

**PURCHASE ORDER/SUPPLIER CONTRACT FOR COMMODITIES AND SERVICES
TERMS AND CONDITIONS**

The below terms and conditions are applicable to both Purchase Orders AND the ordering vehicle entitled “Supplier Contract”. Any reference below to “Purchase Order” shall refer to and have the meaning “Supplier Contract” when these terms and conditions are incorporated by reference in a Supplier Contract.

This Purchase Order (“PO”) along with its Exhibits constitutes a binding contract between the District Board of Trustees of Broward College, Florida (“College”) and the Vendor named on the PO when accepted by the Vendor either by express acknowledgment or by commencement of work or shipment without reservations. The College’s approval and acceptance of the is conditioned on Seller’s understanding and agreement that any of Seller’s Terms differing from or in addition to these PO Terms, whether communicated orally or contained in any confirmation, invoice, acknowledgement, release, acceptance or other written correspondence, irrespective of the timing, shall not form a part of the PO, even if Seller purports to condition its acceptance of these PO Terms on the College’s agreement to such different or additional terms. Seller’s electronic acceptance, receipt of payment, acknowledgement of these PO Terms, or commencement of performance, constitutes Seller’s acceptance of these PO Terms. Any terms or conditions contained in any Seller quotation, PO, or other document(s), which is inconsistent with, different from, the terms and conditions herein, are hereby rejected. If any discrepancy, difference, or conflict exists between the various provisions of these PO Terms and supporting documents, these PO Terms shall control.

1. STATEMENT OF GOOD OR SERVICE. The College hereby engages the Vendor to provide the good or service as described in the attached proposal, quote, estimate, scope of work, statement of work, or statement of services, incorporated herein.

2. ASSIGNMENT/GUARANTOR. The Vendor shall not assign, delegate or otherwise transfer its rights and obligations as set forth in this PO without the prior written consent of the College. Any attempted assignment in violation of this provision shall be null and void. The Vendor shall not pledge the College’s credit or make the College a guarantor of payment or surety for any contract, debt, obligation, judgment, lien, or any form of indebtedness. Pledging the College’s credit shall also be construed to include the use of “factoring agents” or the practice of selling business accounts receivables to a third party at a discount for the purpose of obtaining funding which is also expressly prohibited.

3. FORCE MAJEURE. Notwithstanding any provisions of this PO to the contrary, the Parties shall not be held liable for any failure or delay in the performance of this PO that arises from fires, floods, strikes, embargoes, acts of the public enemy, unusually severe weather, outbreak of war, restraint of government, riots, civil commotion, force majeure, act of God, or for any other cause of the same character which is unavoidable through the exercise of due care and beyond the control of the Parties. Failure to perform shall be excused during the continuance of such circumstances, but this PO shall otherwise remain in effect.

4. APPLICABLE LAW AND VENUE. The laws of the State of Florida shall govern all aspects of the PO. In the event it is necessary for either Party to initiate legal action regarding the PO, venue for all claims shall be in Broward County, Florida.

5. INDEMNIFICATION. For value received, the Vendor shall indemnify and hold the College, its officers, directors, board of trustees, agents, assigns, and employees harmless from liabilities, damages, losses and costs, including, but not limited to reasonable attorneys’ fees, to the extent caused by the negligence, recklessness or intentionally wrongful conduct of the Vendor and other persons employed or utilized by the Vendor in the performance of the PO. The Vendor further acknowledges that it is solely responsible for ensuring its compliance and the compliance of its subcontractors, suppliers, agents, assigns, invitees and employees with the terms of this PO. This paragraph shall survive the expiration or termination of this PO.

6. ENTIRE AGREEMENT. This PO states the entire understanding and agreement between the Parties and no course or prior dealing, usage of the trade or extrinsic or parol evidence shall be relevant to supplement, vary or explain any term used with respect to this PO. The acceptance or acquiescence of any course of performance rendered under this PO shall not be construed as a waiver nor shall it be relevant to define or vary any term stated herein. This PO shall inure to the benefit of and shall be binding upon the Parties, their respective assigns and successors in interest.

7. TERMINATION FOR DEFAULT. A “material breach” of this PO is defined as any substantial, unexcused non-performance by failing to perform an act that is an important part of the transaction or performing an act inconsistent with the terms and conditions of the PO. If the Vendor materially fails to fulfill its obligations under this PO, the College will provide written notice of the deficiency by forwarding a Cure Notice citing the specific nature of the material breach. The Vendor shall have thirty (30) days to cure the breach. If the Vendor fails to cure the breach within the thirty (30) day period, the College shall issue a Termination

for Default Notice. The College may pursue whatever legal and/or equitable remedies it chooses regarding Vendor’s breach of contract.

