

**BUSINESS CENTER SOUTH  
THE NEVADA SYSTEM OF HIGHER EDUCATION (“NSHE”), ON BEHALF OF THE  
UNIVERSITY OF NEVADA, LAS VEGAS (“UNLV”)**

**REQUEST FOR PROPOSAL 604-LN  
FOR ONLINE TUTORING SERVICES**

**RELEASE DATE:** Saturday, June 7, 2014

**LAST DAY FOR QUESTIONS:** Tuesday, June 17, 2014 at 5:00PM Local Time

**LAST DAY FOR ADDENDA :** Tuesday, June 24, 2014 at 5:00PM Local Time

**OPENING DATE, TIME and LOCATION:** Tuesday, July 1, 2014 at 3:00PM Local Time

**SUBMITTAL LOCATION:** University of Nevada, Las Vegas  
4505 Maryland Parkway  
**Campus Services Building, Room 235**  
Las Vegas, NV 89154-1033

Sealed proposals, one (1) original hardcopy and one (1) electronic copy on CD or flash drive; and only one (1) hardcopy of the Pricing Response Form (defined below) is required, subject to the terms, conditions, and scope of services herein stipulated and/or described herein, will be publicly opened as stated above (“Proposal(s)”). **All Proposals must be received on or before this date and time to be considered.** Proposals may be mailed or hand delivered to the address above. Please go to <http://maps.unlv.edu/> to view a map of UNLV campus.

If you should have any questions regarding this Request for Proposal, fax or e-mail your questions directly to the Purchasing Representative:

**Leslie Nilsen, Buyer**  
Email: [leslie.nilsen@unlv.edu](mailto:leslie.nilsen@unlv.edu)  
Phone: (702) 895-1893  
Fax: (702) 895-3859

**Companies wishing to do business with UNLV must first register as a supplier at the following website: <https://supplierregistration.purchasing.unlv.edu/>. If you need assistance or have questions please send your inquiries to [Supplier.Registration@unlv.edu](mailto:Supplier.Registration@unlv.edu).**

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EXHIBIT B: Minimum Contract Terms

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(Attached PDF)

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**SECTION A**  
**INTRODUCTION**

1. **PURPOSE OF REQUEST**

UNLV invites interested parties to submit a Proposal for a 24 hour/365 day access to a web based, online tutoring program with core subjects such as Mathematics, Accounting, Biology, Chemistry, Economics, Physics, Spanish and Writing.

2. **UNIVERSITY OF NEVADA, LAS VEGAS**

UNLV is located in the city of Las Vegas and is emerging as a premier urban university. UNLV currently has over 220 undergraduate, masters, and doctoral degree granting programs and serves approximately 28,000 students. Additionally, there are approximately 3,000 faculty and staff. The University's 340-acre campus is located in the southeast part of the City, near the McCarran International Airport and the Las Vegas Strip.

3. **TERMINOLOGY**

RFP	The term "RFP" as used throughout this document will mean Request for Proposal.
PROPOSER	"Proposer(s)" as used throughout this RFP document will mean the respondent(s) to this Request for Proposal or you, as applicable.
CONTRACTOR	Successful Proposer(s)
CONTRACT DOCUMENTS	The Request for Proposal documents, Proposer's Proposal and any mutually agreed upon written modifications
CONTRACT	"Contract" is the final agreement with the Contractor.
DIRECTOR	The term "Director" as used throughout this document will mean the University of Nevada, Las Vegas Director of Purchasing and Contracts.
REQUEST	Request for Proposal, RFP
RFP RESPONSE FORM	Proposer form submitted in Section F by an authorized representative for the Company named on said form, acknowledging that he/she/it has examined this RFP including any related documents, and hereby offers to furnish all labor, materials, tools, supplies, equipment and services necessary to comply with the specifications, terms and conditions set forth herein and at the prices (or royalty rates/Royalty Fee payments, as applicable) stated.
ROYALTY OR PRICING	

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RESPONSE FORM

GENERAL TERMS  
AND CONDITIONS

Proposer form submitted in Section E defining the royal percentage payments for Proposer (“Proposer Payment”) and the related royalty fee payments to UNLV (“UNLV Royalty Fee”).

By submitting a Proposal, you and all respondents (as applicable), acknowledge and agree with the terms and conditions upon which the Proposals will be evaluated, and the Contract awarded as set forth in Section C.

MINIMUM CONTRACT TERMS

Included in this RFP are certain standard minimum contract terms and conditions which shall be included in the final and more extensive Contract with the Contractor. All UNLV contracts are subject to existing contracts (and any replacement contracts thereof).

UNLV

University of Nevada, Las Vegas

NSHE

The Nevada System of Higher Education. NSHE is Nevada’s public higher education system. It is comprised of four community colleges, one state college, two universities and one research institute.

BOARD OF REGENTS

The elective body that has been vested by the Constitution of the State of Nevada to have exclusive control and administration of NSHE. The Board of Regents is the contracting party for any NSHE contract. The Board of Regents acts on behalf of UNLV.

COMPANY(IES)

“Company” shall mean the legal entity of the applicable Proposer, whether a sole proprietorship, corporation, LLC, Partnership, or other legal entity, and any person(s) acting on behalf of such entity.

**SECTION B**  
**SUBMISSION INSTRUCTIONS**

UNLV invites the submission of Proposals on the material and/or services specified within this RFP. Please read carefully all instructions, introduction, general terms and conditions, Purchase Order terms and conditions, scope of work and/or specifications, Pricing or Royalty Fee Response Form, RFP Response Form, sample insurance form, and Minimum Contract Terms, if applicable. Failure to comply with the instructions, terms and conditions, scope of work and/or specifications, of this RFP may result in your Proposal being declared non-responsive.

1. **PREPARATION AND SUBMISSION**

- a) The Proposer is expected to examine the entire RFP including any attachments. Failure to do so will be at the Proposer's risk.
- b) If it becomes necessary to revise any part of this RFP, a written addendum will be provided to all Proposers. UNLV is not bound by any oral representations, clarifications, or changes made in the written specifications by UNLV employees, unless such clarification or change is provided to proposers in written addendum form from the Purchasing Department. All addenda must be acknowledged on the **RFP Response Form**. Proposal may be considered non-responsive in the event Addenda are not acknowledged.
- c) The Proposal submitted should not exceed **thirty (30)** pages. Other attachments may be included with no guarantee of review.
- d) All Proposals shall be typed in a font no smaller than 10 points on 8 ½" x 11" paper bound with tabbed dividers labeled by section to correspond with the evaluation information requested.
- e) **If applicable, prices are to be submitted on the Pricing Response Form provided or true copies thereof** and must be manually signed by pen. If any erasures or changes appear on the form, each such correction must be initialed by the person signing the Proposal. Proposers shall include with their forms the necessary documents or attachments as required in this RFP document. **All figures must be written in ink or typewritten.** If there are discrepancies between unit prices quoted and extensions, the unit price will prevail.
- f) Proposals along with all required documents as described in this RFP must be sealed and submitted in an envelope with the response form and **MUST** indicate the name of the Proposer, RFP number, title as listed on the first page of the RFP, and date and time of opening on the outside of the envelope. **Telegraph, facsimile, email or telephone Proposals will not be considered. Pricing MUST be submitted in a separate sealed envelope.**
- g) The Proposer should submit the required number of responses as indicated on the first page of this RFP. The name of the Proposer's Company shall be indicated on the spine and/or cover of each binder submitted.
- h) No responsibility will attach to UNLV or any official, regent, or employee thereof, for the pre-opening of, post-opening of, or the failure to open, a Proposal not properly addressed and identified.
- i) Alterations, modifications or variations may not be considered unless authorized by this RFP or by an addendum.
- j) When not otherwise specified, Proposer must definitely state time of proposed delivery. Days must be calculated in consecutive calendar days.

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- k) All equipment or supplies shall be new, and of the manufacturer's current model unless specified herein.
- l) Any irregularities or lack of clarity in the RFP should be brought to the attention of the Purchasing Department, as soon as possible so an addendum may be furnished to all Proposers.

Any clarification of instructions, terms and conditions, insurance or offer preparation shall be made only by the official Purchasing Representative. Verbal clarifications will not be binding. Written clarifications will be by addenda and posted on the UNLV Website: <http://go.unlv.edu/purchasing/solicitations> and/or faxed to all prospective Proposers who received a copy of the RFP. Proposers who have registered with the Purchasing Department may be notified via fax as well.

