



UVA WISE

Request for Proposal #246-EM-24-001

Banking Services

June 10, 2024



A VASCUPP™ Member Institution

Issued by
Procurement Services
UVA Wise
Wise, Virginia

Banking Services
Request for Proposal #246-EM-24-001
June 10, 2024

<u>Table of Contents</u>	Page
I. Overview of the RFP Process.....	3
II. Background Discussion and Goals of the College.....	4
III. Scope of Goods and Services.....	4
IV. Basis of Selection	7
V. Contents of the Proposal	8
VI. Information about this RFP	
A. Procurement Schedule.....	11
B. Issuance of RFP and Questions	11
C. Preproposal Conference	12
D. Proposal Deadline	12
E. Oral Presentations and Negotiations.....	12
F. Communications	13
G. Formation of the Agreement with the Selected Firm.....	13
H. Provisions Deemed Included in the Proposal.....	14
I. Rejection of Proposals	14
J. Virginia Freedom of Information Act	14
Attachment 1 - Contractual Provisions.....	16
Attachment 2 – Data Protection Addendum	29
Attachment 3 – SWAM Letter.....	36

Banking Services
Request for Proposal #246-EM-24-001
June 10, 2024

This Request for Proposal (RFP) has been posted on Procurement Services web site for your convenience. Addenda and attachments are posted if issued. The RFP can be downloaded at this web site: <https://www.uvawise.edu/about/leadership/finance-operations/college-services>. It is the firm's responsibility to ensure that the latest version of the entire RFP and related links are reviewed prior to submission of a proposal. We encourage you to check the web site frequently for any changes prior to the due date. For questions about the content of the RFP, contact the buyer listed in Section VI, Information about this RFP.

I. Overview of the RFP Process

The Rector and Visitors of the University of Virginia (the "University"), a Virginia public corporation, and The University of Virginia's College at Wise (the "College") seeks an experienced firm to provide banking services. This RFP is part of a competitive procurement process, which helps to serve the College's best interests. It also provides firms with a fair opportunity for their services to be considered. The process of competitive negotiation being used in this case should not be confused with the different process of competitive sealed bidding. The latter process is usually used where the goods or services being procured can be described precisely, and price is generally the determining factor. With competitive negotiation, however, price is not required to be the determinative factor, although it may be, and the College has the flexibility it needs to negotiate with firms to arrive at a mutually agreeable relationship.

For ease of reference, each firm receiving this RFP is referred to as a "firm", and the firm selected to provide services for the College is referred to as the "Selected Firm." Also, for ease of reference, The University of Virginia's College at Wise is referred to as the "College". This RFP states the instructions for submitting proposals, the procedure and criteria by which a firm may be selected, and the contractual terms by which the College proposes to govern the relationship between it and the Selected Firm.

It is the policy of the Commonwealth of Virginia, the University, and the College to contribute to the establishment, preservation, and strengthening of small businesses and businesses owned by women and minorities, and to encourage their participation in State procurement activities. The Commonwealth, the University, and the College encourage firms to provide for the participation of small businesses and businesses owned by women and minorities through partnerships, joint ventures, subcontracts, or other contractual opportunities.

II. Background Discussion and Goals of the College

The University of Virginia's College at Wise was founded in 1954 to serve the citizens of Southwest Virginia. Ranked by *U.S. News and World Report* as one of the South's top public liberal arts colleges, the College is the only branch of the University. In the heritage of Thomas Jefferson, the primary concern is education in the liberal arts and sciences, the ultimate goal being to prepare students to be full participants in a democratic society and the world at large. Located on 370 acres in Wise County, Virginia, the College enrolls approximately 1,900 students and has a faculty and staff of approximately 300 individuals.

The College generates funds from tuition and fees, auxiliary enterprises (food service, bookstore, housing, athletics and others), gifts, grants, sponsored research, state appropriations, and other sources. The College banking activities will fall into two basic categories:

- A. Funds transferred directly to the University.
- B. Banking activities involving local and agency fund accounts maintained by the College.

The College reserves the right to award to different Selected Firm(s) to respectively provide individual components of the banking services ("Services") or any related part of the Services discussed in this RFP.

The College will discuss the implementation timing of individual components of the Services with relevant finalist firms during the RFP process.

The College invites firms responding to this RFP to submit proposals that present different options for provision of the Services, and/or alternate creative proposals. The College will, in its sole judgment, consider such options and/or alternatives as long as the functionality and minimum requirements of the College are met.

III. Scope of Services

It is the College's intent to enter into an Agreement with the Selected Firm(s) for Banking Services to include those Services necessary to help the College achieve its goals as outlined in this RFP. In order to achieve this goal the Selected Firm(s) may be requested to provide those Services outlined in this section. The College reserves the right to select a single Selected Firm to provide Services for all banking components identified in this RFP, or it may select multiple Selected Firm(s) that will each perform a component (or components) of the Services.

A. Customer Service

For all Services, the Selected Firm(s) will provide the highest quality customer service to the College and will designate a single Project Manager to coordinate the provision of all Services to the College.

For all Services, the Selected Firm(s) will provide the College with ready access to higher management levels of the Selected Firm as necessary, but in particular for the purpose of resolving any problems that the Project Manager is unable to conclude to the College's satisfaction. The Selected Firm's staff will be specifically qualified in automated transactions and thus not require phone rotation (i.e., call processing).

B. Implementation / Conversion

For all Services, the Selected Firm(s) are required to have an implementation plan to transition required Services. Due to the technical nature of implementing a new banking relationship, it has historically taken several months to fully implement a transition. The Selected Firm(s) may subsidize the cost of the College’s implementation. The Selected Firm(s) will be required to conduct business with other Selected Firms in the event that multiple firms are selected by the College as a result of this RFP.

C. Security Controls

For all Services, the Selected Firm(s) are required to have a comprehensive disaster recovery plan and internal controls to ensure the security of bank deposits; and will additionally have a comprehensive information security program in place to ensure the protection of all College and University Data. Such Data must be treated with the utmost care, in accordance with data protections laws, regulations, and financial industry best practices. (Firms will assess controls using the processes found at [http://www.sharedassessments.org/.](http://www.sharedassessments.org/)) The provisions of Attachment 2, Data and Intellectual Property Protection, apply.

The Selected Firm(s) will provide the Services described in this section:

1. Checking and Depository Services

- a. Make payment on all checks drawn on the College’s accounts.
- b. Provide Sweep Accounts.
- c. Provide Zero Balance Accounts.
- d. Provide “express depositing” for the College at the Selected Firm’s location(s) in the Wise area as designated by the College. Express depositing is defined as “immediate acceptance of delivery of College deposits, without the necessity for the deliverer to wait while other customers are served, or to wait while the Selected Firm(s) examines the items being deposited.”
 - 1. Provide printing of College checks. The College requires that the Selected Firm(s) assume the responsibility for printing all College checks. The check stock must be in a format approved by the College.
 - 2. Provide the Payee Name Positive Pay service that at a minimum matches the following:
 - payee name
 - transaction amount
 - check number
 - issue date
 - 3. Provide the University confirmation of batch total of Payee Name Positive Pay file.
 - 4. Provide the University timely notice and resolution of any exceptions to the Payee Name Positive Pay file.

2. Transfer Bag

- a. Provide the College with locked transfer bags at the College’s request.
- b. Provide accountability for College deposits.

3. Coin, Coin Rollers, and Tapes

- a. Provide the College with coin rollers and tapes as the College may request.

- b. Accept coin deposits from the College as they occur.
- 4. ***Stop Payments***
Provide the ability to process stop payments electronically.
- 5. ***Reference Services***
Provide both online and telephone reference services during normal business hours to locate and provide copies of documents as required by the College.
- 6. ***Transfer Services***
 - a. Provide the College with the capability to process the following transactions out of, and receive into, College accounts:
 - 1. ACH Transfers
 - 2. Book Transfers
 - b. Provide the College with all available identifying information related to such transfers. Accordingly, the Selected Firm(s) will be required to forward data to the College describing the purpose, and source of such transfers to the same extent as that provided by the originating senders of such transfers.
- 7. ***Automated Balances and Reporting System***
Provide the College with an automated balance and information reporting system for all accounts. The system will include daily items such as:
 - a. Credit and debit information
 - b. Collected balances
 - c. Average collected balance year to date
 - d. One and two day float
- 8. ***Reconciliation Services***
 - a. Bank Statements must be available on the first day of each month for all accounts, reporting all debits, credits, and a separate detailed deposit report listing deposits in control number order.
 - b. Provide electronic access to the data concerning all checks paid and direct deposit transactions, as specified by the College. The data elements available will include, but not be limited to: the bank account number; paid check date; check number; payee; and check amount.
 - c. Deliver monthly to the College, electronic images of all paid checks.
 - d. Provide other related documents as specified by the College.

