



REQUEST FOR PROPOSAL
RFP#895460

**Residential and Hospitality Services Physical Asset
Management and Optimization**

RFP Timeline	
RFP Issue Date:	August 25th, 2025
Deadline for Respondent Questions to MSU:	September 2 nd , 2025
RFP Response Due Date:	September 9th, 2025, 3:00 pm Eastern
Shortlist Notification	September 16 th , 2025
Interviews/Presentations	September 22 nd -26 th , 2025
Final Selection	September 30 th , 2025
Estimated Contract Award: Anticipated Phase 1 start	October 7 th , 2025

RFP Contact	
Name:	Kathleen Perron
Email:	Perronka@msu.edu
Phone:	517-355-0357

DESCRIPTION: Michigan State University (the “**University**” or “**MSU**”) is soliciting proposals through this Request for Proposal (“**RFP**”) for the purpose of procuring services to assist in the **strategic management and portfolio optimization of the University’s Residential and Hospitality Services (RHS) physical assets**. The requested services are more thoroughly described under the Scope of Work Section of this RFP. Firms intending to respond to this RFP are referred to herein as a “**Respondent**” or “**Supplier**.”



PROPOSAL INSTRUCTIONS

- 1. PROPOSAL PREPARATION.** The University recommends reading all RFP materials prior to preparing a proposal, particularly these Proposal Instructions. Respondents must follow these Proposal Instructions and provide a complete response to the items indicated in the table below. References and links to websites or external sources may not be used in lieu of providing the information requested in the RFP within the proposal. Include the Respondent's company name in the header of all documents submitted with your proposal.

Document	Description	Response Instructions
Cover Page	Provides RFP title and number, important dates, and contact information for MSU	Informational
Proposal Instructions	Provides RFP instructions to Respondents	Informational
Respondent Information Sheet	Company and Contact Information, and Experience	Respondent must complete and submit by proposal deadline
Scope of Work	Describes the intended scope of work for the RFP	Respondent must complete and submit by proposal deadline
Pricing	Pricing for goods and services sought by the University through this RFP	Respondent must complete and submit by proposal deadline
Master Service Agreement	Provides legal terms for a contract awarded through this RFP	Deemed accepted by Respondent unless information required in Section 0, Master Service Agreement is submitted by proposal deadline
[Any additional Exhibits]	[Provide description of document]	[Provide instruction to Respondent regarding response to document]

- 2. EXPECTED RFP TIMELINE.**

Activity	Date
RFP Issue Date:	August 25 th , 2025
Deadline for Respondent Questions to MSU:	September 2 nd , 2025
RFP Response Due Date:	September 9th, 2025, 3:00 pm Eastern
Short list notification	September 16 th , 2025
Interviews/Presentations	September 22 nd -26 th , 2025
Final Selection	September 30 th , 2025
Estimated Contract Award : Anticipated Phase 1 start	October 7 th , 2025



3. **CONTACT INFORMATION FOR THE UNIVERSITY.** The sole point of contact for the University concerning this RFP is listed on the Cover Page. Contacting any other University personnel, agent, consultant, or representative about this RFP may result in Respondent disqualification.
4. **QUESTIONS.** Respondent questions about this RFP must be submitted electronically by email to the contact listed on the cover page of this RFP. In the interest of transparency, only written questions are accepted. Answers to all questions will be sent to Respondents via email. Submit questions by referencing the following: (i) Question Number, (ii) Document Name, (iii) Page Number, and (iv) Respondent Question. Please refer to **Section 2** above for the deadline to submit questions.
5. **MODIFICATIONS.** The University may modify this RFP at any time. Modifications will be sent via email. This is the only method by which the RFP may be modified.
6. **DELIVERY OF PROPOSAL.** The Respondent must submit its proposal, all attachments, and any modifications or withdrawals electronically via email to the contact listed on the cover page of this RFP. **The price proposal should be saved separately from all other proposal documents and should be sent as a separate attachment from the other proposal documents.** The Respondent should submit all documents in a modifiable (native) format (examples include but are not limited to: Microsoft Word or Excel and Google Docs or Sheets). In addition to submitting documents in a modifiable format, the Respondent may also submit copies of documents in PDF. Respondent's failure to submit a proposal as required may result in disqualification. The proposal and attachments must be fully uploaded and submitted prior to the proposal deadline. **Do not wait until the last minute to submit a proposal.** The University **may not** allow a proposal to be submitted after the proposal deadline identified in the Cover Page, even if a portion of the proposal was already submitted.
7. **MANDATORY MINIMUM REQUIREMENTS.** The RFP may contain minimum qualifications, which will be identified as "**Mandatory Minimum Requirements**" in the Scope of Work Section of this RFP. If the RFP does contain mandatory minimum requirements, any proposal not meeting these minimum requirements **will be deemed non-qualified and will not be considered.** All proposals meeting these mandatory minimum requirements will proceed for review and evaluation consistent with **Section 8, Evaluation Process.**
8. **EVALUATION PROCESS.** The University will convene a team of individuals from various Departments within MSU to evaluate each proposal based on each Respondent's ability to provide the required services, taking into consideration the overall cost to the University. The University may require an oral presentation of the Respondent's proposal; conduct interviews, research, reference checks, and background checks; and request additional price concessions at any point during the evaluation process. The following criteria will be used to evaluate each proposal:

Criteria	Weight
Experience with higher education portfolio optimization	10%
Approach and methodology	25 %
Qualifications and subject matter expertise of personnel/staffing	30 %
Proposed schedule and deliverables	20 %
Cost and value	10 %
Adherence to MSU's MSA Agreement	5 %
	100%



