



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

**REQUEST FOR PROPOSAL 702-KO
FOR WEB CONFERENCING SOLUTION**

RELEASE DATE: Tuesday, June 27, 2017

LAST DAY FOR QUESTIONS: Tuesday July 11, 2017

LAST DAY FOR ADDENDA : Monday, July 17, 2017

OPENING DATE, TIME and LOCATION: Tuesday, July 25, 2017, 3:00 PM local Las Vegas 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 printed copy and one (1) electronic copy on CD or flash drive, and one (1) original printed copy and one (1) electronic copy on CD or flash drive 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:

Kelly Owsley, Senior Purchasing Analyst
Kelly.owsley@unlv.edu
Phone: (702) 895-4385
Fax: (702) 895-3859

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SECTION A
INTRODUCTION

1. PURPOSE OF REQUEST

UNLV invites interested parties to submit a Proposal for an enterprise level cloud-hosted web conferencing solution to be utilized for audio and video synchronous meeting communications in both academic and non-academic situations.

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.
PRICING RESPONSE FORM	Proposer form submitted in Section E defining any pricing and/or any applicable royalty fees.
GENERAL TERMS	By submitting a Proposal, you and all respondents (as applicable),

AND CONDITIONS

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" means 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.

AFFILIATE(S)

"Affiliate" means an entity that controls, is controlled by, or is under common control with the Company.

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 **75** 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 or Royalty 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 that is 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.

- k) All equipment or supplies shall be new, and of the manufacturer's current model unless specified herein.
- l) Proposers shall take no advantage of any apparent error or omission in the RFP. In the event a Proposer discovers such an error or omission, lack of clarity, or other irregularity, such Proposer shall immediately notify the Purchasing Department. The Purchasing Department will then make corrections and interpretations as may be deemed necessary for fulfilling the intent of the RFP.

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) Proposers should direct any questions regarding the RFP to the designated contact(s) from the Purchasing Department. Proposers shall not contact other UNLV employees regarding this RFP. Any such contact may result in rejection of the Proposal.
- p) 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. Please note that an award is not final until there is a fully negotiated signed Contract.
- q) All Proposers, by signing the **RFP Response Form**, certify that they are an Equal Opportunity/Affirmative Action Employer, unless otherwise stated.
- r) Proposals, attachments and **RFP Response Form** shall be enclosed in sealed envelopes and submitted as instructed on page one of this RFP document.
- s) UNLV accepts no responsibility or liability for any costs incurred by a responding Company/Proposer prior to the execution of the Contract.
- t) UNLV reserves the right to Contract for less than all of the services identified herein.
- u) **Proposals are not to contain confidential/proprietary information.** UNLV is subject to the Nevada Public Records Act. 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 provide a Demo/presentation and testing and evaluation as described below.

Demo (May be on-site at UNLV or online – to be determined): Top Proposers may be asked to provide demonstrations of their product. Prior to the demo, UNLV will provide selected Proposers with specifics on what UNLV would like to see demonstrated and addressed and scoring criteria for the demos.

Testing and Evaluation: At the conclusion of the on campus demo UNLV may short-list again and conduct testing of selected Proposer’s solutions for approximately 30 days. During the evaluation, Proposers may get support calls from UNLV should technical issues arise which will be documented as part of the evaluation. **Participating firms may be asked to sign a Confidentiality/Non-disclosure Agreement.**

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:

Weighted Evaluation Criteria	Possible Points
1. Reliability and Stability/Experience and References	20
2. Service/Application Components; Capabilities and Specifications	50
3. Implementation, Maintenance and Support	30
4. Accessibility, Privacy, Security	20
5. Pricing	80
Total Possible Points:	200

1. Reliability and Stability/Experience and References

- a) Provide a brief description of the company: history of the company, years in business, corporate structure, team bios, number of employees, number of customers, etc.
- b) Describe the general experience and expertise your company has working with universities in providing web conferencing and integrating the systems into the campuses learning management system
- c) Identity at least three customers for whom you have completed similar projects
 - i) Name, Address and URL of the organization

- ii) Year the project was completed
 - iii) Company/contact person managing the project (name, position while project was being completed, phone number, and email address)
 - iv) General scope of the project
 - v) Number of days allotted for project completion, and whether the project was completed as scheduled, if not describe contributing factors
- d)** Within the past five (5) years have the Company or any Affiliate had a contract related to the proposed services/products to be provided terminated on the basis of a breach or default. Termination for breach or default includes a notice to stop performance for failure to adequately perform. Provide the relevant details with respect to the termination(s) including the date or termination and the other parties' name, address, and telephone number. Discuss if your Company has ever filed bankruptcy, been in loan default, or if there are pending liens, claims or lawsuits against the Company, or whether there have been any large/notable security breaches with your solution. Specify if any of the foregoing.
- e)** Provide information regarding your Company's proposed solution as follows:
Provide a brief overview of your Company's proposed solution. Provide a complete list of all software, equipment, and services that are included in your proposed solution (including the name of the software/solution, current release, version number, manufacturer part numbers, etc. to specifically identify the software product and all modules that you are proposing, all equipment, and services. Identify how the product is licensed. (Do not include pricing.)

