THE UNIVERSITY OF NORTH CAROLINA AT CHAPEL HILL 3500 Administrative Office Building 104 Airport Drive Chapel Hill, NC 27599	Request for Proposals (RFP) No.: RFP071326KJM Title: Institutional Biorepository Management Platform
Refer ALL inquiries regarding this RFP to: Name: Kimberly Middleton Title: Software Category Manager Email Address: Kimberly_middleton@unc.edu	Issue Date: July 13, 2026 Due Date and Time:

OFFER

The University of North Carolina at Chapel Hill (the "University") solicits offers for goods and/or services as described in this solicitation. All offers received shall be treated as offers to contract as defined in 9 NCAC 06A.0102(12).

EXECUTION PAGE

In compliance with this Request for Proposals, and subject to all of the terms and conditions herein, the undersigned offers and agrees to furnish any and all goods and/or services upon which prices are offered, at the price(s) offered herein, within the time specified herein.

Failure to execute/sign offer prior to submittal shall render offer invalid. Late offers are not acceptable.

OFFEROR:			
STREET ADDRESS:		P.O. BOX:	ZIP:
CITY, STATE & ZIP:		TELEPHONE NUMBER:	TOLL FREE TEL. NO
PRINT NAME & TITLE OF PERSON SIGNING:		FAX NUMBER:	
AUTHORIZED SIGNATURE:	DATE:	E-MAIL:	

Offer valid for one hundred eighty (180) days from date of offer opening unless otherwise stated here: ____ days

ACCEPTANCE OF OFFER

If any or all parts of this offer are accepted, an authorized representative of the University shall affix its signature hereto. Acceptance shall create a contract having an order of precedence as follows: special terms and conditions specific to the RFP, if any; requirements and specifications of the RFP; the University Information Technology (IT) Terms and Conditions; and the agreed portion of the awarded Vendor's offer (including any Best and Final Offer(s)). A copy of this acceptance will be forwarded to the awarded Vendor(s).

FOR UNIVERSITY USE ONLY

Offer accepted and contract awarded this date , as indicated on attached certification,

by (Authorized representative of University).

THE UNIVERSITY OF NORTH CAROLINA

AT CHAPEL HILL

Request for Proposals No.:

RFP071326KJM

For internal processing, including tabulation of proposals, provide your company's electronic Vendor Portal (eVP) Number. Pursuant to G.S. 132-1.10(b) this identification number shall not be released to the public. **This page will be removed and shredded, or otherwise kept confidential**, before the procurement file is made available for public inspection.

This page is to be filled out and returned with your proposal.
Failure to do so may subject your proposal to rejection.

____

Vendor Name

____

Vendor eVP Number

Note: For a contract to be awarded to you, your company (you) must be a North Carolina registered supplier in good standing. You must enter the supplier number assigned through the electronic Vendor Portal (eVP). If you do not have a vendor number, register at https://vendor.ncgov.com/vendor/login.

Electronic responses ONLY will be accepted for this solicitation.

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1.0 ANTICIPATED PROCUREMENT SCHEDULE

The table below shows the intended schedule for this RFP. The University will make every effort to adhere to this schedule, but all dates and times are subject to change at the University's sole discretion. All times listed are in Eastern Time (ET).

Action	Responsibility	(no later than) Date and Time
RFP Issued	University	July 13, 2026
Written Questions Deadline	Vendors	July 24, 2026 at 12:00 PM ET
University's Response to Written Questions / RFP Addendum Issued	University	August 7, 2026
Offer Deadline	Vendors	August 21, 2026 at 12:00 PM ET
Selection of Finalists	University	September 4, 2026
Interviews, Oral Presentations, and/or Product Demonstrations	Finalists	TBD
Security / Compliance Reviews	University	TBD
Contract Negotiations	University / Intended Awardee	TBD
Contract Award	University	TBD
Contract Effective Date	University	TBD

2.0 PURPOSE OF RFP

2.1 INTRODUCTION

The purpose of this RFP is to solicit Offers from qualified vendors for the provision and implementation of a commercially available, fully developed institutional biorepository management platform for The University of North Carolina at Chapel Hill (the "University"). The University is seeking an existing, production-ready solution and is NOT soliciting proposals for the custom design, development, or creation of a new platform. The University seeks a secure, scalable, and sustainable solution capable of supporting diverse biorepository workflows across campus while ensuring regulatory compliance, promoting interoperability with existing research systems, and supporting long-term institutional needs. The University's objective is to identify a platform that provides a shared infrastructure for biorepository operations while maintaining the flexibility necessary to support the unique requirements of individual repositories and research programs. The desired solution should enhance operational efficiency, foster collaboration across research communities, and support both current and future biorepository management requirements.

3.1 RFP DOCUMENT

This RFP is comprised of the base RFP document, any attachments, and any addenda released before contract award. All attachments and addenda released for this RFP in advance of any contract award are incorporated herein by reference.

3.2 INTERPRETATION OF TERMS AND PHRASES

This RFP serves two functions: (1) to advise potential Vendors of the parameters of the solution being sought by the University; and (2) to provide (together with other specified documents) the terms and conditions of any contract(s) resulting from this solicitation. The use of phrases such as "shall," "must," and "requirements" are intended to create enforceable contract conditions. As used herein, phrases such as “reasonable”, “necessary”, or “proper” shall be interpreted solely by the University.

3.3 CONTRACT TERM

A contract awarded pursuant to this RFP shall have an effective date as provided in either the Notice of Award or the resulting contract, as applicable (the “Effective Date”). The contract shall have an initial term of three (3) year(s) from the Effective Date (the “Initial Term”), unless terminated earlier in accordance with the terms and conditions of the contract.

At the end of the Initial Term, the University shall have the option, at its sole discretion, to renew the contract on the same terms and conditions for up to seven (7) additional one (1)-year terms. The University will give the Vendor written notice of its intent to exercise each renewal option no later than sixty (60) days before the end of the contract’s then-current term.

In addition to any optional renewal terms, and with the Vendor’s concurrence, the University retains the option to extend the contract for one (1)-year periods after the last active term.

3.4 CONTRACT TYPE

Definite Quantity Contract – This RFP will establish a closed-ended contract between the awarded Vendor(s) (if any) and the University to furnish a pre-determined quantity of goods and/or services during a specified period of time.

The University reserves the right to make partial, progressive or multiple awards (a) where it is advantageous to award separately by line item(s), (b) where more than one Vendor is needed or desired to meet the contemplated specifications as to quantity, quality, delivery, service, or geographical areas, and (c) where other factors are deemed to be necessary or proper to the purchase in question.

Any resulting contract may be used by any other UNC Chapel Hill department, office, school, etc. at their discretion.

3.5 UNC SYSTEM INSTITUTIONS

Any resulting contract may be extended to any other University of North Carolina System (UNC System) institution (each an “Institution”) to allow Institution to purchase relevant products and services from Vendor at then-current prices in accordance with the terms and conditions of the contract. Use of the contract by another Institution shall be strictly voluntary.

Execution of a separate contract is not required to participate, unless an amendment to the material terms of the contract is required by either the Institution or Vendor, in which case the resulting contract shall be between the Institution and Vendor. Other Institutions shall place their own orders directly with Vendor and shall fully and independently administer their use of the contract, including contractual disputes, invoicing, and payments, without any participation from the University.

The University shall not be responsible for any costs, damages, or other obligations incurred by any other Institution as a result of any use of the contract. It is understood and agreed that the University (a) is not responsible for the acts or omissions of any other Institution, and (b) will not be considered in default of the contract due to the acts or omissions of any other Institution, no matter the circumstances.

UNC System institutions currently include the following:

Appalachian State University
East Carolina University

Elizabeth City State University
Fayetteville State University
North Carolina Agricultural and Technical State University
North Carolina Central University
North Carolina School of Science and Mathematics
North Carolina State University
University of North Carolina at Asheville
University of North Carolina at Chapel Hill
University of North Carolina at Charlotte
University of North Carolina at Greensboro
University of North Carolina at Pembroke
University of North Carolina at Wilmington
University of North Carolina School of the Arts
University of North Carolina System Office
Western Carolina University
Winston-Salem State University

3.6 AGENCY BACKGROUND

The University of North Carolina at Chapel Hill, through the Office of the Vice Chancellor for Research, is a leading public research institution that supports a broad and diverse portfolio of scientific research across multiple disciplines. The University maintains an extensive network of shared research core facilities that provide specialized instrumentation, services, and expertise to both internal and external users.

3.7 PROBLEM STATEMENT

The University currently utilizes a mix of systems and processes across its core facilities to manage laboratory operations, including scheduling, billing, project tracking, and reporting. This fragmented environment has resulted in inefficiencies, inconsistent user experiences, limited data integration, and challenges in financial and operational oversight.

As the number and complexity of core facilities continue to grow, there is an increasing need for a comprehensive, scalable Laboratory Information Management System (LIMS) that supports standardized workflows while maintaining flexibility for diverse scientific operations.

The University seeks to implement a unified solution that enhances user experience, improves data integrity, streamlines financial processes, and provides robust reporting capabilities to support both operational management and strategic decision-making.

4.0 RFP REQUIREMENTS AND SPECIFICATIONS

4.1 SCOPE OF WORK

The selected vendor will provide and implement a comprehensive Laboratory Information Management System (LIMS) solution that supports the operational, financial, and reporting requirements of the University's core facilities. The system shall, at a minimum, support end-to-end laboratory workflow management, including sample tracking, chain of custody, inventory management, billing and chargeback functionality, and configurable reporting. The solution must enable role-based access controls, maintain audit trails, and support compliance with applicable institutional, regulatory, and data governance requirements. The system shall also integrate with relevant University systems as required to support efficient data exchange, financial reconciliation, and operational reporting across core facilities.

4.2 GENERAL REQUIREMENTS AND SPECIFICATIONS

4.2.1 REQUIREMENTS

Means, as used herein, a function, feature, or performance that the system must provide, or a condition that the Vendor must meet.

4.2.2 SPECIFICATIONS

Means, as used herein, a description of the characteristics of the desired goods and/or services (e.g., a specification that documents the function and performance of a system or system component, or a service to be provided).

The apparent silence of the specifications as to any detail, or the apparent omission of detailed description concerning any point, shall be regarded as meaning that only the best commercial practice is to prevail and that only processes, configurations, materials and workmanship of the first quality may be used. Upon any notice of noncompliance provided by the University, Vendor shall supply proof of compliance with the specifications. Vendor must provide written notice of its intent to deliver alternate or substitute services, products, goods or other Deliverables. Alternate or substitute services, products, goods or Deliverables may be accepted or rejected in the sole discretion of the University; and any such alternates or substitutes must be accompanied by Vendor's certification and evidence satisfactory to the University that the function, characteristics, performance and endurance will be equal or superior to the original Deliverables specified.

4.2.3 SITE AND SYSTEM PREPARATION

Vendors shall provide to the University complete site requirement specifications for the Deliverables, if any. These specifications shall ensure that the Deliverables to be installed or implemented shall operate properly and efficiently within the site and system environment. Any alterations or modification in site preparation, which are directly attributable to incomplete or erroneous specifications provided by the Vendor, and which would involve additional expenses to the University, shall be made at the expense of the Vendor.

4.2.4 EQUIVALENT ITEMS

Whenever a material, article or piece of equipment is identified in the specification(s) by reference to a manufacturer's or Vendor's name, trade name, catalog number or similar identifier, it is intended to establish a standard for determining substantial conformity during evaluation, unless otherwise specifically stated as a brand specific requirement (in which case, no substitute items will be allowed). Any material, article or piece of equipment of other manufacturers or Vendors shall perform to the standard of the item named. Equivalent offers must be accompanied by sufficient descriptive literature and/or specifications to provide for detailed comparison.

4.3 SECURITY AND COMPLIANCE REQUIREMENTS

Sensitive Information is in scope for this project. Therefore, before a contract can be awarded, the Intended Awardee (or proposed solution, as applicable) must:

4.3.1 Provide a current SOC 2 Type II report (or a comparable third-party assessment), complete a questionnaire provided by the University, and submit accompanying documentation at any time upon request by the University.

4.3.2 Pass an ISO risk assessment and maintain a passing status upon re-review.

4.3.3 Pass a DGOG review.

4.3.4 If Protected Health Information, electronic Protected Health Information, or Individually Identifiable Health Information (as each is defined by HIPAA) is in scope, pass an IPO review.

4.3.5 Execute any additional, related document(s) (e.g., Data Use Agreement, Business Associate Agreement, etc.) required by the University based on the type of data in scope.

NOTE: Copies security compliance documentation will not be requested until later phases of the RFP process. Vendor should not submit compliance documentation with its offer.

If (a) the Intended Awardee cannot meet the requirements or does not pass the required reviews outlined above, or (b) contract negotiations fail for any reason whatsoever, then the University reserves the right to take any action available to it, including but not limited to the following: select another prospective vendor, cancel the solicitation and rebid it, cancel the solicitation and negotiate with a known source of supply.

4.4 BUSINESS AND TECHNICAL REQUIREMENTS

The awarded Vendor / solution must meet the following requirements:

4.4.1 Vendor must provide a Voluntary Product Accessibility Template (VPAT), or acceptable alternative, that details the solution's accessibility compliance.

4.4.2 Integration Requirements. The proposed solution shall integrate with existing University systems and support secure, standards-based data exchange. Offerors shall describe the integration approach, implementation requirements, and any associated licensing or third-party dependencies.

4.4.2.1 Research Systems

4.4.2.1.1 The solution shall integrate with iLab for billing and service management.

4.4.2.1.2 The solution shall integrate with IRBIS for Institutional Review Board (IRB) protocol verifications.

4.4.2.2 Clinical Research Systems

4.4.2.2.1 The solution shall support integration with OnCore.

4.4.2.2.2 The solution shall support integration with Veeva.

4.4.2.3 Clinical Data Systems

4.4.2.3.1 The solution shall support integration with Epic/Electronic Health Record (EHR) systems.

4.4.2.3.2 The solution shall support industry-standard HL7 and/or FHIR interfaces for clinical data exchange, where applicable.

4.4.2.4 Institutional Platforms

4.4.2.4.1 The solution shall support integration with TRACS

4.4.2.5 Integration Security

4.4.2.5.1 The solution shall support Single Sign-On (SSO) using University-supported authentication methods.

4.4.2.5.2 The solution shall provide configurable session timeout settings.

4.4.2.5.3 The solution shall support secure integration methods, including application programming interfaces (APIs), automated data exchange, and configurable import/export templates.

4.4.3 Sample Management Requirements. The proposed solutions shall provide comprehensive sample management capabilities.

4.4.3.1 The solution shall provide unique sample identification and end-to-end sample tracking.

4.4.3.2 The solution shall support barcode generation, barcode scanning, and label printing.

4.4.3.3 The solution shall automatically generate unique sample identifiers while allowing authorized users to manually create sample identifiers when necessary.

4.4.3.4 The solution shall support configurable sample types and associated metadata.

4.4.3.5 The solution shall maintain parent-child relationships between samples, including aliquots, derivatives, pooled specimens, and other related sample types.

4.4.3.6 The solution shall track the complete sample lifecycle from collection through final disposition.

4.4.3.7 The solution shall provide configurable storage hierarchy management, including freezers, shelves, racks, boxes, positions, and other storage locations.

4.4.3.8 The solution shall support sample return to the repository, maintain chain-of-custody records, and preserve parent-child relationships when samples are returned or repatriated.

4.4.4 Compliance and Governance Requirements. The proposed solutions shall support compliance with applicable research, clinical, institutional, and regulatory requirements.

4.4.4.1 The solution shall support HIPAA-compliant environments where Protected Health Information (PHI) is stored or accessed.

4.4.4.2 The solution shall provide role-based access controls.

4.4.4.3 The solution shall support project-, study-, and repository-specific access permissions.

4.4.4.4 The solution shall maintain comprehensive audit trails documenting user access, data modifications, and system activities.

4.4.4.5 The solution shall support compliance with 21 CFR Part 11, where applicable.

4.4.4.6 The solution shall support laboratories operating under CAP accreditation requirements.

Vendor shall return with its offer a completed **ATTACHMENT I: Requirements Checklist**.

4.5 BUSINESS AND TECHNICAL SPECIFICATIONS

4.5.1 System Demonstration: Vendor shall conduct a live demonstration of the proposed solution at a mutually agreed-upon date and time.

4.5.2 Sandbox Access: Vendor shall provide evaluators with access to a fully functional sandbox environment for a minimum of fourteen (14) calendar days to facilitate testing and evaluation

4.5.3 The solution shall support integration with other University research administration systems as required.

5.0 COST OF VENDOR'S OFFER

5.1 OFFER COSTS

Offer price shall constitute the total cost to the University for complete performance in accordance with the requirements and specifications herein, including all applicable charges for handling, administrative, and other similar fees and expenses. Vendor shall not invoice for any amounts not specifically allowed for in this RFP. Vendor shall return with its offer a completed **ATTACHMENT D – Cost Form**.

5.2 PAYMENT SCHEDULE

If applicable, Vendor shall propose its itemized payment schedule based on the content of its offer. All payments must be based upon acceptance of one or more Deliverables.

6.0 EVALUATION

6.1 SOURCE SELECTION

A trade-off method of source selection will be utilized in this procurement to allow the University to award this RFP to the Vendor providing the Best Value, while recognizing that Best Value may not result in an award to the Vendor offering the lowest price or highest technically qualified offer. By using this method, the overall ranking may be adjusted up or down when considered with, or traded-off against, other non-price factors.

5.1.1 EVALUATION PROCESS

University employees will review all offers. All offers will be initially classified as being responsive or non-responsive. If an offer is found non-responsive, it will be rejected and will not be considered further. All Responsive Offers will be evaluated based on stated evaluation criteria.

