



DATE: 12/28/2023

Addendum # 1

BID NO.: RFP 101331
OPENING: 1/10/2024 @ 11:00 am
COMMODITY: SPACE SURVEY SOFTWARE IMPLEMENTATION AND SUPPORT

This Addendum is being posted based on questions submitted to URI Purchasing for RFP #101331 by the question due date of 12/27/2023 at 12:00 pm. Additional questions will not be considered.

Vendor 1 Questions:

Q1: Which space survey software did URI use for its last F&A rate proposal? If a system was used, what is the name of the system and name of the software provider?

A1: None.

Q2: Does URI have space management software and the ability to export campus building data (e.g., building name, floor number, room number, room type, assignable square footage) in electronic format? If so, what is the name of the system and name of the software provider?

A2: Yes. URI utilizes INSITE (MIT proprietary software) for its space inventory/asset management. This system tracks all University space, including building name, floor number, room number, room type, assignable square footage and can be extracted in various file formats including CSV, excel, etc. The INSITE system is presently being used and updated for space walkthroughs. In Spring of 2024, URI is implementing ArcGIS Indoors to replace the INSITE system. INSITE will continue to be available for use as the systems are transitioned.

Q3: How many buildings and total assignable square footage does URI have on its main campus and the Agricultural Experiment Station?

A3: 325 facilities/structures with approximately 5 million assignable square feet.



Q4: How many academic buildings do you wish to survey? Will URI want to survey both main campus and the Agricultural Experiment Station?

A4: We will want to consult with the selected vendor on best practice for scope of survey. As an estimate, we expect to survey the top 25 research buildings, including buildings on the main campus, Bay Campus – Graduate School of Oceanography, and Agricultural Experiment Station.

Q5: Approximately how many Principal Investigators does the University of Rhode Island (URI) have?

A5: Approximately 430.

Q6: Approximately how many academic department grants managers/business managers will participate and need to be trained on the FY24 F&A space survey?

A6: Approximately 35.

Q7: Does the University of Rhode Island (URI) want to train users in-person, virtually, or a hybrid between the two methods?

A7: Virtually.

Q8: Does URI have notes of institutional records of F&A negotiation concerns about the last space survey?

A8: Yes, as applicable.

Vendor 2 Questions:

Q1: It is our understanding that a binding contract will not form upon award but rather only after such time as the parties have agreed to mutually acceptable terms and conditions and the contract has been executed by both Parties. Please confirm that this is accurate.

A1: A binding contract will not be awarded until the Agreement is mutually agreed upon, signed and a URI Purchase Order is issued.

Q2: May vendors submit sample contract provisions and/or contract exceptions with its proposal for the URI's consideration?

A2: Sample contract provisions and/or contract exceptions may be submitted, clearly marked as “samples” with your proposal; however, no negotiations will take place until a tentative award is made to the RFP.

**THE
UNIVERSITY
OF RHODE ISLAND**

**DIVISION OF
ADMINISTRATION
AND FINANCE**

THINK BIG  WE DO™

PURCHASING DEPARTMENT

10 Tootell Road, Suite 3, Kingston, RI 02881 USA p: 401.874.2171 f: 401.874.2306 uri.edu/purchasing



Q3: Can you please provide a copy of URI's Contract Terms and Conditions
A3: Please see attached Legal Service Agreement template.

If you have already submitted an RFP proposal and need to make changes based on the information contained within this Addendum, please submit a new RFP proposal and indicate that that submission supersedes the prior.

Purchasing Department
The University of Rhode Island

Rev. 9-1-15

University of Rhode Island

SERVICES AGREEMENT

(Labor and/or Materials)

Date:		Project:	
Vendor:		Project Coordinator:	
Attn:		Department:	
PO Number:		Project No:	

This Services Agreement is entered into by and between the University of Rhode Island (the "University"), and the Vendor as set forth above ("Vendor"), with the University and the Vendor each being a "party" and collectively referred to herein as "the parties". No other contractual relationships are created by this Agreement. All communications between the Vendor and the University shall be made through the Project Coordinator identified above upon issuance of a duly authorized purchase order.

