

CSUDH FOUNDATION GENERAL TERMS AND CONDITIONS FOR INDEPENDENT CONTRACTORS, CONTRACTED SERVICES, VENDORS, SPEAKERS, ARTISTS, AND PERFORMERS

TABLE OF CONTENTS

1. GENERAL TERMS AND CONDITIONS FOR SERVICES AND GOODS PROVIDED TO CALIFORNIA STATE UNIVERSITY DOMINGUEZ HILLS FOUNDATION	1
2. TERM AND TERMINATION.....	1
3. COMPENSATION	1
4. NATURE OF RELATIONSHIP	2
5. INDEPENDENT STATUS	2
6. PERSONNEL.....	2
7. USE OF DATA	3
8. CONFIDENTIALITY OF DATA	3
9. INFORMATION SECURITY REQUIREMENTS.....	3
10. PATENT, COPYRIGHT, AND TRADE SECRET INDEMNITY	4
11. WARRANTY	4
12. RIGHTS IN WORK PRODUCT	4
13. CONTRACTOR’S STAFF	5
14. FORCE MAJEURE	5
15. COVID-19	5
16. MATERIAL CHANGE OF CIRCUMSTANCES.....	5
17. RIGHTS AND REMEDIES OF CSU FOR DEFAULT.....	5
18. REPORTING.....	6
19. OTHER ACTIVITIES	6
20. SAFETY AND ACCIDENT PREVENTION.....	6
21. INSURANCE REQUIREMENTS	7
22. INDEMNIFICATION.....	8
23. GOVERNING LAW	8
24. AMENDMENTS.....	8
25. CONTRACTOR’S POWER AND AUTHORITY	9
26. ASSIGNMENT	9
27. COUNTERPARTS; ELECTRONIC SIGNATURES.....	9
28. SEVERABILITY	9
29. NOTICES	9

30. WAIVER OF RIGHTS9

31. TIME9

32. EXAMINATION AND AUDIT9

33. DISPUTE.....10

34. CONFLICT OF INTEREST10

35. ENDORSEMENT10

36. COVENANT AGAINST GRATUITIES10

37. NONDISCRIMINATION10

38. COMPLIANCE WITH NLRB ORDERS11

39. DRUG-FREE WORKPLACE CERTIFICATION11

40. FORCED, CONVICT, INDENTURED AND CHILD LABOR.....11

41. AMERICANS WITH DISABILITIES ACT (ADA)11

42. DEBARMENT AND SUSPENSION12

43. EXPATRIATE CORPORATIONS12

44. ENTIRE AGREEMENT.....12

45. HEADINGS.....12

46. NECESSARY ACTS; FURTHER ASSURANCES.....12

**RIDER A: INFORMATION TECHNOLOGY ACQUISITIONS, INFORMATION SECURITY
REQUIREMENTS13**

RIDER B: SUPPLEMENTAL PROVISIONS FOR SPEAKERS, ARTISTS, AND PERFORMERS ...19

CSUDH FOUNDATION GENERAL TERMS AND CONDITIONS FOR INDEPENDENT CONTRACTORS, CONTRACTED SERVICES, VENDORS, SPEAKERS, ARTISTS, AND PERFORMERS

The following Terms and Conditions are set forth for Independent Contractors, Contracted Services, Vendors, Speakers, Artists, and Performers providing services or goods to the California State University Dominguez Hills Foundation in accordance with the “CSU GENERAL PROVISIONS FOR ACQUISITION OF GOODS”. By accepting a Purchase Order or Payment from California State University Dominguez Hills Foundation, Independent Contractors, Contracted Services, Vendors, Speakers, Artists, and Performers are bound by the terms set forth within.

For Information Technology Acquisitions please also see "Rider A" for additional terms and conditions. For Speaker, Artists, and Performer engagements please see "Rider B" for additional terms and conditions.

1. GENERAL TERMS AND CONDITIONS FOR SERVICES AND GOODS PROVIDED TO CALIFORNIA STATE UNIVERSITY DOMINGUEZ HILLS FOUNDATION:

- (a) **Services.** Without limiting the scope of Services described in Exhibit A, Contractor shall:
 - (i) Perform the Services with skilled, competent, and experienced personnel.
 - (ii) Communicate with the Foundation about progress Contractor has made in performing the Services at regular intervals as desired by the Foundation;
 - (iii) Supply all tools, equipment, and supplies (including printed materials, electronic devices, and any other required supplies as necessary) required to perform the Services, except if Contractor’s work must be performed on or with the Foundation’s equipment;
 - (iv) Ensure that all materials furnished to the Foundation’s personnel is of good and merchantable quality;
 - (v) Provide services (including the Services) and end products that are satisfactory and acceptable to the Foundation.
- (b) **Legal Compliance.** Contractor shall perform the Services in accordance with standards prevailing in the Foundation’s industry, and in accordance with applicable laws, rules, or regulations. Contractor shall obtain all permits or permissions required to comply with those standards, laws, rules, or regulations.
- (c) **Foundation’s Obligations.** The Foundation shall make timely payments of amounts earned by Contractor under this agreement.

2. TERM AND TERMINATION

- (a) **Term.** The effective date of this Agreement is considered the term. The effective date shall be written on the document the service or goods provider signs and shall be in effect unless it is terminated earlier in accordance with subsection 2(b) of Terms and Conditions.
- (b) **Termination.** This agreement may be terminated:
 - (i) by either party for a material breach of any provision of this agreement by the other party, if the other party’s material breach is not cured within 30 (thirty) days of receipt of written notice of the breach; [or]
 - (ii) by the Foundation at any time and without prior notice, if Contractor fails or refuses to comply with the written policies or reasonable directives of the Foundation.
 - (iii) at any time and without future financial obligation upon thirty (30) days written notice to Contractor by the Trustees of the California State University (“CSU”).
- (c) **Effect of Termination.** After the termination of this agreement for any reason, the Foundation shall promptly pay Contractor for Services rendered up to the effective date of the termination.

3. COMPENSATION

- (a) **Terms and Conditions.** The Foundation shall pay Contractor in accordance with **Exhibit A**.

- (b) **No Payments in Certain Circumstances.** No payment will be payable to Contractor under any of the following circumstances:
 - (i) If prohibited under applicable government law, regulation, or policy;
 - (ii) If Contractor did not directly perform or complete the Services described in **Exhibit A**;
 - (iii) If the Services performed occurred after the expiration or termination of the Term, unless otherwise agreed in writing;
 - (iv) If Foundation disputes an invoice sent by Contractor, until invoice dispute has been resolved.
- (c) **Taxes.** Contractor is solely responsible for the payment of all income, social security, employment-related, or other taxes incurred as a result of the performance of the Services by Contractor under this agreement, and for all obligations, reports, and timely notifications relating to those taxes. The Foundation has no obligation to pay or withhold any sums for those taxes.
- (d) **Other Benefits.** Contractor has no claim against the Foundation under this agreement or otherwise for vacation pay, sick leave, retirement benefits, social security, worker's compensation, health or disability benefits, unemployment insurance benefits, or employee benefits of any kind.
- (e) The Contractor will submit invoices monthly for Basic Services, authorized Additional Services, Revisions and Reimbursable Expenses reflecting the work accomplished in the previous billing period.
- (f) Invoices are due and payable upon receipt within 30 days of receipt.

4. NATURE OF RELATIONSHIP

- (a) The parties acknowledge and agree that Contractor is acting under its own direction and control. Contractor has the sole right to perform the Services at any time, place, or location except for those services that require specific on-site participation as deemed necessary by the Foundation or Contractor.
- (b) Contractor shall perform the Services, and the Foundation is not required to hire, supervise, or pay any assistants to help Contractor perform those Services. Foundation shall not deduct withholding taxes, social security taxes, or any other taxes required to be deducted by an employer. Further, Contractor shall not be entitled to any benefits accruing to Foundation's employees other than those stated in this agreement. Contractor does not have, nor shall it hold itself out as having any right, power, or authority to create any contractual obligation, either express or implied, on behalf of, in the name of, or binding upon, Foundation, or to pledge credit, or to extend credit in Foundation's name unless Foundation provides prior written consent thereto.
- (c) Contractor warrants that
 - (i) deliverables and services furnished hereunder will conform to the requirements of this Agreement (including, without limitation, all descriptions, specifications, and drawings identified in the Scope of Work, if any), and
 - (ii) the deliverables will be free from defects in materials and workmanship. Where the Parties have agreed to the Scope of Work directly or by reference, Contractor warrants the deliverables shall provide all functionality required thereby.

5. INDEPENDENT STATUS

Contractor and its employees and agents, and sub-Contractors, in the performance of this Agreement, shall act in an independent capacity and not as officers, employees or agents of CSU or the State of California. While Contractor may be required by this Agreement to carry Worker's Compensation Insurance, in no event shall Contractor and its employees and agents be entitled to unemployment or workers' compensation benefits from CSU.

6. PERSONNEL

Contractor shall give its personal attention to the performance of the Agreement and shall make every effort consistent with sound business practices to honor Foundation's requests regarding Contractor's assignment of its employees. However, Contractor maintains the sole right to determine the assignment of its employees in order to keep all phases of work under its control. If an employee of Contractor is unable to perform due to illness,

resignation or other factors beyond Contractor's control, Contractor shall use its best effort to provide suitable substitute personnel.

7. USE OF DATA

Contractor shall not utilize any non-public CSU information it may receive by reason of this Agreement, for pecuniary gain not contemplated by this Agreement, regardless whether Contractor is or is not under contract at the time such gain is realized. CSU specific information contained in the report, survey, or other product developed by Contractor pursuant to this Agreement is the property of CSU and shall not be used in any manner by Contractor unless authorized in writing by CSU.

8. CONFIDENTIALITY OF DATA

- (a) Contractor acknowledges the privacy rights of individuals to their personal information that are expressed in the Information Practices Act (California Civil Code Section 1798 et seq.) and in California Constitution Article 1, Section 1. Contractor shall maintain the privacy of personal information and protected data as confidential information. Contractor shall not use, disclose, or release confidential information contained in CSU records without full compliance with applicable state and federal privacy laws, and this Agreement. Contractor further acknowledges and agrees to comply with Federal privacy laws, such as the Gramm-Leach-Bliley Act (Title 15, United States Code, Sections 6801(b) and 6805(b)(2)) applicable to financial transactions, and the Family Educational Rights and Privacy Act (Title 20, United States Code, Section 1232g) applicable to student education records and information from student education records. Contractor shall maintain the privacy of confidential information and shall be financially responsible for any notifications to affected persons (after prompt consultation with CSU) whose personal information is disclosed by any security breach relating to confidential information resulting from Contractor's or its personnel's acts or omissions. Further, if so requested by Foundation or CSU, Contractor shall be administratively responsible for providing such notification in the most expedient time possible consistent with the methods prescribed in California Civil Code 1798.29g and 1798.82g.
- (b) Contractor further agrees that all financial, statistical, personal, technical and other data and information relating to Foundation's and CSU's operation designated "confidential" by Foundation or CSU, and not otherwise subject to disclosure under the California Public Records Act, and made available to Contractor to perform this Agreement or which become available to Contractor while performing this Agreement, shall be protected by Contractor using the same level of care it takes to protect its own information of a similar nature, but in no event less than reasonable care. If required by a court of competent jurisdiction or an appropriate administrative body with legal authority to order the disclosure of confidential information or protected data, Contractor will notify Foundation and CSU in writing prior to any such disclosure to give Foundation and CSU an opportunity to oppose any such disclosure. Prior to any disclosure of confidential information as required by legal process, Contractor shall: (1) Notify Foundation and CSU of any actual or threatened legal compulsion of disclosure, and any actual legal obligation of disclosure, immediately upon becoming so obligated; and (2) Contractor shall cooperate with any litigation or investigation proceedings concerning protected data loss or other breach of Contractor's obligations under this Agreement. Any access, transmission, or storage of protected data outside the United States must be approved in writing by Foundation and CSU in advance. Contractor's failure to comply with any provision of this Section shall constitute a material breach of the Agreement.

9. INFORMATION SECURITY REQUIREMENTS

- (a) Contractor is required to comply with CSU Information Security Requirements as described in Rider A, Supplemental Provisions for General Provisions for Service Acquisitions, by reference made a part of this agreement.
- (b) Information Security Plan
Contractor is required to maintain an Information Security Plan sufficient to protect the sensitive and/or

confidential CSU data to which they have access.

(c) Personal Security Requirements

Contractor shall require all its affiliates and sub-Contractors, as a condition to their engagement, to agree to be bound by provisions substantially the same as those included in this Agreement related to information security matters only. Contractor shall not knowingly permit a representative or sub-Contractors to have access to CSU records, confidential data, or premises of the CSU when such representative or sub-Contractor has been convicted of a felony.

10. PATENT, COPYRIGHT, AND TRADE SECRET INDEMNITY

- (a) Contractor shall indemnify, defend, and hold harmless the State of California, Board of Trustees of the California State University, CSU, and their respective officers, agents, and employees (collectively referred to as CSU), from any and all third-party claims, costs (including without limitation reasonable attorneys' fees), and losses for infringement or violation of any Intellectual Property Right, domestic or foreign, by any product or service provided hereunder. With respect to claims arising from computer Hardware or Software manufactured by a third party and sold by Contractor as a reseller, Contractor will pass through to CSU, in addition to the foregoing provision, such indemnity rights as it receives from such third party ("Third-Party Obligation") and will cooperate in enforcing them; provided that if the third-party manufacturer fails to honor the Third- Party Obligation, Contractor will provide CSU with indemnity protection.
- (i) CSU will notify Contractor of such claim in writing and tender its defense within a reasonable time; and
- (ii) Contractor will control the defense of any action on such claim and all negotiations for its settlement or compromise, except when substantial principles of government or public law are involved, when litigation might create precedent affecting future CSU operations or liability, or when involvement of the CSU is otherwise mandated by law. In such case no settlement shall be entered into on behalf of CSU without CSU's written approval.

11. WARRANTY

Contractor warrants that

- (a) deliverables and services furnished hereunder will conform to the requirements of this Agreement (including, without limitation, all descriptions, specifications, and drawings identified in the Scope of Work, if any), and
- (b) the deliverables will be free from defects in materials and workmanship. Where the Parties have agreed to specifications in the Scope of Work directly or by reference, Contractor warrants the deliverables shall provide all functionality required thereby.
- (c) Contractor hereby represents and warrants that the Work Product is its own original work and does not infringe upon the intellectual property rights of any third party. Contractor acknowledges that it is responsible for obtaining permission and consent from any third party whose work appears in the work produced for the Foundation by Contractor, and upon written request of the Foundation, Contractor shall provide proof of said permission and consent.
- (d) The Foundation hereby represents and warrants that any information, content, logo, or other design elements that it provides to Contractor for inclusion in the Work Product does not infringe upon the intellectual property rights, including copyrights, patents, trademarks, or trade secrets, of any third party. The Foundation acknowledges that it is responsible for obtaining permission and consent from any third party whose work appears in any such information, content, logo, or other design elements.

12. RIGHTS IN WORK PRODUCT

All finished product or deliverables required under this Agreement shall be the exclusive property of the CSU and may be used at CSU's discretion.

13. CONTRACTOR'S STAFF

Contractor warrants that its staff assigned to performing work under this Agreement are legally able to perform such duties in the country where the work is being performed.

14. FORCE MAJEURE

- (a) Neither Party shall be liable for any failure to perform its obligations under this Agreement for the period of time that it is prevented, hindered, or delayed in performing those obligations by circumstances beyond its control, including, but not limited to, fire, strike, war, riots, acts of terrorism, disaster, acts of God, acts of any governmental authority, communicable disease outbreak, epidemic or pandemic, unavailability or shortages of labor, materials, or equipment, disruption of transportation, or any other comparable event beyond the control of the Party whose performance is affected (each, a "Force Majeure Event.").
- (b) The Party claiming Force Majeure shall, as soon as reasonably practicable after the occurrence of a Force Majeure Event, provide written notice to the other Party of the nature, extent, and expected duration of the Force Majeure Event and use its diligent efforts to mitigate the effects of the Force Majeure Event upon such Party's performance under this Agreement, it being understood that upon completion of the Force Majeure Event, the Party whose performance was affected must, as soon as reasonably practicable, recommence the performance of its obligations under this Agreement.
- (c) Notwithstanding any other term in this Agreement, including, but not limited to, the foregoing subsections of this section, during the period of a Force Majeure Event affecting performance by Contractor, CSU may elect to do all or any of the following:
 - (i) suspend the Agreement for the duration of the Force Majeure Event and be relieved of any payment obligation for goods or services not delivered or accepted due to the Force Majeure Event;
 - (ii) obtain elsewhere the goods or services not delivered or accepted due to the Force Majeure Event;
 - (iii) extend the time for Contractor's performance by a period equal to the duration of the Force Majeure Event; and/or
 - (iv) terminate the Agreement as to any goods or services not already received with no further financial obligation if the Force Majeure Event continues to exist for more than thirty (30) days.

15. COVID-19

In the event that CSU considers it necessary or prudent to cancel this Agreement due to circumstances related to COVID-19, or to any reoccurrence of the COVID-19 outbreak, CSU may do so and be relieved of any further financial obligation, risk, or other liability by providing seventy-two (72) hours prior written notice of cancellation to Contractor. CSU's right to cancel the Agreement pursuant to this section shall not be limited or restricted in any manner by any other term or section of this Agreement.

16. MATERIAL CHANGE OF CIRCUMSTANCES

The terms of this Agreement are based on conditions in existence on the date that Contractor commences performance. In the event of a material change in the conditions that adversely affects the ability of Contractor to perform its obligations, Contractor shall reasonably cooperate with Foundation to minimize the impact from such change in conditions on Contractor's performance and shall, if requested by Foundation, negotiate in good faith to adjust the terms of this Agreement on a mutually agreeable basis to address the impact of such material change in conditions. This provision shall not limit CSU's ability to avail itself of any rights or remedies provided to CSU by law, equity or any other term of this Agreement.

17. RIGHTS AND REMEDIES OF CSU FOR DEFAULT

- (a) In the event any Deliverables furnished, or services provided by Contractor in the performance of this Agreement should fail to conform to the requirements herein, Foundation may reject the same, and it shall thereupon become Contractor's duty to forthwith reclaim and remove all nonconforming deliverables and correct the performance of services, without expense to Foundation, and to immediately replace all such

rejected items with others conforming to the specifications or samples. Should Contractor fail, neglect, or refuse to do so, Foundation shall thereupon have the right, but not the obligation, to purchase in the open market, in lieu thereof, a corresponding quantity of any such items and to deduct the cost of such cover from any moneys due or that may thereafter become due to Contractor.

- (b) In the event Contractor fails to make prompt mutually agreed upon delivery of any item as specified in the Agreement, the same conditions as to Foundation's right, but not obligation, to purchase in the open market and receive reimbursement from Contractor, as set forth in (a), above shall apply.
- (c) If the Foundation terminates this Agreement, either in whole or in part, for Contractor's default or breach, Contractor shall compensate Foundation, in addition to any other remedy Foundation may have available to it, for any loss or damage sustained and cost incurred by Foundation in procuring any items that Contractor agreed to supply as agreed upon by both Parties.
- (d) Foundation's and CSU's rights and remedies provided above shall not be exclusive and shall be in addition to any other rights and remedies provided by law, equity, or this Agreement.

18. REPORTING

Contractor shall report directly to the Foundation's Executive Director, or such other employees as may be designated by the Foundation.

19. OTHER ACTIVITIES

During the Term, Contractor is free to engage in other contracting activities, except that the Contractor may not accept work, enter into contracts, or accept obligations inconsistent or incompatible with the Contractor's obligations or the scope of Services to be rendered for the Foundation under this agreement.

20. SAFETY AND ACCIDENT PREVENTION

In performing work under this Agreement on CSU premises, Contractor shall conform to all specific safety requirements contained in this Agreement or as required by law or regulation. Contractor shall take all additional precautions as the CSU may reasonably require for safety and accident prevention purposes. Contractor's violation of such rules and requirements, unless promptly corrected, shall constitute a material breach of this Agreement.

In consideration for being allowed to provide services on the campus of California State University Dominguez Hills on behalf of myself and my next of kin, heirs and representatives, I release from all liability and promise not to sue the California State University Dominguez Hills Foundation, State of California, the Trustees of The California State University, California State University, Dominguez Hills and their auxiliaries, employees, officers, directors, volunteers and agents (collectively "University") from any and all claims, including claims of the University's negligence, resulting in any physical or psychological injury (including paralysis and death), illness, damages, or economic or emotional loss I may suffer because of my participation in this Activity, including travel to, from and during the Activity. I am voluntarily providing services and assume all risk in doing so. I am aware of the risks associated with traveling to/from and providing services on campus which include but are not limited to physical or psychological injury, pain, suffering, illness, disfigurement, temporary or permanent disability (including paralysis), economic or emotional loss, and/or death. I understand that these injuries or outcomes may arise from my own or other's actions, inaction, or negligence; conditions related to travel; or the condition of the Activity location(s). Nonetheless, I assume all related risks, both known or unknown to me, for the services I will provide including travel to, from and during my time as an Independent Contractor. I agree to hold the University harmless from any and all claims, including attorney's fees or damage to my personal property, that may occur as a result of the services provided including travel to, from and during the time services are given. If the University incurs any of these types of expenses, I agree to reimburse the University. If I need medical treatment, I agree to be financially responsible for any costs incurred as a result of such treatment. I am aware and understand that I should carry my own health insurance.

21. INSURANCE REQUIREMENTS

The Contractor shall not commence Work until it has obtained all the insurance required in this Agreement, and such insurance has been approved by the CSU. Please see CSUDH Foundation Insurance Guide. The Contractor shall obtain and maintain the following policies and coverage, or maintain self-insurance as follows:

(a) Policies and Coverage.

(i) The Contractor shall obtain and maintain the following policies and coverage:

1. Comprehensive or Commercial Form General Liability Insurance, on an occurrence basis, covering Work done or to be done by or on behalf of the Contractor and providing insurance for bodily injury, personal injury, property damage, and contractual liability. The aggregate limit shall apply separately to the Work.
2. Business Automobile Liability Insurance on an occurrence basis, covering owned, hired, and non-owned automobiles used by or on behalf of the Contractor and providing insurance for bodily injury, property damage, and contractual liability. Such insurance shall include coverage for uninsured and underinsured motorists
3. Worker's Compensation including Employers Liability Insurance as required by law.

(ii) The Contractor also may be required to obtain and maintain the following policies and coverage:

1. Other Insurance by agreement between the Trustees and the Contractor.

(b) Verification of Coverage.

The Contractor shall submit original certificates of insurance and endorsements to the policies of insurance required by the Agreement to the Trustees as evidence of the insurance coverage. Renewal certifications and endorsements shall be timely filed by the Contractor for all coverage until the Work is accepted as complete. The Trustees reserve the right to require the Contractor to furnish the Trustees complete, certified copies of all required insurance policies.

(c) Insurance Provisions.

Nothing in these insurance provisions shall be deemed to alter the indemnification provisions in this Agreement. The insurance policies shall contain, or be endorsed to contain, the following provisions.

- (i) For the general and automobile liability policies, the State of California, the Trustees of the California State University, the University, their officers, employees, representatives, volunteers, and agents are to be covered as additional insureds.
- (ii) For any claims related to the Work, the Contractor's insurance coverage shall be primary insurance as respects the State of California, the Trustees of the California State University, the University, their officers, employees, representatives, volunteers, and agents. Any insurance or self-insurance maintained by the State of California, the Trustees of the California State University, the University, their officers, employees, representatives, volunteers, and agents shall be in excess of the Contractor's insurance and shall not contribute with it.
- (iii) Each insurance policy required by this section shall state that coverage shall not be canceled by either the Contractor or the insurance carrier, except after thirty (30) Days prior written notice by certified mail, return receipt requested, has been given to the Trustees.
- (iv) The State of California, the Trustees of the California State University, the University, their officers, employees, representatives, volunteers, and agents shall not by reason of their inclusion as additional insureds incur liability to the insurance carriers for payment of premiums for such insurance.

(d) Amount of Insurance.

(i) For all projects, the insurance furnished by Contractor under this Agreement shall provide coverage in amounts not less than the following, unless a different amount is stated in the Supplementary General Conditions:

1. Comprehensive or Commercial Form General Liability Insurance--Limits of Liability
 \$2,000,000 General Aggregate
 \$1,000,000 Each Occurrence--combined single limit for bodily injury and property damage.

2. Business Automobile Liability Insurance-Limits of Liability
\$1,000,000 Each Accident-- combined single limit for bodily injury and property damage to include uninsured and underinsured motorist coverage.
3. Workers' Compensation limits as required by law with Employers Liability limits of \$1,000,000.

(e) Acceptability of Insurers.

Insurers shall be licensed by the State of California to transact insurance and shall hold a current A.M. Best's rating of A:VII, or shall be a carrier otherwise acceptable to the University.

(f) Sub-Contractor's Insurance.

Contractor shall ensure that its sub-Contractors are covered by insurance of the types required by this Agreement, and that the amount of insurance for each sub-Contractor is appropriate for that sub-Contractor Work. Contractor shall not allow any sub-Contractor to commence Work on its subcontract until the insurance has been obtained and approved by the CSU.

(g) Miscellaneous.

(i) Any deductible under any policy of insurance required in this Agreement shall be Contractor's liability.

(ii) Acceptance of certificates of insurance by the Trustees shall not limit the Contractor's liability under the Agreement.

(iii) In the event the Contractor does not comply with these insurance requirements, the Trustees may, at its option, provide insurance coverage to protect the Trustees. The cost of the insurance shall be paid by the Contractor and, if prompt payment is not received, may be deducted from Agreement sums otherwise due the Contractor.

(iv) If the Trustees are damaged by the failure of Contractor to provide or maintain the required insurance, the Contractor shall pay the Trustees for all such damages.

(v) The Contractor's obligations to obtain and maintain all required insurance are non-delegable duties under this Agreement.

(vi) The Contractor's liability for damages proximately caused by acts of God (as defined in Public Contract Code section 7105) and not involving Contractor negligence shall be limited to five percent of the Agreement.

22. INDEMNIFICATION

(a) Contractor shall indemnify, defend, and hold harmless the State of California, Board of Trustees of the California State University, CSU, and their respective officers, agents and employees from any and all claims and losses accruing or resulting to any other person, firm or corporation furnishing or supplying work, service, materials or supplies in connection with the performance of this Agreement, and from any and all claims and losses accruing or resulting to any person, firm or corporation related to, arising out of or resulting from Contractor's performance of this Agreement.

(b) At all times after the effective date of this agreement, the Foundation shall indemnify the Contractor from all Claims that the Contractor may incur arising from the Foundation's breach of any of its obligations or representations under this agreement. However, the Foundation is not obligated to indemnify the Contractor if any of these Claims result from the Contractor's own actions or inactions.

23. GOVERNING LAW

The laws of the state of California govern this agreement (without giving effect to its conflicts of law principles).

24. AMENDMENTS

No amendment to this agreement will be effective unless it is in writing and signed by a party or its authorized representative of both the Foundation and the Contractor.

25. CONTRACTOR'S POWER AND AUTHORITY

Contractor warrants it has full power and authority to enter into this Agreement and will hold CSU harmless from and against any loss, cost, liability, and expense (including reasonable attorney fees) arising out of any breach of this warranty. Further, Contractor shall not enter into any arrangement, agreement, or contract with any third party that might abridge any rights of the CSU under this Agreement.

26. ASSIGNMENT

Contractor shall not assign this Agreement, either in whole or in part, without Foundation's written consent, which will not be unreasonably withheld.

27. COUNTERPARTS; ELECTRONIC SIGNATURES

- (a) **Counterparts.** The parties may execute this agreement in any number of counterparts, each of which is an original but all of which constitute one and the same instrument.
- (b) **Electronic Signatures.** This agreement, agreements ancillary to this agreement, and related documents entered into in connection with this agreement are signed when a party's signature is delivered by facsimile, email, or other electronic medium. These signatures must be treated in all respects as having the same force and effect as original signatures.

28. SEVERABILITY

Contractor and Foundation agrees that if any provision of this Agreement is found to be illegal or unenforceable, such term or provision shall be deemed stricken and the remainder of the Agreement shall remain in full force and effect. Either Party having knowledge of such term or provision shall promptly inform the other of its presumed non-applicability of such provision. Should the illegal or unenforceable provision be a material or essential term of the Agreement, the Agreement shall be terminated in a manner commensurate with the interests of both Parties, to the maximum extent reasonable.

29. NOTICES

- (a) **Writing; Permitted Delivery Methods.** Each party giving or making any notice, request, demand, or other communication required or permitted by this agreement shall give that notice in writing and use one of the following types of delivery, each of which is a writing for purposes of this agreement: personal delivery, mail (registered or certified mail, postage prepaid, return-receipt requested), nationally recognized overnight courier (fees prepaid), or electronic communication through email.

A notice is effective only if the party giving notice complies with subsection (a) and if the recipient receives the notice.

30. WAIVER OF RIGHTS

Any action or inaction by Foundation or CSU, or the failure of Foundation or CSU on any occasion to enforce any right or provision of this Agreement shall not be a waiver by Foundation or CSU of its rights hereunder and shall not prevent Foundation or CSU from enforcing such provision or right on any future occasion. Foundation and CSU's rights and remedies provided in this Agreement shall not be exclusive and are in addition to any other rights and remedies provided by law.

31. TIME

Time is of the essence in the performance of this Agreement.

32. EXAMINATION AND AUDIT

For contracts in excess of \$10,000, Contractor shall be subject to the examination and audit by:

- (a) the Office of the University Auditor, and
- (b) the California State Auditor, for a period of three (3) years after final payment under the Agreement. The

examination and audit shall be confined to those matters connected with the performance of the Agreement, including, but not limited to, the costs of administering the Agreement. Note: Authority Cited: Government Code Section 8546.7; Education Code Section 89045 (c&d), respectively.

33. DISPUTE

Any dispute arising under or resulting from this Agreement that is not resolved within 60 days of time by authorized representatives of Contractor and CSU shall be brought to the attention of Contractor's Chief Executive Officer (or designee) and CSU's Chief Business Officer (or designee) for resolution. Either Contractor or CSU may request that the CSU Vice Chancellor, Business and Finance (or designee) participate in the dispute resolution process to provide advice regarding CSU contracting policies and procedures. If this informal dispute resolution process is unsuccessful, the Parties may pursue all remedies not inconsistent with this Agreement. Despite an unresolved dispute, Contractor shall continue without delay in performing its responsibilities under this Agreement. Contractor shall accurately and adequately document all service it has performed under this Agreement.

34. CONFLICT OF INTEREST

CSU requires a Statement of Economic Interests (California Form 700) to be filed by any Contractor (or Contractor) who is involved in the making or participation in the making of decisions which may foreseeably have a material effect on any CSU financial interest.

35. ENDORSEMENT

Nothing contained in this Agreement shall be construed as conferring on any Party, any right to use the other Party's name as an endorsement of product/service or to advertise, promote or otherwise market any product or service without the prior written consent of the other Party. Furthermore, nothing in this Agreement shall be construed as endorsement of any commercial product or service by Foundation, the CSU, its officers or employees.

36. COVENANT AGAINST GRATUITIES

Contractor shall warrant that no gratuities (in the form of entertainment, gifts, or otherwise) were offered or given by Contractor, or any agent or representative of Contractor, to any officer or employee of CSU with a view toward securing the Agreement or securing favorable treatment with respect to any determinations concerning the performance of the Agreement. For breach or violation of this warranty, CSU shall have the right to terminate the Agreement, either in whole or in part, and any loss or damage sustained by CSU in procuring on the open market any items that Contractor agreed to supply shall be borne and paid for solely by Contractor. CSU's rights and remedies provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law, equity or under the Agreement.

37. NONDISCRIMINATION

- (a) During the performance of this Agreement, Contractor and its sub-Contractors shall not unlawfully discriminate, harass, or allow harassment, against any employee or applicant for employment because of sex, sexual orientation, race, color, ancestry, religious creed, national origin, disability (including HIV and AIDS), medical condition, age, marital status, and denial of family care leave. Contractor and sub-Contractors shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment.
- (b) Contractor and sub-Contractors shall comply with the provisions of the Fair Employment and Housing Act (Government Code, Section 12990 et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285.0 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations are incorporated into this Agreement by reference and made a part hereof as if set forth in full. Contractor and its sub-Contractor

shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement.

- (c) Contractor shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the Agreement.

38. COMPLIANCE WITH NLRB ORDERS

Contractor declares under penalty of perjury under the laws of the State of California that no more than one final, unappeasable finding of contempt of court by a federal court has been issued against Contractor within the immediately preceding two-year period because of Contractor's failure to comply with an order of a federal court to comply with an order of the National Labor Relations Board. Note: Cite Authority: PCC 10296

39. DRUG-FREE WORKPLACE CERTIFICATION

Contractor certifies that Contractor shall comply with the requirements of the Drug-Free Workplace Act of 1990 and shall provide a drug-free workplace by taking the following actions:

- (a) Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations
- (b) Establish a Drug-Free Awareness Program to inform employees about all of the following:
 - (i) the dangers of drug abuse in the workplace;
 - (ii) the person's or organization's policy of maintaining a drug-free workplace;
 - (iii) any available counseling, rehabilitation and employee assistance programs; and,
 - (iv) penalties that may be imposed upon employees for drug abuse violations.
- (c) Provide that every employee who works on the proposed or resulting Agreement:
 - (i) will receive a copy of the company's drug-free policy statement; and,
 - (ii) will agree to abide by the terms of the company's statement as a condition of employment on the Agreement. Note: Authority Cited: Government Code Section 8350- 8357

40. FORCED, CONVICT, INDENTURED AND CHILD LABOR

By accepting a contract with Foundation, Contractor:

- (a) certifies that no equipment, materials, or supplies furnished to Foundation pursuant to this Agreement have been produced in whole or in part by sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor, or with the benefit of sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor. Contractor further certifies it will adhere to the Sweat-free Code of Conduct as set forth on the California Department of Industrial Relations website located at <http://www.dir.ca.gov/>, and Public Contract Code Section 6108.
- (b) agrees to cooperate fully in providing reasonable access to its records, documents, agents or employees, or premises if reasonably required by authorized officials of the State, the Department of Industrial Relations, or the Department of Justice to determine Contractor's compliance with the requirements under paragraph (a).

41. AMERICANS WITH DISABILITIES ACT (ADA)

Contractor warrants that it complies with California and federal disabilities laws and regulations. (Americans with Disabilities Act of 1990, 42 U.S.C. 12101 et seq). Contractor hereby warrants the products or services it will provide under this Agreement comply with the accessibility requirements of Section 508 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794d), and its implementing regulations set forth at Title 36, Code of Federal Regulations, Part 1194. Contractor agrees to promptly respond to and resolve any complaint regarding accessibility of its products or services. Contractor further agrees to indemnify and hold harmless Foundation and CSU from any claims arising out of Contractor's failure to comply with the aforesaid requirements. Failure to comply with these requirements shall constitute a material breach of this Agreement.

42. DEBARMENT AND SUSPENSION

By accepting a contract with the Foundation, Contractor certifies neither it nor its principals or its sub-Contractor are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any federal department or agency ([2 Code Federal Regulations\[CFR\] 180.220](#), in accordance with the Office of Management and Budget guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR Part 1986 Comp., p. 189) and 12689 (3 CFR Part 1989 Comp., p. 235)).

43. EXPATRIATE CORPORATIONS

Contractor declares and certifies that it is not an expatriate corporation, and is not precluded from contracting with Foundation or CSU by The California Taxpayer and Shareholder Protection Act of 2003, Public Contract Code Section 10286, et seq.

44. ENTIRE AGREEMENT

This agreement constitutes the final agreement of the parties. It is the complete and exclusive expression of the parties' agreement about the subject matter of this agreement. Neither party was induced to enter this agreement. Except as set forth expressly in this agreement, there are no conditions precedent to this agreement's effectiveness.

45. HEADINGS

The descriptive headings of the sections and subsections of this agreement are for convenience only, and do not affect this agreement's construction or interpretation.

46. NECESSARY ACTS; FURTHER ASSURANCES

Each party shall use all reasonable efforts to take, or cause to be taken, all actions necessary or desirable to consummate and make effective the transactions this agreement contemplates or to evidence or carry out the intent and purposes of this agreement.

RIDER A

CSU Information Security Requirements Supplemental Provisions
to CSU General Provisions for Information Technology Acquisitions

DEFINITIONS

Affiliate - an entity now or hereafter controlled by, controlling or under common control with a Party. Control exists when an entity owns or controls more than 50% of the outstanding shares or securities representing the right to vote for the election of directors or other managing authority of another entity.

Confidential Information - The term “Confidential Information” shall mean this Agreement and all proprietary information, data, trade secrets, business information, any Protected Information regarding students, employees or other individuals or entities, including but not limited to, Social Security numbers, other tax identification numbers, credit card, bank account and other financial information, and other information of any kind whatsoever which:

- (a) a Party (“Discloser”) discloses, in writing, orally or visually, to the other Party (“Recipient”) or to which Recipient obtains access in connection with the negotiation and performance of this Agreement, and which
- (b) relates to:
 - (i) the Discloser, or
 - (ii) in the case of Contractor as Recipient, the CSU, its students and employees, and its third-party contractors or licensors who have made confidential or proprietary information available to the CSU.

Contractor – Contractor is any party to an agreement with the CSU along with any Contractor Representative, Subcontractor, Affiliate, or other entity over whom the Contractor has control.

CSU Information Assets – Information systems, data, and network resources to include automated files and databases.

CSU Protected Data - data defined as “Protected Level 1” and “Protected Level 2” in the CSU Data Classification Standard Reference: <https://calstate.policystat.com/policy/6607407/latest/#autoid-wgy7r>

Party – The CSU or Contractor.

Relationship Manager - the respective employees of each Party that each Party shall designate to act on its behalf with regard to matters arising under this Agreement; each Party

shall notify the other in writing of the name of their Relationship Manager; however, the Relationship Manager shall have no authority to alter or amend any term, condition, or provision of the Agreement; further, each Party may change its Relationship Manager by providing the other Party with prior written notice.

Representative - an employee, officer, director, or agent of a Party.

Subcontractor - a third party to whom Contractor has delegated or subcontracted any portion of its obligations set forth herein.

Work Product - All discoveries, inventions, work of authorship or trade secrets, or other intellectual property and all embodiments thereof originated by Contractor within the scope of Services provided under this Agreement, whether or not prepared on CSU’s premises.

1.0 ACKNOWLEDGEMENT

Contractor acknowledges that its contract/purchase order with the California State University (“the CSU”) may allow the Contractor access to CSU Protected Data including, but not limited to, personal information, student records, health care information, or financial information. This data may be transferred in various forms, notwithstanding the manner in which or from whom it is received by Contractor subject to state laws that restrict the use and disclosure of such information, including

the California Information Practices Act (California Civil Code Section 1798 et seq.) and the California Constitution Article 1, Section 1. Contractor represents and warrants that it will keep CSU Protected Data confidential both during the Term and after the termination of the Agreement.

2.0 DISCLOSURE REQUIREMENTS

Contractor agrees that it will include all of the terms and conditions contained in this agreement in all subcontractor contracts providing services under this Agreement.

Contractor shall not use or disclose CSU Protected Data other than to carry out the purposes of this agreement.

Contractor shall not disclose any CSU Protected Data other than on a “need to know” basis and then only:

- (a) To its representatives, provided however, that each such employee or officer has entered into a confidentiality agreement.
- (b) To affiliates of or Subcontractors to Contractor, only if previously approved by the CSU and provided that
 - (i) Use by such Affiliates or Subcontractor shall be limited to the purpose of this agreement.
 - (ii) Affiliate or Subcontractor is bound by contract and or confidentiality agreement to protect CSU data from unauthorized access.

If required by a court of competent jurisdiction or an administrative body to disclose Protected Data, Contractor shall notify the CSU in writing prior to any such disclosure in order to give the CSU an opportunity to oppose any such disclosure. Prior to any disclosure of Confidential Information as required by legal process, the Contractor shall:

- (c) Notify the CSU of any, actual or threatened legal compulsion of disclosure, and any actual legal obligation of disclosure immediately upon becoming so obligated, and
- (d) Delay disclosure until the CSU has provided contractor with notice that they will oppose or agree to such disclosure or the time specified for legal compliance is reached.

Any access, transmission, or storage of Protected Data outside the United States shall require prior written authorization by the CSU.

2.1 Exceptions to Obligations of Confidentiality

With the exception of the data classified as “Protected Level 1” or “Protected Level 2” under the CSU Data Classification Standard, identified in (<https://calstate.policystat.com/policy/6607407/latest/>), obligations of confidentiality shall not apply to any information that:

- (a) Contractor rightfully has in its possession when disclosed to it, free of obligation to the CSU to maintain its confidentiality;
- (b) Contractor independently develops without access to CSU Protected Data;
- (c) Is or becomes known to the public other than by breach of this contract;
- (d) The CSU or its agent releases without restriction; or
- (e) Contractor rightfully receives from a third party without the obligation of confidentiality.

Any combination of Protected Data disclosed with information not so classified shall not be deemed to be within one of the foregoing exclusions merely because individual portions of such combination are free of any confidentiality obligation or are separately known in the public domain.

Failure by Contractor to comply with any provision of this Section shall constitute a default subject to Paragraph 14 of the CSU General Provisions for Information Technology Acquisitions.

3.0 INFORMATION SECURITY PLAN

- (a) Contractor acknowledges that the CSU is required to comply with information security standards for the protection of Protected Data Information required by law, regulation and regulatory guidance, as well as the CSU’s internal security policy for information and systems protection.

Within 30 days of the Effective Date of the Agreement and subject to the review and approval

of the CSU, Contractor shall establish, maintain and comply with an information security plan (“Information Security Plan”), which shall contain such elements that the CSU may require after consultation with Contractor. On at least an annual basis, Contractor shall review, update and revise its Information Security Plan, subject to the CSU’s review and approval. At the CSU’s request, Contractor shall make modifications to its Information Security Plan or to the procedures and practices thereunder to conform to the CSU’s security requirements as they exist from time to time.

Contractor’s Information Security Plan shall be designed to:

- Ensure the security, integrity and confidentiality of the CSU Protected Data;
- Protect against any anticipated threats or hazards to the security or integrity of such information;
- Protect against unauthorized access to or use of such information that could result in substantial harm or inconvenience to the person that is the subject of such information;
- Protect against unauthorized changes to or use of CSU Protected Data; and
- Comply with all applicable CSU policies legal and regulatory requirements for data protection.
- Include business continuity and disaster recovery plans.

Contractor’s Information Security Plan shall include a written response program addressing the appropriate remedial measures it shall undertake in the event that there is an information security breach.

Contractor shall cause all Subcontractors and other persons and entities whose services are part of the Services which Contractor delivers to the CSU or who hold CSU Protected Data, to implement an information security program and plan substantially equivalent to Contractor’s.

The parties expressly agree that Contractor’s security procedures shall require that any Protected Level 1 Data transmitted or stored by Contractor only be transmitted or stored in an encrypted form approved by the CSU.

In addition, Contractor represents and warrants that in performing the Services, it will comply with all applicable privacy and data protection laws and regulations of the United States including, as applicable, the provisions in the Gramm-Leach-Bliley Act, 15 U.S.C. Section 6801 et seq., the Family Education Rights and Privacy Act (“FERPA”), 20 USC Section 1232(g) et seq., and of any other applicable non-U.S. jurisdiction, including the European Union Directives, and that it will use best efforts, consistent with Federal Trade Commission and other applicable guidance, to protect CSU’s Protected Information from identity theft, fraud and unauthorized use.

Failure by Contractor to comply with any provision of this Section shall constitute a default subject to Paragraph 14 of the CSU General Provisions for Information Technology Acquisitions.

- (b) Contractor agrees that it will protect CSU Protected Data according to published information security policy and standards and no less rigorously than it protects its own confidential information but in no case less than reasonable care.

Contractor shall develop, implement, maintain and use appropriate administrative, technical and physical security measures, which may include but not be limited to encryption techniques, to preserve the confidentiality, integrity and availability of all such Protected Data.

In addition, Contractor represents and warrants that in performing the Services, it will comply with all applicable privacy and data protection laws and regulations of the United States including, as applicable, the provisions in the Gramm-Leach-Bliley Act, 15 U.S.C. Section 6801 et seq., the Family Education Rights and Privacy Act (“FERPA”), 20 USC Section 1232(g) et seq., and of any other applicable non-U.S. jurisdiction, including the European Union Directives, and that it will use best efforts, consistent with Federal Trade Commission and other applicable guidance, to protect CSU’s Protected Information from identity theft, fraud and unauthorized use.

Failure by Contractor to comply with any provision of this Section shall constitute a default subject to Paragraph 14 of the CSU General Provisions for Information Technology Acquisitions.

4.0 INCIDENT RESPONSE MANAGEMENT

4.1 Notification of a Security Incident

Contractor shall report, in writing, to the CSU any use or disclosure of CSU Protected Data not authorized by this Agreement or authorized in writing by the CSU, including any reasonable belief that an unauthorized individual has accessed CSU Protected Data. This report shall be made to the CSU's primary contact and its designated information security officer. It shall include details relating to any known or suspected security breach of Contractor's system or facilities which contain CSU Protected Data or any other breach of Protected Data relating to this Agreement. This report shall be made not later than within twenty-four (24) hours after discovery, if the information was, or is reasonably believed to have been, acquired by an unauthorized person.

4.2 Notification Contents

Contractor's report shall identify:

- The nature of the unauthorized use or disclosure,
- The time and date of incident,
- A description of CSU Protected Data used or disclosed,
- Who made the unauthorized use or received the unauthorized disclosure,
- What Contractor has done or shall do to mitigate any harmful effect of the unauthorized use or disclosure, and
- The corrective action Contractor has taken or shall take to prevent future similar unauthorized use or disclosure.

Contractor shall provide such other information, including a written report, as reasonably requested by the CSU.

4.3 Notification to Parties

Contractor agrees to fully cooperate with the CSU with the preparation and transmittal of any notice, which the CSU may deem appropriate or required by law, to be sent to affected parties regarding the known or suspected security breach, and to be financially responsible for any such notice resulting from Contractor's, its Representatives, Affiliates, or Subcontractors acts or omissions with regard to the data security requirements of this Agreement. Contractor shall take appropriate remedial action with respect to the integrity of its security systems and processes.

5.0 COMPLIANCE

Contractor represents and warrants that it shall implement and maintain certification of Payment Card Industry ("PCI") compliance standards regarding data security and that it shall undergo independent third-party quarterly system scans that audit for all known methods hackers use to access private information, in addition to vulnerabilities that would allow malicious software (i.e., viruses and worms) to gain access to or disrupt the network devices. If during the term of the Agreement, Contractor undergoes, or has reason to believe that it will undergo, an adverse change in its certification or compliance status with the PCI DSS standards and/or other material payment card industry standards, it will promptly notify the CSU of such circumstances.

Contractor agrees to promptly provide current evidence of PCI-DSS standards at the CSU request. The form and substance of such evidence must be reasonably satisfactory to and must be certified by an authority recognized by the payment card industry for that purpose.

Contractor shall maintain and protect in accordance with all applicable laws and PCI regulations the security of all cardholder data when performing the contracted Services on behalf of the CSU.

Contractor will provide reasonable care and efforts to detect fraudulent credit card activity in connection with credit card transactions processed for the CSU.

Contractor shall indemnify and hold CSU harmless from loss or damages resulting from Contractor's failure to maintain PCI compliance standard in accordance with this section.

Contractor shall not be held responsible for any such loss of data if it is shown that the loss occurred as a result of the sole negligence of the CSU.

5.1 PA DSS REQUIREMENTS

Contractor represents and warrants that software applications it provides for the purpose of processing payments, particularly credit card payments, are developed in accordance with and are in compliance with the standards known as Payment

Application Data Security Standards (PA-DSS). As verification of this, the Contractor agrees to provide evidence that any such application it provides is certified as complying with these standards and agrees to continue to maintain that certification. The evidence may be provided in the form of the PA DSS form if the contractor self-certified, or a copy of the PA QSA if the Contractor was certified by an external party. If the contractor is unable to provide a copy of the PA DSS form of the PA QSA letter, the contractor must provide the CSU with proof of bonded insurance listing the CSU as the beneficiary in the case of a security breach. If during the term of the Agreement, Contractor undergoes, or has reason to believe that it will undergo, an adverse change in its certification or compliance status with the PA DSS standards and/or other material payment card industry standards, it will promptly notify the CSU of such circumstances.

Contractor agrees promptly to provide, annual or at the request of the CSU, current evidence, in form and substance reasonably satisfactory to the CSU, of compliance with PA-DSS security standards which has been properly certified by an authority recognized by the payment card industry for that purpose.

Contractor shall indemnify and hold CSU harmless from loss or damages resulting from Contractor's failure to maintain PA-DSS security standards in accordance with this section.

5.2 NACHA Requirements

Contractor agrees to assist the CSU in documenting compliance with NACHA rules and regulations and with compliance of security standards for the protection of ACH transactions.

5.3 Health Insurance Portability and Accountability Act (HIPAA) Requirements

Contractor shall agree to use and disclose Protected Health Information in compliance with the security standards for the protection of electronic protected health information as per (45 C.F.R. [Code of Federal Regulations] Parts 160 and 164).

Any work to be performed in connection with this Agreement by Contractor, its Affiliates or Subcontractors must be performed in the United States, unless the prior written consent of the CSU is received to perform work outside the United States. Further, CSU Protected Data may not be transmitted or stored outside the United States without the prior written consent of the CSU.

Contractor shall require all Representatives, Affiliates and Subcontractors with access to CSU Protected Data, as a condition of their engagement, to participate in annual security awareness training.

Contractor shall comply and shall cause its Representatives, Affiliates and Subcontractors to comply with all personnel, facility, safety and security rules and regulations and other instructions of the CSU, when performing work at a CSU facility, and shall conduct its work at the CSU facilities in such a manner as to avoid endangering the safety, or interfering with the convenience of, CSU Representatives or customers.