What components are included in the base product and what components are optional?

How long has your solution been on the market?

Describe any relevant awards or analyst coverage your solution has received?

- f) Describe your Company's 's ability to participate in the testing and evaluation period as described in 2. Evaluation of Proposals letter b.
- g) Disclose any conflicts of interest you or your Company may have with UNLV, NSHE, the Board of Regents, or its personnel.

2. Service/Application Components; Capabilities and Specifications

Complete Exhibit D Criteria Response Checklist, Section 2. Service/Application Components; Capabilities and Specifications

3. Implementation, Training and Support

Complete Exhibit D Criteria Response Checklist, Section 3. Implementation, Training and Support

4. Accessibility, Privacy, Security

Complete Exhibit D Criteria Response Checklist, Section 4. Accessibility, Privacy, Security

5. Pricing – 80 points: Complete Section E, Pricing Response Form.

Technical and Financial Proposals must be submitted in separate, sealed envelopes. Note: no cost information is to be included in the Proposer's technical proposal. The Technical and Financial proposal envelopes should be submitted together in a single sealed package/envelope.

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 Contractors.
- c) The initial term of the Contract will be one (1) year(s) ("Initial Term" or "Term"). Upon mutual agreement of both parties, the Contract may be extended for an additional nine (9), 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 must 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 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) Failure to comply with submission instructions.
- j) UNLV reserves the right to waive any minor informality or irregularity.

9. **FAILURE TO FURNISH AT SPECIFIED PRICE**

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, 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 may determine.

10. **FREIGHT TERMS**

- a) All freight terms must be F.O.B. destination. Unless there is a separate line item for transportation charges (e.g., freight, insurance, etc.) in the Pricing Response Form, prices must include all transportation charges. At UNLV's sole discretion, UNLV may require that the goods be shipped by the successful Proposer using UNLV's FED EX account number.
- b) Any Proposal submitted with alternate transportation 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 Proposer 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, 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 will promptly issue a decision in writing to the protestant. If the protestant wishes to appeal the decision rendered by the Director, 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. 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 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 Proposer's 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.

19. **EQUAL EMPLOYMENT OPPORTUNITY**

UNLV is an Equal Opportunity/Affirmative Action educator and employer committed to achieving excellence through diversity. All qualified applicants will receive consideration for employment without regard to, among other things, race, sex, color, creed, ethnicity, religion, age, marital status, pregnancy,

gender, gender identity, gender expression, genetic information, veteran's status, national origin, physical or mental disability, or any other factor protected by anti-discrimination laws. UNLV employs only United States citizens and individuals lawfully authorized to work in the United States. Women, under-represented groups, individuals with disabilities, and veterans are encouraged to apply.

SECTION D
SCOPE OF WORK/SPECIFICATIONS

The web conferencing solution selected should be cloud-hosted and capable of serving the entire University of Nevada, Las Vegas (“UNLV”) user base consisting of approximately 29,000 students and 4,000 employees. The solution should be versatile enough to support academic uses which may include classroom instruction and support, research and distance education support; and also non-academic uses such as meetings, interviews and professional presentations.

The selected solution should fully integrate with the UNLV’s learning management system(s) (currently Blackboard Learn, but transitioning to Instructure Canvas in 2018) as well as being able to be accessed and utilized fully independently from the learning management system. In addition the solution should be able to integrate as necessary with UNLV’s Identity Management System and authentication methodology. The solution should have an administrative structure that is flexible with assignable roles and privileges, and be able to respect roles and privileges in the learning management system and identity management system. Flexibility in the management and access to the storage of recorded sessions are also important.

The solution should have an easy-to-use setup and feature set for users, and not require specialized software or hardware to be utilized in normal operations. The solution should be flexible and adaptable enough to work with all major operating systems and browsers and be updated on a regular basis to deal with new browser and OS releases. The solution should be able to be accessed and used by all major mobile devices and operating systems.

In addition to industry standard audio and video capabilities, the product should have the capability of serving as a standalone audio-conferencing system with an independent dial-in number for participant audio and be able to be integrated with third party phone vendors. The solution should also be capable of delivering webinars or webcasts (one to many) to large numbers of participants.

