



UNIVERSITY OF  
LOUISVILLE  
PROCUREMENT SERVICES

Request for Proposal

RP-053-22

Athletic Merchandise Management

Proposal Due Date

05/27/2022 at 2:00 PM, EST

# UNIVERSITY OF LOUISVILLE

## PROCUREMENT SERVICES

### Request for Proposal (RFP)

**ATTENTION: This is not an order. Read all instructions, terms, and conditions carefully.**

<b>Proposal Number: RP-053-22</b>	<b>RETURN ORIGINAL COPY OF PROPOSAL TO:</b>
<b>Issue Date: 05/03/2022</b>	<b>UNIVERSITY OF LOUISVILLE</b>
<b>Title: Athletic Merchandise Management</b>	<b>PROCUREMENT SERVICES</b>
<b>Contract Administrator: Olivia Cloutier</b>	<b>2215 S. BROOK ST., STE. 107</b>
<b>Contact Email: olivia.cloutier@louisville.edu</b>	<b>LOUISVILLE, KY 40208</b>

**IMPORTANT: PROPOSALS MUST BE RECEIVED BY 05/27/2022 at 2:00 PM, EST**

#### NOTICE OF REQUIREMENT

1. The University's General Terms and Conditions, viewable at [Purchase Order Terms](#), apply to this RFP. No other terms should be included.
2. Contracts resulting from this RFP must be governed by and in accordance with the laws of the Commonwealth of Kentucky.
3. Any agreement or 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 offering, otherwise, is prohibited.
4. Any person who violates any provision of [KRS 45A.325](#) shall be guilty of a felony and shall be punished by a fine of not less than five thousand dollars, nor more than ten thousand dollars or be imprisoned not less than one year nor more than five years, or both such fine and imprisonment. Any firm, corporation, or association who violates any of the provisions of KRS 45A.325 shall, upon conviction, be fined not less than ten thousand dollars or more than twenty thousand dollars.

#### AUTHENTICATION OF BID 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](#):

1. That I am the offeror (if the offeror is an individual), a partner, (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).
2. That the attached proposal has been arrived at by the offeror independently and has been submitted without collusion with, and without any agreement, understanding or planned common course of action with, any other contractor of materials, supplies, equipment, or services described in the RFP, designed to limit independent bidding or competition.
3. That the contents of the proposal have not been communicated by the offeror or its employees or agents to any person not an employee or agent of the offeror or its surety on any bond furnished with the proposal and will not be communicated to any such person prior to the official closing of the RFP.
4. That the offeror is legally entitled to enter into contracts with the University of Louisville and is not in violation of any prohibited conflict of interest, including, but not limited to, those prohibited by the provisions of [KRS 45A.330](#), [KRS 45A.335](#), [KRS 45A.340](#), and [KRS 164.390](#);
5. That the 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 award;
6. That I have fully informed myself regarding the subject of the statements made above and all such statements are true and accurate.

#### SWORN STATEMENT OF COMPLIANCE WITH CAMPAIGN FINANCE LAWS

In accordance with [KRS 45A.110 \(2\)](#), the undersigned hereby swears under penalty of perjury that he/she has not knowingly violated any provision of the campaign finance laws of the Commonwealth of Kentucky and that the award of a contract to an offeror will not violate any provision of the campaign finance laws of the Commonwealth of Kentucky.

#### CONTRACTOR REPORT OF PRIOR VIOLATIONS OF KRS CHAPTERS 136, 139, 141, 337, 338, 341 & 342

The Contractor, by signing and submitting a proposal, agrees as required by [KRS 45A.485](#) to submit final determination of any violations of the provisions of KRS Chapters 139, 139, 141, 337, 338, 341 and 342 that have occurred in the previous five (5) years prior to the award of a contract and agrees to remain in continuous compliance with the provisions of the statutes during the duration of any contract that may be established. Final determinations of violations of these statutes must be provided to the University by the successful Contractor prior to the award of a contract.

#### CERTIFICATION OF NON-SEGREGATED FACILITIES

The Contractor, by submitting a proposal, certifies that he/she is in compliance with the Code of Federal Regulations [Title 41 CFR 60-1.8\(b\)](#) that prohibits the maintaining of segregated facilities.

**SIGNATURE REQUIRED:** This proposal may not be considered valid unless signed and dated below by an authorized agent of the offeror. Offers signed by an agent are to be accompanied by evidence of his/her authority unless such evidence has previously been furnished to the issuing office.

	NAME OF COMPANY:	DUNS#:
PROPOSAL FIRM THROUGH:	ADDRESS:	PHONE/FAX#:
PAYMENT TERMS:	CITY, STATE & ZIP CODE:	E-MAIL:
SHIPPING TERMS: FOB DESTINATION	TYPED OR PRINTED NAME:	WEB ADDRESS:
FEDERAL EMPLOYER ID NO:	SIGNATURE:	DATE:

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# 1. DEFINITIONS

The term “University” means University of Louisville, University of Louisville Athletics and University of Louisville Research Foundation.

The term “addenda” means written or graphic instructions issued by the University prior to the receipt of proposals that modify or interpret the RFP documents by additions, deletions, clarifications and/or corrections.

The term “competitive negotiations” means the method authorized in the Kentucky Revised Statutes [Chapter 45A.085](#).

The term “Contractor” means the entity receiving a contract award.

The terms “offer” or “proposal” mean the offeror’s/offerors’ response to this RFP.

The term “offeror” means the entity or contracting group submitting the proposal.

The term “purchasing agency” means the University of Louisville, Procurement Services Department, Room 107, Service Complex Building, Louisville, KY 40208.

The term “purchasing official” means the University’s appointed contract administrator.

The term “responsible offeror” means a person, company or corporation that has the capability in all respects to perform fully the contract requirements and the integrity and reliability that will assure good faith performance. In determining whether an offeror is responsible, the University may evaluate various factors including (but not limited to): financial resources; experience; organization; technical qualifications; available resources; record of performance; integrity; judgement; ability to perform successfully under the terms and conditions of the contract; adversarial relationship between the offeror and the University that is so serious and compelling that it may negatively impact the work performed under this RFP; or any other cause determined to be so serious and compelling as to affect the responsibility of the offeror.

The term “solicitation” means RFP.

## 2. GENERAL OVERVIEW

### a. Intent and Scope

The University of Louisville Athletic Association (ULAA) is requesting proposals from qualified vendors to provide retail management services of athletic merchandise at Athletic venues and on-line. The successful bidder will receive exclusive rights to operate:

1. Retail and operational management merchandise outlets at select ULAA venues (excludes KFC Yum Center location)
2. Retail Marketing Strategy
  - a. Data-driven storylines
  - b. Strategic approach to engage and drive revenue
  - c. Pricing strategies and marketing differentiation
3. Sales at post-season and special events sponsored by the University of Louisville Athletic Department
4. E-Commerce
  - a. Respondents need to be able to provide multiple ecommerce platform solutions for the Universities mutual selection
  - b. All Data collected will remain the property of the University and can only be used by the respondents for analytic purposes, unless expressly authorized
5. Consulting Services
  - a. The University is looking for a cohesive retail partnership where the responding firms have the demonstrated ability to consult on the build out and outfit of multiple venue and offsite locations.
6. Licensing and Vertical Production capabilities
  - a. The Qualified respondent will have a demonstrated ability to design, produce, and deliver on demand or quick turn products to support key moments throughout the operating year.

The successful bidder must provide or invest in all portable/permanent sales kiosks within athletic venues. The successful bidder is also responsible for all costs associated with point of sale and cash register equipment. Merchandise bearing Louisville marks must be officially licensed and pre-approved by the Athletic Department. Vendor must be able to accept credit card payments and confirm they are PCI-DSS compliant

### On-Site Facility Locations

1. Cardinal Stadium (football—concourse locations and future new build shop)
2. Patterson Stadium (baseball-concourse)
3. Ulmer Stadium (softball-concourse)
4. Lynn Stadium (soccer-concourse)
5. Cardinal Park (track and field-concourse)
6. The Alley (tailgating space located across from Cardinal Stadium)
7. Field Hockey and Lacrosse Stadiums

### Financial

In return for exclusive rights, ULAA anticipates receiving financial consideration in the form of commissions and investments in equipment/infrastructure. Financial incentives should be clearly outlined in the proposal

### Required Information

To effectively evaluate the proposals, submissions should include the following:

1. Overview of the company including experience with retail operations to include experience in college athletics
2. Company financial statements for previous 3 years
3. List of professional references
4. Detailed plan for implementing the merchandise operations of ULAA to include on-site and on-line sales inclusive of analytics and business intelligence
5. Firm's marketing strategy and plan to increase sales for ULAA

6. Clear description of financial compensation to include commission rate, guarantees, and capital investment

### **University Information**

The University is a state-supported research university located in Kentucky's largest metropolitan area. It was a municipally supported public institution for many decades prior to joining the university system in 1970. The University has three campuses. The 287-acre Belknap Campus is three miles from downtown Louisville and houses eight of the university's 12 colleges and schools. The Health Sciences Center is situated in downtown Louisville's medical complex and houses the university's health-related programs and the University Hospital. The 243-acre Shelby Campus is located in eastern Jefferson County.

### **Mission Statement**

The University pursues excellence and inclusiveness in its work to educate and serve its community through:

- teaching diverse undergraduate, graduate, and professional students in order to develop engaged citizens, leaders, and scholars,
- practicing and applying research, scholarship, and creative activity, and
- providing engaged service and outreach that improve the quality of life for local and global communities.

The University is committed to achieving preeminence as a premier anti-racist metropolitan research university.

### **Vision Statement**

The University will be recognized as a great place to learn, a great place to work and a great place in which to invest because we celebrate diversity, foster equity, and strive for inclusion.

## **b. Supplier Diversity and Procurement**

The University is committed to serve as an advocate for diverse businesses in their efforts to conduct business. Minority and Woman-Owned Business Enterprises (MWBE) consist of minority, women, disabled, veteran, and disabled veteran owned business firms that are at least fifty-one percent owned and operated by an individual(s) of the categories. Also included in this category are disabled business enterprises and non-profit work centers for the blind and severely disabled.

The University is committed to increasing the amount of goods and services acquired from businesses owned and controlled by diverse persons. The University expects its suppliers to support and assist in this effort.

Among the University's goals for MWBE participation in procurement are:

- To ensure the absence of barriers that reduce the participation of diverse suppliers
- Educate Contractors on "how to" do business with the University
- Support diverse Contractors seeking to do business with the University in the areas of goods, services, construction, and other areas of procurement
- Encourage participation of qualified diverse Contractors by directing them to agencies that can benefit from their product or service.
- Provide resources for diverse Contractors
- Sponsor events to assist diverse Contractors in becoming active, responsible, and responsive participants in the University's purchasing opportunities

For additional information regarding how diverse suppliers may participate in this RFP, submit any questions to the Contract Administrator as indicated in Section 3.2 by the deadline for written questions date.



### 3. PROPOSAL REQUIREMENTS

#### a. Key Event Dates

Release of RFP	05/03/2022
Deadline for Written Questions	05/11/2022 at 2 PM, EST
RFP Proposals Due	05/27/2022 at 2 PM, EST
Letter of Intent to Negotiate	Week of 05/30/2022
Desired Contract Effective Date	07/01/2022

\*All dates are subject to change

#### b. Offeror Communication

To ensure that RFP documentation and subsequent information (modifications, clarifications, addenda, written questions, and answers, etc.) are directed to the appropriate persons within the offeror's firm, each offeror who intends to participate in this RFP is to provide the following information to the Contract Administrator of record. Prompt, thorough compliance is in the best interest of the offeror. Failure to comply may result in incomplete or delayed communication of addenda or other vital information. Contact information is the responsibility of the offeror. Without the prompt information, any communication shortfall shall reside with the offeror.