9. ***Miscellaneous Banking Services***
 - a. Provide rolled coin and currency change orders when requested.
 - b. Cash all checks, at no charge, regardless of selected Firm's Branch drawn on in the United States, for the College community (i.e., all College students and employees).
 - c. Provide the College with access to purchase all checks returned for non-payment
 - d. Provide the College with One safety deposit box.

10. ***Currency Exchange Services***
The Selected Firm(s) will provide competitively priced currency exchange services to the College for its use in accommodating international wire transfers.

11. ***New Services***
The Selected Firm(s) is encouraged to propose provision of new services (for example, due to new functionality) during the term of any agreement resulting from this RFP. The College is interested in banking industry "best practices." The College desires that such proposals of the Selected Firm(s) address its potential provision of any such new services, including those which would result in cost or time savings to the College, or would be more convenient for the College. The College is also looking for innovative enhancements to improve its current methods of doing business, and will look to the Selected Firm(s) to keep it abreast of market developments and opportunities for efficiency. During the course of any Agreement resulting from this RFP, the College will evaluate proposals received from the Selected Firm(s) for new services, and determine if it is advantageous to pursue arrangements for the Selected Firm(s) to provide such new services to the College.

12. ***Locations***
The Selected Firm(s) must have local branches to serve all College affiliated locations. These locations include:
 - a. UVA-Wise main campus
 - b. Abingdon, VA Site (Southwest Virginia Higher Ed Center)

IV. Basis of Selection

The College will evaluate proposals and, if a firm is to be selected, select the firm on the basis of:

1. The firm's plan to assist the College to meet its goals for banking service(s) as discussed in Section II, Background Discussion and Goals of the College, and Section III, Scope Services; 25%
2. The firm's relevant experience, qualifications, and success in providing banking services similar to those outlined in this RFP; 20%
3. The firm's references from institutions of higher education, and clients which are comparable to the College; 5%
4. The firm's financial proposal including, but not limited to, discounts, service charges, and other charges; 20%
5. The quality of the proposal, specifically responsiveness to requirements and adequacy of information provided; 10%
6. The contractual terms which would govern the relationship between the College and the Selected Firm(s); 5%

7. The firm's plan for the utilization of Small, Women-owned and Minority-owned (SWAM) businesses. (In evaluating the firm's proposal, the University will assign a minimum of 10 percent of the total selection weight to this individual selection criterion.); and 10%
8. Any other factors relevant to the firm's capacity and willingness to satisfy the College. 5%

Note: The College reserves the right to award the Agreement for all or part of the Services to one or more firms. Firms are encouraged to submit proposal(s) for all of the Services or part of the Services described in this RFP.

V. Contents of the Proposal

Proposals should include information outlined in this section. Copies of proposals must be sent to the Issuing Office, Procurement Services, Resource Center, and not to any other office or department whatsoever at the College. Firms may submit proposal(s) addressing: all Services identified in this RFP; or individual components of the Services identified in this RFP.

Unnecessarily elaborate brochures and other presentations beyond that sufficient to present a complete and effective proposal are not desired and may be construed as an indication of a firm's lack of cost consciousness. Elaborate artwork, expensive paper and bindings, and expensive visual and other presentation aids are neither necessary nor desired.

A. Services

1. Describe how the firm plans to provide banking services which is the primary goal of this RFP.
2. Provide a plan of operation to achieve the objectives set forth in Section II Background Discussion and Goals of the College and Section III, Scope of Services, specifically responding to each paragraph and subparagraph in the order addressed.
3. Describe how the firm plans to provide banking services. Include a description on how the firm will work with the College to provide the Services specifically including its plan for customer service.
4. Describe the firm's plan for interfacing with the University's automated systems and include a discussion of the firm's disaster recovery procedures.
5. Describe any related banking services not described by the College in the RFP which the firm proposes the University consider.
6. Provide the College with any sample documents, reports, or forms relevant to the Services being proposed by the firm.
7. The College is interested in receiving proposals on any new Services including those which would result in cost or time savings to the College or would be more convenient for the College. The College is also looking for innovative enhancements to improve its current method of doing business. Please describe the technology that currently exists and anticipated capabilities in the future.
8. The College invites proposals that present different options for provision of the Services, and/or alternate creative proposals from firms. The College will, in its sole judgment, consider such options and/or alternatives as long as the functionality and minimum requirements of the College are met.

B. Firm Information, Personnel, References

1. Provide a brief history of the firm and its experience in providing banking services similar to those described in this RFP. List parent and/or subsidiary companies and number of employees.
2. Provide information on those individuals assigned to work with the College including a description of their experience in providing relevant similar banking services. Specifically identify the name and contact information for the individual assigned to act as the coordinator for both the firm's proposal and any subsequent responses required of the firm as a part of the RFP process. Specifically identify the name and contact information for the individual proposed by the firm to act as the Project Manager as described in Attachment 2, Preferred Contractual Provisions.
3. Provide a list of all of the firm's clients comparable to the College indicating the length of service of each account. The College may contact and/or visit any of these accounts.
4. Provide a list of institutions of higher education and governmental entities within the Commonwealth of Virginia with which the firm has signed a term contract for services similar to those described in this RFP. Describe the firm's experience in providing such similar services.
5. Provide a list of all clients lost within the last three years which includes:
 - a. A contact name and telephone number
 - b. Length of service at the account
 - c. Reason for the loss
6. Provide a copy of the firm's most recent audited financial statements (which must include an electronic copy).
7. Provide the amount of annual sales the firm has with each VASCUPP Member Institution. A list of the VASCUPP Members can be found at <https://vascupp.org>.
8. Provide the name of the individual responsible for the firm's supplier diversity program. This individual is responsible for implementing and reporting on the firm's Small, Women-owned and Minority-owned (SWAM) program as it will relate to this procurement should the firm be selected.
9. Provide a statement of number of years the firm has been a Qualified Virginia Depository, under the Virginia Security for Public Deposits Act.

C. Financial Proposal

1. Describe how the College will be charged for the banking Services. Include a five-year history of past rate increases.
2. Describe how the College will benefit from cost savings by accepting the firm's proposal.
3. Describe the firm's basis for setting Earnings Credit Rates.
4. Describe how the firm intends to charge the College for new, present, and/or *future services*, including those that would incorporate new technology or would result in cost/time savings or greater convenience to the College. The College expects all pricing related to new and/or *future services* to be significantly better than market pricing.
5. Describe any additional price breaks or incentives the firm intends to offer the College.
6. Provide a complete fee schedule for all the services described in the firm's proposal.
7. Describe how the firm intends to defray the College's transitional and procurement costs if the University makes award to the firm for the Services, in whole or part. Describe any retention incentives as appropriate to the firm's status.
8. Describe the firm's ability to provide Public Funds Interest Checking (PFIC) Accounts and the basis for interest earnings,

D. Contractual Arrangements

1. Provide the College with any form or contract the College may be requested to sign.
2. Provide a written statement with the firm's proposal that its principals or legal counsel has reviewed Attachment 1, Contractual Provisions and agrees that these provisions will become a part of any final agreement.
3. State the Firm's agreement to comply with the University's Information Compliance and Security Team and complete a Vendor Risk Assessment as needed
4. Provide a list of clients with which the firm has signed a term contract that allows for cooperative procurement and/or if the firm has a General Service Accounting (GSA) schedule contract.

E. Site Visits

It may be necessary or desirable for the College's evaluation team of less than five people to travel to a site chosen jointly by the firm and the College to view its operation. Each firm will indicate whether it will reimburse the College for the reasonable and actual expenses (travel, lodging, meals, etc.) incurred by the College for its travel.

