**AGREEMENT BETWEEN**

**\*\*\*\*\*\*\***

**AND**

**THE REGENTS OF THE UNIVERSITY OF COLORADO**

This agreement (“Agreement”) is made by and between \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (“\_\_\_\_\_\_\_\_\_” or “Contractor”) and The Regents of the University of Colorado, a body corporate, contracting on behalf of the University of Colorado [Campus] (“University”), together hereinafter “the Parties”.

RECITALS

WHEREAS, authority exists in the law and funds will be made available;

WHEREAS, required approval, clearance and coordination have been accomplished from and with appropriate agencies; and

WHEREAS, in [insert month and year of RFP award], Contractor was selected through a competitive sealed proposal process (RFP\_F-XX) in accordance with the University of Colorado Procurement Rules.

NOW THEREFORE, the Parties agree as follows:

1. DEFINITIONS AND INCORPORATION
   1. “RFP” means the University’s Request for Proposal RFP\_F-XXX and its written clarifications. The RFP is attached hereto as Exhibit 1 and incorporated herein by this reference.
   2. “Response” means the Contractor’s response to the RFP. The Response is attached hereto as Exhibit 2 and incorporated herein by this reference.
   3. “Statement of Work” means the Contractor’s statement of work for the RFP. The Statement of Work is attached hereto as Exhibit 3 and incorporated herein by this reference.
   4. “Pricing” means the Contractor’s pricing for this RFP. The Pricing is attached hereto as Exhibit 4 and incorporated herein by this reference.
   5. “Insurance” means the Contractor’s insurance for the University for this RFP. The Insurance is attached hereto as Exhibit 5 and incorporated herein by this reference.
2. CONTROLLING DOCUMENTS AND ORDER OF PRECEDENCE

University and Contractor acknowledge and agree that this Agreement resulted from University’s RFP awarded to Contractor following University’s review of Contractor’s Response. In the event of any conflict or inconsistency among the following documents, the following order of precedence will control the documents in the following order:

* + - 1. Amendments, revisions to the statements of work, or future statements of work
      2. This Agreement
      3. Exhibit 3 Statement of Work
      4. Exhibit 4 Pricing
      5. Exhibit 1 RFP
      6. Exhibit 2 Response
      7. Exhibit 5 Insurance

1. TERM AND TERMINATION.

The initial term of this Agreement (“Initial Term”) shall begin on the date of the last signature hereto and end on the \_\_\_\_\_ anniversary of that date. At prices mutually agreed to by the Parties, the University may annually extend the Agreement for up to \_\_\_\_\_\_\_ additional one-year terms (each a “Renewal Term”). The Initial Term and any Renewal Term(s) collectively shall be referenced as the “Term”. The University’s issuance or renewal of a purchase order at the agreed upon prices shall be sufficient evidence of a renewal and no written and signed amendment to the Agreement shall be required. The University may terminate this Agreement at any time without cause, upon written notice given thirty (30) days in advance. Authorized Products and Services (as defined below) performed for the University will be paid for through the termination date. Either party may terminate this Agreement for default as described in Section 14.

1. SCOPE OF WORK.

Contractor shall provide the products and services (the “Products and Services”) as set forth in the RFP and the Response with respect to the University’s \_\_\_\_\_\_\_\_\_\_\_ campus including, without limitation the Scope of Work attached hereto as Exhibit 3 and incorporated herein by reference (“Scope of Work”).

It is expressly understood that this Agreement does not grant Contractor an exclusive privilege to furnish to the University any or all of the types of Products and Services which are the subject of this Agreement that the University may require. The University reserves the right to contract with others for the purchase of products and services that are identical to the Products and Services which are the subject of this Agreement.

1. FEES AND PAYMENT TERMS.
   1. The fee for the Products and Services shall be $\_\_\_\_\_\_\_\_\_\_ ***OR*** (as described in Exhibit 4 attached hereto and incorporated herein by reference). The University Fees shall be invoiced monthly.
   2. The pricing described above shall not increase during the Initial Term. Requests for price adjustments must be made by Contractor not more than once per contract year in writing and received by the University’s Procurement Service Center no later than ninety (90) calendar days prior to the end of the then current contract year. The request must include an analysis and justification for the proposed price adjustment. The University reserves the right to accept, reject or negotiate the adjustment.
   3. The University is a tax-exempt institution of higher education of the State of Colorado and, as such, is exempt from federal excise and all state and local taxes. Such taxes shall not be included in Agreement prices. The University’s tax exemption certificates can be found at the following website: <https://www.cu.edu/psc/policies/tax-exempt-certificates>.
   4. Payment terms are Net 30 following receipt of invoice. Any interest charged for delinquent payments shall not exceed the lesser of 1.0% per month or the maximum amount permitted by law. The University shall not be responsible for any costs, including attorneys’ fees, incurred by Contractor or any subcontractor to collect any payments due under this Agreement.