9. **MASTER SERVICE AGREEMENT.** The University strongly encourages strict adherence to the terms and conditions set forth in the Master Service Agreement. The University reserves the right to deem a proposal non-responsive for failure to accept the Master Service Agreement. Nevertheless, the Respondent may submit proposed changes to the Master Service Agreement in track changes (i.e., visible edits) with an explanation of the Respondent's need for each proposed change. Failure to include track changes with an explanation of the Respondent's need for the proposed change constitutes the Respondent's acceptance of the Master Service Agreement. General statements, such as "the Respondent reserves the right to negotiate the terms and conditions," may be considered non-responsive.
10. **CLARIFICATION REQUEST.** The University reserves the right to issue a Clarification Request to a Respondent to clarify its proposal if the University determines the proposal is not clear. Failure to respond to a Clarification Request timely may be cause for disqualification.
11. **RESERVATIONS.** The University reserves the right to:
- Disqualify a Respondent for failure to follow these instructions.
 - Discontinue the RFP process at any time for any or no reason. The issuance of an RFP, your preparation and submission of a proposal, and the University's subsequent receipt and evaluation of your proposal does not commit the University to award a contract to you or anyone, even if all the requirements in the RFP are met.
 - Consider late proposals if: (i) no other proposals are received; (ii) no complete proposals are received; (iii) the University received complete proposals, but the proposals did not meet mandatory minimum requirements or technical criteria; or (iv) the award process fails to result in an award.
 - Consider an otherwise disqualified proposal, if no other proposals are received.
 - Disqualify a proposal based on: (i) information provided by the Respondent in response to this RFP; or (ii) if it is determined that a Respondent purposely or willfully submitted false or misleading information in response to the RFP.
 - Consider prior performance with the University in making its award decision.
 - Consider total-cost-of-ownership factors (e.g., transition and training costs) when evaluating proposal pricing and in the final award.
 - Refuse to award a contract to any Respondent that has outstanding debt with the University or has a legal dispute with the University.
 - Require all Respondents to participate in a Best and Final Offer round of the RFP.
 - Enter into negotiations with one or more Respondents on price, terms, technical requirements, or other deliverables.
 - Award multiple, optional-use contracts, or award by type of service or good.
 - Evaluate the proposal outside the scope identified in **Section 8, Evaluation Process**, if the University receives only one proposal.
 - Utilize third parties to assist in the evaluation process, provided such parties are subject to confidentiality requirements.
12. **AWARD RECOMMENDATION.** The contract will be awarded to the responsive and responsible Respondent who offers the best value to the University, as determined by the University. Best value will be determined by the Respondent meeting any mandatory minimum requirements and offering the best combination of the factors in **Section 8, Evaluation Process**, and price, as demonstrated by the proposal. The University will email a **Notice of Award** to all Respondents. A Notice of Award does not constitute a contract, as the parties must reach final agreement on a signed contract before any services can be provided. The awarded Respondent is prohibited from partnering with losing bidders unless the RFP

13.



14. specifically allows for such arrangement, and any violation of this prohibition may result in disqualification of the awarded Respondent.
15. **GENERAL CONDITIONS.** The University will not be liable for any costs, expenses, or damages incurred by a Respondent participating in this solicitation. The Respondent agrees that its proposal will be considered an offer to do business with the University in accordance with its proposal, including the Master Service Agreement, and that its proposal will be irrevocable and binding for a period of 180 calendar days from date of submission. If a contract is awarded to the Respondent, the University may, at its option, incorporate any part of the Respondent's proposal into the contract. This RFP is not an offer to enter into a contract. This RFP may not provide a complete statement of the University's needs, or contain all matters upon which agreement must be reached. Proposals submitted via email are the University's property.
16. **FREEDOM OF INFORMATION ACT.** Respondent acknowledges that any responses, materials, correspondence or documents provided to the University may be subject to the State of Michigan Freedom of Information Act ("FOIA"), Michigan Compiled Law 15.231 *et seq.*, and may be released to third parties in compliance with FOIA or any other law. Questions about the Respondent's own performance can be directed to the RFP Contact indicated on page 1 of this document. Questions about the overall evaluation and any other post-award inquiries must be submitted via a formal FOIA request to the [Michigan State University FOIA office](#).



RESPONDENT INFORMATION SHEET

Please complete the following Information Sheet in the space provided:

Information Sought	Response
Contact Information	
Respondent's sole contact person during the RFP process. Include name, title, address, email, and phone number.	
Person authorized to receive and sign a resulting contract. Include name, title, address, email, and phone number.	
Respondent Background Information	
Legal business name and address. Include business entity designation, e.g., sole proprietor, Inc., LLC, or LLP.	
What state was the company formed in?	
Main phone number	
Website address	
DUNS# AND/OR CCR# (if applicable):	
Number of years in business and number of employees	
Legal business name and address of parent company, if any	
Has your company (or any affiliates) been a party to litigation against Michigan State University? If the answer is yes, then state the date of initial filing, case name and court number, and jurisdiction.	
Experience	
Describe relevant experiences from the last 5 years supporting your ability to successfully manage a contract of similar size and scope for the services described in this RFP.	
Experience 1	
Company name Contact name Contact role at time of project Contact phone Contact email	
1. Project name and description of the scope of the project 2. What role did your company play? 3. How is this project experience relevant to the subject of this RFP?	
Start and end date (mm/yy – mm/yy)	
Status (completed, live, other – specify phase)	
Experience 2	
Company name Contact name Contact role at time of project Contact phone	



Contact email	
1. Project name and description of the scope of the project 2. What role did your company play? 3. How is this project experience relevant to the subject of this RFP?	
Start and end date (mm/yy – mm/yy)	
Status (completed, live, other – specify phase)	
Experience 3	
Company name Contact name Contact role at time of project Contact phone Contact email	
1. Project name and description of the scope of the project 2. What role did your company play? 3. How is this project experience relevant to the subject of this RFP?	
Start and end date (mm/yy – mm/yy)	
Status (completed, live, other – specify phase)	



SCOPE OF WORK

Please address each of the sections below in a written response, which can be completed on a separate sheet (using the same section headings).

Michigan State University

Request for Proposal (RFP)

Strategic Management and Portfolio Optimization of Residential and Hospitality Services Assets

1. Introduction

Michigan State University's Residential and Hospitality Services (RHS) oversees one of the largest and most diverse auxiliary portfolios in the nation. With 27 residence halls, two apartment complexes, multiple dining facilities, recreation centers, and auxiliary assets such as the Kellogg Hotel & Conference Center and the Breslin Center, this infrastructure is critical to supporting the University's mission and enriching the student and guest experience. However, much of RHS's physical infrastructure is aging, with significant portions constructed in the mid-20th century. Deferred maintenance challenges, evolving student expectations, and shifting programmatic needs underscore the urgency of a comprehensive, strategic approach to asset management. Ensuring the long-term viability, financial sustainability, and alignment of these facilities with MSU's institutional priorities requires a forward-thinking investment and optimization strategy.

Michigan State University (MSU) invites qualified firms to submit proposals for professional services to assist in the **strategic management and portfolio optimization of the University's Residential and Hospitality Services (RHS) physical assets**. This engagement will support MSU's efforts to assess, align, and prioritize decisions regarding the long-term health, utilization, and investment strategies for its diverse portfolio of facilities.

Through this RFP, MSU seeks a partner to deliver a multi-phased engagement, beginning with an initial assessment (Phase 1) that will lay the foundation for deeper analyses and recommendations in subsequent phases. The successful vendor will undertake a phased approach to optimize RHS' portfolio, including developing investment frameworks and baseline models (Phase 2), conducting scenario testing and strategy refinement (Phase 3), and advancing detailed project planning and implementation support (Phase 4).