5.1.2 SUBSTANTIAL CONFORMITY

To be eligible for consideration, Vendor's offer must substantially conform to the specifications. Vendor's offer may be deemed to substantially conform to the specifications if it satisfies the purpose or objective of the business need, even without adhering to ALL of the specifications. Substantial conformity will be determined solely by the University. Offers that do not substantially conform may be rejected. Further, offers that are seriously deficient with regard to any one (1) or more singular specification(s) may be rejected.

5.1.3 CLARIFICATIONS

The evaluation committee may request clarifications from or open communications with any or all Vendors as allowed by 9 NCAC 06B.0307. However, the University may refuse to accept, in full or partially, the response to a clarification request given by any Vendor. Vendors are cautioned that the evaluators are not required to request clarifications; therefore, all offers should be complete and reflect the most favorable terms. Vendors should be prepared to send qualified personnel to Chapel Hill, North Carolina to discuss technical and contractual aspects of the offer.

5.1.4 NO UNIVERSITY OBLIGATION

Vendors are advised that the University is not obligated to ask for, or accept after the offer deadline, data that may be essential for a complete and thorough evaluation of the offer.

5.2 EVALUATION CRITERIA

All Responsive Offers will be evaluated based on the following evaluation criteria (listed in order of importance):

a) How well the Vendor's offer conforms to the specifications
b) How each Vendor's offer compares with other Vendors' offers
c) Total cost of ownership
d) Vendor schedule / timeline for completing the work
e) Implementation plan
f) Strength of references relevant or material to technology area(s) or specifications,
g) Vendor past performance – Vendor may be disqualified from any evaluation or award if the Vendor or any key personnel proposed, has previously failed to perform satisfactorily during the performance of any contract with the University, or violated rules or statutes applicable to public bidding in the State of North Carolina
h) Risks associated with Vendor's offer

5.3 INTERVIEWS, ORAL PRESENTATIONS, AND/OR PRODUCT DEMONSTRATIONS

After all Responsive Offers have been evaluated, the University reserves the right to invite any number of Vendors for interviews and/or to provide oral presentations / product demonstrations to the University for purposes of further evaluation (the "Finalists"). The format and evaluation criteria for interviews, oral presentations, and/or product demonstrations will be provided to the Finalists at the time of invitation, and scheduling will be done on a first come, first served basis.

5.4 BEST AND FINAL OFFER (BAFO)

The University reserves the right to negotiate with one or more Vendor(s), and to request such Vendor(s) to submit a Best and Final Offer (BAFO) based on discussions and negotiations with the University.

5.5 POSSESSION AND REVIEW

During the evaluation period and prior to award, possession of the offers and accompanying information is limited to personnel of the issuing agency, and to the committee responsible for participating in the evaluation. Vendors who attempt to gain this privileged information, or to influence the evaluation process (i.e. assist in evaluation) will be in violation of purchasing rules and their offer will not be further evaluated or considered.

After award of contract the complete bid file will be available to any interested persons with the exception of trade secrets, test information or similar proprietary information as provided by statute and rule. Any proprietary or confidential information which conforms to exclusions from public records as provided by N.C.G.S. §132-1.2 must be clearly marked as such in the offer when submitted. Under 1 NCAC 05B.0103, price information shall not be deemed confidential.

6.0 VENDOR INFORMATION AND INSTRUCTIONS

6.1 GENERAL CONDITIONS OF OFFER

6.1.1 VENDOR RESPONSIBILITY

It shall be the Vendor's responsibility to read this entire document, review all enclosures and attachments, and comply with all specifications, requirements and the University's intent as specified herein. Vendors are also responsible for obtaining and complying with all addenda and other changes that may be issued in connection with this RFP. If a Vendor discovers an inconsistency, error or omission in this RFP, the Vendor should request a clarification from the University's contact person.

The Vendor will be responsible for investigating and recommending the most effective and efficient solution. Consideration shall be given to the stability of the proposed configuration and the future direction of technology, confirming to the best of their ability that the recommended approach is not short lived. Several approaches may exist for hardware configurations, other products and any software. The Vendor must provide a justification for their proposed hardware, product and software solution(s) along with costs thereof. Vendors are encouraged to present explanations of benefits and merits of their proposed solutions together with any accompanying Services, maintenance, warranties, value added Services or other criteria identified herein.

6.1.2 RIGHTS RESERVED

While the University has every intention to award a contract as a result of this RFP, issuance of the RFP in no way constitutes a commitment by the University to award a contract. Upon determining that any of the following would be in its best interests, the University may:

a) waive any formality, informality, or technicality;

b) amend the solicitation;

c) not award one or more line item(s);

d) cancel or terminate this RFP;

e) reject any or all offers received in response to this RFP;

f) waive any undesirable, inconsequential, or inconsistent provisions of this RFP;

g) if the response to this solicitation demonstrate a lack of competition, negotiate directly with one or more Vendors;

h) not award, or if awarded, terminate any contract if the University determines adequate funds are not available; or

i) if all offers are found non-responsive, determine whether Waiver of Competition criteria may be satisfied, and if so, negotiate with one or more known sources of supply.

6.1.3 SOLICITATION AMENDMENTS OR REVISIONS

Any and all amendments or revisions to this document shall be made by written addendum from the University. If either a unit price or extended price is obviously in error and the other is obviously correct, the incorrect price will be disregarded.

6.1.4 ORAL EXPLANATIONS

The University will not be bound by oral explanations or instructions given at any time during the RFP process or after award.

6.1.5 PROHIBITED COMMUNICATIONS

During the evaluation period (i.e., from the offer deadline through the date of contract award, if any), each Vendor submitting an offer (including its representatives, subcontractors and/or suppliers) is prohibited from having any communications with any person inside or outside of the University if the communication refers to the content of Vendor's offer or qualifications, the contents of another Vendor's offer, another Vendor's qualifications or ability to perform the contract, and/or the transmittal of any other communication or information that could reasonably be considered to have the effect of directly or indirectly influencing the evaluation of offers and/or the award of the contract. Any Vendor not in compliance with this provision shall be disqualified from contract award, unless it is determined in the University's sole discretion that the communication was harmless, that it was made without intent to influence and that the best interest of the University would not be served by the disqualification.

Only (a) those discussions, communications or transmittals of information authorized or initiated by the University regarding this RFP, or (b) general inquiries directed to the University's contact person named on the first page of this RFP regarding details of the RFP (prior to offer submission) or the status of contract award (after offer submission) are excepted from this provision.

6.1.6 AWARDS

The State of North Carolina has implemented the North Carolina electronic Vendor Portal (eVP) that allows the public to retrieve award notices and information on the Internet at https://evp.nc.gov. This information may not be available for several weeks depending upon the complexity of the acquisition and the length of time to complete the evaluation process.

6.1.7 PROTEST PROCEDURES

Protests of awards exceeding $25,000 in value must be submitted to the University at the address given on the first page of this document. Protests must be received by the University within fifteen (15) calendar days from the date of the RFP award and provide specific reasons and any supporting documentation for the protest. **All protests are governed by 09 NCAC 06B .1102 and other applicable law, regulations, policies and procedures.**

6.2 GENERAL INSTRUCTIONS FOR VENDOR

6.2.1 QUESTIONS CONCERNING THE RFP

Written questions concerning this RFP will be received until July 24, 2026 at 12:00 PM Eastern Time (the "Written Questions Deadline"). Date and time of receipt shall be as indicated on the email received by the University; late submissions will not be accepted.

Vendors' questions posed orally at any pre-offer conference must be reduced to writing by the Vendor and provided to the University in accordance with this Section 6.2.2. **Oral answers are not binding on the University.**

Written questions must be submitted to the contact person listed on Page One of this RFP via email at kimberly_middleton@unc.edu. Please enter "Questions Solicitation RFP071326KJM" as the subject for the message. Questions should be submitted in the following format:

REFERENCE	VENDOR QUESTION
RFP Section, Page Number	

6.2.2 ADDENDUM TO RFP

If written questions are received prior to the Written Questions Deadline, an addendum comprising all such questions and responses to those questions, or any additional terms deemed necessary by the University, shall become an addendum to this RFP and will be provided via the eVP.

Critical updated information may be included in these addenda, if any. Therefore, it is important that all Vendors submitting an offer in response to this RFP periodically check the eVP for any and all addenda that may be issued prior to the offer deadline.

6.2.3 COSTS RELATED TO OFFER SUBMISSION

Costs for developing and delivering an offer in response to this RFP and any subsequent interview, oral presentation, or product demonstration as requested by the University are entirely the responsibility of the Vendor. The University is not liable for any expense incurred by the Vendors in the preparation or presentation of their offers.

All materials submitted in response to this RFP become the property of the University and are to be appended to any formal documentation, which would further define or expand any contractual relationship between the University and the Vendor resulting from this RFP process.

6.2.4 ALTERNATE OFFERS

Vendor may submit alternate offers for various levels of service or products meeting the RFP specifications. If Vendor chooses to respond with various service or product offerings, each offer must be for a specific set of services and products and at specific pricing. Vendors may also provide multiple offers for software or systems coupled with various support and maintenance options, provided, however, that all offers must substantially conform to the specifications.

Alternate offers must specifically identify the RFP specification(s) and advantage(s) addressed by the alternate offer. Any alternate offer(s) must be submitted as a separate file, clearly marked "Alternate Offer for 'name of Vendor'", and numbered sequentially with the first offer if separate offers are submitted.

Offers of alternate or non-equivalent goods and/or services must be supported by independent documentary verification that the offer substantially conforms to the goods and/or services specified in the RFP. Notwithstanding the foregoing, alternate offers may be rejected if not found to be substantially conforming at the sole discretion of the University.

6.2.5 MODIFICATIONS TO OFFER

An offer may not be unilaterally modified by the Vendor after the offer deadline.

6.2.6 BASIS FOR REJECTION

Pursuant to 9 NCAC 06B.0401, the University reserves the right to reject any or all offers, in whole or in part, based on the following:

a) late offers;

b) unsigned offers;

c) the University's determination that the offer is unsatisfactory as to quantity, quality, delivery, price or service offered;

d) the Vendor's failure to comply with the intent or conditions of the solicitation document;

e) the lack of competitiveness due to collusion or due to the knowledge that reasonably available competition was not received;

f) error(s) in specifications or indication that revision(s) would be to the University's advantage;

g) cancellation of, or changes in, the intended project or other determination that the commodity or service is no longer needed;

h) limitation or lack of available funds;

i) circumstances that prevent determination of the lowest priced or highest qualified technically acceptable offer or the Best Value offer; or

j) any determination that rejection would be in the best interest of the University.

6.2.7 VENDOR REGISTRATION WITH THE SECRETARY OF STATE

Vendors do not have to be registered with the NC Secretary of State to submit an offer; however, in order to receive an award/contract with the University, they must be registered. Registration can be completed at the following website: https://www.sosnc.gov/divisions/business_registration.

6.2.8 VENDOR REGISTRATION AND SOLICITATION NOTIFICATION SYSTEM

The North Carolina electronic Vendor Portal (eVP) allows Vendors to electronically register with the State of North Carolina to receive electronic notification of current procurement opportunities for goods and services available at the following website: https://evp.nc.gov.

This RFP is available electronically on the eVP.

6.2.9 VENDOR INFORMATION

Vendor shall return with its offer a completed **ATTACHMENT C – Description of Offeror Form**.

6.2.10 VENDOR REFERENCES

Vendor shall return with its offer a list of references in accordance with **ATTACHMENT G – References**.

6.3 INSTRUCTIONS FOR OFFER SUBMISSION

6.3.1 GENERAL INSTRUCTIONS FOR OFFER

Vendors are strongly encouraged to adhere to the following general instructions in order to bring clarity and order to the offer and subsequent evaluation process:

a) Organize the offer in the exact order specified in Section 6.3.2 (Offer Organization) of this RFP. The Execution Page of this RFP should be placed at the front of the offer. Each page should be numbered and the offer should contain a table of contents.

b) Provide complete and comprehensive responses with a corresponding emphasis on being concise and clear. Elaborate offers in the form of brochures or other presentations beyond that necessary to present a complete and effective offer are not desired.

c) Clearly state your understanding of the problem(s) presented by this RFP including your proposed solution's ability to meet the specifications, including capabilities, features, and limitations, as described herein, and provide a cost offer.

d) Supply all relevant and material information relating to the Vendor's organization, personnel, and experience that substantiates its qualifications and capabilities to perform the Services and/or provide the goods described in this RFP.

e) Furnish all information requested; and if response spaces are provided in this RFP, the Vendor shall furnish said information in the spaces provided. Any references in an answer to another location in the RFP materials or offer shall have specific page numbers and sections stated in the reference. Further, if required elsewhere in this RFP, each Vendor must submit with its offer sketches, descriptive literature and/or complete specifications covering the products offered.

f) Only information that is received in response to this RFP will be evaluated. References to information previously submitted or available via the internet will not suffice as a response to this solicitation.

g) Any offer that does not adhere to these instructions may be rejected.

6.3.2 OFFER ORGANIZATION

The offer should be organized and indexed in the following format and should contain, at a minimum, all listed items below.

a) Completed and signed Execution Page

b) Completed eVP Number form

c) Completed and signed Requirements Checklist (Attachment I)

d) Table of Contents

e) Completed Description of Offeror Form (Attachment C)

f) Vendor response to business and technical requirements (reference Section 3.4 of this RFP)

g) Vendor response to business and technical specifications (reference Section 3.5 of this RFP)

h) Completed Cost Form (Attachment D)

i) Schedule of offered solution / implementation plan

j) Signed Vendor Certification Form (Attachment E)

k) Completed Location of Workers Utilized by Vendor Form (Attachment F)

l) References (Attachment G)

m) Completed and signed Certification of Financial Condition Form (Attachment H)

n) Vendor Exceptions, if any (reference Section 7.3.1 of this RFP)

o) Vendor Additional Terms and Conditions, if any (reference Section 7.3.2 of this RFP)

p) Supporting material such as technical system documentation, training examples, etc.

q) Vendor may attach other supporting materials that it feels may improve the quality of its response. These materials should be included as items in a separate appendix.

6.3.3 OFFER SUBMITTAL

Due Date: **August 21, 2026**

Time: **12:00 PM Eastern Time**

Offers must be submitted (a) by the due date and time, (b) via the North Carolina electronic Vendor Portal (eVP), located at https://evp.nc.gov/, and (c) with the Execution Page signed and dated by an official authorized to bind the Vendor's firm.

IMPORTANT NOTE: It is the Vendor's sole responsibility to upload their signed offer to the eVP by the specified due date and time. Vendor shall bear the risk for late electronic submission due to unintended or unanticipated delay, including but not limited to internet issues, network issues, local power outages, or application issues.

Offers will be deemed non-responsive and will be rejected if any of the following are true:

a) Offer was submitted *after* the due date and time (i.e., late offers);

b) Offer was *not* submitted via the eVP (e.g., offer was submitted via facsimile (FAX) machine, telephone, email, or in any hardcopy format); or

c) Offer was *not* signed on the Execution Page by an official authorized to bind the Vendor's firm.

All file names should start with the Vendor's name first, in order to easily determine all the files to be included as part of the Vendor's response. For example, files should be named as follows: Vendor Name – your file name.

File contents SHALL NOT be password protected, file formats must be in .PDF, .JPEG, .DOC or .XLS format, and files shall be capable of being copied to other sources. Inability by the University to open the Vendor's files may result in the Vendor's offer being rejected.

If the Vendor's offer contains any trade secrets (as defined in Attachment B, Section 18 (c) (Protection of Vendor Trade Secrets under NC Public Records Act)), then the Vendor must provide one (1) signed, original electronic copy and one (1) redacted electronic copy.

Additional information can be found via the North Carolina eProcurement Vendor Training link: https://eprocurement.nc.gov/training/vendor-training.

Questions or issues related to using the eVP should be directed to the North Carolina eProcurement Help Desk – reference the following link: https://eprocurement.nc.gov/contact.

6.3.4 PUBLIC OPENING

The name of each responding vendor will be announced at a public, virtual Zoom meeting to be held at 2:00 PM Eastern Time on August 21, 2026. Attendance is optional – please use the following information to join the meeting:

Meeting Link: https://unc.zoom.us/j/93903831967?pwd=e0qWKk0gVR3x3Y96haOCmY3Po9qabZ.1

Meeting ID: 939 0383 1967

Passcode: 487661

6.3.5 TABULATIONS

All offers (except those that (a) have been previously withdrawn, or (b) are found to be non-responsive) will be tabulated. The tabulations shall be made public via the North Carolina electronic Vendor Portal (eVP), located at https://evp.nc.gov/.

7.0 OTHER REQUIREMENTS AND SPECIAL TERMS

7.1 VENDOR UTILIZATION OF WORKERS OUTSIDE THE UNITED STATES

In accordance with N.C.G.S. §143B-1361(b), the Vendor must detail in its offer the manner in which it intends to utilize resources or workers located outside the United States. The University will evaluate the additional risks, costs, and other factors associated with such utilization.

Vendor shall return with its offer a completed **ATTACHMENT F – Location of Workers Utilized by Vendor Form**.

7.2 FINANCIAL STABILITY

The Vendor shall provide evidence of financial stability by returning with its offer a completed **ATTACHMENT H – Certification of Financial Condition Form**.

7.3 VENDOR EXCEPTIONS; ADDITIONAL TERMS AND CONDITIONS

7.3.1 EXCEPTIONS

Any exceptions to the University's requirements, specifications, or terms and conditions may be presented in a separate section labeled "Vendor Exceptions". Include references to the corresponding requirements, specifications, or terms and conditions of the RFP, as applicable. Any exceptions shall be explained in detail.

Vendor shall not construe this paragraph as inviting exceptions or implying that any exception will be acceptable to the University; the University may exercise its discretion not to consider any or all proposed modifications. If Vendor materially deviates from the University's requirements, specifications, or terms and conditions, its offer may be rejected by the University. Furthermore, offers conditioned upon acceptance of Vendor exceptions may be rejected by the University.