F. Small, Women-owned and Minority-owned (SWAM) Business

The University is committed to the richness of diversity found not only within our classrooms, labs, and healthcare system, but also in our daily purchasing and business

decisions. To this end, the University strives to ensure maximum opportunities exist for all interested businesses. The most competitive businesses have a SWaM plan; it speaks directly to their own SWaM status and/or how they intend to utilize SWaM firms regarding this procurement as it relates to the University's SWaM spend goals in general (please refer to ***RFP Attachment B, SWaM Letter***). The University's annual SWaM plan spend goal for firms certified by the Commonwealth of Virginia's Department of Small Business & Supplier Diversity (SBSD) is 37% (Small 20%, Women-owned 4%, Minority-owned 4%, Micro 1%, Service-Disabled Veteran-owned 3%, Employment Service Organization 1%, Economically Disadvantaged Women-owned Small Business 1%, Women-owned Small Business 1%, and Federal Service-Disabled Veteran 1%)..

G. Other Information

Provide any other information, which the College should consider in evaluating the firm's proposal.

VI. Information about this RFP

A. ***Procurement Schedule***

Here is a brief schedule for this procurement, specifying the important dates and milestones:

Issue Date of RFP:	June 10, 2024
Preproposal Conference:	June 21, 2024
Deadline for Receipt of Proposals:	July 11, 2024
Oral Presentations:	July 19, 2024
Negotiations:	July 30, 2024
Contract Award:	August 09, 2024

B. ***Issuance of RFP and Questions***

The Issuing Office for this RFP is:
Procurement Services,
Resource Center Room 100
1 College Avenue
Wise, VA 24293

Attention: Elizabeth Moore, Assistant Director of Procurement Services
Telephone: (276) 376-4527
Email: mem3m@uvawise.edu

Any questions concerning this RFP will be directed to Elizabeth Moore, as listed above, and not to any other person at the College. The College will determine whether any addenda should be issued as a result of any question or other matters raised.

C. ***Preproposal Conference***

A conference for firms receiving this RFP will be held on June 21, 2024,

1:30 p.m. in the Chapel of All Faiths, Wise, VA.

Attendance at this conference is advised if your firm wishes to raise any questions in connection with this RFP. Please print a copy of the RFP and bring it with you, as no additional copies will not be provided at the conference. The College intends to present general information which may be helpful in the preparation of proposals and offer firms the opportunity to ask questions concerning this RFP. No firm may have more than two representatives present at the conference.

In order to optimize the informativeness of the preproposal conference, firms are requested to submit advance questions to the College prior to 12:00 p.m. on Thursday, June 13, 2024 so that the College may staff and/or research more complex questions before the conference. The College intends to address those questions received by June 13th at the preproposal conference in appropriate detail, and it will address other questions raised by firms at the preproposal conference to the extent feasible at the conference. The College makes no guarantee that questions received after the conclusion of the preproposal conference will be addressed.

Firms planning to attend the Preproposal Conference should notify Elizabeth Moore by email (mem3m@uvawise.edu), no later than 12:00 p.m. EST on Thursday, June 13th of the names, titles, and phone numbers of the individuals who will attend.

D. *Proposal Deadline*

All proposals must be received at the Issuing Office by 2:00 p.m. EST, on July 11, 2024. The College may, at its discretion, accept late proposals if it is determined to be in the best interest of the College. Firms must submit an electronic original proposal that will be received by the College by the proposal deadline. The electronic original proposal must be submitted on a thumb drive. In addition to the original proposal, firms must provide six hard copies of the original proposal in individual, bound volumes. All electronic proposal documents, whether originals or copies, should be formatted as Microsoft Word documents.

Any trade secrets or proprietary information submitted with a proposal (original or copy) for which the firm seeks protection from public disclosure must be clearly identified by the specific page and section number in the proposal and accompanied by a suitable justification requesting non-disclosure. RFP Section VI-J, Virginia Freedom of Information Act, applies.

E. *Oral Presentations and Negotiations*

An oral presentation by two or more firms may be required after written proposals are received by the College. If the College requires such a presentation, the issuing office will schedule a time and place. Each firm should be prepared to discuss and substantiate any areas of the proposal it has submitted, its own qualifications for the services required,

and any other area of interest relative to its proposal. Oral presentations are tentatively scheduled for July 19, 2024. Negotiations with two or more firms will be conducted by the College on the firms' financial proposals and proposed terms and conditions. Negotiations are scheduled for July 30, 2024.

F. Communications between the College and the Firms regarding this RFP

Informal Communications

From the date of receipt of this Request for Proposal by each firm until a binding contractual agreement exists with the Selected Firm(s) and all other firms have been notified, or when the College rejects all proposals, informal communications regarding this procurement will cease. Informal communications will include but not be limited to:

1. Requests from the firms to any department at the College, with the exception of Procurement Services for information, comments, speculation, etc.; and
2. Requests from any department at the College, or any employee of the College, with the exception of Procurement Services for information, comments, speculation, etc.

Formal Communications

From the date of receipt of this Request for Proposal by each firm until a binding contractual agreement exists with the Selected Firm(s) and all other firms have been notified, or when the College rejects all proposals, all communications between the College and the firms will be formal, or as provided for in this Request for Proposal, or as requested by Procurement Services. Formal communications will include but not be limited to:

1. Preproposal Conference
2. Oral presentations
3. Site visits, Interviews, etc.

Any failure to adhere to the provisions set forth in Informal Communications and the Formal Communications sections above may result in the rejection of any firm's proposal or cancellation of this RFP.

G. Formation of the Agreement with the Selected Firm(s)

All proposals received will first be carefully evaluated by the College, and then the College intends to conduct negotiations with two or more firms. After negotiations have been conducted, if the College chooses to make award, the College will select the firm which, in its opinion, best meets the needs of the College. Alternately, if the College determines in writing and in its sole discretion that only one firm is fully qualified, or that one firm is clearly more highly qualified than the others under consideration, it may decide to negotiate and award an agreement to that single firm. In either event, the College intends to execute a mutually satisfactory written agreement which will reflect and largely incorporate this RFP as reconciled with any pertinent documents, such as the proposal submitted and relevant negotiation correspondence.

Because the College may choose to negotiate and award to a single firm as discussed above, each firm must include in its written proposal all requirements, terms or conditions it may have, and should not assume that an opportunity will exist to add such matters after the proposal is submitted.

Any firm(s) invited to negotiations should note that the College reserves the right to begin negotiations by combining the best aspects of submitted proposals from all responding firms as the basis for subsequent formation of any Agreement resulting from this RFP.

Firms should also note that, as described in Section H, Provisions Deemed Included in the Proposal, certain matters will automatically be deemed part of the proposal.

H. *Provisions Deemed Included in the Proposal*

The proposal constitutes an offer by the firm which will remain open and irrevocable for a period of 120 days from the deadline for submitting proposals as stated in Section C, Proposal Deadline.

Unless a firm expressly and specifically provides otherwise in its written proposal, the proposal received by the College in response to this RFP will automatically be deemed to include the firm's agreement to these provisions:

- a. The firm consents to the College contacting and obtaining any information relevant to this RFP from the references and others identified by the firm in its proposal, as well as from any other persons, firms, or organizations which the College wishes to contact; and
- b. If selected by the College, the provisions governing the firm's performance will include all the provisions of Attachment 1, Contractual Provisions.

I. *Rejection of Proposals*

The College reserves the right to reject any or all proposals received. Nonacceptance of a firm's proposal will mean that one or more proposals were deemed more advantageous to the College or that all proposals were rejected. Firms whose proposals are not accepted will be notified after a binding contractual agreement between the College and the Selected Firm(s) exists, or when the College rejects all proposals.

J. *Virginia Freedom of Information Act*

Except as provided, once an award is announced, all proposals submitted in response to this RFP will be open to inspection by any citizen, or interested person, Firm, or corporation, in accordance with the Virginia Freedom of Information Act. Trade secrets or proprietary information submitted by a Firm before or as part of its proposal will not be subject to public disclosure under the Virginia Freedom of Information Act only under the following circumstances: (1) the appropriate information is clearly identified by some distinct method such as highlighting or underlining; (2) only the specific words, figures, or paragraphs that constitute trade secrets or proprietary information are identified; and (3) a summary page is supplied immediately following the proposal title

page that includes (a) the information to be protected, (b) the section(s)/page number(s) where this information is found in the proposal, and (c) a statement why protection is necessary for each section listed. The Firm must also provide a separate electronic copy of the proposal (email, CD, etc.) with the trade secrets and/or proprietary information redacted

Important: Any trade secrets or proprietary information submitted with a proposal (original or copy) for which the Firm seeks protection from public disclosure must follow the requirements outlined above. A Firm may not request that its entire proposal be treated as a trade secret or proprietary information, nor may it request that its pricing/fees be treated as a trade secret or proprietary information or otherwise be deemed confidential.