2. Background

MSU's Division of Residential and Hospitality Services (RHS) manages a complex portfolio of assets across seven million square feet of property critical to the student experience, guest experience, and institutional success. These include:

- 27 residence halls
- 2 apartment complexes
- Multiple dining facilities (standalone and within residence halls)
- Kellogg Hotel & Conference Center
- Food Stores Facility
- Linen Services Facility
- Multiple recreation facilities
- Breslin Center basketball arena
- Tennis center
- Two golf courses



- Energy and utility infrastructure serving these assets (including connections to campus-wide utility systems as appropriate)

MSU faces increasing demands to balance deferred maintenance needs, capital renewal, operational efficiencies, and evolving student and guest expectations, all while maintaining financial sustainability. The selected partner will support MSU in building a comprehensive strategy to address these challenges.

3. Project Objectives

The selected firm will:

- Provide a robust assessment of the current financial, physical, and operational state of RHS's assets.
- Facilitate stakeholder engagement to identify future-state aspirations for housing, dining, recreation, and sports facilities.
- Develop a framework to guide prioritization and sequencing of capital investments aligned with MSU's resources and goals.
- Offer dynamic financial modeling and decision-support tools to inform institutional planning.
- Offer continuous advising and engaged support throughout the implementation time period.

4. Scope of Services

Phase 1: Establishment of Institutional Context and Portfolio Alignment

- Review all available financial and operational data related to RHS's facilities (building assessments, deferred maintenance logs, revenue/expenses, etc.).
- Conduct stakeholder engagement sessions with RHS leadership, financial officers, and campus constituents.
- Develop a baseline framework to assess alignment of current assets with future-state aspirations.
- Deliver insights to inform critical near-term decisions, including financial health and potential rate adjustments and other impacts.

Phase 2: Framework for Future-State of Asset Inventory and Financial Modeling

- Utilize a weighted matrix to assess identified gaps and aspirational priorities, determining appropriate levels of investment and establishing a framework for resource allocation.
- Develop comprehensive baseline models that integrate financial, operational, and physical data, inclusive of planned projects and deferred maintenance records.
- Deliver an integrated analysis of portfolio-wide insights and propose initial high-impact optimization scenarios to inform strategic decision-making.
- Provide preliminary findings and recommendations to support institutional milestones.

Phase 3: Scenario Testing, Iterative Analysis, and Optimization Recommendations

- Conduct iterative scenario testing using baseline models developed in Phase 1 to evaluate potential strategies for portfolio optimization.
- Develop sequenced approaches to resource allocation, policy modifications, asset decommissioning, and investment planning across time horizons.



- Identify and assess synergies between units, operational constraints, and schedule considerations to inform strategic decision-making.
- Provide initial recommendations on procurement strategies and project delivery methodologies to support long-term portfolio health and success.

Phase 4: Scheduling, Budget Development, and Implementation Support

- Advance the outcomes of Phase II by developing formal definitions for prioritized initiatives, including programmatic goals, development-level schedules, budgets, and solicitation documentation aligned with institutional commitments.
- Collaborate with MSU to establish roles, responsibilities, and scope for Phase III and beyond, ensuring alignment with the University's strategic objectives and operational capacities.
- Provide advisory support ranging from comprehensive project management to high-level strategic stewardship to facilitate successful implementation of portfolio initiatives.
- Maintain continuous alignment with MSU leadership by delivering insights, guidance, and decision-making support to achieve long-term portfolio optimization goals.

5. Proposal Requirements

Proposals must include the following:

1. **Company Profile and Qualifications**
 - Overview of firm, relevant experience, and higher education portfolio optimization expertise.
 - Description of similar projects completed for institutions of comparable scale and complexity.
2. **Project Approach and Work Plan**
 - Detailed methodology for completing Phase 1.
 - Anticipated stakeholder engagement process.
 - Description of tools and models to be utilized.
3. **Staffing Plan**
 - Proposed team structure, key personnel bios, and their roles.
4. **Schedule**
 - Proposed timeline for Phase 1, including key milestones.
5. **Fee Proposal**

. Proposed fee shall be proposed as a fixed-fee and the format of the fee shall be aligned with the respondents phased schedule above, phases and sequencing of the engagement. A fixed-fee cost to which the awarded respondent will be obligated to honor, must be presented, at a minimum, for the following engagements:

- Due diligence and data collection
- Stakeholder engagement
- Criteria-setting
- Current-state evaluations of financial, operational, and physical criteria
- Determination of current-state and future-state gaps
- Energy and utility infrastructure assessment

As the University understands that the above activities likely will impact the scope and scale of subsequent analysis and model establishment, the university requests all subsequent activities are articulated and



presented as an anticipated range of costs, with adequate narrative to understand scope inclusions and assumptions. Scope of work beyond the above-mentioned items in fee proposal shall be negotiated at the appropriate time once subsequent scope and scale is determined.

6. Response Requirements

Provide an introduction to the firm as well as any partnering firms included in the proposal. Include within the introduction the history of the firm, current staff, number of past and current higher-ed campus clients, brief statement of understanding on the dynamics, missions, challenges, and obligations, broadly, of higher-ed institutions.

- Statement of understanding relative to intent and scope of this solicitation.
- Identification of three institutions where a similar portfolio optimization and asset management scope of work has been completed or is in progress. Provide an institutional contact name familiar with the work completed by your firm. Ensure financial, operational, and physical criteria are included in the examples provided.
- Provide an approach to your firm's staffing of this engagement, inclusively identifying the point of contact, supporting roles, subject matter expertise, and 3rd-party teaming if necessary. Provide resumes and a representative list of similar experiences to this scope of work for each primary project staff and a brief narrative for each subject matter expert.
- Provide a proposed schedule of activities with sufficient description and anticipated stakeholder engagements by type and topic. If the proposal anticipates individual phases of effort, clearly outline the phases, their duration, and the intent / outcome of each phase.
- Clearly articulate how your firm will approach and sequence efforts to complete stakeholder engagement, generate alignment between departments, division, and campus constituents
- Clearly articulate how your firm will approach to determine optimization of investments to maximize future-state outcomes.
- Clearly articulate historic or potential approaches your firm may advise on relative to the implementation of the divisional and departmental optimization strategies developed through this solicitation.
- Include as exhibits examples of any tools, templates, matrices etc. which will be relied upon to guide, communicate, support, etc. the approach and outcome of this scope of work.
- Identify energy and utility infrastructure experience. Provide examples of the firm's experience evaluating energy and utility systems in higher-education environments, including district energy and central utility plants, building-level energy systems, lifecycle cost and operational efficiency analysis, and the integration of sustainability, resiliency, and



climate action goals. Include at least one institutional reference where energy or utility analysis informed financial or operational optimization recommendations.

7. Timeline

RFP Issue Date:	August 25 th , 2025
Deadline for Respondent Questions to MSU:	September 2 nd , 2025
RFP Response Due Date:	September 9th, 2025, 3:00 pm Eastern
Shortlist Notification	September 16 th , 2025
Interviews/Presentations	September 22 nd -26 th , 2025
Final Selection	September 30 th , 2025
Estimated Contract Award: Anticipated Phase 1 start	October 7 th , 2025



PRICING

Please include a Pricing proposal as identified below on a separate sheet.

