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<http://fiscal.gmu.edu/purchasing/>

**STANDARD CONTRACT
GMU-1709-21-05**

This Contract entered on this 23 day of April 2021 by Ernst & Young LLP hereinafter called "Contractor" (located at 1775 Tysons Boulevard, Tysons, Virginia 22102) and George Mason University hereinafter called "Mason," "University".

- I. WITNESSETH** that the Contractor and Mason, in consideration of the mutual covenants, promises and agreement herein contained, agree as follows:
- II. SCOPE OF CONTRACT:** The Contractor shall provide internal audit co-sourcing services to George Mason University as set forth in the Contract documents.
- III. PERIOD OF CONTRACT:** Three (3) years from date of award with two (2) one (1) year renewal options. Contractor's rates are subject to a 4% increase per year during the three-year base term to account for annual cost increases. Should Mason decide to extend the contract for the renewal option periods, Contractor will work with Mason to determine the rates for the renewal option periods.
- IV. ORDERING PROCEDURES:** At the time a requirement arises Mason will contact contractor and provide a statement of needs for that particular project. Contractor will provide a proposal/quote based on the following rates (or as negotiated per project). Mason will then issue a purchase order authorizing the work to begin.

Note 1: The terms and conditions of this contract shall supersede any conflicting terms and conditions presented in any subsequent proposal/quote.

Note 2: This contract is no guarantee of work.

Note 3: Travel will be reimbursed in accordance with Mason's per diem travel policies, where applicable

- V. PRICE SCHEDULE:** See ATTACHMENT B.
- VI. CONTRACT ADMINISTRATION:** Ed Dittmeier, University Auditor, shall serve as Contract Administrator for this Contract and shall use all powers under the Contract to enforce its faithful performance. The Contract Administrators shall determine the amount, quality and acceptability of work and shall decide all other questions in connection with the work. All direction and order from Mason shall be transmitted through the Contract Administrator, however, the Contract Administrator shall have no authority to approve changes which shall alter the concept or scope or change the basis for compensation.
- VII. METHOD OF PAYMENT:** Net 30.
- VIII. THE CONTRACT DOCUMENTS SHALL CONSIST OF (In order of precedence):**
 - A. This signed form;
 - B. RFP No. GMU-1709-21, in its entirety (incorporated herein by reference);
 - C. Contractor's proposal dated 2/24/21, (incorporated herein by reference);
 - D. Negotiation Round 1 response dated 3/18/21 (attached hereto as Attachment A);
 - E. Contractor's Best and Final Offer dated 3/24/21 (attached hereto as Attachment B).

IX. GOVERNING RULES: This Contract is governed by the provisions of the Restructured Higher Education Financial and Administrative Operations Act, Chapter 10 (§ [23.1-1000](#) et seq.) of Title 23.1 of the Code of Virginia, and in particular § [23.1-1003](#) of the Restructuring Act (“Memoranda of Understanding”), and the “*Governing Rules*” and the *Purchasing Manual for Institutions of Higher Education and their Vendors*. Documents may be viewed at: <https://vascupp.org>.

X. CONTRACT PARTICIPATION: *As negotiated*. It is the intent of this Contract to allow for cooperative procurement. Accordingly, any public body, public or private health or educational institutions, or affiliated corporations may access this Contract if authorized by the Contractor.

Participation in this Contract is strictly voluntary. If authorized by the Contractor, the contract will be extended to the entities indicated above to purchase goods and services in accordance with contract terms. As a separate contractual relationship, the participating entity will place its own orders directly with the Contractor(s) and shall fully and independently administer its use of the contract(s) to include contractual disputes, invoicing and payments without direct administration from the University. No modification of this Contract or execution of a separate agreement is required to participate; however, the participating entity and the Contractor may modify the terms and conditions of the contract to accommodate specific governing laws, regulations, policies, and business goals required by the participating entity. Any such modification will apply solely between the participating entity and the Contractor.

The University may request the Contractor provide semi-annual usage reports for all entities accessing the Contract. The University shall not be held liable for any costs or damages incurred by any other participating entity as a result of any authorization by the Contractor to extend the Contract. It is understood and agreed that the University is not responsible for the acts or omissions of any entity and will not be considered in default of the contract no matter the circumstances.

Use of this Contract does not preclude any participating entity from using other contracts or competitive processes as needed.

XI. STANDARD TERMS AND CONDITIONS:

A. **APPLICABLE LAW AND CHOICE OF FORUM:** This Contract shall be construed, governed, and interpreted pursuant to the laws of the Commonwealth of Virginia. All disputes arising under this Contract shall be brought before an appropriate court in the Commonwealth of Virginia. Except for a claim seeking solely injunctive relief, any dispute or claim arising out of or relating to this Contract, all disputes arising under this Contract shall be resolved as outlined below. All disputes arising under this Contract that cannot be resolved through mediation shall be brought before an appropriate court in the Commonwealth of Virginia.

