



**UNIVERSITY OF MARYLAND UNIVERSITY COLLEGE**  
**REQUEST FOR PROPOSAL # 91419**  
**FOR**  
**WEBSITE USER TESTING PLATFORM SERVICES**

SIGNIFICANT MILESTONES	TIME	DATE
Last Day for Questions	2:00 PM EDT	06/15/2016
Technical Proposal Due Date	2:00 PM EDT	06/27/2016
Oral Presentation/Discussion Date	TBD during the week of	07/18/2016
Price Proposal Due Date	2:00 PM EDT	07/29/2016

**ISSUE DATE: 6/06/2016**

**NOTICE:** Prospective Offerors who have received this document from a source other than the Issuing Office should immediately contact the Issuing Office and provide their name and mailing address in order to ensure that amendments to the Request for Proposal or other communications can be sent to them. Any Prospective Offeror who fails to provide the Issuing Office with this information assumes complete responsibility in the event that they do not receive communications from the Issuing Office prior to the closing date.

UNIVERSITY OF MARYLAND UNIVERSITY COLLEGE  
3501 University Boulevard East  
Adelphi, Maryland 20783  
[www.umuc.edu](http://www.umuc.edu)

## **SOLICITATION SCHEDULE**

### **RFP # 91419**

Issue Date: Monday, June 6, 2016

Last Day for Questions: Wednesday, June 15, 2016 at 2:00PM EDT

**Technical Proposal Due Date: Monday, June 27, 2016 at 2:00PM EDT**

Oral Presentation/Discussion Session(s): To be scheduled during the week of July 18, 2016 with shortlisted firms

UMUC Product Trial Period: Week of July 25, 2016

**Price Proposal Due Date: Friday, July 29, 2016 at 2:00PM EDT**

Contractor(s) Selection Anticipated to be Finalized: Tuesday, August 2, 2016

Agreement Executed by Selected Contractor(s): Friday, August 12, 2016

Contract Commencement: Thursday, September 1, 2016

**WEBSITE USER TESTING PLATFORM SERVICES  
UNIVERSITY OF MARYLAND UNIVERSITY COLLEGE  
RFP# 91419  
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## SECTION I. GENERAL INFORMATION

### 1. Summary.

**1.1. Objective:** The University of Maryland University College (UMUC) seeks proposals for a provider of a user-testing platform that will facilitate the collection of user experience/usability feedback on the [www.umuc.edu](http://www.umuc.edu) website, and related customer-facing web properties (“Solution”, or “Service”). These Services will be utilized to improve and enhance user experience on the UMUC website. Refer to Section II for the scope of the engagement and Section III for the procurement process. In accordance with UMUC’s Solicitation Terms and Conditions (Appendix S).

**1.2. Procurement Regulations:** This RFP shall be conducted in accordance with USM Procurement Policies and Procedures. The procurement method is Competitive Sealed Proposals. The text of the Policies and Procedures is available at <http://www.usmd.edu/regents/bylaws/SectionVIII/VIII300.html>.

**1.3. Background:** For a profile of UMUC, see <http://www.umuc.edu/visitors/about/>.

### 2. Issuing Office.

#### 2.1. Issuing Office:

University of Maryland University College  
Office of Procurement Services, Room 4100  
3501 University Boulevard East  
Adelphi, MD 20783

Attn: Eric Pfister  
Senior Buyer, Technology Procurement  
301-985-7095  
[eric.pfister@umuc.edu](mailto:eric.pfister@umuc.edu)

**and**

Amy Kisloski  
Assistant Director, Technology Procurement  
301-985-7707  
[amy.kisloski@umuc.edu](mailto:amy.kisloski@umuc.edu)

**2.2.** The Issuing Office shall be the sole point of contact within UMUC for purposes of the preparation and submittal of proposals in response to this solicitation.

### 3. Questions and Inquiries.

All questions and inquiries regarding this procurement must be directed to the individual(s) referenced within the Issuing Office above. Questions must be submitted in writing via email to [eric.pfister@umuc.edu](mailto:eric.pfister@umuc.edu) and [amy.kisloski@umuc.edu](mailto:amy.kisloski@umuc.edu). Inquiries will receive a written reply. Copies of replies will be sent to all other Offerors, but without identification of the inquirer. All such questions and inquiries must be received by the date and time as listed on the Cover and the Solicitation Schedule of this RFP.

### 4. Pre-Proposal Conference.

A Pre-Proposal Conference will not be held in conjunction with this procurement.

### 5. Proposal Closing Date/Due Date and Time.

**5.1. Technical Proposal:** The Technical Proposal is to be provided to the Issuing Office in accordance with the Solicitation Schedule. **Technical Proposals are to be submitted electronically, attached to an email in PDF format. Hyperlinks to software products sent to UMUC's Issuing Office that indicate that the Technical Proposal is posted by the Proposer on an electronic site may be rejected or considered non-responsive, i.e. a "Click-Through Agreement" required to be accepted by UMUC in order to download the Technical Proposal.** By providing the Technical Proposal electronically to UMUC, the Proposer grants UMUC an unlimited right to generate additional electronic and/or paper copies for distribution solely for the purpose of evaluation and review.

**5.2. Price Proposals are not requested at this time.** Refer to the Solicitation Schedule for the anticipated due date and time of Price Proposals. The Price Proposal form will be provided by addendum to only those Proposers whose technical proposals are shortlisted upon completion of the technical evaluation. Price Proposals are to be submitted electronically, attached to an email in PDF format. Hyperlinks to software products sent to UMUC's Issuing Office that indicate that the Price Proposal is posted by the Proposer on an electronic site may be rejected or considered non-responsive, i.e. a "Click-Through Agreement" required to be accepted by UMUC in order to download the Price Proposal. By providing the Price Proposal electronically to UMUC, the Proposer grants UMUC an unlimited right to generate additional electronic and/or paper copies for distribution solely for the purpose of evaluation and review.

**5.3. LATE PROPOSALS CANNOT BE ACCEPTED.** Proposals are to be submitted in accordance with Paragraphs 5.1 and 5.2 above to University of Maryland University College's Issuing Office (see paragraph 2 above). The time on the "sent" email from the Proposer will be used to determine timeliness.

**5.4.** Neither Technical nor Price Proposals will be opened publicly. The identity of Offerors will not be disclosed prior to the Contract Award.

**5.5.** The Technical Proposal and/or Price Proposal, either individually or collectively, is considered by UMUC to be an Offer.

**6. Acceptance of Terms and Conditions.**

By submitting a Proposal, an Offeror shall be deemed to have accepted the terms, conditions, and requirements set forth in this RFP. The RFP, including all addenda, shall be incorporated into the Contract by reference.

**7. Contractual Agreement and Term.**

Any Contract arising from this RFP action shall commence on the date the Contract is executed on behalf of UMUC, or such other date as UMUC and the Contractor shall agree. The initial term of the Contract is anticipated to start on or around September 1, 2016, through August 31, 2019. There will be two (2) one (1)-year renewal options at the sole discretion of UMUC.

**8. Confidentiality of UMUC's and Offeror's Information.**

Refer to Appendix S for the terms of confidentiality of UMUC's and Offeror's information.

**9. Post-Award Confidentiality.**

Refer to Appendix C for the confidentiality obligations of awardees and UMUC.

## SECTION II. SCOPE OF WORK

### 1. Purpose / Description

The UMUC Digital User Experience team is seeking a qualified firm to provide an off-the-shelf, user-testing platform that will facilitate the unmonitored or monitored collection of user experience/usability feedback on the [www.umuc.edu](http://www.umuc.edu) website and related customer-facing web properties. This user-testing platform will be utilized on an ongoing basis throughout the website's lifecycle. This firm will provide access to real-world usability test candidates who meet UMUC's demographic criteria, (e.g., interest in higher education, student, etc.) and will provide a solution for capturing feedback from these test users as they interact with UMUC's website based on direction and task elicitation provided by UMUC. The firm will provide summaries of the feedback and recommendations for changes that UMUC can incorporate into website design to improve usability and the user experience. The types of tests to be conducted under this contract include, but are not limited to:

- Desktop, tablet, and mobile tests
- Task-based tests
- Cart sort tests
- Tree tests
- Clickable wireframe/prototype tests
- Screenshot tests
- Heat maps
- Think-aloud tests with audio/video recording
- Site intercept tests
- Remote moderated and unmoderated tests without software download required for testers

2. **Deliverables** – UMUC has identified the capabilities listed in Section 2.1-2.2 as desirable components of the Solution.

#### 2.1. Platform Capabilities

- 2.1.1 Platform must have an easy to operate, modern interface that is intuitive and creates a positive user experience
- 2.1.2 Platform will have the capability to set up individual users with different access levels (i.e., admin and non-admin). UMUC is anticipating three (3) user licenses to start
- 2.1.3 Ability to create and field unlimited tests
- 2.1.4 Ability to conduct three or more concurrent tests
- 2.1.5 Ability to create test questions with dependency logic and piping
- 2.1.6 Ability to share and perform QA of tests in a preview mode prior to deployment
- 2.1.7 Ability to recruit and test within UMUC's own user pool via site intercept or trackable e-mail links
- 2.1.8 Ability to include 200 or more testers per test
- 2.1.9 Ability to capture and include, or exclude, incomplete tests from reporting
- 2.1.10 Ability to provide simultaneous access for up to 50 concurrent testers

- 2.1.11 Ability to capture, store, share, and save unlimited screen interactions, including accompanying video and audio recordings; up to 30 minutes per video
- 2.1.12 Ability to generate report visualizations, such as charts and graphs
- 2.1.13 Ability to export test results, including individual tests and summaries, in CSV and PDF format
- 2.1.14 Ability to export audio/video/screen recordings
- 2.1.15 Ability to filter and compare results based on screening questions
- 2.1.16 Ability to access archive of past tests; indefinite storage of past tests
- 2.1.17 Ability to provide training for UMUC staff (at UMUC's discretion)
- 2.1.18 Ability to provide technical support to UMUC staff (at UMUC's discretion)
- 2.1.19 Ability to test on any UMUC-owned or operated website, or application (i.e., Peoplesoft and D2L)

## 2.2. Tester and Testing Capabilities

- 2.2.1 Recruitment of 300 or more qualified real-world testers to complete tests through the firm's platform per year (does not count against research services hours)
- 2.2.2 Screening of testers based on UMUC-specified criteria, e.g., location, age, military affiliation, interest in higher education, etc. (may vary by test)
- 2.2.3 Turnaround of five (5) business days or less to recruit testing pool based on UMUC's provided criteria for a given test
- 2.2.4 Pre- and post- test questionnaires
- 2.2.5 Quality evaluation of test results to disregard and refund for bad testers

## 2.3. Additional Capabilities – UMUC has identified the capabilities listed in Section 2.3 as components that would enhance the Solution but are non-essential.

- 2.3.1 Ability to brand the test interface with UMUC logo and color scheme
- 2.3.2 Mobile app testing
- 2.3.3 Click-stream reporting
- 2.3.4 Ability to deploy surveys within e-mails
- 2.3.5 Competitive benchmarking data
- 2.3.6 Integration with Balsamiq®
- 2.3.7 Integration with Salesforce®
- 2.3.8 Ability to indicate statistical significance of survey results
- 2.3.9 Ability to annotate video and screen recordings and create video clips
- 2.3.10 Ability to see real-time test results while the test is in the field
- 2.3.11 Ability to administer and collect UMUC's Non-Disclosure Agreement (NDA) from the testers prior to the test beginning
- 2.3.12 Ability to visually compare results for tests executed more than once to show change over time

## 2.4. Research Services – As part of the awarded contract, UMUC may require up to 80 service hours/year for consultation and configuration of tests. The consultation and



configuration will include the evaluation/optimization of tests, annotation of videos, and/or analysis and reporting on test results. The service hours will be part of a bank that UMUC may use at its own discretion. UMUC's selected firm will be expected to respond to inquiries regarding Research Services with two (2) business days.

**2.5. Product Trial -** Shortlisted firms will be asked to provide (at no cost to UMUC) access to a trial environment that will allow UMUC to test the firm's actual user testing platform for a period not to exceed two (2) weeks. The trial is anticipated to occur during the dates listed in the Solicitation Schedule.