8. TERMINATION FOR CONVENIENCE. The College may terminate this PO with or without cause at any time for convenience upon thirty (30) calendar days’ prior written notice to the Vendor. In the event of termination for convenience, the College shall compensate the Vendor for all authorized and accepted deliverables and/or services completed through the date of termination in accordance with Exhibit “A.” The College shall be relieved of any and all future obligations hereunder including but not limited to, lost profits and consequential damages under this PO. The College may withhold all payments to the Vendor for such work until such time as the College determines the exact amount due to the Vendor.

9. DISPUTES. In the event a dispute arises which the Vendor and the College cannot resolve between themselves, the Parties shall have the option to submit to nonbinding mediation. The mediator or mediators shall be impartial, shall be selected by the Parties and the cost of the mediation shall be borne equally by the Parties. The mediation process shall be confidential to the extent permitted by law. Mediation shall not occur unless both Parties agree in writing.

10. COMPLIANCE/LICENSES. The Vendor, its employees, subcontractors or assigns shall obtain, at its own expense, all licenses, permits, and other authorizations necessary to comply with all applicable federal, state, and local laws and regulations relating to the performance of this PO. The Vendor is also responsible for compliance with all labor and employment laws as well as all Federal, State, and local discrimination laws. The Vendor is solely responsible for compliance with all labor and tax laws pertaining to its officers, agents, and Vendor employees and shall indemnify and hold the College harmless from any failure by Vendor to comply with such laws.

11. PUBLIC RECORDS/REQUEST FOR CONTRACTOR RECORDS. The Vendor shall allow public access to all project documents and materials in accordance with the provisions of Chapter 119, Florida Statutes. Should the Vendor assert any exemptions to the requirements of Chapter 119 and related statutes, the burden of establishing such exemption, by way of injunctive or other relief as provided by law, shall be upon the Vendor and Vendor shall bear all costs and fees related to the same.

If the Vendor meets the definition of “contractor” under Section 119.0701, Florida Statutes, in addition to other contract requirements provided by law, the Vendor must comply with public records laws, and shall:

- (a) Keep and maintain public records required by the College to perform the service.
- (b) Upon request from the College, provide the College with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.
- (c) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the PO term and following completion of the PO if the Vendor does not transfer the records to the College.
- (d) Upon completion of the PO, transfer, at no cost, to the College all public records in possession of the Vendor or keep and maintain public records required by the College to perform the service. If the Vendor transfers all public records to the College upon completion of the PO, the Vendor shall destroy any duplicate public records that are exempt or confidential and exempt from public records

disclosure requirements. If the Vendor keeps and maintains public records upon completion of the PO, the Vendor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the College, upon request from the College's custodian of public records, in a format that is compatible with the information technology systems of the College.

(e) IF THE VENDOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE VENDOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS PO, CONTACT THE COLLEGE AT (954) 201-7639, LEGALSERVICES@BROWARD.EDU, OR 111 EAST LAS OLAS BOULEVARD, #523, FORT LAUDERDALE, FL 33301.

IN ADDITION, THE VENDOR ACKNOWLEDGES THAT THE COLLEGE CANNOT AND WILL NOT PROVIDE LEGAL ADVICE OR BUSINESS ADVICE TO THE VENDOR WITH RESPECT TO ITS OBLIGATIONS PURSUANT TO THIS SECTION RELATED TO PUBLIC RECORDS. THE VENDOR FURTHER ACKNOWLEDGES THAT IT WILL NOT RELY ON THE COLLEGE OR ITS COUNSEL TO PROVIDE SUCH BUSINESS OR LEGAL ADVICE, AND THAT THE VENDOR IS HEREBY ADVISED TO SEEK BUSINESS/LEGAL ADVICE WITH REGARD TO PUBLIC RECORDS MATTERS ADDRESSED BY THIS PO. THE VENDOR ACKNOWLEDGES THAT ITS FAILURE TO COMPLY WITH FLORIDA LAW AND THIS PO WITH RESPECT TO PUBLIC RECORDS SHALL CONSTITUTE A MATERIAL BREACH OF THIS PO AND GROUNDS FOR TERMINATION PURSUANT TO PARAGRAPH 7.

12. AUDIT. The Vendor shall maintain all records, books and documents pertinent to the performance of this PO in accordance with generally accepted accounting principles consistently applied. The College shall have inspection and audit rights to such records for a period of 3 years from final payment under this PO. Records relating to any legal disputes arising from performance under this PO shall be made available until final disposition of the legal dispute. If the audit reveals that the Vendor owes the College any funds, Vendor shall pay for the audit and return all funds to the College immediately.

13. COLLEGE'S TAX EXEMPTION. The Vendor shall not utilize the College's tax exemption certificate number issued pursuant to Sales and Use Tax Law, Chapter 212, Florida Statutes, when purchasing materials used to fulfill its contractual obligations with the College. The Vendor shall be responsible and liable for the payment of all applicable FICA/Social Security and other taxes resulting from this PO.

14. INVOICES AND PAYMENTS. All invoices submitted by the Vendor shall contain the PO number, or the Vendor will not get paid. Invoices should include an itemization of the date, hours expended, and description of the deliverable. Invoices may be submitted via email, facsimile or U.S. mail. The time at which payment will be due from the College will be approximately 30 days from receipt of an undisputed invoice, acceptance of deliverables, and upon satisfaction of the College conditions that are detailed herein.

15. VENDOR NOT TO LIMIT WARRANTY. The Vendor shall not limit or exclude any express or implied warranties and any attempt to do so shall render this PO void, at the option of the College. The Vendor warrants that the goods and services furnished will conform to the specifications, drawings and descriptions listed in the offering document or to the sample(s) furnished, or in the Statement of Work.

16. INFRINGEMENT. Vendor represents that any goods or services furnished or provided to College, if any, will not infringe upon or violate any patent, copyright, trademark, trade secret, or any other proprietary right of any third party. Vendor will, at its own expense, defend any suit brought against College and will indemnify College against an award of damages and costs made against College by a settlement or final judgment of a court that is based on a claim that the use of the Vendor's goods or services by College infringes a trademark or copyright of a third party; provided that College notifies Vendor in writing of the suit or any claim of infringement within 20 days after receiving notice thereof. Such defense and indemnity shall survive expiration or earlier termination of the PO.

17. NONDISCRIMINATION. The Vendor hereby assures that no person shall be excluded on the grounds of race, color, religion, national origin, disability, age, gender, marital status, sexual orientation or any other basis prohibited by law, from participation in, denied the benefits of, or otherwise be subjected to discrimination in any activity hereunder. The Vendor shall take all measures necessary to effectuate these assurances.

18. AMENDMENTS. This PO may be amended only when reduced to writing and signed by both Parties.

19. PUBLIC ENTITY CRIMES/SDN LIST. The Vendor, by its execution of this PO, acknowledges and attests that neither it, nor any of its suppliers, subcontractors, affiliates or consultants who shall perform services which is intended to benefit the College, is a State of Florida convicted vendor or is included on the State of Florida's discriminatory vendor list. The Vendor further understands and accepts that this PO shall be either void or subject to immediate termination by the College, in the event there is any misrepresentation or lack of compliance with the laws and the mandates of Section 287.133, Section 287.134, or Section 287.135, respectively, Florida Statutes. The College, in the event of such termination, shall not incur any liability to the Vendor for any work or materials furnished.

20. TERMS/PROVISIONS. Should any term or provision of this PO be held, to any extent, invalid or unenforceable, as against any person, entity or circumstance during the term hereof, by force of statute, law, or ruling of any forum of competent jurisdiction, such invalidity shall not affect any other term or provision of this PO and the PO shall remain operable, enforceable and in full force and effect to the extent permitted by law.

21. NO WAIVER OF SOVEREIGN IMMUNITY. Nothing contained herein shall be construed or interpreted as: (1) denying to either party any remedy or defense available to such party under the laws of the State of Florida or the United States; (2) the consent of the State of Florida or their respective officers, employees, servants, agents, agencies, or public bodies corporate to be sued; or (3) a waiver of sovereign immunity of the State of Florida or the United States by any agency or political subdivision to which sovereign immunity may be applicable or of any rights or limits to liability existing under Florida Statutes Section 768.28 or beyond that provided by applicable law. This section shall survive the termination of all performance or obligations under this PO and shall be fully binding until such time as any proceeding brought on account of this PO is barred by any applicable statute of limitations.

22. CONFLICT OF INTEREST. This PO is subject to the provisions of Chapter 112, Florida Statutes, as currently enacted or as amended from time to time. By accepting this PO, Vendor certifies there is no conflict of interest as described in the statute. Prior to execution of this PO, prospective Vendor's must disclose, the name of any officer, partner, director, proprietor, or affiliated person (including but not limited to consultant, lobbyist, advisor, subcontractor, etc.) of your firm who is also an employee of the College or an immediate family member (spouse, domestic partner, child, in-law, etc.) of an employee of the College and has a material interest in the Prospective Vendor's firm. The prospective Vendor must also disclose gifts exceeding the statutory limits provided to a College employee, or an immediate family member in the last twelve (12) months.

23. CONFIDENTIALITY. To the extent that information about the College's employees or students is contained in records created, maintained or accessed by the Vendor and that this information is confidential and protected by the Family Educational Rights and Privacy Act of 1974 (FERPA) (20 U.S.C. 1232g), and/or any federal or state laws protecting personal information ("Protected Information"). Vendor agrees that: (i) it shall keep and maintain all "Protected Information" obtained during the performance of this PO, in strict confidence, using such degree of care as is appropriate to avoid unauthorized access, use or disclosure; (ii) will use and disclose Protected Information solely and exclusively for the purposes for which the Protected Information, or access to it, is obtained or provided, to perform the requested services in accordance with the terms and conditions of this PO, and not to use, sell, rent, transfer, distribute, or otherwise disclose or make available Protected Information for Vendor's own purpose or for the benefit of anyone other than the student, in each case, without student's prior written consent; and (iii) not directly or indirectly, disclose Protected Information to any person other than authorized College employees, or as may be requested by government authorities in the lawful performance of their duties.

The Vendor shall also comply with paragraph 42 (Background Checks).

At the request of the College, Vendor agrees to provide the College with a written statement of the procedures Vendor uses to safeguard Protected Information. Any breach of the requirements of this Confidentiality clause on the part of the awarded Vendor and its representatives may constitute grounds for immediate termination of contract.

24. MARKETING. Vendor may use the College's name in marketing materials for the purpose of publicizing contract awards; however, Vendor is prohibited from obtaining affirmations from College staff regarding its products or services. Affirmations include any kind of testimonials or endorsements of the Vendor as well as the products and/or services offered by the Vendor. The College, as a government entity, must fairly and equitably compete for goods and services, and therefore the endorsement of any particular firm, product, or service is strictly prohibited. Vendor is strictly prohibited from releasing any statements to the

media regarding work performed under this PO without the review, and the express prior written approval of the College. The College's approval is at its sole discretion; however, such approval will not be unreasonably withheld.

25. NO CONSTRUCTION AGAINST DRAFTER. Each Party has participated in negotiating and drafting this PO, so if an ambiguity or a question of intent or interpretation arises, this PO is to be construed as if the Parties had drafted it jointly, as opposed to being construed against a Party because it was responsible for drafting one or more provisions of this PO.

26. DELETION. Any term and/or condition on the following subject matters are hereby deleted and declared null and void: (a) Grants of exclusivity by College to the Vendor; (b) Restrictions on the hiring of the Vendor's employees; (c) Automatic renewals or extensions of the term of the PO; (d) Limitation of time to bring suit; (e) Limitation of the Vendor's liability; (f) Indemnification of the Vendor by College; (g) Attorney's and collection fees provisions; and (h) Mediation and arbitration provisions.

ADDITIONAL TERMS AND CONDITIONS FOR COMMODITIES:

27. COLLEGE'S TITLE TO MATERIALS, DOCUMENTS & PACKAGING. All materials, drawings or other items provided by the College to the Vendor remain the property of the College and will be returned to the College upon demand. All containers, reels or pallets shipped with goods by the Vendor are to remain the property of the College unless otherwise agreed to in writing.

28. SHIPMENT UNDER RESERVATION PROHIBITED. Vendor is not authorized to ship the goods with any reservations and no tender of a bill of lading will substitute as a tender of the goods.

29. DELIVERY TERMS & TRANSPORTATION CHARGES. Delivery is "F.O.B. Destination" unless delivery terms are otherwise specified in the PO. If the College agrees in writing to reimburse the Vendor for transportation costs, the College shall have the right to designate the method of shipment. In either case, the title and all risk of loss of the goods shall remain with the Vendor until the goods are received and accepted by the College. Rejected materials will be returned to the Vendor at the Vendor's risk and expense.

30. MATERIAL SAFETY. In accordance with Title 29, C.F.R., Chapter XVII, and Chapter 442, Florida Statutes, it is the Vendor's duty to advise if a product is a toxic substance and to provide a Material Safety Data Sheet at the time of delivery.

31. VENDOR TO PACKAGE GOODS. Vendor will package goods in accordance with good commercial practice. Each shipping container shall be clearly and permanently marked as follows: (1) Vendor's name and address; (2) consignee's name, address and PO or Purchase Release number; (3) container number and total number of containers, e.g., box 1 of 4 boxes; and (4) the number of the container bearing the packing slip. Vendor shall bear the cost of packaging unless otherwise specified in the PO.

32. PRICES QUOTED. The Vendor's price will be the lowest prevailing market price and under no circumstances will the price be higher than specified, without the express written authorization of the parties, as evidence by an amendment to the PO.

33. COLLEGE'S RIGHT TO CANCEL. The College reserves the right to cancel all or part of this PO, without obligation, if acceptance is not expressed by the Vendor either through written notice or by delivery of items ordered, within the specified time(s) and date(s).

34. UNIFORM COMMERCIAL CODE. In addition to all other Florida laws that are applicable to this PO, provisions of the Uniform Commercial Code, Chapters 671-679, Florida Statutes shall apply to commodities.

ADDITIONAL TERMS AND CONDITIONS FOR SERVICES:

35. STATEMENT OF SERVICES. The Vendor shall, to the satisfaction of the College, fully and timely perform all work items described in the Exhibit "A." As part of the services to be provided by the Vendor under this PO, the Vendor shall substantiate, in whatever form reasonably requested by the College, the methodology, lab analyses, scientific theories, data, reference materials and research notes to formulate its opinions. This requirement shall survive the expiration or termination of this PO. The Parties agree that time is of the essence in the performance of each and every obligation hereunder. It is the Vendor's responsibility to advise its employees or hired workers of the nature of the project,

as described in this PO and Exhibit "A" attached hereto. The Vendor shall determine the method, details and means of performing the services, within the parameters established by Exhibit "A." The College may provide additional guidance and instructions to the Vendor's employees or hired workers where necessary or appropriate as determined by the College. The Vendor agrees to abide by any and all additional guidance and instructions.

36. COMPENSATION/CONSIDERATION. The total consideration for all work required by the College pursuant to this PO shall not exceed the amount indicated in Exhibit "A." Should the Vendor incur any travel expenses, payment for such travel will be in accordance with Section 112.061, Florida Statutes. The Vendor shall supply the College with receipts and supporting documentation for all reimbursable travel expenses. The Vendor, by executing this PO, certifies to truth-in-negotiation, specifically, that wage rates and other factual unit costs supporting the consideration are accurate, complete and current at the time of contracting. If the total consideration for this PO is subject to multi-year funding allocations, funding for each applicable fiscal year of this PO will be subject to College Board of Trustees budgetary appropriation. In the event the College does not approve funding for any subsequent fiscal year, this PO shall terminate upon expenditure of the current funding, notwithstanding other provisions in this PO to the contrary. The College will notify the Vendor in writing after the adoption of the final College budget for each subsequent fiscal year if funding is not approved for this PO.

37. INSURANCE. The Vendor shall carry at a minimum the following: Commercial General Liability insurance with limits of at least \$1,000,000 per occurrence for bodily injury, death and property damage and shall protect it from claims which may arise whether such claims may arise out of the operations of the vendor or by anyone directly or indirectly employed by the Vendor. Automobile Liability insurance on all vehicles used to carry out the PO against bodily injury and property damage in the amount of at least \$1,000,000 per occurrence. If the Vendor will have access to College networks, systems, access to student or employee data, then Vendor shall carry Cyber Liability or a similar insurance to cover any network security or data breach with limits of at least \$5,000,000. Vendor shall carry Worker's Compensation insurance as required by Chapter 440, Florida Statutes. If the Vendor is exempt from carrying Worker's Compensation, they may provide the exemption certificate or a signed letter on company letterhead indicating the basis of the exemption. If any of the required policies provide coverage on a "claims-made" basis then insurance must be maintained and evidence of insurance must be provided for at least three (3) years after completion of the contract work. If coverage is cancelled or non-renewed and not replaced with another "claims-made" policy form with a Retroactive Date prior to the contract effective date, the Vendor must purchase "extended reporting" coverage for a minimum of three (3) years after the completion of contract work. The College may require Professional Liability insurance where applicable. All insurance policies shall be issued by companies qualified to do business in the state of Florida and grant the College thirty (30) days advanced written notice of cancellation, expiration or any material change in the specified coverage. The insurance companies must be rated at least A-VII by A.M. Best. The Vendor must provide a Certificate of Insurance (COI) completed in full, indicating the producer, insured, carrier's name, policy numbers and effective and expiration dates of each type of coverage required. The COI shall be signed by an authorized representative and shall identify the College as the Certificate Holder and as an additional insured with respect to General Liability policies. No work is authorized until such time as the College has received a COI in compliance with the above requirements. The College's Chief Risk Officer may revise or waive, at his/her discretion, the requirements stated above. The College will notify the Vendor if the insurance requirements will differ from those stated above.