1. POTENTIAL COMPLIANCE REQUIREMENTS – TBD UNIVERSITY COMPLIANCE ASSESSMENT
2. ADA COMPLIANCE. University affords equal opportunity to individuals in its employment, services, programs and activities in accordance with federal and state laws. This includes effective communication and access to electronic and information communication technology resources for individuals with disabilities. Contractor shall: (1) deliver all applicable services and products in reasonable compliance with applicable University standards (for example, Web Content Accessibility Guidelines 2.0, Level AA or Section 508 Standards for Electronic and Information Technology as applicable); (2) upon request, provide University with its accessibility testing results and written documentation verifying accessibility; (3) promptly respond to and resolve accessibility complaints; and (4) indemnify and hold University harmless in the event of claims arising from inaccessibility.
3. FERPA. Student education records are subject to the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. 1232g, et seq. and the regulations promulgated thereunder. Such information is considered confidential and is therefore protected. To the extent that Contractor has access to “education records” under this contract, Contractor acknowledges it will be considered a “school official,” as each of these terms are defined under FERPA, and agrees it will comply with the requirements in FERPA concerning the confidentiality and release of education records. In compliance with FERPA, Contractor agrees that it shall not use education records for any purpose other than in the performance of this Agreement.
4. IT SECURITY
5. Compliance with Law – Contractor agrees to comply with all applicable state, federal and international laws, as well as industry best practices, governing the collection, access, use, disclosure, safeguarding and destruction of University data.
6. Ownership of Data – All data and/or content collected, created or prepared by University and provided to Contractor in the performance of its obligations under the Agreement shall be the exclusive property of University. Contractor shall not use, willingly allow or cause to have such data used for any purpose other than the performance of its obligations under the Agreement without the prior written consent of University. This provision shall survive the termination of this Agreement.
7. Non-Disclosure/Confidentiality of Data – Neither party shall disclose any confidential data of the other party. It is understood that University is a public institution, and, as such, is subject to the Colorado Public Records Act, C.R.S. §§ 24-72-201 et seq., and University’s obligations under the Colorado Public Records Act supersede its obligations under this Agreement. Contractor further acknowledges University data may be subject to protections under other federal and state laws and regulations and shall handle any such information in accordance with applicable law.
8. Basic Security Provisions – Contractor attests that it has implemented administrative, physical and technical safeguards for its data security that at a minimum meet industry best practices. Contractor shall ensure that all such safeguards, including the manner in which data is collected, accessed, used, stored, processed, disposed of and disclosed, comply with applicable data protection and privacy laws, as well as the terms and conditions of this Agreement.
9. Notification of Breach – Contractor will report to University any confirmed or suspected data security breach that could result in the unauthorized access, use, or disclosure of University Information immediately upon discovery, but in no event more than three (3) business days after Contractor reasonably believes a security breach has or may have occurred. Contractor’s report will identify: (i) the nature of the unauthorized access, use or disclosure, ii) the data accessed, used or disclosed, (iii) the person(s) who accessed, used, disclosed and/or received the data (if known), (iv) what Contractor has done or will do to mitigate any deleterious effect of the unauthorized access, use or disclosure, and (v) what corrective action Contractor has taken or will take to prevent future unauthorized access, use or disclosure. Contractor will provide such other information, including a written report, as reasonably requested by University. In the event of a suspected data security breach, Contractor will keep CU informed regularly of the progress of its investigation until the uncertainty is resolved.
10. Liability for Breach – Contractor agrees all costs, including but not limited to engagement of forensic investigators, related to the unauthorized access, use, or disclosure of University data shall be the liability of Contractor. Contractor agrees to comply with all applicable breach notification laws and assume responsibility for the notification of individuals on behalf of both University and Contractor and agrees all notification shall be the liability of Contractor. Contractor further agrees to indemnify, defend, and hold harmless University, its employees and agents, against any and all claims, damages, liability and court awards including costs, expenses, and attorney fees and related expenses incurred due to the unauthorized access, use, or disclosure of University data.
11. Breach as Grounds for Termination – Any data security breach that results in the unauthorized access, use or disclosure of University Information is a material breach of this Agreement and University may immediately terminate this Agreement by giving written notice to Contractor. If University terminates this Agreement due to a data security breach by Contractor, University shall be entitled to a refund of any monies paid in advance prorated to the effective date of termination. The parties agree that any breach of the confidentiality obligation set forth in the contract may, at University’s discretion, result in cancellation of further consideration for contract award and the eligibility for Contractor to receive any information from University.
12. Return and Destruction of Data upon Termination of Agreement – Contractor will notify University of impending cessation of its business or that of a tiered provider. Within 30 days of the termination, cancellation, expiration or other conclusion of this contract, Contractor will return any University data to University unless University requests in writing that such data be destroyed. This provision will also apply to all University data that is in the possession of subcontractors or subcontractors of Contractor. Contractor will certify in writing to University that such return or destruction has been completed. Furthermore, Contractor shall provide verified confirmation of the disposal of any and all data and information received from University. Disposal must be performed in a University-approved manner that maintains the confidentiality of the contents of such records (e.g. shredding paper records, erasing and reformatting hard drives, erasing and/or physically destroying any portable electronic devices). This provision will also apply to all University data that is in the possession of subcontractors or subcontractors of Contractor.
13. Response to Legal Requests for Data – If University receives a subpoena, warrant, or other legal order, demand or request seeking University data maintained by Contractor, University will promptly provide a copy to Contractor. Contractor will promptly supply University with copies of data required for University to respond, and will cooperate with University’s reasonable requests in connection with its response.