1. Mediation:

- a. A party shall submit a dispute to mediation by written notice to the other party or parties. The mediator shall be selected by the parties. If the parties cannot agree on a mediator, the International Institute for Conflict Prevention and Resolution (“CPR”) shall designate a mediator at the request of a party. Any mediator must be acceptable to all parties and must confirm in writing that he or she is not, and will not become during the term of the mediation, an employee, partner, executive officer, director, or substantial equity owner of any EY audit client.
- b. The mediator shall conduct the mediation as he/she determines, with the agreement of the parties. The parties shall discuss their differences in good faith and attempt, with the mediator's assistance, to reach an amicable resolution of the dispute. The mediation shall be treated as a settlement discussion and shall therefore be confidential. The mediator may not testify for either party in any later proceeding relating to the dispute. The mediation proceedings shall not be recorded or transcribed.
- c. Each party shall bear its own costs in the mediation. The parties shall share equally the fees and expenses of the mediator.

B. **ANTI-DISCRIMINATION:** By entering into this Contract Contractor certifies to the Commonwealth that they will conform to the provisions of the Federal Civil Rights Act of 1964, as amended, as well as the Virginia Fair Employment Contracting Act of 1975, as amended, where applicable, the Virginians With Disabilities Act, the Americans With Disabilities Act and §§ 9&10 of the *Governing Rules*. If Contractor is a faith-based organization, the organization shall not discriminate against any recipient of goods, services, or disbursements made pursuant to the Contract on the basis of the recipient's religion, religious belief, refusal to participate in a

religious practice, or on the basis of race, age, color, gender or national origin and shall be subject to the same rules as other organizations that contract with public bodies to account for the use of the funds provided; however, if the faith-based organization segregates public funds into separate accounts, only the accounts and programs funded with public funds shall be subject to audit by the public body. (*Governing Rules*, § 36).

In every contract over \$10,000 the provisions in 1. and 2. below apply:

1. During the performance of this Contract, the Contractor agrees as follows:
 - a. The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the Contractor. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
 - b. The Contractor, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, will state that such Contractor is an equal opportunity employer.
 - c. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting these requirements.
2. The Contractor will include the provisions of 1. above in every subcontract or purchase order over \$10,000, so that the provisions will be binding upon each subcontractor or Contractor.

C. ANTITRUST: [INTENTIONALLY REMOVED]

D. ASSIGNMENT: Neither party will assign or otherwise transfer its rights or obligations under this Contract without both parties' prior written consent. Any attempted assignment, transfer, or delegation without such consent is void.

E. AUDIT: The Contractor shall retain all books, records, and other documents relative to this Contract for five (5) years after final payment, or until audited by the Commonwealth of Virginia, whichever is sooner. The agency, its authorized agents, and/or state auditors shall have full access to and the right to examine any of said materials during said period.

F. AVAILABILITY OF FUNDS: It is understood and agreed between the parties herein that the agency shall be bound hereunder only to the extent of the funds available or which may hereafter become available for the purpose of this Contract.

G. AUTHORIZED SIGNATURES: The signatory for each Party certifies that he or she is an authorized agent to sign on behalf such Party.

H. BACKGROUND CHECKS: Contractor's employees (including subcontractors) performing services on any Mason campus must have successfully completed a criminal background check prior to the start of their work assignment/service in accordance with Contractor's background check guidelines. Signature on this contract confirms your compliance with this requirement.

I. CANCELLATION OF CONTRACT: The parties reserve the right to cancel this Contract, in part or in whole, without penalty, for any reason, upon 60 days written notice to the other party. Contractor may terminate this Contract, or any particular Services, immediately upon written notice to Mason if Contractor reasonably determines that Contractor can no longer provide the Services in accordance with applicable law and professional regulations. Upon written notice of cancellation from Mason, Mason shall be fully released from any further obligation under the Contract and Contractor agrees to directly refund all payments, for services not already performed, to Mason, including any pre-paid deposits, within 14 days. Mason shall pay Contractor for all work-in-progress, Services already performed, and expenses incurred by Contractor up to and including the effective date of the termination of this Contract. In the event the initial Contract period is for more than 12 months, the resulting Contract may be terminated by either party, without penalty, after the initial 12 months of the Contract period upon 60 days written notice to the other party.