- m) Altering any of this RFP may render the Proposal null and void.
- n) Companies submitting a Proposal in response to this RFP are certifying that it has had no contact with an employee or member NSHE/UNLV in any manner which would give that Company submitting such a Proposal, any advantage over any other Company submitting one. Employees and members of NSHE/UNLV shall not receive any compensation, in any manner or form, nor have any vested interest, directly or indirectly, of any kind or nature inconsistent with loyal service to the public. A violation of the above shall be just cause for rejection of that particular Proposal without further consideration.
- o) All Proposers, by signing the **RFP Response Form**, certify that they agree to the terms and conditions set forth in this RFP and attached Minimum Contract Terms (**including all insurance requirements**) unless otherwise stated.
- p) All Proposers, by signing the **RFP Response Form**, certify that they are an Equal Opportunity/Affirmative Action Employer, unless otherwise stated.
- q) Proposals, attachments and **RFP Response Form** shall be enclosed in sealed envelopes and submitted as instructed on page one of this RFP document.
- r) UNLV accepts no responsibility or liability for any costs incurred by a responding Company prior to the execution of the Contract.
- s) UNLV reserves the right to contract for less than all of the services identified herein.
- t) **Proposals are not to contain confidential/proprietary information.** UNLV is subject to the Nevada Public Records Law. Proposals must contain sufficient information to be evaluated without reference to any confidential or proprietary information. Any Proposal submitted that is marked "confidential" or "proprietary," or that contains materials so marked, may be returned to the Proposer and not be considered for award.

2. **EVALUATION OF PROPOSALS**

- a) At the date and time stated in this RFP, all Proposals will be opened publicly and the name of the respondents/Proposers will be recorded. To maintain confidentiality of all responses, no other information will be revealed at the opening or during the evaluation process.
- b) An evaluation committee shall evaluate Proposals based on the criteria listed below. UNLV reserves the right to create a "short list" of Companies to be interviewed. The Companies invited to interview will be evaluated again using the same criteria, but the second scoring will be based on

each respondent's/Proposer's presentation and discussion. At the conclusion of the evaluation, the committee will recommend the Company(ies) for award.

- c) A Contract will be awarded on the basis of which Proposal(s) UNLV deems best suited to fulfill the requirements of this RFP and meet UNLV's needs. UNLV also reserves the right not to make an award if it is deemed that no single Proposal fully meets the requirements of this RFP and/or meets the needs of UNLV.
- d) UNLV will be the sole judge as to the acceptability, for our purposes, of any and all Proposals.
- e) Any letters of recommendation that are submitted with the Proposal, but not specifically requested, will not be evaluated.
- f) Proposals will be evaluated according to the evaluation criteria stated below:

<b>Weighted Evaluation Criteria</b>	<b>Possible Points</b>
1. Experience, Reliability and Expertise	30
2. Operating Approach/Method of Performance	30
3. Pricing	40
<b>Total Possible Points</b>	<b>100</b>

### **1. Experience, Reliability and Expertise**

The Proposer should provide the following information about his/her company so that the University can evaluate the Proposer's stability and ability to support the commitments set forth in response to the RFP. UNLV, at its option, may require the Proposer to provide additional documentation to support and/or clarify the requested information. The Proposer's outline of the company's background should include:

- a. A brief narrative describing the history of your company (e.g., ownership of the company, past history, present status, future plans, etc.) and explain the added value that your organization provides and distinguishes it from all others. Include how long your company has been in business, volume of clients, number of employees and relevant services provided.
- b. In your proposal, please list the percentage of tutors with Doctorates, Master's and Bachelor's degrees.
- c. References: Please list at least five (5) clients that you have performed business with in the past year. For each reference, include the company's name, mailing address, email address, telephone number, contact name, and number of years as a customer. UNLV may contact referenced clients during the evaluation process. Please include universities comparable to UNLV in your listing of references if possible.
- d. Specify if the company has ever filed for bankruptcy, been in loan default, or if there are any pending liens, claims or lawsuits against the firm.

### **2. Operating Approach/Method of Performance**

- a. All interactive tutoring sessions, whether synchronous or asynchronous, are to be archived for future reference by the individual student for the duration of the semester. Proposals should indicate the following:

1. For synchronous tutoring, students should be able to check a schedule of times when tutors are available during the course of a day/evening/night and enter the site for immediate synchronous tutoring via the internet.
  2. Each session should have a mechanism or vehicle to allow for sequential display of problems and steps between the tutor and student to reach a solution. Each session should be able to be recalled at a later date during the semester by the student for use as a review.
  3. How students who are waiting for a synchronous session are informed of their wait period. In what actions, if any, can student participate while they are waiting?
  4. Does your system limit a synchronous session to a pre-determined time limit if there is a waiting list during high peak hours?
  5. How do you allocate students to a waiting list and advise them of approximate wait time (based upon pre-set time limits for all students during high peak hours)?
  6. How the student can access his/her previous tutoring session for study purposes?
  7. For asynchronous tutoring, the student should be able to submit a question(s) to the tutor site and expect a response and guidance within 24 hours. Please indicate in your proposal how a student may access his/her previous tutoring session for study purposes.
  8. Please indicate in your proposal the length of time tutoring sessions are archived after a semester is completed.
  9. Please indicate in your proposal how access is archived and available to archived tutoring sessions in the event of a dispute.
- b. Mathematics should include basic math, algebra, calculus, geometry, and trigonometry. In your proposal, list the type of collegiate mathematics in which your tutors have expertise.
- c. Proposer should offer a writing lab where student papers can be uploaded to tutors for critique. Please indicate in your proposal how you intend to accomplish this.
- d. Proposer should guarantee that service will be provided 24 hours a day, 7 days a week in math and writing. In your proposal, explain how this will be accomplished.
- e. Explain in your proposal how your technology provides human support synchronously, asynchronously and allows prescheduled sessions.
- f. Service Levels and reporting
1. Provider must indicate what the expected wait times will be for on-demand tutoring and the turn-around times for essay reviews.
  2. Provider must indicate the process for delivering reports on actual wait times and turn-around times.
- g. Student access to tutoring and hourly usage is an important element in controlling costs. Only authorized students shall have access and to set a predetermined ceiling on the amount of hours that each student has access to online tutoring per semester under this contract. Indicate in your proposal how access will be controlled and this ceiling per student will be achieved. Also, indicate if it is possible to set an auto warning. Also, provide a brief description on how the institution can grant additional hours to students requesting beyond their limit.
- h. Business Partners: Indicate products that are fully integrated with your solutions. Summarize the connectivity and interface requirements of each of those products.
- i. Web-based and standalone clients: If web-based and standalone end-user clients are both available, fully describe functionality that is not available in both versions of the client (i.e.



what works in the standalone client but is not available in the web-based client, and vice versa?)

- j. **Billing Methods:** Describe in detail your billing methodology. UNLV is exempt from payment of certain taxes; it is expected that invoices will not include taxes for which an exemption applies. A tax exemption certificate can be provided upon request.
- k. **Support:** Proposal must indicate a description of the on-going support program provided. Please describe levels and hours of support available.

### **3. Pricing**

Complete Section F Pricing Response Form – This Form must be submitted in a separate sealed envelope with the proposal to be considered responsive.

### **3. LATE PROPOSALS**

Formal, advertised Request for Proposals indicate a time by which the Proposals must be received in the Purchasing Department. Any Proposals received after that date and time will be rejected and not be considered or will be returned unopened upon request by, and at the expense of the Proposer. Proposer is responsible for ensuring third party deliveries arrive at the time and place as indicated in this RFP document.

### **4. PUBLIC OPENING OF RFP's**

At the date and time stated in this RFP, all Proposals will be opened publicly and the name of the respondents/Proposers will be recorded. To maintain confidentiality of all responses, no other information will be revealed at the opening or during the evaluation process. Proposers, their authorized agents and other interested parties are invited to be present.

### **5. WITHDRAWAL OF PROPOSAL**

Any Proposer may request withdrawal of a posted, sealed RFP prior to the scheduled opening time provided the request for withdrawal is submitted to the Purchasing Department in writing, or presents themselves in person with proper identification to the Purchasing Department and verbally requests the Proposal be withdrawn and signs for its receipt.

**SECTION C**  
**GENERAL TERMS AND CONDITIONS**

1. **ACCEPTANCE PERIOD**

The Proposer agrees to a minimum of 120 calendar day acceptance period from the date of public opening.