Entire Agreement: The entire agreement (the "Agreement") between the parties consists of this Service Agreement, and all documents attached hereto and/or incorporated herein by reference, including the Description of Work, Schedule and Compensation" attached hereto as Exhibit I, the "University Of Rhode Island Standard Service Agreement Terms and Conditions" attached hereto as "Attachment II " and the "Insurance Requirements for Incoming Certificates to the University of Rhode Island For Vendors and Contractors" attached hereto as Attachment III. As required by Rhode Island law and regulations, the Agreement shall also include the following, all of which are incorporated herein by reference:

1. The "State Purchases Act," R.I. Gen. Laws § 37-2-1, *et seq.*;
2. The Procurement Regulations adopted pursuant thereto;
3. The Vendor Certification Cover Form;
4. All other applicable provisions of the Rhode Island General Laws and applicable federal laws;
5. The specific requirements described in the solicitation and related solicitation documents;
6. The Rhode Island Department of Administration's "General Conditions of Purchase" (codified at 220 RICR 30-00-13); and
7. The offer/proposal submitted by Vendor and accepted by the University

Order of Precedence. In the event of any express conflict or dispute regarding any of the applicable terms of the Agreement (e.g. the University's Services Agreement, the Vendor's proposal, the solicitation documents, statutes, regulations and/or these General Conditions of Purchase), the following order or precedence shall generally apply (with 1 being the highest level of precedence):

1. Federal laws and/or regulations (for federally funded contracts only)
2. Rhode Island General Laws;
3. State Procurement Regulations, and the above-referenced General Conditions of Purchase;
4. The Purchase Order issued by the University;
5. This Services Agreement;
6. The offer, proposal or bid submitted by the Vendor and to the extent accepted by the University;
7. Solicitation documents issued by Purchasing

Description of Work, Schedule and Compensation. The work to be performed by the Vendor, the agreed upon deliverables and schedule for that work, and the compensation to be paid the vendor, are set forth in the document entitled "Description of Work, Schedule and Compensation" which is attached hereto as Attachment I and incorporated herein by reference.

Other Attachments. The attachments referenced above (and below) as well as the additional attachments referenced below, are all hereby incorporated into the Agreement as well:

Attachment I: Description of Work, Schedule and Compensation
Attachment II: University of Rhode Island Standard Service Agreement Terms and Conditions
Attachment III: Insurance Requirements for Incoming Certificates to the University of Rhode Island for Vendors and Contractors
Attachment IV: [Specify, if any]

Conflict of Additional Vendor Terms with Other Agreement Terms. In the event any “Additional Vendor Terms and Conditions” added to this agreement (and set forth in an additional Attachment) conflict with any of the other terms of this agreement, the latter shall prevail.

Interpretation. The University will be the final decision maker for any and all interpretations of the above described terms and conditions of this Agreement.

Submit Invoices to the Project Coordinator’s attention, and mail to the address indicated on the Purchase Order.

Modifications to the Description of Work, Schedule and Compensation (Attachment 1) of this Agreement shall be made only by a Services Agreement Modification form and Change Order to the Purchase Order issued by the University.

The foregoing is agreed to by the parties, as evidenced by the signatures of their duly authorized officials appearing below.

THE UNIVERSITY OF RHODE ISLAND (“University”)

By: _____
Name:
Title:
Date:

_____ (**“Vendor”**)

By: _____
Name:
Title:
Date:

Vendor and University Representatives [Name, Title, Mailing Address, Email, Phone].