J. CHANGES TO THE CONTRACT: Changes can be made to this Contract in any of the following ways:

1. The parties may agree in writing to modify the scope of this Contract. An increase or decrease in the price of the contract resulting from such modification shall be agreed to by the parties as a part of their written agreement to modify the scope of this Contract.
2. Mason may order changes within the general scope of Contract at any time by written notice to Contractor. Changes within the scope of this Contract include, but are not limited to, things such as services to be performed, the method of packing or shipment, and the place of delivery or installation. Contractor shall comply with the notice upon receipt. Contractor shall be compensated for any additional costs incurred as the result of such order and shall give Mason a credit for any savings. Said compensation shall be determined by one of the following methods:
 - a. By mutual agreement between the parties in writing; or
 - b. By agreeing upon a unit price or using a unit price set forth in the contract, if the work to be done can be expressed in units, and the contractor accounts for the number of units of work performed, subject to the Mason's right to audit Contractor's records and/or to determine the correct number of units independently; or
 - c. By ordering Contractor to proceed with the work and keep a record of all costs incurred and savings realized. A markup for overhead and profit may be allowed if provided by Contract. The same markup shall be used for determining a decrease in price as the result of savings realized. Contractor shall present Mason with all vouchers and records of expenses incurred and savings realized. Mason shall have the right to audit the records of Contractor as it deems necessary to determine costs or savings. Any claim for an adjustment in price under this provision must be asserted by written notice to Mason within thirty (30) days from the date of receipt of the written order from Mason. If the Parties fail to agree on an amount of adjustment, the question of an increase or decrease in the contract price or time for performance shall be resolved in accordance with the procedures for resolving disputes provided by the Disputes Clause of this Contract or, if there is none, in accordance with the disputes provisions of the Commonwealth of Virginia Purchasing Manual for Institutions of Higher Education and Their Contractors. Neither the existence of a claim nor a dispute resolution process, litigation or any other provision of this contract shall excuse the contractor from promptly complying with the changes ordered by Mason or with the performance of the contract generally.

K. CLAIMS: Contractual claims, whether for money or other relief, shall be submitted in writing no later than 60 days after final payment. However, written notice of the Contractor's intention to file a claim shall be given at the time of the occurrence or beginning of the work upon which the claim is based. Nothing herein shall preclude a contract from requiring submission of an invoice for final payment within a certain time after completion and acceptance of the work or acceptance of the goods. Pendency of claims shall not delay payment of amounts agreed due in the final payment.

1. The firm must submit written claim to:
Chief Procurement Officer
George Mason University
4400 University Drive, MSN 3C5
Fairfax, VA 22030
2. The firm must submit any unresolved claim in writing no later than 60 days after final payment to the Chief Procurement Officer.
3. Upon receiving the written claim, the Chief Procurement Officer will review the written materials relating to the claim and will mail his or her decision to the firm within 60 days after receipt of the claim.
4. The firm may appeal the Chief Procurement Officer's decision in accordance with § 55 of the *Governing Rules*.