Certificate Holder and Additional Insured shall read:

The District Board of Trustees of Broward College, Florida
Attn: Risk Management
6400 NW 6th Street
Ft. Lauderdale, FL 33309

38. OWNERSHIP. The College shall retain exclusive title, copyright and other proprietary rights in all work items, including, but not limited to, all documents, technical reports, research notes, scientific data, computer programs, including the source and object code, which are developed, created or otherwise originated hereunder by the Vendor under this PO. The Vendor shall grant to the College a perpetual, non-transferable, exclusive right to use any proprietary software, if any. Any equipment purchased by the Vendor with College funding shall be returned and title transferred from the Vendor to the College upon expiration or termination of this PO.

39. INDEPENDENT CONTRACTOR. The Vendor shall be considered an independent contractor and nothing in this PO shall be interpreted to establish any

relationship other than that of an independent contractor between the Parties and their respective employees, agents, subcontractors or assigns, during or after the term of this PO. Both Parties are free to enter into contracts with other Parties for similar services. The College assumes no duty with regard to the supervision of the Vendor and the Vendor shall remain solely responsible for compliance with all safety requirements and for the safety of all persons and property at the site of performance under this PO. In the event the Vendor is a sole proprietor, the Vendor is responsible for submitting legally required tax returns to the Federal Government.

40. E-VERIFY COMPLIANCE; UNAUTHORIZED ALIEN WORKERS. By entering into a contract with College, Vendor is obligated to comply with the provisions of Section 448.095, Fla. Stat., "Employment Eligibility." Compliance with Section 448.095, Fla. Stat., includes, but is not limited to, utilization of the E-Verify System to verify the work authorization status of all newly hired employees, and requiring all subcontractors to provide an affidavit attesting that the subcontractor does not employ, contract with, or subcontract with, an unauthorized alien. Vendor affirms and represents that it is registered with the E-Verify system and are using same, and will continue to use same as required by Section 448.095, Fla. Stat. The Vendor's employment of unauthorized aliens is considered a violation of Section 274A(e) of the Immigration and Nationality Act. If the Vendor knowingly employs unauthorized alien workers, such violation shall be cause for College's unilateral cancellation of the Agreement.

41. CHANGE IN PERSONNEL. The College may at any time and at its sole discretion request that the Vendor replace any Vendor personnel provided by the Vendor to work on this PO if the College believes that it is in the best interest of the College to do so. The College may, but will not be required to, provide a reason for requesting the replacement of personnel. Such change in personnel shall be made immediately upon the College's written request for a change of personnel. The Vendor shall place the above language in any contract that it has with subcontractors. The Vendor will enforce the replacement of subcontractor personnel upon a request by the College.

42. BACKGROUND CHECKS. *This clause applies to long term Vendors working on site, including, but not limited to, Childcare services, Janitorial Services, Food Services and Security or to the extent that HIPAA/FERPA Protected Information, as defined in paragraph 23 herein entitled "Confidentiality", about the College's employees or students is contained in records created, maintained or accessed by the Vendor. Vendor shall conduct thorough background checks for all of the Vendor's employees or hired workers who will be working on any College site or have access to FERPA or HIPAA Protected Information.* The background checks shall consist of education verification, a national criminal check for state and federal felonies and misdemeanors, and a check on immigration status in accordance with paragraph 40 (E-Verify). After reviewing the results of the background check, the Vendor shall determine whether the Vendor's employee and/or hired worker meets the necessary criteria for the position sought to be filled by the College. The College will rely on the Vendor's assessment of its employees' or hired workers' suitability to be hired for the position(s) sought to be filled by the College, based on the background check conducted by the Vendor. Prior to allowing any employees or hired workers to work on-site at College facilities, the Vendor will provide written verification to the College that a complete background check, as described above, was conducted for any such employee or hired worker. The Vendor will place the above language in any contract that it has with its subcontractors and is responsible for enforcement of this provision.