7.3.2 ADDITIONAL TERMS AND CONDITIONS

Vendor's terms and conditions for licensing and support of Vendor's proprietary assets may be considered by the University; therefore, Vendor should present its license and/or support agreements, if any, for review and evaluation by the University. Any such terms and conditions should be presented in a separate section labeled "Vendor Terms and Conditions".

The terms and conditions of the Vendor's standard service, license, maintenance or other agreement(s) applicable to services, software and other products acquired under this RFP may apply to the extent such terms and conditions do not materially change the terms and conditions of this RFP. In the event of any conflict between the terms and conditions of this RFP and the Vendor's standard agreement(s), the terms and conditions of this RFP relating to audit and records, jurisdiction, choice of law, the remedy for intellectual property infringement and the exclusive remedies and limitation of liability in The University of North Carolina at Chapel Hill Terms and Conditions for Procurement of Information Technology Products, Software and Services herein shall apply in all cases and supersede any provisions contained in the Vendor's relevant standard agreement or any other agreement. The University shall not be obligated under any standard license and/or maintenance or other Vendor agreement(s) to indemnify or hold harmless the Vendor, its licensors, successors or assigns, nor arbitrate any dispute, nor pay late fees, penalties, legal fees or other similar costs.

7.3.3 NOTICE TO VENDORS REGARDING TERMS AND CONDITIONS

Other than through the processes outlined in this Section 7.3, the University rejects and will not be required to evaluate or consider any additional or modified terms and conditions submitted with Vendor's offer. This applies to any language appearing in or attached to Vendor's offer that purports to vary any terms and conditions herein, or to render the offer non-binding or subject to further negotiation. Vendor's offer shall constitute a firm offer.

7.4 VENDOR'S REPRESENTATIONS

7.4.1 QUALIFIED PERSONNEL

Vendor represents and warrants to the University that qualified personnel will provide all services in a professional manner. "Professional manner" means that the personnel performing the service(s) will possess the skill and competence consistent with the prevailing business standards in the industry.

7.4.2 INTELLECTUAL PROPERTY

Vendor represents and warrants to the University that (a) it has the right to provide the services and other Deliverables without violating or infringing any law, rule, regulation, copyright, patent, trade secret or other proprietary right of any third party, and (b) its services and other Deliverables are not the subject of any actual or threatened actions arising from, or alleged under, any intellectual property rights of any third party.

7.4.3 INHERENT SERVICES

If any services or other Deliverables, functions, or responsibilities not specifically described in this RFP are (a) required for Vendor's proper performance, provision or delivery of the services or other Deliverables, or (b) an inherent part of or necessary sub-task included within the services, they will be deemed to be implied by and included within the scope of any resulting contract to the same extent and in the same manner as if specifically described in this RFP.

7.4.4 VENDOR PERFORMANCE

Vendor warrants that it has the financial capacity to perform and to continue to perform its obligations under any resulting contract; that Vendor has no constructive or actual knowledge of an actual or potential legal proceeding being brought against Vendor that could materially adversely affect performance under any resulting contract; and that entering into any resulting contract is not prohibited by any other contract, or order by any court of competent jurisdiction.

7.5 PERSONNEL

Vendor shall not substitute key personnel assigned to the performance of any resulting contract without prior written approval by the University. The individuals designated as key personnel for purposes of any resulting contract are those specified in the Vendor's offer. Any desired substitution shall be noticed to the University in writing accompanied by the names and references of Vendor's recommended substitute personnel. The University will approve or disapprove the requested substitution in a timely manner. The University may, in its sole discretion, terminate the services of any person providing services under any resulting contract. Upon such termination, the University may request acceptable substitute personnel or terminate the services provided by such personnel.

7.6 SECURITY AND BACKGROUND CHECKS

Any personnel or agent of Vendor performing services under any contract arising from this RFP may be required to undergo a background check at the expense of the Vendor, if so requested by the University.

7.7 DISCLOSURE OF LITIGATION

7.7.1 The Vendor shall notify the University in its offer if it, or any of its subcontractors, or their officers, directors, or key personnel who may provide services under any contract awarded to the Vendor pursuant to this RFP, have ever been convicted of a felony, or any crime involving moral turpitude, including, but not limited to fraud, misappropriation or deception. The Vendor shall promptly notify the University of any criminal litigation, investigations or proceeding involving the Vendor or any subcontractor, or any of the foregoing entities' then current officers or directors, during the term of any contract awarded to the Vendor pursuant to this RFP.

7.7.2 The Vendor shall notify the University in its offer, and promptly thereafter as otherwise applicable, of any civil litigation, arbitration, proceeding, or judgments against it or any of its subcontractors during the three (3) years preceding its offer, or which may occur during the term of any contract awarded to the Vendor pursuant to this RFP, that involve (1) services or goods similar to those provided pursuant to any contract and that involve a claim that may affect the viability or financial stability of the Vendor, (2) a claim or written allegation of fraud by the Vendor or any subcontractor hereunder, arising out of their business activities, or (3) a claim or written allegation that the Vendor or any subcontractor hereunder violated any federal, state or local statute, regulation or ordinance. Multiple lawsuits and or judgments against the Vendor or subcontractor shall be disclosed to the University to the extent that they affect the financial solvency and integrity of the Vendor or subcontractor.

7.7.3 All notices under subsection A and B herein shall be provided in writing to the University within thirty (30) calendar days after the Vendor learns about any such criminal or civil matters. Details of settlements which are prevented from disclosure by the terms of the settlement shall be annotated as such. Vendor may rely on good faith certifications of its subcontractors addressing the foregoing, which certifications shall be available for inspection at the option of the University.

7.9 CRIMINAL CONVICTION

In the event the Vendor, an officer of the Vendor, or an owner of a 25% or greater share of the Vendor, is (a) convicted of a criminal offense incident to the application for or performance of a State, public, or private contract or subcontract; (b) convicted of a criminal offense including but not limited to any of the following: embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, attempting to influence a public employee to breach the ethical conduct standards for State of North Carolina employees; (c) convicted under State or federal antitrust statutes; or (d) convicted of any other criminal offense which in the sole discretion of the University reflects upon the Vendor's business integrity, such Vendor shall be prohibited from entering into a contract for goods or services with any department, institution or agency of the State.

7.10 ASSURANCES

In the event that criminal or civil investigation, litigation, arbitration or other proceedings disclosed to the University pursuant to this Section, or of which the University otherwise becomes aware, during the term of any resulting contract, causes the University to be reasonably concerned about:

a) the ability of the Vendor or its subcontractor(s) to continue to perform the contract in accordance with its terms and conditions, or

b) whether the Vendor or its subcontractor(s), in performing services under the contract, is engaged in conduct which is similar in nature to conduct alleged in such investigation, litigation, arbitration or other proceedings, which conduct would constitute a breach of contract or violation of law, regulation or public policy, then the Vendor shall be required to provide the University all reasonable assurances requested by the University to demonstrate that the Vendor or its subcontractor(s): (i) will be able to continue to perform the contract in accordance with its terms and conditions, and (ii) will not, in performing services under the contract, engage in conduct which is similar in nature to the conduct alleged in any such litigation, arbitration or other proceedings.

7.11 CONFIDENTIALITY OF OFFERS

All offers and any other RFP responses shall be made public as required by the NC Public Records Act and GS 143B-1350. Vendors may mark portions of offers as confidential or proprietary, after determining that such information is excepted from the NC Public Records Act, provided that such marking is clear and unambiguous and preferably at the top and bottom of each page containing confidential information. Standard restrictive legends appearing on every page of an offer are not sufficient and shall not be binding upon the University.

Certain University information is not public under the NC Public Records Act and other laws. Any such information which the University designates as confidential and makes available to the Vendor shall be protected by the Vendor from unauthorized use and disclosure. The Vendor shall not be required under the provisions of this section to keep confidential, (1) information generally available to the public, (2) information released by the University generally, or to the Vendor without restriction, (3) information independently developed or acquired by the Vendor or its personnel without reliance in any way on otherwise protected information of the University. Notwithstanding the foregoing restrictions, the Vendor and its personnel may use and disclose any information which it is otherwise required by law to disclose, but in each case only after the University has been so notified, and has had the opportunity, if possible, to obtain reasonable protection for such information in connection with such disclosure.

7.12 PROJECT MANAGEMENT

All project management and coordination on behalf of the University shall be through a single point of contact designated as the University Project Manager. The Vendor shall designate a Vendor Project Manager who will provide a single point of contact for management and coordination of the Vendor's work. All work performed pursuant to any resulting contract shall be coordinated between the University Project Manager and the Vendor Project Manager.

7.13 MEETINGS

The Vendor is required to meet with University personnel, or designated representatives, to resolve technical or contractual problems that may occur during the term of any resulting contract. Meetings will occur as problems arise and will be coordinated by the University. The Vendor will be given reasonable and sufficient notice of meeting dates, times, and locations. Face to face meetings are desired. However, at the Vendor’s option and expense, a conference call meeting may be substituted.

7.14 RECYCLING AND SOURCE REDUCTION

It is the policy of this University to encourage and promote the purchase of products with recycled content to the extent economically practicable, and to purchase items which are reusable, refillable, repairable, more durable, and less toxic to the extent that the purchase or use is practicable and cost-effective. We also encourage and promote using minimal packaging and the use of recycled/recyclable products in the packaging of goods purchased. However, no sacrifice in quality of packaging will be acceptable. The Vendor remains responsible for providing packaging that will protect the commodity and contain it for its intended use. Vendors are strongly urged to bring to the attention of the University those products or packaging they offer which have recycled content and that are recyclable.

ATTACHMENT A: DEFINITIONS

1) **Best Value**: The selection of a vendor based on a determination of which proposal offers the best trade-off between price and performance, where quality is considered an integral performance factor. The award decision is made based on multiple factors, including: total cost of ownership, meaning the cost of acquiring, operating, maintaining, and supporting a product or service over its projected lifetime; the evaluated technical merit of the vendor's proposal; the vendor's past performance; and the evaluated probability of performing the requirements stated in the solicitation on time, with high quality, and in a manner that accomplishes the stated business objectives and maintains industry standards compliance.
2) **Deliverables**: Deliverables, as used herein, shall comprise all hardware, Vendor services, professional services, software and provided modifications to any software, and incidental materials, including but not

limited to any goods, software, services, licenses, data, reports and documentation provided or created during the performance or provision of services hereunder.

3) **DGOG**: The University's Data Governance Oversight Group.

4) **eVP**: The North Carolina electronic Vendor Portal (eVP), located at https://evp.nc.gov/, is the State of North Carolina's system to connect vendors with state government organizations that purchase goods and services.

5) **Intended Awardee**: The Vendor meeting the RFP requirements and achieving the highest and best final evaluation, based on the criteria described in the RFP.

6) **IPO**: The University's Institutional Privacy Office.

7) **ISO**: The University's Information Security Office.

8)

9) **Responsive Offer**: An offer that (a) was submitted in accordance with Section 6.3.3 (Offer Submittal), and (b) meets the requirements outlined in Section 3.3 (Business and Technical Requirements) of this RFP.

10) **Personal Information** is defined in Exhibit A (University Data Privacy and Security Addendum) to Attachment B (University Information Technology (IT) Terms and Conditions) to this RFP

11) **Vendor**: Company, firm, corporation, partnership, individual, etc., submitting an offer in response to a solicitation.

ATTACHMENT B: UNIVERSITY INFORMATION TECHNOLOGY (IT) TERMS AND CONDITIONS

1. DEFINITIONS. As used herein,

(a) "Agreement" or "Contract" means these Terms and Conditions for Procurement of Information Technology Products, Software and Services and incorporating the University's Purchase Order and any Statement of Work executed by the Parties under this Agreement.

(b) "Documentation" means the user manuals and guides to operations issued by Vendor from time-to-time for the Software.

(c) "Parties" means the University and the Vendor (each, individually, a "Party").

(d) "Products" means all hardware, equipment, project materials, Software, data, goods, and documentation to be delivered hereunder to University by Vendor in accordance with the Solicitation Document and/or Purchase Order(s), as applicable.

(e) "Purchase Order" means the document used by the University to order Products and/or any type of Service provided by Vendor in sufficient detail to allow Vendor to accept and accurately fulfill the University's order, and including terms describing price, quantity, invoicing and delivery addresses, and purchasing agent contact information.

(f) "Services" means all services to be performed by Vendor for University under this Agreement, the Solicitation Document, and/or the Purchase Order(s), as applicable.

(g) "Software" means any software licensed or provided by Vendor to University in accordance with the Solicitation Document and/or Purchase Order(s), as applicable.

(h) "Solicitation Document" means the University's request for proposal, request for information, invitation for bid, and/or other solicitation document issued by the University to solicit offers for the Products and Services.

(i) "Statement of Work" means a document that defines, for each project under this Agreement, the (1) work activities to be performed by Vendor including any deliverables, (2) payment rates, (3) additional payment terms (if any), (4) Products and/or Services, (5) work schedule governing Vendor's provision of Services, and any other relevant information the Parties wish to include.

(j) "University" means The University of North Carolina at Chapel Hill and its successors and assigns.

(k) "Vendor" means the Party providing the Products and/or Services to the University under this Agreement, and its successors and assigns.

2. PAYMENT TERMS.

(a) *Terms*. All invoices shall be submitted to the University electronically via the Vendor Invoice Submission Page (VISP), which is located at https://vendor.itsapps.unc.edu/visp/vendor, unless otherwise instructed on the face of the Purchase Order. Payment terms are net thirty (30) days after the University's receipt of a correct invoice or acceptance of the Products and Services, whichever is later. For Software purchases, the total license fee and the support and/or maintenance fee (provided the University subscribes or purchases such services) for the first year shall be invoiced upon delivery of the Software. The Software support and/or maintenance fee for subsequent Contract years, if any, will be invoiced annually sixty (60) days prior to the anniversary date beginning each subsequent year.

(b) *Payment to third party*. Upon written request approved by the University and solely as a convenience to the Vendor, the University may: (i) forward the Vendor's payment check directly to any person or entity designated by the Vendor, and (ii) include any person or entity designated by Vendor as a joint payee on the Vendor's payment check. In no event shall such approval and action obligate the University to anyone other than the Vendor and the Vendor shall remain responsible for fulfillment of all contract obligations.

3. TAXES. Any applicable taxes shall be invoiced as a separate item. Invoices shall not include North Carolina Sales & Use Tax. The University is exempt from North Carolina Sales & Use Tax for all qualifying purchases. The University's North Carolina Sales & Use Tax exemption number is 400028. The University shall not be responsible for income or property taxes which are responsibility of the Vendor.

4. TRANSPORTATION OF PRODUCTS. Transportation of Products shall be FOB Destination unless otherwise specified in the Solicitation Document or Purchase Order. Freight, handling, hazardous material charges, and distribution and installation charges shall be included in the total price of each item. Any additional charges shall not be honored for payment unless authorized in writing by the University. In cases where parties, other than the Vendor ship materials against this order, the shipper must be instructed to show the Purchase Order number on all packages and shipping manifests to ensure proper identification and payment of invoices. A complete packing list must accompany each shipment.

5. STANDARDS.

(a) *Manufacturing Requirements.* Manufactured items and/or fabricated assemblies comprising Products shall meet all requirements of the Occupational Safety and Health Act (OSHA), and State and federal requirements relating to clean air and water pollution, if applicable.

(b) *Energy Star Compliance.* All Products constituting electronic office equipment, including but not limited to, computers, monitors, printers, scanners, photocopy machines, and facsimile machines, shall be Energy Star compliant. If any of the Products do not satisfy Energy Star requirements, Vendor shall provide a justification statement explaining why the Products are not Energy Star compliant.

(c) *Quality Assurance.* Vendor will provide and maintain a quality assurance system or program that includes any Products and will tender to the University only those Products that have been inspected and found to conform to the requirements of this Agreement. All manufactured items and/or fabricated assemblies comprising Products are subject to operation, certification or inspection, and accessibility requirements as required by State or federal regulation.

(d) *Site Preparation.* Vendors shall provide the University complete site requirement specifications for the Products, to the extent applicable. These specifications shall ensure that the Products to be installed shall operate properly and efficiently within the site environment. Any subsequent alterations or modifications required to be made to the site which are directly attributable to incomplete or erroneous specifications provided by Vendor shall be made at the expense of Vendor.

(e) *Specifications.* The apparent silence of the specifications in the Solicitation Document as to any detail concerning the Products shall be regarded as meaning that only the best commercial practice is to prevail and only material and workmanship of the first quality may be used. Unless otherwise specified in the University's Solicitation Document, the Products shall be new and not refurbished, field-upgraded, previously opened, or otherwise used.

(f) *Information Security Compliance and Certifications*. At all times during the term of this Agreement, Vendor shall (1) use information security best practices for transmitting and storing potentially sensitive information; (2) employ information security best practices with respect to network security techniques, including, but not limited to, firewalls, intrusion detection, and authentication protocols; (3) comply with all applicable laws and regulations regarding privacy and data security; (4) provide the most current SOC 2 Type 2 report at least once every 2 years or at the University's reasonable request; (5) maintain ISO/IEC 27000 series information security best practices; and (6) in the event Vendor is acting as a Service Provider as defined by the Payment Card Industry Data Security Standard (PCI-DSS), comply with the Payment Card Industry Data Security Standard (PCI-DSS) and provide appropriate PCI attestation documentation. The University reserves the right to conduct or request the Vendor to have an independent third party security audit performed.

6. TRAVEL EXPENSES. Unless otherwise agreed by the Parties, Vendor may be reimbursed for documented travel expenses arising under the performance of this Agreement at the out-of-state rates set forth in North Carolina General Statute §138-6; as amended from time to time. Vendor personnel whose travel expenses are to be paid or reimbursed by University funds are subject to University travel regulations, which are located at https://finance.unc.edu/services/travel/. Vendor agrees to use the lowest available airfare not requiring a weekend stay and to use the lowest available rate for rental vehicles, and to require employees to share rental vehicles whenever the Services to be provided reasonably allow. Unless otherwise agreed by the Parties, all Vendor-incurred travel expenses shall be billed on a monthly basis, shall be supported by receipt, and shall be paid by the University within thirty (30) days after invoice approval. Travel expenses exceeding the foregoing rates shall not be paid by the University unless otherwise agreed by the Parties. The University will reimburse travel allowances only for days on which the Vendor is required to be in North Carolina performing Services for which it is necessary to be on site under this Agreement.