- L. COLLECTION AND ATTORNEY'S FEES: [INTENTIONALLY REMOVED]
- M. COMPLIANCE: All goods and services provided to Mason shall be done so in accordance with any and all applicable local, state, federal, and international laws, regulations and/or requirements and any industry standards, including but not limited to: the Family Educational Rights and Privacy Act (FERPA), Health Insurance Portability and Accountability Act (HIPAA) and Health Information Technology for Economic and Clinical Health Act (HITECH), Government Data Collection and Dissemination Practices Act, Gramm-Leach-Bliley Financial Modernization Act (GLB), Payment Card Industry Data Security Standards (PCI-DSS), Americans with Disabilities Act (ADA), and Federal Export Administration Regulations. Any Contractor personnel visiting Mason facilities will comply with all applicable Mason policies regarding access to, use of, and conduct within such facilities. Mason's policies can be found at <https://universitypolicy.gmu.edu/all-policies/> and any facility specific policies can be obtained from the facility manager.
- N. CONFIDENTIALITY OF PERSONALLY IDENTIFIABLE INFORMATION: The Contractor shall ensure that personally identifiable information ("PII") which is defined as any information that by itself or when combined with other information can be connected to a specific person and may include but is not limited to personal identifiers such as name, address, phone, date of birth, Social Security number, student or personal identification numbers, driver's license numbers, state or federal identification numbers, biometric information, religious or political affiliation, non-directory information, and any other information protected by state or federal privacy laws, will be collected and held confidential and in accordance with this Contract, during and following the term of this Contract, and will not be divulged without the individual's and Mason's written consent and only in accordance with federal law or the Code of Virginia. Unless prohibited by applicable law, Contractor may provide Personal Data to other EY Firms and EY Persons, as well as external third parties providing services on Contractor's or their behalf, who may collect, use, transfer, store or otherwise process (collectively, "Process") it in various jurisdictions in which they operate in order to facilitate performance of the Services, to comply with regulatory requirements, to check conflicts, to provide financial accounting and other administrative support services or for quality and risk management purposes. Contractor shall be responsible to Mason for maintaining the confidentiality of the Personal Data, regardless of where or by whom such information is Processed on Contractor's behalf. Contractor shall allow Mason to both participate in the investigation of incidents and exercise control over decisions regarding external reporting if the incident relates solely to Mason's Personal Data. Mason warrants that Mason has the authority to provide the Personal Data to Contractor in connection with the performance of the Services and that the Personal Data provided to Contractor has been Processed in accordance with applicable law. In order to provide the Services, Contractor may need to access Personal Data consisting of protected health information, financial account numbers, Social Security or other government-issued identification numbers, or other data that, if disclosed without authorization, would trigger notification requirements under applicable law ("Restricted Personal Data"). In the event that Contractor needs access to such information, Mason will consult with Contractor on appropriate measures (consistent with professional standards applicable to Contractor) to protect the Restricted Personal Data, such as deleting or masking unnecessary information before it is made available to Contractor, encrypting any data transferred to Contractor, or making the data available for on-site review at a Mason site. Mason will provide Contractor with Restricted Personal Data only in accordance with mutually agreed protective measures.
- O. CONFLICT OF INTEREST: Contractor represents to Mason that its entering into this Contract with Mason and its performance through its agents, officers and employees does not and will not involve, contribute to nor create a conflict of interest prohibited by Virginia State and Local Government Conflict of Interests Act (Va. Code 2.2-3100 *et seq*), the Virginia Ethics in Public Contracting Act (§57 of the *Governing Rules*), the Virginia Governmental Frauds Act (Va. Code 18.2 – 498.1 *et seq*) or any other applicable law or regulation.
- P. DEBARMENT STATUS: As of the effective date, the Contractor certifies that it is not currently debarred by the Commonwealth of Virginia from submitting bids or proposals on contracts for the type of services covered by this Contract, nor is the Contractor an agent of any person or entity that is currently so debarred.
- Q. DEFAULT: In the case of failure to deliver goods or services in accordance with any resulting contract terms and conditions, George Mason University, after due oral or written notice, may procure them from other sources and hold the contractor responsible for any resulting additional purchase and administrative costs. This remedy shall be in addition to any other remedies which George Mason University may have.
- R. DRUG-FREE WORKPLACE: During the performance of this Contract, the Contractor agrees to (i) provide a drug-free workplace for the Contractor's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the contractor's

workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the Contractor that the Contractor maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or Contractor.

For the purposes of this section, “*drug-free workplace*” means a site for the performance of work done in connection with a specific contract awarded to a contractor, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of this Contract.

S. **ENTIRE CONTRACT:** This Contract constitutes the entire understanding of the Parties with respect to the subject matter herein and supersedes all prior oral or written contracts with respect to the subject matter herein. This Contract can be modified or amended only by a writing signed by all of the Parties. If there is any inconsistency between provisions in different parts of this Contract, those parts shall have precedence as follows (unless expressly agreed otherwise): (a) the body of this Contract, (b) Exhibit A, and (c) any other Exhibits or attachments to this Contract.

T. **EXPORT CONTROL:**

1. **Munitions Items:** If the Contractor is providing any items, data or services under this order that are controlled by the Department of State, Directorate of Defense Trade Controls, International Traffic in Arms Regulations (“ITAR”), or any items, technology or software controlled under the “600 series” classifications of the Bureau of Industry and Security’s Commerce Control List (“CCL”) (collectively, “Munitions Items”), prior to delivery, Contractor must:

A. notify Mason (by sending an email to export@gmu.edu), and

B. receive written authorization for shipment from Mason’s Director of Export Controls.

The notification provided by the Contractor must include the name of the Mason point of contact, identify and describe each ITAR or CCL-controlled commodity, provide the associated U.S. Munitions List (USML) category number(s) or Export Control Classification Number, and indicate whether or not the determination was reached as a result of a commodity jurisdiction determination, or self-classification process. The Contractor promises that if it fails to obtain the required written pre-authorization approval for shipment to Mason of any Munitions Item, it will reimburse Mason for any fines, legal costs and other fees imposed for any violation of export controls regarding the Munition Item that are reasonably related to the Contractor’s failure to provide notice or obtain Mason’s written pre-authorization.

2. **Dual-Use Items:** If the Contractor is providing any dual-use items, technology or software under this order that are listed on the CCL in a series other than a “600 series”, Contractor must (i) include the Export Control Classification Number (ECCN) on the packing or other transmittal documentation traveling with the item(s) and, (ii) send a description of the item, its ECCN, and the name of the Mason point of contact to: export@gmu.edu.

U. **FORCE MAJEURE:** Mason shall be excused from any and all liability for failure or delay in performance of any obligation under this Contract resulting from any cause not within the reasonable control of Mason, which includes but is not limited to acts of God, fire, flood, explosion, earthquake, or other natural forces, war, civil unrest, accident, any strike or labor disturbance, travel restrictions, acts of government, disease, pandemic, or contagion, whether such cause is similar or dissimilar to any of the foregoing. Upon written notification from Mason that such cause has occurred, Contractor agrees to directly refund all payments to Mason, for services not yet performed, including any pre-paid deposits within 14 days.