## **SECTION III. PROCUREMENT PHASES AND EVALUATION PROCESS**

### **ARTICLE 1. TECHNICAL PROPOSAL REQUIREMENTS**

#### **1. General Requirements.**

**1.1. Transmittal Letter:** A transmittal letter prepared on the Offeror's business stationery must accompany the Technical Proposal. The letter should be an executive summary that clearly and concisely summarizes the content of the Technical Proposal. The letter must be signed by an individual who is authorized to bind the firm to all statements, including services and financial statements, contained in the Proposal. (See 1.2 below.) Include the Offeror's official business address and state in which it is incorporated or organized (if Offeror is not an individual). An appropriate contact name, title, phone number, and email address should also be provided for UMUC's use during the procurement process. Do not include price information in the transmittal letter.

**1.2. Signing of Forms:** A Proposal, if submitted by an individual, shall be signed by the individual. If submitted by a partnership, a Proposal shall be signed by such member(s) of the partnership with authority to bind the partnership. If submitted by a corporation, a Proposal shall be signed by an officer, and attested by the corporate secretary or an assistant corporate secretary; if not signed by an officer, there must be attached a copy of a board resolution or that portion of the by-laws, duly certified by the corporate secretary, showing the authority of the person so signing on behalf of the corporation.

#### **2. Initial Technical Criteria.**

Clear, concise, yet detailed responses to the technical criteria below are to be provided in the Technical Proposal. In addition, the Bid/Proposal Affidavit and Acknowledgement of Receipt of Addenda (if applicable) must be included. **Standard sales material may be provided, but must be attached as an appendix rather than included within the body of the Proposal. Offerors must insert a page break for each section of the Technical Proposal to separate responses to each of the technical criteria.**

The following information must be furnished in the Technical Proposal per this solicitation, as more fully described below in items 2.1 through 2.11. Failure to include any of the items listed below may disqualify your firm's response. The Technical Criteria, items 2.1 through 2.7 are listed below in order of importance. Offerors are requested to compile their Proposals in the same order. It is the Offeror's responsibility to tailor its response to demonstrate its qualifications to perform the scope of work specifically for UMUC.

**2.1. Proposed Solution and Capabilities:** Proposing firms are to provide a detailed narrative about how the proposed Solution addresses the capabilities listed in Section II: Scope of Work.

**2.2. Implementation:** Provide a proposed timeline and schedule for implementation of the Solution. Include assumptions, UMUC resources required and any other relevant information.

Specific pricing will be requested of shortlisted firms at the Price Proposal phase as outlined in Section III, Article 3. Implementation support may include installation and configuration of the software.

**2.3. Training Support:** Describe your training capabilities and ability to provide in-depth training, tailored to user roles, preferably provided virtually and on-demand, as needed by UMUC.

**2.4. Technical Support:** Describe how your firm provides technical support for end users. Technical support personnel must be directly available, at a minimum, during UMUC business hours (Monday-Friday, 9:00a.m. - 5:00p.m. EDT/EST), for the life of the contract to provide assistance and troubleshooting to UMUC users. Technical support should also include a self-help knowledge base and documentation on the software and its functionality. Also to be included is the firm's SLA's in regard to technical support, specifically incident response time. UMUC's selected firm will be expected to respond to Technical Support issues within one (1) business day.

**2.5. Staffing Organization and Proposed Key Personnel Qualifications:** Proposing firms are to provide a narrative as to how they plan to staff the contract. **Provide a resume**, including education and employment history, as well as the role to be assigned to UMUC for the following Key Personnel who are proposed as part of the Solution:

**2.5.1. Account/Client Relationship Representative.** This is the person who is UMUC's point of contact ("POC") for managing the relationship between the firm and UMUC from contract award through contract expiration or termination. It is expected that this person be available for periodic face-to-face and/or teleconference meetings for relationship check-ups.

**2.5.2. Consultant:** This is the person(s) who will be doing the Research Services work required in Section 2.4. The resume will include relevant work experience, as well as higher education experience if applicable.

In addition to the Key Personnel positions listed above, please include resumes for all other team members that are required to fulfill this Solution.

**2.6. Company Profile/Demonstration of Prior Work:** The Contractor must demonstrate and certify that it possesses at a minimum three (3) years of experience providing website user testing services to large enterprise environments similar to UMUC in complexity and scale, which may include corporate, government, non-profit, or academic examples.

Provide details on company history, number of employees, financial attestation, and annual sales volume for 2014 and 2015. Firms shall provide a statement or attestation of its financial condition to confirm that it has adequate financial resources to support its Technical Proposal response. Such statement and/or attestation may include: financial statements (unaudited) for the past three (3) years, audited financial statements for the past three (3) years, prospectus of publicly traded firms, letter signed by authorized company personnel attesting to its financial viability (preferably notarized statement), or any other documentation that the firm feels

adequately attests to its financial resource viability. Such documentation is to be provided solely with the Technical Proposal as an appendix.

**2.7. Special/Unique Qualifications:** Provide a narrative to elaborate on the website user testing services expertise and special/unique qualifications and/or experiences of the Offeror and/or any member of its team, which make it uniquely capable to provide a solution to UMUC. Special firm and/or individual expertise is to be included. If applicable, please provide higher education experience.

**2.8. Proposal Affidavit:** Complete and sign the Proposal Affidavit enclosed in Appendix A and enclose with the Technical Proposal.

**2.9. Insurance:** Provide a copy of a Certificate of Insurance verifying your firm's Coverage for Professional Liability, Commercial General Liability, Worker's Compensation, Automobile Liability Insurance, and Professional Liability.

**2.10. Acknowledgement of Receipt of Addenda Form:** If any addenda to the RFP documents are issued prior to the due date and time for Proposals, this form (found in Appendix A) must be completed, signed, and included in the Offeror's Technical Proposal.

**2.11. Acknowledgement of Review of Contract:** The UMUC Contract for this procurement will contain the provisions in Appendix C as well as any additional terms required by the UMUC or the State of Maryland. By submitting a Proposal, the Offeror warrants that they have reviewed Appendix C and will execute a contract: a) in substantially the same form; and b) with these terms and conditions upon request by UMUC. For accounting purposes only, UMUC will also issue a purchase order to the awarded firm.

### **3. Modifications of Technical Proposal.**

Offerors may modify their Technical Proposals by e-mail or facsimile communication at any time prior to the due date and time, provided that the Issuing Office is satisfied that a written confirmation of the modification with the signature of the Offeror was mailed prior to the Proposal due date and time. Technical Proposals may not be modified, supplemented, cured, or changed in any way after the due date and time, unless specifically requested by the UMUC.

## **SECTION III. PROCUREMENT PHASES AND EVALUATION PROCESS**

### **ARTICLE 2. TECHNICAL EVALUATION PROCESS**

#### **1. Qualifying Proposals.**

**1.1. Procurement Officer Review:** The Procurement Officer shall first review each Technical Proposal for compliance with the mandatory requirements of this RFP (i.e., susceptibility of award). Failure to comply with any mandatory requirement will normally disqualify a Proposal. UMUC reserves the right to waive a mandatory requirement when it is in its best interest to do so and when permitted by law.

**1.2. Evaluation and Selection Committee:** All Qualifying Proposals will be reviewed by a UMUC Evaluation and Selection Committee (“the Committee”) established by the Procurement Officer. As the procurement progresses, the Committee may seek input from other appropriate UMUC staff or request additional technical assistance from any other source.

#### **2. Technical Evaluation of Qualifying Proposals.**

**2.1. Initial Technical Evaluation:** Following the Procurement Officer’s qualifying review, the Committee shall conduct its evaluation of the technical merit of the Proposals in accordance with the Evaluation Criteria listed in Article 1, §2, above. Minor irregularities contained in Proposals, which are immaterial or inconsequential in nature, may be waived wherever it is determined to be in UMUC’s best interest and when permitted by law. The decision for progressing in the procurement process will be made based on the strengths, weaknesses, advantages, and deficiencies that the Technical Proposals represent.

**2.2. Shortlisting:** In accordance with the Evaluation Criteria set forth in Article 1, §2, a shortlist may be developed based on the Initial Technical Evaluation results. All Offerors will be notified of the results as they pertain to their respective Technical Proposal. Shortlisted Offerors may also be required to provide a product trial as explained in Section II.

#### **3. Oral Presentations/Discussion Sessions.**

**3.1. Purpose:** Based on the Evaluation Committee’s Initial Technical Evaluation, UMUC may invite, without cost to itself, the shortlisted Offerors to an oral presentation/discussion session (“Discussion Session”). The purposes of the Discussion Session are as follows:

- To provide the Offeror the opportunity to demonstrate its product;
- To discuss/clarify any and all aspects of the Technical Proposal, in particular the proposed solution, cost model options, approach/methodologies, implementation process, schedule, staffing of the contract, and ongoing support of the solution and other applicable professional services;

- To allow the UMUC to meet the Offeror's key personnel and for these personnel to convey directly their experience and expertise in the proposed product and its implementation; and,
- To provide an opportunity to clarify the scope of services for the intended contract and discuss any items addressed in the Technical Proposal that may require additional clarification.

**3.2. Format:** The Discussion Session will be informal, as UMUC is not interested in a sales presentation by executives and business development staff; rather, UMUC is requesting a demonstration of the proposed Solution and an interactive discussion with each of the shortlisted Offerors. It is important that those key personnel who are proposed to be assigned to UMUC fully participate in the presentation and discussion. Ample time will be available for the UMUC and the Offeror to ask questions and discuss issues and concerns related to the solution, the scope of the services, and the Offeror's capabilities and qualifications. We anticipate that the Discussion Session will be approximately 90 to 120 minutes in length.

Following the Discussion Session, additional follow-up, clarification documentation may be requested of each Offeror.

**3.3. Date:** The times and dates for the Discussion Session(s) will be set upon completion of the Initial Technical Evaluation; however, it is anticipated that the Discussion Session(s) will be conducted on the times and dates listed per the Solicitation Schedule, as well as on the cover of this RFP. **Offerors are therefore advised to set these dates aside in their entirety on the calendars of the appropriate key personnel.**

## **SECTION III. PROCUREMENT PHASES AND EVALUATION PROCESS**

### **ARTICLE 3. PRICE PROPOSALS**

#### **1. Submission.**

Price Proposals will be requested, via addendum, of the final shortlisted firms and must be received at the Issuing Office by the specified due date and time listed in the addendum. A Price Proposal form will be provided to all shortlisted firms, as an attachment to the addendum, for submission by the due date and time. Offerors that have been notified at any time prior to the Price Proposal due date that they have not progressed in the procurement process are not required to submit a Price Proposal.

Price Proposals are to be submitted electronically attached to an email in PDF format. Hyperlinks to software products sent to UMUC's Issuing Office that indicate that the Price Proposal is posted by the Proposer on an electronic site may be rejected or considered non-responsive if contract terms and conditions, i.e., a Click-Through Agreement is required to be accepted by UMUC in order to download the Price Proposal. By providing to UMUC the Price Proposal electronically, the Proposer grants UMUC the unlimited right to generate additional electronic and/or paper copies for distribution solely for the purpose of evaluation and review.

#### **2. Evaluation.**

Price Proposals will be evaluated based on the total cost of the products and/or services requested herein. UMUC may elect to request Best and Final Price Proposals (BAFOs).

The Committee will establish a financial ranking of the final Price Proposals from lowest to highest total offers.

## **SECTION III. PROCUREMENT PHASES AND EVALUATION PROCESS**

### **ARTICLE 4. FINAL EVALUATION, RANKING AND SELECTION**

#### **1. Recommendation of Award or Further Discussions.**

The Committee may recommend an Offeror for contract award(s) based upon the Offeror's Technical Proposal and Price Proposal without further discussion. However, should the Committee find that further discussion would benefit UMUC and the State of Maryland, the Committee may recommend such discussions to the Procurement Officer. Should the Procurement Officer determine that further discussion would be in the best interest of UMUC and the State, the Procurement Officer shall establish procedures and schedules for conducting discussions and will notify responsible Offerors.

#### **2. Final Ranking and Selection.**

**2.1. Process:** Following evaluation of the Technical Proposals and the Price Proposals (and Best and Final Offers, if applicable), the Evaluation and Selection Committee will make an initial overall ranking of the Proposals and recommend to the Procurement Officer the award of the contract(s) to the Offeror whose Proposal(s) is (are) determined to be the most advantageous to UMUC and the State of Maryland. The decision of the award(s) of the Contract will be made at the discretion of the Procurement Officer and will depend on the facts and circumstances of the procurement. All Offerors will be notified of the award(s) selection.