AGREEMENT ATTACHMENT 1

Contractual Provisions

A. Nondiscrimination

During the performance of this Agreement, Selected Firm will comply with the contract provisions contained in Section 2.2-4311 (1) & (2) of the Code of Virginia or any successor provisions which may be applicable to this Agreement. Also, in accordance with Section 2.2-4343.1, the University does not discriminate against faith-based organizations.

B. Conflict of Interests

Selected Firm represents to the University that its entering into this Agreement with the University 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 the Virginia State and Local Government Conflict of Interests Act (Va. Code 2.2-3100 *et seq*), the Virginia Ethics In Public Contracting Act (Va. Code 2.2-4367 *et seq*), the Virginia Governmental Frauds Act (Va. Code 18.2-498.1 *et seq*) or any other applicable law or regulation.

C. Independent Contractor

Selected Firm is not an employee or agent of the University, but is engaged as an independent Selected Firm. Selected Firm will indemnify and hold harmless the Commonwealth of Virginia, the University, 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 Selected Firm's performance of this Agreement. Nothing in this Agreement will be construed as authority for Selected Firm to make commitments which will bind the University, or to otherwise act on behalf of the University, except as the University may expressly authorize in writing.

D. Workers' Compensation and Employers' Liability

Selected Firm will (i) maintain Employers Liability coverage of at least \$100,000 and (ii) comply with all federal or state laws and regulations pertaining to Workers' Compensation requirements for insured or self-insured programs.

E. Drug-Free Workplace

Selected Firm, its agents and employees are prohibited, under the terms of this Agreement, Code of Virginia Section 2.2-4312, and the Commonwealth of Virginia, Department of Human Relations Management Policy Number 1.05, from manufacturing, distributing, dispensing, possessing, or using any unlawful or unauthorized drugs or alcohol while on University property.

During the performance of this Agreement, Selected Firm agrees to 1) provide a drug-free workplace for Selected Firm's employees; 2) 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 Selected Firm's workplace and specifying the actions that will be taken against employees for violations of such prohibition; 3) state in all solicitations or advertisements for employees placed by or on behalf of Selected Firm that it maintains a drug-free workplace; and 4) 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 vendor.

For the purposes of this section, "drug-free workplace" means a site for the performance of work done in connection with a specific agreement awarded to a Selected Firm, the employees of whom are prohibited from engaging in the unlawful manufacturing, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of this Agreement.

F. Information Technology Access

All electronic and information technology procured through this agreement must meet the applicable accessibility standards of Section 508 of the Rehabilitation Act of 1973 (29 U.S.C. 794d) as amended and is viewable at <http://www.section508.gov>. Additionally, in accordance with § 2.2-3504 of the Code of Virginia, the following will apply to all information technology Agreements:

NON-VISUAL ACCESS TO TECHNOLOGY: All information technology (the "Technology") which is purchased or upgraded by the University will comply with the following non-visual access standards from the date of purchase or upgrade until the expiration of this Agreement:

- Effective, interactive control and use of the Technology will be readily achievable by non-visual means;
- Technology equipped for non-visual access will be compatible with information technology used by other individuals with whom any blind or visually impaired user of the Technology interacts;
- Non-visual access technology will be integrated into any networks used to share communications among employees, program participants or the public; and
- Technology for non-visual access will have the capability of providing equivalent access by non-visual means to telecommunications or other interconnected network services used by persons who are not blind or visually impaired.

Compliance with the foregoing non-visual access standards will not be required if the Director of Procurement and Supplier Diversity Services, University of Virginia determines that 1) the Technology is not available with non-visual access because the essential elements of the Technology are visual and 2) non-visual equivalence is not available.

Installation of hardware, software, or peripheral devices used for non-visual access is not required when the Technology is being used exclusively by individuals who are not blind or visually impaired, but applications programs and underlying operating systems (including the format of the data) used for the manipulation and presentation of information will permit the installation and effective use of non-visual access software and peripheral devices.

If requested, the agreement must provide a detailed explanation of how compliance with the foregoing non-visual access standards is achieved and a validation of concept demonstration.

G. Unauthorized Alien Use

Selected Firm warrants that it does not knowingly employ an "unauthorized alien," as such term is defined in the federal Immigration Reform and Control Act of 1986. Selected Firm

furthermore agrees that, during the term of this Agreement, it will not knowingly employ an unauthorized alien.

H. Additional Federal Grant Provisions

The following provisions apply to a contract made under a federal grant: Appendix II to Part 200 - Contract Provisions for Non-Federal Entity Contracts Under Federal Awards.

I. Assignment

Neither party to this Agreement will have the right to assign this Agreement in whole or in part without the prior written consent of the other.

J. Amendments

No amendment of this Agreement will be effective unless it is reduced to writing and executed by the University's Director of Procurement and Supplier Diversity Services and by the individual signing Selected Firm's proposal or by other individuals named by either party as specified in the Notices provision below. If Selected Firm deviates from the terms of this Agreement without a written amendment, it does so at its own risk.

K. Notices

Any notice required or permitted to be given under this Agreement will be in writing and will be deemed duly given: (1) if delivered personally, when received; (2) if sent by recognized overnight courier service, on the date of the receipt provided by such courier service; (3) if sent by registered mail, postage prepaid, return receipt requested, on the date shown on the signed receipt, or (4) if sent by facsimile, when received (as verified by sender's machine) if delivered no later than 4:00 p.m. (receiver's time) on a business day or on the next business day if delivered (as verified by sender's machine) after 4:00 p.m. (receiver's time) on a business day or on a non- business day. All such notices will be addressed to a party at such party's address or facsimile number as shown below.

- If to the University:

Procurement and Supplier Diversity Services
University of Virginia
P.O. Box 400202
Charlottesville, Virginia 22904-4202
Phone: 434-924-4019
Fax: 434-982-2690

- If to Selected Firm:

The person signing Selected Firm's proposal in response to the University's RFP, at Selected Firm's address indicated in such proposal; or to such other person or address as either may designate for itself in writing and provide to the other.

L. University Registration

Selected Firm agrees to register and remain registered as a supplier with the University during the term of this Agreement, and to comply with all applicable terms and conditions associated

with registration.

M. eVA Registration / Transaction Fee

The eVA Internet electronic procurement solution is the Commonwealth of Virginia's comprehensive electronic procurement system. The portal is a gateway for Firms to conduct business with state agencies and public bodies. All agencies and public bodies are expected to utilize eVA and all Firms desiring to provide goods and/or services in the Commonwealth are encouraged to participate in the eVA Internet e-procurement solution.

Selected Firm is required to register in the eVA Internet e-procurement solution as a condition of award and remain eVA registered during the term of this Agreement. Selected Firm will be subject to an eVA transaction fee, for which Selected Firm will be invoiced by Commonwealth of Virginia, Department of General Services. Selected Firm may not recoup the eVA fee by invoicing the University for the fee. Additional information is available at www.eva.virginia.gov

N. Waiver

No waiver of any right will be deemed a continuing waiver, and no failure on the part of either party to exercise wholly or in part any right will prevent a later exercise of such or any other right.

O. Indemnification

Selected Firm will indemnify and hold harmless The Commonwealth of Virginia, The Rector and Visitors of the University of Virginia, and its agents, employees and officials from any and all costs, damage or loss, claims, liability, damages, expenses (including, without limitation, attorneys' fees and expenses) caused by or arising out of the performance or non-performance of this Agreement by Selected Firm or its agents or subcontractors, including the provision of any services or products. Selected Firm warrants that the products, services provided the University may be used by the University without being in violation of any copyright, patent or similar property right or claim by others and will, indemnify and hold harmless the University (its employees and agents) from and against any such claim.

P. Termination

If Selected Firm fails to provide quality goods or services in a professional manner, solely as determined by the University, and, upon receipt of notice from the University, does not correct the deficiency to the University's satisfaction within 15 calendar days or a time agreed to by both parties in writing, the University reserves the right to terminate this Agreement upon written notice to Selected Firm.

In addition, this Agreement may be terminated by the University for convenience by providing 30 days' notice. The University remains responsible for payment of all products and services it has implemented, used or purchased through the time of termination.

Q. Non-Appropriation

Funding for any Agreement between the University and Selected Firm is dependent at all times upon the appropriation of funds by the Virginia General Assembly and/or any other organization of the Commonwealth authorized to appropriate such funds. In the event that funding to support this Agreement is not appropriated, whether in whole or in part, then this Agreement may be terminated by the University effective the last day for which appropriated funding is available.