2. **APPROPRIATIONS**

The terms of any Contract issued are contingent upon sufficient appropriations and authorizations being made by UNLV for the performance of the Contract. If sufficient appropriations and authorizations are not made by UNLV, the Contract shall terminate, without penalty, upon written notice being given by UNLV to Proposer. UNLV's decision as to whether sufficient appropriations are available shall be accepted by Proposer and shall be final.

3. **AWARD OF CONTRACT**

- a) Award will be made to the most responsible and responsive Proposer(s). The basis of award will be determined by evaluation of items as listed in section titled "**Evaluation of Proposals**" and any other established purchasing methods that are applicable, which may include life cycle cost, quality, availability, conformance to specifications, financial capability and service, all in the best interests of the requesting department and UNLV.
- b) UNLV reserves the right to award on a multi-year basis and, if in the best interest of UNLV, to award to multiple vendors.
- c) The initial term of the Contract will be one (1) year ("Initial Term" or "Term"). Upon mutual agreement of both parties, the Contract may be extended for an additional four (4) one (1) year renewals terms ("Renewal Term(s)" or "Term(s)").
- d) The Proposer is solely responsible for the content of its Proposal and ensuring that it best meets the evaluation criteria set forth in this RFP. Previously published data in support of experience, financial or performance capability will be evaluated if such data reflects a current position and such data is submitted as a part of the response to this RFP.
- e) UNLV reserves the right to reject any or all Proposals or any part(s) thereof and to waive informalities and minor irregularities in the Proposals received.
- f) A formal, more extensive Contract will be signed by and between the successful Proposer(s)/Contractor(s) and UNLV to perform this service.
- g) The terms and conditions contained in the attached Minimum Contract Terms or, in the sole discretion of UNLV, terms and conditions substantially similar to those contained in the Minimum Contract Terms, will be included in a more extensive and detailed Contract that results from this RFP. If Proposer takes exception to the Minimum Contract Terms (**including the insurance requirements**), or any general terms or conditions set forth herein, Proposer will submit a specific list of the exceptions as part of its response to this RFP. Proposer's exceptions will be reviewed by UNLV and may result in disqualification of Proposer's offer as non-responsive to this RFP. If Proposer's exceptions do not result in disqualification of Proposer's response, then UNLV may consider Proposer's exceptions when UNLV evaluates the Proposer's response.
- h) UNLV and its Purchasing Department reserve the right to enter into discussions with anyone, or all of the Proposers after Proposals have been initially reviewed by UNLV. Such discussions may be for clarification of Proposal content contained in a responsive Proposal and/or may result in request

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for a "Best and Final" offer from Proposer(s). Such responses shall be subject to all provisions, terms and conditions as set forth in the RFP, unless otherwise modified.

- i) Any governmental, state, or public entity within the State of Nevada may utilize this RFP at their option to obtain goods or services at the agreed upon price(s) throughout the term of the resulting Contract with the authorization of the successful Proposer(s). UNLV is not liable for the obligations of the governmental entity which joins or uses the resulting contract.

4. **COMPLIANCE**

Proposers are required to comply with all applicable OSHA, EPA, ADA, HIPAA, FERPA, NCAA, GLBA provisions and any and all other relevant state and federal standards, codes and regulations that may apply.

5. **CONFIDENTIAL TREATMENT OF INFORMATION**

Proposers shall preserve in strict confidence any information obtained, assembled or prepared in connection with the performance of this RFP.

6. **CONFLICT OF INTEREST**

Companies submitting a Proposal in response to this RFP are certifying that it has had no contact with an employee or member of the NSHE/UNLV in any manner which would give that Company submitting such a Proposal, any advantage over any other Company submitting one. Employees and members of the NSHE/UNLV shall not receive any compensation, in any manner or form, nor have any vested interest, directly or indirectly, of any kind or nature inconsistent with loyal service to the public. A violation of any of the above shall be just cause for rejection of that particular Proposal without further consideration.

7. **DEFAULT OF CONTRACT**

In case of default of the Contract by Contractor, UNLV may procure the articles or services from the other sources and hold the Contractor responsible for any excess cost occasioned thereby; provided, that if public necessity requires the use of materials or supplies not conforming to the specifications they may be accepted and payment therefore shall be made at the proper reduction in price or increase in Royalty Fee payment, as applicable.

8. **DISQUALIFICATION OF PROPOSERS**

Proposers may be disqualified and rejection of Proposals may be recommended by the Purchasing Department for any of (but not limited to) the following causes:

- a) Failure to use the forms furnished by UNLV.
- b) Lack of signature by an authorized representative on the RFP Response Form or to comply with any applicable reporting requirements.
- c) Failure to properly provide a full response in the RFP Response Form, Pricing Response Form or Royalty Response Form, as applicable.
- d) Evidence of collusion among Proposers.
- e) Unauthorized alteration of forms.
- f) Failure to submit requested documents.

- g) Failure to furnish proof of receipt of any addendum pertaining to a particular project.
- h) Any Proposer who has defaulted on prior contracts or is guilty of misrepresentation by any member of that particular Company.
- i) UNLV reserves the right to waive any minor informality or irregularity.

9. **FAILURE TO FURNISH AT SPECIFIED (PRICE/ROYALTY RATE- INSERT AS APPLICABLE)**

If a successful Proposer fails to furnish any item at the price specified in this RFP, whether such failure is due to a mistake of fact by the Proposer or any other reason, the Director of Purchasing UNLV, may cause the name of such Proposer to be removed from the list containing the names of prospective Proposers to whom Request for Proposals are mailed, for such period of time, not exceeding 1 year or less than 6 months, or the payment of a penalty of five percent (5%) of total price of all items on which was submitted (or an additional payment of five percent (5%) of the total Royalty Rate owed to UNLV, as applicable), as the Director of Purchasing may determine.

10. **FREIGHT TERMS**

- a) Successful Proposer must ship goods using UNLV FED EX account number. Prices submitted must not include freight.
- b) Any Proposal submitted with alternate shipping terms other than as stated above may be cause for disqualification of the Proposal.

11. **INSPECTION AND ACCEPTANCE**

Inspection and acceptance will be made at destination.

12. **PAYMENT TERMS**

Payments shall be made within thirty (30) days of acceptance of the related invoice, unless otherwise stated. Should the acceptance of such invoices be in doubt, the successful Proposer shall not be due any interest or penalty on any unpaid amounts.

13. **PROMPT PAYMENT DISCOUNTS**

The offered discount of a successful Proposer will not form a part of the award evaluation. In connection with any discount offered, time will be computed from the date of delivery of the equipment or supplies at destination or from the date the correct invoice is received by UNLV, whichever is later. Payment is deemed to be made for the purpose of earning the discount the date UNLV check is mailed.

14. **PROTESTS**

Any Bidder, offeror or contractor who is allegedly aggrieved in connection with the solicitation or award of a contract may protest. The protest must be submitted in writing to the Director of Purchasing, within seven (7) days after such aggrieved person knows or should have known of the facts giving rise thereto. If the protest is not resolved by mutual agreement, the Director of Purchasing will promptly issue a decision in writing to the Protester. If the protestant wishes to appeal the decision rendered by the Director of Purchasing, such appeal must be made in writing to the Senior Vice President for Finance & Business within five (5) days of the receipt of the decision by the Director of Purchasing.

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The decision of the Senior Vice President for Finance & Business will be final. The Senior Vice President for Finance & Business need not consider protests unless this procedure is followed.

To be considered, all Protests must identify the following:

- a) The name, address, and telephone number of the protester,
- b) The signature of the protester,
- c) Identification of the solicitation title and number being protested,
- d) A detailed statement of the legal and factual grounds of the protest, including copies of relevant documents, and
- e) The form of relief requested.

## 15. **SAMPLES**

As applicable, Proposers may be required to furnish a sample of the product being offered after the RFP opening for further evaluation. Proposers will be responsible for any charges involved in shipping and picking up their samples.

## 16. **SMALL AND LOCAL BUSINESS CONCERNS REPORTING REQUIREMENTS**

UNLV supports equal opportunity for minority owned, women-owned, and other small disadvantaged business enterprises (*MWDBE*) to compete for contracts awarded by UNLV. UNLV also supports efforts to encourage local businesses to compete for UNLV contracts. In addition, UNLV supports finding opportunities for such (*MWDBE*) and local business concerns to participate as subcontractors or Tier 2 suppliers in large contracts. A "tier 2 supplier" or subcontractor is a supplier who is contracted for goods or services with the prime contractor, and may include, but is not limited to (*MWDBE*) and local business enterprises.