Except as otherwise expressly prohibited by law, Contractor will:

1. immediately notify University of any subpoenas, warrants, or other legal orders, demands or requests received by Contractor seeking University data;
2. consult with University regarding its response;
3. cooperate with University’s reasonable requests in connection with efforts by University to intervene and quash or modify the legal order, demand or request; and
4. upon University’s request, provide University with a copy of its response.
5. Subcontractors – Contractor shall use commercially reasonable efforts to notify all of its foreseeable agents, employees, subcontractors and assigns who will come into contact with University information that they shall comply with, and are subject to the confidentiality requirements set forth in the Agreement and shall provide each with a written explanation of the requirements for confidentiality before they are permitted to access University information.
6. Geographic Location of Data – Contractor’s storage of University information outside the United States is prohibited without prior written consent from University.
7. Right to Audit – Contractor grants permission to University to perform an assessment, audit, examination or review of all controls in Contractor’s physical and/or technical environment in relation to all data being handled and/or services being provided to University pursuant to this Agreement. Contractor shall fully cooperate with such assessment by providing access to knowledgeable personnel, physical premises, documentation, infrastructure and application software that processes, stores or transmits data pursuant to this Agreement. University may require, at University expense, Contractor to perform additional audits and tests, the results of which will be provided to University. Contractor will promptly modify its security measures as needed based on those results in order to meet its obligations under this Agreement.
8. Periodic Security Assessments – Contractor will ensure that security measures are regularly reviewed and revised to address evolving threats and vulnerabilities while Contractor has responsibility for University information under the terms of this Agreement. Prior to the effective date of this Agreement, and periodically thereafter (no more frequently than annually) at University’s request, Contractor will provide assurance, in the form of a third-party audit report or other documentation acceptable to University, such as SSAE-16 SOC2 Type II, demonstrating that appropriate information security safeguards and controls are in place.
9. PCI-DSS.
10. Contractor agrees to handle data and other information generated from financial transactions involving University community ("Data") according to Payment Card Industry Data Security Standards (“PCI DSS”). Contractor acknowledges it is responsible for the security of cardholder data it possess or otherwise stores, processes, or transmits on behalf of University, or to the extent that Contractor could impact the security of University’s Data environment.
11. Contractor certifies that it is PCI DSS compliant for all the services that are covered in this Agreement. As evidence of compliance, Contractor will provide, on or before the Effective Date, a current copy of one of the following: (i) Report on Compliance completed by an Internal Security Assessor or by an external Qualified Security Assessor, (ii) Attestation of Compliance or (iii) Self-Assessment Questionnaire and Attestation of Compliance. Additionally, Contractor will provide evidence of compliance within ten (10) days after each anniversary of the Effective Date during the Term of this Agreement.
12. If at any time during the Term of this Agreement, Contractor has any change in its PCI DSS certification or compliance status and/or other material payment card industry standards, it will promptly notify University. Contractor will immediately provide University with the steps being taken to remediate the non-compliant status.
13. Failure to maintain PCI DSS compliance shall be a breach of this Agreement and University may, at its sole discretion, terminate this Agreement if Contractor does not become PCI DSS compliant within thirty (30) days. Any prepaid amounts to Contractor shall be refunded to University on a pro-rata basis.
14. All service providers that Contractor uses to perform services under the Agreement shall be PCI DSS compliant. Contractor further agrees to exercise reasonable due diligence to ensure that all of its service providers, agents, business partners, contractors, subcontractors and any person or entity that may have access to Data under this Agreement maintain PCI DSS compliance and comply in full with the PCI DSS Compliance terms and conditions.