- a. For URI:

- b. For Vendor:

ATTACHMENT II

University of Rhode Island Standard Services Agreement Terms & Conditions

1. Definitions.

- a. "Agreement" has the meaning as defined above in the Services Agreement to which this document (i.e. these "University of Rhode Island Standard Services Agreement terms and Conditions") is attached.
- b. "Claim" means any unmet request or demand by either the University or Vendor seeking payment or other relief in connection with the terms and conditions of this Agreement, including disputes and matters in questions between the University and Vendor arising out of or relating to this Agreement.
- c. "Vendor" means the Vendor that executes and enters into this Agreement to perform the Services for the University, and by such execution, agrees to be bound by all of the terms and conditions herein contained, and includes Vendor's subsidiaries, affiliates, successors, and assigns.
- d. "Fee Proposal" means the fee proposal submitted by Vendor to the University in response to a request for a fee proposal for a Scope of Services.
- e. "Initial Decision Maker" means the Purchasing Agent appointed pursuant to the provisions of the "State Purchases Act," R.I. Gen. Laws § 37-2-1 et seq., or his or her designee, who will serve as the initial decision maker in accordance with the provisions of the State Purchases Act, State of Rhode Island Procurement Regulations.
- f. "University" means the University of Rhode Island, a public institution of higher education with its principal campus located in Kingston, Rhode Island.
- g. "Person" means any partnership (including limited partnerships), corporations, limited liability companies, governmental authorities, trusts, and all other legal entities, as well as natural persons.
- h. "Purchase Order" means the Purchase Order issued by the University evidencing the selection of Vendor to perform the Services pursuant to the Solicitation.
- i. "PO Change Order" means a modification to the Purchase Order issued by the University pursuant to the Solicitation accepting a Fee Proposal and authorizing a particular Scope of Services.
- j. "Project" means the project described in a particular PO Change Order.
- k. "Scope of Services" means the scope of services required for a particular project by the University and described in a Purchase Order as amended from time to time by a Purchase Change Order.
- l. "Services" means any and all professional services listed in the Purchase Order and any PO Change Order, and any and all other obligations, duties, requirements, and responsibilities required for the successful performance of this Agreement by Vendor, including the furnishing of all supervision, labor, materials, and other supplies, in accordance with the terms and conditions set forth herein.
- m. "Solicitation" means the Solicitation for the Services issued by the State and described on the Schedule.
- n. "State" means the State of Rhode Island, acting by and through its Department of Administration Division of Purchases, and each executive, legislative, judicial, regulatory, or administrative body of the State of Rhode Island, or any political subdivision thereof, including without limitation, any department, division, agency, commission, board, office, bureau, committee, authority, educational institution, school, water, or fire district, or other

agency of Rhode Island state or local government that exercises governmental functions in Rhode Island, any other governmental authority, and any quasi-public corporation and/or body corporate and politic, and their elected or appointed officials, members, employees, and agents.

- o. "Subcontractor" means a Person that has a direct or indirect contractual or vendor arrangement or relationship with Vendor to perform any of the Services.
 - p. "Term" means the period during which this Agreement shall be performed and be in effect, as described in the University Purchase Order and/or in the schedule portion of the Description of Work, Schedule and Compensation attached as Attachment I to this Agreement.
2. **Other Agreement Terms; Precedence.** These terms and Conditions constitute only some of the terms and conditions applicable to the University's purchase of services from the vendor. The other applicable terms and conditions relating to this purchase are set forth in the "Services Agreement" to which this "URI Standard Services Agreement terms and Conditions" document is attached. The additional terms applicable to the purchase include, but are not limited to the State of Rhode Island General Conditions of Purchase (220-RICR-30-00-13) found at <https://rules.sos.ri.gov/regulations/part/220-30-00-13>. In the event of conflict between any applicable terms, the order of precedence shall be as described in said Services Agreement.
 3. **Context.** Words and abbreviations that have wellknown industry meanings, and not otherwise defined herein, are used in this Agreement in accordance with such recognized meanings. Unless the context otherwise requires:
 - a. the words "hereby," "hereof," "hereto," "herein," "hereunder," and any similar words refer to this Agreement; and
 - b. the word "day" or "days" refer to calendar day(s).
 4. **Terminology.** The singular shall include the plurals and vice versa. Titles of sections are for convenience of reference only, and neither limit nor amplify the provisions of this Agreement. The use herein of the word "including," when following any general statement, term, or matter is not limited to the specific items or matters set forth immediately following such word or to similar items or matters, whether or not nonlimiting language (such as "without limitation," or "but not limited to," or words of similar import) is used with reference thereto, but rather shall be deemed to refer to all other items or matters that could reasonably fall within the broadest possible scope of such general statement, term, or matter.
 5. **Engagement.** Subject to the terms and conditions of the Agreement, the University engages Vendor, and Vendor accepts the engagement, to perform the Services during the Term. Vendor shall not commence performance of any Services until it receives an authorization from the University to proceed in the form of a PO.
 6. **Performance Standards.** Vendor will perform its services with the highest degree of care, skill, and diligence, and in accordance with the applicable professional standards currently recognized by such profession, and will be responsible for the professional quality, technical accuracy, completeness, and coordination of all reports, designs, drawings, plans, information, specifications, and other items and services furnished under this Agreement. Vendor will comply with all applicable federal, state, and local laws, ordinances, codes, and regulations in performing the Services. If Vendor fails to meet

applicable professional standards, Vendor will, without additional compensation, promptly correct or revise any errors or deficiencies in its reports, drawings, specifications, designs, and other items or services.

7. Employees and Agents.

a. Personnel. Any of Vendor's personnel or those of its Subcontractors specifically identified in a Fee Proposal or on the Schedule are considered essential to performance and may not be removed or replaced without the prior approval of the University. All personnel employed or engaged by Vendor shall possess the necessary licenses and skills for performance under this Agreement, and the University may require demonstration of such licenses and skills according to certification or qualification tests administered or approved by the University. Use of outside personnel will be with the prior consent of and under conditions acceptable to the University. Vendor will at all times enforce proper discipline and good order among the personnel under its control or supervision. The University will have the right to require any Person observed to be failing, refusing, or unable to carry out Vendor's obligations, or any Person appearing in the sole judgment of the University to be intemperate, incompetent, disruptive, or otherwise undesirable, in the discretion of the University, to be removed from performance under this Agreement immediately upon the request of the University and replaced by Vendor without charge to the University.

b. Subcontractors. Vendor will not subcontract or delegate any portion of the Services without the prior consent of the University. All portions of the Services that Vendor does not perform with its own personnel will be performed under agreements with Subcontractors that meet the requirements of this Agreement. The names, addresses, and a description of the services of all Subcontractors are listed on the Schedule. The University will also have the right to require that Vendor engage particular Subcontractors to perform any of the Services. By an appropriate written agreement, Vendor will require each Subcontractor, to the extent of the Services to be performed by the Subcontractor, to be bound to Vendor by the terms of this Agreement, and to assume toward Vendor all the obligations and responsibilities which Vendor, by this Agreement, assumes toward the University. Such agreement shall preserve and protect the rights of the University under this Agreement with respect to the Services to be performed by the Subcontractor.

8. Representatives.

a. Vendor's Representative(s). The name, title, and contact information of Vendor's authorized representative(s) and principal contact(s) with the University are set forth in the Services Agreement.

b. University's Representative. The name, title, and contact information of the University's authorized representative(s) and principal contact(s) with Vendor are set forth in the Services Agreement.

9. **Audit.** The University will have the right, during performance of this Agreement and for a period of three (3) years after final payment, at such reasonable times and places as the State may designate, to examine or cause to have examined Vendor's records, including computerized data files and programs using computer equipment under Vendor's supervision or control, to verify all direct charges, expenses, and disbursements invoiced to the University. The University's right of examination shall extend to any subcontract, and Vendor will include such provision in each such subcontract. The University reserves the right to recover from Vendor any amounts which it has overpaid to Vendor under this Agreement.

10. Progress of the Services.

a. Progress. Vendor will furnish schedules and progress reports requested by the University to provide verification and reasonable

assurance of full and timely performance, as set forth in this Agreement.

b. Inspection. The University will have the right to inspect and test all Services performed under this Agreement, to the extent practicable at all times and places during the Term and prior to acceptance. The University will perform inspections and tests in a manner that will not unduly delay the performance of the Services. If any of the Services do not conform with the requirements of this Agreement, the University may require Vendor to perform the Services again in conformity with such requirements, without additional charge. When defects in Services cannot be corrected by further performance, the University, at its option, may: (i) require Vendor to take necessary action to ensure that future performance conforms to the requirements of this Agreement; and (ii) reduce the professional fees to reflect the reduced value of Services performed. If Vendor fails to promptly perform the Services again or to take necessary action to ensure future performance in conformity with requirements of this Agreement, the University, at its option, may: (i) perform the Services and charge to Vendor any cost incurred by the University that is directly related to the performance of such Services; or (ii) terminate this Agreement. Neither inspection and testing of the Services, nor acceptance of the Services, nor payment by or on behalf of the University shall relieve Vendor from any responsibility regarding defects or other failures to meet the requirements of this Agreement. Vendor shall provide and maintain an inspection system acceptable to the University covering the Services hereunder. Records of all inspection and testing shall be kept complete and available to the University during the performance of this Agreement or required by law.

11. **Changes in the Scope of Services.** The University may, at any time and from time to time, make changes in the scope of the Services or any Scope of Services through additions, deletions, or other revisions, including the right to make changes in: (i) the description of the Services; (ii) the time of performance (such as hours of the day, days of the week); (iii) the schedule for completion of the Services; or (iv) the place of performance of the Services. If the change in the scope of the Services increases or decreases the cost of or the time for performance, an equitable adjustment will be made, and this Agreement modified accordingly. Upon receipt of authorization, Vendor, without delay, will proceed with execution of such authorization according to its terms. Notice of any claim by Vendor for extension of time for performance or adjustment of the price which arises for any reason, including any change requested by the University under this Section 11, must be made in writing no later than ten (10) days after the occurrence which gives rise to such claim; otherwise, such claim is barred. Any claim for extension or adjustment shall include, as applicable, a detailed description of the claim, including the change in a Scope of Services, the extension of time sought and specific justification for the amount of time sought, and a detailed statement of the increased costs to be incurred in carrying out the change

12. **Representations and Warranties.** As an inducement to the University to enter into this Agreement, Vendor makes the representations and warranties set forth in this Section 12.

a. Absence of Restrictions. Vendor is under no contractual or other obligation or restriction which is inconsistent with Vendor's execution of this Agreement or the performance of the Services. During the Term, Vendor will not enter into any agreement, either written or oral, in conflict with Vendor's obligations under this Agreement.

b. Design, Workmanship, and Performance. Notwithstanding any inspection and acceptance by the University or any provision concerning the conclusiveness thereof, all services performed under this Agreement will, at the time of acceptance, be free from defects in design, workmanship, and performance, and conform to the requirements hereof. If the Services do not conform in all respects with this section. Vendor will promptly correct such

- nonconformity without additional cost to the University.
- c. **Infringement.** The Services will not infringe any patent, trademark, copyright, or other proprietary interest. If the use of such Services, or any part thereof, shall in any suit or proceeding be held to constitute an infringement and the use thereof is enjoined, Vendor will, at its sole expense, either procure for the University the right to continue to use such Services, or part thereof, replace it with noninfringing Services, or modify it so that it becomes noninfringing. Any substituted noninfringing Services shall be, in quality and performance, equal to or better than the Services replaced.
 - d. **Personnel Warranty.** Vendor will provide highly qualified supervision and competent personnel to perform the Services in strict conformance with the terms and conditions of this Agreement.
 - e. **Rights in Data.**
 - i. **Copyright.** Vendor warrants that in transmitting instruments of service, including plans, specifications, reports, documents, and other materials and information (whether in written form, digital, or electronic) produced in connection with this Agreement, Vendor is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project.
 - ii. **Ownership.** Vendor and Vendor's Subcontractors shall be deemed the authors and Owners of their respective instruments of service, including all construction documents, and shall retain all common law, statutory, and other reserved rights, including copyrights. Submission or distribution of instruments of service to meet official regulatory requirements or for similar purposes in connection with the Project is not to be construed as publication in derogation of the reserved rights of Vendor and its Subcontractors.
 - iii. **License.** Upon execution of this Agreement, Vendor grants to the University a nonexclusive perpetual license to use Vendor's instruments of service, including electronic or digital documents, solely and exclusively for purposes of constructing, using, maintaining, repairing, altering, and adding to the Project, and shall have and retain all rights to use them and reproduce them for the production and maintenance of the Project. Vendor shall obtain similar nonexclusive licenses from Vendor's Subcontractors consistent with this Agreement. These instruments of service shall be conveyed to the University in their original operative, editable, electronic form in order to allow the integration of the data into the facilities management database of the University. The license granted under this section permits the University to authorize the contractors, subcontractors, subsubcontractors, and material or equipment suppliers, as well as the Vendors and separate contractors of the University, to reproduce applicable portions of the instruments of service solely and exclusively for use in performing services or construction for the Project. If Vendor rightfully terminates this Agreement for cause, the license granted in this section shall terminate.
 - iv. **Conveyance.** Upon full payment of all sums due Vendor under this Agreement, the latest original drawings, specifications, and latest electronic data prepared by Vendor for the Project shall automatically become the property of the University. This conveyance shall not deprive Vendor of the right to retain electronic data or other reproducible copies or the right to reuse information in them in the normal course of Vendor's professional activities. Reuse on other projects without Vendor's professional involvement will be without liability to Vendor on such other projects. In the event the University uses the instruments of service without retaining, directly or indirectly, the author of the instruments of service, The University release Vendor and Vendor's Subcontractors from all claims and causes of action arising from such uses. The terms of this section shall not apply if the University rightfully terminates this Agreement for cause. All of the plans, specifications, reports, documents, and other materials (whether in written form or on magnetic media) produced in connection with this Agreement shall belong exclusively to the University and shall be deemed to be works made for hire. To the extent that any of these materials may not, by operation of law, be works made for hire, Vendor hereby assigns to the University the ownership of copyright in these materials, and the University shall have the right to obtain and hold in its own name or transfer to others, copyrights, and similar protection which may be available in such materials.
 - v. **Survival.** The provisions of this section will survive the expiration or earlier termination of this Agreement.
13. **Owner's Responsibility.** The University will: (i) provide in a timely manner all available information reasonably pertinent to the performance of the Services, including previous reports, drawings, specifications, or other data as Vendor may reasonably request to perform the Services; (ii) give prompt notice to Vendor whenever the University becomes aware of any information that may affect the scope or timing of the Services; and (iii) secure, on behalf of Vendor, access to all public and private property as necessary for the performance of the Services.
 14. **Confidentiality.** Since the performance of the Services may require knowledge and information of a proprietary nature to the University, Vendor shall receive such knowledge and information in confidence and shall not, except as approved by the University, exploit for its own benefit or the benefit of any Person, publish, or disclose, or authorize any Person to publish, disclose, or make use of such information or knowledge unless and until such information or knowledge shall have ceased to be proprietary as evidenced by general public knowledge. This prohibition as to publication and disclosure shall not restrict Vendor in the exercise of its technical skill providing that the exercise of such skill does not involve the disclosure to others of information considered sensitive or proprietary to the University. Vendor shall, upon demand, promptly surrender any such information to the University.
 15. **Compliance with Law.**
 - a. **General Requirements.** The Services, and the performance of the Services by Vendor, will comply with the terms and conditions of the Solicitation, this Agreement, the Purchase Order, any PO Change Order, all applicable federal, state, and local law, all of which are incorporated into this Agreement by this reference. This obligation extends to Vendor's agents and Subcontractors. Vendor's Subcontractors will be licensed in accordance with all applicable law, and Vendor will be responsible to: (i) procure all certificates of inspection; and (ii) to apply all charges and fees and to give all notices necessary and incidental to the due and lawful performance of its obligations hereunder.
 - b. **Rules and Regulations.** At all times during the Term, Vendor will comply with all rules and regulations promulgated by the State from time to time applicable to Persons that contract with the State, the General Conditions of Purchase of the University, and purchasing policies and procedures of the University of Rhode Island.
 16. **Adequate Assurance of Future Performance.** The University may require Vendor to provide the University with adequate assurance that Vendor will perform its obligations in a timely fashion in accordance with this Agreement. In the event that the University requests that Vendor provide adequate assurance, or a statement by Vendor that Vendor cannot or will not perform in a timely fashion in accordance with this Agreement, or any act of omission of Vendor which makes it, in the University's judgment, improbable at the time that Vendor will perform in accordance with this Agreement shall permit the University to terminate the Agreement.

17. **Timeliness.** Time is of the essence of this Agreement. Vendor will perform the Services in such manner as to ensure their completion in accordance with the timetable set forth in any PO Change Order. The University shall not be liable to Vendor or any Subcontractor for claims or damages of any nature caused by or arising out of any delays. The sole remedy against the University for delays shall be the allowance of additional time for completion of the Services.
18. **Assignment.** This Agreement may not be assigned by Vendor without the prior consent of the University. Any attempt to assign any rights, duties, or obligations which arise under this Agreement without such consent will be void.
19. **Indemnification.** Vendor shall defend, indemnify, and hold harmless the State, the University, and its governing board (the University of Rhode Island Board of Trustees), and well as their respective members, employees agents and contractors (collectively "Indemnitees") from and against any and all claims, demands, causes of action, losses, obligations, damages, judgments, liabilities, or other costs and expenses (including attorneys' fees) incurred by the Indemnitees that, directly or indirectly, arise out of or result from: (i) Vendor's breach of any provision of this Agreement; or (ii) the acts or omissions of Vendor, its Subcontractors, and their employees or agents.
20. **Third-Party Beneficiary.** The State, the University, and the University of Rhode Island Board of Trustees are each disclosed third-party beneficiaries of this Agreement and shall have all of the rights and benefits to which such a party is entitled hereunder. No provision of this Agreement will in any way inure to the benefit of any other third person so as to constitute any such Person a thirdparty beneficiary of this Agreement or of any one or more of the terms hereof, or otherwise give rise to any cause of action in any person not a party hereto.
21. **Notices.** All consents, approvals, authorizations, notices, and other communications required or permitted under this Agreement shall be in writing and shall be delivered by personal service, or by certified or registered mail, postage prepaid, return receipt requested, or by electronic mail to the parties in care of the representatives and at the addresses listed in the Services Agreement. Rejection or other refusal to accept or the inability to deliver because of changed address of which no notice was given as provided in this section shall be deemed to be the date of receipt of the notice, demand or request sent. By notice sent in the manner set forth herein, the University and Vendor shall have the right from time to time and at any time during the Term to change their addresses for notices and each shall have the right to specify as its address for notices any other address within the United States of America.
22. **Relationship.** Nothing in this Agreement is intended to or shall constitute either party as an agent, legal representative, partner, joint venturer, franchisee, employee, or servant of the other for any purpose. Vendor is an independent contractor and responsible for all acts and omissions of its employees, agents, and Subcontractors. Contractor is solely responsible for withholding and paying any and all federal, state, and local taxes, social security payments, and any other taxes or payments which may be due incident to payments made by the University for the Services. No act or order of the University shall be deemed to be the exercise of supervision over, or control of performance of, Vendor hereunder.
23. **Further Assurances.** Vendor will do all acts and things and make, execute, and deliver such written instruments, as shall from time to time be reasonably required to carry out the terms and provisions of this Agreement.
24. **Validity.** In the event that this Agreement contains any unlawful provision not an essential part of the Agreement and which shall not appear to have been a controlling or material inducement to the making thereof, the same shall be deemed of no effect and shall, upon notice by either party, be deemed stricken from the Agreement without affecting in any respect whatsoever the validity or enforceability of the remainder of this Agreement.
25. **Claims and Governing Law.** The provisions of this section shall govern all Claims. This Agreement has been entered into in the state of Rhode Island and all questions with respect to this Agreement, and the rights and liabilities of the parties hereto, shall be governed by the laws of this state, without reference to its choice of law provisions.
- a. **Initial Decision.** An initial decision shall be required as a condition precedent to mediation and binding dispute resolution of any Claim arising prior to the date final payment is due. The Initial Decision Maker will review Claims and within ten (10) days of the receipt of a Claim and will take one or more of the following actions: (i) request additional supporting data from the claimant or a response with supporting data from the other party; (ii) reject the Claim in whole or in part; (iii) approve the Claim; (iv) suggest a compromise; or (v) advise the parties that the Initial Decision Maker is unable to resolve the Claim if the Initial Decision Maker lacks sufficient information to evaluate the merits of the Claim, or if the Initial Decision Maker concludes that, in the Initial Decision Maker's sole discretion, it would be inappropriate for the Initial Decision Maker to resolve the Claim. In evaluating Claims, the Initial Decision Maker may, but shall not be obligated to, consult with or seek information from either party or from persons with special knowledge or expertise who may assist the Initial Decision Maker in rendering a decision. If the Initial Decision Maker requests a party to provide a response to a Claim or to furnish additional supporting data, such party shall respond, within ten (10) days after receipt of such request, and shall either: (i) provide a response on the requested supporting data; (ii) advise the Initial Decision Maker when the response or supporting data will be furnished; or (iii) advise the Initial Decision Maker that no supporting data will be furnished. Upon receipt of the response or supporting data, if any, the Initial Decision Maker will either reject or approve the Claim in whole or in part. The Initial Decision Maker will render an initial decision approving or rejecting the Claim, or indicating that the Initial Decision Maker is unable to resolve the Claim. This initial decision shall: (i) be in writing; (ii) state the reasons therefor; and (iii) notify the parties of any change in the terms of this Agreement. The initial decision shall be final and binding unless either party pursues mediation pursuant to the provisions of the following subsection.
- b. **Mediation.** The University and Vendor shall use their best efforts to resolve any Claim not resolved by the provisions of the preceding subsection by mediation, as a condition precedent to binding dispute resolution. Either party may, within thirty (30) days from the date of an initial decision, apply in writing to the Presiding Justice of the Providence County Superior Court, with a copy to the other parties, with a request for the court to appoint a mediator, and the costs of the mediator and any filing fees shall be borne equally by all of the parties. The mediation shall be held in the place where the Project is located. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.
- c. **Arbitration.** Any Claim subject to, but not resolved by, mediation shall be subject to the method of binding dispute resolution determined in accordance with the provisions of the State Purchases Act, R.I. Gen. Laws §§ 37-2-1 et seq., the "Public Works Arbitration Act," R.I. Gen. Laws §§ 37-16-1 et seq., the "Administrative Procedures Act," R.I. Gen. Laws §§ 45-35-1 et seq., and the State of Rhode Island Procurement Regulations. A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the Claim would be barred by the applicable statute of limitations. For statute of limitations purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the Claim. The requirement to arbitrate shall be specifically enforceable in accordance with applicable law in any court having jurisdiction thereof. The award

rendered by the arbitrator(s) shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

- d. Consolidation or Joinder. Either party, at its sole discretion, may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party, provided that: (i) the arbitration agreement governing the other arbitration permits consolidation; (ii) the arbitrations to be consolidated substantially involve common questions of law or fact; and (iii) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s). Either party, at its sole discretion, may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any Claim not described in the written consent. The University and Vendor grant to any person or entity made a party to an arbitration conducted under this Section 32(d) whether by joinder or consolidation, the same rights of joinder and consolidation as the University and Vendor under this Agreement.
26. Waiver. No consent or waiver, express or implied, by the University to or of any breach or default by Vendor of its obligations hereunder shall be deemed or construed to be consent or waiver to or of any other breach or default in the performance by Vendor of the same or any other obligations of Vendor hereunder. Failure on the part of the University to declare Vendor in default, irrespective of how long such failure continues, shall not constitute a waiver by the University of its rights hereunder. The giving of consent by the University in any one instance shall not limit or waive the necessity to obtain the University's consent in any future instance.
27. Successors and Assigns. This Agreement, and all of the rights, benefits, duties, liabilities, and obligations of the parties hereto shall inure to the benefit of, and be binding upon, the University and Vendor and their successors and assigns.