R. Right of Audit

The University reserves the right to audit or cause to be audited Selected Firm's books and accounts regarding the University's account at any time during the term of this Agreement and for three years thereafter. Selected Firm will make available to the University all books and records relating to performance of this Agreement as may be requested during said period. This specifically includes, but is not limited to, the right of the University to require Selected Firm perform self-audits within reasonable parameters established by the University.

S. Contractual Claims Procedure

The Virginia Acts of Assembly of 2007, Chapter 943, Chapter 3, Exhibit P and its attachments requires contractors with the University to submit any claims, whether for money or other relief, in writing no later than 60 days after final payment; however, written notice of the contractor's intention to file such a claim must be given at the time of the occurrence or beginning of the work upon which the claim is based.

The University's procedure for deciding such contractual claims is:

1. Selected Firm must provide the written claim to:
Senior Director of Procurement and Supplier Diversity Services
University of Virginia
Carruthers Hall
1001 North Emmet Street
P.O. Box 400202
Charlottesville, Virginia 22904-4202
2. Although Selected Firm may, if it chooses, attempt to resolve its claim by dealing with a University department other than the one stated in Section A above, Selected Firm must submit any unresolved claim in writing no later than 60 days after final payment to the Director of Strategic Sourcing, Procurement and Supplier Diversity Services if it wishes to pursue its claim.
3. Upon receiving the written claim, the Director of Strategic Sourcing, Procurement and Supplier Diversity Services will review the written materials relating to the claim and decide whether to discuss the merits of the claim with Selected Firm. If such discussion is to be held, the Director of Strategic Sourcing, Procurement and Supplier Diversity Services will contact Selected Firm and arrange such discussion. The manner of conducting such discussion will be as the Director of Strategic Sourcing, Procurement and Supplier Diversity Services and Selected Firm mutually agree.
4. The Director of Strategic Sourcing, Procurement and Supplier Diversity Services will mail his or her decision to Selected Firm within 60 days after receipt of the claim. The decision will state the reason for granting or denying the claim

5. Selected Firm may appeal the decision to:

Senior Director of Procurement and Supplier Diversity Services
University of Virginia
Carruthers Hall
1001 North Emmet Street
P.O. Box 400202
Charlottesville, Virginia 22904-4202

Provide a written statement explaining the basis of the appeal within 15 days after Selected Firm's receipt of the decision.

6. Upon receiving the written appeal, the Senior Director of Procurement and Supplier Diversity Services will review the written materials relating to the claim and decide whether to discuss the merits of the claim with Selected Firm. If such discussion is to be held, the Senior Director of Procurement and Supplier Diversity Services will contact Selected Firm and arrange such discussion. The manner of conducting such discussion will be as the Senior Director of Procurement and Supplier Diversity Services and Selected Firm mutually agree.
7. The Senior Director of Procurement and Supplier Diversity Services will mail his or her decision to Selected Firm within 60 days after the Senior Director of Procurement and Supplier Diversity Services receipt of the appeal. The decision will state the reasons for granting or denying the appeal.

Nothing in this procedure will preclude either party from filing a claim in any court of the Commonwealth of Virginia to seek legal or equitable remedy if a dispute should arise, in addition to such other remedies as are expressly provided in this Agreement. Selected Firm may not, however, file such claim unless and until it has complied fully with the procedure set forth in this provision.

T. Cooperative Procurement / Use of Agreement by Third Parties

It is the intent of this Agreement to allow for cooperative procurement. Accordingly, any public body, public or private health or educational institution, or any University related foundation may access this Agreement if authorized by Selected Firm.

Participation in this cooperative procurement is strictly voluntary. If authorized by Selected Firm, this Agreement may be extended to the entities indicated above to purchase at fees in accordance with this Agreement. Selected Firm will notify the University in writing of any such entities accessing this Agreement. No modification of this Agreement or execution of a separate agreement is required to participate. Selected Firm will provide semi-annual usage reports for all

entities accessing this Agreement. Participating entities will place its own orders directly with Selected Firm and will fully and independently administer its use of this Agreement to include contractual disputes, invoicing and payments without direct administration from the University. The University will not be held liable for any costs or damages incurred by any other participating entity as a result of any authorization by Selected Firm to extend this Agreement. 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 this Agreement no matter the circumstances.

Use of this Agreement does not preclude any participating entity from using other agreements or competitive processes as the need may be.

U. Purchasing Manual

This Agreement is subject to the provisions of the Commonwealth of Virginia "Purchasing Manual for Institutions of Higher Education and Their Vendors" and any subsequent revisions, which is available at this web site: <https://vascupp.org/sites/vascupp/files/2020-09/hem.pdf>.

V. Small, Women-owned and Minority-owned (SWaM) Business Reporting

Selected Firm will identify and fairly consider SWaM Firms for subcontracting opportunities when qualified SWaM firms are available to perform a given task in performing for the University under the resulting Agreement. Selected Firm will submit a quarterly SWaM business report to the University by the 8th of the month following each calendar quarter, specifically the months of April, July, October, and January. Selected Firm will submit the quarterly SWaM business reports to:

Shannon Wampler
Supply Chain Business Analyst
Email: saw2w@virginia.edu

The quarterly SWaM business reports will contain this information:

- i. SWaM Firm's name, address and phone number with which Selected Firm has contracted over the specified quarterly period.
- ii. Contact person at the SWaM Firm who has knowledge of the specified information.
- iii. Type of goods and/or services provided over the specified period of time.
- iv. Total amount paid to the SWaM Firm as it relates to the University's account.

Selected Firm's failure to provide SWaM reports on a quarterly basis which contain the information required by this section and/or Selected Firm's failure to comply with the plan for utilizing SWaM businesses submitted by Selected Firm as part of its proposal and/or negotiation response may be grounds for debarment pursuant to Section 9. G. 4 of the "Purchasing Manual for Institutions of Higher Education and their Vendors."

W. Future Goods and/or Services

The University reserves the right to have Selected Firm provide additional goods and/or services that may be required by the University during the Term of this Agreement. Any such goods and/or services will be provided under the same terms and conditions of this Agreement. Such additional goods and services may include other products, components,

accessories, subsystems or services provided by Selected Firm. These additional goods and services will be provided to the University at Favored Customer pricing.

X. Favored Customer

Selected Firm represents that the prices, terms, warranties, and benefits specified in its proposal are comparable to or better than the equivalent terms being offered by the Firm to any present customer.

Y. Ordering Procedures

The University does not place verbal orders for the Goods and/or Services. The University may only place orders for the Goods and/or Services by issuing a formal written Purchase Order in advance of Selected Firm's provision of the Goods and/or Services. Accordingly, at the University's request, Selected Firm will issue a proposal/quotation listing the Goods and/or Services desired by the University and the corresponding fees and/or fee estimates. After any necessary discussions and/or revisions, the University will issue a corresponding Purchase Order for a specified fee amount. This specified fee amount cannot be exceeded by Selected Firm unless a new formal written Purchase Order or Purchase Order revision is issued by the University authorizing a specific additional fee amount. Under no circumstances does the University authorize Selected Firm to provide the Goods and/or Services before receipt of a formal written Purchase Order corresponding to its proposal/quotation. If Selected Firm provides Goods and/or Services prior to receipt of a formal written Purchase Order, or incurs costs in excess of authorized purchase order fee amounts, it does so at its own risk.

Z. Marketing

The University encourages Selected Firm to appropriately and specifically market itself to applicable end-using University departments that may be interested in Selected Firm's Goods and/or Services. However, Selected Firm will not use non-specific mass marketing formats; such as, but not limited to, spam, emails and junk mail. In the event that Selected Firm engages in non-specific mass marketing formats, the University, in its sole discretion, may choose to terminate this Agreement.

AA. Compliance

Selected Firm will comply with all applicable laws and industry standards in performing services under this Agreement. Any Selected Firm personnel visiting the University's facilities will comply with all applicable University policies regarding access to, use of, and conduct within such facilities.

BB. Intellectual Property Rights/Disclosure

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 Selected Firm (or its subcontractors) for the University will not be disclosed to any other person or entity without the written permission of the University. Selected Firm warrants to the University that the University will own all rights, title and interest in any and all intellectual property rights created in the performance or otherwise arising from this Agreement 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. Selected Firm will execute any assignments or other documents needed for the University to perfect such rights. Notwithstanding the foregoing, for research collaboration pursuant to subcontracts under sponsored research agreements

administered by the University's Office of Sponsored Programs, intellectual property rights will be governed by the terms of the grant or contract to the University to the extent such grant or contract requires intellectual property terms to apply to subcontractors.