V. **FUTURE GOODS AND SERVICES:** Mason reserves the right to have contractor provide additional goods and/or services that may be required by Mason during the term of this contract. Any such goods and/or services will be provided by the contractor under the same pricing, terms and conditions of this contract. Such additional goods and/or services may include other products, components, accessories, subsystems or related services that are newly introduced during the term of the contract. Such newly introduced additional goods and/or services will be provided to Mason at Favored Customer pricing, terms and conditions.

- W. IMMIGRATION REFORM AND CONTROL ACT OF 1986: By entering into this Contract Contractor certifies that they do not and will not during the performance of this Contract employ illegal alien workers or otherwise violate the provisions of the federal Immigration Reform and Control Act of 1986.
- X. LIABILITY: To the extent provided by the laws of the Commonwealth of Virginia, George Mason University shall be responsible for the ordinary negligent acts or omissions of its agents and employees causing harm to persons not a party to this Agreement. Contractor agrees that it shall be responsible for the ordinary negligent acts or omissions of its agents and employees causing bodily injury or death to persons not a party to this Agreement. Nothing herein shall be deemed a waiver of the sovereign immunity of the Commonwealth of Virginia.
- Y. INDEPENDENT CONTRACTOR: The Contractor is not an employee of Mason, but is engaged as an independent contractor. The Contractor shall indemnify and hold harmless the Commonwealth of Virginia, Mason, and its employees and agents, with respect to all withholding, Social Security, unemployment compensation and all other taxes or amounts of any kind relating to the Contractor's performance of this Contract. Nothing in this Contract shall be construed as authority for the Contractor to make commitments which will bind Mason or to otherwise act on behalf of Mason, except as Mason may expressly authorize in writing.
- Z. INFORMATION TECHNOLOGY ACCESS ACT: Computer and network security is of paramount concern at George Mason University. The University wants to ensure that computer/network hardware and software does not compromise the security of its IT environment. Contractor agrees to use commercially reasonable measures in connection with any offering your company makes to avoid any known threat to the security of the IT environment at George Mason University.

All e-learning and information technology developed, purchased, upgraded or renewed by or for the use of George Mason University shall comply with all applicable University policies, Federal and State laws and regulations including but not limited to Section 508 of the Rehabilitation Act (29 U.S.C. 794d), the Information Technology Access Act, §§2.2-3500 through 2.2-3504 of the Code of Virginia, as amended, and all other regulations promulgated under Title II of The Americans with Disabilities Act which are applicable to all benefits, services, programs, and activities provided by or on behalf of the University. The Contractor shall also comply with the Web Content Accessibility Guidelines (WCAG) 2.0. For more information please visit <http://ati.gmu.edu>, under Policies and Procedures.

- AA. INSURANCE: The Contractor shall maintain all insurance necessary with respect to the services provided to Mason. The Contractor further certifies that they will maintain the insurance coverage during the entire term of the Contract and that all insurance is to be placed with insurers with a current reasonable A.M. Best's rating authorized to sell insurance in the Commonwealth of Virginia by the Virginia State Corporation Commission. The Commonwealth of Virginia and Mason shall be named as an additional insured. This requirement may be satisfied by a blanket additional insured endorsement.
1. Commercial General Liability Insurance in an amount not less than \$1,000,000 per occurrence for bodily injury or property damage, personal injury and advertising injury, products and completed operations coverage;
 2. Workers Compensation Insurance in an amount not less than that prescribed by statutory limits; and, as applicable;
 3. Commercial Automobile Liability Insurance applicable to bodily injury and property damage, covering owned, non-owned, leased, and hired vehicles in an amount not less than \$1,000,000 per occurrence; and
 4. An umbrella/excess policy in an amount not less than five million dollars (\$5,000,000) to apply over and above Commercial General Liability, Employer's Liability, Workers' Compensation, and Commercial Automobile Liability Insurance.
- BB. INTELLECTUAL PROPERTY: Contractor warrants and represents that it will not violate or infringe any intellectual property right or any other personal or proprietary right and shall indemnify and hold harmless Mason against any claim of infringement of intellectual property rights which may arise under this Contract.