Please provide pricing



MASTER SERVICE AGREEMENT

(attached)

Master Service Agreement

(Professional Services)

This Master Service Agreement (this “**Agreement**”), entered into as of [Month, Day, Year] (“**Effective Date**”), is made by and between Michigan State University, with offices located at 426 Auditorium Rd, East Lansing, MI 48824 (“**MSU**” or “**University**”) and [Name of Supplier], with offices at [Address, City, State, Zip] (“**Supplier**”). MSU and Supplier are sometimes referred to in this Agreement individually as a “party” and collectively as the “parties.”

1. SERVICES

- 1.1 MSU hereby engages Supplier, and Supplier hereby accepts such engagement, as an independent contractor to provide certain services to MSU on the terms and conditions set forth in this Agreement.
- 1.2 Supplier shall provide to MSU the services set forth in the Statement of Work (collectively, the “**Services**”), attached as Schedule A to this Agreement (the “**Statement of Work**”).
- 1.3 MSU shall not control the manner or means by which Supplier performs the Services.
- 1.4 Unless otherwise set forth in Statement of Work, Supplier shall furnish, at its own expense, the equipment, supplies and other materials used to perform the Services. MSU shall provide Supplier with access to its premises and equipment to the extent necessary for the performance of the Services.
- 1.5 Supplier shall comply with all applicable policies of MSU relating to business and office conduct, health and safety and use of MSU’s facilities, supplies, information technology, equipment, networks and other resources.

2. TERM

The term of this Agreement shall commence on the Effective Date and shall continue for a period of one (1) year, unless earlier terminated in accordance with paragraph 15 (the “**Term**”). Any extension of the Term will be subject to mutual written agreement between the parties.

3. PAYMENT

- 3.1 MSU will pay the fees set forth in the Statement of Work (the “**Fees**”) in accordance with this **Section 3** and any payment milestones set forth in the Statement of Work.
- 3.2 Supplier’s invoices must conform to the requirements set forth by the University at <https://upl.msu.edu/for-suppliers/policies-requirements/invoicing-payments/index.html>. Invoices are due



and payable by the University, in accordance with the University's standard payment procedures, which are 2.75% 10 days, net 30 days after receipt, provided the University determines that the invoice was properly rendered. Supplier may only charge for Services performed as specified in the Statement of Work. Invoices must include an itemized statement of all charges. MSU is exempt from state sales tax for direct purchases and may be exempt from federal excise tax, if Services purchased under this Agreement are for MSU's exclusive use.

- 3.3 MSU has the right to withhold payment of any disputed amounts until the parties agree as to the validity of the disputed amount. MSU will notify Supplier of any dispute within a reasonable time. Payment by MSU will not constitute a waiver of any rights as to Supplier's continuing obligations, including claims for deficiencies or substandard Services.
- 3.4 Without prejudice to any other right or remedy it may have, MSU reserves the right to set off at any time any amount then due and owing to it by Supplier against any amount payable by MSU to Supplier.
- 3.5 Unless otherwise set forth in the Statement of Work, Supplier is solely responsible for any travel or other costs or expenses incurred by Supplier in connection with the performance of the Services, and in no event shall MSU reimburse Supplier for any such costs or expenses. If the Statement of Work allows for reimbursement of travel costs, such reimbursement is subject to MSU's Travel Reimbursement Policy set forth at <https://travel.msu.edu/reimbursement/reimbursement-charts>.

4. RELATIONSHIP OF THE PARTIES

- 4.1 Supplier is an independent contractor of MSU, and this Agreement shall not be construed to create any association, partnership, joint venture, employee or agency relationship between Supplier and MSU for any purpose. Supplier has no authority (and shall not hold itself out as having authority) to bind MSU and Supplier shall not make any agreements or representations on MSU's behalf without MSU's prior written consent.
- 4.2 Without limiting paragraph 4.1, Supplier will not be eligible under this Agreement to participate in any vacation, group medical or life insurance, disability, profit sharing or retirement benefits or any other fringe benefits or benefit plans offered by MSU to its employees, and MSU will not be responsible for withholding or paying any income, payroll, Social Security or other federal, state or local taxes, making any insurance contributions, including unemployment or disability, or obtaining worker's compensation insurance on Supplier's behalf. Supplier shall be responsible for, and shall indemnify MSU against, all such taxes or contributions, including penalties and interest. Any persons employed by Supplier in connection with the performance of the Services shall be Supplier's employees and Supplier shall be fully responsible for them.

5. SUBCONTRACTORS

- 5.1 Supplier will not, without the prior written approval of MSU, which consent may be given or withheld in MSU's sole discretion, engage any third party to perform Services. MSU's approval of any such third party



(each approved third party, a **“Subcontractor”**) does not relieve Supplier of its representations, warranties or obligations under this Agreement. Without limiting the foregoing, Supplier will:

- (a) be responsible and liable for the acts and omissions of each such Subcontractor (including such Subcontractor's employees who, to the extent providing Services, shall be deemed Supplier personnel) to the same extent as if such acts or omissions were by Supplier or its employees; and
- (b) be responsible for all fees and expenses payable to, by or on behalf of each Subcontractor in connection with this Agreement, including, if applicable, withholding of income taxes, and the payment and withholding of social security and other payroll taxes, unemployment insurance, workers' compensation insurance payments and disability benefits.

6. INTELLECTUAL PROPERTY RIGHTS

- 6.1 MSU is and shall be, the sole and exclusive owner of all right, title and interest throughout the world in and to all the results and proceeds of the Services performed under this Agreement, including but not limited to the deliverables set forth in the Statement of Work (collectively, the **“Deliverables”**), including all patents, copyrights, trademarks, trade secrets and other intellectual property rights (collectively **“Intellectual Property Rights”**) therein. Supplier agrees that the Deliverables are hereby deemed a "work made for hire" as defined in 17 U.S.C. § 101 for MSU. If, for any reason, any of the Deliverables do not constitute a "work made for hire," Supplier hereby irrevocably assigns to MSU, in each case without additional consideration, all right, title and interest throughout the world in and to the Deliverables, including all Intellectual Property Rights therein.
- 6.2 Any assignment of copyrights under this Agreement includes all rights of paternity, integrity, disclosure and withdrawal and any other rights that may be known as "moral rights" (collectively, **“Moral Rights”**). Supplier hereby irrevocably waives, to the extent permitted by applicable law, any and all claims it may now or hereafter have in any jurisdiction to any Moral Rights with respect to the Deliverables.
- 6.3 Upon the reasonable request of MSU, Supplier shall promptly take such further actions, including execution and delivery of all appropriate instruments of conveyance, as may be necessary to assist MSU to prosecute, register, perfect, record or enforce its rights in any Deliverables. In the event MSU is unable, after reasonable effort, to obtain Supplier's signature on any such documents, Supplier hereby irrevocably designates and appoints MSU as its agent and attorney-in-fact, to act for and on Supplier's behalf solely to execute and file any such application or other document and do all other lawfully permitted acts to further the prosecution and issuance of patents, copyrights or other intellectual property protected related to the Deliverables with the same legal force and effect as if Supplier had executed them. Supplier agrees that this power of attorney is coupled with an interest.
- 6.4 Notwithstanding paragraph 6.1, to the extent that any of Supplier's pre-existing materials, are contained in the Deliverables, Supplier retains ownership of such pre-existing materials and hereby grants to MSU an irrevocable, worldwide, unlimited, royalty-free license to use, publish, reproduce, display, distribute copies of, and prepare derivative works based upon, such pre-existing materials and derivative works thereof. MSU may assign, transfer and sublicense such rights to others without Supplier's approval.



- 6.5 Except for such pre-existing materials and Supplier's obligations under the Statement of Work, Supplier has no right or license to use, publish, reproduce, prepare derivative works based upon, distribute, perform, or display any Deliverables.

7. UNIVERSITY DATA.

- 7.1 Ownership. The University's data includes any and all data collected, used, processed, stored, or generated in connection with the Services that originates from the University (collectively, "**University Data**"). University Data is and will remain the sole and exclusive property of the University and all right, title, and interest in the same is reserved by the University. This **Section 7.1** survives termination or expiration of this Agreement.
- 7.2 Supplier Use of University Data. At all times, University Data will be treated as Confidential Information. Supplier is provided a limited license to University Data for the sole and exclusive purpose of providing the Services, including a license to collect, process, store, generate, and display University Data only to the extent necessary in the provision of the Services. Supplier must: (a) keep and maintain University Data in strict confidence, using such degree of care as is appropriate and consistent with its obligations as further described in this Agreement and applicable law to avoid unauthorized access, use, disclosure, or loss; (b) use and disclose University Data solely and exclusively for the purpose of providing the Services, such use and disclosure being in accordance with this Agreement, the Statement of Work, and applicable law; and (c) not use, sell, rent, transfer, distribute, or otherwise disclose or make available University Data for Supplier's own purposes or for the benefit of anyone other than the University without the University's prior written consent. This **Section 7.2** survives termination or expiration of this Agreement.
- 7.3 Loss or Compromise of Data. In the event of any act, error or omission, negligence, misconduct, or breach on the part of Supplier that compromises or is suspected to compromise the security or confidentiality of University Data, Supplier must, as applicable: (a) notify the University as soon as practicable but no later than forty-eight (48) hours of becoming aware of such occurrence; (b) cooperate with the University in investigating the occurrence, including making available all relevant records, logs, files, data reporting, and other materials required to comply with applicable law or as otherwise required by the University; (c) in the case of personally identifiable information ("**PII**"), at the University's sole election, (i) with approval and assistance from the University, notify the affected individuals who comprise the PII as soon as practicable but no later than is required to comply with applicable law; or (ii) reimburse the University for any costs in notifying the affected individuals; (d) in the case of PII, and if required by law, provide third-party credit and identity monitoring services to each of the affected individuals who comprise the PII for the period required to comply with applicable law; (e) perform or take any other actions required to comply with applicable law as a result of the occurrence; (f) pay for any costs associated with the occurrence, including but not limited to any costs incurred by the University in investigating and resolving the occurrence, including reasonable attorney's fees associated with such investigation and resolution; (g) without limiting Supplier's obligations of indemnification as further described in this Agreement, indemnify, defend, and hold harmless the University for any and all claims, including reasonable attorneys' fees, costs, and incidental expenses, which may be suffered by, accrued against, charged to, or recoverable from the University in connection with the



occurrence; and (i) provide to the University a detailed plan within ten (10) calendar days of the occurrence describing the measures Supplier will undertake to prevent a future occurrence. The University will have the option to review and approve any notification sent to affected individuals prior to its delivery. Notification to any other party, including but not limited to public media outlets, must be reviewed and approved by the University in writing prior to its dissemination. This **Section 7.3** survives termination or expiration of this Agreement.

8. CONFIDENTIALITY

- 8.1 Meaning of Confidential Information. The term “Confidential Information” means all information and documentation of a party that: (a) has been marked “confidential” or with words of similar meaning, at the time of disclosure by such party; (b) if disclosed orally or not marked “confidential” or with words of similar meaning, was subsequently summarized in writing by the disclosing party and marked “confidential” or with words of similar meaning; or, (c) should reasonably be recognized as confidential information of the disclosing party. The term “Confidential Information” does not include any information or documentation that was or is: (a) in the possession of the University and subject to disclosure under the Michigan Freedom of Information Act (FOIA); (b) already in the possession of the receiving party without an obligation of confidentiality; (c) developed independently by the receiving party, as demonstrated by the receiving party, without violating the disclosing party’s proprietary rights; (d) obtained from a source other than the disclosing party without an obligation of confidentiality; or, (e) publicly available when received, or thereafter became publicly available (other than through any unauthorized disclosure by, through, or on behalf of, the receiving party). Notwithstanding the above, in all cases and for all matters, University Data is deemed to be Confidential Information.
- 8.2 Obligation of Confidentiality. The parties agree to hold all Confidential Information in strict confidence and not to copy, reproduce, sell, transfer, or otherwise dispose of, give or disclose such Confidential Information to third parties other than employees, agents, or subcontractors of a party who have a need to know in connection with this Agreement or to use such Confidential Information for any purposes whatsoever other than the performance of this Agreement. The parties agree to advise and require their respective employees, agents, and subcontractors of their obligations to keep all Confidential Information confidential. Disclosure to the Supplier’s Subcontractor is permissible where (a) the disclosure is necessary or otherwise naturally occurs in connection with work that is within the Subcontractor’s responsibilities; and (b) Supplier obligates the Subcontractor in a written contract to maintain the University’s Confidential Information in confidence.
- 8.3 Cooperation to Prevent Disclosure of Confidential Information. Each party must use its best efforts to assist the other party in identifying and preventing any unauthorized use or disclosure of any Confidential Information. Without limiting the foregoing, each party must advise the other party immediately in the event either party learns or has reason to believe that any person who has had access to Confidential Information has violated or intends to violate the terms of this Agreement. Each party will cooperate with the other party in seeking injunctive or other equitable relief against any such person.



8.4 Remedies for Breach of Obligation of Confidentiality. Each party acknowledges that breach of its obligation of confidentiality may give rise to irreparable injury to the other party, which damage may be inadequately compensable in the form of monetary damages. Accordingly, a party may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal remedies which may be available, to include, in the case of the University, at the sole election of the University, the immediate termination, without liability to the University, of this Agreement.

8.5 Surrender of Confidential Information upon Termination. Upon termination or expiration of this Agreement, each party must, within five (5) Business Days from the date of termination, return to the other party any and all Confidential Information received from the other party, or created or received by a party on behalf of the other party, which are in such party's possession, custody, or control. If Supplier or the University determine that the return of any Confidential Information is not feasible, such party must destroy the Confidential Information and certify the same in writing within five (5) Business Days from the date of termination to the other party.

9. **FERPA COMPLIANCE.** University is a qualifying educational agency or institution under the U.S. Family Educational Rights and Privacy Act ("FERPA"). To the extent Supplier or its personnel have access to data protected by FERPA, Supplier acknowledges that for the purposes of this Agreement it is designated as a "school official" with "legitimate educational interests" in such data and associated metadata, as defined under FERPA and its implementing regulations, and agrees to abide by the limitations and requirements imposed on school officials under those regulations. Supplier agrees to use such data only for the purpose of fulfilling its duties under this Agreement, and will not monitor, share, or disclose any such data to any third party except as provided for in this Agreement, as required by law, or as authorized in writing by University. Supplier specifically agrees not to use any data for purposes of targeted advertising.

10. **HIPAA COMPLIANCE**

The University and Supplier must comply with all obligations under the Health Insurance Portability and Accountability Act of 1996, and the Health Information Technology for Economic and Clinical Health Act, and any amendments or implementing regulations thereof, (collectively, the "**HIPAA Rules**"). University and Supplier will enter into a separate Business Associate Agreement, if reasonably necessary to keep the University and Supplier in compliance with the HIPAA Rules.

11. **RECORDS MAINTENANCE, INSPECTION, EXAMINATION AND AUDIT**

University shall have access to and the right to examine and copy any directly pertinent books, documents, papers, and records of Supplier involving transactions related to this Agreement until the expiration of three (3) years after final payment hereunder. Supplier further agrees to promptly furnish, when requested by University, such books, documents, and records of Supplier as are necessary to verify the accuracy of the amounts invoiced to University against any past or current goods and services provided by Supplier. If any audit discloses an overpayment by University or a discrepancy in the amount invoiced by Supplier against the goods and services actually provided by Supplier, Supplier will promptly reimburse University within



thirty (30) days of University's notification to Supplier of any such overpayment, rectify such discrepancy, or both, and further pay University a fee equal to 25% of the amount of any overpayment.

12. REPRESENTATIONS AND WARRANTIES

12.1 Supplier represents and warrants to MSU that:

- (a) Supplier has the right to enter into this Agreement, to grant the rights granted herein and to perform fully all of its obligations in this Agreement;
- (b) Supplier's entering into this Agreement with MSU and its performance of the Services do not and will not conflict with or result in any breach or default under any other agreement to which it is subject;
- (c) Supplier has the required skill, experience and qualifications to perform the Services, Supplier shall perform the Services in a professional and workmanlike manner in accordance with best industry standards for similar services and Supplier shall devote sufficient resources to ensure that the Services are performed in a timely and reliable manner;
- (d) Supplier shall perform the Services in compliance with all applicable federal, state and local laws and regulations;
- (e) MSU will receive good and valid title to all Deliverables, free and clear of all encumbrances and liens of any kind;
- (f) all Deliverables are and shall be Supplier's original work (except for material in the public domain or provided by MSU) and, to the best of Supplier's knowledge, do not and will not violate or infringe upon the Intellectual Property Rights or any other right whatsoever of any person, firm, corporation or other entity.

12.2 MSU hereby represents and warrants to Supplier that:

- (a) it has the full right, power and authority to enter into this Agreement and to perform its obligations hereunder; and
- (b) the execution of this Agreement by its representative whose signature is set forth at the end hereof has been duly authorized by all necessary organizational action.

13. INDEMNIFICATION

13.1 Supplier shall defend, indemnify and hold harmless MSU and its affiliates and their trustees, officers, directors, employees, agents, successors and permitted assigns from and against all losses, damages, liabilities, deficiencies, actions, judgments, interest, awards, penalties, fines, costs or expenses of whatever kind (including reasonable attorneys' fees) arising out of or resulting from:

- (a) bodily injury, death of any person or damage to real or tangible, personal property resulting from Supplier's acts or omissions;



- (b) Supplier's breach of any representation, warranty or obligation under this Agreement; and
- (c) any claim that the Services or Deliverables infringes any other person's or entities' Intellectual Property Rights.

13.2 MSU may satisfy such indemnity (in whole or in part) by way of deduction from any payment due to Supplier.

14. INSURANCE

14.1 While performing services under this Agreement, Supplier shall purchase and maintain the following insurance:

- (a) Workers Compensation insurance, Coverage A, with limits statutorily required by any applicable Federal or state law and Employers Liability insurance, Coverage B, with minimum limit of \$500,000 per accident;
- (b) Commercial General Liability insurance with a minimum limit of \$1,000,000 each occurrence/\$2,000,000 general aggregate. Coverage shall include bodily injury and property damage liability, personal and advertising injury liability, products/completed operations, and liability assumed under an insured contract;
- (c) Automobile Liability insurance covering liability arising out of any owned, hired, and non-owned vehicles with minimum limit of \$1,000,000 each accident and Personal Injury Protection as required by statute;
- (d) Professional Liability insurance for claims arising from negligent acts, errors or omissions by anyone providing professional services including but not limited to doctors, lawyers, architects, engineers, designers, appraisers and consultants. Minimum limit is \$1,000,000 per claim and \$3,000,000 annual aggregate; and
- (e) For services that may impact the security of the University's electronic data, or Suppliers that store, process, handle or transmit University data in electronic format, Cyber Liability Insurance coverage with limits no less than \$1 million.

14.2 Insurance policies shall be issued by companies licensed or approved to do business within the State of Michigan. Insurers shall possess a minimum A.M. Best rating of A. The insurance policies, except Workers' Compensation and Professional Liability shall be endorsed to name Michigan State University, its Board of Trustees, agents, officers, employees, and volunteers as "Additional Insureds." In the event any insurance policies required by this Agreement are written on a "claims made" basis, coverage shall extend for three years past completion and acceptance of Supplier's Services and must be evidenced by annual certificates of insurance. All policies of insurance must be on a primary basis, non-contributory with any other insurance and/or self-insurance carried by MSU. Prior to commencing services Supplier shall furnish the University with certificates of insurance. Supplier shall provide a minimum 30 days written notice to MSU via certified mail of cancellation or non-renewal of policies required under this Agreement and a renewal certificate at least 15 days prior to expiration.



15. TERMINATION

- 15.1 MSU may terminate this Agreement without cause upon thirty (30) days' written notice to Supplier. In the event of termination pursuant to this paragraph 15.1, MSU shall pay Supplier any Fees due and payable for any Services completed up to and including the date of such termination.
- 15.2 MSU may terminate this Agreement, effective upon written notice to Supplier, in the event that Supplier materially breaches this Agreement, and such breach is incapable of cure, or with respect to a material breach capable of cure, Supplier does not cure such breach within ten (10) days after receipt of written notice of such breach. MSU shall pay Supplier any Fees due and payable for any Services completed up to and including the date of such termination, subject to MSU's right of offset for reasonable costs incurred by MSU as a result terminating the Agreement.
- 15.3 Upon expiration or termination of this Agreement for any reason, or at any other time upon MSU's written request, Supplier shall within fifteen (15) days after such expiration or termination:
- (a) deliver to MSU all Deliverables (whether complete or incomplete) and all hardware, software, tools, equipment or other materials provided for Supplier's use by MSU;
 - (b) deliver to MSU all tangible documents and materials (and any copies) containing, reflecting, incorporating or based on the Confidential Information;
 - (c) take all reasonable and necessary measures to transition performance of the Services, reports and other documentation, to MSU or MSU's designee;
 - (d) prepare an accurate accounting from which MSU and Supplier may reconcile all outstanding accounts;
 - (e) permanently erase all of the Confidential Information from Supplier's computer systems; and
 - (f) certify in writing to MSU that Supplier has complied with the requirements of this paragraph 15.3.
- 15.4 The terms and conditions of this paragraph 15.4 and paragraph 4, paragraph 5, paragraph 7, paragraph 13, and paragraph 15.3 shall survive the expiration or termination of this Agreement.

16. LIMITATION OF LIABILITY

NEITHER PARTY WILL BE LIABLE, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY OR BY STATUTE OR OTHERWISE, FOR ANY CLAIM RELATED TO OR ARISING UNDER THIS CONTRACT FOR CONSEQUENTIAL, INCIDENTAL, INDIRECT, OR SPECIAL DAMAGES, INCLUDING WITHOUT LIMITATION LOST PROFITS AND LOST BUSINESS OPPORTUNITIES. OTHER THAN ITS PAYMENT OBLIGATIONS, IN NO EVENT WILL MSU'S AGGREGATE LIABILITY TO SUPPLIER UNDER THIS AGREEMENT, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY OR BY STATUTE OR OTHERWISE, FOR ANY CLAIM RELATED TO OR ARISING UNDER THIS AGREEMENT, EXCEED THE TOTAL AMOUNT OF PAYMENTS PAID BY MSU TO SUPPLIER DURING THE TWELVE (12) MONTHS PRECEDING THE APPLICABLE CLAIM.



17. MISCELLANEOUS

- 17.1 Criminal Background Checks. Supplier may be required to perform criminal background checks of its personnel pursuant to the MSU Contractor Criminal Background Check Requirements Policy ("CBC Policy"), available at <https://upl.msu.edu/common/documents/criminal-back-ground-check.pdf>. If Supplier is subject to the CBC Policy, Supplier must sign and deliver the Contractor Certification for Criminal Background Checks to University prior to the provision of any services or delivery of any goods. University reserves the right to audit compliance with the CBC Policy requirements and may require further documentation of compliance from Supplier. Non-compliance with the Policy is considered a material breach of this Agreement, which may result in a termination for cause.
- 17.2 Further Assurances. Each party will, upon the reasonable request of the other party, execute such documents and perform such acts as may be necessary to give full effect to the terms of this Agreement.
- 17.3 Relationship of the Parties. The relationship between the parties is that of independent contractors. Nothing contained in this Agreement is to be construed as creating any agency, partnership, joint venture or other form of joint enterprise, employment or fiduciary relationship between the parties, and neither party has authority to contract for or bind the other party in any manner whatsoever.
- 17.4 Use of the University Name, Logo and Marks. The University acknowledges that Supplier may make public statements regarding the existence of this Agreement, its terms and conditions and an accurate description of the products or services being supplied without the consent of the University. However, other than as permitted by the previous sentence, Supplier will not use the name, logo, or any other marks (including, but not limited to, colors and music) owned by or associated with the University, or the name of any representative of the University without the prior written permission of the University in each instance. Supplier may not imply, directly or indirectly, that MSU endorses any products or services supplied to MSU.
- 17.5 Notices. All notices, requests, consents, claims, demands, waivers and other communications hereunder, other than routine communications having no legal effect, must be in writing and addressed to the parties as follows (or as otherwise specified by a party in a notice given in accordance with this **Section 17.5**):

If to Supplier:

[SUPPLIER ADDRESS]

E-mail: [E-MAIL ADDRESS]

Attention: [NAME OF INDIVIDUAL TO RECEIVE NOTICES]

Title: [TITLE OF INDIVIDUAL TO RECEIVE NOTICES]

If to the University:

MSU

E-mail: Perronka@msu.edu

Attention Kathy Perron

Title: Senior Buyer



Notices sent in accordance with this **Section 17.5** will be deemed effectively given: (a) when received, if delivered by hand (with written confirmation of receipt); (b) when received, if sent by a nationally recognized overnight courier (receipt requested); (c) on the date sent by e-mail (with confirmation of transmission), if sent during normal business hours of the recipient, and on the next business day, if sent after normal business hours of the recipient; or (d) on the fifth (5th) day after the date mailed, by certified or registered mail, return receipt requested, postage prepaid.

- 17.6 Headings. The headings in this Agreement are for reference only and do not affect the interpretation of this Agreement.
- 17.7 Assignment. Supplier may not assign this Agreement, nor any money due or to become due without the prior written consent of the University. Any assignment made without such consent shall be deemed void.
- 17.8 No Third-party Beneficiaries. This Agreement is for the sole benefit of the parties and nothing herein, express or implied, is intended to or will confer on any other person or entity any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.
- 17.9 Amendment and Modification; Waiver. This Agreement may only be amended, modified or supplemented by an agreement in writing signed by each party's authorized Representative. No waiver by any party of any of the provisions hereof is effective unless explicitly set forth in writing and signed by the party so waiving. Except as otherwise set forth in this Agreement, no failure to exercise, or delay in exercising, any right, remedy, power or privilege arising from this Agreement will operate or be construed as a waiver thereof; nor will any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.
- 17.10 Severability. If any term or provision of this Agreement is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability will not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction. Upon such determination that any term or other provision is invalid, illegal or unenforceable, the parties hereto will negotiate in good faith to modify this Agreement so as to affect the original intent of the parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.
- 17.11 Governing Law. This Agreement is governed, construed, and enforced in accordance with Michigan law, excluding choice-of-law principles, and all claims relating to or arising out of this Agreement are governed by Michigan law, excluding choice-of-law principles.
- 17.12 Equitable Relief. Each party to this Agreement acknowledges and agrees that (a) a breach or threatened breach by such party of any of its obligations under this Agreement would give rise to irreparable harm to the other party for which monetary damages would not be an adequate remedy and (b) in the event of a breach or a threatened breach by such party of any such obligations, the other party hereto is, in addition to any and all other rights and remedies that may be available to such party at law, at equity or otherwise in respect of such breach, entitled to equitable relief, including a temporary restraining order, an injunction,



specific performance and any other relief that may be available from a court of competent jurisdiction, without any requirement to post a bond or other security, and without any requirement to prove actual damages or that monetary damages will not afford an adequate remedy. Each party to this Agreement agrees that such party will not oppose or otherwise challenge the appropriateness of equitable relief or the entry by a court of competent jurisdiction of an order granting equitable relief, in either case, consistent with the terms of this **Section 17.12**.