CC. Brand Standards

Selected Firm warrants that any Creative Work produced for the University (1) will comply with the University's brand standards and (2) in its end application, will fit the visual look and feel of the overall brand aesthetic, brand concept, color palette, visual effects, photographic and video style standards, and make correct use of all marks including logos and identity components. Selected Firm agrees that the University, in its sole discretion, will determine Selected Firm's compliance with this Provision. Creative Work includes, but is not limited to: websites, applications, electronic communications, newsletters, advertisements, mailings, magazines, and other communication materials (digital and print) produced for the University. For additional guidance, Selected Firm should consult the University's Brand Guidelines at <http://brand.virginia.edu/> (requires registration) or contact University Communications (licensing@virginia.edu).

DD. Force Majeure

Neither Party will be deemed in default or otherwise liable hereunder due to its inability to perform by reason of any fire, earthquake, flood, epidemic, accident, explosion, casualty, strike, lockout, labor controversy, riot, civil disturbance, act of public enemy, embargo, war, act of God, or any municipal, county, state, national or international ordinance or law or any executive, administrative, judicial or similar order, including orders from any governing body (which order is not the result of any act or omission to act which would constitute a default under this Agreement), or any failure or delay of any transportation, power, or other essential thing required, or similar causes beyond the Party's control (collectively, "force majeure"). Any delay in performance will be no greater than the event of force majeure causing the delay. If an event of force majeure continues uninterrupted for a period exceeding six calendar months, either Party may elect to terminate this Agreement upon notice to the other, but such right of termination, if not exercised, will expire immediately upon the discontinuance of the event of force majeure.

EE. Promotional Activity

During the Term of the Agreement, Selected Firm may reference the University as a customer in sales and marketing materials and public statements (Promotional Materials), provided such Promotional Materials do not include opinions explicitly or implicitly attributed to the University about the quality of the goods and/or services provided to the University. In no event shall Selected Firm request that the University or any University employee endorse Selected Firm or Selected Firm's goods and/or services. Promotional Materials may include the name "University of Virginia" and the University's approved institutional logo solely to identify accurately the University as an entity to whom Selected Firm provides goods and/or services. Furthermore, the University grants Selected Firm a limited, nonexclusive license to display the University's Marks solely as they are made available to Selected Firm in connection with Selected Firm's goods and/or services.

FF. Governing Law and Venue

This Agreement will be governed and construed in all respects by the laws of the Commonwealth of Virginia, excluding its conflict of laws provisions. The Parties agree to the

exclusive jurisdiction of state courts in Albemarle County, Virginia, for all disputes arising out of or related to this Agreement.

GG. Entire Agreement

This is the entire Agreement between the University (including University employees and other End Users) and Selected Firm. In the event that Selected Firm enters into terms of use agreements or other agreements or understanding, whether electronic, click-through, verbal or in writing, with University employees or other End Users, such agreements shall be null, void and without effect, and the terms of this Agreement shall apply.

Insurance

Selected Firm shall procure and maintain and require any Subcontractor to procure and maintain for the duration of the contract, insurance against claims which may arise from or in connection with the performance of the work and the results of that work by the Selected Firm, its agents, representatives, employees or subcontractor. Beginning on the Commencement Date and continuing during the Initial Term of the Contract and any Renewals or extensions thereof, the Selected Firm, at the Selected Firm's expense, shall keep in force, with an insurance company with a current A.M. Best's rating of no less than A:VII, one which is authorized to transact business in Virginia, the following:

- {X} Commercial General Liability (CGL): Providing CGL coverage on a "occurrence" basis, including for (X) bodily injury liability including: death, assault or battery, (X) property damage liability for damage to property of third parties, (X) personal injury liability, (X) advertising injury liability, (X) contractual liability, (X) products / completed operations liability and (X) full liquor liability arising out of the service of liquor (e.g., dram shop liability), with limits no less than Two Million Dollars (\$2,000,000) per occurrence and Four Million Dollars (\$4,000,000) aggregate.
- X} Automobile Liability: Providing coverage on all vehicles (i.e., owned, non-owned, and hired) operated with combined minimum limits of liability of at least One Million Dollars (\$1,000,000) per occurrence for bodily injury and property damage.
- {X} Workers' Compensation: Providing coverage of at least the statutory amounts covering all employees, and employer's liability insurance with minimum limits of One Million Dollars (\$1,000,000) for each coverage part.
- {X} Excess Liability ("umbrella") Insurance: Providing coverage with a limit of at least Five Million Dollars (\$5,000,000) per occurrence. Umbrella insurance will be in excess to all types of liability insurance required above.
- {X} Crime and Fidelity Liability: Selected Firm shall maintain a Crime and Fidelity Insurance Policy or Financial Institution Bond including computer crime covering (i) all money and property entrusted to Selected Firm by the University, (ii) the property of any customers or patrons of the University, and (iii) the property and funds of others in Selected Firm's possession, care, custody or control related to this Agreement, for crimes committed by Selected Firm's employees, agents or subcontractors, acting along or in collusion with others, with limits of coverage of not less than \$20,000,000 for Loss Inside the Premises Coverage and Loss Outside the Premises Coverage.

- {X} Cyber Insurance: Providing coverage against information security and privacy breaches (including social engineering coverage, legal and forensic services, credit monitoring programs, website media content liability, crisis management and public relations with limits of liability of at least Five Million Dollars (\$5,000,000)
- {X} Professional Liability Insurance: Providing coverage against claims made for professional liability, errors and omissions with a minimum limit Four Million Dollars (\$4,000,000) aggregate.

Other Insurance Provisions

The insurance policies are to contain, or be endorsed to contain, the following provisions:

Additional Insured Status

The Commonwealth of Virginia, and the Rector and Visitors of the University of Virginia, its officers, employees, and agents are to be covered on the CGL policy with respect to liability arising out of work or operations performed including materials, parts, or equipment furnished in connection with such work or operations.

Primary Coverage

For any claims related to this contract, the Selected Firm's insurance coverage shall be primary insurance as respects the Commonwealth of Virginia, the Rector and Board of Visitors of the University of Virginia, its officers, employees and agents. Any insurance or self-insurance maintained by the Commonwealth of Virginia, the Rector and Board of Visitors of the University of Virginia, its officers, employees and agents shall be excess of the Selected Firm's insurance and shall not contribute with it.

Notice of Cancellation

The Selected Firm shall endeavor to provide thirty (30) days written notice to the University upon termination or modification of coverage.

Waiver of Subrogation

The Selected Firm will grant to UNIVERSITY a waiver of any right to subrogation with the exception of Workers' Compensation insurance, which any insurer of said Selected Firm may acquire against UNIVERSITY by virtue of the payment of any loss under such insurance.

Verification of Coverage

The Selected Firm shall furnish UNIVERSITY with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved by UNIVERSITY before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Selected Firm's obligation to provide them.

Notwithstanding any provision hereinto the contrary, the selected firm shall have the right to assume in whole or in part, through a program of self-insurance, any and all risks otherwise required by this Agreement to be insured against.