7. SUBCONTRACTING. The Vendor may subcontract the performance of Services to third parties only with the prior written consent of the University. The Vendor remains solely responsible for the performance of its subcontractors. Subcontractors, if any, shall adhere to the same regulatory obligations and standards required of the Vendor under this Agreement.

8. ASSIGNMENT. This Agreement may not be assigned by either Party without the prior written consent of the other Party. In cases where the Vendor seeks to assign this Agreement prior to the University's written approval of an assignment, the Vendor assignor shall affirm in writing to the University that the assignee is fully capable of performing all obligations of the Vendor under this Agreement. In cases where vendors who have been awarded contracts are involved in corporate consolidations, acquisitions, or mergers, the University may, at its sole discretion, negotiate agreements for the transfer of contractual obligations and the continuance of contracts within the framework of the new corporate structures.

9. CARE OF PROPERTY. Vendor agrees that it shall be responsible for the proper custody and care of any property furnished it for use in connection with the performance of this Agreement or purchased by it for this Agreement and will reimburse the University for loss of damage of such property.

10. INDEPENDENT CONTRACTORS. Vendor and its employees, officers and executives, and subcontractors, if any, shall be independent contractors and not employees or agents of the University. This Agreement shall not operate as a joint venture, partnership, trust, agency or any other business relationship.

11. INSURANCE COVERAGE.

(a) *Generally.* Vendor's insurance policies shall meet all laws of the State of North Carolina and shall be obtained from companies licensed or approved to do business in the State of North Carolina with an A.M. Best rating of not less than A-VII. The minimum coverage limitations indicated below shall not be interpreted as limiting Vendor's liability and obligations under this Agreement. University shall not be deemed or construed to have assessed the risk that may be applicable to Vendor. Vendor shall assess its own risks and, if it deems appropriate, maintain higher limits and broader coverages. University shall be listed as an additional insured. Vendor will provide thirty (30) days advance notice to University, either directly or through the insurer, of any cancellation or non-renewal of a policy. The insurance policies must be written on a primary basis and any insurance or self-insurance maintained by University shall be non-contributing.

(b) *Commercial General Liability*. Vendor, at its sole cost and expense, shall maintain Commercial General Liability (CGL) insurance (ISO form CG0001 or equivalent) with the following minimum limits of liability: (i) General Aggregate: $2,000,000; (ii) Products/Completed Operations Aggregate: $2,000,000; (iii) Personal/Advertising Injury: $1,000,000; and (iv) Each Occurrence Limit: $1,000,000. Umbrella or excess liability insurance may be used to meet the CGL coverage limit requirements.

(c) *Workers' Compensation Insurance*. Vendor, at its sole cost and expense, shall maintain Workers' Compensation Insurance in accordance with the limits and terms required by the laws of North Carolina, as well as Employers' Liability coverage with minimum limits of $500,000, covering all of Vendor's employees who are engaged in any work under this Agreement. If any work is sublet, the Vendor shall require the subcontractor to provide the same coverage for any of his employees engaged in any work under this Agreement.

(d) *Automobile Liability Insurance*. Vendor, at its sole cost and expense, shall maintain Automobile Liability Insurance, to include liability coverage, covering all owned, non-owned, employee non-owned, leased, and hired vehicles used in connection with this Agreement. The minimum combined single limit shall be $1,000,000 bodily injury and property damage per accident. Umbrella or excess liability insurance may be used to meet the Automobile Liability coverage limit requirements.

(e) *Professional Liability (Errors and Omissions Liability), including Cyber Liability.* Vendor, at its sole cost and expense, shall maintain Professional Liability insurance with the following minimum limits of liability: (i) $1,000,000 per loss and (ii) $1,000,000 per aggregate. This insurance shall provide coverage for: (A) liability arising from theft, dissemination, and/or use of Sensitive and Confidential Information; (B) network security liability arising from the unauthorized access to, use of, or tampering with computer systems; and (C) liability arising from the introduction of a computer virus into, or otherwise causing damage to a computer system, network or similar related property. If professional liability insurance is written on a claims-made basis, Vendor warrants that any retroactive date under the policy shall precede the effective date of this Agreement and that either continuous coverage will be maintained or an extended discovery period will be exercised for a period of two (2) years beginning at the time work under this Agreement is completed. If such insurance is maintained on an occurrence form basis, Vendor shall maintain such insurance for an additional period of one (1) year following termination of the Agreement. If such insurance is maintained on a claims-made basis, Vendor shall maintain such insurance for an additional period of three (3) years following termination of the Agreement.

12. AVAILABILITY OF FUNDS. Any and all payments to the Vendor are contingent upon and subject to the availability of funds to the University for the purpose set forth in this Agreement.

13. INDEMNIFICATION AGREEMENT. Vendor shall indemnify, defend and hold harmless the University, its trustees, officers, employees and agents (collectively, "Indemnitees") from and against any and all damages, costs, liabilities, losses and expenses incurred by Indemnitees arising from or related to (i) the Products delivered or the Services performed by Vendor; (ii) a breach of this Agreement by Vendor; or (iii) any misconduct or acts of negligence by Vendor. Vendor shall pay all royalties and license fees for third party Products it provides to the University under this Agreement. Vendor shall indemnify, defend and hold harmless University from and against any claim asserted against University alleging that the Products or Services or the use of the Products or Services by University constitutes a misappropriation of any proprietary or trade secret information or an infringement of any patent, copyright, trademark or other intellectual property right.

14. TERMINATION FOR CONVENIENCE. The University may terminate this Agreement at any time by giving thirty (30) days prior notice in writing to the Vendor. In the event the Agreement is terminated for the convenience of the University, the University will pay for all documented Services performed and Products delivered in conformance with the Agreement up to the date of termination.

15. DEFAULT; TERMINATION FOR CAUSE.

(a) If either Party fails to meet any material requirement of this Agreement, notice of the failure or default is provided to the defaulting Party by the non-defaulting Party, and the failure is not cured within thirty (30) calendar days of the defaulting Party's receipt of the notice of default, then the non-defaulting Party may terminate this Agreement for cause and pursue any rights or remedies provided by law or under this Agreement.

(b) Pursuant to the North Carolina Administrative Code, in the event Vendor defaults under a contract with the University, the University may procure replacement goods and services on the open market and charge Vendor for any additional costs occasioned thereby, and the University may initiate proceedings with the State of North Carolina to de-bar Vendor from doing future business with agencies of the State of North Carolina. (*See* NCAC Title I, Chapter 5B.1520).

(c) Vendor shall be in default if it submitted a certification for price-matching preference under Executive Order #50 and G.S. § 143-59 that was false and/or contained materially misleading or inaccurate information, and/or Vendor failed to provide information and documentation requested by the University to substantiate Vendor's certification. The State of North Carolina may take action against Vendor under the False Claims Act, G.S. § 1-605 through 1-617, inclusive, for submitting a false certification for the price-matching preference under Executive Order #50 (including but not limited to treble damages and civil penalties).

16. FORCE MAJEURE. Neither Party shall be deemed to be in default of its obligations hereunder if and so long as it is prevented from performing such obligations as a result of events beyond its reasonable control, including without limitation, fire, power failures, any act of war, riot, strikes, civil insurrection, acts of public officials, earthquake, hurricane, tornado, or other catastrophic natural event or act of God.

17. CONFIDENTIALITY; CARE OF INFORMATION.

(a) *Confidentiality.* Any information, data, documents, studies and reports given to or prepared or assembled by the Vendor under this Agreement shall be kept as confidential and not divulged or made available to any individual or organization without the prior written approval of the University.

(b) *Response to Third-party Requests for University Data*. If Vendor is served with a subpoena related to University data, then, unless prohibited by law, Vendor will provide prior notice of such subpoena to the University to allow the University an opportunity to seek injunctive relief before disclosure of the information.

(c) *Protection of Vendor Trade Secrets under NC Public Records Act.* The University will maintain the confidentiality of Vendor's "trade secrets", in accordance with N.C. Gen. Stat. §132-1, et. seq. (the "NC Public Records Act"). Trade secrets are defined by North Carolina statute as "business or technical information, including but not limited to a formula, pattern, program, device, compilation of information, method, technique, or process that derives independent actual or potential commercial value from (i) not being generally known or readily ascertainable through independent development or reverse engineering by persons who can obtain economic value from its disclosure or use, and (ii) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy." (*See* N.C. Gen. Stat. §66-152). Vendor shall designate the portions of the materials it delivers to the University that meet this definition of "trade secrets," or that otherwise are exempt from disclosure under the NC Public Records Act, by printing "CONFIDENTIAL" in boldface at the top and bottom of the applicable pages or sections. Under the North Carolina Administrative Code, price information shall not be deemed confidential (NCAC Title 09, Chapter 6B.1001). In spite of what is labeled as confidential, the determination as to whether the information is subject to disclosure shall be determined by North Carolina law.

(d) *Protection of University's Sensitive and Confidential Information.* Vendor shall safeguard and protect Sensitive and Confidential Information of the University in accordance with all applicable laws and regulations and consistent with ISO/IEC 27000 series information security best practices. “Sensitive and Confidential Information” means any, but not limited to, the following: “Personal Information” under the North Carolina Identity Theft Protection Act of 2005, confidential “personnel information” under the North Carolina Human Resources Act, “Protected Health Information” under the Health Insurance Portability and Accountability Act (HIPAA), student “education records” under Family Educational Rights and Privacy Act (FERPA), “customer record information” under Gramm Leach Bliley Act (GLBA), “cardholder data” as defined by the Payment Card Industry Data Security Standard (PCI-DSS), and any information protected from disclosure under the North Carolina Public Records Act. Sensitive and Confidential Information must be restricted by Vendor to those with a legitimate business need for access to such information. For purposes of illustration, Sensitive and Confidential Information may appear in research data, public safety information, financial donor information, information concerning select agents, system access passwords, information security records, and information file encryption keys.

If Vendor becomes aware of a confirmed or suspected exposure of Sensitive and/or Confidential University Information, Vendor shall notify the UNC-Chapel Hill Help Desk (919-962-HELP) and ask that a “critical Remedy ticket” be created with the University’s Information Security Office. Vendor shall provide a telephone number at which the reporting party can be reached for more detail. The Help Desk takes calls 24x7x365. Vendor shall not provide any information regarding the risk to Sensitive Information or Confidential Information until contacted via telephone by a UNC-Chapel Hill incident handler. Upon being contacted by the incident handler, the Vendor agrees to provide UNC-Chapel Hill with access to any information that is pertinent to the investigation of the possible compromise of UNC-Chapel Hill’s sensitive information or mission critical system, including, but not limited to: log data, metadata and forensic images.

(e) *Grant of Limited Right to Use University Data.* Subject to the terms and conditions of this Agreement, University grants to Vendor a non-exclusive, non-transferable, limited right to use University data received or accessed by Vendor in the course of performing the Services under this Agreement. All right, title and interest in the data shall remain with the University or end users, as applicable. Vendor may not access and/or duplicate the data for any reasons other than those stated herein without the prior written consent of University.

(f) *Limitations on Use of University Data.* Vendor shall not collect, mine, save, disclose, or otherwise use any end user personal information or University data for any purpose other than to provision and support the Services expressly contemplated under this Agreement.

(g) *FERPA Acknowledgement.* If the Services involve the hosting or accessing of student education records by Vendor, Vendor acknowledges and agrees that (i) the University has outsourced to Vendor the performance of institutional services or functions for which the University would otherwise use its own employees, (ii) Vendor is considered to be a “school official” with “legitimate educational interests” in “personally identifiable information” from “education records” of University students, as those terms have been defined under FERPA (34 CFR 99), (iii) Vendor is under the direct control of the University with respect to Vendor’s use and maintenance of data in the education records, and (iv) Vendor will abide by the limitations and requirements imposed by 34 CFR 99.33(a) on school officials. Vendor will use such data only for the purpose of fulfilling its duties under this Agreement, and will not monitor or share such data with or disclose it to any third party except as required by law, or authorized in writing by the University.

18. IMPLEMENTATION; CONFLICTS/INCONSISTENCIES. This Agreement shall be implemented by a University Purchase Order. For purposes of construing a transaction as an integrated contract, the following shall be considered a single transaction and a legal and binding contract: (i) the University Purchase Order(s); (ii) any signed Statement of Work or other document directly related to this Agreement that has been signed by authorized representatives of both Parties; (iii) the Solicitation Document; (iv) this Agreement; and (v) Vendor's technical and cost proposals submitted in response to the Solicitation Document. In the event of a conflict or inconsistency between these contract documents, the order of precedence shall be the order listed above, where clause "(i)" receives the highest priority and clause "(v)" receives the lowest priority.

19. AMENDMENTS/CONTRACT AUTHORIZATION.

(a) This Agreement may not be amended orally or by performance. Any amendment, in order to be effective, must be made in written form and signed by duly authorized representatives of the University and Vendor in accordance with this section.

(b) This Agreement is made subject to the shipment of quantities, qualities, and prices indicated on the Purchase Order and all conditions and instructions on the Purchase Order or the Solicitation Document, as applicable. Any changes made to this Agreement or Purchase Order proposed by the Vendor are hereby rejected unless accepted in writing by the University's Purchasing Services Department or the Vice Chancellor for Finance and Administration. The University shall not be responsible for services or products delivered without a Purchase Order or authorization from the University's Purchasing Services Department. In order to be effective, contracts for University purchases of goods or services exceeding $5,000 must be signed by a duly authorized officer of the University's Purchasing Services Department, or the University's Vice Chancellor for Finance and Administration or his/her delegate.

20. ADVERTISING. Vendor shall not use the existence of this Agreement or the name, logo, images or trademarks of the University of North Carolina at Chapel Hill as a part of any marketing or commercial advertising without prior written approval of the University. Requests to use the University's name, logo, images or trademarks should be directed to the University's Office of Trademarks and Licensing (https://licensing.unc.edu/).

21. EXPORT CONTROL CLASSIFICATION. Vendor shall not transfer or disclose to the University any equipment, information, substance or material that is controlled under the federal government's Export Administration Regulations (15 C.F.R. 730-774) or International Traffic in Arms Regulations (22 C.F.R. 120-130) (collectively, any "Export Controlled Material") without first informing the University of the Export Controlled Material's Export Control Classification Number ("ECCN"), or other applicable export control designation.

22. NONDISCRIMINATION. Vendor shall abide by the requirements of 41 CFR 60-1.4(a), 60-300.5(a), and 60-741.5(a). 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, national origin, or appropriate inquiries regarding compensation. Vendor will take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, national origin, protected veteran status, disability, or appropriate inquiries regarding compensation.

23. NOTICES. Any notices required under this Agreement should be delivered to the contract administrator for each Party. Unless otherwise specified in the Solicitation Document, any notices shall be delivered in writing by U.S. Mail, commercial courier or by hand.

24. COMPLIANCE WITH LAWS. Each Party shall comply with all laws, ordinances, codes, rules, regulations, and licensing requirements that are applicable to its operations, including those of federal, state, and local agencies having jurisdiction and/or authority.

25. GOVERNING LAW AND VENUE. This Agreement is made under and shall be governed and construed in accordance with the laws of the State of North Carolina. In the event the parties are unable to resolve any dispute relating to this Agreement, the exclusive venue for any judicial action or proceeding arising out of or relating to this Agreement shall be the state or federal courts located in the State of North Carolina.

26. SEVERABILITY. In the event that a court of competent jurisdiction holds that a provision or requirement of this Agreement violates any applicable law, each such provision or requirement shall be enforced only to the extent it is not in violation of law or is not otherwise unenforceable and all other provisions and requirements of this Agreement shall remain in full force and effect. All promises, requirement, terms, conditions, provisions, representations, guarantees and warranties contained herein shall survive the expiration or termination date unless specifically provided otherwise herein, or unless superseded by applicable federal or State statute, including statutes of repose or limitation.

27. PROJECT BUDGET REPORTING. Vendor shall prepare a project budget plan for its Services ("Project Budget Plan") and shall regularly update and maintain such plan to reflect mutually agreed changes thereto. The initial and each subsequent version of the Project Budget Plan shall be submitted to the University project manager for her or his written approval. The Project Budget Plan shall include variances between the original (and not adjusted unless specified by University) Project Budget Plan and actual costs. Vendor shall immediately notify the University project manager in writing of any variance greater than five percent (5%) between costs as budgeted in the Project Budget Plan and as actually incurred.

28. TIME SHEETS. On a weekly basis, Vendor shall provide University time sheets for all Vendor personnel and contractors that performed billable Services during the immediately preceding week. All such time sheets shall be in form and detail acceptable to University and shall include a reasonably detailed description of the Services performed, including the date, hours worked and related expenses incurred, and a reference to the applicable Purchase Order number, and shall be signed by both the applicable Vendor employee (or contractor) and the Vendor project manager.

29. INVOICES. On a monthly basis, Vendor shall issue invoices for Services performed during the immediately preceding month. Each invoice shall include a summary of charges (by person by hour) that pertain to the Services being billed under such invoice and shall otherwise be in a form and detail acceptable to University. Invoices shall not include fees for greater than forty (40) hours per week for any Vendor employee or contractor unless such time over forty (40) hours was approved in writing by University. By submitting an invoice, Vendor certifies that the amount billed is accurate with respect to the fees, charges and expenses set forth therein.