The solution chosen should have proven and tested accessibility built into the product and be compliant with current industry standards and government requirements. Captioning capabilities, both internal and via third party captioning services will be particularly vital. Information and data security are vital and the means necessary to protect UNLV’s data security will be extremely important component in the decision process. UNLV has some medical components in its academic and administrative structure which may use the product, therefore HIPAA compliance and considerations in the product and protection of stored information are very important.

SECTION E
PRICING/ROYALTY FEE RESPONSE FORM

1. List and Describe all costs (including software, equipment, storage, implementation, professional services, travel costs, training, support, and other costs) below. Costs should be to serve the entire UNLV campus (approximately 29,000 students and 4,000 employees) for first year of the Contract. If your Company provides multiple support options, please include support options below that you recommend for UNLV. Include training and storage options recommended for UNLV. Include details on how software is priced (by FTE, number of users, or another methodology). Include details on how much storage is included. Award of the RFP is not a guarantee that a purchase will be made.

DESCRIPTION	Specify if this is a One Time Cost or Annual/monthly reoccurring cost	UNIT COST	UNIT OF MEASURE	QUANTITY	TOTAL COST
		\$			\$
		\$			\$
		\$			\$
		\$			\$
		\$			\$

		\$			\$
		\$			\$
		\$			\$
		\$			\$
		\$			\$
		\$			\$
				Total Cost Year 1	\$

2. Explain how long you would be able to hold your unit pricing firm for additional purchases of equipment/hardware, and other items for which we may require additional quantities, and how long you can hold the unit pricing/pricing firm for any reoccurring annual fees for support, license fees, hosting, etc. For any reoccurring fees, provide annual pricing for each year of the Contract (years 2 through 10) and/or provide the max % price increase over the previous year that the unit prices may increase in each of years 2 through 10 of the Contract. If your Company will hold the price firm (state 0%).

3. Maintenance and support – Provide pricing for your maintenance and support options (support tiers). Indicate which support option was included in pricing for question no. 1 above. Provide a detailed description of what is included with each of your maintenance and support options and how support is charged. For each option, provide annual pricing for each year of the contract (years 1 through 10) and/or maximum % price increase over the previous year that the support cost may increase.
4. Describe and provide information on pricing for options related to storage/hosting. Clearly delineate how much storage is included in the base pricing and break out additional storage costs if maximum is exceeded (if applicable). For each option, provide annual pricing for each year of the Contract (years 1 through 10) and/or maximum % price increase over the previous year that the cost may increase.
5. Describe and provide information on pricing and options for training. If additional training services are available beyond materials and services in the base pricing, please provide a separate pricing structure for those services.
6. Provide information and pricing on any services or functionality indicated in the criteria checklist that is not included in the base price quote or has variable charges based on usage.



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER 	CONTACT NAME: PHONE (A/C, No, Ext): FAX (A/C, No): E-MAIL ADDRESS: <table style="width: 100%;"> <tr> <td style="text-align: center;">INSURER(S) AFFORDING COVERAGE</td> <td style="text-align: center;">NAIC #</td> </tr> <tr> <td>INSURER A :</td> <td></td> </tr> <tr> <td>INSURER B :</td> <td></td> </tr> <tr> <td>INSURER C :</td> <td></td> </tr> <tr> <td>INSURER D :</td> <td></td> </tr> <tr> <td>INSURER E :</td> <td></td> </tr> <tr> <td>INSURER F :</td> <td></td> </tr> </table>	INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A :		INSURER B :		INSURER C :		INSURER D :		INSURER E :		INSURER F :	
INSURER(S) AFFORDING COVERAGE	NAIC #														
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COVERAGES**CERTIFICATE NUMBER:****REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>				EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 1,000,000 \$
	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input checked="" type="checkbox"/> ALL OWNED AUTOS <input checked="" type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS						COMBINED SINGLE LIMIT (Ea accident) \$ 500,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	<input type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$ \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A				<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 100,000 E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$ 500,000
	PROFESSIONAL LIABILITY PROJECT SPECIFIC (IF APPLICABLE)						

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
 ENDORSEMENTS/SPECIAL PROVISIONS

CERTIFICATE HOLDER**CANCELLATION**

BOARD OF REGENTS NEVADA SYSTEM OF HIGHER EDUCATION 4505 MARYLAND PARKWAY LAS VEGAS, NEVADA 89154-1033	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE
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EXHIBIT B
MINIMUM CONTRACT TERMS FOR THE RFP
FOR THE UNIVERSITY OF NEVADA, LAS VEGAS

These Minimum Contract Terms set forth the minimum Contract terms and conditions that will be applicable to a Contract resulting from this RFP. The final Contract will include details specific to the scope of this RFP, and any services which are excluded, due to existing agreements or replacement agreements thereof. It is important to **note any objections** to these Minimum Contract Terms (**including all insurance requirements**), since the final Contract will be longer and contain more, rather than less terms and conditions than the following:

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, ("**UNLV**") and (**INSERT NAME OF COMPANY**), a [**INSERT STATE AND MANNER OF ORGANIZATION**,) ("**Contractor**"), and is based on the following facts:

RECITALS

UNLV requires a contractor that can provide web conferencing software and services.