- Name of primary contact
- Mailing address of primary contact
- Telephone number of primary contacts
- E-mail address of primary contact
- Additional contact persons with same information provided as primary contact

This information shall be transmitted e-mail to:

Olivia Cloutier  
Procurement Services  
University of Louisville  
2215 S. Brook St.  
Louisville, KY 40208  
E-mail: [olivia.cloutier@louisville.edu](mailto:olivia.cloutier@louisville.edu)

All communication with the University regarding this RFP shall **ONLY** be directed to the contracting officer listed above.

#### c. Offeror Presentations

All offerors whose proposals are judged acceptable for award may be required to make presentation to the evaluation committee.

#### **d. Preparation of Offers**

The offeror is expected to follow all specifications, terms, conditions, and instructions in this RFP. The offeror will furnish all information required by this solicitation.

Proposals should be prepared simply and economically, providing a description of the offeror's capabilities to satisfy the requirements of the solicitation. Emphasis should be on completeness and clarity of content. All documentation submitted with the proposal should be bound in the single volume except as otherwise specified.

An electronic version of the RFP, in PDF format only, is available through the University Purchasing website found [here](#)

#### **e. Proposed Deviations from the RFP**

The stated requirements appearing elsewhere in this RFP shall become a part of the terms and conditions of any resulting contract. Any deviations therefrom must be specifically defined in accordance with the transmittal letter, Section 4.c. If accepted by the University, the deviations shall become part of the contract, but such deviations must not conflict with the basic nature of this RFP.

Note: Offerors shall not submit their standard terms and conditions as exceptions to the University's [General Terms and Conditions](#). Each exception to the University's General Terms and Conditions shall be individually addressed.

#### **f. Proposal Submission and Deadline**

Offeror must provide the following materials prior to 2 PM EST on the dates specified in Section 3.1 and addressed to the Contract Administrator listed in Section 3.2:

- **Technical and Financial Proposal:** Email proposal to [olivia.cloutier@louisville.edu](mailto:olivia.cloutier@louisville.edu), clearly marked with the proposal number and name in the subject line.

**Note: Proposals received after the closing date and time will not be considered.**

Note: In accordance with the Kentucky Revised Statutes [45A.085](#), there will be no public opening.

#### **g. Modification or Withdrawal of Offer**

An offer and/or modification of offer received at the office designated in the solicitation after the exact hour and date specified for receipt will not be considered.

An offer may be modified or withdrawn by written notice before the exact hour and date specified for receipt of offers. An offer also may be withdrawn in person by an offeror or an authorized representative, provided the identity of the person is made known and the person signs a receipt for the offer, but only if the withdrawal is made prior to the exact hour and date set for receipt of offers.

#### **h. Acceptance or Rejection and Award of Proposal**

The University reserves the right to accept or reject any or all proposals (or parts of proposals), to waive any informalities or technicalities, to clarify any ambiguities in proposals and (unless otherwise specified) to accept any item in the proposal. In case of error in extension or prices or other errors in calculation, the

unit price shall govern. Further, the University reserves the right to make a single award, split awards, multiple awards, or no award, whichever is in the best interest of the University.

#### **i. Rejection**

Grounds for the rejection of proposals include (but shall not be limited to):

- Failure of a proposal to conform to the essential requirements of the RFP.
- Imposition of conditions that would significantly modify the terms and conditions of the solicitation or limit the offeror's liability to the University on the contract awarded based on such solicitation.
- Failure of the offeror to sign the University RFP. This includes the Authentication of Proposal and Statement of Non-Collusion and Non-Conflict of Interest statements.
- Receipt of proposal after the closing date and time specified in the RFP.

#### **j. Addenda**

Any addenda or instructions issued by the purchasing agency prior to the time for receiving proposals shall become a part of this RFP. Such addenda shall be acknowledged in the proposal. No instructions or changes shall be binding unless documented by a proper and duly issued addendum.

#### **k. Disclosure of Offeror's Response**

The RFP specifies the format, required information and general content of proposals submitted in response to this RFP. The purchasing agency will not disclose any portions of the proposals prior to contract award to anyone outside the University's Department of Procurement Services, the University's administrative staff, representatives of the state or federal government (if required) and the members of the committee evaluating the proposals. After a contract is awarded in whole or in part, the University shall have the right to duplicate, use or disclose all proposal data submitted by offerors in response to this RFP as a matter of public record.

Any submitted proposal shall remain valid six (6) months after the proposal due date.

The University shall have the right to use all system ideas, or adaptations of those ideas, contained in any proposal received in response to this RFP. Selection or rejection of the proposal will not affect this right.

#### **l. Restrictions on Communications with University Staff**

From the issue date of this RFP until a Contractor is selected and a contract award is made, offerors are not allowed to communicate about the subject of the RFP with any University administrator, faculty, staff or members of the board of trustees except for: the purchasing office representative, any University contracting official representing the University administration, any other individuals authorized in writing by the Procurement Services office and University representatives during offeror presentations. If this provision is violated, the University reserves the right to reject the offeror's proposal.

#### **m. Cost of Preparing Proposal**

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:

- All expenses incurred by the Offeror in the preparation of the proposal in response to this RFP.
- All expenses incurred by the Offeror in submitting that proposal to the University.
- All expenses incurred by the Offeror while negotiating with the University any matter related to this

- proposal (such as travel expenses, etc.).
- Any other expenses incurred by the Offeror prior to the effective date of the contract.

**n. Disposition of Proposals**

All proposals become the property of the University. The successful proposal will be incorporated into the resulting contract by reference.