30. OWNERSHIP OF WORK PRODUCT. Unless otherwise agreed in writing by the Parties, deliverables developed or prepared specifically for the University hereunder (the "Deliverables") shall be deemed "works made for hire" under the federal copyright laws. Vendor hereby assigns to the University any and all rights, title and interest, including, without limitation, copyrights, trade secrets and proprietary rights to the Deliverables. To the extent the Deliverables include data, modules, components, designs, utilities, subsets, objects, processes, tools, models and specifications ("Technical Elements") owned or developed by Vendor prior to, or independently from, its engagement hereunder, Vendor retains ownership of such Technical Elements and Vendor hereby grants to the University a perpetual, worldwide, fully paid-up limited license to use such Technical Elements for University related purposes.

31. QUALIFIED PERSONNEL; INTERVIEWS. Vendor shall ensure that qualified personnel of the Vendor will provide the Services under this Agreement in a professional manner. "Professional manner" means that the personnel performing the Services will possess the skill and competence consistent with the prevailing business standards in the information technology industry. Prior to Vendor commencing the provision of the Services, upon the University's request, the University shall have the opportunity to review resumes and conduct interviews of the personnel who Vendor proposes to deploy to provide the Services to the University. If the University is not satisfied with the proposed personnel, the University may request acceptable substitute personnel to be provided by Vendor.

32. KEY PERSONNEL. Vendor shall not substitute key personnel assigned to the performance of this Agreement without prior written approval by the University's designated contract administrator. Any desired substitution shall be noticed to the University's contract administrator accompanied by the names and references of Vendor's recommended substitute personnel. The University will approve or disapprove the requested substitution in a timely manner. The University may, in its sole discretion, terminate the services of any person providing services under this Agreement. Upon such termination, the University may request acceptable substitute personnel to be provided by Vendor.

33. ACCEPTANCE CRITERIA. Acceptance testing is required for the Products and Services. In the event acceptance of the Products and Services is not described in the Solicitation Documents or a Statement of Work, the University may define such processes and procedures as may be necessary or proper, in its opinion and discretion, to ensure the Products and Services' compliance with the University's specifications set forth in the Solicitation Document. The University shall notify Vendor in writing within fifteen (15) calendar days following University's discovery that the Products and Services are non-conforming and are unacceptable. Products and Services that fail to comply with specifications set forth in the Solicitation Document may be rejected upon the initial acceptance testing or at any later time if the defects associated with the Products and Services were not reasonably ascertainable at the time of the initial acceptance testing. The notice shall specify in reasonable detail the ways in which the Products and Services are non-conforming. If Vendor fails to promptly cure the defect or re-perform the Services, the University may deem the Vendor in default of this Agreement and may pursue any rights and remedies available to University.

34. UNANTICIPATED TASKS. In the event that additional billable work must be performed that was wholly unanticipated, and that is not specified in the Purchase Order(s), but which in the opinion of both Parties is necessary to the successful accomplishment of the contracted scope of work, Vendor shall prepare a work authorization to be submitted to the University's project manager and to the University's Department of Procurement Services. All work authorizations must be written and signed by Vendor and an authorized representative in the University's Department of Procurement Services prior to Vendor beginning any such additional billable work.

35. WITHHOLDING. The University shall withhold _____ percent (____%) of the total undisputed amount due and payable under each invoice, excluding amounts attributable to expenses for Services performed by the Vendor. The withheld amount will be paid to Vendor, in whole or in part subject to any applicable delay penalties, upon Vendor's delivery of the project deliverables, as defined in the Statement of Work, and University's acceptance of the same ("Project Completion").

36. DELAY PENALTIES. If Vendor's failure to perform its obligations in a timely manner results in the Project Completion not being achieved by the Project Completion deadline date, the Vendor shall forfeit a percentage of the total Service fees withheld by the University as set forth above in an amount equal to ____________ percent (_____%) of the total project Service fees withheld for every five (5) business days that Project Completion is delayed.

37. KNOWLEDGE SHARING. As part of the Services provided by Vendor, Vendor shall provide University with Know-How with respect to the functions, features, operation, configuration and support and maintenance of the Software or other Products provided by Vendor to enable University to become reasonably self-reliant with respect to the day-to-day operation and support and maintenance of such Products or Software. "Know-How" means concepts, techniques, information, reports, programs, program materials, documentation, diagrams, notes, outlines, flow charts, user interfaces, technology, formulas, processes and algorithms that are used to effectively use, implement, support and/or maintain the Software or other Products installed or provided by Vendor.

38. SOFTWARE AVAILABILITY GUARANTEE.

(a) *Availability Guarantee*. Vendor's objective is to make the Vendor's Software available to the University twenty-four hours a day, seven days a week, except for scheduled maintenance. In addition, Vendor guarantees that the University will be able to access Vendor's Software ninety-nine percent (99.99%) of the time (excluding scheduled maintenance) in any given month ("Availability Guarantee").

(b) *Remedy*. In the event that the University's access to Vendor Software hereunder falls below the Availability Guarantee, and such unavailability is not due to Vendor's scheduled maintenance or to events of force majeure, Vendor will grant to the University a credit based on a sliding scale, as set forth in the table below, ranging from twenty percent (20%) to one-hundred percent (100%) of one-twelfth of the annual Software license fees for any single month in which the Availability Guarantee is not satisfied. Scheduled maintenance shall not be counted in the calculation of any Credit. All credits shall be calculated based on the total hours in a particular month. For purposes of calculating credits, Vendor shall provide the University with a monthly report of uptime for the Service. The University must submit a request for a credit within sixty (60) days of receipt of uptime report from Vendor. Vendor is not required to honor requests for credits submitted after the sixty (60) day period. Any period of unavailability shall be counted from the time such unavailability commences until such time that access is restored.

Software Access during Applicable Month (excluding Scheduled Maintenance and Events of Force Majeure)	Credit for such month
Greater than or equal to 99.99%	0%
Less than 99.99% but greater than or equal to 98%	20%
Less than 98% but greater than or equal to 97%	29%
Less than 97% but greater than or equal to 96%	38%
Less than 96% but greater than or equal to 95%	47%
Less than 95% but greater than or equal to 94%	56%
Less than 94% but greater than or equal to 93%	65%
Less than 93% but greater than or equal to 92%	74%
Less than 92% but greater than or equal to 91%	83%
Less than 91% but greater than or equal to 90%	92%
Less than 90%	100%

(c) *Scheduled Maintenance*. The University acknowledges and agrees that Vendor will, from time to time, need to perform routine maintenance or repair, and that during such periods of maintenance or repair, Vendor's Software may not be available for the University's use. Vendor's objective is to minimize the duration of any such unavailability and will endeavor to perform routine maintenance outside of normal business hours. Vendor publishes planned maintenance windows and will use best efforts to provide the University fourteen (14) days notice before the pre-scheduled four hour monthly maintenance windows that take place outside of normal business hours. In other rare events, and to the extent possible, Vendor will provide the University at least twenty-four (24) hours advance notice of down-time for emergency maintenance that could include updates to security systems.

39. HOSTING FACILITY.

(a) *Location(s) of Hosting Facilities.* Vendor certifies that for the duration of this Agreement, all Hosting Facilities at which University Data will be stored are located within the United States, unless otherwise agreed in a document signed by duly authorized officers of each of the Parties.

(b) *Increases in Hosted Services Fees.* Increases in Vendor's annual fees for hosted Services shall not exceed three percent (3%) above the fees for the previous year. In no event shall the fee for hosted Services paid by University exceed Vendor's then-current fee for hosted Services charged to any of its similarly-situated customers.

40. BACKUP AND RETRIEVAL. Vendor will perform incremental back-ups daily and full backups weekly. Vendor utilizes a secondary site for purposes of disaster recovery. Vendor's client systems are replicated to the secondary site. In the event the primary production site becomes inaccessible, Vendor will commence a recovery utilizing the secondary site within four (4) hours. Full data tapes, magnetic discs and/or other optical media will be encrypted and stored off-site in a secured vault. Offsite storage of back up media shall take place at least weekly.

41. GRANT OF ACCESS AND USE OF UNIVERSITY DATA. For purposes of this section, "University Data" means all University content, data, and other information provided by the University and stored, accessed or managed using the Software. The University grants to Vendor a non-exclusive, non-transferable, limited right to use University Data contained on Vendor's servers at its hosting facilities solely to the extent required to solve technical support problems or to perform maintenance services under this Agreement. All right, title and interest in University Data shall remain with the University. Vendor may not access and/or duplicate University Data for any reason other than those stated herein without the prior written consent of the University.

42. TRANSITION SERVICES; DESTRUCTION OF UNIVERSITY DATA.

(a) *Transition Services*. Upon the expiration or termination of the Agreement for any reason, the University shall have the right, upon its request, to receive from Vendor for up to six (6) months all services reasonably necessary to effectuate an orderly transition to a successor vendor, including assistance in transferring University Data to an industry-standard or other format requested by the University. Any fees charged by Vendor for such services should be at reasonable, fair market rates.

(b) *Destruction of University Data.* Upon the expiration or termination of the Agreement, Vendor shall ask University in writing whether University wishes to exercise the transition services described in the subsection above, or whether University wishes for Vendor to destroy the University Data in Vendor's possession. If University responds that it wishes to exercise transition services, then Vendor shall not destroy the University Data until the completion of the transition services. If University notifies Vendor that it wishes for Vendor to destroy the University Data, or if University does not respond to Vendor's written inquiry within thirty (30) days of its receipt of the inquiry, or otherwise upon University's written request, Vendor shall promptly destroy all University Data it possesses in any form and provide University a written attestation to the destruction of the University Data, specifying when it was destroyed and by what methods under NIST SP800-88 or other previously agreed upon destruction method.

43. SOFTWARE LICENSE GRANT. This section recites the scope of license granted, if not superseded by a separate licensing agreement, as follows:

(a) *License Grant*. Vendor grants to the University a non-exclusive, worldwide license to use the Software. This license shall be perpetual, unless terminated as provided herein. Such license permits University to: (i) use the Software in object code format; (ii) use the Documentation; (iii) transfer and operate the Software on a different operating system and/or on different hardware; (iv) install and make copies of the Software for testing, disaster recovery, disaster recovery testing, backup, training and education, development and archival purposes; (v) reproduce and/or incorporate all or any portion of the Documentation into University-developed training and education materials; and (vi) upon receipt of Vendor's prior written approval, such approval not to be unreasonably withheld, modify and adapt the Software to interface and/or integrate the Software with third-party software products.

(b) *Third Party Implementation Services*. University without having to pay any special fees has the right to permit third-party services provider to access and use the Software for purposes of assisting with the implementation.

(c) *Upgrades*. The University's license includes the right to upgrades, updates, maintenance releases or other enhancements or modifications made generally available to Vendor's licensees without a separate maintenance or support agreement (i.e., "minor upgrades" typically represented by an increased number to the right of the decimal point in the Software version number). Vendor's right to a new license for new version releases of the Software (typically represented by an increased number to left side of the decimal) shall not be abridged by the foregoing.

44. MAINTENANCE/SUPPORT SERVICES. Unless otherwise provided in the University's Solicitation Document or in an attachment hereto, for the first year and all subsequent years during the term of this Agreement, Vendor agrees to provide the following services for the current version and one previous version of the Software, commencing upon delivery of the Software:

(a) *Error Correction.* Upon notice by University of a problem with the Software (which problem can be verified), Vendor shall use reasonable efforts to correct or provide a working solution for the problem. The University shall comply with all reasonable instructions or requests of Vendor in attempts to correct an error or defect in the software program. Vendor and the University shall act promptly and in a reasonably timely manner in communicating error or problem logs, other related information, proposed solutions or workarounds, and any action as may be necessary or proper to obtain or effect maintenance services under this section.

(b) *Notice.* Vendor shall notify the University of any material errors or defects in the Software known or made known to Vendor from any source during the term of this Agreement that could cause the production of inaccurate or materially incorrect results. Vendor shall initiate actions as may be commercially necessary or proper to effect corrections of any such errors or defects.

(c) *Updates.* Vendor shall provide to the University at no additional charge all new releases and bug fixes for the Software developed or published by Vendor and made generally available to its other customers at no additional charge. All such updates shall be a part of the Software and, as such, shall be governed by the provisions of this Agreement.

(d) *Telephone Assistance.* Vendor shall provide the University with telephone access to technical support engineers for assistance in the proper installation and use of the Software, and to report and resolve software problems during normal business hours. Vendor shall promptly respond to University telephone requests for Software program maintenance service.

(e) *Support and Maintenance Fees.* Increases in Vendor's annual support and maintenance fees shall not exceed three percent (3%) over the support and maintenance fees for the previous year. In no event shall the support and maintenance fee rate paid by University exceed Vendor's then-current support and maintenance rate charged to any of its similarly-situated customers. If the University fails to pay or chooses not to pay for support and maintenance services for the Software, the University may continue to use the Software pursuant to the license granted hereunder, but will not be entitled to receive routine support and maintenance services for such Software.

45. ESCROW OF CODE. Vendor has established an Escrow Agreement ("Escrow Agreement") for the Software with a third party escrow agent acceptable to the University. Within thirty days from the effective date of this Agreement, Vendor will add the University as a beneficiary to such Escrow Agreement. In the event (i) this Agreement is terminated due to insolvency or the filing of involuntary bankruptcy proceedings pursuant to Chapter 7 of the U.S. Bankruptcy Code and (ii) Vendor no longer offers support or maintenance services for the Software (both (i) and (ii) constituting the release condition ("Release Condition") under the Escrow Agreement), the Software code deposited in accordance with the Escrow Agreement (the "Deposit Materials") shall be delivered to the University and the University shall be granted a license to use the Deposit Materials solely to repair, maintain and support the Software licensed to University pursuant to this Agreement. The license to the Deposit Materials under this section shall terminate upon the termination or cure of the Release Condition.

46. PROTECTION AGAINST SOFTWARE MIGRATION. If within five (5) years of the effective date of this Agreement, Vendor ceases providing support and maintenance for the Software and begins marketing a successor software product to the Software, then Vendor shall provide University with an option to purchase the successor software with credits equal to the one hundred percent (100%) of all fees paid by University to Vendor for the Software and Vendor shall provide software implementation services to University at a discounted rate of forty percent (40%) off Vendor's then applicable services rates.

47. PROTECTION AGAINST REDUCTIONS IN SOFTWARE FUNCTIONALITY. If Vendor eliminates any Software functionality in any future releases or versions of the Software, then at no cost or expense to University, Vendor shall either: (a) provide to University through another Vendor product substantially equivalent replacement Software functionality that is reasonably acceptable to University; or (b) modify, adjust or customize the Software for University's use so that the applicable functionality remains available to University.

48. WARRANTY TERMS.

(a) If the Vendor is not the manufacturer of the Products, Vendor represents and warrants to the University that it has been designated by the manufacturer as an authorized reseller of the Products and any manufacturer warranties will pass from the manufacturer through the Vendor and inure to the benefit of the University. In the event such manufacturer warranties fail to pass through the Vendor and inure to the benefit of the University, the Vendor shall pay, indemnify and hold the University harmless from all losses, damages and expenses resulting from such failure.

(b) If Vendor is the manufacturer of the Products:

(i) Vendor represents and warrants to University that for a period of ninety (90) days from the date of installation ("Warranty Period") the Products shall perform in good working order in accordance with industry practices and standards and meets the specifications set forth in the Solicitation Document. Following receipt of written notice thereof, Vendor promptly shall respond to any failure to comply with the representations and warranties in this subsection, and Vendor promptly shall repair, replace or correct the Products at Vendor's sole cost and expense. The remedies set forth in this section shall be in addition to any other rights and remedies that may be available to University.

(ii) Vendor represents and warrants to University that, to the best of its knowledge: (1) the licensed Products and associated materials do not infringe any intellectual property rights of any third party; (2) there are no actual or threatened actions arising from, or alleged under, any intellectual property rights of any third party; (3) the Software and associated materials do not contain any surreptitious programming codes, viruses, Trojan Horses, "back doors" or other means to facilitate or allow unauthorized access to the University's information systems; and (4) the Software and associated materials do not contain any timer, counter, lock or similar device (other than security features specifically approved by Customer in the Specifications) that inhibits or in any way limits the Software's ability to operate.

(iii) The Vendor represents and warrants to the University that any Product which performs any date and/or time data recognition functionality, calculation or sequencing will provide accurate date/time data and leap year calculations. This warranty shall survive termination or expiration of the Agreement.

(iv) Vendor represents and warrants to University that the Software demonstrated to University, to the extent applicable, during Vendor's on-campus demonstrations: (1) represents a generally available version of the Software; and (2) was configured but not otherwise modified by Vendor or otherwise manipulated in any way to display features or functions that do not exist in a generally available version of the Software as of the date of the Vendor's demonstrations.

(v) Vendor represents and warrants to University that the Products and Services meet the accessibility requirements (to the extent applicable) outlined in Title II of the Americans with Disabilities Act (28 CFR Part 35 Subpart H), and the best practices outlined in the W3C Web Accessibility Initiative.

49. ACCESS TO PERSONS AND RECORDS. During the relevant period required for retention of records by State law (N.C. Gen. Stat. §§ 121-5 and 132-1 et seq.), the State Auditor, the University's internal auditors, and the Joint Legislative Commission on Governmental Operations and legislative employees whose primary responsibility is to provide professional or administrative services to the Commission shall have access to persons and records related to this Agreement to verify accounts and data affecting fees or performance under this Agreement, as provided in N.C. Gen. Stat. § 143-49(9), § 147-64.7. However, if any audit, litigation, or other action arising out of or related in any way to this Agreement is commenced before the end of the retention of records period, the records shall be retained for one (1) year after all issues arising out of the action are finally resolved or until the end of the record retentions period, whichever is later.

50. SOVEREIGN IMMUNITY. Notwithstanding any other term or provision in this Agreement, nothing herein is intended nor shall be interpreted as waiving any claim or defense based on the principle of sovereign immunity or other State or federal constitutional provision or principle that otherwise would be available to the University under applicable law.