On _____, 2017, UNLV issued its Request for Proposal No. 702-KO (the "**RFP**") seeking proposals from qualified Proposers to provide web conferencing software and services.

On _____, 2017, Contractor submitted a proposal ("**Proposal**") in response the RFP. The Proposal was later modified by Contractor's "Best and Final Offer" on _____, 2017.

On _____, 2017, UNLV has accepted Contractor's Best and Final Offer.

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 nine (9) 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. Should UNLV exercise its right to extend this Contract for ninety (90) days beyond the expiration of 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 following services ("**Services**" (including any applicable Deliverables)) as described in Exhibit A.

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, 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.

UNLV may, at its sole option, develop additional job-specific scopes of work ("**Scopes of Work**" or "**SOW**"). In the event that UNLV elects to request additional services from Contractor, additional scope, schedule, and compensation will be negotiated with Contractor. Nothing in this Contract shall be construed as guaranteeing Contractor that any additional Scopes of Work will be actually requested.

ARTICLE III CONSIDERATION

The amount to be paid to Contractor for work performed under this Contract is estimated to be _____, but UNLV is not required to purchase any minimum amount. Pricing is provided in Exhibit A.

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

In the event that UNLV requests additional services from Contractor during the Term of this Contract or during any allowable Renewal Term(s), payments shall be made as agreed to between Contractor and UNLV, but in no case will payments for such additional services be made until such services are performed and accepted by UNLV. Any such payments and any such payment schedules shall be as negotiated between UNLV and Contractor prior to the commencement of any work or Services.

All products/Deliverable(s) shall be shipped FOB destination. Contractor is responsible for all shipping costs.

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, and 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.

Professional Liability coverage of not less than \$1,000,000 per occurrence and \$2,000,000 in annual aggregate.

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.

- 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) Subrogation must be waived against “The Board of Regents of the Nevada System of Higher Education.”
- 5) “The Board of Regents of the Nevada System of Higher Education” must be named as an Additional 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 NSHE/UNLV as an additional insured.
- 6) 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.
- 7) 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;
 - 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.
- 8) Ensure the Primary Policy complies as follows–

UNLV RFP 702-KO

- 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 insurance or self-insurance available to UNLV shall be in excess of and non-contributing with any insurance required.
- 9) Ensure the Loss Policy complies as follows– “The Board of Regents of the Nevada System of Higher Education” shall be named as loss payee as respects its interest in any property that Contractor has an obligation to insure on behalf of UNLV.
- 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);
 - Waiver of Subrogation Endorsement;
 - Endorsement reflecting Contractor insurance policies are primary over any other applicable insurance; and
 - Loss Payee Endorsement.

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, or any other information that is linked or linkable to an individual) 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 must abide by and agree to UNLV's Acceptable Use of Computing and Information Technology Resources Policy provided at <http://oit.unlv.edu/about-oit/policies>. 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**") and, the Health Information Technology for Economic and Clinical Health Act ("**HITECH**"); the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 ("**HIPAA**") and regulations promulgated by the U.S. Department of Health and Human Services (the "**HIPAA Regulations**"). Contractor also agrees to comply with all laws and regulations as set forth in more detail in the HIPAA Business Associate Agreement ("**BAA**"), attached hereto as Exhibit C of this Contract which Contractor shall contemporaneously execute.

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

Contractor shall provide UNLV with an extract of all UNLV customer/user data (video and database) in a text-based format, such as a MySQL database export or a set of CSV files and videos in MP4 format agreed to by UNLV in writing (email acceptable) as soon as practicable, but in no event later than thirty (30) days after termination or expiration of the Contract. Within sixty (60) days of providing UNLV the customer/user data,

Contractor agrees to destroy all confidential information and UNLV User Data received except as required by law or otherwise agreed to in writing by UNLV (email acceptable).

