PROFESSIONAL/TECHNICAL SERVICES
MASTER CONTRACT

FOR EXTERNAL AUDITING SERVICES

THIS CONTRACT, and amendments and supplements thereto, is between the State of Minnesota, acting through its Board of Trustees of the Minnesota State Colleges and Universities, on behalf of [INSERT NAME OF COLLEGE/UNIVERSITY/SYSTEM OFFICE] (hereinafter “Minnesota State”), and [INSERT CONTRACTOR’S LEGAL NAME AND FULL ADDRESS. DO NOT ONLY USE A PO BOX.], an independent Contractor, not an employee of the State of Minnesota (hereinafter “Contractor”).

WHEREAS, Minnesota State, pursuant to Minnesota Statutes Chapter 136F, is empowered to procure from time to time certain professional/technical services, and

WHEREAS, Minnesota State is in need of professional/technical services, and

WHEREAS, the Contractor represents it is duly qualified and willing to perform the services set forth in this contract and

NOW, THEREFORE, it is agreed:

1. TERM OF CONTRACT.
This contract is effective on [INSERT FULL DATE (e.g., January 29, 2022)] or upon the date the final required signature is obtained by Minnesota State, whichever occurs later, and shall remain in effect until [INSERT FULL DATE (e.g., June 15, 2022)] or until all obligations set forth in this contract have been satisfactorily fulfilled, whichever occurs first. The Contractor understands that no work should begin under this contract until all required signatures have been obtained and the Contractor is notified to begin work by an authorized representative of Minnesota State.
The term of any Work Order issued under this Master Contract may not extend beyond the expiration of this Master Contract.

2. **CONTRACTOR’S DUTIES.** The Contractor will:

   [PROVIDE SUFFICIENT DETAIL IN THE DUTIES SO THAT YOU CAN HOLD THE CONTRACTOR ACCOUNTABLE FOR THIS WORK. DO THIS BY EITHER: 1) LISTING THE CONTRACTOR’S DUTIES, DELIVERABLES, AND COMPLETION DATES WITH PRECISE DETAIL HERE OR 2) USING AN EXHIBIT THAT CONTAINS THE PRECISE DUTIES AND DELIVERABLES, NOT THE “PROPOSAL”. YOU MUST INDICATE THAT AN EXHIBIT IS INCORPORATED INTO THE CONTRACT, SUCH AS “Perform the duties specified in Exhibit A, which is attached and incorporated into this contract.”]

The CONTRACTOR and MINNESOTA STATE agree that prior to commencing the audits for each fiscal year the CONTRACTOR and the Vice Chancellor/Chief Financial Officer shall enter into an engagement letter for the audits in substantially the form required by generally accepted auditing standards and that such engagement letter shall supplement the terms and agreements herein. In the event there is a conflict in the terms or provisions contained in the engagement letter and this contract, or additional terms in the engagement letter not found in this contract, the terms and provisions in this contract shall control and govern. Engagement letters shall be in writing and executed in accordance with Section 16. AMENDMENTS.

3. **CONSIDERATION AND TERMS OF PAYMENT.**

   a. **Consideration** for all services performed and goods or materials supplied by the Contractor pursuant to this contract shall be paid by Minnesota State as follows:

   i. **Compensation** of [INSERT DOLLAR AMOUNT IN WORDS AND NUMBERS AND NUMBER OF HOURS, e.g, Fifty and 00/100 Dollars ($50.00) for eighty (80) hours. EXPLAIN HOW THE CONTRACTOR WILL BE PAID BY INSERTING A RATE OF PAY OR BREAKDOWN. EXAMPLES: “IN ACCORDANCE WITH THE BREAKDOWN OF COSTS AS SET FORTH BELOW.” NOTE: CAUTION MUST BE EXERCISED IF PAYMENT BY THE HOUR IS UTILIZED. IF DELIVERABLES CAN BE SUCCINCTLY DEFINED, IT IS GENERALLY PREFERABLE TO STRUCTURE PAYMENT BASED ON THE SUCCESSFUL COMPLETION AND ACCEPTANCE OF SPECIFIC TASKS OR DELIVERABLES.] Professional fees and expenses for all services performed by the CONTRACTOR pursuant to this contract shall be paid by MINNESOTA STATE and are set forth for the audit of each fiscal year is as follows:

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<thead>
<tr>
<th>Audit Type</th>
<th>FY 2023</th>
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<tr>
<td>Systemwide Financial Statement Audit</td>
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<td>Revenue Fund Financial Statement Audit</td>
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<td><strong>Top 5” IT Security Domains Control Assessment</strong></td>
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<td>Itasca Community College Student Housing Funds, Itasca Hall and Wenger Hall (ICCSH) Financial Statement Audit</td>
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<td>KVSC Radio 88.1 FM (at St. Cloud State University) Financial Statement Audit and Attestation</td>
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<td>(a) Federal Student Financial Aid Audit</td>
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<td>(b) Federal Coronavirus Response and Relief Funding Audits</td>
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<td>NCAA Agreed Upon Procedures: Minnesota State University, Mankato</td>
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<td>NCAA Agreed Upon Procedures: Winona State University</td>
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Perkins Closeout Audit: The total contract includes $X that may be used for Perkins close out audits. Colleges and universities may elect to use the terms of this proposal to initiate a work order for a Perkins Closeout Audit with the CONTRACTOR. For all Perkins Closeout Audits performed as needed and as outlined in individual work orders, the following price structure will apply:

$X to $X per college or university Perkins Closeout Audit not to exceed $X total compensation during fiscal years 2023, 2024 and 2025.
Reimbursement for travel and subsistence expenses actually and necessarily incurred by the Contractor in performance of this contract in an amount not to exceed [INSERT DOLLAR AMOUNT IN WORDS AND NUMBERS (e.g. One Hundred Twenty and 00/100 Dollars ($120.00). IF NONE, INSERT “Zero Dollars ($0.00)) provided that Contractor shall be reimbursed for travel and subsistence expenses in the same manner and in no greater amount than provided in the current “Commissioner’s Plan” promulgated by the Commissioner of Employee Relations attached hereto. [ATTACH IF APPLICABLE; DO NOT ATTACH IF NOT APPLICABLE] The Contractor shall not be reimbursed for travel and subsistence expenses incurred outside the State of Minnesota unless it has received prior written approval for such out-of-state travel from an authorized representative of Minnesota State.

ii. The total obligation of Minnesota State for all compensation and reimbursement to the Contractor shall not exceed [INSERT DOLLAR AMOUNT IN WORDS AND NUMBERS, e.g. Four Thousand One Hundred Twenty and 00/100 Dollars ($4,120.00).]

b. Terms of Payment.
   i. Payment shall be made by Minnesota State promptly after the Contractor’s presentation of invoices for services performed and acceptance of such services by an authorized representative of Minnesota State. All services provided by the Contractor pursuant to this contract shall be performed to the satisfaction of Minnesota State, as determined at the sole discretion of its authorized representative, and in accordance with all applicable federal, state and local laws, ordinances, rules and regulations. The Contractor shall not receive payment for work found by Minnesota State to be unsatisfactory or performed in violation of any applicable federal, state or local law, ordinance, rule or regulation. Invoices shall be presented by Contractor according to the following schedule:

   [USE TERMS OR PHRASES SUCH AS WEEKLY, MONTHLY OR WITHIN CALENDAR DAYS FOLLOWING COMPLETION OF SERVICES OR IF THERE ARE SPECIFIC DELIVERABLES, PHASES, TASKS, LIST HOW MUCH WILL BE PAID FOR EACH.]

ii. Nonresident Aliens. Pursuant to 26 U.S.C. §1441, Minnesota State is required to withhold certain federal income taxes on the gross compensation paid to nonresident aliens, as defined by Internal Revenue Code §7701(b). Minnesota State will withhold all required taxes unless and until Contractor submits documentation required by the Internal Revenue Service indicating that Contractor is a resident of a country with tax treaty benefits. Minnesota State makes no representations regarding whether or to what extent tax treaty benefits are available to Contractor. To the extent that Minnesota State does not withhold these taxes for any reason, Contractor agrees to indemnify and hold Minnesota State harmless for any taxes owed and any interest or penalties assessed.
4. **AUTHORIZED REPRESENTATIVES.**
All official notifications, including but not limited to, cancellation of this contract must be sent to the other party’s authorized representative.

a. Authorized representative of Minnesota State for the purpose of administration of this contract is:

   Name: , Vice Chancellor/Chief Financial Officer or his successor
   Address: 
   Telephone: 
   E-Mail: 

   Such representative shall have final authority for acceptance of the Contractor’s services and, if such services are accepted as satisfactory, shall so certify on each invoice presented pursuant to Clause 3, paragraph b.

b. The Contractor’s authorized representative for the purpose of administration of this contract is:

   Name: 
   Address: 
   Telephone: 
   E-Mail: 

5. **CANCELLATION AND TERMINATION.**
a. This contract may be canceled by Minnesota State at any time, with or without cause, upon **thirty (30) days** written notice to the Contractor. In the event of such a cancellation, the Contractor shall be entitled to payment, determined on a pro rata basis, for work or services satisfactorily performed.

b. Termination for Insufficient Funding. Minnesota State may immediately terminate this contract if it does not obtain funding from the Minnesota Legislature or other funding source, or if funding cannot be continued at a level sufficient to allow for the payment of the services covered here. Termination must be by written or fax notice to the Contractor within a reasonable time of Minnesota State receiving notice that sufficient funding is not available. Minnesota State is not obligated to pay for any services that are provided after notice and effective date of termination. However, the Contractor will be entitled to payment, determined on a pro rata basis, for work or services satisfactorily performed to the extent that funds are available. Minnesota State will not be assessed any penalty if the contract is
terminated because of the decision of the Minnesota Legislature or other funding source not to appropriate funds.

6. **ASSIGNMENT.**
The Contractor shall neither assign nor transfer any rights or obligations under this contract without the prior written consent of Minnesota State.

7. **LIABILITY.**
The Contractor shall indemnify, save, and hold Minnesota State, its representatives and employees harmless from any and all claims or causes of action, including all attorney’s fees incurred by Minnesota State, arising from the performance of this contract by the Contractor or Contractor’s agents or employees. This clause shall not be construed to bar any legal remedies the Contractor may have for the failure of Minnesota State to fulfill its obligations pursuant to this contract.

8. **WORKERS’ COMPENSATION.**
The Contractor certifies it is in compliance with Minnesota Statutes §176.181, subd. 2 pertaining to workers’ compensation insurance coverage. The Contractor’s employees and agents will not be considered Minnesota State employees. Any claims that may arise under the Minnesota Workers’ Compensation Act on behalf of these employees or agents and any claims made by any third party as a consequence of any act or omission on the part of these employees or agents are in no way the obligation or responsibility of Minnesota State.

9. **PUBLICITY.**
Any publicity given to the program, publications, or services provided resulting from this contract, including, but not limited to, notices, informational pamphlets, press releases, research, reports, signs, and similar public notices prepared by or for the Contractor or its employees individually or jointly with others, or any subcontractors shall identify Minnesota State as the sponsoring agency and shall not be released prior to receiving the approval of an authorized representative of Minnesota State.

10. **MINNESOTA STATUTES §181.59.**
The Contractor will comply with the provisions of Minnesota Statutes §181.59 which require:

   Every contract for or on behalf of the State of Minnesota, or any county, city, town, township, school, school district, or any other district in the state, for materials, supplies, or construction shall contain provisions by which the Contractor agrees: (1) that, in the hiring of common or skilled labor for the performance of any work under any contract, or any subcontract, no Contractor, material supplier, or vendor, shall, by reason or race, creed, or color, discriminate against the person or persons who are citizens of the United States or resident aliens who are qualified and available to perform the work to which the employment relates; (2) that no Contractor, material supplier, or vendor, shall, in any manner, discriminate against, or intimidate,
or prevent the employment of any person or persons identified in clause (1) of this section, or on being hired, prevent, or conspire to prevent, the person or persons from the performance of work under any contract on account of race, creed, or color; (3) that a violation of this section is a misdemeanor; and (4) that this contract may be canceled or terminated by the state, county, city, town, school board, or any other person authorized to grant the contracts for employment, and all money due, or to become due under the contract, may be forfeited for a second or any subsequent violation of the terms or conditions of this contract.

11. **DATA DISCLOSURE.**
   a. As a condition of this contract, Contractor is required by Minn. Stat. §270C.65 to provide a social security number, a federal tax identification number or Minnesota tax identification number. This information may be used in the enforcement of federal and state tax laws. These numbers will be available to federal and state tax authorities and state personnel involved in approving the contract and the payment of state obligations. Supplying these numbers could result in action to require Contractor to file state tax returns and pay delinquent state tax liabilities. **This contract will not be approved unless these numbers are provided.**

   b. **Independent Contractors.** Minn. Stat. §256.998 requires Minnesota State to report the name, address and social security number of independent Contractors to the New Hire Reporting Center of the Minnesota Department of Human Services unless this Contract is for less than two months in duration with gross earnings of less than $250.00 per month. This information may be used by state or local child support enforcement authorities in the enforcement of state and federal child support laws.

12. **GOVERNMENT DATA PRACTICES ACT**
   a. Data Ownership and Control. The requirements of Minnesota Statutes § 13.05, subd. 11 apply to this contract. The CONTRACTOR and Minnesota State must comply with the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13, as it applies to all data provided by Minnesota State in accordance with this contract, and as it applies to all data, created, collected, received, stored, used, maintained, or disseminated by the CONTRACTOR in accordance with this contract. The civil remedies of Minnesota Statutes §13.08 apply to the release of the data referred to in this clause by either the CONTRACTOR or Minnesota State. Minnesota State solely and exclusively owns and retains all right, title, and interest, whether express or implied in and to its data. For purposes of this section “Minnesota State data” has the meaning of “government data” in Minn. Stat. §13.02, subd. 7. CONTRACTOR has no and acquires no right, title, or interest, whether expressed or implied, in and to Minnesota State data.

   b. Data Requests. In the event the CONTRACTOR receives a request to release the data referred to in this clause, the CONTRACTOR must immediately notify Minnesota State. Minnesota State will give the CONTRACTOR instructions concerning the release of the data to the requesting party before the data is released.
c. Not-Public Data. The CONTRACTOR acknowledges that the Contract may allow it to access private data, including but not limited to “educational data” as defined at Minnesota Statutes § 13.32; “not public data” as defined at Minnesota Statutes § 13.02, subd. 8a; and “nonpublic data” as defined at Minnesota Statutes § 13.02, subd. 9. CONTRACTOR is responsible for maintaining the confidentiality, security, and protection of Minnesota State data related to the Contract. The CONTRACTOR further acknowledges that for the purposes of this Contract it will be designated as a “school official” with “legitimate educational interests” in Minnesota State data, as those terms have been defined under the Family Educational Rights and Privacy Act (FERPA) and its implementing regulations, and the CONTRACTOR agrees to abide by the limitations and requirements imposed by 34 CFR 99.33(a) on school officials. The CONTRACTOR will use Minnesota State data only for the purpose of fulfilling its duties under this Contract, and will not monitor or share such data with or disclose it to any third party except as provided for in this Contract, required by law, or authorized in writing by Minnesota State. CONTRACTOR will not access Minnesota State user accounts except to respond to service or technical problems or at Minnesota State’s specific request. The CONTRACTOR agrees that no Minnesota State data shall be transmitted, exchanged or otherwise provided to other parties except as specifically agreed to in writing by Minnesota State contract administrator or delegate. CONTRACTOR must ensure that any contractors, subcontractors, agents and others to whom it provides Minnesota State data, agree in writing to be bound by the same restrictions and conditions under this Contract that apply to CONTRACTOR with respect to such data.

13. OWNERSHIP OF MATERIALS AND INTELLECTUAL PROPERTY RIGHTS.
   a. Minnesota State shall own all rights, title and interest in all of the materials conceived or created by the Contractor, or its employees or subcontractors, either individually or jointly with others and which arise out of the performance of this contract, created and paid for under this contract, including any inventions, reports, studies, designs, drawings, specifications, notes, documents, software and documentation, computer based training modules, electronically, magnetically or digitally recorded material, and other work in whatever form (hereinafter “Materials”).

   The Contractor hereby assigns to Minnesota State all rights, title and interest to the Materials. The Contractor shall, upon request of Minnesota State, execute all papers and perform all other acts necessary to assist Minnesota State to obtain and register copyrights, patents or other forms of protection provided by law for the Materials. The Materials created under this contract by the Contractor, its employees or subcontractors, individually or jointly with others, shall be considered “works made for hire” as defined by the United States Copyright Act. All of the Materials, whether in paper, electronic, or other form, shall be remitted to Minnesota State by the Contractor, its employees and any Subcontractors, and the Contractor shall not copy, reproduce, allow or cause to have the Materials copied, reproduced or used for any purpose other than performance of the Contractor’s obligations under this contract without the prior written consent of an authorized representative of Minnesota State.
b. The Contractor represents and warrants that Materials produced or used under this contract do not and will not infringe upon any intellectual property rights of another, including, but not limited to, patents, copyrights, trade secrets, trade names, and service marks and names. The Contractor shall indemnify and defend, to the extent permitted by the Attorney General, Minnesota State at the Contractor’s expense from any action or claim brought against Minnesota State to the extent that it is based on a claim that all or part of the Materials infringe upon the intellectual property rights of another. The Contractor shall be responsible for payment of any and all such claims, demands, obligations, liabilities, costs and damages, including, but not limited to, reasonable attorney fees arising out of this contract, amendments and supplements thereto, which are attributable to such claims or actions.

If such a claim or action arises, or in the Contractor’s or the opinion of Minnesota State is likely to arise, the Contractor shall, at the discretion of Minnesota State, either procure for Minnesota State the right or license to continue using the Materials at issue or replace or modify the allegedly infringing Materials. This remedy shall be in addition to and shall not be exclusive to other remedies provided by law.

14. **ANTITRUST.**
The Contractor hereby assigns to the State of Minnesota any and all claims for overcharges as to goods or services provided in connection with this contract resulting from antitrust violations which arise under the antitrust laws of the United States or the antitrust laws of the State of Minnesota.

15. **JURISDICTION AND VENUE.**
This contract, and amendments and supplements thereto, shall be governed by the laws of the State of Minnesota. Venue for all legal proceedings arising out of this contract, or breach thereof, shall be in the state or federal court with competent jurisdiction in Ramsey County, Minnesota.

16. **AMENDMENTS.**
Any amendments to this contract shall be in writing and shall be executed by the same parties who executed the original contract, or their successors in office.

17. **STATE AUDITS.**
The books, records, documents, and accounting procedures and practices of the Contractor relevant to this contract shall be subject to examination by Minnesota State and the Legislative Auditor for a minimum of six (6) years from the end of the contract.

18. **SURVIVAL OF TERMS.**
The following clauses survive the expiration, cancellation or termination of this contract: Liability; Publicity; Data Disclosure; Government Data Practices Act; Ownership of Materials and Intellectual
Property Rights; Jurisdiction and Venue; State Audits; Gramm Leach Bliley Act; and Physical and Data Security.

19. **FORCE MAJEURE.**
No party to this contract shall be responsible for any delays or failure to perform any obligation under this contract due to acts of God, strikes or other disturbances, including, without limitation, war, insurrection, embargoes, governmental restrictions, acts of governments or governmental authorities, and any other cause beyond the control of such party. During an event of force majeure the parties’ duty to perform obligations shall be suspended.

20. **INSURANCE.**
a. Contractor shall submit an *ACORD* Certificate of Insurance to an authorized representative of Minnesota State prior to execution of the Master Contract.

b. Contractor shall maintain and furnish satisfactory evidence of the following:
   i. **Workers' Compensation Insurance.** Contractor shall provide workers’ compensation insurance for all its employees and, in case any work is subcontracted, Contractor shall require the subcontractor to provide workers’ compensation insurance in accordance with the statutory requirements of the State of Minnesota, including Coverage B, Employer’s Liability, at limits not less than $100,000.00 bodily injury by disease per employee, $500,000.00 bodily injury by disease aggregate, and $100,000.00 bodily injury by accident.

   ii. **Commercial General Liability.** Contractor shall maintain a comprehensive commercial general liability insurance (CGL) policy protecting it from bodily injury claims and property damage claims which may arise from operations under the Master Contract whether the operations are by Contractor or by a subcontractor or by anyone directly or indirectly employed under the Master Contract.

      The minimum insurance amounts will be:
      - $2,000,000.00 per occurrence;
      - $2,000,000.00 annual aggregate applying per project or location;
      - $2,000,000.00 annual aggregate applying to Products/Completed Operations

      In addition, the following coverages shall be included:
      - Premises and Operations Bodily Injury and Property Damage,
      - Personal Injury and Advertising Injury,
      - Products and Completed Operations Liability,
      - Contractual Liability as provided in Insurance Services Office (ISO) form CG 00 01 04 13 or its equivalent,
• Pollution Exclusion with standard exception as per Insurance Services Office (ISO) Commercial General Liability Coverage Form – CG 00 01 04 13 or its equivalent,
• Independent Contractors (let or sublet work),
• Waiver of Subrogation in favor of Minnesota State,
• Coverage will not contain any restrictive endorsement(s) excluding or limiting Broad Form Property Damage (BFPD) or Explosion, Collapse, Underground (XCU).

Name the following as Additional Insureds, to the extent permitted by law:
The Board of Trustees of the Minnesota State Colleges and Universities and its officers and members, to include the Project’s College or University, the State of Minnesota, officers and employees of the State of Minnesota, and its agents as additional named insured, to the extent permitted by law, for claims arising out of the Contractor’s negligence or the negligence of those for whom the Contractor is responsible for both ongoing and completed operations.

iii. **Commercial Automobile Liability.** Contractor shall maintain insurance protecting it from bodily injury claims and property damage claims resulting from the ownership, operation, maintenance or use of all owned, hired, and non-owned autos which may arise from operations of vehicles under the Master Contract, and in case any work is subcontracted the Contractor will require the subcontractors to maintain Commercial Automobile Liability insurance.

The minimum insurance amounts will be:
• $2,000,000.00 per occurrence Combined Single Limit (CSL) for bodily injury and property damage.

In addition, the following coverage shall be included:
• Owned, Hired, and Non-owned

c. **Additional Insurance Conditions:**
• Contractor’s policy(ies) shall be primary insurance to any other valid and collectible insurance available to Minnesota State with respect to any claim arising out of Contractor’s performance under this Master Contract:

• If Contractor receives a cancellation notice from an insurance carrier affording coverage herein, Contractor agrees to notify Minnesota State within five (5) business days with a copy of the cancellation notice unless Contractor’s policy(ies) contain a provision that coverage afforded under the policy(ies) will not be cancelled without at least thirty (30) days advance written notice to Minnesota State.

• Contractor is responsible for payment of Master Contract related insurance premiums and deductibles;
• Contractor’s policy(ies) shall include legal defense fees in addition to its liability policy limits;

• The insurance policies will be issued by a company or companies having an “A.M. Best Company” financial strength rating of A- (Excellent) or better and authorized to do business in the State of Minnesota prior to execution of the Master Contract.

• An Umbrella or Excess Liability insurance policy may be used to supplement the Contractor’s policy limits to satisfy the full policy limits required by the Master Contract.

d. Errors and Omissions (E&O) Insurance.
Contractor shall maintain insurance protecting it from claims Contractor may become legally obligated to pay resulting from any actual or alleged negligent act, error or omission related to Contractor’s services required under this contract. The minimum insurance amounts will be:
- $2,000,000.00 per occurrence
- $2,000,000.00 annual aggregate

Contractor shall submit a certified financial statement providing evidence Contractor has adequate assets to cover any applicable E & O policy deductible.

e. Minnesota State reserves the right to immediately terminate this Master Contract if Contractor is not in compliance with the insurance requirements and retains all rights to pursue any legal remedies against Contractor. All insurance policies must be available for inspection by Minnesota State and copies of policies must be submitted to an authorized representative of Minnesota State upon written request.

21. AFFIRMATIVE ACTION - WORKFORCE CERTIFICATION REQUIREMENTS FOR CONTRACTS IN EXCESS OF $100,000.00 AND THE CONTRACTOR HAS MORE THAN 40 FULL-TIME EMPLOYEES IN MINNESOTA OR ITS PRINCIPAL PLACE OF BUSINESS.

Minnesota State intends to carry out its responsibility for requiring affirmative action by its Contractor.

a. Covered Contracts and Contractors. If the contract exceeds One Hundred Thousand and 00/100 Dollars ($100,000.00) and the Contractor employed more than forty (40) full-time employees on a single working day during the previous twelve (12) months in Minnesota or in the state where it has its principal place of business, then the Contractor must comply with the requirements of Minnesota Statutes §363A.36 and Minnesota R. Parts 5000.3400-5000.3600. A CONTRACTOR covered by Minnesota Statutes §363A.36 because it employed more than
forty (40) full-time employees in another state and the Contractor does not have a Certificate of Compliance, said Contractor must certify that it is in compliance with federal affirmative action requirements. Contractor must obtain an Workforce Certificate from the Minnesota Department of Human Rights (MDHR) or claim an exemption prior to Contract execution.

b. Minnesota Statutes §363A.36. Minnesota Statutes §363A.36 requires Contractor to have an affirmative action plan for the employment of minority persons, women, and qualified disabled individuals approved by the Minnesota Commissioner of Human Rights (hereinafter Commissioner) as indicated by a certificate of compliance. The law addresses suspension or revocation of a certificate of compliance and contract consequences in that event. A contract awarded without a certificate of compliance may be voided.

c. Minnesota R. 5000.3400-5000.3600.

i. General. Minnesota R. 5000.3400-5000.3600 implement Minnesota Statutes §363A.36. These rules include, but are not limited to: criteria for contents, approval, and implementation of affirmative action plans; procedures for issuing certificates of compliance and criteria for determining a Contractor’s compliance status; procedures for addressing deficiencies, sanctions, and notice and hearing; annual compliance reports; procedures for compliance review; and contract consequences for non-compliance. The specific criteria for approval or rejection of an affirmative action plan are contained in various provisions of Minnesota R. 5000.3400-5000.3600, including, but not limited to, parts 5000.3420-5000.3500 and 5000.3552-5000.3559.

ii. Disabled Workers. The Contractor must comply with the following affirmative action requirements for disabled workers.

A. The Contractor must not discriminate against any employee or applicant for employment because of physical or mental disability in regard to any position for which the employee or applicant for employment is qualified. The Contractor agrees to take affirmative action to employ, advance in employment, and otherwise treat qualified disabled persons without discrimination based upon their physical or mental disability in all employment practices such as the following: employment, upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

B. The Contractor agrees to comply with the rules and relevant orders of the Minnesota Department of Human Rights issued pursuant to the Minnesota Human Rights Act.

C. In the event of the Contractor’s noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with Minnesota Statutes
§363A.36, and the rules and relevant orders of the Minnesota Department of Human Rights issued pursuant to the Minnesota Human Rights Act.

D. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Commissioner of the Minnesota Department of Human Rights. Such notices must state the Contractor’s obligation under the law to take affirmative action to employ and advance in employment qualified disabled employees and applicants for employment, and the rights of applicants and employees.

E. The Contractor must notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the Contractor is bound by the terms of Minnesota Statutes §363A.36 of the Minnesota Human Rights Act and is committed to take affirmative action to employ and advance in employment physically and mentally disabled persons.

iii. **Consequences.** The consequences for the Contractor’s failure to implement its affirmative action plan or make a good faith effort to do so include, but are not limited to, suspension or revocation of a certificate of compliance by the Commissioner, refusal by the Commissioner to approve subsequent plans, and termination of all or part of this contract by the Commissioner or Minnesota State.

iv. **Certification.** The Contractor hereby certifies it is in compliance with the requirements of Minnesota Statutes §363A.36 and Minnesota R. 5000.3400-5000.3600 and is aware of the consequences for noncompliance.

22. **EQUAL PAY CERTIFICATION REQUIREMENTS FOR CONTRACTS IN EXCESS OF $500,000.00 AND THE CONTRACTOR HAS MORE THAN 40 FULL-TIME EMPLOYEES IN MINNESOTA OR ITS PRIMARY PLACE OF BUSINESS.**

Minnesota State intends to carry out its responsibility for requiring equal pay by its Contractors.

a. **Covered Contracts and Contractors.** If the amount of this contract is in excess of $500,000.00 and the Contractor has 40 or more full-time employees in Minnesota or a state where the business has its primary place of business on a single day during the prior 12 months, the Contractor must comply with the requirements of Minnesota Statutes §363A.44 prior to contract execution. Contractor must obtain an Equal Pay Certificate from the Minnesota Department of Human Rights (MDHR) or claim an exemption prior to Contract execution. Contractor is exempt if it has not employed more than 40 full-time employees on any single working day in one state during the previous 12 months. A certificate is valid for four years.
i. Consequences. The consequences for the Contractor’s failure to secure and comply with Minnesota Statutes §363A.44 or make a good faith effort to do so, include but are not limited to, suspension or revocation of a certificate of Compliance by the Commissioner, and termination of all or part of this contract by the Commissioner or Minnesota State.

ii. Certification. The Contractor hereby certifies it is in compliance with the requirements of Minnesota Statutes §363A.44 and applicable rules and regulations and is aware of the consequences for noncompliance.

24. ENTIRE AGREEMENT.
This Contract represents the entire agreement between the parties and supersedes any previous discussions or agreements, either verbal or written that occurred between the parties. This Contract may not be amended except by written agreement signed by the parties hereto. In the event of any conflict or inconsistency between this Contract and any riders, exhibits, addenda, or other document incorporated herein, this Contract shall govern.

25. GRAMM LEACH BLILEY ACT. MINNESOTA STATE and the CONTRACTOR mutually agree to comply with the requirements of the Gramm Leach Bliley Act (“GLB”) dealing with the confidentiality of customer information and the Safeguards Rule.

A. Definitions:

1) Covered Data and Information includes Student Financial Information (defined below) required to be protected under the Gramm Leach Bliley Act (GLB), as well as any credit card information received in the course of business by MINNESOTA STATE, whether or not such credit card information is covered by GLB. Covered data and information includes both paper and electronic records.

2) Student Financial Information is that information that MINNESOTA STATE has obtained from a customer in the process of offering a financial product or service, or such information provided to MINNESOTA STATE by another financial institution. Offering a financial product or service includes offering student loans to students, receiving income tax information from a student’s parent when offering a financial aid package, and other miscellaneous financial services as defined in 12 C.F.R. § 225.28. Examples of student financial information include addresses, phone numbers, bank and credit card account numbers, income and credit histories and Social Security numbers, in both paper and electronic format.

B. Acknowledgement of Access to Covered Data and Information: The CONTRACTOR acknowledges that this contract allows the CONTRACTOR access to Covered Data and Information. Specifically, access to student financial information as defined in paragraph Part A, subpart 2 is anticipated under this contract.

C. Prohibition on Unauthorized Use or Disclosure of Covered Data and Information: The CONTRACTOR agrees to hold the covered data and information in strict confidence.
CONTRACTOR shall not use or disclose Covered Data and Information received from or on behalf of MINNESOTA STATE except as permitted or required by this contract, as required by law, or as otherwise authorized in writing by MINNESOTA STATE.

D. **Safeguard Standard:** The CONTRACTOR agrees that it will protect the Covered Data and Information it receives from or on behalf of MINNESOTA STATE according to commercially acceptable standards and no less rigorously than it protects its own confidential information.

E. **Destruction of Covered Data and Information:** Upon termination, cancellation, expiration or other conclusion of this contract, the CONTRACTOR shall extend the protections of this section to Covered Data and Information received from or created on behalf of MINNESOTA STATE, and limit further uses and disclosures of such Covered Data and Information, for so long as CONTRACTOR maintains the Covered Data and Information. When the CONTRACTOR no longer needs to maintain the Covered Data and Information, the CONTRACTOR shall destroy the Covered Data and Information in a secure manner.

F. **Term and Termination:**

1) In addition to the rights of the parties established herein, if MINNESOTA STATE reasonably determines in good faith that CONTRACTOR has materially breached any of its obligations under this section, MINNESOTA STATE, in its sole discretion, shall have the right to:

   a. Exercise any of its rights to reports, access and inspection under this section; and/or

   b. Require CONTRACTOR to submit to a plan of monitoring and reporting, as MINNESOTA STATE may determine necessary to maintain compliance with this section; and/or

   c. Provide CONTRACTOR with a fifteen (15) day period to cure the breach; and/or

   d. Terminate this contract immediately if CONTRACTOR has breached a material term of this section and cure is not possible.

2) Before exercising any of these options, MINNESOTA STATE shall provide written notice to CONTRACTOR describing the violation and the action it intends to take.

G. **Subcontractors and Agents:** If CONTRACTOR provides any Covered Data and Information which was received from, or created for, MINNESOTA STATE to a subcontractor or agent, then CONTRACTOR shall require such subcontractor or agent to agree to the same restrictions and conditions as are imposed on CONTRACTOR by this section.

H. **Maintenance of the Security of Electronic Information:** CONTRACTOR shall develop, implement, maintain and use appropriate administrative, technical and physical security measures to preserve the confidentiality, integrity and availability of all electronically maintained or transmitted Covered Data and Information received from, or on behalf of, MINNESOTA STATE.

26. **PHYSICAL AND DATA SECURITY**

CONTRACTOR agrees to the following terms:
a. CONTRACTOR will comply with all applicable state, federal and local laws and regulations, including but not limited to the laws under Minnesota Statute Chapters 13 relating to confidentiality of information received as a result of the contract and will protect such data using commercially-acceptable standards, no less rigorously than it protects its own confidential information. CONTRACTOR agrees that it, its officers, employees, and agents will be bound by such confidentiality laws and that it will establish procedures for safeguarding the information. CONTRACTOR agrees to notify its officers, employees, and agents of the requirements of confidentiality and of the possible penalties imposed by violation of these laws. CONTRACTOR agrees that neither it, nor its officers, employees or agents will disclose or make public any information received by CONTRACTOR on behalf of Minnesota State.

b. CONTRACTOR must recognize the sole and exclusive right of Minnesota State to control the use of Minnesota State Data. CONTRACTOR further agrees it will make no use of any of the described information, for either internal or external purposes, other than that which is directly related to the performance of the contract.

c. CONTRACTOR agrees it will indemnify and hold harmless the State of Minnesota and Minnesota State from any and all liabilities and claims resulting from the unauthorized disclosure by CONTRACTOR, its officers, employees or agents of any information required to be held confidential under the provisions of the contract(s) entered into as a result of this RFX. CONTRACTOR must return all source data to the “Authorized Representative” to be identified in the resulting contract.

d. Security Incidents. If CONTRACTOR becomes aware of a privacy or security incident regarding any Minnesota State data, CONTRACTOR will immediately report the event to Minnesota State and Minnesota State’s Chief Information Security Officer. The decision to notify and the actual notifications to Minnesota State’s data subjects affected by the security or privacy incident is the responsibility of Minnesota State. Notwithstanding anything to the contrary in this Contract, the CONTRACTOR shall indemnify, hold harmless and defend Minnesota State and its officers, and employees for and against any claims, damages, costs and expenses related to any privacy or security incident involving any Minnesota State data. CONTRACTOR shall reasonably mitigate any harmful effects resulting from any privacy or security incident involving any Minnesota State data. For purposes of this sub-section, "security incident" means the successful unauthorized access, use, disclosure, modification or destruction of data or interference with system operations in an information system. For purposes of this sub-section, "privacy incident" means violation of the Minnesota Government Data Practices Act (Minnesota Statutes chapter 13) and/or federal privacy requirements in federal laws, rules and regulations. This includes, but is not limited to, improper or unauthorized use or disclosure of not public data, improper or unauthorized access to or alteration of public data, and incidents in which the confidentiality of the data maintained by CONTRACTOR has been breached. For purposes of this section, “not public data” has the meaning in Minnesota Statutes section 13.02, subdivision 8a.

e. Security Program. CONTRACTOR must make all commercially reasonable efforts to protect and secure Minnesota State data related to this Contract. CONTRACTOR will establish and maintain an Information Security Program (“Program”) that includes an information security policy applicable to any and all cloud computing or hosting services (“Policy”). CONTRACTOR’s Program and Policy must align with appropriate industry security frameworks and standards.
such as National Institute of Standards and Technology ("NIST") 800-53 Special Publication Revision 4, Federal Information Processing Standards ("FIPS") 199, Federal Risk and Authorization Management Program ("FedRamp"), or Control Objectives for Information and Related Technology ("COBIT"). These measures will be extended by contract to all subcontractors used by Minnesota State. For purposes of this section, “cloud computing” has the meaning defined by the U.S. Department of Commerce, NIST Special Publication 800-145, currently available online at: http://csrc.nist.gov/publications/nistpubs/800-145/SP800-145.pdf. CONTRACTOR will make its Policy available to Minnesota State on a confidential, need-to-know basis, along with other related information reasonably requested by Minnesota State regarding CONTRACTOR’s security practices and policies. Unless inconsistent with applicable laws, CONTRACTOR and Minnesota State must treat the Policy and related information on security practices and policies that are specific to the State as confidential information and as not public data pursuant to Minnesota Statutes §13.37.

f. Data Encryption. CONTRACTOR agrees that any and all electronic transmission or exchange of Minnesota State data with Minnesota State and/or any other party shall take place via a secure connection protocol (using HTTPS or SFTP or equivalent). CONTRACTOR agrees to encrypt all data in transit and implement security controls to protect data at rest using commercially reasonable and industry accepted measures such as encryption.

g. Password Protection: CONTRACTOR agrees that any device or computer that resides at any Minnesota State facility, has access to a Minnesota State network, or stores any non-public data is equipped with strong and secure password protection in compliance with Operating Instructions 5.23.1.1;

h. Data Re-Use: CONTRACTOR agrees that any and all data exchanged will be used expressly and solely for the purpose enumerated in the Agreement. Minnesota State Data shall not be distributed, repurposed or shared across other applications, environments, or business units of CONTRACTOR. CONTRACTOR further agrees that no Minnesota State Data of any kind shall be transmitted, exchanged or otherwise passed to other contractors or interested parties except on a case-by-case basis as specifically agreed to in writing by Minnesota State.

i. End of Agreement Data Handling: All Minnesota State data shall be remitted, in a mutually agreeable format and media, to Minnesota State by CONTRACTOR upon request or upon completion, termination or cancellation of this Contract. The foregoing sentence does not apply if Minnesota State’s Chief Information Security Officer or delegate authorizes in writing CONTRACTOR to sanitize and/or destroy the data and CONTRACTOR certifies in writing the sanitization and/or destruction of the data. Ninety days following any remittance of Minnesota State data to Minnesota State, CONTRACTOR shall, unless otherwise instructed by Minnesota State in writing, sanitize and/or destroy any remaining data and certify in writing that the sanitization and/or destruction of the data has occurred. Any such remittance, sanitization or destruction will be at CONTRACTOR’s sole cost and expense.

j. Message Sending. If the CONTRACTOR sends messages (email, SMS, MMS, or similar) on Minnesota State’s behalf, CONTRACTOR agrees to (i) have a Domain-based Message Authentication, Reporting & Conformance (DMARC) policy in place and enforced and (ii) provide a Domain Keys Identified Mail (DKIM) signature to Minnesota State for any service that sends messages on Minnesota State’s behalf. CONTRACTOR further agrees to adhere to
Minnesota State’s message authentication standards throughout the duration of this Agreement, available upon request from Minnesota State.

k. Security Audits & Remediation. CONTRACTOR will audit the security of the systems and processes used to provide the Service, including those of any data centers or third parties used by CONTRACTOR to provide the Service. This security audit: (1) will be performed at least once every calendar year beginning with 2020; (2) will be performed according Statement on Standards for Attestation Engagements (“SSAE”) 16 Service Organization Control (“SOC”) 2, International Organization for Standardization (“ISO”) 27001/27002, or FedRAMP; (3) will be performed by third party security professionals at CONTRACTOR’s election and expense; (4) will result in the generation of an audit report (“Audit Report”), which will, to the extent permitted by applicable law, be deemed confidential information and as not public data under the Minnesota Government Data Practices Act; and (5) may be performed for other purposes in addition to satisfying this section. Upon Minnesota State’s reasonable, advance written request, CONTRACTOR will provide to Minnesota State a copy of the Audit Report. CONTRACTOR will make best efforts to remediate any control deficiencies identified in the Audit Report in a commercially reasonable timeframe. If Minnesota State becomes aware of any other CONTRACTOR controls that do not substantially meet Minnesota State’s requirements, Minnesota State may request remediation from the CONTRACTOR. CONTRACTOR will make best efforts to remediate any control deficiencies identified by Minnesota State or known by CONTRACTOR, in a commercially reasonable timeframe.

l. Reporting of Suspected and Actual Breaches. For this and following subsections, “breach” has the meaning given to it under the applicable Minnesota (Minn. Stat. § 13.055 Subd. 1(a)) or federal law. Immediately upon discovery of confirmed or suspected breach of Minnesota State Data, CONTRACTOR will notify Minnesota State by telephone and email. In no event will the report be made more than one (1) business day after CONTRACTOR knows or reasonably suspects a breach has or may have occurred. In the event of a suspected breach, CONTRACTOR will Minnesota State informed regularly of the progress of its investigation until the uncertainty is resolved.

m. Costs Arising from Breach. In the event of a breach by CONTRACTOR or its staff, or any other event requiring notification under applicable law, CONTRACTOR agrees to promptly reimburse all costs to Minnesota State arising from such breach, including but not limited to costs of notification of individuals, establishing and operating call center(s), credit monitoring and/or identity restoration services, time of Minnesota State personnel responding to the breach, civil or criminal penalties levied against Minnesota State, attorney’s fees, court costs, etc. Any breach may be grounds for immediate termination of the resulting contract by Minnesota State.

27. OTHER PROVISIONS. [IF “NONE”, WRITE “NONE”]
[IF ADDING OTHER PROVISIONS OR ATTACHMENTS THAT IMPACT OR CONFLICT WITH WHAT IS STATED IN THE CONTRACT, SEEK ASSISTANCE FROM SYSTEM LEGAL COUNSEL.]

The rest of this page intentionally left blank. Signature page to follow.
IN WITNESS WHEREOF, the parties have caused this contract to be duly executed intending to be bound thereby.

APPROVED:

1. CONTRACTOR [NAME]:
   Contractor certifies that the appropriate person(s) have executed the contract on behalf of Contractor as required by applicable articles, by-laws, resolutions, or ordinances.

   By  (authorized signature and printed name)
   Title
   Date

2. VERIFIED AS TO ENCUMBRANCE:
   Employee certifies that funds have been encumbered as required by Minnesota Statutes §16A.15.

   By  (authorized signature and printed name)
   Title
   Date

3. MINNESOTA STATE COLLEGES AND UNIVERSITIES
   SYSTEM OFFICE:

   By  (authorized signature and printed name)
   Title
   Date

4. AS TO FORM AND EXECUTION:

   By  (authorized signature and printed name)
   Title
   Date