Vendor who has long term onsite workers performing work at College facilities, agrees to be bound by the College policies and standards of conduct listed in the "Contractor Policy Code Acknowledgement Form," which is attached hereto and incorporated herein as Exhibit "B."

43. EMPLOYMENT BENEFITS. Vendor expressly understands and agrees that Vendor, its officers, agents, and employees, are not entitled to any employment benefits from the College.

44. STOP WORK ORDER. The College may order that all or part of the work stop if circumstances dictate that this action is in the College's best interest. Such circumstances may include, but are not limited to, unexpected technical developments, direction given by the College's Board of Trustees, a condition of immediate danger to the College, the Vendor or the public, or the possibility of damage to equipment or property. This provision shall not shift responsibility for loss or damage, including but not limited to, lost profits or consequential damages sustained as a result of such delay, from the Vendor to the College. If this provision is invoked, the College shall notify the Vendor in writing to stop work as of a certain date and specify the reasons for the action, which shall not be arbitrary or capricious. The Vendor shall then be obligated to suspend all work efforts as of the effective date of the notice and until further written direction from the College is

received. If deemed appropriate by the College and in the event work is resumed, the College may amend this PO to reflect any changes to Exhibit "A" and/or the project schedule.

☐ ADDITIONAL TERMS AND CONDITIONS FOR SOFTWARE AND INFORMATION SERVICES (box checked by College if applicable):

45. INFRINGEMENT. In accordance with paragraph 16 (Infringement) of these Terms, Vendor represents and warrants that its software and/or hardware, as applicable, and any related systems, documentation and/or services related thereto (collectively, the "Materials") furnished to College will not infringe upon or violate any patent, copyright, trademark, trade secret, or any other intellectual or proprietary right of any third party. However, in the event an injunction or order is obtained against College for the use of the Vendor's Materials or, if in the Vendor's opinion, the Materials are likely to become the subject of a claim of infringement or violation of a copyright, trademark, trade secret, or other intellectual or proprietary right of a third party, Vendor shall, at its expense, either (a) Procure for College the right to continue using the Materials; or (b) At no additional cost to College, replace or modify the Materials so that it becomes non-infringing, but only if the modification or replacement does not adversely affect the specifications of the Materials or its use by College; or (c) If neither (a) nor (b) above is practicable, Vendor shall remove the Materials from College and shall issue a credit for the Materials to College, less an equitable refund or adjustment reflecting the value of the Materials during the remainder of term of the PO and College's cost of replacement. Thereafter, any license involved shall be considered canceled.

46. USE OF INFORMATION. College may distribute any information or service based upon, generated by, or involving the use of the Materials as long as the Materials is not distributed to individuals outside of College. The Materials may be distributed if it is permitted by the PO. College may create and retain a copy of the Materials and related documentation for back-up and disaster recovery purposes, and for archival purposes for use after the termination or expiration of the PO.

47. PUBLIC RECORDS. In addition to paragraph 11 (Public Records/ Request for Contractor Records) of these Terms, if any of the Materials are considered confidential or trade secret pursuant to applicable Florida law and are exempt from the Florida Public Records Laws, College, in accordance with such laws, will not disclose to any third party such Materials that are clearly marked as such unless otherwise authorized in writing by the Vendor. This provision shall survive the termination or expiration of the PO.

48. INSURANCE. In addition to paragraph 37 of these Terms, the Vendor shall provide and keep in full force and effect during the term of the PO, at the Vendor's own cost and expense, the following insurance policies for the joint benefit of the Vendor and College, with an insurer reasonably acceptable to College: (i) Professional Liability insurance with a minimum per claim liability limit amount of \$1,000,000 (ii) In the event the Vendor is hosting College information, Cyber Liability insurance will be required with a minimum aggregate liability limit amount of \$5,000,000. The Vendor shall deliver to College true and correct copies of certificates of such insurance. If the professional liability insurance is provided on a claims-made basis, then such insurance shall continue throughout the term of the PO and upon the termination of the PO, or the expiration or cancellation of the insurance, College shall purchase, or shall require Vendor to purchase, tail coverage for a period of three years after the termination of the PO or the expiration or cancellation of the claim-made coverage (said tail coverage shall be in amounts and type equivalent to the claims-made coverage).