15. In addition to PCI DSS compliance, Contractor shall comply with all other applicable payment card-related rules and requirements, including the security rules and requirements of acquiring banks, and the applicable payment card brands.
16. Contractor will give immediate notice to University of any actual or suspected unauthorized disclosure of, access to, or other breach (collectively “Breach”) of Data. Contractor will cooperate with representatives or agents of University and/or payment card industry in conducting a thorough security review of Contractor’s operations, systems, records, procedures, rules and practices. Contractor will not alter or destroy any Breach-related records and will maintain complete and accurate record documentation. Contractor agrees all costs, including but not limited to engagement of forensic investigators, related to Breach of Data entrusted to Contractor shall be the liability of Contractor. Contractor agrees to comply with all applicable breach notification laws and assume responsibility for the notification of individuals. Contractor agrees all notification costs related to Breach of Data entrusted to Contractor shall be the liability of Contractor. Contractor agrees to indemnify, defend, and hold harmless University, its employees and agents, against any and all claims, damages, liability and court awards including costs, expenses, and attorney fees and related expenses incurred due to a Breach.
17. In addition to the breach-related indemnification provision, Contractor agrees to indemnify, defend, and hold harmless University, its employees and agents, against any and all claims, damages, liability and court awards including costs, expenses, and attorney fees and related expenses, arising out of Contractor’s failure to comply with the representations and warranties in this Agreement.
18. Contractor has no property interest in any Data it receives from or stores on behalf of University.
19. Contractor shall continue to safeguard Data in the event this Agreement terminates or expires.
20. CAN-SPAM Act. The Controlling the Assault of Non-Solicited Pornography and Marketing Act (15 U.S.C. § 7701-13) (“CAN-SPAM Act”) regulates the transmission of all commercial e-mail messages. To the extent that Contractor designs or initiates e-mail messages, Contractor agrees to make every reasonable effort to comply with the requirements of the CAN-SPAM Act.
21. EXPORT CONTROL.

For System: Contractor shall not disclose to University any information nor provide University with any software, material or products that are export-controlled under the International Traffic in Arms Regulations (collectively “Material”). Additionally, upon request from University, Contractor shall promptly inform University (via quote, invoice or agreement addenda) which category, if any, of the Commerce Control List (including any and all relevant subsections) apply to any Material provided hereunder. Both parties agree to comply with all laws, regulations, orders and other restrictions of the US export regulations applicable to such Material.

1. ADDITIONAL PROVISIONS.

University shall not be subject to any provisions, howsoever incorporated (“Additional Provisions”), that: (1) disclaim warranties and liabilities beyond that expressed in the Agreement; (2) provide for a University representation or warranty beyond that expressed in the Agreement; (3) require University to (i) indemnify, defend and/or hold Contractor or any third party harmless; (ii) submit to venue and jurisdiction outside the State of Colorado; (iii) submit to alternative dispute resolution mechanisms; (iv) pay court costs and/or expenses related to the collection of overdue accounts; or (v) pay attorneys’ fees of Contractor or any third party; (4) require the Agreement or any Additional Provisions to be interpreted according the laws of any state other than Colorado; or (5) waive any governmental immunities to which the University is subject including, without limitation, immunities provided by the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, et seq., as amended, and the Eleventh Amendment to the United States Constitution. The foregoing shall apply whether the Additional Provisions are incorporated by referenced exhibit, attachment, order form, click-through terms, license terms, third party terms, online agreements, mere viewing or use of products/services/software or otherwise.