**2.2. Basis for Award:** Technical merit will have a greater weight than cost in the final ranking. Award may be made to the Offeror with a higher technical ranking even if its Price Proposal is not the lowest. The Procurement Officer retains the discretion to examine all factors to determine the award of the contract. The goal is to contract with the Offeror(s) that would best meet the needs of UMUC as set forth in the RFP.

**2.3. Negotiations:** UMUC may select for award one (1) or more Offeror(s) to negotiate the terms and conditions of the Contract. UMUC reserves the right to make an award with or without negotiation.

#### **3. Debriefing.**

**3.1. Request:** Unsuccessful Offerors may request a debriefing. A request must be submitted in writing to the Procurement Officer within ten (10) days after the date on which Offeror knows, or should have known, that its Proposal was unsuccessful. Debriefings shall be conducted at the earliest feasible time.

**3.2. Discussion:** Debriefings shall be limited to discussion of the Offeror's Proposal only and shall not include a discussion of a competing Offeror's Proposal. The debriefing may include information on areas in which the unsuccessful Offeror's Proposal was deemed weak or insufficient. The debriefing may not include discussion or dissemination of the thoughts, notes,



or ranking from an individual Evaluation Committee Member. A summary of the Procurement Officer's rationale for the selection may be given.

# **APPENDIX A**

## **TECHNICAL PROPOSAL FORMS**

**(NOTE: Refer to Section III, Article 1, for all required contents of the Technical Proposal. Completion of these forms in this Appendix A is NOT the complete contents required.)**

- 1. Acknowledgement of Receipt of Addenda Form**
- 2. Bid Proposal/Affidavit**

**APPENDIX A**

**ACKNOWLEDGEMENT OF RECEIPT OF ADDENDA FORM**

**RFP NO.:** 91419

**TECHNICAL PROPOSAL DUE DATE:** Monday, June 27, 2016 at 2:00PM EDT

**RFP FOR:** Website User Testing Platform Services

**NAME OF OFFEROR:** \_\_\_\_\_

**ACKNOWLEDGEMENT OF RECEIPT OF ADDENDA**

The undersigned, hereby acknowledges the receipt of the following addenda:

Addendum No. \_\_\_\_\_ dated \_\_\_\_\_

Addendum No. \_\_\_\_\_ dated \_\_\_\_\_

Addendum No. \_\_\_\_\_ dated \_\_\_\_\_

Addendum No. \_\_\_\_\_ dated \_\_\_\_\_

Addendum No. \_\_\_\_\_ dated \_\_\_\_\_

As stated in the RFP documents, this form is included in our Technical Proposal.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

APPENDIX A

**BID/PROPOSAL AFFIDAVIT**

**A. AUTHORIZED REPRESENTATIVE**

I HEREBY AFFIRM THAT: I am the (title) \_\_\_\_\_ and the duly authorized representative of (business) \_\_\_\_\_ and that I possess the legal authority to make this Affidavit on behalf of myself and the business for which I am acting.

**B. NOT USED**

**B-1. CERTIFICATION REGARDING MINORITY BUSINESS ENTERPRISES (*applicable if an MBE goal is set*)**

The undersigned bidder hereby certifies and agrees that it has fully complied with the State Minority Business Enterprise Law, State Finance and Procurement Article, §14-308(a)(2), Annotated Code of Maryland, which provides that, except as otherwise provided by law, a contractor may not identify a certified minority business enterprise in a bid or proposal and:

- (1) Fail to request, receive, or otherwise obtain authorization from the certified minority business enterprise to identify the certified minority proposal;
- (2) Fail to notify the certified minority business enterprise before execution of the contract of its inclusion in the bid or proposal;
- (3) Fail to use the certified minority business enterprise in the performance of the contract; or
- (4) Pay the certified minority business enterprise solely for the use of its name in the bid or proposal.

Without limiting any other provision of the solicitation on this project, it is understood that if the certification is false, such false certification constitutes grounds for the State to reject the bid submitted by the bidder on this project, and terminate any contract awarded based on the bid.

**B-2. CERTIFICATION REGARDING VETERAN-OWNED SMALL BUSINESS ENTERPRISES (*if applicable to the solicitation*)**

The undersigned bidder hereby certifies and agrees that it has fully complied with the State veteran-owned small business enterprise law, State Finance and Procurement Article, §14-605, Annotated Code of Maryland, which provides that a person may not:

- (1) Knowingly and with intent to defraud, fraudulently obtain, attempt to obtain, or aid another person in fraudulently obtaining or attempting to obtain public money, procurement contracts, or funds expended under a procurement contract to which the person is not entitled under this title;
- (2) Knowingly and with intent to defraud, fraudulently represent participation of a veteran-owned small business enterprise in order to obtain or retain a bid preference or a procurement contract;
- (3) Willfully and knowingly make or subscribe to any statement, declaration, or other document that is fraudulent or false as to any material matter, whether or not that falsity or fraud is committed with the knowledge or consent of the person authorized or required to present the declaration, statement, or document;
- (4) Willfully and knowingly aid, assist in, procure, counsel, or advise the preparation or presentation of a declaration, statement, or other document that is fraudulent or false as to any material matter, regardless of whether that falsity or fraud is committed with the knowledge or consent of the person authorized or required to present the declaration, statement, or document;
- (5) Willfully and knowingly fail to file any declaration or notice with the unit that is required by COMAR 21.11.12; or
- (6) Establish, knowingly aid in the establishment of, or exercise control over a business found to have violated a provision of §B-2(1)–(5) of this regulation.

**C. AFFIRMATION REGARDING BRIBERY CONVICTIONS**

I FURTHER AFFIRM THAT: Neither I, nor to the best of my knowledge, information, and belief, the above business (as is defined in Section 16-101(b) of the State Finance and Procurement Article of the Annotated Code of Maryland), or any of its officers, directors, partners, or any of its employees directly involved in obtaining or performing contracts with public bodies (as is defined in Section 16-101(f) of the State Finance and Procurement Article of the Annotated Code of Maryland), has been convicted of, or has had probation before judgment imposed pursuant to Article 27, Section 641 of the Annotated Code of Maryland, or has pleaded *nolo contendere* to a charge of bribery, attempted bribery, or

conspiracy to bribe in violation of Maryland law, or of the law of any other state or federal law, except as follows (indicate the reasons why the affirmation cannot be given and list any conviction, plea, or imposition of probation before judgment with the date, court, official or administrative body, the sentence or disposition, the name(s) of person(s) involved, and their current positions and responsibilities with the business):

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**D. AFFIRMATION REGARDING OTHER CONVICTIONS**

I FURTHER AFFIRM THAT: Neither I, nor to the best of my knowledge, information, and belief, the above business, or any of its officers, directors, partners, or any of its employees directly involved in obtaining or performing contracts with public bodies, has:

- (1) Been convicted under state or federal statute of a criminal offense incident to obtaining or attempting to obtain, or performing a public or private contract, fraud, embezzlement, theft, forgery, falsification or destruction of records, or receiving stolen property;
  - (2) Been convicted of any criminal violation of a state or federal antitrust statute;
  - (3) Been convicted under the provisions of Title 18 of the United States Code for violation of the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. §1961, et seq., or the Mail Fraud Act, 18 U.S.C. §1341 et seq., for acts arising out of the submission of bids or proposals for a public or private contract;
  - (4) Been convicted of a violation of the State Minority Business Enterprise Law, Section 14-308 of the State Finance and Procurement Article of the Annotated Code of Maryland;
  - (5) Been convicted of a violation of §11-205.1 of the State Finance and Procurement Article of the Annotated Code of Maryland;
  - (6) Been convicted of conspiracy to commit any act or omission that would constitute grounds for conviction or liability under any law or statute described in subsection (1), (2), (3), (4) or (5), above;
  - (7) Been found civilly liable under a state or federal antitrust statutes for acts or omissions in connection with the submission of bids or proposals for a public or private contract;
  - (8) Admitted in writing or under oath, during the course of an official investigation or other proceedings, acts or omissions that would constitute grounds for conviction or liability under any law or statute described above, except as follows (indicate reasons why the affirmations cannot be given, and list any conviction, plea, or imposition of probation before judgment with the date, court, official or administrative body, the sentence or disposition, the name(s) of the person(s) involved and their current positions and responsibilities with the business, and the status of any debarment):
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**E. AFFIRMATION REGARDING DEBARMENT**

I FURTHER AFFIRM THAT: Neither I, nor to the best of my knowledge, information, and belief, the above business, or any of its officers, directors, partners, or any of its employees directly involved in obtaining or performing contracts with public bodies, has ever been suspended or debarred (including being issued a limited denial of participation) by any public entity, except as follows (list each debarment or suspension providing the dates of the suspension or debarment, the name of the public entity and the status of the proceedings, the name(s) of the person(s) involved and their current positions and responsibilities with the business, the grounds of the debarment or suspension, and the details of each person's involvement in any activity that formed the grounds of the debarment or suspension):

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**F. AFFIRMATION REGARDING DEBARMENT OF RELATED ENTITIES**

I FURTHER AFFIRM THAT:

(1) The business was not established and it does not operate in a manner designed to evade the application of or defeat the purpose of debarment pursuant to Sections 16-101, et seq., of the State Finance and Procurement Article of the Annotated Code of Maryland; and

(2) The business is not a successor, assignee, subsidiary, or affiliate of a suspended or debarred business, except as follows (you must indicate the reasons why the affirmations cannot be given without qualification):

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**G. SUB-CONTRACT AFFIRMATION**

I FURTHER AFFIRM THAT: Neither I, nor to the best of my knowledge, information, and belief, the above business, has knowingly entered into a contract with a public body under which a person debarred or suspended under Title 16 of the State Finance and Procurement Article of the Annotated code of Maryland will provide, directly or indirectly, supplies, services, architectural services, leases of real property, or construction.

**H. AFFIRMATION REGARDING COLLUSION**

I FURTHER AFFIRM THAT: Neither I, nor to the best of my knowledge, information, and belief, the above business, has:

(1) Agreed, conspired, connived, or colluded to produce a deceptive show of competition in the compilation of the accompanying bid or offer that is being submitted;

(2) In any manner, directly or indirectly, entered into any agreement of any kind to fix the bid price or price proposal of the bidder or Offeror or of any competitor, or otherwise taken any action in restraint of free competitive bidding in connection with the contract for which the accompanying bid or offer is submitted.

**I. FINANCIAL DISCLOSURE AFFIRMATION**

I FURTHER AFFIRM THAT: I am aware of, and the above business will comply with the provisions of Section 13-221 of the State Finance and Procurement Article of the Annotated Code of Maryland, which require that every business that enters into contracts, leases, or other agreements with the State of Maryland or its agencies during a calendar year under which the business is to receive in the aggregate \$100,000 or more shall, within 30 days of the time when the aggregate value of these contracts, leases or other agreements reaches \$100,000, file with the Secretary of State of Maryland certain specified information to include disclosure of beneficial ownership of the business.

**J. POLITICAL CONTRIBUTION DISCLOSURE AFFIRMATION**

I FURTHER AFFIRM THAT: I am aware of and that the above business will comply with the provisions of Article 33, Sections 30-1 through 30-4 of the Annotated Code of Maryland, which require that every person that enters into contracts, leases, or other agreements with the State of Maryland, including its agencies or a political subdivision of the State, during a calendar year under which the person receives in the aggregate \$10,000 or more shall, on or before February 1, of the following year, file with the Secretary of State of Maryland certain specified information to include disclosure of political contribution in excess of \$100 to a candidate in any primary or general election.

**K. DRUG AND ALCOHOL-FREE WORKPLACE**

(Applicable to all contracts unless the contract is for a law enforcement agency and the agency head or the agency head's designee has determined that application of COMAR 21.11.08 and this certification would be inappropriate in connection with the law enforcement agency's undercover operations.)

I CERTIFY THAT:

(1) Terms defined in COMAR 21.11.08 shall have the same meaning when used in this certification.