49. INFORMATION SECURITY. To the extent applicable to Vendor's performance under the PO, Vendor agrees at all times to maintain network security that – at a minimum – includes: network firewall provisions, intrusion detection and prevention, anti-malware, and other cybersecurity safeguards as well as conduct regular third party penetration testing. Vendor further agrees to the following:

50. NETWORK STANDARDS: Vendor agrees that it shall, at least, meet those standards that College applies to its own network (see College IT Policies, as they may be updated);

51. DATA SECURITY: Vendor agrees to protect and maintain the security of any College data (including, but not limited to, Confidential Information, PII, and PHI) with protection that is at least as good as or better than that maintained by College. These security measures include maintaining secure environments

that are patched and up-to-date with all appropriate security updates as designated (see College IT Policies, as they may be updated);

52. DATA TRANSMISSION: Vendor agrees that any and all transmission or exchange of system application data with College and/or any other Parties expressly designated by College, shall take place via secure means, e.g., HTTPS or FTPS;

53. DATA STORAGE: Vendor agrees that any and all College data will be stored, processed, and maintained solely on designated target servers and that no College data at any time will be processed on or transferred to any portable or laptop computing device or any portable storage medium, unless medium is in part of the Vendor's designated backup and recovery process;

54. DOMAIN ENCRYPTION: Vendor agrees that any websites hosted by Vendor on behalf of College shall be on an encrypted domain in compliance with the minimum security standards (see College IT Policies, as they may be updated);

55. DATA ENCRYPTION: Vendor agrees to store any College backup data as part of its designated backup and recovery process in encrypted form, using no less than 256-bit key;

56. PASSWORD PROTECTION: Vendor agrees that any portable or laptop computer that resides at any College facility, has access to a College network, or stores any non-public College data is equipped with strong and secure password protection;

57. DATA RE-USE: Vendor agrees that any and all data exchanged shall be used expressly and solely for the purpose enumerated in the PO. Data shall not be distributed, repurposed or shared across other applications, environments, or business units of Vendor. Vendor further agrees that no College data of any kind shall be transmitted, exchanged or otherwise passed to other vendors or interested Parties except on a case-by-case basis as specifically agreed to in writing in advance by College;

58. DATA DESTRUCTION: Vendor agrees that, upon termination or expiration of the PO, it shall erase, destroy, and render unreadable all College data from all computer systems and backups, and certify in writing that these actions have been completed within thirty (30) days of the termination of the PO or within seven (7) days of the request of an agent of College, whichever shall come first; and

59. NOTIFICATION AND DATA BREACHES: Vendor agrees to comply with all applicable laws that require the notification of individuals in the event of unauthorized release of personally identifiable information or other event requiring notification. In the event of a data breach of any Vendor's security obligations or other event requiring notification under applicable law, Vendor agrees to assume responsibility for informing all such individuals in accordance with applicable laws and to indemnify, hold harmless and defend College against any claims, damages, or other harm related to such event.

60. PCI DSS. If Vendor's provision of services involves the acceptance of funds on behalf of College or involve credit card services, Vendor shall be responsible for the security of all College customer cardholder data in its possession. Vendor represents and guarantees that for the life of the Agreement and/or while Vendor has involvement with College customer cardholder data, the software and services used for processing transactions shall be compliant with standards established by the Payment Card Industry Security Standards Council (<https://www.pcisecuritystandards.org/>). Vendor shall, upon written request, furnish proof of compliance with the Payment Card Industry Data Security Standard (PCI DSS) within 10 business days of the request. Vendor agrees to provide to College a current and complete copy of their Attestation of Compliance (AOC). Further, Vendor agrees to provide to College a proof of a recent (no more than 3 months old) passing quarterly external vulnerability scan as performed by an Approved Scanning Vendor (ASV) by the Payment Card Industry Security Standards Council.

61. COMPLIANCE WITH EXPORT CONTROL REGULATIONS. The Vendor acknowledges they must comply with export control laws, including the International Traffic in Arms Regulations (ITAR); the Export Administration Regulations (EAR); and the Office of Foreign Assets Control Regulations (OFAC). If Vendor provides export-controlled products, technology and/or software ("goods") to College, Vendor will provide College with a list of ECCNs (Export Control Classification Numbers) or the United States Munitions List (USML) Category Numbers, for such goods. This provision shall survive the expiration or earlier termination of the Agreement.