1. TRAVEL EXPENSES.

University shall only reimburse Contractor for actual pre-approved travel expenses. Reimbursable travel expenses shall be limited to the following: actual mileage (calculated using the State of Colorado rate applicable at the time of travel found here: [https://osc.colorado.gov/financial-operations/fiscal-rules-procedures/mileage-reimbursement-rate](https://nam02.safelinks.protection.outlook.com/?url=https%3A%2F%2Fosc.colorado.gov%2Ffinancial-operations%2Ffiscal-rules-procedures%2Fmileage-reimbursement-rate&data=05%7C02%7CKimberly.Lawler%40cu.edu%7Caadb1dbed798404e0b9a08dcef86955e%7Ce889e28f74d447f287e853732cbbe7ec%7C0%7C0%7C638648608550873478%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C0%7C%7C%7C&sdata=G7prv3dquf8tPJKNlSgqf5RAmq1JrXx6ks%2BUV%2FpKCwc%3D&reserved=0)), coach airfare (with discounted advance bookings made whenever possible), reasonably priced hotel/motel accommodations, economy class car rentals and eligible meals and incidental expenses. Eligible meal expenses shall include tips and incidental expenses shall include expenses for personal telephone calls and tips for bellhops, porters and maids. Expenses for meals and incidentals shall be determined by destination and shall be made at a rate not to exceed per diem amounts found at <https://www.gsa.gov/travel/plan-book/per-diem-rates>.

1. REPRESENTATIONS.

The Contractor represents that:

* 1. It is qualified to provide the Products and render the Services described herein, that its Products and Services will be provided in a timely and professional manner in accordance with applicable professional standards, and that any individual associated with the Contractor for the purpose of performing this Contract is likewise qualified.
  2. It has no conflict of interest involving its provision of Products and Services for the University as described herein.

1. NOTICE.

All notices, requests, demands, and other communications under this Agreement shall be in writing and shall be deemed to be given if hand delivered, faxed, emailed or mailed by certified mail, return receipt requested.

Unless hereinafter changed by written notice to Contractor, any notice to the University shall be delivered, faxed, emailed or mailed to the University at:

Name:

Department:

University of Colorado [Campus]

Address:

Email:

Unless hereinafter changed by written notice to the University, any notice to Contractor shall be delivered, faxed, emailed or mailed to Contractor at:

Name:

Address:

Email:

All notices delivered by hand shall be effective upon delivery and all notices mailed by certified mail, return receipt requested, or faxed or emailed shall be effective when received, as indicated on the return receipt or facsimile transmittal.

1. OWNERSHIP OF DOCUMENTS.

Any reports, studies, or other documents prepared by the Contractor in the performance of its obligations under the Agreement shall be the exclusive property of the University and all such documents shall be delivered to the University by the Contractor upon the University's request. The Contractor shall not use, willingly allow or cause to have such documents used for any purpose other than the performance of the Contractor's obligations under the Agreement without the prior written consent of the University.

1. CONFIDENTIALITY.

During the course of work pursuant to this Agreement, the Contractor may come in contact with University information of a sensitive nature, including but not limited to, information from University personnel records and information concerning the University’s operations or strategic or tactical plans. Contractor shall not disclose such information, or any information that could directly or indirectly affect the University or its employees, except as authorized by the University’s representative.

It is understood that the University is a public institution, and, as such, is subject to the Colorado Open Records Act, C.R.S. §§ 24-72-101 et seq. (“CORA”). The University's obligations under CORA supersede its obligations under this Agreement. In particular, the Agreement itself, including price terms, may be disclosed under CORA.

1. INSURANCE.

The Contractor shall maintain insurance as shown in Exhibit 5, attached hereto and incorporated herein by this reference. For any claims for which Contractor is liable hereunder, University shall be entitled to recover up to the full limits of liability provided by Contractor’s insurance.

1. REMEDIES.

In addition to any other remedies provided for in this Agreement, and without limiting its remedies otherwise available at law, the University may exercise the following remedial actions if the Contractor substantially fails to satisfy or perform the duties and obligations in this Agreement. Substantial failure to satisfy the duties and obligations shall be defined to mean significant insufficient, incorrect or improper performance, activities, or inaction by Contractor.