- a) In compliance with NSHE policy, a Proposer responding to any RFP for the purchase of goods or services that is **anticipated to exceed \$1,000,000 at any time during the life of the contract** shall provide the following reporting information in its response:

- (1) Proposer's historical and anticipated commitment to Tier 2 MWDBE and local business enterprises. At a minimum, Proposer must provide historical information for the most recently completed fiscal year (July 1 through June 30) and their anticipated commitment to the current fiscal year in which this RFP is issued.

- (2) A listing of Tier 2 suppliers, including local and MWDBE suppliers, that will be given the opportunity to be considered and/or utilized as subcontractors for any work performed as a result of this RFP. The listing must include the following information:

- The name, city and state
- Type of Tier 2 status (local, women owned, minority/and or disadvantaged)
- Any certification of such status including the entity granting the certification if applicable

- (3) This is a reporting requirement and will not be used for evaluating any Proposal. However, failure to provide a complete Proposal in response to this RFP could result in rejection of the submittal as incomplete.

- b) Any award from this RFP that results in a contract for goods or services that is **anticipated to exceed \$1,000,000 at any time during the life of the contract** will require the Proposer to provide, at a minimum, annual reports listing expenditures with MWDBE and Local Subcontractors. These reports pertain only to expenditures that are directly attributable to the UNLV prime Contract. The report shall contain the following information:

- The name, city and state; type of Tier 2 status (local, women owned, minority/and or disadvantaged); and any certification of such status including the entity granting the certification if applicable. If a business concern meets more than one definition (e.g. local and women-owned, or minority and women owned), that should be identified
- A description of the goods or services purchased
- The amount of expenditures with the subcontractor attributed to the prime contract for the most recent completed fiscal year (July 1 through June 30)
- The reporting information must be available to UNLV by September 15

c) Definitions

- (1) Definition of Local Business Enterprise. "Local Business Enterprise" is intended to mean a business concern that is a) owned 51% or more by Nevada residents, b) is headquartered in Nevada, or c) a majority of employees of the business are Nevada residents.
- (2) Definition of Disadvantaged Business Enterprise (DBE). "Disadvantaged Business Enterprise" is intended to mean a business concern owned by a minority or woman that is at least fifty-one percent (51%) unconditionally owned by one or more minority or women individuals who are both socially and economically disadvantaged, or a publicly owned business that has at least fifty-one percent (51%) of its stock unconditionally owned by one or more such individuals and that has its management and daily business controlled by one or more such individuals. Individuals who certify that they are a member of named groups, i.e. African Americans, Hispanic Americans, American Indians and Alaska Natives (Eskimos and Aleuts) and Asian and Pacific Island Americans are to be considered socially and economically disadvantaged.
- (3) Definition of Minority Business Enterprise (MBE). "Minority Business Enterprise" is intended to mean a business concern owned by one or more minority individuals that is at least fifty-one percent (51%) unconditionally owned by one or more minority individuals, or a publicly owned business that has at least fifty-one percent (51%) of its stock unconditionally owned by one or more such individuals and that has its management and daily business controlled by one or more such individuals. Individuals who certify that they are a member of named groups, i.e. African Americans, Hispanic Americans, American Indians and Alaska Natives (Eskimos and Aleuts) and Asian and Pacific Island Americans are to be considered socially and economically disadvantaged.
- (4) Definition of Women-Owned Business Enterprise (WBE). "Women-Owned Business Enterprise" is intended to mean a business concern owned by one or more women that is at least fifty-one percent (51%) unconditionally owned by one or more women, or a publicly owned business that has at least fifty-one percent (51%) of its stock unconditionally owned by one or more such individuals and that has its management and daily business controlled by one or more such individuals.
- (5) Definition of Disabled Veteran Business Enterprise (DVBE). "Disabled Veteran Business Enterprise" is intended to mean a business concern of which at least 51% of the ownership interest is held by one or more veterans with service-connected disabilities; that is organized to engage in commercial transactions; and that is managed and operated on a day-to-day basis by one or more veterans with service-connected disabilities. This includes a business which meets the above requirements that is transferred to the spouse of a veteran with a service-connected disability upon the death of the veteran, as determined by the United States Department of Veterans Affairs.
- (6) Definition of Small Business Enterprise (SBE). "Small Business Enterprise" is intended to mean a business concern which performs a commercially useful function, is not owned and controlled

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by individuals designated as minority, women, veterans, or physically-challenged, and where gross annual sales does not exceed \$2,000,000.

- d) All Proposers, by signing this RFP Response Form, certify that they are an Equal Opportunity/Affirmative Action Employer, unless otherwise stated.

17. **SUSTAINABILITY**

- a) A key focus of UNLV is to minimize the impact the procurement of goods and services has on the local environment. UNLV is committed to sustainable economic, social, and environmental practices in all operations involving UNLV. It is important that Proposers share this commitment as well. Therefore, sustainable goods and services should be offered whenever available or specifically when required in the RFP.
- b) UNLV may request the successful Proposer to provide reports related to sustainability on all goods and services provided under its Proposal. Reports may include, but are not limited to: sustainable attributes of each product or service, the dollar and percentage amount spent on sustainable or environmentally preferred products and services, and the total amount spent by UNLV.
- c) All electronic equipment UNLV purchases must be Energy Star rated (or, if there is no Energy Star rating for the desired equipment, energy efficient models or substitutes are preferred). The requirement to purchase Energy Star rated equipment will improve UNLV's energy and financial performance while distinguishing our institution as an environmental leader.

18. **TAXES, LICENSES AND PERMITS**

- a) It is the Proposers' responsibility to secure all required licenses, permits and insurance necessary for the proper execution and completion of the work/Services involved. UNLV is exempt from paying state, local and federal excise taxes.
- b) Companies conducting business for profit in Nevada are required to have a current Nevada business license pursuant to NRS 76.100 (1) unless the entity is either a) a non-profit corporation or b) meets the requirements for an exemption and has filed the appropriate notice of exemption with the Nevada Secretary of State. By submitting its Proposal, the Proposer certifies that it has a current Nevada business license or it is exempt and agrees to provide immediate notice to UNLV's Purchasing Department in the event the license is no longer valid.
- c) NSHE/UNLV is exempt from Nevada State sales tax as provided by Nevada Revised Statutes 372.325 and 374.330. The NSHE/UNLV State Tax Exempt Number is RCE-000-441. The Federal Tax ID number is 88-6000024.

**SECTION D**  
**SCOPE OF WORK/SPECIFICATIONS**

**Project Description, Context, and Background**

UNLV is requesting proposals from qualified Online Tutoring Companies to provide UNLV with online tutoring of core subjects such as Mathematics, Accounting, Biology, Chemistry, Economics, Physics, Spanish and Writing. The service should also have the functionality to explore the collaborative customized tutoring approach for other subjects considered entry level courses UNLV requests. Students will be encouraged to take advantage of the services but UNLV cannot guarantee a minimum level of participation. The successful Proposer will be required to enter into a contract with UNLV which will have similar terms and conditions to Exhibit B, Minimum Contract Terms for the RFP.

The product will be hosted and supported by the manufacturer/vendor and unlimited archival storage should be included. The events stored on the hosted server(s) will be property of UNLV and the ability to retrieve archived events should be provided. This product should integrate the Course Management Systems, Blackboard 9.1.3, SP13.

**I. Minimum Responsibilities:**

The following is a list of the minimum responsibilities of the Proposer.

1. Proposer should offer online tutoring services in the areas of collegiate mathematics and writing with the following specific stipulations:
  - a. Mathematics should include basic math, algebra, calculus, geometry, and trigonometry.
  - b. Writing should include the review of papers in all subject areas.
  