- 17.13 Compliance with Laws. Supplier shall comply with all applicable laws, regulations and ordinances and the University's policies and rules, found at <https://upl.msu.edu/for-suppliers/policies-requirements/index.html>. Supplier has and shall maintain in effect all the licenses, permissions, authorizations, consents and permits that it needs to carry out its obligations under this Agreement.
- 17.14 Non-discrimination under Michigan Law. Pursuant to Section 209 of the Michigan Elliot-Larsen Civil Rights Act and Section 209 of the Michigan Persons with Disabilities Civil Rights Act, in providing services, the Supplier and its contractor(s) agree not to discriminate against any employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment, or any matter directly or indirectly related to employment, because of age, color, familial status, height, marital status, national origin, race, religion, sex, sexual orientation, gender identity or expression, weight, disability or genetic information that is unrelated to the individual's ability to perform the duties of a particular job or position.
- 17.15 Exclusion And Debarment. Supplier certifies that it is not presently debarred, suspended, proposed for debarment, declared ineligible, voluntarily excluded or otherwise ineligible for state or Federal program participation. In the event that Supplier becomes debarred, suspended or ineligible from state or Federal program participation, Supplier shall notify MSU in writing within three (3) business days of such event. To the extent that Supplier will provide services to any MSU medical entity, Supplier hereby represents and warrants that Supplier is not currently, and at no time has been sanctioned, debarred, suspended, or excluded by any state or federally funded healthcare program, including without limitation, Medicare and Medicaid. Supplier agrees to immediately notify MSU of any threatened, proposed, or actual sanctions, debarment action, suspension, or exclusion by or from any state or federally funded health care program during the term of this Agreement.
- 17.16 Federal Contract Compliance.
- (a) **University is an equal opportunity employer and a federal contractor or subcontractor. Consequently, the parties agree that, as applicable, they will abide by the requirements of 41 CFR 60-300.5(a) and 41 CFR 60-741.5(a) and that these laws are incorporated herein by reference. These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity or national origin. These regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to protected veteran status or disability. The parties also agree that, as**



applicable, they will abide by the requirements of 29 CFR Part 471, Appendix A to Subpart A, relating to the notice of employee rights under federal labor laws.

- (b) In accordance with (i) Public Law 115-91 and FAR 52.204-23, Prohibition on Contracting for Hardware, Software, and Services Developed or Provided by Kaspersky Lab and Other Covered Entities, (ii) Public Law 115-232 and FAR 52.204-25, Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment, and (iii) FAR 52.204-30, Federal Acquisition Supply Chain Security Act (FASCSA) Orders Prohibition, Supplier is prohibited from delivering covered telecommunications equipment as defined in FAR 52.204-25, covered articles as defined in FAR 52.204-23, or covered articles as defined under FAR 52.204-30 and identified pursuant to an FASCSA order. Supplier hereby represents and warrants that it will abide by the prohibitions contained in this **Section 17.16(b)**.
 - (c) Supplier acknowledges and represents, in accordance with the Final Rule implementing Executive Order 14117 issued by the U.S. Department of Justice, that if Supplier has access to Covered Data of the University (as defined under the Final Rule): (i) it is not located in China, Hong Kong, Macau, Russia, Iran, North Korea, Venezuela, or Cuba; and (ii) it will not provide access to any Covered Data to any person located in such countries unless University approves such access in writing. Non-compliance with this provision will be considered a material breach of this agreement.
- 17.17 Conflict of Interest. Supplier warrants that to the best of Supplier's knowledge, there exists no actual or potential conflict between Supplier and the University, and its Services under this Agreement, and in the event of change in either Supplier's private interests or Services under this Agreement, Supplier will inform the University regarding possible conflict of interest which may arise as a result of the change. Supplier also affirms that, to the best of Supplier's knowledge, there exists no actual or potential conflict between a University employee and Supplier.
- 17.18 Schedules. All Schedules and Exhibits that are referenced herein and attached hereto are hereby incorporated by reference.
- 17.19 Counterparts. This Agreement may be executed in counterparts, each of which will be deemed an original, but all of which together are deemed to be one and the same agreement and will become effective and binding upon the parties as of the Effective Date at such time as all the signatories hereto have signed a counterpart of this Agreement. A signed copy of this Agreement delivered by facsimile, e-mail or other means of electronic transmission (to which a signed copy is attached) is deemed to have the same legal effect as delivery of an original signed copy of this Agreement.
- 17.20 Entire Agreement. This Agreement, including the Statement of Work and other Schedules and Exhibits attached hereto, constitute the sole and entire agreement of the parties to this Agreement with respect to the subject matter contained herein, and supersedes all prior and contemporaneous understandings and agreements, both written and oral, with respect to such subject matter. In the event of any conflict between the terms of this Agreement and those of any Schedule, Exhibit or other document, the following order of precedence governs: (a) first, this Agreement, excluding its Exhibits and Schedules; and (b) second,



the Exhibits and Schedules to this Agreement as of the Effective Date. NO TERMS ON SUPPLIER'S INVOICES, WEBSITE, BROWSE-WRAP, SHRINK-WRAP, CLICK-WRAP, CLICK-THROUGH OR OTHER NON-NEGOTIATED TERMS AND CONDITIONS PROVIDED WITH ANY OF THE SERVICES, OR DOCUMENTATION HEREUNDER WILL CONSTITUTE A PART OR AMENDMENT OF THIS CONTRACT OR IS BINDING ON THE UNIVERSITY FOR ANY PURPOSE. ALL SUCH OTHER TERMS AND CONDITIONS HAVE NO FORCE AND EFFECT AND ARE DEEMED REJECTED BY THE UNIVERSITY, EVEN IF ACCESS TO OR USE OF SUCH SERVICE OR DOCUMENTATION REQUIRES AFFIRMATIVE ACCEPTANCE OF SUCH TERMS AND CONDITIONS.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date.

MSU

BY: _____

Name: _____

Title: _____

Date: _____

Supplier

By: _____

Name: _____

Title: _____

Date: _____