These remedial actions are as follows:

* 1. Suspend Contractor’s performance pending necessary corrective action as specified by the University without Contractor’s entitlement to adjustment in price/cost or schedule; and/or
  2. Withhold payment to Contractor until the necessary Products and Services or corrections in performance are satisfactorily completed; and/or
  3. Request the removal from work on the Agreement of employees or agents of Contractor whom the University justifies as being incompetent, careless, insubordinate, unsuitable, or otherwise unacceptable, or whose continued employment on the Agreement the University deems to be contrary to the public interest or not in the best interest of the University; and/or
  4. Deny payment for those Products and Services or obligations which have not been performed and which due to circumstances caused by Contractor cannot be performed, or if performed would be of no value to the University. Denial of the amount of payment must be reasonably related to the value of work or performance lost to the University.

The above remedies are cumulative and the University, in its sole discretion, may exercise any or all of them individually or simultaneously.

1. DEFAULT AND TERMINATION.

Either party may terminate this Agreement upon an event of default by giving written notice to the defaulting party. If the University should terminate the Agreement due to default by the Contractor, the University shall be entitled to a refund of any monies paid in advance prorated to the effective date of termination.

An event of default is:

* + 1. A proceeding in receivership, liquidation or insolvency commenced against a party or its property, and the same be not dismissed within thirty (30) days; or
    2. A party making any assignment for the benefit of its creditors, becoming insolvent, ceasing to do business as a going concern, or seeking any arrangement or compromise with its creditors under any statute or otherwise; or
    3. Failure by either party to comply with any material obligation under this Agreement, which non-compliance remains uncured for more than thirty (30) days after receipt of written notice thereof, provided however, that if the nature of the failure is such that it cannot reasonably be cured within such thirty (30) day period, the cure period shall extend so long as the non-complying party begins to take action to substantially cure the failure within such thirty (30) day period and thereafter prosecutes such cure to completion with due diligence and in good faith; provided, however, if in the good faith determination of the non-defaulting party, any extension would materially and adversely affect the non-defaulting party, the non-defaulting party shall be entitled to terminate this Agreement at any point upon or after the tolling of the initial 30-day cure period.

Except as otherwise specifically stated herein, remedies, as set forth herein, shall be cumulative and there shall be no obligation to exercise a particular remedy.

1. INDEMNIFICATION.

Contractor shall indemnify, save, and hold harmless the University, its employees and agents, against any and all claims, damages, liability and court awards including costs, expenses, and attorney fees incurred as a result of bodily injury or death or damage to tangible property arising from any negligent or willful act or omission by the Contractor, or its employees, agents, subcontractors or assignees while present on the University’s property to perform under this Agreement.

1. FORCE MAJEURE.

Neither party shall be considered to be in default as a result of its delay or failure to perform its obligations herein when such delay or failure arises out of causes beyond the reasonable control of the party. Such causes may include, but are not restricted to, acts of God or the public enemy, acts of the state or the United States in either its sovereign or contractual capacity, fires, floods, epidemics, strikes, and unusually severe weather; but, in every case, delay or failure to perform must be beyond the reasonable control of and without the fault or negligence of the party.

1. WAIVER.

No term or provision hereof shall be deemed waived and no breach excused unless such waiver or consent to breach is in writing.

1. PARTIAL INVALIDITY.

Should any part of this Agreement, for any reason, be declared invalid by a court of competent jurisdiction, the remaining portion shall remain in full force and effect as if this Agreement had been executed without the invalid portion. If a court finds that any provision of this Agreement is invalid or unenforceable, but that by limiting such provision it would become valid and enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.

1. GOVERNING LAW.

The laws of the State of Colorado and rules and regulations issued pursuant thereto shall be applied in the interpretation, execution, and enforcement of this Contract. Venue and jurisdiction shall be the state and federal courts of the County of Denver, Colorado.

1. SUCCESSORS.

This Agreement shall be binding upon and shall inure to the benefit of all assigns, transferees and successors in interest of the Parties hereto.

1. HEADINGS.

Headings herein are for reference only and shall not be considered a substantive part of the Agreement.

1. SUBCONTRACTING.

The Contractor may not subcontract any of the Products and Services described in this Agreement unless approved beforehand in writing by the University.