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

UNLV is an Equal Opportunity/Affirmative Action educator and employer committed to achieving excellence through diversity. 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, sex, color, creed, ethnicity, religion, age, marital status, pregnancy, gender, gender identity, gender expression, genetic information, veteran's status, national origin, physical or mental disability, or any other factor protected by anti-discrimination laws, 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 AND INTERPRETATION

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. The words "will" and "shall" denote a mandatory requirement or obligation. The words "hereof," "herein" and "hereunder" and words of similar import when used in this Contract shall refer to this Contract as a whole and not to any particular. The words "including," "including without limitation," and words of similar import shall not be deemed restrictive but rather shall be deemed illustrative examples.

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 and Contracts
University of Nevada, Las Vegas
4505 S. Maryland Parkway
Las Vegas, NV 89154-1033

Contractor as follows:

(INSERT 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, 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 the name of the Board of Regents of the Nevada System of Higher Education; University of Nevada, Las Vegas; Nevada State College; and any other NSHE logos, marks, trademarks, trade names, trade dress, slogans, or other indicia of ownership of the foregoing (collectively, **"Marks"**) are the sole property of NSHE/UNLV, and shall only be used in accordance with this Contract. UNLV hereby grants Contractor a non-exclusive, non-transferrable, revocable, limited license to use the UNLV Marks solely for the purposes of performing the Services set forth herein and not for Contractor's own promotional purposes without the prior written approval of UNLV. Contractor may only display the UNLV Marks in the manner approved in advance by UNLV and the license to use the UNLV Marks shall terminate the earlier of i) the termination of this Contract, or ii) UNLV's written revocation of the use of the UNLV Marks (email acceptable).

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 15th 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. JOINDER

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. 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.

U. FITNESS FOR DUTY, INSPECTION, AND LOANED ITEMS OR FACILITIES

Contractor shall ensure that it has engaged sufficient personnel with the expertise required for the successful provision of Services to comply with all the requirements set forth in the Contract or any applicable Scopes of Work or SOW. Contractor shall ensure that all Contractor personnel providing the Services (which shall include Contractor principals and Subcontractors) shall: i) report for work in a manner fit to do their job when providing Services for UNLV or on UNLV owned, leased, or operated property ("**Premises**") and ii) shall not be under the influence of or in possession of any alcoholic beverages or of any controlled substances (as defined by NRS 453.146 or any applicable federal law or statute) when providing Services for UNLV or on UNLV Premises (except as properly prescribed to them by a physician and provided that it does not affect their ability to safely and proficiently provide the Services). Searches by UNLV representatives may be made of persons, personal effects, lockers, or other storage areas on UNLV Premises to detect evidence of unlawful substances or prohibited items which must not be brought onto UNLV Premises. Any supplies, equipment, tools, items, vehicles, carts, or facilities shall be loaned solely as a convenience to Contractor and are provided "as is" without any representations as to the condition, suitability for use, freedom from defect, or hazards.

V. SUSTAINABILITY

- c) 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 Contractor share this commitment as well. Therefore, sustainable goods and services should be offered whenever available or specifically when required in the Contract.
- d) UNLV may request Contractor to provide reports related to sustainability on all goods and services provided. 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.
- a) 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.

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

UNLV RFP 702-KO

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 SSAE 16 (or better) certified facility at the following location: _____. 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 or TLS (or better) encryption.

Z. UPTIME

For the avoidance of doubt and notwithstanding anything to the contrary herein, UNLV shall be entitled to terminate this Contract without penalty and be entitled to a pro-rata refund in the event that the website or online Services has less than a 99.5 % uptime for any given month or for six or more consecutive days.

aa. REMOTE ACCESS

All remote access to UNLV systems shall be monitored by the UNLV and Contractor shall immediately disconnect the access to UNLV systems after providing the requested assistance. In no event shall Contractor keep or download any UNLV data or UNLV User Data from the systems except as necessary and only for the duration necessary to provide the Services.

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

(TYPE IN THE NAME OF THE CONTRACTOR.

APPROVED:

BY:

(TYPE IN NAME OF APPROVER)

Date

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

RECOMMENDED:

BY:

TYPE IN NAME & TITLE OF PERSON FROM DEPARTMENT

Date

APPROVED:

BY:

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

Date

EXHIBIT C
HIPAA BUSINESS ASSOCIATE AGREEMENT

This HIPAA Business Associate Agreement (“Agreement”) is entered into and made part of an Underlying Contract between the Board of Regents of the Nevada System of Higher Education, for and on behalf of University of Nevada, Las Vegas (hereinafter “**School**”), and _____, identified as a “Business Associate” in this Agreement. This Agreement is effective as of _____ (“Effective Date”). This Agreement shall be considered a part of, or an addendum to, the Underlying Contract between the parties dated _____ and any modifications, renewals, or extensions of the Underlying Contract (the “**Contract**”). Each of School and Business Associate may be referenced in this Agreement as “Party” and collectively as the “Parties.”