(2) By submission of its bid or offer, the business, if other than an individual, certifies and agrees that, with respect to its employees to be employed under a contract resulting from this solicitation, the business shall:

- (a) Maintain a workplace free of drug and alcohol abuse during the term of the contract;
- (b) Publish a statement notifying its employees that the unlawful manufacture, distribution, dispensing, possession, or use of drugs, and the abuse of drugs or alcohol is prohibited in the business' workplace and specifying the actions that will be taken against employees for violation of these prohibitions;
- (c) Prohibit its employees from working under the influence of drugs and alcohol;
- (d) Not hire or assign to work on the contract anyone whom the business knows, or in the exercise of due diligence should know, currently abuses drugs or alcohol and is not actively engaged in a bona fide drug or alcohol abuse assistance or rehabilitation program;
- (e) Promptly inform the appropriate law enforcement agency of every drug-related crime that occurs in its workplace if the business has observed the violation or otherwise has reliable information that a violation has occurred;
- (f) Establish drug and alcohol abuse awareness programs to inform its employees about:
  - (i) The dangers of drug and alcohol abuse in the workplace,
  - (ii) The business' policy of maintaining a drug and alcohol-free workplace,
  - (iii) Any available drug and alcohol counseling, rehabilitation, and employee assistance programs; and
  - (iv) The penalties that may be imposed upon employees who abuse drugs and alcohol in the workplace;
- (g) Provide all employees engaged in the performance of the contract with a copy of the statement required by K(2)(b), above;
- (h) Notify its employees in the statement required by §K(2)(b) above, that as a condition of continued employment on the contract, the employee shall:
  - (i) Abide by the terms of the statement, and
  - (ii) Notify the employer of any criminal drug or alcohol abuse conviction for an offense occurring in the workplace not later than five (5) days after a conviction;
- (i) Notify the procurement officer within 10 days after receiving notice under §K(2)(h)(ii), above, or otherwise receiving actual notice of a conviction;
- (j) Within 30 days after receiving notice under §K(2)(h)(ii), above, or otherwise receiving actual notice of a conviction, impose either of the following sanctions or remedial measures on any employee who is convicted of a drug or alcohol abuse offense occurring in the workplace:
  - (i) Take appropriate personnel action against an employee, up to and including termination, or
  - (ii) Require an employee to satisfactorily participate in a *bona fide* drug or alcohol abuse assistance or rehabilitation program; and,
- (k) Make a good faith effort to maintain a drug and alcohol-free workplace through implementation of §K(2)(a)-(j), above.

(3) If the business is an individual, the individual shall certify and agree, as set forth in K(4), below, that the individual shall not engage in the unlawful manufacture, distribution, dispensing, possession, or use of drugs or the abuse of drugs or alcohol in the performance of the contract.

(4) I acknowledge and agree that:

- (a) The award of contract is conditional upon compliance with COMAR 21.11.08 and this certification;
- (b) The violation of the provisions of COMAR 21.11.08 or this certification shall be cause to suspend payments under, or terminate the contract for default under COMAR 21.07.01.11 or 21.07.03.15, as applicable; and
- (c) The violation of the provisions of COMAR 21.11.08 or this certification in connection with the contract may, in the exercise of the discretion of the Board of Public Works, result in suspension and debarment of the business under COMAR 21.08.03.

UMUC RFP #91419 – Website User Testing Platform Services

**L. CERTIFICATION OF CORPORATION REGISTRATION AND TAX PAYMENT**

I FURTHER AFFIRM THAT:

(1) The business named above is a (domestic\_\_\_\_)(foreign\_\_\_\_) [check one] corporation registered in accordance with the Corporations and Associations Article, Annotated Code of Maryland, and that it is in good standing and has filed all of its annual reports, together with filing fees, with the Maryland State Department of Assessments and Taxation, and that the name and address of its resident agent filed with the State Department of Assessments and Taxation is:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

(If not applicable, so state.)

(2) Except as validly contested, the business has paid, or has arranged for payment of, all taxes due the State of Maryland and has filed all required returns and reports with the Comptroller of the Treasury, the State Department of Assessments and Taxation, and the Employment Security Administration, as applicable, and will have paid all withholding taxes due the State of Maryland prior to final settlement.

**M. CONTINGENT FEES**

I FURTHER AFFIRM THAT: The business has not employed or retained any person, partnership, corporation, or other entity, other than a *bona fide* employee or agent working for the business, to solicit or secure the Contract, and that the business has not paid or agreed to pay any person, partnership, corporation, or other entity, other than a *bona fide* employee or agent, any fee or any other consideration contingent on the making of the Contract.

**N. CONFLICT OF INTEREST AFFIDAVIT AND DISCLOSURE**

A. "Conflict of interest" means that because of other activities or relationships with other persons, a person is unable or potentially unable to render impartial assistance or advice to the State, or the person's objectivity in performing the contract work is or might be otherwise impaired, or a person has an unfair competitive advantage.

B. "Person" has the meaning stated in COMAR 21.01.02.01B(64) and includes a bidder, offeror, contractor, consultant, or subcontractor or subconsultant at any tier, and also includes an employee or agent of any of them if the employee or agent has or will have the authority to control or supervise all or a portion of the work for which a bid or offer is made.

C. The bidder or offeror warrants that, except as disclosed in §D, below, there are no relevant facts or circumstances now giving rise or which could, in the future, give rise to a conflict of interest.

D. The following facts or circumstances give rise or could in the future give rise to a conflict of interest (explain detail—attach additional sheets if necessary):

\_\_\_\_\_  
\_\_\_\_\_

E. The bidder or offeror agrees that if an actual or potential conflict of interest arises after the date of this affidavit, the bidder or offeror shall immediately make a full disclosure in writing to the procurement officer of all relevant facts and circumstances. This disclosure shall include a description of actions which the bidder or offeror has taken and proposes to take to avoid, mitigate, or neutralize the actual or potential conflict of interest. If the contract has been awarded and performance of the contract has begun, the contractor shall continue performance until notified by the procurement officer of any contrary action to be taken.

**O. CERTIFICATION REGARDING INVESTMENTS IN IRAN**

(1) The undersigned bidder or offeror certifies that, in accordance with State Finance & Procurement Article, §17-705: (i) it is not identified on the list created by the Board of Public Works as a person engaging in investment activities in Iran as described in §17-702 of State Finance & Procurement; and (ii) it is not engaging in investment activities in Iran as described in State Finance & Procurement Article, §17-702.

(2) The undersigned bidder or offeror is unable to make the above certification regarding its investment activities in Iran due to the following activities:

\_\_\_\_\_  
\_\_\_\_\_



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**P. ACKNOWLEDGMENT**

I ACKNOWLEDGE THAT this Affidavit is to be furnished to the Procurement Officer and may be distributed to units of: (1) the State of Maryland; (2) counties or other subdivisions of the State of Maryland; (3) other states; and, (4) the federal government. I further acknowledge that this Affidavit is subject to applicable laws of the United States and the State of Maryland, both criminal and civil, and that nothing in this Affidavit or any contract resulting from submission of this bid or proposal shall be construed to supersede, amend, modify or waive, on behalf of the State of Maryland or any unit of the State of Maryland having jurisdiction, the exercise of any right or remedy conferred by the Constitution and the laws of Maryland in respect to any misrepresentation made or any violation of the obligations, terms and covenants undertaken by the above business in respect to (1) this Affidavit, (2) the contract, and (3) other Affidavits comprising part of the contract.

I DO SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS OF THIS AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF.

Date: \_\_\_\_\_ By: \_\_\_\_\_  
(Authorized Representative and Affiant)

Company Name: \_\_\_\_\_

FEIN No: \_\_\_\_\_

**APPENDIX C**  
**CONTRACT FORMS**

1. **Master Contract**
2. **Contract Affidavit**

**APPENDIX C**

UNIVERSITY OF MARYLAND UNIVERSITY COLLEGE

**MASTER CONTRACT #91419**

\_\_\_\_\_, 2016

**SAMPLE CONTRACT- DO NOT COMPLETE**

**CONTRACTOR:**

Federal Employer ID: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_  
Contact Person: \_\_\_\_\_  
Contact Phone: \_\_\_\_\_  
Contact Fax: \_\_\_\_\_  
Contact Email: \_\_\_\_\_

UMUC Ordering Office:  
Project Coordinator:  
Coordinator Phone:  
Coordinator Fax:  
Coordinator Email:

UMUC Procurement Officer/  
Contract Manager: Eric Pfister  
Phone Number: (301) 985-7095  
E-mail address: eric.pfister@umuc.edu

**SAMPLE CONTRACT- DO NOT COMPLETE**

**THIS MASTER CONTRACT** (“Contract”) is made as of this \_\_\_\_ day of \_\_\_\_\_, 2016 by and between \_\_\_\_\_, a corporation organized under the laws of the State of \_\_\_\_\_, with offices at \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, hereinafter referred to as "Contractor," and the University of Maryland University College (UMUC), a constituent institution of the University System of Maryland, an agency of the State of Maryland, with offices at 3501 University Boulevard East, Adelphi, MD 20783, hereinafter referred to as the "University.”

**RECITALS**

The University issued solicitation documents, RFP #91419 on June XX, 2016, as amended from time to time (the “Solicitation”), to solicit a provider of a Contact Center software solution (“Solution”). Contractor submitted a technical proposal dated \_\_\_\_\_ \_ 2016 and price proposal dated \_\_\_\_\_ \_\_, 2016, and accepted by the University (“collectively Proposal”) in response to the Solicitation, and the University subsequently selected the Contractor as the awardee of this Contract.

**THE PARTIES AGREE AS FOLLOWS:**

**1. SCOPE, CONTRACT DOCUMENTS, AND TERM**

- 1.1 Contractor shall provide to the University \_\_\_\_\_ professional services (the “Solution”), as from time to time ordered by the University, in accordance with the terms and conditions of this Contract.
- 1.2 This Contract consists of multiple documents as follows in order of precedence:
  - o This Contract Form (pages 1 through \_\_\_\_);
  - o If applicable, The Solicitation #\_\_\_\_\_ and all amendments to the solicitation, or absent a Solicitation, the UMUC request for submittal of a Proposal;
  - o Contractor’s Technical Proposal dated \_\_\_\_\_ as to Sections \_\_\_\_ only and Price Proposal dated \_\_\_\_\_; and,
  - o Statements of work, if any, issued from time to time, pursuant to this Contract (each of which is incorporated in this Contract whether or not physically attached hereto).
- 1.3 This Contract shall be in effect from \_\_\_\_\_ \_\_, 201\_ through \_\_\_\_\_ \_\_, 201\_ unless otherwise extended, expired or terminated pursuant to this Contract. If applicable, there are \_\_\_\_ 12-month renewal options at UMUC’s sole option.

## **2. PROFESSIONAL SERVICES**

- 2.1 The Contractor shall perform the Project as described in Exhibit A to this Agreement. Services shall be performed in accordance with the schedule included in Exhibit A, or, if no such schedule is included, in accordance with a schedule agreed upon in writing by the parties at a future date and adopted as an amendment to Exhibit A. The Contractor shall perform the Project as expeditiously as is consistent with good professional skill and care and the orderly progress of the Project.
- 2.2 The maximum fee for the Contractor's professional services is \_\_\_\_\_. The Contractor's fees for services required to complete the Project shall not exceed the maximum fee.
- 2.3 The UMUC Office of \_\_\_\_\_ will designate a staff member to act as coordinator ("Project Coordinator") between UMUC and the Contractor. Throughout the period of the Project, copies of all correspondence, work products, specifications, estimates and other materials prepared by the Contractor should be directed to the Project Coordinator and also to any other UMUC personnel designated by the Project Coordinator. Direct contact or communication by the Contractor with other UMUC offices or any other entity concerning the Project shall be made only with the prior knowledge and concurrence of the Project Coordinator.
- 2.4 The professional services team for the Project shall be the same team identified in the Contractor's submittal responding to UMUC's solicitation unless (a) a change is requested by the Contractor and approved in writing by the Project Coordinator; or (b) a change is requested in writing by the Project Coordinator for good cause, in which case the Contractor shall make an appropriate substitution, subject to UMUC's approval, and notify UMUC in writing. Major changes in the Contractor's organization or personnel (other than the Contractor's Team) shall be reported to UMUC in writing as they occur.
- 2.5 All terms and conditions of UMUC's solicitation, and any amendments thereto, are made a part of this Agreement unless expressly contradicted by a term or condition of this Agreement. Proposals or suggestions of the Contractor for changes in the solicitation or the terms and conditions of the contract are not binding upon UMUC and are not a part of this Agreement unless set forth in an amendment of the solicitation or in this Agreement and agreed to in writing by UMUC.

