laws and regulations, including, without limitations, those appearing in 41 CFR 60-1.40. Supplier further agrees that it shall require similar certification and filing from its nonexempt subcontractors and suppliers.<sup>4</sup>

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<sup>4</sup> Nonconstruction contractors should refer to 41 CFR Part 60-2 for specific affirmative action requirements. Construction contractors should refer to 41 CFR Part 60-4 for specific affirmative action requirements.

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## **8. ADMINISTRATIVE, CONTRACTUAL, LEGAL REMEDIES**

(Applicable to federally funded Contracts exceeding \$150,000 [or a higher threshold if the \$150,000 is adjusted for inflation as determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council])

Supplier acknowledges that the applicable UofL affiliated entity may impose sanctions or penalties on the Supplier for violation of terms of the Contract or breach of contract including violation of applicable regulations, other applicable provisions of law, or any directive or instruction from the UofL affiliated entity or the federal entity providing the funding. The UofL affiliated entity will determine the appropriate sanction and/or penalty, up to and including the inability to provide future goods or services to any UofL affiliated entity. In determining the appropriate sanction and/or penalty, the UofL affiliated entity will consider previous violations, potential harm to the project for which the goods or services are being provided, and any other relevant factors. The Supplier will be notified in writing of the intent to sanction and/or penalize and will have 10 business days from the date of receipt of the notice to submit a written response. The response will be reviewed and a final decision will be communicated in writing to the Supplier. These sanctions or penalties do not preclude the UofL affiliated entity, nor the Supplier, from pursuing any other alternate dispute resolution or legal remedy to which either may be entitled under law or regulation.

## **9. DAVIS BACON ACT**

(Applicable to federally funded construction projects exceeding \$2,000)

Supplier agrees to pay wages to mechanics and laborers at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. Supplier agrees to pay wages and meet the other requirements as specified by Davis-Bacon Act, as amended (40 U.S.C. 3141-3148) as supplemented by the Department of Labor regulations (29 CFR Part 5). Supplier acknowledges that the UofL affiliated entity's decision to make a Contract with Supplier is conditioned upon the acceptance of the wage determination.

## **10. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT**

(Applicable to federally funded Contracts exceeding \$100,000 which involves the employment of mechanics and laborers)

Supplier agrees to pay salaries and wages in accordance with the Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708) as supplemented by Department of Labor regulations (29 CFR part 5.) Supplier acknowledges that such requirements include computation of wages of a standard work week of 40 hours for every mechanic and laborer and that work in excess of the standard work week is permissible provided the worker is compensated at a rate no less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. These requirements do not apply to purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

## **11. CLEAN AIR AND FEDERAL WATER POLLUTION CONTROL ACT**

(Applicable to federally funded Contracts exceeding \$150,000)

Supplier agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Supplier acknowledges the requirement to report any violations with the funding

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Federal agency and to the Regional Office of the Environmental Protection Agency (EPA) and agrees to notify the UofL affiliated entity of any such violations.

## **12. TERMINATION**

(Applicable to federally funded Contracts exceeding \$10,000)

The UofL affiliated entity shall have the right to terminate/cancel this Contract at any time upon thirty (30) days' written notice to the Supplier. The UofL affiliated entity shall pay Supplier for termination costs as allowable under OMB Circular A-21 or 2 CFR Part 200 as applicable.

## **13. LOBBYING/ANTI-KICK BACK**

Copeland Anti-Kick Back Act:

(Applicable to any federally funded Contracts or funded by a federal loan)

The Supplier agrees to comply with the Copeland "Anti-Kick Back" Act (18 USC 874) as supplemented in the Department of Labor Regulations (29 CFR, Part 3). This Act provides that each Supplier, Bidder, subcontractor or subgrantee is prohibited from inducing, by any means, any person employed in the construction, prosecution, completion or repair of any public building, public work, or building or work financed in whole or in part by loans or grants from the United States to give up any part of the compensation to which he is otherwise entitled.

Certification Governing Lobbying:

(Applicable to federally funded Contracts exceeding \$100,000)

The Supplier certifies to the best of his/her knowledge and belief that:

- 1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the Supplier, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, , the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- 2) If any funds other than Federally appropriated funds have been paid or will be paid to any person for influencing or intending to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the Supplier shall complete and submit Standard Form -LLL, "Disclosure Form to Report Lobbying", to the UofL affiliated entity.
- 3) The Supplier shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

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This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

#### **14. ACCESS TO RECORDS**

(Applicable to any federally funded Contracts)

The UofL affiliated entity reserves the right to inspect, upon reasonable advance notice by the UofL affiliated entity and during normal business hours, Supplier's physical facilities, and all books, records, and documents of any kind pertaining to this Contract or Supplier's performance of supplying the goods or services provided by this Contract. Supplier agrees to provide copies of any records, receipts, accounts or other documentation to the UofL affiliated entity in a timely fashion as reasonably requested by the UofL affiliated entity. Supplier will keep all usual and proper records and books of accounts in accordance with Generally Accepted Accounting Principles (GAAP) relating to performance of the Contract for a minimum period of three (3) years after the date of receipt of the final payment.

#### **15. AUDITS**

(Applicable to any federally funded Contracts)

Supplier assures UofL affiliated entity that it complies with either A-133 or the applicable provisions of 2 CFR Part F Audit Requirements (§200.500-200.520) applicable to assurances from subawards/subcontracts and that it will notify the UofL affiliated entity of completion of required audits and of any adverse findings which impact this Agreement, including those required audits conducted in accordance with Generally Accepted Government Auditing Standards (GAGAS). The UofL affiliated entity reserves the right to inspect, upon reasonable advance notice and during normal business hours, Supplier's physical facilities used to provide the Services undertaken under this Agreement, and all books, records, and documents of any kind pertaining to the provision of the Services provided under this Agreement. Supplier agrees to provide copies of any records, receipts, accounts or other documentation in a timely fashion as reasonably requested by the UofL affiliated entity. Supplier will keep all usual and proper records and books of accounts in accordance with Generally Accepted Accounting Principles (GAAP) relating to performance/provision of Services for a minimum period of three (3) years after the date of receipt of the final payment.

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This Supplier Certification is hereby incorporated into the applicable Contract with you. Your signature on the Contract, acceptance of the Contract/purchase order, acceptance of payment, or other form of acceptance/acknowledgement (e.g. continuing business relationship) with a UofL affiliated entity indicates your agreement to and acceptance of the applicable provisions. No counter offer or provision of alternate terms and conditions is accepted by the UofL affiliated entity. Any changes must be agreed to in a signed separate writing specifically addressing the particular provision(s).