2. The online tutoring system should have the following features:
  - a. Subjects and Features
    - i. 24/7 drop-in, on-demand live Math tutoring (basic skills through Calculus).
    - ii. For other subjects (but are not limited to), drop-in live tutoring in Accounting, Biology, Chemistry, Economics, Physics, Spanish and Writing.
    - iii. Essay review service.
    - iv. Ability for student to also submit a question for asynchronous response or schedule a tutoring session for the future.
    - v. Building a public UNLV archive of lessons tailored to specific UNLV courses will help provide a seamless continuation of on-campus resources.
    - vi. Customized tutoring for each subject, to be developed by proposer and UNLV faculty and Staff.
    - vii. It is preferred that the tutoring hours purchased will be accessible 365 days a year, will not expire until used, and will not incur rollover fees.
    - viii. No charge for set-up and customer support is preferred.
    - ix. It is preferred that the usage of tutoring hours will be calculated by the minute and actual tutoring time will be deducted without additional minutes added.
    - x. It is preferred that students could have the ability to observe anonymous tutoring sessions that will not count against the hours purchased by the University, as a desired feature to keep the students engaged while waiting for the next available tutor.
    - xi. UNLV has a drop-in tutoring lab, tutors of various disciplines work together to provide comprehensive tutoring in one location. We seek a similar set up for online tutoring, where online tutors are housed in a common location and can assist one another as needed across disciplines. Additionally, having access to textbooks used by UNLV



faculty will aid in providing a comprehensive approach to live online tutoring that supports UNLV courses.

- xii. Evidence of appropriate training and supervision of online tutors is preferred to ensure services are modeled similarly to the program at UNLV.
- xiii. The ability for UNLV to create rules for what is appropriate for the on-line tutors to do regarding editing papers, not assisting with take-home exams, issues of plagiarism, student honor code adherence, etc.
- xiv. A program that mirrors our drop-in labs that has access to UNLV course materials (i.e., syllabi, grading rubrics, and same textbooks) used by UNLV faculty will aid in providing a comprehensive approach to live on-line tutoring when our labs close in the evening.
- xv. Under no circumstances should tutors simply give the student the answer to the question presented. Tutors are to guide the student to the discovery and ultimate understanding of the solution to the question.

### 3. Administration

- i. Student should have access to his or her archives of tutoring sessions.
- ii. School should have online, on-demand access to detailed usage reports, student reports and student archives of sessions with the following information:
  - Student ID (name, unique student identifier ID, email, class/session).
  - Date, time and duration of session.
  - Type of session (synchronous, asynchronous or scheduled).
  - Type of tutoring (subject area).
  - Course/schedule.
  - Tutor's name or a unique identifier.
  - Provider should indicate the penalty for failing to meet indicated service levels.
  - Provider shall offer evidence of their tutoring service's impact on student grades in addition to student satisfaction surveys.
  - Reporting features that will allow for the detailed monthly reports/data on individual student and subject usage as well as comprehensive semester usage by the minute is preferred.
  - Raw data supplied that is downloadable into an Excel Spreadsheet is preferred.
- iii. Single-sign-on integration ability with Blackboard 9.1.3, SP13 is preferred.
- iv. Each student should have access to a transcript of every interaction that the student has had. Also, each college should have access for its students in the event of a dispute.
- v. The server and the internet security should be managed by the successful proposer with ease of access for implementation into the UNLV web campus system (Blackboard) without having to download software from the web.
- vi. Provider should provide training sessions at UNLV to faculty and staff.
- vii. Common symbols and functions used for math, physics, and other science courses are built into the program so students do not have to cut & paste or leave the tutoring session is preferred.
- viii. Ease of implementation and unlimited technical support with a software system that students and tutors could easily communicate live with common symbols and functions used for math, physics, and other science courses built into the program so students do not need to cut & paste or leave the tutoring session is preferred.
- ix. Management of individual accounts (i.e., the option of limiting or adding hours to a student's account) will help the University better provide access in a fair and equitable manner for all currently active students.
  - x. Successful proposer should designate a Professional Services Manager to UNLV
  - xi. Unlimited archive storage is preferred.
  - xii. Access to all online resources, training materials and user guides is preferred.

**SECTION E**  
**PRICING/ROYALTY FEE RESPONSE FORM**

Using the table below, please provide information on all costs required to complete the Scope of Work.

1. Provide hourly tutoring costs information, including breakdown of initial training, and support, as well as typical recurring costs. The annual tutoring hours is estimated at 2,500 which is not guaranteed and the estimated hours may fluctuate as needed.
2. Provide estimates for other reoccurring costs necessary to support the online tutoring services.
3. Describe the features and services included in the base fees. Describe if any one-time start-up/set-up fees.
4. Does the usage hours purchased have an expiration date?

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5. Describe costs the UNLV can control.

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6. Provide travel costs required for onsite training if applicable. Provide a breakdown to include estimated number of trips, cost per trip, etc. All travel and trips must be in accordance with UNLV's travel reimbursement rates for faculty and staff (information available at <http://accountspayable.unlv.edu/Trvlman/travel.htm>) and pre-approved in writing by UNLV (email acceptable) with a range or a do not exceed price. In the event that any travel exceeds the approved scope, the successful proposer shall be responsible for the amount of travel expense above the permitted amount.

Line #	Description of Services	Qty	Unit Price	Total Price
			\$	\$
			\$	\$
			\$	\$
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			\$	\$

Line #	Description of Services	Qty	Unit Price	Total Price
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**SECTION F**  
**RFP RESPONSE FORM**

**[SEE ATTACHED PDF DOCUMENT]**

**SECTION G**  
**LIST OF SUBCONTRACTORS/TIER 2 SUPPLIERS**

**[SEE ATTACHED PDF DOCUMENT]**

**EXHIBIT A**  
**SAMPLE CERTIFICATE OF INSURANCE**

**[SEE ATTACHED PDF DOCUMENT]**

# UNLV | PURCHASING & CONTRACTS

## CONTRACT FOR ON-LINE TUTORING SERVICES FOR THE UNIVERSITY OF NEVADA, LAS VEGAS

This Contract # ("**Contract**") is made effective as of the date last signed below by any authorized signatory (the "**Effective Date**") by and between the Board of Regents of the Nevada System of Higher Education ("**NSHE**"), on behalf of the University of Nevada, Las Vegas, Academic Success ("**UNLV**") and (NAME OF FIRM), a [STATE AND MANNER OF ORGANIZATION, E.G. CORPORATION, LIMITED LIABILITY COMPANY AND ANY DBA-THE NAME HERE MUST MATCH THE SIGNATURE BLOCK], (INSERT EIN ) ("**Contractor**"), and is based on the following facts:

### RECITALS

UNLV requests a Contractor to provide on-line tutoring services.

On June 7, 2014, UNLV issued its Request for Proposal No. 604-LN (the "**RFP**") seeking proposals from qualified contractors to provide on-line tutoring services.

On \_\_\_\_\_, 20\_\_\_\_, Contractor submitted a proposal ("**Proposal**") in response to the RFP. The Proposal was later modified by Contractor's "Best and Final Offer" on \_\_\_\_\_, 20\_\_\_\_.

On \_\_\_\_\_, 20\_\_\_\_, UNLV selected Contractor's Best and Final Offer as the one best suiting its needs.

Based on the foregoing Recitals, and for other valuable consideration, the parties agree as follows:

### AGREEMENT

#### ARTICLE I TERM

##### A. INITIAL TERM

The Contract shall commence as of the Effective Date and remain in effect for one (1) year, unless otherwise terminated in accordance with this Contract ("**Initial Term**" or "**Term**").

##### B. RENEWAL TERM

Upon mutual written agreement this Contract may be renewed for four (4) additional one (1) year terms ("**Renewal Term(s)**" or "**Term(s)**").

##### C. CONTRACT EXTENSION

Without renewing the Term of this Contract, UNLV shall have the right to extend this Contract for up to ninety (90) calendar days from its expiration date of the then applicable Term for any reason. UNLV may exercise this right by providing written notice to Contractor at least ten (10) calendar days prior to the expiration of this Contract. Should UNLV exercise its right to extend this Contract for ninety (90) days beyond the expiration of

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this Contract, Contractor shall be entitled to receive consideration as provided for in this Contract, pro-rated for the period for which UNLV requests additional services.

## **ARTICLE II SCOPE OF CONTRACT**

Contractor shall provide the services as further described in Exhibit A (the “**Services**” which shall include any applicable Deliverable(s)).