EXHIBIT A: UNIVERSITY DATA PRIVACY AND SECURITY ADDENDUM

I. DEFINITIONS

The following terms will have the assigned definitions for purposes of this Exhibit A. Capitalized terms not defined in this Exhibit A shall retain the definition assigned to it in the Agreement. Any conflicts between definitions in this Exhibit A (University Data Privacy and Security Addendum), Appendix A (University Security Program Requirements) to Exhibit A, attached and incorporated by reference, and any other definitions in the Agreement, including any attachment, exhibit, or schedule, shall be resolved by the following order of precedence, with (1) having the highest priority and (4) having the lowest priority: (1) the BAA, as it relates to the HIPAA Regulations; (2) this Exhibit A; (3) Appendix A; and (4) the Agreement.

(a) "Addendum" means the University Data Privacy and Security Addendum at Exhibit A and Appendix A (University Security Program Requirements) to Exhibit A, which is attached and incorporated by reference.

(b) "Agreement" means the University Information Technology (IT) Terms and Conditions to which this Exhibit A is attached and incorporated by reference.

(c) "Applicable Data Privacy and Security Laws" means all laws, regulations, legal obligations, and other requirements, each as updated from time to time and as applicable to the Personal Information and the applicable Party, that limit, restrict or otherwise govern the Parties' collection, use, disclosure, security, storage, protection, and processing of Personal Information. Personal Information that is protected includes, but is not limited to, any of the following: (i) "personal information" under the North Carolina Identity Theft Protection Act, (ii) "personnel information" under the North Carolina Human Resources Act; (iii) student "education records" under the Family Educational Rights and Privacy Act (FERPA); (iv) "customer record information" under the Gramm Leach Bliley Act (GLBA); and (v) "cardholder data" as defined by the Payment Card Industry Data Security Standard (PCI-DSS).

(d) "Breach" means the unauthorized acquisition, access, use, or disclosure of Personal Information in a manner not permitted under Applicable Data Privacy and Security Laws, and which compromises the security or privacy of Personal Information.

(e) "Confidential Information" means the definition in the Agreement.

(f) "Controller" means the individual, organization, entity, or Person, alone or jointly, who determines the purposes for which and the means by which Personal Information is Processed.

(g) "Date of Discovery" means the date that any Vendor Workforce member knows or should have known (by reasonable diligence) that a Security Incident, or any actual or suspected Breach has occurred.

(h) "De-Identify" means the removal of or process of removing direct or indirect identifiers from Personal Information so that the resulting data set can no longer be used to identify an Individual and there is no reasonable basis to believe it can be used to identify an Individual.

(i) "Disclosure" means the release, transfer, provision of access to, or divulging in any manner of information outside the entity holding the information.

(j) "Individual" means the identifiable or natural person who is the subject of the Personal Information.

(k) "Person" means a natural individual, proprietorship, partnership, corporation, limited liability company of any kind, organization, Affiliate, and any government agency, body or authority.

(l) "Personal Information" means any information controlled, and provided by or on behalf of the University pursuant to the Agreement (a) that directly or indirectly identifies, or when used in combination with other information may identify, relates to, describes, or is capable of being associated with an individual; (b) is otherwise defined as personal data, personal information, personally identifiable information, or other similar term for individually identifiable information under Applicable Data Privacy and Security Laws; or (c) when associated or linked with other Personal Information, identifies an individual. Personal Information can be in any media or format, including computerized or electronic records as well as paper-based documents and files. Personal Information does not include personal information or personally identifiable information publicly available to Vendor or provided to Vendor by a third party.

(m) "Process" (or derivatives thereof, such as "Processing") means any operation or set of operations which is performed, whether or not by automatic means, such as collection, viewing, accessing, recording, organization, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, blocking or dispersed erasure or destruction.

(n) "Processor" means the individual, organization, entity, or Person who Processes Personal Information on behalf of the Controller.

(o) "Required By Law" means a mandate contained in law that compels an entity to make a use or disclosure of Personal Information and that is enforceable in a court of law. Required By Law includes, but is not limited to, court orders and court-ordered warrants; subpoenas or summons issued by a court, grand jury, a governmental or tribal inspector general, or an administrative body authorized to require the production of information; a civil or an authorized investigative demand; Medicare conditions of participation with respect to health care providers participating in the program; and statutes or regulations that require the production of information, including statutes or regulations that require such information if payment is sought under a government program providing public benefits.

(p) "Security Incident" means the unauthorized access, use, disclosure, modification, or destruction of information or interference with system operations in an information system.

(q) "Subcontractor" means the individual, organization, entity, or Person to whom a Party delegates a function, activity, or service, other than in the capacity of a member of the workforce of such Party.

(r) "Subprocessor" means a third-party individual, organization, entity, or Person engaged by a Processor who will have access to or Process Personal Information from a Controller.

(s) "Use" means, the sharing, employment, application, utilization, examination, or analysis of Personal Information within an entity that maintains such information.

(t) "Workforce" means all individuals working on behalf of Vendor, whether paid or unpaid, who support Vendor and access the University Information Systems and/or otherwise receive, use or disclose Confidential Information.

II. PERMITTED USES AND DISCLOSURES OF CONFIDENTIAL INFORMATION

(a) Vendor may Use or Disclose Confidential Information as necessary to carry out its activities in support of the University pursuant to the terms of the Agreement or as Required By Law and may Use or Disclose or Process Confidential Information so long as any such Use or Disclosure or Processing of Confidential Information complies with Applicable Data Privacy and Security Laws.

(b) Vendor shall not, without the prior written consent of the University, Disclose any Confidential Information on the basis that such Disclosure is Required By Law without first notifying the University so that the University shall have an opportunity to object to the Disclosure and to seek appropriate relief unless immediate Disclosure is Required By Law. If Vendor is legally required by Applicable Data Privacy and Security Laws to Process Confidential Information other than as instructed by the University, Vendor shall notify the University before such Processing occurs, unless the Applicable Data Privacy and Security Laws requiring such Processing prohibits Vendor from doing so on an important ground of public interest, in which case Vendor will notify the University as soon as that law permits Vendor to do so.

III. LIMITATIONS ON USE AND DISCLOSURE OF CONFIDENTIAL INFORMATION

(a) Vendor shall not Use or Disclose Confidential Information other than as permitted or required by this Addendum or as Required By Law.

(b) All Uses and Disclosures of Confidential Information by Vendor are subject to the data minimization principles of the Fair Information Privacy Principles (FIPPs) and Applicable Data Privacy and Security Laws.

(c) Where Personal Information is transferred from one Party to another, the Parties shall Process the Personal Information in accordance with any additional provisions that are required by Applicable Data Privacy and Security Laws related to the transfer where the Party that is the recipient of the transfer acts as a Processor of that Personal Information.

(d) Vendor may not De-Identify Personal Information it receives from the University and use it for any purpose unrelated to the activities it performs in support of the University, in accordance with the Agreement.

IV. AVAILABILITY OF PERSONAL INFORMATION, INDIVIDUAL RIGHTS

(a) Access to Personal Information. Within five (5) calendar days of a request by the University for access to Personal Information about an Individual, Vendor shall make available to the University such Personal Information for so long as such information is maintained by Vendor or any Vendor Subcontractor and/or Subprocessor.

(b) Correction of Personal Information. Within five (5) calendar days of receipt of a request from the University to edit or update incorrect Personal Information about an Individual, Vendor shall provide such information to the University for correction and incorporate any such edits or corrections into the Personal Information for so long as such information is maintained by Vendor or any Vendor Subcontractor and/or Subprocessor.

(c) Process Restrictions of Personal Information. Within five (5) calendar days of receipt of a request from the University to Process restrictions of Personal Information about an Individual, Vendor shall provide such information to the University and provide adequate assurances in writing that such Process restrictions will remain in place for the Personal Information for so long as such information is maintained by Vendor or any Vendor Subcontractor and/or Subprocessor.

(d) Deletion of Personal Information. Within five (5) calendar days of receipt of a request from the University to delete Personal Information about an Individual, Vendor shall provide adequate assurances in writing to the University that deletion of the Personal Information has been completed and that no Personal Information for the Individual is maintained by Vendor or any Vendor Subcontractor and/or Subprocessor.

V. PRIVACY, SECURITY, AND THIRD-PARTY REQUIREMENTS

(a) Vendor will implement appropriate safeguards to prevent Use or Disclosure of Confidential Information other than as permitted in this Addendum consistent with the University's policies regarding privacy and security requirements outlined in **Appendix A** which is incorporated into this Addendum by reference.

(b) Vendor shall implement and maintain a comprehensive information security program that meets best industry standards and complies with Applicable Data Privacy and Security Laws to protect Confidential Information against accidental, unauthorized, or unlawful Processing and shall have documented those measures in a written information security program. Without limiting the foregoing, such safeguards shall conform, at a minimum, to the requirements outlined in **Appendix A**.

(c) Vendor agrees to provide Privacy and Security Training and educate Vendor Workforce on the University's privacy and security policy requirements who support the activities offered to the University under the Agreement. A record of all such training will be kept by Vendor and provided upon request to the University pursuant to Section V(b) herein. Such training will be required of Vendor's Workforce periodically, but no less than annually. All new Vendor Workforce members who perform activities in support of the University pursuant to the Agreement shall complete the Privacy and Security Training prior to any work supporting the University.

(d) Vendor agrees to ensure that its agents, including any Subcontractors and/or Subprocessors, that create, receive, maintain or transmit Confidential Information on behalf of Vendor agree in writing to the same (or greater) restrictions and conditions that apply to Vendor, outlined in **Appendix A**, with respect to such information, and agree to implement reasonable and appropriate safeguards to protect any of such information that is Confidential Information. Vendor agrees to enter into written agreements with any Subcontractors and/or Subprocessors in accordance with the requirements of Applicable Data Privacy and Security Laws. Before allowing any Subcontractor and/or Subprocessor or their agent that is not organized under the laws of any state within the United States ("Foreign Subcontractor") to use or disclose, or have access to, Confidential Information, Vendor shall obtain the prior written consent of the University to the use of such Foreign Subcontractor, which consent may be withheld in the University's sole discretion.

(e) Vendor agrees to take reasonable steps to ensure that the actions or omissions of Vendor Workforce members do not cause Vendor to breach the terms of this Addendum.

VI. AVAILABILITY OF BOOKS AND RECORDS; AUDITS

Vendor shall permit the University (or an independent inspection company designated by the University), in its discretion, to conduct an audit of Vendor's compliance with this Addendum, outlined in **Appendix A** and/or Applicable Data Privacy and Security Laws. Such audit may consist of a series of inquiries that require written responses. Vendor shall promptly and completely respond to the University's requests for information in support of the audit, which shall not be conducted more than once annually except in cases of an actual or reasonably suspected Security Incident or reasonably suspected noncompliance with this Addendum, and/or Applicable Data Privacy and Security Laws. Each Party shall bear its own costs associated with the audit. Vendor also agrees, if requested, to certify its compliance with this Addendum in writing within fifteen (15) business days.

VII. REPORTING TO THE UNIVERSITY

(a) Vendor shall report to the University any Use or Disclosure of Confidential Information that is not in compliance with the terms of this Addendum, as well as any Security Incident and any Breach, of which it becomes aware, without unreasonable delay, and in no event later than one (1) business day of such Date of Discovery (or any shorter period required by Applicable Data Privacy and Security Laws). Such notification shall, at a minimum, contain: (i) a brief description of what happened, including the date of the Security Incident or actual or suspected Breach and the Date of Discovery, if known; (ii) a description of the types of Confidential Information that were involved (such as full name, address, date of birth, social security number); (iii) any steps Individuals should take to protect themselves from potential harm; (iv) a brief description of what Vendor is doing to investigate, mitigate harm to Individuals and protect against further Breaches; (v) to the extent possible, the identification of each Individual whose Personal Information has been, or is reasonably believed by Vendor to have been, accessed, acquired, used, or disclosed during the Security Incident or Breach.

(b) Unless prohibited from doing so by applicable law or by a court order, without unreasonable delay, Vendor will notify the University in writing of any request by any governmental entity, or its designee, to review Vendor's compliance with law or this Addendum, to pursue a complaint, or to conduct an audit or assessment of any kind, if such review, complaint, audit, or assessment pertains to the Agreement or this Addendum.

VIII. MITIGATION, COOPERATION, INDEMNIFICATION, AND INSURANCE

(a) Vendor agrees to mitigate any harmful effect that is known to Vendor of a Use or Disclosure of Personal Information by Vendor in violation of the requirements of this Addendum, as well as to provide complete cooperation to the University should the University elect to review or investigate such noncompliance or Security Incident. Vendor shall cooperate in the University's Breach analysis and/or risk assessment, if requested. Furthermore, Vendor shall cooperate with the University in the event that the University determines that any third parties must be notified of a Breach, provided that Vendor shall not provide any such notification except at the direction of the University.

(b) Notwithstanding other provisions of this Addendum or the Agreement, and at its sole expense, Vendor shall be liable under this Addendum for damages caused by the negligence or willful misconduct of Vendor's Workforce members or Vendor's directors, Subcontractors, Subprocessors, or agents. Damages include, but are not limited to, reasonable and actual costs that the University incurs as a result of a violation of this Addendum, including but not limited to any Security Incident or Breach, including but not limited to the administrative cost of notices, print and mailing costs, call center services, forensics services, costs associated with investigating and responding to investigations and inquiries related to the Security Incident or Breach from federal and state regulatory authorities and others, and the costs to obtain two (2) years of credit monitoring services and identity theft insurance for the subjects of any Personal Information that has or have been compromised, when the violation of this Addendum is caused by the negligence or misconduct of Vendor's Workforce members, directors, Subcontractors, Subprocessors, or agents. The remedies set forth herein shall be in addition to any other remedies available to the University at law or in equity, set forth in the Agreement.

(c) To the extent Vendor has limited its liability under the terms of the Agreement, whether with a maximum recovery for direct damages or a disclaimer against any consequential, indirect, or punitive damages, or other such limitations, all limitations shall exclude any damages to the University arising from Vendor's breach of its obligations under this Addendum, Applicable Data Privacy and Security Laws, or relating to its Use, Disclosure, or safeguarding of Personal Information.

(d) In addition to all other insurance requirements in the Agreement, Vendor agrees to obtain and maintain at all times during which it maintains Personal Information subject to the Agreement and/or this Addendum, privacy and cyber liability insurance coverage in amounts no less than one million dollars ($1,000,000.00 USD) per occurrence and annual aggregate, to include at a minimum coverage for claims (including but not limited to third party tort claims), civil monetary fines, and other penalties insurable by law. At a minimum, this insurance shall cover claims involving privacy violations, information theft, damage to or destruction of electronic information, intentional and/or unintentional release of private information, alteration of electronic information, extortion and network security, data restoration, event response and network interruption. Vendor shall provide certificates of insurance to the University upon request.

IX. <u>TERMINATION</u>

(a) This Addendum shall be effective as of the Effective Date and shall terminate upon the earlier of (i) the expiration or termination of the Agreement for any reason, or (ii) the termination of this Addendum by the University for cause as provided herein.

(b) Notwithstanding anything in this Addendum or the Agreement to the contrary, the University shall have the right to terminate the Addendum immediately for cause if the University determines that Vendor has violated any material term of this Addendum.

(c) At termination of this Addendum, the Agreement (or any similar documentation of the business relationship of the Parties), or upon request of Vendor, whichever occurs first, if feasible, Vendor will return (in a manner or process approved by both Parties) or destroy all Personal Information received from the University pursuant to the Agreement that Vendor still maintains in any form and retain no copies of such information. The destruction shall be certified in writing by Vendor to the University. If such return or destruction is not feasible, Vendor will (i) retain only that Personal Information necessary under the circumstances; (ii) return or destroy the remaining Personal Information that Vendor still maintains in any form; (iii) extend the protections of this Addendum to the retained Personal Information; (iv) limit further Uses and Disclosures to those purposes that make the return or destruction of the Personal Information not feasible; and (v) return or destroy the retained Personal Information when it is no longer needed by Vendor. This paragraph shall survive the termination of this Addendum and shall apply to Personal Information received from the University pursuant to the Agreement received by Vendor, its Subcontractors, Subprocessors, or agents.

X. MISCELLANEOUS

(a) Third Party Rights. The Parties to this Addendum do not intend to create any rights in any third parties.

(b) Survival. The obligations of Vendor under this Addendum shall survive the expiration, termination, or cancellation of this Addendum, the Agreement and/or the business relationship of the Parties, and shall continue to bind Vendor, its agents, employees, contractors, Subcontractors, Subprocessors, successors, and assigns as set forth herein.

(c) Injunctions. the University and Vendor agree that any violation of the provisions of this Addendum will cause irreparable harm to the University. Accordingly, in addition to any other remedies available to the University at law, in equity, under the Agreement, or under this Addendum, in the event of any violation of any of the provisions of this Addendum, or any explicit threat thereof, the University shall be entitled to an injunction or other decree of specific performance with respect to such violation(s) or explicit threat thereof.

(d) Amendment. This Addendum may not be amended or modified orally or by performance. It may be amended or modified only in a writing signed by the Parties. In the event that any provision of this Addendum is held by a court of competent jurisdiction to be invalid or unenforceable, the remainder of the provisions of this Addendum will remain in full force and effect. In addition, in the event a Party believes in good faith that any provision of this Addendum fails to comply with the then-current requirements of the Applicable Data Privacy and Security Laws, such Party shall notify the other Party in writing. For a period of up to thirty (30) days, the Parties shall address in good faith such concern and amend the terms of this Addendum, if necessary to bring it into compliance. If, after such thirty-day period, a Party believes in good faith that the Addendum fails to comply with Applicable Data Privacy and Security Laws, then either Party has the right to terminate upon written notice to the other Party.

(e) Conflicts. The Parties agree that, in the event that any documentation of the Agreement contains provisions relating to the Use or Disclosure of Personal Information that are more restrictive than the provisions of this Addendum, the more restrictive provisions will control. The provisions of this Addendum are intended to establish the minimum requirements regarding Vendor’s Use and Disclosure of Personal Information.

(f) Notices. Any notices permitted or required hereunder shall be made in writing as provided in the Agreement.