RECITALS

- A. During the course of Business Associate’s provision of services to School, under the Contract, Business Associate may have access to certain health information. This health information may constitute Protected Health Information, which is defined in 45 CFR 160.103 (“**PHI**”).
- B. School and Business Associate intend to protect the privacy and provide for the security of any PHI disclosed to Business Associate, or Subcontractor(s), in compliance with the Health Insurance Portability and Accountability Act of 1996 (“**HIPAA**”) and regulations promulgated by the U.S. Department of Health and Human Services (the “**HIPAA Rules**”).
- C. As part of the HIPAA Rules, the Privacy Rule (defined as that part of the HIPAA Regulations in 45 CFR Parts 160 and 164 and any state laws that provide more stringent standards), requires School to obtain written assurances from its Business Associates or Subcontractors that they will appropriately safeguard the PHI to which they have access.

In consideration of the mutual promises below and the exchange of information pursuant to this Agreement and the consideration flowing from the Contract and its continuation, the parties agree as follows:

DEFINITIONS

Underlying Services shall mean, to the extent and only to the extent they involve the creation, maintenance, use, disclosure or transmission of PHI, the services performed by Business Associate for School pursuant to the Contract.

Underlying Services Contract (referred to as the “**Contract**”) shall mean the written agreement(s) (other than this Agreement) by and between the parties pursuant to which Business Associate has access to, receives, maintains, creates or transmits PHI for or on behalf of School in connection with the provision of services described in that agreement(s) by Business Associate to School or in performance of Business Associate’s obligations under such agreement(s).

HIPAA Rules shall mean the Privacy, Security, Breach Notification, and Enforcement Rules at 45 CFR Part 160 and Part 164.

Security Rule shall mean 45 CFR Part 164 Subpart C.

Privacy Rule shall mean 45 CFR Part 164 Subpart E.

Protected Health Information and Unsecured Protected Health Information shall have the same meaning as those terms in the then-current HIPAA Rules, limited to the information created or received by the Business Associate from or on behalf of School.

The following terms used in this Agreement shall have the same meaning as those terms in the then-current HIPAA Rules: Breach, Business Associate, Covered Entity, Designated Record Set, Disclosure, Health Care Operations, Individual, Minimum Necessary, Notice of Privacy Practices, Required by Law, Secretary, Security Incident, Subcontractor, and Use.

1. **OBLIGATIONS OF BUSINESS ASSOCIATE**

Business Associate agrees to:

- a. **Use and Disclosure of PHI.** Business Associate shall not use or disclose PHI other than as permitted or required by the Contract, this Agreement, or as Required by Law. Business Associate will comply with School's Notice of Privacy Practices, to the extent a copy has been provided to Business Associate.
- b. **Disclosure to Others.** In accordance with 45 CFR 164.502(e) and 164.308(b) (2), if applicable, to the extent that it is necessary for Business Associate to disclose PHI to a third party, such as an agent or Subcontractor, Business Associate must obtain an agreement with the third party, prior to making any disclosure, that third party will abide by the same restrictions, conditions and requirements in this Agreement. This includes, among other things, obligations to maintain confidentiality, to make certain records available in compliance with the Privacy Rule, and to report disclosures in violation of the Privacy Rule.
- c. **Appropriate Safeguards.** Business Associate shall implement appropriate safeguards, and comply HIPAA Security Rule (45 CFR Part 164, Subpart C) with respect to electronic PHI, as are necessary to prevent the use or disclosure of PHI, except as permitted by this Agreement.
- d. **Reporting of Improper Use or Disclosure.** Business Associate shall report to School, in writing, any use or disclosure of PHI not provided for by this Agreement of which Business Associate becomes aware, including breaches of unsecured PHI as required by 45 CFR Section 164.410, and any Security Incident of which Business Associate becomes aware.
- e. Business Associate shall notify School within ten (10) days after Business Associate's discovery of any incident that involves an unauthorized acquisition, access, use, or disclosure of PHI, even if Business Associate believes the incident will not rise to the level of a breach. Business Associate agrees that such notification will meet the requirements of the HIPAA Breach Notification Rule set forth in 45 CFR 164.410. Business Associate shall provide to School the names and contact information of all individuals whose PHI was or is believed to have been involved, all other

information reasonably requested by School to enable School to perform and document a risk assessment in accordance with the HIPAA Breach Notification Rule with respect to the incident to determine whether a breach occurred, and all other information reasonably necessary to provide notice to individuals, the Department of Health and Human Services and/or the media in accordance with the HIPAA Breach Notification Rule.