## **3. FEES AND PAYMENT**

- 3.1 Contractor's fees shall not exceed the rates set forth in the Contract per the Contractor's price proposal dated \_\_\_\_\_.
- 3.2 As compensation for satisfactory performance of Services, the University will pay Contractor no later than thirty (30) days after the University's receipt of a proper invoice from Contractor. Charges for late payment of invoices will be only as prescribed by Title 15, Subtitle 1 of the State Finance and Procurement Article, Annotated Code of Maryland, as from time to time amended.

3.2.1 Payment requests (invoices) shall be submitted electronically to the Accounts Payable Department, University of Maryland University College, 3501 University Boulevard East, Adelphi, MD 20783-8002 at [accountspayable@umuc.edu](mailto:accountspayable@umuc.edu).

Contractor may also send the invoices to the UMUC Ordering Department (as noted on the cover page of this Contract). The University's current Purchase Order number, issued for accounting purposes only, must be noted on all invoices.

- 3.3 All fees are exclusive of applicable federal, state, local, and foreign sales, use, excise, utility, gross receipts, value added and other taxes, tax-like charges and tax-related surcharges. The University is generally exempt from such taxes, and Contractor agrees not to charge the University for such taxes in accordance with applicable law. The University will provide exemption certificates upon request.
- 3.4 Electronic funds may be used by the State to pay Contractor for this Contract and any other State payments due Contractor unless the State Comptroller's Office grants Contractor an exemption. Charges for late payment of invoices, other than as prescribed by Title 15, Subtitle 1, of the State Finance and Procurement Article, Annotated Code of Maryland, or by the Public Service Commission of Maryland with respect to regulated public utilities, as applicable, are prohibited.

#### **4. WORK PRODUCT**

- 4.1 Contractor shall complete all reports and presentations required by the University and other reports set forth in the relevant Task Order.
- 4.2 Contractor agrees that all research, notes, data, computations, estimates, reports or other documents or work product obtained by or produced by Contractor under this Contract (the "Work") shall be the sole and exclusive property of the University. Upon the University's request or upon the expiration or termination of this Contract, Contractor shall deliver or return all copies of the Work to the University. The Contractor is permitted, subject to its obligations of confidentiality, to retain one copy of the Work for archival purposes and to defend its work product.
- 4.3 Notwithstanding the terms of Paragraph 4.2, Contractor is permitted to retain all rights to the intellectual capital (including without limitation, ideas, methodologies, processes, inventions and tools) developed or possessed by the Contractor prior to, or acquired during, the performance of the Services under this Contract.
- 4.4 Contractor and University intend this Contract to be a contract for services and each considers the Work to be a work made for hire. If for any reasons the Work would not be considered a work made for hire under applicable law, Contractor does hereby sell, assign and transfer to University, its successors, assigns, the entire right, title and interest in and to the copyright and any registrations and copyright applications relating thereto and renewals and extensions thereof, and in and to all works based upon, derived from or incorporating the Work, and in and to all income, royalties damages, claims and payments now or hereafter due or payable with respect thereto, and in and to all causes of

action, either in law or equity for past, present, or future infringement based on the copyrights, and in and to all rights corresponding to the foregoing throughout the world.

- 4.5 Contractor agrees to execute all documents and to perform such other proper acts as University may deem necessary to secure for University the rights in the Work.
- 4.6 In the event of loss of any data or records necessary for the performance of this Contract where such loss is due to the error or negligence of the Contractor, the Contractor shall be responsible, irrespective of cost to the Contractor, for recreating such lost data or records.

## **5. EVALUATION AND ACCEPTANCE PROCEDURE**

- 5.1 Upon completion and delivery of each deliverable by Contractor, UMUC will begin the evaluation and acceptance process, which shall include, but not be limited to, the steps described below. Payments, in accordance with Section 3 of this Contract will be based on the completion/delivery of a deliverable by Contractor and acceptance by UMUC of each deliverable. Contractor will demonstrate to UMUC that the deliverable has been completed or has occurred and will provide UMUC with written notice of the same.
- 5.2 Within the time period specified in the Contract including any Contract Amendments, or if not specified, then within thirty (30) business days of receipt by UMUC of a scheduled deliverable from Contractor, UMUC shall determine whether such deliverable Materially Conforms to the specifications defined in the Contract. As used herein, the term "Materially Conforms" means that the deliverable is ready to be used in production and meets or exceeds its intended functionality and performance. If the deliverable Materially Conforms to the specifications, then UMUC will provide written confirmation to Contractor that the deliverable is accepted.
- 5.3 If the deliverable does not Materially Conform, UMUC shall immediately return it to Contractor with a written list of deficiencies. Contractor, at no additional cost to UMUC, shall thereafter make all appropriate and necessary fixes to the deliverable and return it to UMUC within the time period specified, or if not specified, then within ten (10) business days for further testing by UMUC. If the deliverable again fails to Materially Conform then this same process will be repeated one more time. If the deliverable fails to Materially Conform to the specifications after delivery for the second time then UMUC may, at its sole discretion, (a) further extend the timeframe for cure and (b) extend the warranty period, if applicable, or (c) begin the termination process as defined in Section 10.1 of this Contract. If UMUC does not elect to terminate this Contract after the second failure, it has not automatically waived its right to do so following any additional failed attempt at correction by Contractor to which the parties may agree.
- 5.4 If either party fails to meet the testing period described above, or any other periods of time as mutually agreed to, the other party may declare the Contract in material breach and begin the termination process as defined in Section 10.1 of this Contract.

## **6. INTELLECTUAL PROPERTY**

- 6.1 Neither party may use the other party's name, trademarks or other proprietary identifying symbols without the prior written approval of the other party.
- 6.2 Contractor agrees to defend upon request and indemnify and hold harmless UMUC, its officers, agents and employees with respect to any claim, action, cost or judgment for patent infringement, or trademark or copyright violation arising out of purchase or use of materials, software, supplies, equipment or services under this Contract.

## **7. CONFIDENTIAL INFORMATION**

- 7.1 Contractor acknowledges and understands that in connection with this Contract, the performance of the Services and otherwise, Contractor has had or shall have access to, has obtained or shall obtain, or has been or shall be given the University's Confidential Information (as defined herein). For purposes of this Contract, "Confidential Information" means all information provided by the University to Contractor, including without limitation information concerning the University's business strategies, political and legislative affairs, students, employees, vendors, contractors, student records, customer lists, finances, properties, methods of operation, computer and telecommunications systems, and software and documentation. Confidential Information includes information in any and all formats and media, including without limitation oral, and includes the originals and any and all copies and derivatives of such information.
- 7.2 Contractor shall use the Confidential Information only if and when required for the performance of the Services, and for no other purpose whatsoever, and only by Contractor employees engaged in that performance.
- 7.3 Contractor shall not, in any manner whatsoever, disclose, permit access to, or allow use of Confidential Information to any person or entity except as specifically permitted or required under this Contract.
- 7.4 Contractor acknowledges and understands that UMUC is required to protect certain Confidential Information from disclosure under applicable law, including but not limited to, the Family Educational Rights and Privacy Act ("FERPA"), the Gramm Leach Bliley Act ("GLBA"), or the Maryland Public Information Act ("PIA"), including regulations promulgated there under, as the laws and regulations may be amended from time to time (collectively the "Privacy Laws"). The Confidential Information that is protected under FERPA was provided to the Contractor as it is handling an institution service or function that would ordinarily be performed by UMUC's employees. The Contractor agrees that it shall be obligated to protect the Confidential Information in its possession or control in accordance with the Privacy Laws to the same extent as UMUC would be obligated if the Confidential Information was in the possession or control of UMUC. The Contractor further agrees that it is subject to the requirements governing the use and re-disclosure of personally identifiable information from education records as provided in FERPA.



- 7.5 Contractor may disclose Confidential Information as required by legal process. If Contractor is required by legal process to disclose Confidential Information, Contractor shall immediately notify the University, and before disclosing such information shall allow UMUC reasonable time to take appropriate legal action to prevent disclosure of the Confidential Information.
- 7.6 Contractor's obligations with respect to Confidential Information shall survive the expiration or the termination of this Contract.
- 7.7 Contractor acknowledges that Contractor's failure to comply fully with the restrictions placed upon use, disclosure and access to Confidential Information may cause the University grievous irreparable harm and injury. Therefore, any failure to comply with the requirements of this Section shall be a material breach of this Contract.
- 7.8 Contractor agrees and acknowledges that it is not the custodian of any Confidential Information that may be in Contractor's possession or control. Contractor shall forward any request for disclosure of Confidential Information to:
- Office of Legal Affairs  
University of Maryland University College  
3501 University Boulevard East  
Adelphi, MD 20783
- 7.9 Except to the extent otherwise required by applicable law or professional standards, the obligations under this section do not apply to information that (a) is or becomes generally known to the public, other than as a result of disclosure by Contractor, (b) had been previously possessed by Contractor without restriction against disclosure at the time of receipt by Contractor, (c) was independently developed by Contractor without violation of this Contract, or (d) Contractor and the University agree in writing to disclose. Contractor shall be deemed to have met its nondisclosure obligations under this section as long as it exercises the same level of care to protect the Confidential Information as it exercises to protect its own confidential information, except to the extent that applicable law or professional standards impose a higher requirement.
- 7.10 All Confidential Information received by Contractor shall be returned to the University or destroyed upon completion or termination of this Contract.

## **8. RELATIONSHIP OF THE PARTIES**

- 8.1 Nothing in this Contract shall be construed to establish a relationship of servant, employee, partnership, association, or joint venture between the parties. Neither party shall bind or attempt to bind the other to any contract, warranty, covenant or undertaking of any nature whatsoever unless previously specifically authorized in writing in each instance.
- 8.2 It is understood and agreed that Contractor is an independent contractor of the University,

and not an employee. Except as set forth in this Contract, the University will not withhold income taxes, social security or any other sums from the payments made to Contractor hereunder. All employees or contractors of Contractor shall in no way be considered employees of the University, but rather they shall be employees or contractors of Contractor, and Contractor shall bear full responsibility for compensating those persons and for the performance of the Services by way of them.

- 8.3 Each party reserves the right to review all press releases or other public communications of the other party that may affect the party's public image, programs or operations.

## **9. DISTRIBUTION OF RISK**

- 9.1 Contractor shall maintain in full force and effect adequate insurance coverage to protect against the risks associated with the performance of Services under this Contract, as further set forth in Section 10.23.1, or as set forth in Contractor's proposal should the coverage and limits therein exceed the minimum levels set forth in Section 10.23.1. Contractor shall provide to the Procurement Officer a certificate of insurance including evidence of the required limits at the execution hereof, and annually thereafter.
- 9.2 Contractor shall indemnify and hold harmless the University and the State of Maryland, their officers, employees, and agents, from any and all costs (including without limitation reasonable attorneys' costs and cost of suit), liabilities, claims, or demands arising out of or related to Contractor's performance under this Contract. The University agrees to notify Contractor promptly of any known liabilities, claims, or demands against the University for which Contractor is responsible hereunder, and Contractor agrees to at UMUC's request defend the University or settle any such liabilities, claims, or demands.
- 9.3 Neither party shall be liable to the other for indirect, consequential, incidental, punitive, exemplary, or special damages, or losses, including without limitation lost profits and opportunity costs.

## **10. GENERAL TERMS AND CONDITIONS**

- 10.1 Termination for Default. If the Contractor fails to fulfill its obligation under this Contract properly and on time, or otherwise violates any provision of the Contract, the University may terminate the Contract by written notice to the Contractor. The notice shall specify the acts or omissions relied upon as cause for termination. The University will provide Contractor a reasonable opportunity, not to exceed 10 business days, to cure the act or omission, provided such opportunity to cure does not extend the deadline for any deliverables and does not cause the University further damage. All finished or unfinished work provided by the Contractor, to which the University is entitled pursuant to this Contract shall become the University's property. The University shall pay the Contractor fair and equitable compensation for satisfactory performance prior to receipt of notice of termination, less the amount of damages caused by Contractor's breach. If the damages are more than the compensation payable to the Contractor, the Contractor will remain liable after termination and the University can affirmatively collect damages.

Termination hereunder, including the determination of the rights and obligations of the parties, shall be governed by the provisions of USM Procurement Policies and Procedures.

10.2 Termination for Convenience. The performance of work under this Contract may be terminated by the University in accordance with this clause in whole, or from time to time in part, whenever the University shall determine that such termination is in the best interest of the University. The University will pay all reasonable costs associated with this Contract that the Contractor has incurred up to the date of termination and all reasonable costs associated with termination of the Contract. However, the Contractor shall not be reimbursed for any anticipatory profits that have not been earned up to the date of termination. Termination hereunder, including the determination of the rights and obligations of the parties, shall be governed by the provisions of the USM Procurement Policies and Procedures.

10.3 Delays and Extension of Time. The Contractor agrees to prosecute the work continuously and diligently and no charges or claims for damages shall be made by it for any delays or hindrances from any cause whatsoever during the progress of any portion of the work specified in this Contract. Time extensions will be granted only for excusable delays that arise from unforeseeable causes beyond the control and without the fault or negligence of the Contractor, including but not restricted to, acts of God, acts of public enemy, acts of the State in either its sovereign or contractual capacity, acts of another Contractor in the performance of a contract with the State or the University, changes in law or regulation, action by government or other competent authority, fires, earthquakes, floods, epidemics, quarantine restrictions, strikes, freight embargoes, malicious or criminal acts of third parties, or delays of subcontractors or suppliers arising from unforeseeable causes beyond the control and without the fault or negligence of either the Contractor or the subcontractors or suppliers.

10.4 Suspension of Work. The Procurement Officer unilaterally may order the Contractor in writing to suspend, delay, or interrupt all or any part of its performance for such period of time as the Procurement Officer may determine to be appropriate for the convenience of the University.

10.5 Subcontracting and Assignment.

10.5.1 The Contractor may not subcontract any portion of the Services provided under this Contract without obtaining the prior written approval of the University nor may the Contractor assign this Contract or any of its rights or obligations hereunder, without the prior written approval of UMUC. The University shall not be responsible for the fulfillment of the Contractor's obligations to subcontractors. Any such subcontract shall be subject to any terms and conditions that UMUC deems necessary to protect its interests. Contractor shall remain responsible for performance of all Services under this Contract, and shall be subject to liability to the University for acts and omissions of subcontractors.

10.5.2 Neither party may assign this Contract without the prior written consent of the

other party, which consent shall not be unreasonably withheld, except that Contractor may assign this Contract to any parent, subsidiary, affiliate or purchaser of all or substantially all its assets with notice to the University. Contractor may designate a third party to receive payment without the University's prior written consent unless in conflict with Maryland or federal law, but shall provide the University with notification thereof.

- 10.6. Maryland Law Prevails. The laws of the State of Maryland shall govern the interpretation and enforcement of this Contract.
- 10.7. Contract Integration and Modification. This Contract and the documents incorporated herein form the entire agreement of the parties with respect to the subject matter of this procurement, and supersede all prior negotiations, agreements and understandings with respect thereto. This Contract may be amended with the written consent of both parties. Amendments may not significantly change the scope of the Contract.
- 10.8. No Third Party Beneficiaries. This Agreement is only for the benefit of the undersigned parties and their permitted successors and assigns. No one shall be deemed to be a third party beneficiary of this Agreement.
- 10.9. Notices. Notices under this Contract will be written and will be considered effective upon personal delivery to the person addressed or five (5) calendar days after deposit in any U.S. mailbox, first class (registered or certified) and addressed to the other party as follows:

For the University:

University of Maryland University College  
Procurement Department  
Attn: Procurement Officer  
3501 University Blvd East  
Adelphi, MD 20783-8044

For the Contractor:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- 10.10. Disputes. This Contract shall be subject to the USM Procurement Policies and Procedures. Pending resolution of a claim, the Contractor shall proceed diligently with the performance of the Contract in accordance with the procurement officer's decision.
- 10.11. Retention of Records. Contractor shall retain and maintain all records and documents relating to this Contract for three years after final payment by the State and will make them available for inspection and audit by authorized representatives of the State, including the Procurement Officer or designee, at all reasonable times.

- 10.12 Non-Hiring of Employees. No employee of the State of Maryland or any unit thereof, whose duties as such employee include matters relating to or affecting the subject matter of this Contract, shall, while so employed, become or be an employee of the party or parties hereby contracting with the State of Maryland or any unit thereof.
- 10.13 Non-Discrimination in Employment. The Contractor agrees: (a) not to discriminate in any manner against an employee or applicant for employment because of race, color, religion, creed, age, sex, marital status, national origin, ancestry, or physical or mental disability unrelated in nature and extent so as reasonably to preclude the performance of such employment; (b) to include a provision similar to that contained in subsection (a), above, in any subcontract except a subcontract for standard commercial supplies or raw materials; and (c) to post and to cause subcontractors to post in conspicuous places available to employees and applicants for employment, notices setting forth the substance of this clause.
- 10.14 Contingent Fee Prohibition. The Contractor warrants that it has not employed or retained any person, partnership, corporation, or other entity, other than a bona fide employee or agent working for the Contractor, to solicit or secure this Contract, and that it has not paid or agreed to pay any person, partnership, corporation, or other entity, other than a bona fide employee or agent, any fee or any other consideration contingent on the making of this Contract.
- 10.15 Financial Disclosure. The Contractor shall comply with the provisions of Section 13-221 of the State Finance and Procurement Article of the Annotated Code of Maryland, which requires that every business that enters into contracts, leases, or other agreements with the State of Maryland or its agencies during a calendar year under which the business is to receive in the aggregate \$100,000 or more, shall, within 30 days of the time when the aggregate value of these contracts, leases or other agreements reaches \$100,000, file with the Secretary of State of Maryland certain specified information to include disclosure of beneficial ownership of the business.
- 10.16 Political Contribution Disclosure. Contractor shall comply with Election Law Article Sections 14-101 through 14-108 of the Annotated Code of Maryland, which requires that every person making contracts with one or more governmental entities during any 12 month period of time involving cumulative consideration in the aggregate of \$100,000 or more to file with the State Board of Elections a statement disclosing certain campaign or election contributions.
- 10.17 Anti-Bribery. The Contractor warrants that neither it nor any of its officers, directors or partners, nor any employees who are directly involved in obtaining or performing contracts with any public body has been convicted of bribery, attempted bribery or conspiracy to bribe under the laws of any state or the federal government.
- 10.18 Ethics. This Contract is cancelable in the event of a violation of the Maryland Public Ethics Law by the Contractor or any UMUC employee in connection with this procurement.

10.19 Compliance with Laws. The Contractor hereby represents and warrants that:

10.19.1 It is qualified to do business in the State of Maryland and that it will take such action as, from time to time hereafter, may be necessary to remain so qualified;

10.19.2 It is not in arrears with respect to the payment of any monies due and owing the State of Maryland, or any department or unit thereof, including but not limited to, the payment of taxes and employee benefits, and that it shall not become so in arrears during the term of this Contract;

10.19.3 It shall comply with all federal, State, and local laws, regulations, and ordinances applicable to its activities and obligations under this Contract; and

10.19.4 It shall obtain, at its expense, all licenses, permits, insurance, and governmental approvals, if any, necessary to the performance of its obligations under this Contract.

10.20 Indemnification. UMUC shall not assume any obligation to indemnify, hold harmless, or pay attorneys' fees that may arise from or in any way be associated with the performance or operation of this Contract.

10.21 MultiYear Contracts Contingent Upon Appropriations. If the General Assembly fails to appropriate funds or if funds are not otherwise made available for continued performance for any fiscal period of this Contract succeeding the first fiscal period, this Contract shall be canceled automatically as of the beginning of the fiscal year for which funds were not appropriated or otherwise made available; provided, however, that this will not affect either the University's rights or the Contractor's rights under any termination clause in this Contract. The effect of termination of the Contract hereunder will be to discharge both the Contractor and the University from future performance of the Contract, but not from their rights and obligations existing at the time of termination.

The Contractor shall be reimbursed for the reasonable value of any nonrecurring costs incurred but not amortized in the price of the Contract. The University shall notify the Contractor as soon as it has knowledge that funds may not be available for the continuation of this Contract for each succeeding fiscal period beyond the first.

10.22 Pre-Existing Regulations. In accordance with the provisions of Section 11-206 of the State Finance and Procurement Article, Annotated Code of Maryland, the regulations set forth in USM Procurement Policies and Procedures in effect on the date of execution of this Contract are applicable to this Contract.

10.23 Insurance

10.23.1 The Contractor shall secure, and shall require that subcontractor's secure, pay the premiums for and keep in force until the expiration of this contract, and any renewal thereof, adequate insurance as provided below, such insurance to specifically include

liability assumed by the Contractor under this Contract inclusive of the requirements in the solicitation documents:

Commercial General Liability Insurance including all extensions-

- Not less than \$1,000,000 each occurrence;
- Not less than \$1,000,000 personal injury;
- Not less than \$2,000,000 products/completed operations aggregate; and
- Not less than \$2,000,000 general aggregate.
- Workmen’s compensation per statutory requirements.

If applicable, Fiduciary Bonding of Workers with access to credit card information.

10.23.2 All policies for liability protection, bodily injury or property damage and fiduciary Bonding must specifically name on its face the University as an additional insured as respects to operations under the contract and premises occupied by the Contractor provided, however, with respect to the Contractor’s liability for bodily injury or property damages above, such insurance shall cover and not exclude Contractor’s liability for injury to the property of the University and to the persons or property of employees, student, faculty members, agents, officers, regents, invitees or guest of the University.

10.23.3 Each insurance policy shall contain the following endorsements: “It is understood and agreed that the Insurance Company will notify the Procurement Officer in writing forty-five (45) days in advance of the effective date of any reduction in or cancellation of this policy”. Upon the request of the Procurement Officer, a certified true copy of each policy of insurance including the above endorsement manually countersigned by an authorized representative of the insurance company shall be furnished to the Procurement Officer. Notices of policy changes shall be furnished to the Procurement Officer. All required insurance coverages must be acquired from insurers allowed to do business in the State of Maryland. The insurers must have a policy holder’s rating of “A-“or better.

## **11. LIVING WAGE**

11.1 This contract is subject to the Living Wage requirements under Title 18, State Finance and Procurement Article, Annotated Code of Maryland and the regulations proposed by the Commissioner of Labor and Industry. The Living Wage generally applies to a Contractor or Subcontractor who performs work on a State contract for services that is valued at \$100,000 or more. An employee is subject to the Living Wage if he/she is at least 18 years old or will turn 18 during the duration of the contract; works at least 13 consecutive weeks on the State Contract and spends at least one-half of the employee’s time during any work week on the State Contract.

11.2 The Living Wage Law does not apply to:

- (1) A Contractor who:

UMUC RFP #91419 – Website User Testing Platform Services

- (A) Has a State contract for services valued at less than \$100,000, or
  - (B) Employs 10 or fewer employees and has a State contract for services valued at less than \$500,000.
- (2) A Subcontractor who:
- (A) Performs work on a State contract for services valued at less than \$100,000,
  - (B) Employs 10 or fewer employees and performs work on a State contract for services valued at less than \$500,000, or
  - (C) Performs work for a contractor not covered by the Living Wage Law as defined in Section 11.2(1)(B), in Section 11.2(3), or in Section 11.3.
- (3) Service contracts for the following:
- (A) Services with a Public Service Company;
  - (B) Services with a nonprofit organization;
  - (C) Services with an officer or other entity that is in the Executive Branch of the State government and is authorized by law to enter into a procurement (“Unit”); or
  - (D) Services between a Unit and a County or Baltimore City.
- 11.3. If the Unit responsible for the State contract for services determines that application of the Living Wage would conflict with any applicable Federal program, the Living Wage does not apply to the contract or program.
- 11.4. A Contractor must not split or subdivide a State contract for services, pay an employee through a third party, or treat an employee as an independent contractor or assign work to employees to avoid the imposition of any of the requirements of Title 18, State Finance and Procurement, Annotated Code of Maryland.
- 11.5. Each Contractor/Subcontractor, subject to the Living Wage Law, shall post in a prominent and easily accessible place at the work site(s) of covered employees a notice of the Living Wage Rates, employee rights under the law, and the name, address, and telephone number of the Commissioner.
- 11.6. The Commissioner of Labor and Industry shall adjust the wage rates by the annual average increase or decrease, if any, in the Consumer Price Index for all urban consumers for the Washington/Baltimore metropolitan area, or any successor index, for the previous calendar year, not later than 90 days after the start of each fiscal year. The Commissioner shall publish any adjustments to the wage rates on the Division of Labor and Industry’s Website. An employer subject to the Living Wage Law must comply with the rate requirements during the initial term of the contract and all subsequent renewal periods, including any increases in the wage rate, required by the Commissioner, automatically upon the effective date of the revised wage rate.
- 11.7. A Contractor/Subcontractor who reduces the wages paid to an employee based on the employer’s share of the health insurance premium, as provided in §18-103(c), State



Finance and Procurement Article, Annotated Code of Maryland, shall not lower an employee's wage rate below the minimum wage as set in §3-413, Labor and Employment Article, Annotated Code of Maryland. A Contractor/Subcontractor who reduces the wages paid to an employee based on the employer's share of health insurance premium shall comply with any record reporting requirements established by the Commissioner of Labor and Industry.

- 11.8. A Contractor/Subcontractor may reduce the wage rates paid under §18-103(a), State Finance and Procurement, Annotated Code of Maryland, by no more than 50 cents of the hourly cost of the employer's contribution to an employee's deferred compensation plan. A Contractor/Subcontractor who reduces the wages paid to an employee based on the employer's contribution to an employee's deferred compensation plan shall not lower the employee's wage rate below the minimum wage as set in §3-413, Labor and Employment Article, Annotated Code of Maryland.
- 11.9 Under Title 18, State and Finance Procurement Article, Annotated Code of Maryland, if the Commissioner determines that the Contractor/Subcontractor violated a provision of this title or regulations of the Commissioner, the Contractor/Subcontractor shall pay restitution to each affected employee, and the State may assess liquidated damages of \$20 per day for each employee paid less than the Living Wage.
- 11.10. Information pertaining to reporting obligations may be found by going to the DLLR Website <http://www.dllr.state.md.us/> and clicking on Living Wage.

## **12. SECURITY**

- 12.1 Contractor shall endorse UMUC's requirement to adhere to the University System of Maryland's (USM) IT Security Standards (<http://www.usmd.edu/usm/adminfinance/itcc/ITSecResource.html>). UMUC is required to assess risks, ensure data integrity, and determine the level of accessibility that must be maintained. Specific activities include:
  - Identification of security, privacy, legal, and other organizational requirements for recovery of institutional resources such as data, software, hardware, configurations, and licenses at the termination of the contract.
  - Assessment of the contractor's security and privacy controls.
  - Including UMUC's security and privacy requirements in the agreement
  - Periodic reassessment of contractor services provisioned to ensure all contract obligations are being met and to manage and mitigate risk.
- 12.2 The Contractor is the owner or authorized user of the Contractor's software and all of its components, and Contractor software and all of its components, to the best of Contractor's knowledge, do not violate any patent, trademark, trade secret, copyright or any other right of ownership of any third party.
- 12.3 Contractor shall (i) establish and maintain industry standard technical and organizational measures to help to protect against accidental damage to, or destruction, loss, or alteration

of the materials; (ii) establish and maintain industry standard technical and organizational measures to help to protect against unauthorized access to the Services and materials; and (iii) establish and maintain network and internet security procedures, protocols, security gateways and firewalls with respect to the Services. Contractor software and its components are equipped and/or designed with systems intended to prevent industry known system attacks (e.g., hacker and virus attacks) and unauthorized access to confidential information.

- 12.4 Report any confirmed or suspected breach of University data to UMUC's Computer Incident Response Team (CIRT) within one hour of discovery or detection. Any confirmed or suspected computer security incidents not resulting in breach of University data shall be reported to UMUC CIRT within 12 hours of discovery or detection.
- 12.5 Follow strong identity management characteristics and practices, requiring users to adhere to organizational usage, construction, and change requirements.
- 12.6 Configure and maintain network to be suitably hardened against security threats and ensure adequate performance.
- 12.7 On an annual basis, Contractor shall provide Service Organization Control (SOC) 2, Type 2 reports or equivalent, for all services and facilities from which the services are provided. It is the Contractor's responsibility that such Reports are provided under the terms and conditions of this Contract without the University being required to agree to additional terms and conditions that may be applied by a third party. If a Report states that a facility has failed to materially satisfy one or more control objectives, Contractor will, as UMUC's sole remedy, use commercially reasonable efforts to cause the facility to materially satisfy all control objectives. If, despite Contractor's efforts, the facility cannot materially satisfy all relevant control objectives, Contractor will mitigate the issue in a commercially reasonable manner which may include the migration to an alternate facility which materially satisfies all control objectives. Failure to do so may be considered a material breach of this Agreement in the sole and reasonable discretion of UMUC.
- 12.8 UMUC or an appointed audit firm (Auditors) has the right to audit Contractor and its sub-vendors or affiliates that provide a service for the processing, transport or storage of UMUC data. Audits will be at UMUC's sole expense which includes operational charges by Contractor, except where the audit reveals material noncompliance with contract specifications, in which case the cost, inclusive of operational charges by Contractor, will be borne by the Contractor. In lieu of UMUC or its appointed audit firm performing their own audit, if Contractor has an external audit firm that performs a review, UMUC has the right to review the controls tested as well as the results, and has the right to request additional controls to be added to the certified report for testing the controls that have an impact on its data.

IN WITNESS WHEREOF, the parties, by their authorized representatives have executed this Contract.

UNIVERSITY OF MARYLAND  
UNIVERSITY COLLEGE

\_\_\_\_\_

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

EXHIBIT A TO MASTER CONTRACT

**THIS Exhibit A to CONTRACT** (“Contract”) 91419 is made as of this \_\_\_\_ day of \_\_\_\_\_, 2016 by and between \_\_\_\_\_, a corporation organized under the laws of the State of \_\_\_\_\_, with offices at \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, hereinafter referred to as "Contractor," and the University of Maryland University College (UMUC), a constituent institution of the University System of Maryland, an agency of the State of Maryland, with offices at 3501 University Boulevard East, Adelphi, MD 20783, hereinafter referred to as the "University.”

Description of Scope of Work:

**CONTRACT AFFIDAVIT**

(This affidavit is a mandatory contract addendum in accordance with USM Procurement Policies and Procedures, but it is only required from the successful Contractor.)

**A. AUTHORIZED REPRESENTATIVE**

I HEREBY AFFIRM THAT:

I am the (title) SAMPLE and the duly authorized representative of (business) SAMPLE and that I possess the legal authority to make this Affidavit on behalf of myself and the contractor for which I am acting.

**B. CERTIFICATION OF CORPORATION REGISTRATION AND TAX PAYMENT**

I FURTHER AFFIRM THAT:

(1) The business named above is a (domestic       ) (foreign       ) [check one] corporation registered in accordance with the Corporations and Associations Article, Annotated Code of Maryland, and that it is in good standing and has filed all its annual reports, together with filing fees, with the Maryland State Department of Assessments and Taxation, and that the name and address of its resident agent filed with the State Department of Assessments and Taxation is:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

(2) Except as validly contested, the Contractor has paid, or has arranged for payment of, all taxes due the State of Maryland and has filed all required returns and reports with the Comptroller of the Treasury, the State Department of Assessments and Taxation, and the Employment Security Administration, as applicable, and will have paid all withholding taxes due to the State of Maryland prior to final settlement.

**C. CERTIFICATION REGARDING INVESTMENTS IN IRAN**

(1) The undersigned bidder or offeror certifies that, in accordance with State Finance & Procurement Article, §17-705:

(i) it is not identified on the list created by the Board of Public Works as a person engaging in investment activities in Iran as described in §17-702 of State Finance & Procurement; and

(ii) it is not engaging in investment activities in Iran as described in State Finance & Procurement Article, §17-702.

(2) The undersigned bidder or offeror is unable to make the above certification regarding its investment activities in Iran due to the following activities:

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D. CERTAIN AFFIRMATIONS VALID

I FURTHER AFFIRM THAT:

To the best of my knowledge, information, and belief, each of the affirmations, certifications, or acknowledgments contained in that certain Proposal Affidavit dated \_\_\_\_\_, 20\_\_, and executed by me for the purpose of obtaining the contract to which this Exhibit is attached remains true and correct in all respects as if made as of the date of this Contract Affidavit and as if fully set forth herein.

I DO SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS OF THIS AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF.

Date: \_\_\_\_\_ By: \_\_\_\_\_

## **Appendix D**

### **ELECTRONIC FUND TRANSFER SCHEDULE Payments to Contractors by Electronic Funds Transfer (EFT)**

If the annual dollar value of this contract will exceed \$500,000.00, the Bidder/Offeror is hereby advised that electronic funds transfer (EFT) will be used by the State to pay the Contractor for this Contract and any other State payments due Contractor unless the State Comptroller's Office grants the Contractor an exemption.

By submitting a response to this solicitation, the Bidder/Offeror agrees to accept payments by EFT. The selected Bidder/Offeror shall register using the attached form COT/GAD X-10 Contractor Electronic Funds (EFT) Registration Request Form. Any request for exemption must be submitted to the State Comptroller's Office for approval at the address specified on the COT/GAD X-10 form and must include the business identification information as stated on the form and include the reason for the exemption.

The form is available as a pdf file on the web site of the General Accounting Division of the Comptroller of Maryland, located at:

<http://compnet.comp.state.md.us/gad/agencyinfo/agencyeft.asp>.

## **Appendix E**

### **Living Wage Requirements**

A solicitation for services under a State contract valued at \$100,000 or more may be subject to Title 18, State Finance and Procurement Article, Annotated Code of Maryland. Additional information regarding the State's Living Wage requirement is contained in the following section entitled *Living Wage Requirements for Service Contracts*. If the Offeror fails to complete and submit the required Living Wage documentation, the State may determine an Offeror to be not responsible.

As of 9/28/2015, Contractors and Subcontractors subject to the Living Wage Law shall pay each covered employee at least \$13.59 per hour, if State contract services valued at 50% or more of the total value of the contract are performed in the Tier 1 Area. As of 9/28/2015, if State contract services valued at 50% or more of the total contract value are performed in the Tier 2 Area, an Offeror shall pay each covered employee at least \$10.21 per hour. The specific Living Wage rate is determined by whether a majority of services take place in a Tier 1 Area or Tier 2 Area of the State. The Tier 1 Area includes Montgomery, Prince George's, Howard, Anne Arundel, and Baltimore Counties, and Baltimore City. The Tier 2 Area includes any county in the State not included in the Tier 1 Area. If the employees who perform the services are not located in the State, the head of the unit responsible for a State contract pursuant to §18-102 (d) shall assign the tier based upon where the recipients of the services are located.

The contract resulting from this solicitation will be deemed to be a Tier 1 contract or a Tier 2 contract depending on the location(s) from which the contractor provides 50% or more of the services. If the contractor provides 50% or more of the services from a location(s) in a Tier 1 jurisdiction(s) the contract will be a Tier 1 contract. If the contractor provides 50% or more of the services from a location(s) in a Tier 2 jurisdiction(s), the contract will be a Tier 2 contract. If the contractor provides more than 50% of the services from an out-of-State location, then the contract will be deemed to be a Tier 1 contract. An Offeror must identify in its Proposal the location(s) from which services will be provided.

The contract resulting from this solicitation has been determined to be a Tier 1 contract.