APPENDIX A: UNIVERSITY SECURITY PROGRAM REQUIREMENTS

Vendor represents, warrants, covenants, and agrees that, with respect to Confidential Information including but not limited to Personal Information, Vendor has adopted, implemented, and maintains (and shall ensure that its employees, contractors and agents adopt, implement and maintain) the security controls as described below ("Security Controls"), to: (1) ensure the confidentiality, integrity, and availability of all Confidential Information Vendor accesses, creates, receives, processes, maintains, or transmits on the University's behalf; (2) protect against any reasonably anticipated threats or hazards to the security or integrity of such information; (3) protect against any reasonably anticipated uses or disclosures of such information that are not permitted by Applicable Data Privacy and Security Laws and the Agreement and the Data Privacy and Security Addendum; and (4) ensure compliance by its Workforce, including its contractors and agents.

1. **Maintain a formal information security program following an industry-recognized security framework with a named individual responsible for its overall execution.** Vendor will implement and maintain a comprehensive information security program that meets best industry standards and complies with Applicable Data Privacy and Security Laws to protect Personal Information against accidental, unauthorized or unlawful Processing and shall have documented those measures in a written information security program. Vendor's information security program must have executive support and be defined based on the characteristics of its business. It must include documented security plans, policies, and procedures designed to protect the confidentiality, integrity, and availability of its information assets. Vendor maintains staffing and technical resources at an appropriate level to ensure the information security program's plans, policies, procedures, ongoing operations, monitoring, and continuous improvement. Without limiting the foregoing, at a minimum, Vendor's security program safeguards shall conform to an industry-recognized security program framework, such as the International Organization for Standardization's 27000 standards, NIST Cybersecurity Framework version 1.1 or 2.0, the Control Objectives for Information and related Technology (COBIT), CIS Critical Security Controls, and HITRUST CSF. At least thirty (30) days before executing the Agreement, Vendor shall provide to the University the name of the industry-recognized security program framework it follows and supporting documentation evidencing its compliance with such industry-recognized framework. For the avoidance of doubt, the University may not, in its sole discretion, execute the Agreement until such time Vendor provides this information.
2. **Periodically conduct an independent Information Technology (IT) security risk assessment.** As part of its information security program, Vendor periodically, but not less than once every two years thereafter (bi-annually), must conduct an IT security risk assessment performed by a qualified, independent third-party accessor to identify threats and vulnerabilities that may affect the systems that are used to deliver services to the University. Vendor prioritizes identified risks based on potential business impact and likelihood of occurrence. Vendor develops remediation plans for identified vulnerabilities and prioritizes resources to implement remediation plans based on the prioritization of the associated risks. Risk assessment findings, remediation plans, and exceptions are reviewed and approved by Vendor's senior management. Vendor's risk assessment is updated periodically or after significant changes to Vendor's IT environment. **Prior to fully executing the Agreement, Vendor shall provide to the University the most recent security risk assessment performed by a qualified, independent third-party accessor. Vendor is obligated to provide the University with a security risk assessment performed by a qualified, independent third-party accessor not less than bi-annually for the Term of any Agreement, including any Agreement renewals or extensions thereafter.**
3. **Perform periodic testing for the presence of security measures.** External and internal penetration testing is periodically performed to identify potential security risks that may be exploited by an attacker to gain unauthorized access to Vendor's systems and networks. Vendor shall perform external penetration testing on at least an annual basis performed by a qualified, independent third party. Prior to executing

the Agreement, Vendor shall provide to the University a summary of its most recent penetration testing results performed at least within the past three calendar years for relevant systems or technology solutions that will be used to deliver services to the University. Vendor is obligated to re-test and provide a summary of penetration testing results to the University at least every three years for the Term of the Agreement, including any Agreement renewals or extensions thereafter, as applicable in accordance with the term of the Agreement.

4. **Mandatory use of strong authentication for all Vendor accounts which may have access to the University data.** Vendor will use strong authentication (Multi Factor Authentication (MFA) or Passwordless Authentication) for all Vendor accounts and/or systems used to deliver services to the University which may have access to the University data, including Personal Information and Confidential Information.
5. **Continuous monitoring of information systems with annual testing on Security Incident response plan and procedures.** Vendor will continuously monitor (24-hours a day, seven days a week) the security of any and all Vendor information systems used to deliver services to the University which may access or store the University data, including Personal Information and Confidential Information. Vendor will maintain a formerly documented Security Incident response plan and procedures that Vendor will test not less than annually for the Term of the Agreement, including any Agreement renewals or extensions thereafter.
6. **Perform continuous vulnerability management program with timely patching procedures**. Vendor will maintain a formally documented continuous vulnerability management program, which will include documented security patch management procedures. Vendor will evaluate, test, and install security patches based on a risk-based schedule prioritized by the Common Vulnerability Scoring System (CVSS) score, or a functionally equivalent approach. Security patches identified as a high priority, generally those that address vulnerabilities with a CVSS base score of 7.0 to 10.0, should be installed with 30 calendar days of release, including any system reboots that may be necessary to fully install the patch. Vendor will maintain a formal exception management process to review and address risks associated with high priority patches that cannot be installed during this window.
7. **Minimum Security Controls.** For any Vendor information systems that will be used to provide services to the University and/or which will access or store the University data, Vendor will adopt security controls that are least the equivalent to, the security controls required for a High Protection Level system under the University's Minimum Security Standard. For specific requirements for the University's High Protection Level, see *the University's Information Security Controls Standard* available here: https://policies.unc.edu/TDClient/2833/Portal/KB/ArticleDet?ID=131245.
8. **Independent forensic summary of any significant Security Incident.** In addition, the reporting requirements outlined in S*ection VII* of the Addendum, in the event of a suspected unauthorized access Security Incident wherein Vendor systems used to deliver services to the University and/or where the University data, including Personal Information and Confidential Information, may be in scope, the University may require Vendor, at its own expense, to engage a qualified, independent third-party to provide a formal forensic incident response report. Vendor will be required to provide the University with a copy of the summary of independent party's forensic report. That of that report Vendor is responsible for all expenses related e engaging a third party to provide a formal incident response report.

SCHEDULE A: BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement (the "Agreement") is made effective the ____day of_____, 20__ by and between **The University of North Carolina at Chapel Hill**, hereinafter referred to as "Covered Entity", and ____________________, hereinafter referred to as "Business Associate", (individually, a "Party" and collectively, the "Parties"). This Agreement supersedes any previously executed Business Associate Agreement between the parties.

WITNESSETH:

WHEREAS, Sections 261 through 264 of the federal Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, as modified by the Health Information Technology for Economic and Clinical Health Act, known collectively as "the Administrative Simplification provisions," direct the Department of Health and Human Services to develop standards to protect the privacy, security, confidentiality and integrity of health information; and

WHEREAS, pursuant to the Administrative Simplification provisions, the Secretary of the Department of Health and Human Services (the "Secretary") has issued regulations at 45 CFR Parts 160 and 164, as the same may be amended from time to time (the "HIPAA Rules"); and

WHEREAS, the Parties wish to enter into or have entered into an arrangement whereby Business Associate will provide certain services to Covered Entity, and, pursuant to such arrangement, Business Associate may be considered a "business associate" of Covered Entity as defined in the HIPAA Rules (the agreement evidencing such arrangement is hereby referred to as the "Arrangement Agreement"); and

WHEREAS, Business Associate may have access to Protected Health Information (as defined below) in fulfilling its responsibilities under such arrangement.

THEREFORE, in consideration of the Parties' continuing obligations under the Arrangement Agreement, compliance with the HIPAA Rules, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree to the provisions of this Agreement in order to address the requirements of the HIPAA Rules and to protect the interests of both Parties.

I. DEFINITIONS

Except as otherwise defined herein, any and all capitalized terms in this Agreement shall have the definitions set forth in the HIPAA Rules.

II. PERMITTED USES AND DISCLOSURES OF PROTECTED HEALTH INFORMATION

(a) Business Associate may use or disclose Protected Health Information as necessary to carry out its duties to Covered Entity pursuant to the terms of the Arrangement Agreement or as Required By Law. Business Associate shall not, without the prior written consent of Covered Entity, disclose any Protected Health Information on the basis that such Disclosure is Required By Law without first notifying Covered Entity so that Covered Entity shall have an opportunity to object to the Disclosure and to seek appropriate relief unless immediate Disclosure is Required By Law.

(b) Notwithstanding the prohibitions set forth in this Agreement, Business Associate may:

(i) Use Protected Health Information for the proper management and administration of Business Associate or to carry out the legal responsibilities of Business Associate;

(ii) Disclose Protected Health Information for the proper management and administration of Business Associate or to carry out the legal responsibilities of Business Associate, provided that as to any such disclosure, the following requirements are met:

(A) The disclosure is Required By Law; or

(B) Business Associate obtains reasonable assurances from the person to whom the information is disclosed that the information will remain confidential and will be used or further disclosed only as Required by Law or for the purpose for which it was disclosed to the person, and the person notifies Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached; and

(iii) Provide Data Aggregation services relating to the health care operations of Covered Entity pursuant to written agreements between the Parties evidencing their business relationship.

III. LIMITATIONS ON USE AND DISCLOSURE OF PROTECTED HEALTH INFORMATION

(e) Business Associate shall not use or disclose Protected Health Information other than as permitted or required by this Agreement or as Required By Law.

(f) Except as specifically set forth herein, Business Associate may not use or disclose Protected Health Information in a manner that would violate the HIPAA Rules if such use or disclosure were done by Covered Entity.

(g) All Uses and Disclosures of Protected Health Information by Business Associate are subject to the Minimum Necessary standard of the Privacy Rule and must not conflict with Covered Entity's policies regarding the Minimum Necessary Use or Disclosure of Protected Health Information.

(h) Business Associate may de-identity Protected Health Information only at the specific direction of and only for the use of Covered Entity.

(i) Business Associate may not sell Protected Health Information except at the direction of Covered Entity and in compliance with the requirements of the HIPAA Rules.

IV. PRIVACY AND SECURITY REQUIREMENTS

(c) Business Associate will implement appropriate safeguards to prevent Use or Disclosure of Protected Health Information other than as permitted in this Agreement.

(b) Business Associate will implement Administrative, Physical, and Technical Safeguards that reasonably and appropriately protect the Confidentiality, Integrity, and Availability of any Electronic Protected Health Information that it creates, receives, maintains, or transmits on behalf of Covered Entity as required by the HIPAA Rules.

(c) Business Associate shall comply with the guidance from the U.S. Department of Health and Human Services to render Unsecured Protected Health Information unusable, unreadable, or indecipherable to unauthorized individuals, with respect to Electronic Protected Health Information in motion and at rest, and destruction of Protected Health Information.

(d) To the extent Business Associate carries out obligations of Covered Entity under the HIPAA Rules, Business Associate shall comply with the applicable provisions of the HIPAA Rules as if such Use or Disclosure were made by Covered Entity.

(e) Business Associate agrees to provide HIPAA training to all of its personnel who service Covered Entity's account or who otherwise will have access to Protected Health Information that Business Associate creates, receives, transmits or maintains on behalf of Covered Entity.

(f) Business Associate agrees to ensure that its agents, including any Subcontractors, that create, receive, maintain or transmit Protected Health Information on behalf of Business Associate agree to the same (or greater) restrictions and conditions that apply to Business Associate with respect to such information, and agree to implement reasonable and appropriate safeguards to protect any of such information that is Electronic Protected Health Information. Business Associate agrees to enter into written agreements with any Subcontractors in accordance with the requirements of the HIPAA Rules.

(g) Neither Business Associate, nor its subcontractors or agents, will create, receive, transmit, maintain, disclose, access, or otherwise handle Protected Health Information outside of the United States without the express prior written consent of Covered Entity. If the foregoing restriction is violated, Covered Entity will have an immediate right of termination and a right of recourse and recovery against Business Associate due to irreparable harm, including entitlement to an injunction without bond. Business Associate, its Subcontractors, and its agents will be jointly and severally liable for any violation of this restriction, and Business Associate will fully indemnify Covered Entity for any damages, liability, costs, or fees (including reasonable attorneys' fees) incurred by Covered Entity related thereto. Business Associate, on behalf of itself and its Subcontractors and agents, acknowledges that it is subject to the laws of the United States, to the jurisdiction of the Secretary, and to the jurisdiction and venue of the courts and agencies of the United States.

(h) Business Associate agrees to take reasonable steps to ensure that its employees' actions or omissions do not cause Business Associate to breach the terms of this Agreement.

(i) To the extent applicable, Business Associate will comply with (i) Covered Entity's Notice of Privacy Practices; (ii) any limitations to which Covered Entity has agreed in regard to an Individual's permission to use or disclose his or her Protected Health Information; and (iii) any restrictions to the Use or Disclosure of Protected Health Information to which Covered Entity has agreed or is required to agree.

V. AVAILABILITY OF PROTECTED HEALTH INFORMATION, AMENDMENTS, AND ACCOUNTING OF DISCLOSURES

(a) Access to Protected Health Information. Within five (5) calendar days of a request by Covered Entity for access to Protected Health Information about an Individual contained in a Designated Record Set, Business Associate shall make available to Covered Entity such Protected Health Information for so long as such information is maintained by Business Associate in the Designated Record Set, as required by 45 CFR § 164.524.

(b) Amendment of Protected Health Information. Within five (5) calendar days of receipt of a request from Covered Entity for the amendment of an Individual's Protected Health Information or a record regarding an Individual contained in a Designated Record Set (for so long as the Protected Health Information is maintained in the Designated Record Set), Business Associate shall provide such information to Covered Entity for amendment and incorporate any such amendments in the Protected Health Information as required by 45 CFR § 164.526.

(c) Accounting of Disclosures. Within five (5) calendar days of notice by Covered Entity to Business Associate that it has received a request for an accounting of Disclosures of Protected Health Information, Business Associate shall make available to Covered Entity information to permit Covered Entity to respond to the request for an accounting of Disclosures of Protected Health Information, as required by 45 CFR § 164.528. Business Associate will comply with Covered Entity's policy regarding accounting of Disclosures.

(d) In the event an Individual makes a request under this Section V directly to Business Associate, Business Associate will notify Covered Entity of such request within three (3) business days and shall cooperate with, and act only at the direction of, Covered Entity in responding to such request.

VI. AVAILABILITY OF BOOKS AND RECORDS; AUDITS

(a) Business Associate will make its internal practices, books and records relating to the Use and Disclosure of Protected Health Information available to the Secretary for purposes of the Secretary determining Covered Entity's compliance with the terms of the HIPAA Rules, and, at the request of the Secretary, will comply with any investigations and compliance reviews, permit access to information, and cooperate with the review of any complaints, as Required By Law.

(b) Business Associate shall permit Covered Entity, in its discretion, to conduct an audit of Business Associate's compliance with this Agreement and the HIPAA Rules. Such audit may consist of a series of inquiries that require written responses. Business Associate shall promptly and thoroughly respond to Covered Entity's requests for information in support of the audit, which shall not be conducted more than once annually except in cases of an actual or reasonably suspected Breach of Protected Health Information or Security Incident, or reasonably suspected noncompliance with this Agreement, or the HIPAA Rules. Each Party shall bear its own costs associated with the audit.

VII. REPORTING TO COVERED ENTITY

(a) Business Associate shall report to Covered Entity in writing (see Exhibit A) any Use or Disclosure of Protected Health Information that is not in compliance with the terms of this Agreement, as well as any Breach or suspected Breach of Unsecured Protected Health Information, or Security Incident of which it becomes aware, without unreasonable delay, and in no event later than five (5) calendar days of such discovery. Such notification shall contain the elements required by 45 CFR § 164.410.

(b) Business Associate shall provide the following information to Covered Entity within ten (10) business days of discovery of a breach of Unsecured Protected Health Information except when despite all reasonable efforts by Business Associate to obtain the information required, circumstances beyond the control of the Business Associate necessitate additional time. Under such circumstances Business Associate shall provide to Covered Entity the following information as soon as and to the extent possible and without unreasonable delay, but in no event later than thirty (30) calendar days from the date of discovery of a breach:

(1) the date of the breach;
(2) the date of the discovery of the breach;
(3) a description of the types of Unsecured Protected Health Information that were involved;
(4) identification of each individual whose Unsecured Protected Health Information has been, or is reasonably believed to have been, accessed, acquired, or disclosed; and
(5) any other details necessary to complete a risk assessment in accordance with the Regulations.

(c) Business Associate agrees to pay actual reasonable costs of notification and of any associated mitigation incurred by Covered Entity, such as credit monitoring, if Covered Entity determines that the breach is significant enough to warrant such measures to the extent such costs are a result of a breach caused by Business Associate or its Subcontractors or its agents.

(d) Business Associate agrees to establish procedures to investigate the breach, mitigate losses, and protect against any future breaches, and to provide a description of these procedures and the findings of the investigation to Covered Entity in the time and manner reasonably requested by Covered Entity.

(e) Unless prohibited from doing so by applicable law or by a court order, without unreasonable delay, Business Associate will notify Covered Entity in writing of any request by any governmental entity, or its designee, to review Business Associate's compliance with law or this Agreement, to pursue a complaint, or to conduct an audit or assessment of any kind, if such review, complaint, audit or assessment pertains to the Arrangement Agreement or this Agreement.

VIII. MITIGATION, COOPERATION, INDEMNIFICATION, AND INSURANCE

(a) Business Associate agrees to mitigate any harmful effect that is known to Business Associate of a Use or Disclosure of Protected Health Information by Business Associate in violation of the requirements of this Agreement, as well as to cooperate with Covered Entity should Covered Entity elect to review or investigate such noncompliance, Breach or Security Incident. Business Associate shall cooperate in Covered Entity's breach analysis and/or risk assessment, if requested. Furthermore, Business Associate shall cooperate with Covered Entity in the event that Covered Entity determines that any third parties must be notified of a Breach, provided that Business Associate shall not provide any such notification except at the direction of Covered Entity.

(b) To the extent permitted by applicable law, Business Associate shall indemnify and hold harmless Covered Entity, its officers, directors, employees, subcontractors, and agents, for any injury, claims, costs (including reasonable attorneys' fees), liabilities, or damages arising from or relating to any noncompliance with this Agreement or any Breach or Security Incident attributable to the Business Associate, or its Subcontractors or its agents, including the failure to execute the terms of this Agreement. This indemnification is separate and apart from any indemnifications set forth in the Arrangement Agreement, and is not affected by any limitations or restrictions set forth therein.

(c) Notwithstanding other provisions of this Agreement or the Arrangement Agreement, Business Associate shall be liable under this Agreement for damages caused by the negligence or misconduct of its officers, directors, employees, Subcontractors, and agents. Damages include, but are not limited to, reasonable and actual costs that Covered Entity incurs as a result of a Breach, including but not limited to Breach notification, when the Breach is caused by the negligence or misconduct of Business Associate's officers, directors, employees, Subcontractors, and agents.

(d) To the extent that Business Associate has limited its liability under the terms of the Arrangement Agreement or any other agreement between the Parties, whether with a maximum recovery for direct damages or a disclaimer against any consequential, indirect or punitive damages, or other such limitations, all limitations shall exclude any damages to Covered Entity arising from Business Associate's breach of its obligations under this Agreement, the HIPAA Rules, or relating to its Use, Disclosure, or safeguarding of Protected Health Information that is subject to this Agreement.

(e) Business Associate agrees to obtain and maintain at all times during which it maintains Protected Health Information subject to the Arrangement Agreement and/or this Agreement, privacy and cyber (network and security) insurance in amounts no less than $5 million per occurrence and annual aggregate, to include at a minimum coverage for claims (including but not limited to third party tort claims), civil monetary fines, and other penalties insurable by law. The cyber (network and security) insurance shall include coverage for privacy notification cost and providing protection against liability for: (1) privacy breaches, including but not limited to liability arising from the loss or disclosure of confidential information; (2) system breach; (3) denial or loss of service; (4) introduction, implantation, or spread of malicious software code; and (5) unauthorized access to or use of computer systems. Business Associate shall provide certificates of insurance to Covered Entity upon request, without unreasonable delay.

(f) Business Associate's obligations under this Agreement, including without limitation Business Associate's indemnification obligations hereunder, shall survive the expiration or termination of this Agreement for any reason and, notwithstanding any agreement between the parties to the contrary, the obligations with regard to liability and indemnity shall not be subject to any limitation of damages or liability.

IX. TERMINATION

(a) This Agreement shall be effective as of the date first set forth above and shall terminate upon the earlier of (i) the termination of all agreements between the parties, and (ii) the termination by Covered Entity for cause as provided herein.

(b) Notwithstanding anything in this Agreement or the Arrangement Agreement to the contrary, Covered Entity shall have the right to terminate this Agreement and the Arrangement Agreement immediately if Covered Entity determines that Business Associate has violated any material term of this Agreement.

(c) Not withstanding any contrary language in any agreement between the Parties, at termination of this Agreement, the Arrangement Agreement (or any similar documentation of the business relationship of the Parties), or upon request of Covered Entity, whichever occurs first, if feasible, Business Associate will return (in a manner or process approved by the Covered Entity) or destroy all Protected Health Information received from Covered Entity, or created, maintained, or received by Business Associate on behalf of Covered Entity, that Business Associate still maintains in any form and retain no copies of such information. If such return or destruction is not feasible, Business Associate will provide to Covered Entity the reason(s) the return is not feasible. If agreed to by Covered Entity, Business Associate w (i) retain only that Protected Health Information necessary under the circumstances; (ii) return or destroy the remaining Protected Health Information that the Business Associate still maintains in any form; (iii) extend the protections of this Agreement to the retained Protected Health Information; (iv) limit further Uses and Disclosures to those purposes that make the return or destruction of the Protected Health Information not feasible; and (v) return or destroy the retained Protected Health Information when it is no longer needed by Business Associate. This paragraph shall survive the termination of this Agreement and shall apply to Protected Health Information created, maintained, or received by Business Associate and any of its Subcontractors.

X. MISCELLANEOUS

(a) No Third Party Rights. Except as expressly stated herein or in the HIPAA Rules, the parties to this Agreement do not intend to create any rights in any third parties. The obligations of Business Associate under this Agreement shall survive the expiration, termination, or cancellation of this Agreement, the Arrangement Agreement and/or the business relationship of the parties, and shall continue to bind Business Associate, its agents, employees, contractors, Subcontractors, successors, and assigns as set forth herein.

(b) Ownership. Under no circumstances shall Business Associate be deemed in any respect to be the owner of any Protected Health Information created or received by Business Associate on behalf of Covered Entity.

(c) Injunctions. Covered Entity and Business Associate agree that any violation of the provisions of this Agreement will cause irreparable harm to Covered Entity. Accordingly, in addition to any other remedies available to Covered Entity at law, in equity, under the Arrangement Agreement, or under this Agreement, in the event of any violation of any of the provisions of this Agreement, or any explicit threat thereof, Covered Entity may seek an injunction or other decree of specific performance with respect to such violation(s) or explicit threat thereof.

(d) Amendment, Assignment, and Severability. No Party may assign its respective rights and obligations under this Agreement without the prior written consent of the other Party. This Agreement may be amended or modified only in a writing signed by the Parties. In the event that any provision of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, the remainder of the provisions of this Agreement will remain in full force and effect. In addition, in the event a Party believes in good faith that any provision of this Agreement fails to comply with the then-current requirements of the HIPAA Rules, such Party shall notify the other Party in writing. For a period of up to thirty (30) days, the Parties shall address in good faith such concern and amend the terms of this Agreement, if necessary to bring it into compliance. If, after such thirty-day period, a Party believes in good faith that the Agreement fails to comply with the HIPAA Rules, then either Party has the right to terminate upon written notice to the other Party.

(e) Independent Contractor Status. None of the provisions of this Agreement are intended to create, nor will they be deemed to create any relationship between the Parties other than that of independent parties contracting with each other solely for the purposes of effecting the provisions of this Agreement and any other agreements between the Parties evidencing their business relationship. Business Associate shall not be considered an agent of Covered Entity.

(f) Governing Law; Waiver. This Agreement will be governed by the laws of the State of North Carolina. No change, waiver or discharge of any liability or obligation hereunder on any one or more occasions shall be deemed a waiver of performance of any continuing or other obligation, or shall prohibit enforcement of any obligation, on any other occasion.

(g) Conflicts. The parties agree that, in the event that any documentation of the arrangement pursuant to which Business Associate provides services to Covered Entity contains provisions relating to the Use or Disclosure of Protected Health Information that are more restrictive than the provisions of this Agreement, the more restrictive provisions will control. The provisions of this Agreement are intended to establish the minimum requirements regarding Business Associate’s Use and Disclosure of Protected Health Information.

(h) Business Associate’s Obligations. Business Associate’s obligations in this Agreement shall survive the expiration or termination of this Agreement for any reason and, notwithstanding any agreement between the parties to the contrary, Business Associate’s obligations in this agreement shall not be subject to any limitation in any way.

(i) Headings. The section headings contained in this Agreement are for reference purposes only and will not affect the meaning of this Agreement.

ATTACHMENT C: DESCRIPTION OF OFFEROR FORM

Provide the information about the offeror.

Offeror's full name	
Offeror's address	
Offeror's telephone number	
Ownership	☐ Public ☐ Partnership ☐ Subsidiary ☐ Other (specify)
Date established	
If incorporated, State of incorporation.	
North Carolina Secretary of State Registration Number, if currently registered	
Number of full-time employees on January 1st for the last three years or for the duration that the Vendor has been in business, whichever is less.	
Offeror's Contact for Clarification of offer: Contact's name Title Email address and Telephone Number	
Offeror's Contact for Negotiation of offer: Contact's name Title Email address and Telephone Number	
If Contract is Awarded, Offeror's Contact for Contractual Issues: Contact's name Title Email address and Telephone Number	
If Contract is Awarded, Offeror's Contact for Technical Issues: Contact's name Title	

Email address and Telephone Number	

HISTORICALLY UNDERUTILIZED BUSINESSES

Historically Underutilized Businesses (HUBs) consist of minority, women and disabled business firms that are at least fifty-one percent owned and operated by an individual(s) of the categories. Also included as HUBs are disabled business enterprises and non-profit work centers for the blind and severely disabled.

Pursuant to N.C.G.S. §§ 143B-1361(a), 143-48 and 143-128.4, the University invites and encourages participation in this procurement process by businesses owned by minorities, women, disabled, disabled business enterprises and non-profit work centers for the blind and severely disabled. This includes utilizing subcontractors to perform the required functions in this RFP. Contact the North Carolina Office of Historically Underutilized Businesses at 919-807-2330 with questions concerning NC HUB certification. http://ncadmin.nc.gov/businesses/hub

Respond to the questions below.

1. Is Vendor a Historically Underutilized Business? ☐ Yes ☐ No
2. Is Vendor Certified with North Carolina as a Historically Underutilized Business? ☐ Yes ☐ No

   If so, state HUB classification:

   ____

ATTACHMENT D: COST FORM

The Vendor must list, itemize, and describe all applicable offer costs which may include the following:

1. Software

	Annual Cost **during the Initial Term** (Years 1, 2, and 3)	***Total Cost*** **for the Initial Term** (Years 1-3)	***Annual Cost*** **for each Optional Renewal Term** (if applicable; Years 4-10)
Software (Include any and all applicable license fees, user access fees, data storage fees, hosting fees, etc.)			
Maintenance and Support (Include all standard maintenance and support services.)			
Other (Specify any other cost not included above.)			
BASE COST (Sum of Software, Maintenance, and Other.)			

2. Implementation

Provide the one-time cost to implement the solution.

3.Training

Provide the cost of training and materials.

ATTACHMENT E: VENDOR CERTIFICATION FORM

1) ELIGIBLE VENDOR

The Vendor certifies that in accordance with N.C.G.S. §143-59.1(b), Vendor is not an ineligible vendor as set forth in N.C.G.S. §143-59.1 (a).

The Vendor acknowledges that, to the extent the awarded contract involves the creation, research, investigation or generation of a future RFP or other solicitation; the Vendor will be precluded from bidding on the subsequent RFP or other solicitation and from serving as a subcontractor to an awarded vendor.

The University reserves the right to disqualify any vendor if the University determines that the vendor has used its position (whether as an incumbent vendor, or as a subcontractor hired to assist with the RFP development, or as a vendor offering free assistance) to gain a competitive advantage on the RFP or other solicitation.

2) CONFLICT OF INTEREST

Applicable standards may include: N.C.G.S. §§143B-1352 and 143B-1353, 14-234, and 133-32. The Vendor shall not knowingly employ, during the period of any resulting contract, nor in the preparation of any response to this RFP, any personnel who are, or have been, employed by a vendor also in the employ of the University and who are providing services involving, or similar to, the scope and nature of this RFP or any resulting contract.

3) E-VERIFY

Pursuant to N.C.G.S. § 143B-1350(k), the University shall not enter into a contract unless the awarded Vendor and each of its subcontractors complies with the E-Verify requirements of N.C.G.S. Chapter 64, Article 2. Vendors are directed to review the foregoing laws. Vendors claiming exceptions or exclusions under Chapter 64 must identify the legal basis for such claims and certify compliance with federal law regarding registration of aliens including 8 USC 1373 and 8 USC 1324a. Any awarded Vendor must submit a certification of compliance with E-Verify to the University, and on a periodic basis thereafter as may be required by the University.

4) CERTIFICATE TO TRANSACT BUSINESS IN NORTH CAROLINA

As a condition of contract award, the awarded Vendor shall have registered its business with the North Carolina Secretary of State and shall maintain such registration throughout the term of any resulting contract.

____
Vendor Name

______________________________ ______________________________
Signature Date

______________________________ ______________________________
Printed Name Title

[This certification must be signed by an individual authorized to sign on behalf of the Vendor]

ATTACHMENT F: LOCATION OF WORKERS UTILIZED BY VENDOR FORM

In accordance with N.C.G.S. §143B-1361(b), Vendor must identify (a) how it intends to utilize resources or workers located outside the U.S., and (b) the countries or cities where such resources or workers are located. The University will evaluate additional risks, costs, and other factors associated with the Vendor's utilization of resources or workers located outside the U.S. prior to making an award for any such Vendor's offer. The Vendor shall provide the following:

a) The location of work to be performed by the Vendor's employees, subcontractors, or other persons, and whether any work will be performed outside the United States. The Vendor shall provide notice of any changes in such work locations if the changes result in performing work outside of the United States.

b) Any Vendor or subcontractor providing support or maintenance services for software, or call or contact center services shall disclose the location from which the services are being provided upon request.

Will Vendor perform any work outside of the United States? ☐ YES ☐ NO

ATTACHMENT G: REFERENCES

REFERENCES:

The Vendor shall provide three (3) references of customers currently utilizing the proposed solution, fully implemented within the last three (3) years in a setting similar to this RFP's scope of work. References within higher education whose business processes and data needs are similar to those of the University in terms of functionality, complexity, and transaction volume are encouraged.

For each reference, the Vendor shall provide the following information:

a. Customer name
b. Customer address
c. Current telephone number of a customer employee most familiar with the proposed solution
d. Customer email address
e. Time period over which each proposed solution implementation was completed
f. Brief summary of the proposed solution implementation
g. List of proposed solution products installed and operational
h. Number of vendor or technical staff supporting, maintaining and managing the proposed solution
i. Number of end users supported by the proposed solution
j. Number of sites supported by the proposed solution

ATTACHMENT H: CERTIFICATION OF FINANCIAL CONDITION FORM

Name of Vendor: ____

The undersigned hereby certifies that: [check all applicable boxes]

☐ The Vendor is in sound financial condition and, if applicable, has received an unqualified audit opinion for the latest audit of its financial statements.

Date of latest audit: _________________________

☐ The Vendor has no outstanding liabilities, including tax and judgment liens, to the Internal Revenue Service or any other government entity.

☐ The Vendor is current in all amounts due for payments of federal and state taxes and required employment-related contributions and withholdings.

☐ The Vendor is not the subject of any current litigation or findings of noncompliance under federal or state law.

☐ The Vendor has not been the subject of any past or current litigation, findings in any past litigation, or findings of noncompliance under federal or state law that may impact in any way its ability to fulfill the requirements of this Contract.

☐ He or she is authorized to make the foregoing statements on behalf of the Vendor.

Note: This is a continuing certification and Vendor shall notify the University within fifteen (15) days of any material change to any of the representations made herein.

If any one or more of the foregoing boxes is NOT checked, Vendor shall explain the reason in the space below:

Signature	Date
Printed Name	Title

[This certification must be signed by an individual authorized to sign on behalf of the Vendor]

ATTACHMENT I: REQUIREMENTS CHECKLIST

1. Are you able to provide a Voluntary Product Accessibility Template (VPAT), or acceptable alternative, detailing your proposed solution's accessibility compliance?

   o Yes   o No

2. Are you able to provide security compliance documentation (e.g., SOC 2 Type 2, NIST 800-*, ISO 27001, etc.) for your proposed solution?

   o Yes   o No

3. Does your proposed solution integrate with iLab for billing and service management?

   o Yes   o No

4. Does your proposed solution integrate with IRBIS for Institutional Review Board (IRB) protocol verification?

   o Yes   o No

5. Does your proposed solution support integration with OnCore?

   o Yes   o No

6. Does your proposed solution support integration with Veeva?

   o Yes   o No

7. Does your proposed solution support integration with Epic/EHR systems?

   o Yes   o No

8. Does your proposed solution support HL7 and/or FHIR interfaces for clinical data exchange?

   o Yes   o No

9. Does your proposed solution integrate with TRACS?

   o Yes   o No

10. Does your proposed solution support Single Sign-On (SSO) using industry-standard authentication protocols?

    o Yes   o No

11. Does your proposed solution provide configurable session timeout settings?

    o Yes   o No

12. Does your proposed solution support secure integrations using APIs, automated data exchange, and/or configurable import/export templates?

o Yes o No

13. Does your proposed solution provide unique sample identification and end-to-end sample tracking?

    o Yes o No

14. Does your proposed solution support barcode generation, barcode scanning, and label printing?

    o Yes o No

15. Does your proposed solution automatically generate unique sample identifiers while allowing authorized users to manually create sample identifiers when needed?

    o Yes o No

16. Does your proposed solution support configurable sample types and associated metadata?

    o Yes o No

17. Does your proposed solution maintain parent-child relationships between samples, including aliquots, derivatives, and pooled specimens?

    o Yes o No

18. Does your proposed solution track the complete lifecycle of each sample from collection through final disposition?

    o Yes o No

19. Does your proposed solution provide configurable storage hierarchy management (e.g., freezer, shelf, rack, box, position)?

    o Yes o No

20. Does your proposed solution support sample return to the repository while maintaining chain of custody and parent-child relationships?

    o Yes o No

21. Does your proposed solution support HIPAA-compliant environments where Protected Health Information (PHI) is present?

    o Yes o No

22. Does your proposed solution provide role-based access controls?

    o Yes o No

23. Does your proposed solution support project-, study-, and repository-specific access permissions?

    o Yes o No

24. Does your proposed solution maintain comprehensive audit trails for user access, data modifications, and system activities?

    o Yes   o No

25. Does your proposed solution support compliance with 21 CFR Part 11, where applicable?

    o Yes   o No

26. Does your proposed solution support laboratories operating under CAP accreditation requirements?

    o Yes   o No

NOTE: Copies of security compliance documentation will not be requested until later phases of the RFP process. **Do not submit compliance documentation with your offer.**

I attest that I have provided complete and correct information on this form to the best of my knowledge.

____
Vendor Name

________________________________ Signature	___________________________ Date
________________________________ Printed Name	___________________________ Title

[This attachment must be signed by an individual authorized to sign on behalf of the Vendor]