In the event of any incident that is required to be reported under this Section 1(e), School shall elect in its sole discretion whether School, Business Associate or a third party shall be responsible for conducting an investigation of that incident and providing any required notices as set forth in this Section 1(e). In accordance with this election, and notwithstanding anything to the contrary in this Agreement and without limiting in any way any other remedy available to School at law, equity or contract, including but not limited under **Section 4** (further below) of this Agreement, Business Associate shall (i) conduct, or pay costs of conducting, an investigation of any incident required to be reported under this Section 1(e), (ii) shall reimburse and pay School for all expenses and costs incurred by School that arise from an investigation of any incident required to be reported under this Section 1(e), and (iii) shall provide, and/or pay the costs of providing, the required notices as set forth in this Section 1 (e).

- f. Business Associate shall mitigate any harmful effect of a use or disclosure of PHI by Business Associate in violation of the requirements of this Agreement.
- g. **Subcontractors.** In accordance with 45 CFR 164.502(e)(1)(ii) and 164.308(b)(2), if applicable, Business Associate shall ensure that any Subcontractors that create, receive, maintain, or transmit PHI on behalf of the Business Associate agree to the same restrictions, conditions, and requirements, in writing, that apply to the Business Associate with respect to such information.
- h. **Access to Protected Information and Amendment.** Business Associate shall make PHI in a Designated Record Set available to School as necessary to satisfy School's obligations under 45 CFR 164.524. Business Associate shall make such information available to School or designated individuals for inspection and copying within fifteen (15) days of a request to enable School to fulfill its obligations under the Privacy Rule, including 45 CFR Section 164.524. In addition, within fifteen (15) days of receipt of a request from School, Business Associate, or its agents or Subcontractors, shall make such PHI available to School for amendment and incorporate any such amendment to enable School to fulfill its obligations under the Privacy Rule, including 45 CFR Section 164.526.
- i. **Accounting Rights.** As necessary to satisfy obligations under 45 CFR 164.528, Business Associate agrees to account for all disclosures of PHI as required by the Privacy Rule and to maintain such records for at least six (6) years. At a minimum, such information shall include: (i) the date of disclosure; (ii) the name of the entity or person who received PHI and, if known, the address of the entity or person; (iii) a brief description of PHI disclosed; and (iv) a brief statement of purpose of the disclosure that reasonably informs the individual of the basis for the disclosure, or a copy of the individual's authorization, or a copy of the written request for disclosure. Within fifteen (15) days of notice by School of a request for an accounting of disclosures of PHI, Business Associate, or its agents or Subcontractors, shall make available to School the information required to provide an accounting of disclosures to enable School to fulfill its obligations under the Privacy Rule, including

45 CFR Section 164.528.

- j. Business Associate shall notify School in writing within three (3) days after Business Associate's receipt directly from an individual of any request for access to or amendment to PHI, or an accounting of disclosures, as contemplated in the Sections above of this Agreement.
- k. **Privacy Rule obligations.** To the extent the Business Associate is to carry out one or more of the School's obligation(s) under the Privacy Rule, the Business Associate will comply with the requirements of the Privacy Rule that apply to the School in the performance of such obligation.
- l. **Inspection by Secretary.** To the extent the Business Associate is to carry out one or more of School's obligations under Subpart E of 45 CFR Part 164, Business Associate shall comply with the requirements of Subpart E that apply to School in the performance of such obligation(s); and make its internal practices, books and records available to School and to the Secretary of the U.S. Department of Health and Human Services for purposes of determining Business Associate's compliance with HIPAA Rules. In connection with any compliance audit by School or its agents, such records shall be made available within fifteen days (15) of a request.
- m. Business Associate shall not directly or indirectly receive remuneration in exchange for any PHI as prohibited by 45 CFR 164.502(a)(5)(ii), as of September 23, 2013.
- n. Business Associate shall not make or cause to be made any communication about a product or service that is prohibited by 45 CFR 164.501 and 164.508(a)(3), as of September 23, 2013.
- o. Business Associate shall not make or cause to be made any written fundraising communication that is prohibited by 45 CFR 164.514(f), as of September 23, 2013.
- p. Business Associate shall take reasonable steps to ensure that its employees' actions or omissions do not cause Business Associate to breach the terms of this Agreement or violate provisions of HIPAA that apply to Business Associate.