**Appendix E**  
**Affidavit of Agreement**  
**Maryland Living Wage Requirements-Service Contracts**

Contract No. \_\_\_\_\_  
Name of Contractor \_\_\_\_\_  
Address \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

**If the Contract is Exempt from the Living Wage Law**

The Undersigned, being an authorized representative of the above named Contractor, hereby affirms that the Contract is exempt from Maryland's Living Wage Law for the following reasons: (check all that apply)

- Bidder/Offeror is a nonprofit organization
- Bidder/Offeror is a public service company
- Bidder/Offeror employs 10 or fewer employees and the proposed contract value is less than \$500,000
- Bidder/Offeror employs more than 10 employees and the proposed contract value is less than \$100,000

**If the Contract is a Living Wage Contract**

- A. The Undersigned, being an authorized representative of the above named Contractor, hereby affirms our commitment to comply with Title 18, State Finance and Procurement Article, Annotated Code of Maryland and, if required, to submit all payroll reports to the Commissioner of Labor and Industry with regard to the above stated contract. The Bidder/Offeror agrees to pay covered employees who are subject to living wage at least the living wage rate in effect at the time service is provided for hours spent on State contract activities, and to ensure that its Subcontractors who are not exempt also pay the required living wage rate to their covered employees who are subject to the living wage for hours spent on a State contract for services. The Contractor agrees to comply with, and ensure its Subcontractors comply with, the rate requirements during the initial term of the contract and all subsequent renewal periods, including any increases in the wage rate established by the Commissioner of Labor and Industry, automatically upon the effective date of the revised wage rate. **The living wage rate effective September 28, 2015 is \$13.59 per hour.** This living wage rate changes each year and is published 90 days from the end of the University's fiscal year at <https://www.dllr.state.md.us/labor/prev/livingwage.shtml>. The University's fiscal year is July 1st through June 30<sup>th</sup>.
- B. Contractor further agrees that UMUC has the right to conduct an independent audit by University internal auditors or State of Maryland auditors of the Contractor's payroll records to confirm this affirmation at any time. Contractor also agrees to cooperate with UMUC to supply required documentation in the event that it is requested as support for this affidavit by the State of Maryland or an agency of the State of Maryland. Any information that is supplied by contractor under this Affidavit to UMUC, the State of Maryland or an agency of the State of Maryland will be subject to the terms of the Maryland Public Information Act.
- C. \_\_\_\_\_ (initial here if applicable) The Bidder/Offeror affirms it has no covered employees for the following reasons: (check all that apply)



## APPENDIX S

### SOLICITATION TERMS AND CONDITIONS

This solicitation and any subsequent award are further subject to:

- 1. Contractor's/Offeror's Responsibility.**  
Offerors are advised to read the requirements very carefully to ensure that each requirement is understood. If in doubt, develop and submit applicable questions in writing to the contact at the Issuing Office. An Offeror's misinterpretation of requirements shall not relieve the Offeror of the responsibility to address accurately the requirements of the RFP or to perform the Contract, if awarded. UMUC will enter into a contractual agreement with the selected Contractor(s) only. The selected Contractor(s) shall be solely responsible for all services as required by this RFP. Subcontractors, if any, will be the responsibility of the Contractor(s) and the role of subcontractors must be clearly identified in the proposal. The use of a subcontractor(s) does not relieve the Contractor(s) of liability under a Contract.
- 2. Rejection or Acceptance of Proposals.**  
The University reserves the right to: (i) accept or reject any and all proposals, in whole or in part; (ii) to waive minor irregularities; and (iii) to negotiate in any manner necessary to best serve the interests of the University. Further, the University reserves the right to make a whole award, multiple awards, a partial award, or no award at all. Offerors judged by the Procurement Officer not to be responsible or Offerors whose Proposals are classified as not reasonably susceptible to being selected for award shall be so notified. The University reserves the right to increase or decrease the quantities of any materials, equipment, supplies or services.
- 3. Cancellation of the RFP.**  
UMUC may cancel this RFP, in whole or in part, at any time.
- 4. Incurred Expenses.**  
Neither UMUC nor the State of Maryland is responsible for any expenses that Offerors may incur in preparing and submitting Proposals or in making oral presentations of their Proposals, if required.
- 5. Payment.**  
The State of Maryland usually provides payments on a net 30 day basis for UMUC approved invoices. Payment provisions shall be in arrears, with late payment and interest calculated as provided by Maryland law. For purposes of determining whether a prompt-payment discount, if applicable, may be taken by UMUC, the starting date of such reckoning period shall be the later of the date of a properly executed invoice or the date of completion of service and/or delivery of product.

**6. Electronic Funds Transfer (“EFT”).**

By submitting a Proposal, the Offeror agrees to accept payment by electronic funds transfer unless the State Comptroller’s Office grants an exemption. The selected Contractor shall register using the form attached as Appendix D, the GAD X-10 Contractor EFT Registration Request Form. This form is to be submitted directly to the State Comptroller’s Office at the address specified on the GAD X-10 form and must include the business identification information as stated on the form and include the reason for the exemption.

**7. Confidentiality.**

**7.1. UMUC’s Information during the Procurement Process:** The selected Contractor may have access to, may obtain, or be given confidential information, including without limitation information concerning the University’s business strategies, political and legislative affairs, students, faculty, employees, vendors, contractors, customer lists, finances, properties, methods of operation, computer and telecommunication systems, and software and documentation. Certain confidential information may be protected under the Family Educational Rights and Privacy Act (“FERPA”), the Gramm-Leach-Bliley Act, and the Maryland Public Information Act. The selected Contractor must have administrative, technical, and physical safeguards to protect the security, confidentiality, and integrity of the University’s confidential information. UMUC may conduct discussions with Offerors in order to evaluate their abilities and responsiveness to the RFP. In order to facilitate the discussions and to allow Offerors to propose responsive solutions to UMUC’s needs and requirements, UMUC is willing to disclose certain confidential information to Offerors, including without limitation information concerning UMUC’s business strategies, political and legislative affairs, students, employees, vendors, contractors, customer lists, finances, properties, methods of operation, computer and telecommunications systems, and software and documentation (“Confidential Information”). By submitting a proposal in response to this RFP, Offerors agree: (i) to use Confidential Information solely for purposes of responding to and discussing the RFP; and (ii) not to disclose, permit or cause use of, or provide access to Confidential Information to any third person or entity. Upon request by UMUC, Offerors may be required to sign a Non-Disclosure Agreement.

**7.2. Offeror’s Information:** Offerors should give specific attention to the identification of those portions of the Proposal that the Offeror deems to be confidential, proprietary information, or trade secrets and provide any justification why such materials, upon request, should not be disclosed by the State under the Access to Public Records Act, State Government Article, Title 10, Subtitle 6, Annotated Code of Maryland. Offerors are advised that, upon request for this information from a third party, the Procurement Officer is required to make an independent determination as to whether the information may or may not be disclosed to the requesting party. That decision will take into consideration the Offeror’s position regarding its Proposal. A blanket statement by a Offeror that its entire Proposal is confidential or proprietary will not be upheld.

**8. Multiple Proposals.**

Contractors may not submit more than one Proposal.

**9. Alternate Solution Proposals.**

Contractors may not submit an alternate to the solution given in this RFP.

**10. Contractor Responsibilities and Use of Subcontractors.**

The University shall enter into contractual agreement with the selected Contractor(s) only. The Contractor(s) shall be responsible for all products and/or services required by this RFP. UMUC will consider Proposals that reflect primary and secondary service providers or a prime/subcontractor relationship. There should be proof of ability of the primary to manage a subcontractor and successfully coordinate the delivery of quality service and support in a timely manner. Subcontractors, if any, shall be identified and a complete description of their role relative to the proposal shall be included. UMUC's intent is not to direct the use of any particular subcontractor, however, the Contractor may not contract with any such proposed person or entity to whom UMUC has a reasonable objection. Notification of such objection will be made by UMUC within fifteen (15) days of Contract. The Contractor shall be fully responsible for the acts and omissions of its subcontractors and of persons directly or indirectly employed by them. The use of subcontractors does not relieve the Contractor of liability.

**11. Access to Contractor Records for Quality Assurance and Auditing Purposes.**

The Contractor and its principal subcontractors must provide access to pertinent records by University personnel or its representatives (including internal auditors, external auditors, representatives, and agents) to provide quality assurance and auditing.

**12. Arrearages.**

By submitting a Proposal, an Offeror shall be deemed to represent that it is not in arrears in the payment of any obligation due and owing the State of Maryland, including the payment of taxes and employee benefits and that it shall not become so in arrears during the term of the Contract if selected for Contract Award.

**13. Taxes.**

UMUC is exempt from Federal Excise Taxes, Maryland Sales and Use Taxes, and District of Columbia Sales Taxes and Transportation Taxes, except as noted in applicable sections of COMAR. Exemption Certificates shall be provided upon request. In the instance a Contractor is required to furnish and install material in the construction or improvement of real property in performance of a Contract, the Contractor shall pay the Maryland Sales Tax and the exemption will not apply.

**14. RFP Response Materials.**

All written materials submitted in response to this RFP become the property of UMUC and may be appended to any formal documentation that would further define or expand the contractual relationship between UMUC and the Contractor(s).

**15. Maryland Public Ethics Law, Title 15.**

The Maryland Public Ethics Law prohibits, among other things, State employees or officials (and in some cases, former employees) and businesses in which such an individual is employed or holds a financial interest from: (i) submitting a bid or proposal; (ii) negotiating a contract; and (iii) entering into a contract with the governmental unit with which the individual is affiliated per the Maryland Code Annotated, State Government Article, § 15-502.

If the Offeror has any questions concerning application of the State Ethics law to the Offeror's participation in this procurement, it is incumbent upon the Offeror to seek advice from the State Ethics Commission: The Office of The Executive Director, State Ethics Commission, 9 State Circle, Suite 200, Annapolis, Maryland 21401. For questions regarding the applicability of this provision of the Public Ethics Law, call the State Ethics Commission's toll-free phone number, 877-669-6085, or see the website, <http://www.ethics.gov.state.md.us>. The Procurement Officer may refer any issue raised by a Proposal to the State Ethics Commission. The Procurement Officer may require the Offeror to obtain advice from the State Ethics Commission and may reject a Proposal that would result in a violation of the Ethics law.

A resulting Contract is cancelable in the event of a violation of the Maryland Public Ethics Law by a Contractor or any State of Maryland employee in connection with this procurement.

**16. Assistance in Drafting.**

Under the State Government Article, § 15-508 of the Annotated Code of Maryland, an individual or person who employs an individual who assists an executive unit in drafting specifications, an invitation for bids, a request for proposals for a procurement, or the selection or award made in response to an invitation for bids or request for proposals may not submit a bid or proposal for that procurement or assist or represent another person, directly or indirectly, who is submitting a bid or proposal for that procurement. For questions regarding the applicability of this provision of the Public Ethics Law, call the State Ethics Commission's toll-free phone number, 877-669-6085, or see the website, <http://www.ethics.gov.state.md.us>.

**17. Addenda Acknowledgment.**

Offerors must acknowledge in writing the receipt of any and all addenda, amendments, and/or changes issued. Such acknowledgement must be included in the Technical Proposal.

**18. Duration of Offers.**

Proposals (consisting of a Technical Proposal and, if applicable, a Price Proposal) shall remain irrevocable for 120 days following the closing date of the Price Proposal due date. This period may be extended by mutual agreement between the Offeror and the University.

**19. Minority Business Enterprises.**

Minority Business Enterprises (MBE) are strongly encouraged to respond to this solicitation notice. If a sub-contracting goal and/or subgoals has been set in Section I of the solicitation, refer to Appendix M for further information regarding required process and documentation.

**20. Living Wage Requirements.**

A solicitation for services under a State contract valued at \$100,000 or more may be subject to Maryland's Living Wage requirement, located at Maryland Code Annotated, State Finance and Procurement Article, Title 18, §§ 18-101 through 18-109. Additional information regarding the Living Wage requirement is contained in Appendix E, if applicable to this solicitation. An Offeror that fails to submit and complete the Affidavit of Agreement contained in Appendix E, if applicable, may be deemed not responsible by the Issuing Office.

**21. Conflict of Interest.**

The Contractor awarded the Contract shall provide the specified services for UMUC, and must do so impartially, and without any conflicts of interest. If the Procurement Officer makes a determination that facts or circumstances exist that give rise to or could in the future give rise to a conflict of interest within the meaning of COMAR 21.05.08.08A, the Procurement Officer may reject a Contractor's Proposal under COMAR 21.06.02.03B. Contractors should be aware that the State Ethics Law, State Government 15-508, might limit the selected Contractor's ability to participate in future related procurements, depending upon specific circumstances. Refer to Paragraphs 15 and 16 above. By submitting a response to the solicitation, the Contractor affirms its understanding and compliance with this clause.