This Contract, together with all attachments, addenda, and exhibits, the RFP, the Contractor’s Best and Final Offer (including all modifications, but not including any legal terms and conditions), and the Proposal (including all modifications, but not including any legal terms and conditions) constitutes the entire agreement between the parties and supersedes all previous agreements, whether written or oral between the parties with respect to the subject matter hereof, whether express or implied and shall bind the parties unless the same be in writing and signed by the parties. The parties further understand and agree that the other party and its agents have made no representations or promises with respect to this Contract, except as in this Contract expressly set forth. In the event of conflict among any of the terms and conditions set forth in any of the preceding documents, the terms and conditions of such documents shall govern in the following order of precedence: (1) this Contract, (2) the RFP, (3) Contractor’s Best and Final Offer (including all modifications, but not including any legal terms and conditions), and (3) the Proposal (including all modifications, but not including any legal terms and conditions). Contractor agrees to be bound by any warranties and representations made by Contractor in the Proposal and shall notify UNLV immediately if there are any material changes to the warranties and representations set forth by Contractor in its Proposal, as applicable.

## **ARTICLE III CONSIDERATION**

The amount to be paid to Contractor for work performed under this Contract is estimated to be **X**, but UNLV is not required to purchase a minimum amount or quantity of work or Services hereunder.

Except as expressly provided for herein, all Contractor prices are inclusive of expenses.

All payments shall be made within thirty (30) days of acceptance of the related invoice. Should the acceptance of such invoices be in doubt, Contractor shall not be due any interest or penalty on any unpaid amounts.

## **ARTICLE IV DEFAULT**

### **A. DEFAULT BY CONTRACTOR**

UNLV shall provide Contractor written notice of any material breach of this Contract. Should Contractor fail to cure such material breach within ten (10) business days following receipt of written notice, UNLV shall have the right at its sole discretion, in addition to all other applicable remedies at law or in equity, to terminate further performance of this Contract. On the effective date of the termination, Contractor shall terminate all work and take all reasonable actions to mitigate expenses, and Contractor shall immediately refund UNLV a pro-rata amount of any advance or prepaid unearned monies. In case of default by Contractor, the UNLV reserves the right to hold Contractor responsible for any actual, consequential or incidental damages.

### **B. DEFAULT BY UNLV**

Contractor shall provide UNLV written notice of any material breach of this Contract. Should UNLV fail to cure such material breach within ten (10) business days following receipt of written notice, Contractor shall have the right, in addition to all other applicable remedies at law or in equity, to terminate further performance of this



Contract. Notwithstanding the foregoing, on the date of termination for a material breach by UNLV, Contractor shall terminate all work and take all reasonable actions to mitigate expenses. Notwithstanding anything to the contrary herein and regardless of choice of law, UNLV hereby asserts and shall be entitled to claim sovereign immunity and be entitled to all applicable liability limits and statutory protections, including, but not limited to those set forth in NRS Chapter 41.

## ARTICLE V INSURANCE, LIABILITY & INDEMNIFICATION

### A. INSURANCE

Contractor shall be fully responsible for and shall indemnify UNLV for any acts or omissions of any contractors, subcontractors, design builders, subdesign builders, architects, subarchitects, engineers, consultants, subconsultants, service providers, and vendors engaged by Contractor to perform any of the Services (collectively, "**Subcontractor(s)**"). Contractor (which for the purposes of this Article shall include Subcontractor(s)) is required, at its sole expense, to procure, maintain, and keep in force for the duration of this Contract, work, Services or event, the following insurance coverage conforming to the minimum requirements specified below unless a change is specifically agreed to in writing by UNLV. The required insurance shall be in effect on or prior to the commencement of the Contract, work, Services or event by Contractor and shall continue in force as appropriate until the latter of:

- Final acceptance, or
  - Such time as the insurance is no longer required under the terms of this Contract.
- 1) Commercial General Liability –
    - Must be on a per occurrence basis.
    - Shall be at least as broad as Insurance Services Office ("**ISO**") form CG 00 01 10 01 and shall cover liability arising from premises, operations, independent contractors, Subcontractors, completed operations, personal injury, products, and liability assumed under this Contract.
    - Limits of Liability: \$1,000,000 per occurrence and \$2,000,000 annual aggregate.
  - 2) Automobile Liability – For Services not exceeding \$1,000,000 the minimum limit of liability required is a Combined Single Limit ("CSL") of \$500,000 per occurrence. For Services exceeding \$1,000,000 the minimum limit of liability required is a CSL of \$1,000,000 per occurrence. Coverage shall include owned, non-owned, and hired vehicles and be written on ISO form CA 00 01 10 01 or a substitute providing equal or broader liability coverage.
  - 3) Workers' Compensation - Employers Liability Limits shall be at least \$100,000 per occurrence and for occupational disease. Workers' Compensation is required by law for anyone with employees. Sole proprietors and corporate officers can waive coverage with mandatory affidavit available from UNLV. If providing services, Contractor shall provide proof of Workers' Compensation insurance as required by NRS 616B.627 or proof that compliance with the provisions of Nevada Revised Statutes, Chapter 616A-D and all other related chapters, is not required.
  - 4) Cyber Liability insurance with limits of not less than \$1,000,000 per occurrence and an annual aggregate of \$2,000,000 covering claims involving privacy violations, information theft, damage to or destruction of electronic information, intentional and/or unintentional release of private information, alternation of electronic information, extortion and network security.
  - 5) Subrogation must be waived against "The Board of Regents of the Nevada System of Higher Education."

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- 6) "The Board of Regents of the Nevada System of Higher Education" must be named as an Additional Named Insured on all primary and excess / umbrella liability policies (excluding professional liability) affording the broadest possible coverage. Endorsements shall be submitted to allow blanket addition as required by the Contract or individualized endorsement naming the NSHE/UNLV as an additional insured.
- 7) Insurance maintained by Contractor shall apply on a first dollar basis without application of a deductible or self-insured retention and shall not exceed \$5,000 per occurrence unless otherwise specifically agreed to in writing by UNLV. Such approval shall not relieve Contractor from the obligation to pay any deductible or self-insured retention.
- 8) Policy Cancellation / Change in Policies and Conditions Notifications  
Contractor shall:
- Have each of its insurance policies endorsed to provide ten (10) days' notice for non-payment of premium;
  - Specify that the policies cannot be canceled, non-renewed, coverage and / or limits reduced or coverage materially altered that can affect UNLV without sixty (60) days' prior written notice to UNLV and the notices required by this paragraph shall be sent by certified mail to UNLV;
  - Attach a copy of this signed endorsement to the Certificate of Insurance;
  - Send to UNLV a facsimile copy of the policy cancellation and / or change of policy and conditions notice in this paragraph to UNLV within three (3) business days upon its receipt;
  - Provide UNLV with renewal or replacement evidence of insurance no less than thirty (30) days before the expiration or replacement of the required insurance until such time as the insurance is no longer required by UNLV; and
  - Immediately notify UNLV in writing and immediately replace such insurance or bond with insurance or bond meeting this Contract's requirements if at any time during the period when insurance is required by this Contract, an insurer or surety fails to comply with the requirements of this Contract.
- 9) Ensure the Primary Policy complies as follows–
- Contractor and parties contracting directly with UNLV must have its policy endorsed to reflect that its insurance coverage is primary over any other applicable insurance coverage available.
  - Any Contractor's insurance or self-insurance available to UNLV shall be in excess of and non-contributing with any insurance required.
- 10) Ensure that its insurance policies be -
1. Issued by insurance companies authorized to do business in the State of Nevada or eligible surplus line insurers acceptable to the State of Nevada and having agents in the State of Nevada upon whom service of process may be made; and
  2. Currently rated A.M. Best as A - IX or better.
- 11) Provide Evidence of Insurance Requirements  
Prior to the start of any work, Contractor must provide the following documents to UNLV:
- Certificate of Insurance: The ACORD 25 Certificate of Insurance form or a form substantially similar must to show evidence the insurance policies and coverage required of Contractor;
  - Additional Insured Endorsement: Original Additional Insured Endorsement(s) signed by an authorized insurance company representative(s);

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- Policy Cancellation Endorsement;
- Waiver of Subrogation Endorsement;
- Endorsement reflecting Contractor insurance policies are primary over any other applicable insurance; and

**B. OFFICIALS, OFFICERS, AGENTS, REGENTS AND EMPLOYEES OF NSHE/UNLV NOT PERSONALLY LIABLE**

In no event shall any official, officer, regent, employee, or agent of NSHE/UNLV in any way be personally liable or responsible for any obligation contained in this Contract, whether expressed or implied, nor for any statement, representation or warranty made or in connection with this Contract.