1. Unless expressly agreed to the contrary in writing, all goods, products, materials, documents, reports, writings, video images, photographs or papers of any nature including software or computer images prepared or provided by Contractor (or its subcontractors) for Mason will not be disclosed to any other person or entity without the written permission of Mason.
2. Work Made for Hire. Contractor warrants to Mason that Mason will own all rights, title and interest in any and all intellectual property rights created in the performance or otherwise arising from the Contract and will have full ownership and beneficial use thereof, free and clear of claims of any nature by any third party including, without limitation, copyright or patent infringement claims. Contractor agrees to assign and hereby assigns all rights, title, and interest in any and all intellectual property created in the performance or otherwise arising from the Contract, and will execute any future assignments or other documents needed for Mason to document, register, or otherwise perfect such rights. Notwithstanding the foregoing, for research collaboration pursuant to subcontracts under sponsored research Contracts administered by the University's Office of Sponsored Programs, intellectual property rights will be governed by the terms of the grant or contract to Mason to the extent such grant or contract requires intellectual property terms to apply to subcontractors.
3. And information, advice, recommendations or other content of any reports, presentations or other communications Supplier provide under this Contract ("Reports"), other than Mason Information (as defined below), are for Mason's internal use only (consistent with the purpose of the particular Services). Mason may not disclose a Report (or any portion or summary of a Report) externally (including to Mason's affiliates) or refer to Contractor or to any other EY Firm in connection with the Services, except:
 - a. to Mason's lawyers (subject to these disclosure restrictions), who may review it only to give Mason advice relating to the Services,
 - b. to the extent, and for the purposes, required by subpoena or similar legal process (of which Mason will promptly notify Contractor),
 - c. to other persons (including Mason's affiliates) with Contractor's prior written consent, who have executed an access letter substantially in the form Contractor prescribes, or
 - d. to the extent it contains Tax Advice, as set forth in Section BB.4.

If Mason is permitted to disclose a Report (or a portion thereof) externally, Mason shall not alter, edit or modify it from the form Contractor provided.

4. Mason may disclose to anyone a Report (or a portion thereof) solely to the extent that it relates to tax matters, including tax advice, tax opinions, tax returns, or the tax treatment or tax structure of any transaction to which the Services relate ("Tax Advice"). With the exception of tax authorities, Mason shall inform those to whom Mason discloses Tax Advice that they may not rely on it for any purpose without Supplier's prior written consent.
 5. Mason may incorporate into documents that Mason intends to disclose externally Contractor's summaries, calculations or tables based on Mason Information contained in a Report, but not Supplier's recommendations, conclusions or findings. However, Mason must assume sole responsibility for the contents of those documents and not refer to Supplier or any other EY Firm in connection with them. This provision does not affect Mason's ability to circulate Reports internally.
 6. Mason may not rely on any draft Report. Supplier shall not be required to update any final Report for circumstances of which Supplier become aware, or events occurring, after its delivery.
- CC. **NON-DISCRIMINATION**: All parties to this Contract agree to not discriminate on the basis of race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age (except where sex or age is a bona fide occupational qualification, marital status or disability).
- DD. **PUBLICITY**: The Contractor shall not use, in its external advertising, marketing programs or promotional efforts, any data, pictures, trademarks or other representation of Mason except on the specific written authorization in advance by Mason's designated representative.
- EE. **REMEDIES**: If the Contractor breaches this Contract, in addition to any other rights or remedies, Mason may terminate this Contract without prior notice.