2. PERMITTED USES AND DISCLOSURES BY BUSINESS ASSOCIATE

- a. Business Associate may only use or disclose PHI (1) solely as necessary to provide services set forth in the Contract and in compliance with each applicable requirement of 45 CFR 164.504(e), (2) as Required by Law or (3) as expressly otherwise authorized under this Agreement. Business Associate shall not use or disclose PHI for any other purpose or in any other manner.
- b. Business Associate shall request, use and/or disclose only the minimum amount of PHI necessary to accomplish the purpose of the request, use or disclosure; provided, that, as of September 23, 2013, Business Associate shall comply with 45 CFR 164.502(b) and 164.514(d).
- c. Business Associate may, if necessary, use or disclose PHI for the proper management and administration of Business Associate or to carry out the legal responsibilities of Business Associate; provided, that (1) any disclosure is Required by Law or (2) Business Associate obtains reasonable

advance written assurances from the person or party to whom the PHI is disclosed that the PHI will be held confidentially and used or further disclosed only as Required by Law or for the purposes for which it was disclosed to the person or party, and the person or party immediately notifies Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.

3. **TERMINATION**

- a. **Term.** The term of this Agreement shall commence as of Effective Date and shall terminate concurrently with the underlying Contract unless earlier terminated, by mutual written agreement of the parties, or in as authorized in this termination section.
- b. **Material Breach.** A breach or violation by Business Associate of any material provision of this Agreement shall constitute a material breach of the Contract and shall provide grounds for immediate termination of the Contract. At School's election, Business Associate may be provided with an opportunity to cure the breach or immediately terminate the Contract if cure is not possible.
- c. **Effect of Termination.** Upon termination of the Contract for any reason, Business Associate shall, with respect to PHI received from School, or created, maintained or received by Business Associate on behalf of School, shall at the option of School, return or destroy, if feasible, all PHI that Business Associate or its agents or Subcontractors still maintain in any form, within thirty (30) days. This provision shall apply to PHI that is in the possession of Subcontractors or agents of Business Associate. Business Associate shall retain no copies of the PHI. If return or destruction is not feasible, Business Associate shall provide to School written notification of the conditions or reasons that make return or destruction not feasible. Upon determination by School that return or destruction of PHI is not feasible, Business Associate shall continue to extend the protections of this Agreement to such PHI for as long as Business Associate maintains such PHI and shall limit further uses and disclosures to those purposes that make the return or destruction of the information not feasible.
- d. The obligations of Business Associate under this Section 3(c) shall survive the termination of this Agreement and shall continue to bind Business Associate, its agents, employees, contractors, successors, and assigns as set forth herein,

4. **LIABILITY**

Business Associate shall defend, hold harmless and indemnify School against all expenses, liabilities, damages, claims, costs, fines, penalties and losses (including attorneys' and consulting fees) (collectively "Losses") reasonably incurred by School in connection with, related to or arising from (i) the negligent or fraudulent act or omission of Business Associate, its agents, delegates, representatives or Subcontractors; (ii) violation of HIPAA by Business Associate, its agents, delegates, representatives, or Subcontractors, (iii) a breach of this Agreement by Business Associate, its agents, delegates, representatives, or Subcontractors. Upon demand by School, Business Associate shall defend any investigation, claim, litigation or other proceeding brought or threatened against School, at Business Associate's expense, by counsel acceptable to School. Business Associate shall not enter into any settlement without the written consent of School. This Article 4 shall survive expiration or termination of this Agreement for any reason.

5. **AMENDMENT**

The parties agree to amend this Agreement where necessary to comply with HIPAA and any modifications in the HIPAA Rules pertaining to Business Associates.

6. **NO THIRD PARTY BENEFICIARIES**

Nothing express or implied in this Agreement is intended to confer any right on any person or entity apart from the parties themselves.

7. **INTERPRETATION**

The provisions of this Agreement shall prevail over any provisions in the underlying Contract that may conflict or appear inconsistent with any provision in this Agreement. This Agreement and the Contract shall be interpreted as broadly as necessary to implement and comply with HIPAA and the Privacy Rule. The parties agree that any ambiguity in this Agreement shall be resolved in favor of a meaning that complies and is consistent with HIPAA and the Privacy Rule.

8. **GOVERNING LAW**

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

9. This Agreement may be executed in counterparts, each of which will constitute an original and all of which will be one and same document.

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

BUSINESS ASSOCIATE

APPROVED:

BY:

Name:

Date

Title:

THE BOARD OF REGENTS OF THE NEVADA SYSTEM OF HIGHER EDUCATION ACTING ON BEHALF OF THE UNIVERSITY OF NEVADA, LAS VEGAS (UNLV)

RECOMMENDED

BY:

Name:

Date

Title:

APPROVED:

BY:

Name:

Date

Title: