INVITATION FOR BID
GMU-1648-20

ISSUE DATE: April 2, 2020

TITLE: High-flux single crystal X-ray diffractometer

PRIMARY PROCUREMENT OFFICER: Christopher Mullins, Senior Buyer, cmullin4@gmu.edu
SECONDARY PROCUREMENT OFFICER: Erin Rauch, Assistant Director, erauch@gmu.edu

DELIVERY DATE: State your earliest firm delivery date after receipt of order. If Mason is closed or otherwise cannot accept delivery due to the current COVID-19 environment vendor will be required to hold goods until Mason can accept delivery. If there is a storage fee associated with storage please clearly state that in your bid.

BID DUE DATE AND TIME: April 21, 2020 @ 2:00PM. See Section XI.B.4 for details on electronic bid submission.

QUESTIONS/INQUIRIES: E-mail all questions/inquiries for information to both procurement officers listed above no later than 4:00 PM EST on April 8, 2020. Responses to all questions will be posted on Mason’s Purchasing website by 5:00 PM EST on April 14, 2020.

In Compliance With This Invitation For Bid And To All The Conditions Imposed Herein, The Undersigned Offers And Agrees To Furnish The Services At The Price Indicated In SECTION X, PRICING SCHEDULE.

Name and Address of Firm:

Legal Name: ___________________________ Date: ___________________________

DBA: ___________________________

Address: ___________________________ By: ___________________________

__________________________________ Signature

FEI/FIN No. ___________________________ Name: ___________________________

Fax No. ___________________________ Title: ___________________________

Email: ___________________________ Telephone No. ___________________________

SWaM Certified: Yes: ______ No: ______ (See Section V. SWaM CERTIFICATION for complete details).

SWaM Certification Number: ___________________________

This public body does not discriminate against faith-based organizations in accordance with the Governing Rules, § 36 or against a Bidder/Offeror because of race, religion, color, sex, national origin, age, disability, or any other prohibited by state law relating to discrimination in employment.
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I. PURPOSE: The purpose and intent of this Invitation for Bids (IFB) is to establish a contract with one qualified source to provide a single Crystal X-ray Diffractometer, software, training on site, and one-year standard coverage service contract for George Mason University’s College of Science. George Mason University (herein after referred to as “Mason,” or “University”) is an educational institution and agency of the Commonwealth of Virginia.

II. PURCHASING MANUAL/GOVERNING RULES: This solicitation and any resulting contract shall be subject to the provisions of the Commonwealth of Virginia Purchasing Manual for Institutions of Higher Education and their Vendor's, and any revisions thereto, and the Governing Rules, which are hereby incorporated into this contract in their entirety. A copy of both documents is available for review at: https://vascupp.org

III. COMMUNICATION: Communications regarding this Invitation For Bids shall be formal from the date of issuance until a contract has been awarded. Unless otherwise instructed bidders are to communicate with only the Procurement Officers listed on the cover page. Bidders are not to communicate with any other employees of Mason.

IV. FINAL CONTRACT: For goods or “spot” purchases vendors will be awarded a contract through the issuance of a purchase order. However for term service contracts Mason’s standard two-party contract will be required. ATTACHMENT B to this solicitation is Mason’s standard two-party contract. It is the intent of this solicitation to base the final contractual documents off of Mason’s standard two-party contract and Mason’s General Terms and Conditions. Any exceptions to our standard contract and General Terms and Conditions should be denoted in your RFP response. Other documents may be incorporated into the final contract, either by way of attachment or by reference, but in all cases this contract document and Mason’s General Terms and Conditions shall jointly take precedence over all other documents and will govern the terms and conditions of the contract.

V. eVA BUSINESS-TO-GOVERNMENT VENDOR REGISTRATION: The eVA Internet electronic procurement solution, website portal www.eVA.virginia.gov, streamlines and automates government purchasing activities in the Commonwealth. The eVA portal is the gateway for vendors to conduct business with state agencies and public bodies. All vendors desiring to provide goods and/or services to the Commonwealth shall participate in the eVA Internet eprocurement solution by completing the free eVA Vendor Registration. All bidders or offerors agree to self-register in eVA and pay the Vendor Transaction Fees prior to being awarded a contract. Registration instructions and transaction fees may be viewed at: https://eva.virginia.gov/

VI. SWaM CERTIFICATION: Vendor agrees to fully support the Commonwealth of Virginia and Mason’s efforts related to SWaM goals. Upon contract execution, eligible vendors (as determined by Mason and the Virginia Department of Small Business and Supplier Diversity) shall submit all required documents necessary to achieve SWaM certification to the Department of Small Business and Supplier Diversity within 90 days. Vendors currently SWaM certified agree to maintain their certification for the duration of the contract and shall submit all required renewal documentation at least 30 days prior to existing SWaM expiration. https://www.sbsd.virginia.gov/

VII. SMALL BUSINESS SUBCONTRACTING PLAN: In accordance with Executive Order 35 it is the goal of the Commonwealth that over 42% of its purchases be made from small businesses. All potential bidders are required to fill out and submit Attachments A to be considered responsive.

VIII. SCOPE OF WORK: The contractor shall provide all equipment as needed and specified below to include freight charges and warranty provided in accordance with all the terms, specifications and conditions herein. Contractor must also be able to meet delivery deadline requested for equipment. The specification below is the end users preferred configuration. Contractor may only offer substitutes if equal or better and must clearly mark any changes in configuration as substitutes on their pricing/quote. If offering substitutes the contractor must provide detailed information, such as catalog cut outs, specifications and/or configuration information. Mason reserves the right to determine if substitutes are acceptable or not. The contractor must provide a grand total cost/price for their system as well as a detailed quote with their system configuration break out to be explained thoroughly (especially if proposing any substitute parts, equipment or configurations). No 3rd party support contracts allowed OEM warranty requirement for equivalent substitutions. Mason will award to the lowest, grand total bidder who meets the system requirements. Mason will perform any needed tests, etc. to confirm the system meets our requirements.

A. Radiation Enclosure
   • Must meet all regulations for radiation safety and safe operation by users.
   • Warning light outside enclosure to indicate X-ray On and Shutter Open status.
   • Well lighted interior cabinet with large viewing window to easily see inside the enclosure.
   • Safety interlock with shutter.

B. X-ray Generator
   • X-ray Generator with output rating up to 65W.
- Voltage output up to 65kV in 1kV steps
- Current output up to 2.0mA in 0.01mA steps
- Stability: 0.05% per 8 hours after 1/2 hour warm-up.
- Built in safety features.

C. Microfocus Sealed Tube X-ray Source
   - (1) 50W Microfocus Sealed Tube X-ray Source, Mo target.
   - Internal liquid cooling with high temperature stability ±0.1°C to keep the micro beam more stable with faster temperature stability and longer tube life times than air-cooling. No external chillers should be needed.
   - A separate 3 year non-prorated warranty for x-ray tube must be included.

D. Optics
   - Confocal multilayer mirror optics for Mo source.
   - Beam size for Mo shall be approximately 100-130um at sample position.
   - Collimator must be included.

E. 4-Circle Kappa Goniometer
   - Kappa axis of -179° to +179°
   - Omega axis -179° to +179°
   - 2θ axis -179° to +179°
   - Less than 7um sphere of confusion
   - Motorized sample to detector distance from 41mm – 250mm.
   - IUCr XYZ goniometer head included
   - Cryo mount must be included.

F. Video System for Sample Viewing
   - Color CMOS camera with at least 1.2 million pixels
   - Field of view at least 1.25 mm width effective size

G. Hybrid Photon Counting Detector (HPC)
   - 2-dimentional HPC detector must be included with direct photon counting (no phosphor or visible light conversion, such as with CCD, CMOS/CPAD) using a Silicon sensor.
   - Active area at least 3000mm².
   - Pixel size 100 x 100mm² or smaller with point spread function no greater than 1 pixel.
   - Maximum count rate >1 x 10⁶ cps/pixel.
   - Readout time 3.7 ms in standard mode.
   - High dynamic range with 31-bit counter enabling weak and strong reflections to always be measured in a single pass without the need to rescan.
   - Free from dark current and read noise.
   - Air-cooled.
   - Manufactured by the XRD vendor for total system responsibility and long term support.

H. Computer
   - Intel Core i5 or greater CPU
   - Windows 10 (64bit) OS
   - 8 GB or greater RAM
   - 250 GB SSD system disk and 1 TB data disk
   - 24” Full HD (1920 x 1080 resolution) display
   - Keyboard & Mouse

I. Software
   The software must be a comprehensive data acquisition and data reduction program for single crystal diffraction and powder diffraction experiments. The software must be supplied as a multi-user, multi-site license. Software version upgrades and version updates with new features must be made available free of charge. The software package will comprise of a user-friendly graphical user interface (GUI) for the purpose of data collection, data reduction, and data analysis incorporating several modules.

   Data collection:
• Complete package to control the system.
• Complete package to carry out crystallographic measuring procedures.
• Fully flexible multi-threaded strategy calculator optimized for the 4-circle kappa geometry capable of collecting complete data in all symmetry settings with high precision and high speed.
• Fast sample screening tools in both Small Molecule and Protein Crystallography configurations.
• Ability to control all functions through command line interface.
• Auto data logging and remote control for X-ray Generator(s), Low Temperature Cryo Device and Autofill, and Safety Monitoring.
• Single “photos” including axial photos for crystal quality and symmetry checking.
• Peak search and analysis.
• Data collection set up via intelligent strategy module allowing many different user constraints.
• Automatic crystal evaluation and auto indexing, unit cell, and Bravais reduction.
• Profile inspection of two and three dimensional diffraction data.
• Reciprocal space visualization.
• Fully automatic implementation of all corrections.
• Single frame background subtraction and peak hunting.
• Powder diffraction data collection GUI.
• Multiple temperature experiment setup with intelligent cryo device control.
• Automated high pressure data collection and data reduction tools for diamond anvil cell (DAC) measurements.
• “What Is This?” data collection mode for small molecule structure determination within minutes.

Data reduction:
• Fully automatic data collection and data reduction at the same time.
• Experiment database.
• Summary report.
• Three dimensional peak integration via profile fitting algorithm.
• Profile inspection for assessment of peak integration parameters.
• Statistical data analysis for error diagnostic.
• Redundant and equivalent reflections merging.
• Automatic or manual application of a range of data scaling and absorption correction procedures with results displayed graphically.
• Full range of data filtering tools.
• Space group determination.
• Ability to handle twinned, incommensurate, and quasi crystals via specialist power tools.
• Simulated procession image reconstruction and data integration features.
• 2D Powder Diffraction pattern extraction and integration compatible with common 3rd party powder diffraction data analysis packages.
• MOSFLM, Denzo, and XDS compatibility.
• Face indexing absorption correction module with automated shape generation.

Power tools:
• Lattice wizard.
• Comprehensive data finalization GUI.
• Quick links to third party solution and refinement programs such as Olex2, OrtepIII, Crystals, Jana2006 or Shelxle

Productivity tools:
• Cell check software enabling full and freely available unit cell screening of the Cambridge Structure Database (CSD) during pre-experiment stage. Results can also be displayed in a licensed CSD or WebCSD. A local database can also be created.
• Instrument status reports automatically sent by email.
• On-line help system.

Automatic structure solution:
• Integrated into the same software package and provides real time automatic structure solution and refinement during data collection.
• Fully automated structure solution, refinement and report generation.
• Fully integrated with data collection software.
• Developed using >2500 structures.
• Majority of routine tested structures completed in under a minute and typically less than 30 seconds.
• Full user interaction and intervention possible at any time.
• Intelligent solution and refinement.
• Patterson, direct methods, or charge flipping.
• Automatically and intelligently uses a variety of licensed structure solution programs, including SMTBX (olex-solve), SHELX, SIR, or Super flip.
• Can work with or without the user supplying a chemical formula.
• Solutions in multiple space groups in difficult cases.
• Fourier-type atom assignment - anisotropic refinement where the data supports it - hydrogen atoms included in calculated geometric positions.
• The structure is re-labelled and refined to completion before a final html based structure report is generated.

J. Service Coverage
• Two years of parts and labor service coverage

IX. CONTRACT ADMINISTRATOR: Mr. Xiaoyan Tan, Assistant Professor, Chemistry and Biochemistry or designee, shall serve as Contract Administrator and shall use all powers under the contract to enforce its faithful performance. The Contract Administrator, or their designee, shall determine the amount, quality, acceptability, and fitness of all aspects of the goods and services and shall decide all other questions in connection with the goods/services described herein. The Contract Administrator, or their designee, shall not have the authority to approve changes in the contract which may alter the concept or which calls for an extension of time or a change in the contract price. Any modifications made must be authorized by Mason’s Purchasing Department as a written addendum to the contract.

X. PRICING SCHEDULE: Below is an example of how pricing could be provided. Award will be based on Grand Total Sum a package price would also be accepted.

<table>
<thead>
<tr>
<th>QTY</th>
<th>PRICE</th>
</tr>
</thead>
<tbody>
<tr>
<td>A. Hardware</td>
<td>1</td>
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<tr>
<td>B. Software</td>
<td>1</td>
</tr>
<tr>
<td>C. Training</td>
<td>1</td>
</tr>
<tr>
<td>D. Two year service contract</td>
<td>1</td>
</tr>
<tr>
<td>E. Install</td>
<td></td>
</tr>
<tr>
<td>F. Delivery</td>
<td></td>
</tr>
</tbody>
</table>

GRAND TOTAL SUM: $ __________

Delivery: State your earliest firm delivery date after receipt of order __________. If Mason is closed or otherwise cannot accept delivery due to the current COVID-19 environment vendor will be required to hold goods until Mason can accept delivery. If there is a storage fee associated with storage please clearly state that in your bid.

XI. SOLICITATION TERMS AND CONDITIONS:


B. SPECIAL TERMS AND CONDITIONS:

1. AWARD: George Mason University will make an award on the GRAND TOTAL SUM basis to the lowest responsive and responsible bidder meeting the requirements of the solicitation. Mason reserves the right to conduct any test it may deem advisable and to make all evaluations. Mason also reserves the right to reject any or all bids, in whole or in part, to waive informalities and to delete items prior to making the award, whenever it is deemed in the sole opinion of the procuring public body to be in its best interest.
2. **BID ACCEPTANCE PERIOD:** Any bid in response to this solicitation shall be valid for sixty (60) days. At the end of the sixty (60) days the bid may be withdrawn at the written request of the bidder. If the bid is not withdrawn at that time it remains in effect until an award is made or the solicitation is canceled.

3. **BID PRICES:** Bid shall be in the form of a firm unit price for each item during the contract period.

4. **ELECTRONIC BID SUBMISSION:** Due to the Coronavirus/COVID-19 outbreak a public bid opening will not be held in public. Bids will be opened by the Primary Purchasing Officer for this IFB and witnessed by another Purchasing staff member. Bid results will be available upon request. At this time, and until further notice, Mason will be accepting electronic proposal submissions for all current Request For Proposals and Invitation For Bids.

   The following shall apply:

   1. You must submit your bid/proposal, and it must be received prior to the submission deadline, at both the primary and secondary procurement officer’s email address as specified in the Bid/RFP.

   2. The subject line of your email submission should read, “IFB GMU-1648-20” If you are sending multiple emails, please state so in the subject line with the wording, “This is email # _ of _ total”

   3. The bidder must ensure bids are delivered to the procurement officers’ email inboxes, sufficiently in advance of the bid deadline. Plan Ahead: It is the bidders responsibility to ensure that electronic proposal submissions have sufficient time to make its way through any filters or email traffic. Mason recommends you submit your bid the day prior to the due date.

   4. While you may send your bid in multiple emails, each email itself may only have one PDF attachment containing all supplemental information and attachments.

   5. Each email may not be larger than 20MB.

   6. All solicitation schedules are subject to change.


5. **INDEMNIFICATION:** The contractor agrees to indemnify, defend and hold harmless the Commonwealth of Virginia, its officers, agents, and employees from any claims, damages and actions of any kind or nature, whether at law or in equity, arising from or caused by the use of any materials, goods, or equipment of any kind or nature furnished by the contractor/any services of any kind or nature furnished by the contractor, provided that such liability is not attributable to the sole negligence of the using agency or to failure of the using agency to use the materials, goods, or equipment in the manner already and permanently described by the contractor on the materials, goods or equipment delivered.

6. **SPECIAL EDUCATIONAL OR PROMOTIONAL DISCOUNTS:** The Contractor shall extend any special educational or promotional sale prices or discounts immediately to Mason. Such notice shall also advise the duration of the specific sale or discount price.

7. **SUBCONTRACTS:** No portion of the work shall be subcontracted without prior written consent from Mason. In the event that the Contractor desires to subcontract some part of the work specified herein, the Contractor shall furnish Mason the names, qualifications and experience of their proposed subcontractors. The Contractor shall, however, remain fully liable and responsible for the work to be done by its subcontractor(s) and shall assure compliance with all requirements of this Contract.

XII. **METHOD OF PAYMENT:** PLEASE NOTE: THE VENDOR MUST REFERENCE THE PURCHASE ORDER NUMBER ON ALL INVOICES SUBMITTED FOR PAYMENT.

**Option #1**- Payment to be mailed in 10 days-The University will make payment to the vendor under 2%/10 Net 30 payments terms. Invoices should be submitted via email to the designated Accounts Payable email address which is: AcctPay@gmu.edu

The 10 day payment period begins the first business day after receipt of proper invoice or receipt of goods, whichever occurs last. **A paper check will be mailed on or before the 10th day.**
Option #2- To be paid in 20 days. The vendor may opt to be paid through our Virtual Payables credit card program. The vendor shall submit an invoice and will be paid via credit card on the 20th day from receipt of a valid invoice. The vendor will incur standard credit card interchange fees through their processor. All invoices should be sent to:

George Mason University  
Accounts Payable Department  
4400 University Drive, Mailstop 3C1  
Fairfax, Va. 22030  
Voice: 703.993.2580 | Fax: 703.993.2589  
e-mail:  
AcctPay@gmu.edu

Option #3- Net 30 Payment Terms. Vendor will enroll in Paymode-X where all payments will be made electronically to the vendor’s bank account. For additional information or to sign up for electronic payments, go to http://www.paymode.com/gmu. There is no charge to the vendor for enrolling in this service.

Please circle your payment preference or note it in your bid response.
ATTACHMENT A – SMALL BUSINESS SUBCONTRACTING PLAN

It is the goal of the Commonwealth that over 42% of its purchases be made from small businesses. All potential bidders are required to include this document with their bid response in order to be considered responsive.

Small Business: “Small business (including micro)” means a business which holds a certification as such by the Virginia Department of Small Business and Supplier Diversity (DSBSD) on the due date for bids. This shall also include DSBSD-certified women-owned and minority-owned businesses and businesses with DSBSD service disabled veteran owned status when they also hold a DSBSD certification as a small business on the bid due date. Currently, DSBSD offers small business certification and micro business designation to firms that qualify.

Certification applications are available through DSBSD online at www.SBSD.virginia.gov (Customer Service).

Bidder Name: _____________________________________________

Preparer Name: __________________________________________   Date: ____________________

Instructions
A. If you are certified by the DSBSD as a micro/small business, complete only Section A of this form.

B. If you are not a DSBSD-certified small business, complete Section B of this form. For the bid to be considered and the bidder to be declared responsive, the bidder shall identify the portions of the contract that will be subcontracted to DSBSD-certified small business for the initial contract period in relation to the bidder’s total price for the initial contract period. in Section B.

Section A
If your firm is certified by the DSBSD provide your certification number and the date of certification.

Certification number:__________________________________     Certification Date:________________________

Section B
Populate the table below to show your firm's plans for utilization of DSBSD-certified small businesses in the performance of this contract for the initial contract period in relation to the bidder’s total price for the initial contract period. Certified small businesses include but are not limited to DSBSD-certified women-owned and minority-owned businesses and businesses with DSBSD service disabled veteran-owned status that have also received the DSBSD small business certification. Include plans to utilize small businesses as part of joint ventures, partnerships, subcontractors, suppliers, etc. It is important to note that these proposed participation will be incorporated into the subsequent contract and will be a requirement of the contract. Failure to obtain the proposed participation percentages may result in breach of the contract.

<table>
<thead>
<tr>
<th>Micro/Small Business Name &amp; Address</th>
<th>DSBSD Certificate #</th>
<th>Status if Micro/Small Business is also: Women (W), Minority (M), or DSBSD Service Disabled Veteran-Owned</th>
<th>Contact Person, Telephone &amp; Email</th>
<th>Type of Goods and/or Services</th>
<th>Planned Involvement During Initial Period of the Contract</th>
<th>Planned Contract Dollars During Initial Period of the Contract ($ or %)</th>
</tr>
</thead>
</table>
ATTACHMENT B – SAMPLE CONTRACT
GMU-XXXX-20

Note: Other documents may be incorporated into this document, either by way of attachment or by reference, but in all cases this contract document shall take precedence over all other documents and will govern the terms and conditions of the contract.

This Contract entered on this ___ day of ___________ by ________________ hereinafter called “Contractor” (located at ____________) and George Mason University hereinafter called “Mason,” “University”.

I. WITNESSETH that the Contractor and Mason, in consideration of the mutual covenants, promises and agreement herein contained, agree as follows:

II. SCOPE OF CONTRACT: The Contractor shall provide _____________________ for the _________________ as set forth in the Contract Documents.

III. PERIOD OF CONTRACT: As negotiated

IV. PRICE SCHEDULE: As negotiated

V. CONTRACT ADMINISTRATION: __________ shall serve as Contract Administrator for this Contract and shall use all powers under the Contract to enforce its faithful performance. The Contract Administrators shall determine the amount, quality and acceptability of work and shall decide all other questions in connection with the work. All direction and order from Mason shall be transmitted through the Contract Administrator, however, the Contract Administrator shall have no authority to approve changes which shall alter the concept or scope or change the basis for compensation.

VI. METHOD OF PAYMENT: As negotiated. Payment shall be made 30 days from the date a valid invoice is received at acctpay@gmu.edu or the date of receipt of goods or services; whichever is later. Invoices must include a purchase order# to be considered valid.

VII. THE CONTRACT DOCUMENTS SHALL CONSIST OF (In order of precedence):

A. This signed form;
B. RFP No. GMU-XXXX-XX, in its entirety (incorporated herein by reference);
C. Contractor’s proposal dated XXXXXX (incorporated herein by reference);
D. Negotiation Responses dated XXXXX (incorporated herein by reference).


IX. CONTRACT PARTICIPATION: As negotiated

X. STANDARD TERMS AND CONDITIONS:

A. APPLICABLE LAW AND CHOICE OF FORUM: This Contract shall be construed, governed, and interpreted pursuant to the laws of the Commonwealth of Virginia. All disputes arising under this Contract shall be brought before an appropriate court in the Commonwealth of Virginia.

B. ANTI-DISCRIMINATION: By entering into this Contract Contractor certifies to the Commonwealth that they will conform to the provisions of the Federal Civil Rights Act of 1964, as amended, as well as the Virginia Fair Employment Contracting Act of 1975, as amended, where applicable, the Virginians With Disabilities Act, the Americans With Disabilities Act and §§ 9&10 of the Governing Rules. If Contractor is a faith-based organization,
the organization shall not discriminate against any recipient of goods, services, or disbursements made pursuant to the Contract on the basis of the recipient's religion, religious belief, refusal to participate in a religious practice, or on the basis of race, age, color, gender or national origin and shall be subject to the same rules as other organizations that contract with public bodies to account for the use of the funds provided; however, if the faith-based organization segregates public funds into separate accounts, only the accounts and programs funded with public funds shall be subject to audit by the public body. (Governing Rules, § 36).

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

1. During the performance of this Contract, the Contractor agrees as follows:

   a. The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the Contractor. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

   b. The Contractor, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, will state that such Contractor is an equal opportunity employer.

   c. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting these requirements.

2. The Contractor will include the provisions of 1. above in every subcontract or purchase order over $10,000, so that the provisions will be binding upon each subcontractor or Contractor.

C. ANTI TRUST: By entering into a contract, the Contractor conveys, sells, assigns, and transfers to the Commonwealth of Virginia all rights, title and interest in and to all causes of action it may now have or hereafter acquire under the antitrust laws of the United States and the Commonwealth of Virginia, relating to the particular goods or services purchased or acquired by the Commonwealth of Virginia under said contract.

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

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

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

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

H. BACKGROUND INVESTIGATIONS: Contractor’s employees (including subcontractors) performing services on any Mason campus must have successfully completed a criminal background check prior to the start of their work assignment/service. As stated in Administrative Policy Number 2221 — Background Investigations, the criminal background investigation will normally include a review of the individual’s records to include Social Security Number Search, Credit Report (if related to potential job duties), Criminal Records Search (any misdemeanor convictions and/or felony convictions are reported) in all states in which the employee has lived or worked over the past seven years, and the National Sex Offender Registry. In addition, the Global Watch list (maintained by the Office of Foreign Assets Control of The US Department of Treasury) should be reviewed. Signature on this contract confirms your compliance with this requirement.

I. CANCELLATION OF CONTRACT: Mason reserves the right to cancel this Contract, in part or in whole, without penalty, for any reason, upon 60 days written notice to the Contractor. Upon written notice of cancellation from Mason, Mason shall be fully released from any further obligation under the Contract and Contractor agrees to directly refund all payments, for services not already performed, to Mason, including any pre-paid deposits, within 14 days. In the
event the initial Contract period is for more than 12 months, the resulting Contract may be terminated by either party, without penalty, after the initial 12 months of the Contract period upon 60 days written notice to the other party. Any contract cancellation notice shall not relieve the Contractor of the obligation to deliver and/or perform on all outstanding orders issued prior to the effective date of cancellation.

J. **CHANGES TO THE CONTRACT**: Changes can be made to any resulting contract in any of the following ways:

1. The parties may agree in writing to modify the scope of the contract. An increase or decrease in the price of the contract resulting from such modification shall be agreed to by the parties as a part of their written agreement to modify the scope of the contract.

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

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

1. The firm must submit written claim to:
   Chief Procurement Officer
   George Mason University
   4400 University Drive, MSN 3C5
   Fairfax, VA 22030

2. The firm must submit any unresolved claim in writing no later than 60 days after final payment to the Chief Procurement Officer.

3. Upon receiving the written claim, the Chief Procurement Officer will review the written materials relating to the claim and will mail his or her decision to the firm within 60 days after receipt of the claim.
4. The firm may appeal the Chief Procurement Officer’s decision in accordance with § 55 of the Governing Rules.

L. COLLECTION AND ATTORNEY’S FEES: The Contractor shall pay to Mason any reasonable attorney’s fees or collection fees, at the maximum allowable rate permitted under Virginia law, incurred in enforcing this Contract or pursuing and collecting past-due amounts under this Contract.

M. COMPLIANCE: All goods and services provided to Mason shall be done so in accordance with any and all applicable local, state, federal, and international laws, regulations and/or requirements and any industry standards, including but not limited to: the Family Educational Rights and Privacy Act (FERPA), Health Insurance Portability and Accountability Act (HIPAA) and Health Information Technology for Economic and Clinical Health Act (HITECH), Government Data Collection and Dissemination Practices Act, Gramm-Leach-Bliley Financial Modernization Act (GLB), Payment Card Industry Data Security Standards (PCI-DSS), Americans with Disabilities Act (ADA), and Federal Export Administration Regulations. Any Contractor personnel visiting Mason facilities will comply with all applicable Mason policies regarding access to, use of, and conduct within such facilities. Mason’s policies can be found at https://universitypolicy.gmu.edu/all-policies/ and any facility specific policies can be obtained from the facility manager.

N. CONFIDENTIALITY OF PERSONALLY IDENTIFIABLE INFORMATION: The Contractor shall ensure that personally identifiable information (“PII”) which is defined as any information that by itself or when combined with other information can be connected to a specific person and may include but is not limited to personal identifiers such as name, address, phone, date of birth, Social Security number, student or personal identification numbers, driver’s license numbers, state or federal identification numbers, biometric information, religious or political affiliation, non-directory information, and any other information protected by state or federal privacy laws, will be collected and held confidential and in accordance with this agreement, during and following the term of this Contract, and will not be divulged without the individual's and Mason's written consent and only in accordance with federal law or the Code of Virginia.

O. CONFLICT OF INTEREST: Contractor represents to Mason that its entering into this Contract with Mason and its performance through its agents, officers and employees does not and will not involve, contribute to nor create a conflict of interest prohibited by Virginia State and Local Government Conflict of Interests Act (Va. Code 2.2-3100 et seq), the Virginia Ethics in Public Contracting Act (§57 of the Governing Rules), the Virginia Governmental Frauds Act (Va. Code 18.2 – 498.1 et seq) or any other applicable law or regulation.

P. DEBARMENT STATUS: As of the effective date, the Contractor certifies that it is not currently debarred by the Commonwealth of Virginia from submitting bids or proposals on contracts for the type of services covered by this Contract, nor is the Contractor an agent of any person or entity that is currently so debarred.

Q. DEFAULT: In the case of failure to deliver goods or services in accordance with any resulting contract terms and conditions, George Mason University, after due oral or written notice, may procure them from other sources and hold the contractor responsible for any resulting additional purchase and administrative costs. This remedy shall be in addition to any other remedies which George Mason University may have.

R. DRUG-FREE WORKPLACE: During the performance of this Contract, the Contractor agrees to (i) provide a drug-free workplace for the Contractor's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the Contractor that the Contractor maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract or purchase order of over $10,000, so that the provisions will be binding upon each subcontractor or Contractor.

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

S. ENTIRE CONTRACT: This Contract constitutes the entire understanding of the Parties with respect to the subject matter herein and supersedes all prior oral or written contracts with respect to the subject matter herein. This Contract can be modified or amended only by a writing signed by all of the Parties.

T. EXPORT CONTROL:
1. **Munitions Items**: If the Contractor is providing any items, data or services under this order that are controlled by the Department of State, Directorate of Defense Trade Controls, International Traffic in Arms Regulations (“ITAR”), or any items, technology or software controlled under the “600 series” classifications of the Bureau of Industry and Security’s Commerce Control List (“CCL”) (collectively, “Munitions Items”), prior to delivery, Contractor must:

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

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

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

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

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

V. **IMMIGRATION REFORM AND CONTROL ACT OF 1986**: By entering into this Contract Contractor certifies that they do not and will not during the performance of this Contract employ illegal alien workers or otherwise violate the provisions of the federal Immigration Reform and Control Act of 1986.

W. **INDEMNIFICATION**: Contractor agrees to indemnify, defend and hold harmless George Mason University the Commonwealth of Virginia, its officers, agents, and employees from any claims, damages and actions of any kind or nature, whether at law or in equity, arising from or caused by the use of any materials, goods, or equipment of any kind or nature furnished by the Contractor/any services of any kind or nature furnished by the Contractor, provided that such liability is not attributable to the sole negligence of Mason or to the failure of Mason to use the materials, goods, or equipment in the manner already and permanently described by the Contractor on the materials, goods or equipment delivered.

X. **INDEPENDENT CONTRACTOR**: The Contractor is not an employee of Mason, but is engaged as an independent contractor. The Contractor shall indemnify and hold harmless the Commonwealth of Virginia, Mason, and its employees and agents, with respect to all withholding, Social Security, unemployment compensation and all other taxes or amounts of any kind relating to the Contractor’s performance of this Contract. Nothing in this Contract shall be construed as authority for the Contractor to make commitments which will bind Mason or to otherwise act on behalf of Mason, except as Mason may expressly authorize in writing.

Y. **INFORMATION TECHNOLOGY ACCESS ACT**: Computer and network security is of paramount concern at George Mason University. The University wants to ensure that computer/network hardware and software does not compromise the security of its IT environment. You agree to use commercially reasonable measures in connection with any offering your company makes to avoid any known threat to the security of the IT environment at George Mason University.

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

Z. INSURANCE: The Contractor shall maintain all insurance necessary with respect to the services provided to Mason. The Contractor further certifies that they will maintain the insurance coverage during the entire term of the Contract and that all insurance is to be placed with insurers with a current reasonable A.M. Best’s rating authorized to sell insurance in the Commonwealth of Virginia by the Virginia State Corporation Commission. The Commonwealth of Virginia and Mason shall be named as an additional insured.

1. Commercial General Liability Insurance in an amount not less than $1,000,000 per occurrence for bodily injury or property damage, personal injury and advertising injury, products and completed operations coverage;

2. Workers Compensation Insurance in an amount not less than that prescribed by statutory limits; and, as applicable;

3. Commercial Automobile Liability Insurance applicable to bodily injury and property damage, covering owned, non-owned, leased, and hired vehicles in an amount not less than $1,000,000 per occurrence; and

4. An umbrella/excess policy in an amount not less than five million dollars ($5,000,000) to apply over and above Commercial General Liability, Employer’s Liability, Workers’ Compensation, and Commercial Automobile Liability Insurance.

AA. INTELLECTUAL PROPERTY: Contractor warrants and represents that it will not violate or infringe any intellectual property right or any other personal or proprietary right and shall indemnify and hold harmless Mason against any claim of infringement of intellectual property rights which may arise under this Contract.

Unless expressly agreed to the contrary in writing, all goods, products, materials, documents, reports, writings, video images, photographs or papers of any nature including software or computer images prepared or provided by Contractor (or its subcontractors) for Mason will not be disclosed to any other person or entity without the written permission of Mason.

Work Made for Hire. Contractor warrants to Mason that Mason will own all rights, title and interest in any and all intellectual property rights created in the performance or otherwise arising from the Contract and will have full ownership and beneficial use thereof, free and clear of claims of any nature by any third party including, without limitation, copyright or patent infringement claims. Contractor agrees to assign and hereby assigns all rights, title, and interest in any and all intellectual property created in the performance or otherwise arising from the Contract, and will execute any future assignments or other documents needed for Mason to document, register, or otherwise perfect such rights. Notwithstanding the foregoing, for research collaboration pursuant to subcontracts under sponsored research Contracts administered by the University's Office of Sponsored Programs, intellectual property rights will be governed by the terms of the grant or contract to Mason to the extent such grant or contract requires intellectual property terms to apply to subcontractors.

BB. NON-DISCRIMINATION: All parties to this Contract agree to not discriminate on the basis of race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age (except where sex or age is a bona fide occupational qualification, marital status or disability.

CC. PUBLICITY: The Contractor shall not use, in its external advertising, marketing programs or promotional efforts, any data, pictures, trademarks or other representation of Mason except on the specific written authorization in advance by Mason’s designated representative.

DD. REMEDIES: If the Contractor breaches this Contract, in addition to any other rights or remedies, Mason may terminate this Contract without prior notice.

EE. RENEWAL OF CONTRACT: This Contract may be renewed by Mason for four (4) successive one-year renewal options under the terms and conditions of this Contract except as stated in 1. and 2. below. Price increases may be negotiated only at the time of renewal. Written notice of the University’s intention to renew shall be given approximately 90 days prior to the expiration date of each contract period.
1. If the University elects to exercise the option to renew the Contract for an additional one-year period, the Contract price(s) for the additional one year shall not exceed the Contract price(s) of the original Contract increased/decreased by more than the percentage increase/decrease of the “other goods and services” category of the CPI-U section of the Consumer Price Index of the United States Bureau of Labor Statistics for the latest twelve months for which statistics are available.

2. If during any subsequent renewal periods, the University elects to exercise the option to renew the Contract, the Contract price(s) for the subsequent renewal period shall not exceed the Contract price(s) of the previous renewal period increased/decreased by more than the percentage increase/decrease of the “other goods and services” category of the CPI-U section of the Consumer Price Index of the United States Bureau of Labor Statistics for the latest twelve months for which statistics are available.

FF. REPORTING OF CRIMES, ACCIDENTS, FIRES AND OTHER EMERGENCIES: Any Mason Employee, including contracted service providers, who is not a staff member in Counseling and Psychological Services (CAPS) or a pastoral counselor, functioning within the scope of that recognition, is considered a “Campus Security Authority (CSA).” CSAs must promptly report all crimes and other emergencies occurring on or near property owned or controlled by Mason to the Department of Police & Public Safety or local police and fire authorities by dialing 9-1-1. At the request of a victim or survivor, identifying information may be excluded from a report (e.g., names, initials, contact information, etc.). Please visit the following website for more information and training: http://police.gmu.edu/clery-act-reporting/campus-security-authority-csa/

GG. RESPONSE TO LEGAL ORDERS, DEMANDS, OR REQUESTS FOR DATA: Except as otherwise expressly prohibited by law, Contractor will: i) immediately notify Mason of any subpoenas, warrants, or other legal orders, demands or requests received by Contractor seeking University Data; ii) consult with Mason regarding its response; iii) cooperate with Mason’s reasonable requests in connection with efforts by Mason to intervene and quash or modify the legal order, demand or request; and iv) upon Mason’s request, provide Mason with a copy of its response.

If Mason receives a subpoena, warrant, or other legal order, demand (including request pursuant to the Virginia Freedom of Information Act) or request seeking University Data maintained by Contractor, Mason will promptly provide a copy to Contractor. Contractor will promptly supply Mason with copies of data required for Mason to respond, and will cooperate with Mason’s reasonable requests in connection with its response.

HH. SEVERABILITY: Should any portion of this Contract be declared invalid or unenforceable for any reason, such portion is deemed severable from the Contract and the remainder of this Contract shall remain fully valid and enforceable.

II. SOVEREIGN IMMUNITY: Nothing in this Contract shall be deemed a waiver of the sovereign immunity of the Commonwealth of Virginia and of Mason.

JJ. SUBCONTRACTS: No portion of the work shall be subcontracted without prior written consent from Mason. In the event that the Contractor desires to subcontract some part of the work specified herein, the Contractor shall furnish Mason the names, qualifications and experience of their proposed subcontractors. The Contractor shall, however, remain fully liable and responsible for the work to be done by its subcontractor(s) and shall assure compliance with all requirements of this Contract. This paragraph applies to, but is not limited to, subcontractor(s) who process University Data.

KK. UNIVERSITY DATA: University Data includes all Mason owned, controlled, or collected PII and any other information that is not intentionally made available by Mason on public websites, including but not limited to business, administrative and financial data, intellectual property, and patient, student and personnel data. Contractor agrees to the following regarding University Data it may collect or process as part of this contract:

a. Contractor will use University Data only for the purpose of fulfilling its duties under the Contract and will not share such data with or disclose it to any third party without the prior written consent of Mason, except as required by the Contract or as otherwise required by law. University Data will only be processed by Contractor to the extent necessary to fulfill its responsibilities under the Contract or as otherwise directed by Mason.

b. University Data, including any back-ups, will not be accessed, stored, or transferred outside the United States without prior written consent from Mason. Contractor will provide access to University Data only to its employees and subcontractors who need to access the data to fulfill Contractor’s obligations under the Contract. Contractor will ensure that employees who perform work under the Contract have read, understood,
and received appropriate instruction as to how to comply with the data protection provisions of the Contract and to maintain the confidentiality of the University Data.

c. The parties agree that as between them, all rights including all intellectual property rights in and to University Data shall remain the exclusive property of Mason, and Contractor has a limited, nonexclusive license to use the University Data as provided in the Contract solely for the purpose of performing its obligations under the Contract. The Contract does not give a party any rights, implied or otherwise, to the other party’s data, content, or intellectual property, except as expressly stated in the Contract.

d. Contractor will take reasonable measures, including audit trails, to protect University Data against deterioration or degradation of data quality and authenticity. Contractor shall be responsible for ensuring that University Data, per the Virginia Public Records Act, is preserved, maintained, and accessible throughout their lifecycle, including converting and migrating electronic data as often as necessary so that information is not lost due to hardware, software, or media obsolescence or deterioration.

e. Contractor shall notify Mason within three business days if it receives a request from an individual under any applicable law regarding PII about the individual, including but not limited to a request to view, access, delete, correct, or amend the information. Contractor shall not take any action regarding such a request except as directed by Mason.

f. If Contractor will have access to University Data that includes “education records” as defined under the Family Educational Rights and Privacy Act (FERPA), the Contractor acknowledges that for the purposes of the Contract it will be designated as a “school official” with “legitimate educational interests” in the University education records, as those terms have been defined under FERPA and its implementing regulations, and the Contractor agrees to abide by the limitations and requirements imposed on school officials. Contractor will use the education records only for the purpose of fulfilling its duties under the Contract for Mason’s and its end user’s benefit, and will not share such data with or disclose it to any third party except as provided for in the Contract, required by law, or authorized in writing by the University.

g. Mason may require that Mason and Contractor complete a Data Processing Addendum (“DPA”). If a DPA is completed, Contractor agrees that the information in the DPA is accurate. Contractor will only collect or process University Data that is identified in the DPA and will only handle that data (e.g., type of processing activities, storage, security, disclosure) as described in the DPA. If Contractor intends to do anything regarding University Data that is not reflected in the DPA, Contractor must request an amendment to the DPA and may not take the intended action until the amendment is approved and documented by Mason.

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

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

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

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