HH. Payment Card Standards / PCI Compliance

To the extent Selected Firm has access to, stores, processes, transmits, redirects or executes transactions with or containing Cardholder Data or Sensitive Authentication Data or could impact the security of the Cardholder Data technical environment, Selected Firm acknowledges its responsibility for the security of Cardholder Data or Sensitive Authentication Data it has access to, stores, processes, transmits, redirects or executes transactions on behalf of the University and its affiliates and ensuring that Selected Firm subcontractors/agents/representatives/affiliates ensures that security as well (the preceding hereinafter collectively referred to as “uses/using Cardholder Data”); Selected Firm represents and warrants that software and services provided or supplied by Selected Firm for using Cardholder Data will be compliant with and will maintain compliance with throughout the term of the Agreement with (1) applicable laws and regulations, (2) the standards established by the PCI Security Standards Council (PCISSC)(see <https://www.pcisecuritystandards.org>) As such Selected Firm will maintain compliance with the then current DSS version release within the time periods established by the PCISSC. Selected Firm agrees to provide proof of compliance at the signing of this Agreement, by submitting a compliance document such as a PCI DSS Attestation of Compliance (AOC) or another similar compliance document certifying compliance by a third party against the current DSS version in effect and have aligned any mobile application, if applicable, to NIST development lifecycle guidelines and agrees to provide updated proof of compliance of such compliance resulting from changes of laws and standards occurring after this Agreement was executed. Selected Firm agrees to use only credit card service providers that are PCI DSS compliant for credit card processing. Selected Firm will promptly notify the University of any lapse in its obligations resulting in non-compliance issues or security data breach of these provisions within seventy-two hours (72 hours) pertaining to their operation (or that of their subcontractors/agents/ representatives/affiliates as applicable) and will undertake immediate remediation of such incident within established timeframes and assume responsibility for informing such individuals in accordance with applicable laws. Furthermore Selected Firm agrees, as needed, to assist the University in determining the extent and/or the nature of the loss of Cardholder Data or Sensitive Authentication Data should the University need to notify individuals and/or the processor entity of such loss of Cardholder Data or Sensitive Authentication Data and paying all costs, including but not limited to, notification, investigation, mitigation, any fines or penalties, or card replacement, brand penalties in the event

of a security breach of Cardholder Data or Sensitive Authentication Data caused by the actions or inactions of Selected Firm (or that of their subcontractors/agents/representatives/affiliates as applicable) (referred to collectively as “PCI Costs”). Selected Firm further agrees to indemnify, hold harmless and defend the University and its affiliates and representatives from any claims damages or other harm connected to said breach. Further, the Selected Firm hereby agrees that the University may withhold payment(s) owed to the Selected Firm for any violation of these security/reporting requirements or failure to pay PCI Costs.

II. Term of Agreement

The term of this Agreement will be for five years, with the ability to renew on the same or similar terms and conditions, for up to five additional years if mutually agreeable to the University and the Selected Firm. The Selected Firm and the University will mutually agree at least 180 days prior to each renewal period whether to renew the terms of the Agreement.

Attachment 2 Data Protection Addendum

This Data Protection Addendum (“Addendum”) is entered into as of _____, by and between _____ (“Selected Firm”) and The Rector and Visitors of the University of Virginia (“University”) (each a “Party” and collectively the “Parties”).

WHEREAS, the Parties have entered into one or more agreements or arrangements (collectively, the “Underlying Agreement(s)”) under which Selected Firm will create, obtain, transmit, use, maintain, process, or dispose of University Data (as defined in the Definitions Section of this Addendum) in order to fulfill its obligations to the University under the Underlying Agreement(s).

WHEREAS, if Selected Firm, through its work with the University, may receive one of the University’s designated “health care components” identified below, will receive, create, or come into non-incident contact with individually identifiable health information of University patients or University Health Plan participants -- “Protected Health Information” as that term is defined in regulations under the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), at 45 C.F.R. Part 160.103 -- the Business Associate Addendum found at <https://suppliers.uvafinance.virginia.edu/resources/business-associate-addendum> applies in addition to this Data Protection Addendum. Where noted herein, certain sections of the Business Associate Addendum replace sections of this Data Protection Addendum as regards Protected Health Information (“PHI”).

WHEREAS, this Addendum sets forth the terms and conditions pursuant to which University Data will be protected by Selected Firm during the term of the Parties Underlying Agreement(s) and after its termination.

STANDARD PROVISIONS

1. Definitions

- a. “End User” means an individual authorized by the University to access and use the Services provided by Selected Firm under this agreement.
- b. “Protected University Data” includes all data defined as Highly Sensitive, Sensitive, or Internal Use data in University's *IRM-003 Data Protection of University Information* policy (<http://uvapolicy.virginia.edu/policy/IRM-003>) that is not intentionally made generally

available by the University on public websites or publications, including but not limited to business, administrative and financial data, intellectual property, and patient, student, and personnel data.

- c. "Securely Destroy" means taking actions that render data written on physical (e.g., hardcopy, microfiche, etc.) or electronic media unrecoverable by both ordinary and extraordinary means. These actions must meet or exceed those sections of the National Institute of Standards and Technology (NIST) SP 800-88, REV 1 guidelines relevant to data categorized as high security.
- d. "Security Breach" means the unauthorized access, use or disclosure that compromises or threatens to compromise the confidentiality, integrity, or availability of University Data
- e. "Services" means any goods or services acquired by the University of Virginia from Selected Firm.
- f. "University Data" includes Protected University Data and any other information that is created, possessed or used by the University or is intentionally made generally available by the University on public websites or publications, including but not limited to business, administrative and financial data, intellectual property, and patient, student, and personnel data.
- g. "Audit Trail" means a chronological record that reconstructs and examines the sequence of activities surrounding or leading to a specific operation, procedure, or event in a security-relevant transaction from inception to final result.

2. Rights and License in and to the University Data

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 the University, and Selected Firm has a limited, nonexclusive license to use these data as provided in this agreement solely for the purpose of performing its obligations hereunder. This agreement does not give a party any rights, implied or otherwise, to the other's data, content, or intellectual property, except as expressly stated in the agreement.

3. Data Privacy

- a. Selected Firm will use University Data only for the purpose of fulfilling its duties under this agreement and will not share such data with or disclose it to any third party without the prior written consent of the University, except as required by this agreement or as otherwise required by law.
- b. Protected University Data will not be stored outside the United States without prior written consent from the University.
- c. Selected Firm will provide access to University Data only to its employees and subcontractors who need to access the data to fulfill Selected Firm obligations under this agreement. Selected Firm will ensure that employees who perform work under this agreement have read, understood, and received appropriate instruction as to how to comply with the data protection provisions of this agreement.
- d. The following provision applies only if Selected Firm will have access to the University's education records as defined under the Family Educational Rights and Privacy Act (FERPA): Selected Firm acknowledges that for the purposes of this agreement 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 Selected Firm agrees to abide by the limitations and requirements imposed on school officials. Selected Firm will use the education records only for the purpose of fulfilling its duties under this agreement for University'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 this agreement, required by law, or authorized in writing by the University.

4. Data Security, Integrity, and Confidentiality

- a. Selected Firm will take reasonable measures, including audit trail, to protect University Data to ensure the integrity and availability of University Data against deterioration or degradation of data quality and authenticity. Selected Firm will be responsible during the terms of this agreement, unless otherwise specified elsewhere in this agreement, for converting and migrating electronic data as often as necessary so that information is not lost due to hardware, software, or media obsolescence or deterioration.
- b. Selected Firm will store and process University Data in accordance with commercial best practices, including appropriate administrative, physical, and technical safeguards, and audit trail, to secure such data from unauthorized access, disclosure, alteration, and use. Such measures will ensure the confidentiality, integrity and availability of University Data, and be no less protective than those used to secure Selected Firm'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. Without limiting the foregoing, Selected Firm warrants that all electronic University Data will be encrypted in transmission (including via web interface) in accordance with latest version of Federal Information Processing Standards Publication (FIPS) Publication 140-2. If Selected Firm stores, transmits, or processes Protected University Data as part of this agreement, Selected Firm warrants that the information will be stored in accordance with latest version of [National Institute of Standards and Technology Special Publication 800-171](#) or the International Organization for Standardization and the International Electrotechnical Commission 27002 (ISO/IEC 27002).
- c. Selected Firm will use reasonable, appropriate industry-standard and up-to-date security tools and technologies in providing Services under this agreement.

5. Employee Background Checks and Qualifications

- a. Selected Firm shall ensure that its employees who will have potential access to University Data have passed reasonable and appropriate background screening and possess the qualifications and training to comply with the terms of this agreement.

6. Security Breach

- a. Response. Upon becoming aware of a Security Breach, or of circumstances that are reasonably understood to suggest an actual or suspected Security Breach of University Data, Selected Firm will immediately notify the University consistent with applicable state or federal laws, fully investigate the incident, and cooperate fully with the University's investigation of and response to the incident. Except as otherwise required by law, Selected Firm will not provide notice of an actual or suspected Security Breach directly to individuals whose Personally Identifiable Information was involved, regulatory agencies, or other entities, without prior written permission from the University.
- b. Liability. If Selected Firm must under this agreement create, obtain, transmit, use, maintain, process, or dispose of Protected University Data, the following provisions apply:
 1. In addition to any other remedies available to the University under law or equity, Selected Firm will reimburse the University in full for all costs incurred by the University

- in investigation and remediation of any Security Breach caused by Selected Firm, including but not limited to providing notification to individuals whose Personally Identifiable Information was compromised and to regulatory agencies or other entities as required by law or contract; providing one year's credit monitoring to the affected individuals if the Protected University Data exposed during the breach could be used to commit financial identity theft; and the payment of legal fees, audit costs, fines, and other fees imposed by regulatory agencies or contracting partners as a result of the Security Breach.
2. In addition to any other insurance coverage required by another contract/agreement with the University, Selected Firm will for the duration of the term of the agreement, maintain at least \$1 million Cyber Liability coverage with insurance companies that hold at least an A- financial rating with A.M. Best Company. In no event, should Selected Firm construe these minimum required limits to be their limit of liability to the University.
 3. The University must be named as an Additional Insured on the Cyber Liability Insurance, and the proper name is "The Commonwealth of Virginia, and the Rector and Visitors of the University of Virginia, its officers, employees and agents." Upon the University's request, Selected Firm will provide a Certificate of Insurance (COI).

7. Response to Legal Orders, Demands or Requests for Data

- a. Except as otherwise expressly prohibited by law, Selected Firm will:
 1. immediately notify the University of Selected Firm's receipt of any subpoenas, warrants, or other legal orders, demands or requests seeking University Data;
 2. consult with the University regarding its response;
 3. cooperate with the University's reasonable requests in connection with efforts by the University to intervene and quash or modify the legal order, demand or request; and
 4. provide the University with a copy of its response.
- b. If the University receives a subpoena, warrant, or other legal order, demand or request (including request pursuant to the Virginia Freedom of Information Act) seeking University Data maintained by Selected Firm, the University will promptly provide a copy to Selected Firm. Selected Firm will promptly supply the University with copies of data required for the University to respond in a timely manner, and will cooperate with the University's reasonable requests in connection with its response.

8. Data Transfer Upon Termination or Expiration

- a. Upon termination or expiration of this agreement, Selected Firm will ensure that all University Data are securely returned or destroyed as directed by the University in its sole discretion. Transfer to the University or a third party designated by the University shall occur within a reasonable period of time, and without significant interruption in service. Selected Firm shall ensure that such transfer/migration uses facilities and methods that are compatible with the relevant systems of the University or its transferee, and to the extent technologically feasible, that the University will have reasonable access to University Data during the transition.
- b. Upon termination or expiration of this agreement, and after any requested transfer of data, Selected Firm must Securely Destroy all data in its possession and in the possession of any subcontractors or agents to which Selected Firm might have transferred University data.

- Selected Firm agrees to provide documentation of data destruction to the University.
- c. Selected Firm will notify the University of impending cessation of its business and any contingency plans. This includes immediate transfer of any previously escrowed assets and data and providing the University access to Selected Firm's facilities to remove and destroy University-owned assets and data. Selected Firm shall implement its exit plan and take all necessary actions to ensure a smooth transition of service with minimal disruption to the University. Selected Firm 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 the University. Selected Firm will work closely with its successor to ensure a successful transition to the new equipment, with minimal downtime and effect on the University, all such work to be coordinated and performed in advance of the formal, final transition date.

9. Audits

- a. The University reserves the right in its sole discretion to perform audits of Selected Firm at the University's expense to ensure compliance with the terms of this agreement. Selected Firm shall reasonably cooperate in the performance of such audits. This provision applies to all agreements under which Selected Firm must create, obtain, transmit, use, maintain, process, or dispose of University Data.
- b. If Selected Firm must under this agreement create, access, obtain, transmit, use, maintain, process, or dispose of Protected University Data or financial or business data which has been identified to Selected Firm as having the potential to affect the accuracy of the University's financial statements, Selected Firm will at its expense conduct or have conducted, at least annually, a:
 1. security audit by a third party with audit scope and objectives deemed sufficient by the University, which attests Selected Firm's security policies, procedures, and controls;
 2. vulnerability scan by a third party of Selected Firm's electronic systems and facilities that are used in any way to deliver electronic services under this agreement; and
 3. formal penetration test by a third party of Selected Firm's electronic systems and facilities that are used in any way to deliver electronic services under this agreement.
- c. Additionally, Selected Firm will provide the University upon request the results of the above audits, scans and tests, and will promptly modify its security measures as needed based on those results in order to meet its obligations under this agreement. The University may require, at University expense, Selected Firm to perform additional audits and tests, the results of which will be provided promptly to the University.

10. Compliance

- a. Selected Firm will comply with all applicable laws and industry standards in performing services under this agreement. Any Selected Firm personnel visiting the University's facilities will comply with all applicable University policies regarding access to, use of, and conduct within such facilities. The University will provide copies of such policies to Selected

Firm upon request.

- b. Selected Firm warrants that the service it will provide to the University is fully compliant with all state and federal laws, regulations, industry codes, and guidance that may be applicable to the service, which may include:
 1. any applicable national, federal, state or local law, rule, directive or regulation relating to the privacy of personal information, including, without limitation, the Family Educational Rights and Privacy Act, 20 U.S.C. §1232g, and its implementing regulations (“FERPA”), the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”) and the Privacy and Security Rules issued thereunder, the Health Information Technology for Economic and Clinical Health Act (the “HITECH Act”), the Financial Modernization Act of 1999 (“Gramm-Leach-Bliley Act”), the Fair Credit Reporting Act as amended by the Fair and Accurate Credit Transactions Act, the Americans with Disabilities Act, and the Virginia Consumer Data Protection Act;
 2. any privacy policy or practice applicable to any personal information that Customer or any User accesses, uses, collects, or maintains hereunder, including, without limitation any practice required in connection with the processing of credit card data, including the Payment Card Industry Data Security Standards (PCI-DSS); and
 3. Federal Export Administration Regulations, Federal Acquisitions Regulations, Defense Federal Acquisitions Regulations and Department of Education guidance.
- c. If the Payment Card Industry Data Security Standard (PCI-DSS) is applicable to Selected Firm service provided to the University, Selected Firm agrees to:
 1. Store, transmit, and process University Data in scope of the PCI DSS in compliance with the PCI DSS; and
 2. Attest that any third-party providing services in scope of PCI DSS under this agreement will store, transmit, and process University Data in scope of the PCI DSS in compliance with the PCI DSS; and
 3. Provide either proof of PCI DSS compliance or a certification (from a recognized third-party security auditing Firm), within 10 business days of the request, verifying Selected Firm and any third party who stores, transmits, or processes University data in scope of PCI DSS as part of the services provided under this agreement maintains ongoing compliance under PCI DSS as it changes over time; and
 4. Store, transmit, and process any University Data in scope of the PCI DSS in a manner that does not bring the University’s network into PCI DSS scope; and
 5. Attest that any third-party providing services in scope of PCI DSS under this agreement will store, transmit, and process University Data in scope of the PCI DSS in a manner that does not bring the University’s network into PCI DSS scope.

11. Survival

Selected Firm’s obligations under Section 8 shall survive termination of this agreement until all University Data has been returned or Securely Destroyed.

*[Remainder of page intentionally left
blank]*

IN WITNESS WHEREOF, each of the undersigned has caused this Addendum to be duly executed in its name and on its behalf effective as of the Effective Date stated above herein.

**THE RECTOR AND VISITORS OF
THE UNIVERSITY OF VIRGINIA**

SELECTED FIRM

Signature:

Name:

Title:

Date:

Signature:

Name:

Title:

Date:

RFP ATTACHMENT 3
SWaM LETTER –
Vice President for Finance’s Request for Commitment



Greetings:

The University of Virginia is able to deliver excellent education, research, healthcare, and public service because the high value support from you and all our suppliers of goods and services. Thank you for sharing our commitment to excellence. As a University, we are committed to diversity within our students, our faculty and staff, and our vendors and contractors. An important part of our procurement program involves our commitment to doing business with small, women- and minority-owned (SWaM) businesses. We look to you to help us achieve this objective.

We currently have a substantial volume of activity with small firms; however, we are striving to increase the number of substantial, long-term business relationships with minority- and women-owned businesses. We need your help here.

I have two requests. First, I ask that you actively seek out opportunities to involve small, women- and minority-owned businesses as you deliver services to the University of Virginia. Our team in Procurement and Supplier Diversity Services will assist you in identifying qualified diverse business partners. Second, please report your success in this area through our quarterly subcontracting reports – this is critical in quantifying how well we are meeting our goals. The terms and conditions previously provided to your organization outlined this process.

This effort is important to the University. We truly appreciate your efforts to join us in this commitment and partnership towards excellence.