**C. INDEMNIFICATION**

Contractor shall indemnify, defend and hold harmless NSHE/UNLV, its officers, regents, employees, and agents from and against any and all liabilities, claims, losses, demands, actions, causes of actions, fines, penalties, debts, lawsuits, judgments, costs and/or expenses, arising either directly or indirectly from any act or failure to act by Contractor or any of its officers, employees, agents, or Subcontractors, which may occur during or which may arise out of the performance of this Contract (collectively, "**Claim(s)**"). NSHE/UNLV will be entitled to employ separate counsel and to participate in the defense of any Claim at its sole discretion and expense. Contractor shall not settle any Claim or threat thereof without the prior written approval of NSHE/UNLV, whose consent shall not be unreasonably withheld, where the settlement would require payment of funds by NSHE/UNLV or admit or attribute to NSHE/UNLV any fault or misconduct.

**ARTICLE VI  
MISCELLANEOUS PROVISIONS**

**A. APPROPRIATIONS**

The terms of this Contract are contingent upon sufficient appropriations and authorizations being made by UNLV for the performance of this Contract. If sufficient appropriations and authorizations are not made by UNLV, this Contract shall terminate, without penalty, upon thirty (30) calendar days' written notice being given by UNLV to Contractor, and Contractor shall immediately refund UNLV any pre-paid or advance unearned payments it made to Contractor.

**B. ASSIGNS AND SUCCESSORS**

Contractor shall not assign, transfer, or delegate any rights, obligations, or duties under this Contract without the prior written consent of UNLV. Notwithstanding the foregoing, Contractor shall be fully responsible to UNLV and shall indemnify UNLV for any acts or omissions of any Subcontractors hired by Contractor, regardless of whether UNLV consented to the use of any such Subcontractors.

**C. COMPLIANCE**

Contractor warrants and agrees that it will at all times during the Term(s), comply with all applicable local, state and federal standards, codes, statutes and regulations, including, but not limited to, OSHA, EPA, ADA, HIPAA, and provide upon request, proof of compliance with the foregoing.

**D. CONFIDENTIALITY**

Contractor acknowledges and agrees that it is to keep all confidential information secure and is not to disseminate or use any materials and/or data that belongs to UNLV, whether originals or copies. Contractor acknowledges that UNLV would be materially harmed if such confidentiality is not maintained and any referenced material and/or data was disseminated in any form without UNLV's prior written approval.

Contractor acknowledges and agrees that during the Term of this Contract, it may have access to nonpublic personal information relating to an identifiable individual (such as name, postal address, financial information, email address, telephone number, date of birth, Social Security number, and other sensitive information) of UNLV alumni, employees, and students (collectively, "**UNLV User Data**"). Contractor acknowledges and agrees that UNLV User Data is highly sensitive and to afford it the maximum security Contractor can provide using commercially acceptable standards, no less rigorous than it protects its own customer and employee data. Contractor agrees to comply with all applicable laws and regulations relating to privacy, including, but not limited to the Family Educational Rights and Privacy Act ("**FERPA**") and the Gramm-Leach-Bliley Act ("**GLBA**").

Contractor shall immediately inform UNLV by telephone at (702) 895-1886, by email at informationsecurityoffice@unlv.edu, and in writing at the notice address of any information security incident, suspected unauthorized access, or breach involving UNLV User Data of which Contractor becomes aware. Except as prohibited by law, Contractor agrees to immediately destroy all confidential data and UNLV User Data received hereunder upon termination of this Contract. Contractor agrees to stipulate to an entry of injunctive relief without posting bond, in order to prevent or remedy a breach of this Section. Contractor acknowledges and agrees that any violation of this Section is a material breach of this Contract, and entitles UNLV to immediately terminate this Contract without penalty and receive a pro-rata refund of any prepaid unearned monies paid by UNLV. This Section shall survive termination of this Contract.

**E. DEBARMENT/SUSPENSION STATUS**

By signing the Contract, Contractor certifies that it is not suspended, debarred or ineligible from entering into contracts with the Executive Branch of the Federal Government, or in receipt of a notice of proposed debarment from any state agency or local public body. Contractor agrees to provide immediate notice to UNLV in the event of being suspended, debarred or declared ineligible by any state or federal department or agency, or upon receipt of a notice of proposed debarment during the Term of this Contract.

**F. EQUAL EMPLOYMENT OPPORTUNITY**

By signing this Contract, Contractor certifies that it and its Subcontractors do not discriminate against any employee or applicant for employment or person to whom it provides services because of race, color, religion, gender, sexual orientation, gender identity, age, national origin, or disability, and that it complies with all applicable federal, state and local laws and executive orders regarding employment. In the event Contractor or its Subcontractors are found guilty by an appropriate authority to be in violation of any such federal, state, or local law, UNLV may declare Contractor in breach of this Contract and immediately terminate this Contract, and Contractor shall immediately refund UNLV any prepaid or advance unearned monies that UNLV paid to Contractor.

**G. GOVERNING LAW**

The parties agree that the laws of the State of Nevada shall govern the validity, construction, interpretation, and effect of this Contract, excluding any laws or principals regarding the conflict or choice of laws. Any and all disputes arising out of or in connection with this Contract shall be litigated in a court of competent jurisdiction in Clark County, State of Nevada, and Contractor expressly consents to the jurisdiction of said court.

**H. HEADINGS**

The headings in this Contract are for purposes of convenience and reference only and shall not in any way define, limit, extend or otherwise affect the meaning or interpretation of any of the terms hereof.

**I. INDEPENDENT CONTRACTOR**

Contractor expressly agrees that Contractor's employees and/or Subcontractors shall not be treated or considered as the servants and employees of UNLV, it being the intention of the parties that Contractor shall be and remain an independent contractor, and that nothing contained in this Contract shall be construed inconsistent with that status. Contractor covenants and agrees to save and hold harmless UNLV from and against any and all damages, claims, costs or expenses whatsoever, due to the existence of any applicable labor/employment codes, ordinances, and of any and all claims, costs and expenses in connection therewith under any claim or subrogation provided by said applicable codes, ordinances or otherwise.

**J. MODIFICATION**

No alteration, modification, amendment, or supplement to this Contract or any of its provisions shall be effective, enforceable or binding unless made in writing and duly signed by the parties.

**K. NOTICES**

Written notices required under this Contract shall be sent certified mail, return receipt requested, to:

UNLV as follows:                      Director of Purchasing  
University of Nevada, Las Vegas  
4505 S. Maryland Parkway  
Las Vegas NV 89154-1033

Contractor as follows:

**(NAME AND ADDRESS OF CONTRACTOR)**

**L. OWNERSHIP OF MATERIALS**

By signing this Contract, Contractor acknowledges that any materials and/or UNLV customer/user data that may result from its efforts, as related to this Contract, are the property of UNLV and, as such, may not be disseminated in any form whatsoever to any person, group or organization without the prior written authorization of UNLV. As applicable, Contractor shall provide good title to any applicable Deliverable(s), and Contractor shall execute any additional documents necessary to secure or renew UNLV's rights in and to any applicable Deliverable(s). Contractor warrants that it is either the owner of all methodologies used and/or Deliverable(s) transferred/licensed (as applicable) hereunder or that it has all appropriate licenses or permissions necessary to perform the Services and/or transfer/license the Deliverable(s) (as applicable).

**M. TAXES, LICENSES AND PERMITS**

It is the Contractor's responsibility to secure all required licenses, permits, franchises, lawful authority and insurance necessary for the proper execution and completion of the Services to be performed hereunder. Contractor warrants and agrees that it is, and shall remain for the duration of this Contract, a duly organized, validly existing entity, in good standing, with all the requisite power, permissions, licenses, permits, franchise, insurance and authorities necessary to provide the goods and/or Services. UNLV is exempt from paying state,

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local and federal excise taxes as provided by Nevada Revised Statutes (“NRS”). The NSHE/UNLV State Tax Exempt Number is RCE-000-441. The Federal Tax ID number is 88-6000024.

Companies conducting business for profit in Nevada are required to have a current Nevada business license pursuant to NRS 76.100(1) unless the entity is either a) a non-profit corporation or b) meets the requirements for an exemption and has filed the appropriate notice of exemption with the Nevada Secretary of State. Contractor certifies that it has a current Nevada business license or it is exempt and agrees to provide immediate notice to UNLV in the event the license is no longer valid.