1. MODIFICATIONS.

No amendment to this Agreement shall be effective unless in writing and signed by the duly authorized representatives of both Parties.

1. ENTIRE AGREEMENT.

The terms and provisions of this Agreement, its attachments, exhibits and amendments, represent the entire understanding of the Parties with respect to the subject matter of this Agreement. No representations or warranties are made by Contractor or the University except as herein set forth.

1. ASSIGNMENT.

Neither party shall assign any obligation hereunder or assign any interest or right herein without the prior written consent of the other party.

1. SPECIAL PROVISIONS.

This Agreement shall include the Special Provisions which are required pursuant to the University of Colorado Fiscal Procedures. The Special Provisions shall always control over other parts of the Agreement. The Special Provisions are set forth below. All references to "Contractor" shall be deemed to apply to \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

**SPECIAL PROVISIONS**

1. **CONTROLLER'S APPROVAL**. This contract shall not be valid until it has been approved by the University Controller or designee.

2. **FUND AVAILABILITY**. Financial obligations of the University payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available.

3. **GOVERNMENTAL IMMUNITY**. No term or condition of this contract shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions, of the Colorado Governmental Immunity Act, CRS §24-10-101 et seq., or the Federal Tort Claims Act, 28 U.S.C. §§1346(b) and 2671 et seq., as applicable now or hereafter amended.

4. **INDEPENDENT CONTRACTOR**. Contractor shall perform its duties hereunder as an independent contractor and not as an employee. Neither Contractor nor any agent or employee of Contractor shall be deemed to be an agent or employee of the University. Contractor and its employees and agents are not entitled to unemployment insurance or workers compensation benefits through the University and the University shall not pay for or otherwise provide such coverage for Contractor or any of its agents or employees. Unemployment insurance benefits will be available to Contractor and its employees and agents only if such coverage is made available by Contractor or a third party. Contractor shall pay when due all applicable employment taxes and income taxes and local head taxes incurred pursuant to this contract. Contractor shall not have authorization, express or implied, to bind the University to any agreement, liability or understanding, except as expressly set forth herein. Contractor shall **(a)** provide and keep in force workers' compensation and unemployment compensation insurance in the amounts required by law, **(b)** provide proof thereof when requested by the University, and **(c)** be solely responsible for its acts and those of its employees and agents.

5. **COMPLIANCE WITH LAW**. Contractor shall strictly comply with all applicable federal and state laws, University policies, rules, and regulations in effect or hereafter established, including, without limitation, laws applicable to discrimination and unfair employment practices.

6. **CHOICE OF LAW**. Colorado law, and rules and regulations issued pursuant thereto, shall be applied in the interpretation, execution, and enforcement of this contract. Any provision included or incorporated herein by reference which conflicts with said laws, rules, and regulations shall be null and void. Any provision incorporated herein by reference which purports to negate this or any other Special Provision in whole or in part shall not be valid or enforceable or available in any action at law, whether by way of complaint, defense, or otherwise. Any provision rendered null and void by the operation of this provision shall not invalidate the remainder of this contract, to the extent capable of execution.

7. **BINDING ARBITRATION PROHIBITED.** The University of Colorado does not agree to binding arbitration by any extra-judicial body or person. Any provision to the contrary in this contact or incorporated herein by reference shall be null and void.

8. **EMPLOYEE FINANCIAL INTEREST/CONFLICT OF INTEREST**. **CRS §§24-18-201 and 24-50-507**. The signatories aver that to their knowledge, no employee of the University has any personal or beneficial interest whatsoever in the service or property described in this contract. Contractor has no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of Contractor’s Products and Services and Contractor shall not employ any person having such known interests.

**Effective June 13, 2023**

***SIGNATURE PAGE FOLLOWS/ REST OF PAGE INTENTIONLLY BLANK***

**CONTRACT SIGNATURE PAGE**

**THE PARTIES HERETO HAVE EXECUTED THIS CONTRACT**

**Persons signing for Contractor hereby swear and affirm that they are authorized to act on Contractor’s behalf and acknowledge that the University is relying on their representations to that effect.**

|  |  |
| --- | --- |
| **THE REGENTS OF THE UNIVERSITY OF COLORADO, a body corporate** | **CONTRACTOR** |
| By \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | By \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Printed Name | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Printed Name |
| \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Title | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Title |
| \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Date | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Date |