Contractor shall not knowingly permit a Representative, Affiliate, or Subcontractor to have access to the records, data or premises of the CSU when such Representative, Affiliate or Subcontractor:

- (a) has been convicted of a crime;
- (b) has engaged in a dishonest act or a breach of trust; or
- (c) uses illegal drugs.

Contractor agrees that under no circumstances shall any of Contractor's Representatives, Affiliates or Subcontractors, whether full-time or part-time, connect to any CSU system or access any CSU data, for purposes of downloading, extracting, storing or transmitting information through personally owned, rented or borrowed equipment including, but not limited to mobile devices (e.g., laptops, PDAs, cell phones, etc.)

Contractor represents that it maintains comprehensive hiring policies and procedures which include, among other things, a background check for criminal convictions, and pre-employment drug testing, all to the extent permitted by law. Contractor shall conduct thorough background checks and obtain references for all its Representatives, Affiliates, and Subcontractors who have access to CSU's protected information.

Any exceptions are at variance with the CSU policy and must be approved in advanced according to CSU policy guidelines.

6.0 RECORD RETENTION REQUIREMENTS

Contractor shall maintain all records pertaining to the Services provided to the CSU under this Agreement for in accordance

with the CSU Retention schedule (Reference the following link for CSU Retention schedule: (<https://www.calstate.edu/recordsretention>) and if longer after termination of the Agreement, subject to applicable law or regulation. Contractor further agrees to provide to the CSU, at its request, a full copy of all such records for the CSU to maintain at a U.S. location which the CSU shall designate.

Backup data may not be archived. Destruction/deletion of data shall be in accordance with ISO 27001. Contractor to provide evidence or certification that this section has been complied with.

7.0 THE CSU RIGHT TO CONDUCT AND/OR REVIEW RISK ASSESSMENTS

(a) A Contractor, with access to the CSU protected data, shall conduct risk assessments and/or audits of its use of CSU protected data at least annually. The Contractor shall provide the CSU with copies of its latest information security risk assessments and/or audits upon request.

If any assessment and/or audit discloses material variances from the performance requirements set forth in this Agreement or a breach by Contractor of the provisions of this Agreement, Contractor shall be deemed in breach of this Agreement.

(b) During regular business hours, the CSU may, at its sole expense and on a mutually agreed upon date (which shall be no more than fourteen (14) days after written notice), time, location and duration perform or arrange for a site visit and/or confidential audit of Contractor's operations, facilities, financial records, and security and business continuity systems which pertain specifically to the Services.

If Contractor is not in substantial compliance with the requirements of the performance requirements set forth in this Agreement, the CSU shall be entitled, at Contractor's expense, to perform additional such assessments and/or audits. The CSU will provide to Contractor a copy of each report prepared in connection with any such audit within thirty (30) calendar days after it prepares or receives such report. Contractor agrees to promptly take action at its expense to correct those matters or items that require correction as mutually agreed.

If any assessment and/or audit discloses material variances from the performance requirements set forth in this Agreement or a breach by Contractor of the provisions of this Agreement, Contractor shall be deemed to be in default subject to Paragraph 14 of the CSU General Provisions for Information Technology Acquisitions.

8.0 TERMINATING OR EXPIRING THE AGREEMENT – RETURN/DESTROY PROTECTED DATA

Upon the termination or expiration of this Agreement, or at any time upon the request of the CSU, Contractor and its subcontractors shall return all CSU Protected Data (and all copies and derivative works thereof made by or for Contractor). Further, Contractor and all subcontractors shall delete or erase such Protected Data, copies and derivative works thereof, from their computer systems.

The CSU shall have the right to require Contractor to verify, to CSU's satisfaction, that all CSU Protected Data has been returned, deleted or erased. Contractor agrees to fully cooperate with the CSU's requests for verification.

RIDER B

Supplemental Provisions
to CSUDH Foundation's General Provisions for
Independent Contractors, Contracted Services, Vendors, Speakers, Artists and Performers.

1. FORCE MAJUERE CANCELLATION

In the event that Foundation considers it necessary or prudent to cancel this Agreement due to circumstances related to COVID-19, or to any reoccurrence of the COVID-19 outbreak, Foundation may do so and be relieved of any further financial obligation, risk, or other liability by providing seventy-two (72) hours prior written notice of cancellation to Speaker. Foundation's right to cancel the Agreement pursuant to this section shall not be limited or restricted in any manner by any other term or section of this Agreement. In addition, Foundation shall have the right to cancel this agreement without liability of any kind in the event Speaker, prior to the performance, is charged with or commits a crime or act of moral turpitude such that Foundation in its sole discretion, would be exposed to public embarrassment or ridicule for hosting Speaker's performance.

2. INTELLECTUAL PROPERTY

Speaker claims no ownership of the intellectual property of our speakers. To the best of our knowledge, Speaker owns all materials she will deliver for the above described event.

3. PRESENTATION AND RELEASE

Speaker represents and warrants that neither the Engagement nor any materials provided in connection with the Engagement will infringe, violate the copyright, patent, trademark, trade secret or any other right of any third party, and no additional permissions, clearances, assignments, or licenses are necessary to give full effect to the provisions of this Agreement.

4. READINESS TO PREFORM

In the event the Speaker is not ready to perform at the Engagements starting time, or if the Speaker arrives at the Engagement in such a condition as to appear to a reasonable person to be incapable of performing in a reasonably acceptable manner, then Speaker shall be deemed to have committed a material breach of this Agreement and Foundation shall have the absolute right in its sole discretion to cancel the performance or terminate the performance in progress, and to refuse payment accordingly.

5. SUBJECT MATTER

Speaker agrees to notify Foundation before the signing of this Agreement if the presentation contains offensive language, profanity and/or graphic content. The subject matter and how it is presented is under the control of the Speaker, however, Foundation has the right to direct the Speaker to discontinue any speech or activity that in Foundation reasonable opinion, would cause a safety concern or constitute a violation of any Foundation policy or any federal state or local law, rule, or regulation.

6. SESSION INTEGRITY

Please note, the program team and Foundation staff reserve the right to remove a session at their own discretion.

7. TRADEMARKS AND LOGOS

Both parties are prohibited from using, and agree not to use, directly or indirectly, any name, trademark, or logo of the other party without first obtaining the prior written consent of the other party.

8. CODE OF CONDUCT

Speakers should not use sexual language, images, activities, or other material at the event that could constitute harassment in their talks. In regards to sexual imagery, at a minimum, no images containing nudity or expressions of sexual relationships that might be deemed inappropriate for a school environment should be used.

Harassment includes but is not limited to the use of abusive, offensive or degrading language, intimidation, stalking, harassing photography or recording, inappropriate physical contact, sexual imagery, and unwelcome sexual advances.

Speaker understands that slides and presentation remarks must abide by the Code of Conduct for this engagement. If failure to abide by the spirit of the Code of conduct, sessions will be ended immediately.

9. UNACCEPTABLE BEHAVIOR

Foundation has a zero-tolerance policy for unacceptable behavior. Anyone asked to stop unacceptable behavior is expected to comply immediately. If a speaker engages in unacceptable behavior, Foundation designated representatives may take any action they deem appropriate, up to and including removal of your session.