**o. Alternate Proposals**

Offerors may submit alternate proposals. If more than one proposal is submitted, all must be complete (separate) and comply with the instructions set forth within this document. Each proposal will be evaluated on its own merits.

**p. Questions**

All questions should be submitted by e-mail to the Contract Administrator listed in Section 3.b no later than the date listed in Section 3.a.

**q. Section Titles in the RFP**

Section titles used herein are for the purpose of facilitating ease of reference only and shall not be construed to infer the construction of contractual language.

**r. No Contingent Fees**

No person or selling agency shall be employed or retained or given anything of monetary value to solicit or secure this contract, except bona fide employees of the offeror or bona fide established commercial or selling agencies maintained by the offeror for the purpose of securing business. In the event of a breach or violation of this provision, the University shall have the right to reject the proposal, annul the contract without liability, or, at its discretion, deduct from the contract price or otherwise recover the full amount of such commission, percentage, brokerage or contingent fee or other benefit.

**s. Proposal Addenda and Rules for Withdrawal**

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's BID/RFP Purchasing [webpage](#). 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's BID/RFP Purchasing webpage.

When necessary and upon requested, the University will provide supplemental data via files to the Contractor 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 Offeror's responsibility to conform the data to fit the needs of their software. Offeror may be required to sign a University Confidentiality Form prior to release of such information should that information contain private or confidential information.

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.

## **4. PROPOSAL FORMAT AND CONTENT**

### **a. Proposal Information and Criteria**

The following list specifies the items to be addressed in the proposal. Offerors should read it carefully and address it completely, and in the order listed below, to facilitate the University's review of the proposal.

Proposals shall be organized into the sections identified below. The content of each section is detailed in the following pages. It is strongly suggested that offerors use the same numbers for the following content that are used in the RFP.

- Signed Authentication of Proposal and Statement of Non-Collusion and Non-Conflict of Interest Form
- Transmittal Letter
- Executive Summary and Proposal Overview
- Criteria 1 - Financial Proposal
- Criteria 2 - Company History/Success
- Criteria 3 - Strategic Capabilities/Data
- Criteria 4 - E-Commerce Experience
- Criteria 5 - Other Additional Information

### **b. Signed Authentication of Proposal and Statements of Non-Collusion and Non-Conflict of Interest Form**

The Offeror will sign and return the proposal cover sheet and print or type their name, firm, address, telephone number and date. The person signing the offer must initial erasures or other changes. An offer signed by an agent is to be accompanied by evidence of their authority unless such evidence has been previously furnished to the purchasing agency. The signer shall further certify that the proposal is made without collusion with any other person, persons, company, or parties submitting a proposal; that it is in all respects fair and in good faith without collusion or fraud; and that the signer is authorized to bind the principal offeror.

### **c. Transmittal Letter**

The Transmittal Letter accompanying the RFP shall be in the form of a standard business letter and shall be signed by an individual authorized to legally bind the offeror. It shall include:

- A statement referencing all addenda and written questions, the answers and any clarifications to this RFP issued by the University and received by the offeror (If no addenda have been received, a statement to that effect should be included.).
- A statement that the offeror's proposal shall remain valid for six (6) months after the closing date of the receipt of the proposals.
- A statement that the offeror will accept financial responsibility for all travel expenses incurred for oral presentations (if required) and candidate interviews.
- A statement that summarizes any deviations or exceptions to the RFP requirements and includes a detailed justification for the deviation or exception.

**d. Executive Summary and Proposal Overview**

The Executive Summary and Proposal Overview shall condense and highlight the contents of the technical proposal in such a way as to provide the evaluation committee with a broad understanding of the entire proposal.

As part of the Executive Summary and Proposal Overview, Offeror shall submit with their response a summarized profile describing the demographic nature of their company or organization:

1. When was your organization established and/or incorporated?
2. Indicate whether your organization is classified as local, regional, national, or international.
3. Describe the size of your company in terms of number of employees, gross sales, etc.
4. Is your company certified as a small business, minority-owned, women-owned, veteran-owned, disabled-owned, or similar classification?
5. Include other demographic information that you feel may be applicable to the Request for Proposal submission.
6. Offeror shall describe in detail their company’s commitment to diversity, equity, and inclusion. Information shall be provided as to the number of diverse individuals that the Contractor employs as well as a description of Contractor’s efforts to do business with Minority and Woman-Owned Business Enterprises as they conduct their own business. In addition, please indicate the diverse nature of your company as well as ownership race/ethnicity.

<b>Check One Only</b>	<b>Diverse Business Description (If Diverse Business, determine the classification that is the best description)</b>
	Minority Owned (only)
	Veteran Owned and Small Business
	Minority and Woman and Small Business
	Minority and Woman and Veteran-Owned Business
	Minority and Veteran and Small Business
	Woman and Veteran and Small Business
	Minority and Woman and Veteran-Owned Small Business
	Woman Owned (only)
	Small Business (only)
	Veteran Owned (only)
	Minority and Woman Owned
	Minority and Small Business
	Minority and Veteran-Owned
	Woman Owned and Small Business
	Woman and Veteran-Owned
	Diversity not indicated

Owner Race/Ethnicity	Check One
Asian	
Black/African American	
Hispanic or Latino	
Native American	
Native Hawaiian/Pacific Islander	
White	
Other	

**e. Criteria 1 – Financial Proposal**

The Financial Summary Form shall contain the complete financial offer made to the University using the format contained in Section 7.0

**f. Criteria 2 – Company History/Success**

Offerors shall describe and offer evidence of their ability to meet each of the required services listed below:

1. Provide a description of the plan of sales and customer service to UofL for online and on-site sales of merchandise. Describe how the customer service representative(s) would partner with UofL in meeting the needs of UofL applications.
2. Submit a plan for operating on-site merchandise shops to include:
  - Proposed number of on-site kiosks including location and capital commitment
  - Marketing strategy for the retail sites
  - Staffing and management for the retail network
3. Provide an overview of your company’s vision of e-commerce implementation for the University of Louisville Athletic Department.
4. What steps will your company undertake to ensure merchandise offered is of high quality.
5. Provide a description of delivery services available for e-commerce.