- FF. RENEWAL OF CONTRACT: See Section III above.
- GG. REPORTING OF CRIMES, ACCIDENTS, FIRES AND OTHER EMERGENCIES: Any Mason Employee, including contracted service providers, who is not a staff member in Counseling and Psychological Services (CAPS) or a pastoral counselor, functioning within the scope of that recognition, is considered a "Campus Security Authority (CSA)." CSAs must promptly report all crimes and other emergencies occurring on or near property owned or controlled by Mason to the Department of Police & Public Safety or local police and fire authorities by dialing 9-1-1. At the request of a victim or survivor, identifying information may be excluded from a report (e.g., names, initials, contact information, etc.). Please visit the following website for more information and training: <http://police.gmu.edu/clery-act-reporting/campus-security-authority-csa/>."
- HH. RESPONSE TO LEGAL ORDERS, DEMANDS, OR REQUESTS FOR DATA: Except as otherwise expressly prohibited by law, Contractor will: i) immediately notify Mason of any subpoenas, warrants, or other legal orders, demands or requests received by Contractor seeking University Data; ii) consult with Mason regarding its response; iii) cooperate with Mason's reasonable requests in connection with efforts by Mason to intervene and quash or modify the legal order, demand or request; and iv) upon Mason's request, provide Mason with a copy of its response.
- If Mason receives a subpoena, warrant, or other legal order, demand (including request pursuant to the Virginia Freedom of Information Act) or request seeking University Data maintained by Contractor, Mason will promptly provide a copy to Contractor. Contractor will promptly supply Mason with copies of data required for Mason to respond, and will cooperate with Mason's reasonable requests in connection with its response.
- II. SEVERABILITY: Should any portion of this Contract be declared invalid or unenforceable for any reason, such portion is deemed severable from the Contract and the remainder of this Contract shall remain fully valid and enforceable.
- JJ. SOVEREIGN IMMUNITY: Nothing in this Contract shall be deemed a waiver of the sovereign immunity of the Commonwealth of Virginia and of Mason.
- KK. SUBCONTRACTS: No portion of the work shall be subcontracted without prior written consent from Mason. In the event that the Contractor desires to subcontract some part of the work specified herein, the Contractor shall furnish Mason the names, qualifications and experience of their proposed subcontractors. The Contractor shall, however, remain fully liable and responsible for the work to be done by its subcontractor(s) and shall assure compliance with all requirements of this Contract. This paragraph applies to, but is not limited to, subcontractor(s) who process University Data.
- LL. UNIVERSITY DATA: University Data includes all Mason owned, controlled, or collected PII and any other information that is not intentionally made available by Mason on public websites, including but not limited to business, administrative and financial data, intellectual property, and patient, student and personnel data. Contractor agrees to the following regarding University Data it may collect or process as part of this Contract:
1. Contractor will use University Data only for the purpose of fulfilling its duties under the Contract and will not share such data with or disclose it to any third party without the prior written consent of Mason, except as required by the Contract or as otherwise required by law. University Data will only be processed by Contractor to the extent necessary to fulfill its responsibilities under the Contract or as otherwise directed by Mason.
 2. University Data, including any back-ups, will not be accessed, stored, or transferred outside the United States without prior written consent from Mason. Contractor will provide access to University Data only to its employees and subcontractors who need to access the data to fulfill Contractor's obligations under the Contract. Contractor will ensure that employees who perform work under the Contract have read, understood, and received appropriate instruction as to how to comply with the data protection provisions of the Contract and to maintain the confidentiality of the University Data.
 3. The parties agree that as between them, all rights including all intellectual property rights in and to University Data shall remain the exclusive property of Mason, and Contractor has a limited, nonexclusive license to use the University Data as provided in the Contract solely for the purpose of performing its obligations under the Contract. The Contract does not give a party any rights, implied or otherwise, to the other party's data, content, or intellectual property, except as expressly stated in the Contract.

4. Contractor will take reasonable measures, including audit trails, to protect University Data against deterioration or degradation of data quality and authenticity. Contractor shall be responsible for ensuring that University Data, per the Virginia Public Records Act, is preserved, maintained, and accessible throughout their lifecycle, including converting and migrating electronic data as often as necessary so that information is not lost due to hardware, software, or media obsolescence or deterioration.
5. Contractor shall notify Mason within three business days if it receives a request from an individual under any applicable law regarding PII about the individual, including but not limited to a request to view, access, delete, correct, or amend the information. Contractor shall not take any action regarding such a request except as directed by Mason.
6. If Contractor will have access to University Data that includes “education records” as defined under the Family Educational Rights and Privacy Act (FERPA), the Contractor acknowledges that for the purposes of the Contract it will be designated as a “school official” with “legitimate educational interests” in the University education records, as those terms have been defined under FERPA and its implementing regulations, and the Contractor agrees to abide by the limitations and requirements imposed on school officials. Contractor will use the education records only for the purpose of fulfilling its duties under the Contract for Mason’s and its end user’s benefit, and will not share such data with or disclose it to any third party except as provided for in the Contract, required by law, or authorized in writing by the University.
7. Mason may require that Mason and Contractor complete a Data Processing Addendum (“DPA”). If a DPA is completed, Contractor agrees that the information in the DPA is accurate. Contractor will only collect or process University Data that is identified in the DPA and will only handle that data (e.g., type of processing activities, storage, security, disclosure) as described in the DPA. If Contractor intends to do anything regarding University Data that is not reflected in the DPA, Contractor must request an amendment to the DPA and may not take the intended action until the amendment is approved and documented by Mason.

MM. UNIVERSITY DATA SECURITY: Data security is of paramount concern to Mason. Contractor will utilize, store and process University Data in a secure environment in accordance with commercial practices of reputable firms performing similar Services, including appropriate administrative, physical, and technical safeguards, to secure such data from unauthorized access, disclosure, alteration, and use. Such measures will be no less protective than those used to secure Contractor’s own data of a similar type, and in no event less than reasonable in view of the type and nature of the data involved. At a minimum, Contractor shall use industry-standard and up-to-date security tools and technologies such as anti-virus protections and intrusion detection methods to protect University Data.