#### **N. TERMINATION FOR CONVENIENCE**

UNLV shall have the right at any time to terminate further performance of this Contract, in whole or in part, for any reason by providing Contractor with thirty (30) calendar days’ written notice. Such termination shall be effected by written notice from UNLV to Contractor, specifying the extent and effective date of the termination. On the effective date of the termination, Contractor shall terminate all work and take all reasonable actions to mitigate expenses. Contractor shall submit a written request for incurred costs performed through the date of termination, and shall provide any substantiating documentation requested by UNLV. In the event of such termination, UNLV agrees to pay Contractor within thirty (30) calendar days after acceptance of invoice.

#### **O. SEVERABILITY**

In the event any one or more of the provisions of this Contract shall for any reason be held to be invalid, illegal, or unenforceable, such provision(s) shall be treated as severable, leaving the remaining provisions of this Contract unimpaired, and the Contract shall be construed as if such invalid, illegal or unenforceable provision(s) were not present.

#### **P. USE OF UNIVERSITY NAME AND/OR LOGO IN ADVERTISING**

Contractor acknowledges and agrees that it shall not use the name of the Board of Regents of the Nevada System of Higher Education; University of Nevada, Las Vegas; Nevada State College; or any other NSHE logos, marks, trademarks, trade names, trade dress, slogans, or other indicia of ownership of the foregoing (collectively, “Marks”). Contractor further acknowledges and agrees that the Marks are the sole property of NSHE and that it shall not use any of the Marks in its advertising, or in the production of any materials related to this Contract, without the prior written approval of UNLV.

#### **Q. WAIVER**

A failure or delay of either party to enforce at any time any of the provisions of this Contract shall not be construed to be a waiver of a party's right to enforce strict compliance of such provisions(s) of this Contract.

#### **R. SMALL AND LOCAL BUSINESS CONCERNS REPORTING REQUIREMENTS**

- 1) UNLV supports equal opportunity for minority owned, women-owned, and other small disadvantaged business concerns (“**MWDBE**”) to compete for contracts awarded by UNLV. UNLV also supports efforts to encourage local businesses to compete for UNLV contracts. In some situations, MWDBE and local business concerns may not have the depth or full capability to meet all the requirements of large contracts. Nevertheless, UNLV supports finding opportunities for such MWDBE and local business concerns to participate as Subcontractors or Tier 2 suppliers in large contracts.
- 2) If the purchase of goods or Services is **anticipated to exceed \$1,000,000 at any time during the life of the Contract**, Contractor must provide, at a minimum, annual reports listing expenditures with MWDBE and Local Business Enterprises (as defined below). These reports pertain only to expenditures that are directly attributable to the UNLV prime Contract. The report must be available to UNLV by September 15<sup>th</sup> of the applicable Contract year, and should contain the following information:

- a) The name, city and state; type of Tier 2 status (local, women owned, minority/and or disadvantaged or Local Business Enterprise); and any certification of such status including the entity granting the certification if applicable. If a business concern meets more than one definition (e.g. local and women-owned, or minority and women owned), that should be identified;
- b) A description of the goods or services purchased; and
- c) The amount of expenditures with the Subcontractor attributed to the prime Contract for the most recent completed fiscal year (July 1 through June 30).

3) Definitions:

Definition of Local Business Enterprise. "Local Business Enterprise" is intended to mean a business concern that is a) owned 51% or more by Nevada residents, b) is headquartered in Nevada, or c) a majority of employees of the business are Nevada residents.

Definition of Disadvantaged Business Enterprise (DBE). "Disadvantaged Business Enterprise" is intended to mean a business concern owned by a minority or woman that is at least fifty-one percent (51%) unconditionally owned by one or more minority or women individuals who are both socially and economically disadvantaged, or a publicly owned business that has at least fifty-one percent (51%) of its stock unconditionally owned by one or more such individuals and that has its management and daily business controlled by one or more such individuals. Individuals who certify that they are a member of named groups, i.e. African Americans, Hispanic Americans, American Indians and Alaska Natives (Eskimos and Aleuts) and Asian and Pacific Island Americans are to be considered socially and economically disadvantaged.

Definition of Minority Business Enterprise (MBE). "Minority Business Enterprise" is intended to mean a business concern owned by one or more minority individuals that is at least fifty-one percent (51%) unconditionally owned by one or more minority individuals, or a publicly owned business that has at least fifty-one percent (51%) of its stock unconditionally owned by one or more such individuals and that has its management and daily business controlled by one or more such individuals. Individuals who certify that they are a member of named groups, i.e. African Americans, Hispanic Americans, American Indians and Alaska Natives (Eskimos and Aleuts) and Asian and Pacific Island Americans are to be considered socially and economically disadvantaged.

Definition of Women-Owned Business Enterprise (WBE). "Women-Owned Business Enterprise" is intended to mean a business concern owned by one or more women that is at least fifty-one percent (51%) unconditionally owned by one or more women, or a publicly owned business that has at least fifty-one percent (51%) of its stock unconditionally owned by one or more such individuals and that has its management and daily business controlled by one or more such individuals.

Definition of Disabled Veteran Business Enterprise (DBE). "Disabled Veteran Business Enterprise" is intended to mean a business concern of which at least 51% of the ownership interest is held by one or more veterans with service-connected disabilities; that is organized to engage in commercial transactions; and that is managed and operated on a day-to-day basis by one or more veterans with service-connected disabilities. This includes a business which meets the above requirements that is transferred to the spouse of a veteran with a service-connected disability upon the death of the veteran, as determined by the United States Department of Veterans Affairs.

Definition of Small Business Enterprise (SBE). "Small Business Enterprise" is intended to mean a business concern which performs a commercially useful function, is not owned and controlled by individuals designated as minority, women, veterans, or physically-challenged, and where gross annual sales does not exceed \$2,000,000.

**S. JOINER**

Any governmental, state, or public entity within the State of Nevada may utilize this Contract at its option to obtain goods or services at the agreed upon price(s) throughout the term of the resulting contract with the authorization of Contractor. The NSHE/UNLV is not liable for the obligations of the governmental entity which joins or uses the resulting contract.

**T. AUDIT**

Contractor agrees to maintain and preserve its books and records in accordance with generally accepted accounting procedures for a minimum of three (3) years, or longer if required by an applicable law or regulation. Upon UNLV's request, during the Term or for a period of two (2) years thereafter, Contractor shall in a timely manner, allow UNLV, UNLV's internal auditor or a third party auditor retained by UNLV to audit and analyze Contractor's compliance with the provisions of this Contract, and shall cooperate with any competent regulatory body and shall allow such other access to Contractor's premises and relevant records where required by legal processes or applicable laws or regulations.

**X. NO MALWARE WARRANTY**

Contractor warrants and represents that to the best of its knowledge and belief, that the links, data, CD-Roms, products, Deliverables and materials provided hereunder are free of viruses, trojans, use-driven destruction mechanisms, disabling devices, and malware, and that all products, CD-Roms, Deliverables, data and materials provided do not infringe on the intellectual property rights of any third party.

**Y. DATA STORAGE**

All UNLV User Data stored by Contractor shall be stored in the U.S. or Canada; encrypted at rest; and logically separated from Contractor's other customer data. All UNLV User Data shall be stored by Contractor in a SAS 70 or SSAE 16 certified facility. **[INSERT THE NAME OR LOCATION OF CURRENT PROVIDER HERE.]** Contractor shall notify UNLV in writing at least five (5) days before UNLV User Data is relocated to another facility and provide UNLV with the address and name of the new facility. In the case of an emergency, Contractor shall promptly notify UNLV if the UNLV User Data has been relocated and provide the address of the new facility. Contractor shall have the capacity to leverage encryption to protect data and virtual machine images during transport across and between networks and hypervisor instances; to manage encryption keys on behalf of UNLV; and shall maintain key management procedures. Any websites used to access or provide the Services shall be HTTPS using SSL encryption.

**IN WITNESS WHEREOF**, the parties have caused this instrument to be executed as of the Effective Date.

**(NAME OF THE CONTRACTOR)**

**APPROVED:**

BY:

\_\_\_\_\_  
(TYPE IN NAME OF APPROVER)

\_\_\_\_\_  
Date



UNLV RFP# 604-LN

**THE BOARD OF REGENTS OF THE NEVADA SYSTEM OF HIGHER EDUCATION, ON BEHALF OF THE UNIVERSITY OF NEVADA, LAS VEGAS**

**RECOMMENDED:**

BY:

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Anne McDonough, Dean, Academic Success Center

Date

**APPROVED:**

BY:

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John Valery White, Executive Vice President and Provost

Date

BY:

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Gerry J. Bomotti, Senior Vice President for Finance & Business

Date