**g. Criteria 3 - Strategic Capabilities/Data**

The Financial Summary Form shall contain the complete financial offer made to the University using the format contained in Section 7.0

**h. Criteria 4 – E-Commerce Experience**

The purpose of the E-Commerce Experience section is to determine the ability of the Offeror to respond to this Request for Proposal. Offerors must describe and offer evidence of their ability to meet each of the qualifications listed below.

1. Describe similar work performed by your company in the past five (5) years sufficient to demonstrate experience and performance. Include specific examples of how your company’s efforts resulted in increased sales of merchandise for your clients.

2. Provide name and contact information for a minimum of three (3) references for whom you have provided similar services outlined in this RFP. By providing the reference information, Offeror permits the University to contact the references. These are to be non-University references.

**i. Criteria 5 – Other Additional Information**

Please provide any additional information that the Offeror feels should be considered when evaluating the proposal submitted.

The offeror may present any creative approaches that might be appropriate. The offeror may also provide supporting documentation that would be pertinent to this RFP

**5. EVALUATION CRITERIA PROCESS**

A committee of University officials appointed by Procurement Services will evaluate proposals and make a recommendation to Procurement Services. The evaluation will be based upon the information provided in the proposal, additional information requested by the University for clarification, information obtained from references and independent sources and oral presentations (if requested).

The evaluation of responsive proposals shall then be completed by an evaluation team, which will determine the ranking of proposals. Proposals will be evaluated strictly in accordance with the requirements set forth in this solicitation, including any addenda that are issued. The University will award the contract to the offeror whose proposal is determined to be the most advantageous to the University, taking into consideration the evaluation factors set forth in this RFP.

The evaluation of proposals will include consideration of responses to the list of criteria in Section 4.0. Offerors must specifically address all criteria in their response. Any deviations or exceptions to the specifications or requirements must be described and justified in a transmittal letter. Failure to list such exceptions or deviations in the transmittal letter may be considered sufficient reason to reject the proposal.

The relative importance of the criteria is defined below:

**Primary Criteria**

- Financial Proposal 50 %
- Company History/Success 20 %
- Strategic Capabilities/Data 20 %
- E-Commerce Experience 10 %

**Secondary Criteria**

- Other Additional Services

The University will evaluate proposals as submitted and may not notify offerors of deficiencies in their responses.

Proposals must contain responses to each of the criteria listed in Section 4 even if the offeror’s response cannot satisfy those criteria. A proposal may be rejected if it is conditional or incomplete in the judgment of the University.



## **6. SPECIAL CONDITIONS**

### **a. Contract Term**

The contract resulting from this RFP shall be effective for three (3) years from date of award and is renewable for up to three (3) additional one-year renewal periods. Annual renewal shall be in writing and contingent upon the University's satisfaction with the services performed.

### **b. Competitive Negotiation**

It is the intent of the RFP to enter competitive negotiation as authorized by KRS [45A.085](#).

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 Contractors 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.

If alternates are accepted, they will be accepted at the time of award and in the sequence of their listing. The prices of the alternates will be added or deducted from the base proposal to arrive at a lump sum figure, which will be the basis of the award.

### **c. Appearance Before Committee**

Any, all, or no offerors may be requested to appear before the evaluation committee to explain their proposal and/or to respond to questions from the committee concerning the proposal. Offerors are prohibited from electronically recording these meetings. The committee reserves the right to request additional information.

### **d. Additions, Deletions or Contract Changes**

The University reserves the right to add, delete, or change related items or services to the contract established from this RFP. No modification or change of any provision in the resulting contract shall be made unless such modification is mutually agreed to in writing by the Contractor and Procurement Services and incorporated as a written modification to the contract. Memoranda of understanding and correspondence shall not be interpreted as a modification to the contract.

### **e. Contractor Cooperation in Related Efforts**

The University reserves the right to undertake or award other contracts for additional or related work to other entities. The Contractor shall fully cooperate with such other Contractors and University employees

and carefully fit its work to such additional work. The Contractor shall not commit or permit any act which will interfere with the performance of work by any other Contractor or by university employees. This clause shall be included in the contracts of all Contractors with whom this Contractor will be required to cooperate. The University shall equitably enforce this clause to all Contractors to prevent the imposition of unreasonable burdens on any Contractor.

**f. Entire Agreement**

The RFP shall be incorporated into any resulting contract. The resulting contract, including the RFP and those portions of the offeror's response accepted by the University, shall be the entire agreement between the parties

**g. Governing Law**

The Contractor shall conform to and observe all laws, ordinances, rules and regulations of the United States of America, Commonwealth of Kentucky and all other local governments, public authorities, boards, or offices relating to the property or the improvements upon same (or the use thereof) and will not permit the same to be used for any illegal or immoral purposes, business or occupation. The resulting contract shall be governed by Kentucky law and any claim relating to this contract shall only be brought in the Franklin Circuit Court in accordance with KRS [45A.245](#).

**h. Kentucky's Personal Information Security and Breach Investigation Procedures and Practices Act**

If the Offeror is provided access or is provided a copy(ies) of University data, the Offeror agrees to secure and protect the University data (and require that of any other entity with whom it shares or gives access to University data) from unauthorized access, use, modification, disclosure, manipulation, or destruction and will use processes that meet industry standard practices for protecting a customer's information (at least as stringent as the Contractor would use for protecting its own confidential information.) Offeror agrees to notify University of a security breach/security incident as specified at [Vendor / External Party Incident Reporting](#), relating to University data that Contractor or its agents or subcontractors has access to or is in their possession within seventy-two (72) hours or promptly of discovery of an actual or suspected breach. Contractor agrees to cooperate with the University in complying with the response, mitigation, correction, and notification efforts including undertaking a prompt and reasonable investigation of any such incident. Upon termination or cancellation of this agreement between the University and Contractor, all data, including disks, tapes, and electronics files in the possession of Contractor or its agents, subcontractors, or other third party will be destroyed. The University acknowledges that such data communicated and/or stored in electronic form may be routinely backed up such that return, or destruction is not practical and/or feasible, in which case Contractor (or its subcontractors/agents/others with whom the information has been shared) will keep such back-up copies secure until the back-up media is recycled or destroyed.

**i. Termination for Convenience or Necessity**

The University reserves the right to terminate this contract for its own convenience without cause upon thirty (30) days' written notice to the Contractor. Upon receipt of the University "Notice of Termination," the Contractor shall discontinue all services with respect to the applicable contract by the date stated in the notification. The Contractor 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 Contractor 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 Contractor 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 Contractor become unable to comply.

#### **j. Termination 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 shall 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 Contractor.
- 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 period set forth herein, or violation of, any of the covenants, conditions, provisions, or agreements herein contained.
- Adjudication as voluntarily bankrupt, making a transfer in fraud of its creditors, filing a petition under any section of the U.S. Bankruptcy Code, 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.
- 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.
- Violation by Contractor of any of the following:
  - Commonwealth of Kentucky and University conflict of interest policies
  - Commonwealth of Kentucky campaign finance laws
  - OSHA, Labor and Tax Collection Violations
  - Governmental Program Certification
  - Failure to register firm with the Kentucky Secretary of State
  - Failure to post requested bond if required
  - Failure to maintain required Insurance

#### Demand for Assurances

In the event the University has reason to believe Contractor will be unable to perform under the Contract, it may make a demand for reasonable assurances that Contractor will be able to timely perform all obligations under the Contract. If Contractor is unable to provide such adequate assurances, then such failure shall be an event of default and grounds for termination of the Contract.

#### Notification

The University will provide ten (10) calendar days written notice of default. Unless arrangements are made to correct the non-performance issues to the University's satisfaction within such ten (10) calendar day period, the University may terminate the contract by giving thirty (30) days' notice, by registered or certified mail, of its intent to cancel this contract.

**k. Fiscal Funding Out**

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 through 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 occur in University policy and/or the way business are conducted regarding contracted services.

**l. Prime Contractor Responsibility**

Any contracts that may result from the RFP shall specify that the Contractor(s) is/are solely responsible for fulfillment of the contract with the University

**m. Assignment and Subcontracting**

The Contractor(s) may not assign or delegate its rights and obligations under any contract in whole or in part without the prior written consent of the University. Any attempted assignment or subcontracting shall be void.

**n. Permits, Licenses, Taxes**

The Contractor shall procure all necessary permits and licenses and abide by all applicable laws, regulations, and ordinances of all federal, state, and local governments in which work under this contract is performed.

The Contractor must furnish certification of authority to conduct business in the Commonwealth of Kentucky as a condition of contract award. Such registration is obtained from the Secretary of State, who will also provide the certification thereof. However, the Contractor need not be registered as a prerequisite for responding to the RFP.

The Contractor shall pay any sales, use, personal property and other tax arising out of this contract and the transaction contemplated hereby. Any other taxes levied upon this contract, the transaction or the equipment or services delivered pursuant hereto shall be the responsibility of the Contractor.

The 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.

**o. Attorneys' Fees**

If either party deems it necessary to take legal action to enforce any provision of the contract and if the University prevails, the Contractor agrees to pay all expenses of such action including attorneys' fees and costs at all stages of litigation.

**p. Royalties, Patents, Copyrights and Trademarks**

The Contractor shall pay all applicable royalties and license fees. If a particular process, product, or device is specified in the contract documents and it is known to be subject to patent rights or copyrights, the existence of such rights shall be disclosed in the contract documents and the Contractor is responsible for payment of all associated royalties. The Contractor shall indemnify, hold the University harmless, and defend all suits, claims, losses, damages, or liability resulting from any infringement of patent, copyright, and trademark rights resulting from the incorporation in the work or device specified in the Contract

Documents.

Unless provided otherwise in the contract, the Contractor shall not use the University's name nor any of its logos, trademarks, or copyrights, although it may state that it has a Contract with the University without the permission of the University.

**q. F.O.B. Destination**

All bidders in response to this RFP must be based on F.O.B. to the University, all freight prepaid and included in the unit price. No other terms are acceptable; any bids that do not comply with the above will be rejected. The contractor will be fully responsible for all items while in transit, including returns. Any freight claims will be the responsibility of the contractor.

Large scale products may require delivery to specific building locations. Bidders shall be required to make inside building deliveries if required within the bid specifications.

**r. Indemnification**

Any provision in the terms and conditions or agreement provided by the Contractor that requires or otherwise specifies that the University will indemnify the Contractor or any of its Subcontractors or otherwise specify the University being liable or responsible for the actions/inactions of the Contractor or other third party shall only be to the extent permitted by Kentucky 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 Contractor 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 Contractor for damages resulting from the Contractor'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 Contractor'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 Contractor, provided however, that nothing contained herein shall require the Contractor 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 Contractor 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).

**s. Arbitration**

Any provision in the Contractor'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.

**t. Insurance Requirements**

The 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 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. Contractor agrees to provide proof of such insurance upon request.

### Minimum Coverages

<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/Complete Operations</b>	\$1,000,000.00 Each Occurrence  \$2,000,000.00 General Aggregate
<b>Auto Liability*</b> (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 subcontractor(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</b> (Including response and remediation)	\$1,000,000.00 Each Occurrence \$1,000,000.00 General Aggregate
<b>Professional Liability</b>	\$1,000,000.00 Each Occurrence \$1,000,000.00 General Aggregate
<b>Property Insurance</b>	Replacement Cost, Open Perils, Property Insurance for all Personal Property used/stored by the Contractor involved procurement on University property.

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

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

**u. Method of Award**

It is the intent of the University to award a contract to the qualified offeror whose offer, conforming to the conditions and requirements of the RFP, is determined to be the most advantageous to the University, cost and other factors considered.

Notwithstanding the above, this RFP does not commit the University to award a contract from this solicitation. The University reserves the right to reject any or all offers and to waive formalities and minor irregularities in the proposal received.

**v. Reciprocal Preference**

In accordance with KRS [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 an 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 forth in the above reference statute.

Forms can be found at: [Kentucky Preference Claim Forms](#).

**w. Reports and Auditing**

Contractors are required to report summary dollar amounts of goods and services sold to the University via the resulting contract and originating from diverse Tier 2 or subcontractors affiliated with company. Due to the broad array of diversity reporting utilized, the University does not require specific classifications of diverse purchases; the successful Contractor may report Tier 2 purchase amounts as produced by their information systems and with sub-classifications as they are available. If the successful Contractor does not have any Tier 2 reporting for diverse suppliers to accompany their quarterly report submissions, they must indicate this when submitting the quarterly reports.

FY Quarter 1 report for purchases dated July 1 through September 30	Quarterly report due October 20
FY Quarter 2 report for purchases dated October 1 through December 31	Quarterly report due January 20
FY Quarter 3 report for purchases dated January 1 through March 31	Quarterly report due April 20
FY Quarter 4 report for purchases dated April 1 through June 30	Quarterly report due July 20

Report headers shall also be completed with the Contractor’s name, contract number, and reporting period. A copy of the reporting template to be submitted can be found on the University’s website found [here](#).

Reports can be submitted via email to [purchase@louisville.edu](mailto:purchase@louisville.edu) based by the deadline(s) listed herein.

The University, or its duly authorized representatives, shall also have access to any books, documents, papers, records, or other evidence which are directly pertinent to this contract for the purpose of financial audit or program review.

If the successful Contractor(s) does not meet the reporting requirements based on the terms and conditions herein, the contract is subject to cancellation or termination.

The University reserves the right to request Audited Financial Statements from all firms submitting proposals 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.

#### **x. Confidentiality**

The University recognizes an offeror's possible interest in preserving selected information and data included in the proposal; however, the University must treat such information and data as required by the Kentucky Open Records Act, KRS [61.870](#), et seq.

Information areas which normally might be considered proprietary, and therefore confidential, shall be limited to individual personnel data, customer references, formulae, and company financial audits which, if disclosed, would permit an unfair advantage to competitors. If a proposal contains information in these areas and the offeror declares them to be proprietary in nature and not available for public disclosure, the offeror shall declare in the Transmittal Letter the inclusion of proprietary information and shall noticeably label as confidential or proprietary each sheet containing such information. Proposals containing information declared by the offeror to be proprietary or confidential, either wholly or in part, outside the areas listed above may be deemed non-responsive and may be rejected.

The University's General Counsel shall review each offeror's information claimed to be confidential and, in consultation with the offeror (if needed), make a final determination as to whether the confidential or proprietary nature of the information or data complies with the Kentucky Open Records Act.

#### **y. 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 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

#### **z. University Brand Standards**

The Contractor must adhere to all University Brand Standards when using University logos, trademarks, or other University intellectual property. University Brand Standards are maintained by the University Office of Communications and Marketing (OCM) and can be viewed [here](#). Non-adherence to the standards can have a penalty up to and including contract cancellation. Only the OCM Director or designee can approve exceptions to the University standards.



## **aa. Payment Terms**

The Contractor 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 (ProCard).

## **bb. Taxes**

The University is tax exempt from the provision of the Kentucky six percent (6%), sales and/or Use Tax on materials and equipment under this procurement. The University is also entitled to exemption from Federal Excise Tax. Our tax-exempt number is C-102. Exemption certifications shall be furnished upon request to cover exemptions where applicable.

## **cc. COVID-19 Safety Requirements**

Offerors, awardees, their subcontractors, and all associated personnel, while on any University 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 COVID-19 safety procedures can be found here: [University COVID-19 Response](#). Current CDC guidelines can be found here: [CDC Guidelines](#).

## **dd. Compliance with Executive Order 14042**

As the University of Louisville is as a federal contractor, the University is subject to the terms of Executive Order (EO) 14042, "Ensuring Adequate COVID Safety Protocols for Federal Contractors." In accordance with the requirements of EO 14042, vendor agrees that, unless this agreement relates solely to the provision of products or the value of the contract is equal to or less than the simplified acquisition threshold, as that term is defined in section 2.101 of the Federal Acquisition Regulation, vendor shall comply with all applicable guidance issued by the federal government in connection with EO 14042, including guidance conveyed through Frequently Asked Questions, as amended during the performance of the resulting contract, published by the Safer Federal Workforce Task Force (Task Force Guidance) [here](#).

In the event that the vendor enters into any subcontracts providing services in connection with this agreement, the vendor shall include the substance of the clause above, including this paragraph (including the flow down requirement), in subcontracts at any tier that exceed the simplified acquisition threshold, as defined in Federal Acquisition Regulation [2.101](#) on the date of subcontract award, and are for services (not products), including construction, performed in whole or in part within the United States or its outlying areas.

## **ee. ADA and Related Compliance**

Contractor warrants that its products or services provided hereunder will follow all applicable Federal disabilities' laws and regulations, including without limitation the accessibility requirements of Section 255 of the Federal Telecommunications Act of 1996 (47 U.S.C. § 255) and Section 508 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794d), and its implementing regulations set forth at Title 36, Code of Federal Regulations, Part 1194. For purposes of clarity, updated regulations under Section 508 standards now incorporate WCAG 2.0, and for purposes of this agreement WCAG 2.0 Level

AA compliance is expressly included. Contractor agrees to promptly respond to, resolve and remediate any complaint regarding accessibility of products or services in a timely manner and provide an updated version to University at no cost. If deficiencies are identified, University reserves the right to request from Contractor, a timeline by which accessibility standards will be incorporated into the products or services provided by Contractor and shall provide such a timeline within a commercially reasonable duration of time. Failure to comply with these requirements shall constitute a material breach of this Agreement and shall be grounds for termination of this Agreement.

Where any customized web services are provided, Contractor represents that it has reviewed the University's Web Policy and all products or services will comply with its published standards.

Contractor will provide University with a current Voluntary Product Accessibility Template (VPAT) for any deliverable(s). If none is available, Contractor will provide sufficient information to reasonably assure the University that the products or services are fully compliant with current requirements.

## **ff. Information Security**

For all software submissions including a cloud hosting proposal, the full version of Higher Education Community Vendor Assessment Tool (HECVAT) submitted as part of the response. If you have not previously completed an Information Security Risk Assessment form, please complete the University form found here: [HECVAT](#) and return with your proposal.

Failure to return one of the forms may cause your proposal to be rejected.

## **gg. PCI Compliance**

To the extent Contractor has access to stores, processes, transmits, redirects<sup>1</sup> or executes transactions with or containing Cardholder<sup>2</sup> Data<sup>3</sup> or Sensitive Authentication Data<sup>4</sup> or could impact the security of the Cardholder Data technical environment, Contractor 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 and its affiliates and ensuring that Contractor's subcontractors/ agents/ representatives/ affiliates ensures that security as well (the preceding hereinafter collectively referred to as "uses/ using Cardholder Data"). Contractor represents and warrants that software, hardware, and services provided, supplied, or used by Contractor (which includes its subcontractors/ agents/representative/ affiliates) 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 [PCI Security Standards](#)) and (3) such other applicable standards/policies of the University ("laws and standards"). Contractor 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

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<sup>1</sup> E.g., Sends the web user to a third party which collects or processes the Cardholder Data and associated payment information.

<sup>2</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>3</sup> Cardholder data minimally consists of the full Primary Account Number (PAN) – the unique payment card number (typically for credit or debit cards) that identifies the issuer and the 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>4</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.

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. Contractor shall promptly notify the University 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 <https://louisville.edu/security/incident-reporting-and-response/Contractor-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, Contractor agrees, as needed, to assist the University in determining the extent and/or the nature of the loss of Cardholder Data or Sensitive Authentication Data should the University 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 Contractor (or that of their subcontractors/agents/representatives/ affiliates as applicable) (referred to collectively as “PCI Costs”). Contractor further agrees to indemnify, hold harmless and defend the University and its affiliates and representatives from any claims damages or other harm connected to said breach. Further the Contractor hereby agrees that the University may withhold payment(s) owed to the Contractor for any violation of these security/reporting requirements or failure to pay PCI Costs. Contractor will provide proof of appropriate insurance (with the University listed as an additional insured) to cover its obligations for compliance and/or breach under this Agreement.

University will be merchant of record  YES  NO

Initial \_\_\_\_\_ Date \_\_\_\_\_

If the above box is checked YES, Contractor 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.

Network connection is needed  YES  NO

Initial \_\_\_\_\_ Date \_\_\_\_\_

If the box above is checked YES, the University may provide one network connection to the Internet for a Contractor approved for connection to the University network, if applicable to the relationship. All Contractor 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 Contractor 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. Contractor must abide by all network security policies of the University and its network providers. Contractor 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 the University. 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.

Contractor further agrees to indemnify, hold harmless and defend the University 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.

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10 E.g., Sends the web user to a third party which collects or processes the Cardholder Data and associated payment information.

11 Customer/individual to whom a payment card is issued to, or any individual authorized to use the payment (e.g., debit/credit) card.

12 Cardholder data minimally consists of the full Primary Account Number (PAN) – the unique payment card number (typically for credit or debit cards) that identifies the issuer and the 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.

13 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.

14 Which includes its subcontractors/ agents/ representative/ affiliates by the reference to “using Cardholder Data.”

## **7. FINANCIAL OFFER SUMMARY**

Offerors are to provide their full price catalog for Athletic Merchandise Management offered. As well as what percentage off of the catalog price will be extended to the University. Catalog(s) shall be included with your proposal.

Catalog Date:

Percent off Catalog Pricing:

## **8. SUPPLIER CERTIFICATION**

The University 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 Contractor 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 Contractors will be required to agree to and comply with the applicable provisions of the Supplier Certification when conducting business with the University.

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 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 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.

**a. 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:

- 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.
- 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.
- 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.
- Supplier will comply with all provisions of Executive Order 11246 of September 24, 1965, as amended, and of the rules, regulations, and relevant orders.
- 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 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.
- 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.
- 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 Contractor. 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 Contractor 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>5</sup>

**b. 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:

- 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.
- 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.
- 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.
- 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.
- 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. If 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.
- 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.
- 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.

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<sup>5</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.

- 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.
  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.

**c. 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 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 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](#).

**d. 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:

- (1) that it will not discriminate against any employee or applicant for employment because of physical or mental disability regarding 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 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.
- (2) that it will comply with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the act.



- (3) 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.
- (4) 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).
- (5) 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.
- (6) that it will include the provisions of this clause in every subcontract or purchase order more than \$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 Contractor. 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.

**e. 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.

**f. 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, 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).

**g. 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>6</sup>

**h. 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.

**i. 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.

**j. 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

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<sup>6</sup> Non-construction 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.

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.

**k. 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 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.

**l. 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.

**m. Lobbying / Anti-Kickback**

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.

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.

#### **n. 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.

#### **o. 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 counteroffer 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).