1. Promptly within 48 hours of becoming aware of circumstances that could have resulted in unauthorized access to or disclosure or use of University Data, Contractor will notify Mason, fully investigate the incident, and cooperate fully with Mason’s investigation of and response to and remediation of the incident. Except as otherwise required by law, Contractor will not provide notice of the incident directly to individuals who’s PII was involved, regulatory agencies, or other entities, without prior written permission from Mason.
2. Mason reserves the right to determine whether the University Data involved in this contract is sensitive, and if it so determines then Mason and Contractor will incorporate by written agreement a mutually agreed upon Data Security Addendum addressing any requirements related to the use, collection, storage, and processing of sensitive University Data. Types of University Data that may be considered sensitive include, but is not limited to, (1) PII; (2) credit card data; (3) financial or business data which has the potential to affect the accuracy of the University’s financial statements; (4) medical or health data; (5) sensitive or confidential business information; (6) trade secrets; (7) data which could create a security (including IT security) risk to Mason; and (8) confidential student or employee information.
3. Mason reserves the right in its sole discretion to perform audits of Contractor, at Mason’s expense, to ensure compliance with all obligations regarding University Data. Contractor shall reasonably cooperate in the performance of such audits. Contractor will make available to Mason all information necessary to demonstrate compliance with its data processing obligations. Failure to adequately

protect University Data or comply with the terms of this Contract with regard to University Data may be grounds to terminate this Contract.

NN. UNIVERSITY DATA UPON TERMINATION OR EXPIRATION: Upon termination or expiration of the Contract, Contractor will ensure that all University Data are securely returned or destroyed as directed by Mason in its sole discretion within 180 days of the request being made. Transfer to Mason or a third party designated by Mason shall occur within a reasonable period of time, and without significant interruption in service. Contractor shall ensure that such transfer/migration uses facilities and methods that are compatible with the relevant systems of Mason or its transferee, and to the extent technologically feasible, that Mason will have reasonable access to University Data during the transition. In the event that Mason requests destruction of its data, Contractor agrees to destroy all data in its possession and in the possession of any subcontractors or agents to which the Contractor might have transferred University Data. Contractor agrees to provide documentation of data destruction to the University.

Contractor will notify the University of any impending cessation of its business and any contingency plans. This includes immediate transfer of any previously escrowed assets and University Data and providing Mason access to Contractor's facilities to remove and destroy Mason-owned assets and University Data. Contractor shall implement its exit plan and take all necessary actions to ensure a smooth transition of service with minimal disruption to Mason. Contractor will also provide a full inventory and configuration of servers, routers, other hardware, and software involved in service delivery along with supporting documentation, indicating which if any of these are owned by or dedicated to Mason. Contractor will work closely with its successor to ensure a successful transition to the new equipment, with minimal downtime and effect on Mason, all such work to be coordinated and performed in advance of the formal, final transition date.

OO. UNIVERSITY REVIEW/APPROVAL: All goods, services, products, design, etc. produced by the Contractor for or on behalf of Mason are subject to Mason's review and approval.

PP. MASON RESPONSIBILITIES: Mason is responsible for all management decisions relating to the Services, the use or implementation of the output of the Services and for determining whether the Services are appropriate for Mason's purposes. Mason shall provide (or cause others to provide) to Contractor, promptly, the information, resources and assistance (including access to records, systems, premises and people) that Contractor reasonably requires to perform the Services. To the best of Mason's knowledge, all information provided by Mason or on Mason's behalf ("Mason Information") will be accurate and complete in all material respects. The provision of Mason Information to Contractor will not infringe any copyright or other third-party rights. Contractor will rely on Mason Information made available to Contractor and, unless Contractor expressly agrees otherwise, will have no responsibility to evaluate or verify it. Mason shall be responsible for Mason's personnel's compliance with Mason's obligations under this Contract.

QQ. LIMITATION OF LIABILITY:

- a. Mason (and any others for whom Services are provided) may not recover from Contractor, in contract or tort, under statute or otherwise, any consequential, incidental, indirect, punitive or special damages in connection with claims arising out of this Contract or otherwise relating to the Services, including any amount for loss of profit, data or goodwill, whether or not the likelihood of such loss or damage was contemplated.
- b. Mason (and any others for whom Services are provided) may not recover from Contractor, in contract or tort, under statute or otherwise, aggregate damages in excess of the fees actually paid for the Services that directly caused the loss in connection with claims arising out of this Contract or otherwise relating to the Services. This limitation will not apply to losses caused by Contractor's fraud or willful misconduct or to the extent prohibited.
- c. Mason may not make a claim or bring proceedings relating to the Services or otherwise under this Contract against any other EY Firm or Contractor's or its subcontractors, members, shareholders, directors, officers, partners, principals or employees ("EY Persons"). Mason shall make any claim or bring proceedings only against Contractor. The provisions of this Section II are intended to benefit the other EY Firms and all EY Persons, who shall be entitled to enforce them.

RR. WAIVER: The failure of a party to enforce any provision in this Contract shall not be deemed to be a waiver of such right.

Signature

Name: _____

Title: _____

Date: _____

Signature

Name: _____

Title: _____

Date: _____