



Agreement for Services

Please select the type of Services to be provided from the options below:

☐

General Services: Used for services such as construction, maintenance, housekeeping or other service area.

☐

Artist Services: Used to engage musicians, speakers, writers for a specific project.

☐

Product Services: Used for a product with a service agreement.

The Parties to this Agreement are Lincoln University "Lincoln" and "Contractor," identified as follows:

Contractor:

Address:

City, State, Zip

Tax ID or SSN

Articles 1 through 6 of this document, the signed General Terms and Conditions, and any Exhibits hereto or referenced herein shall constitute the entire Contract between the parties.

Article 1. The Services. Contractor shall perform the services and provide the work product (collectively, the "Services") identified in the Agreement as noted below and/or in the attached documents.

☐

Statement of Work

☐

Specifications

☐

Design Drawings

☐

Other

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Article 2. Modifications. The Parties may mutually agree to modify this Agreement, including but not limited to making additions, deletions, or changes. All modifications must be set forth in a written amendment, signed by both Parties, and setting forth any change in Services, Compensation, and/or Term prior to Contractor proceeding with the modifications.

Article 3. Items provided by Lincoln. Lincoln shall provide the following items to the Contractor:

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Article 4. Compensation. For satisfactory and complete performance of the Services, the University agrees to pay the Contractor the total amount of \$ _____ (USD) which Contractor agrees to accept as full payment for providing the Services. The Contractor shall provide Lincoln with an itemized invoice at the completion of the Services. Lincoln shall pay Contractor upon satisfactory completion of the Services, within 30 days of receipt of the Contractor's itemized invoice. Any changes to the Compensation must be made in accordance with Article 2 above.

Article 5. Term. The Effective Date of this Agreement is_____and the Expiration Date of this Agreement is_____. The Parties may mutually agree to extend the Term of this Agreement in accordance with Article 2.

Article 6. Notices. Any communications or notices provided pursuant to this Agreement shall be delivered via email to____or overnight courier, as follows:

To Lincoln: _____

Email: _____

Address: Lincoln University, 1570 Baltimore Pike, Lincoln University, PA 19352

To Contractor: _____

LINCOLN UNIVERSITY STANDARD TERMS AND CONDITIONS

I. TERM OF AGREEMENT

The term of the Agreement for Services ("Agreement" or "Agreement for Services") shall commence on the Effective Date and shall end on the Expiration Date identified in the Agreement for Services, attached to, and incorporated herein, the Lincoln University Standard Terms and Conditions ("this document"), subject to the other provisions of the Agreement.

Prior to the commencement of the Services, the Contractor shall furnish a Certificate of Insurance (COI), naming Lincoln University as primary additional insured, in accordance with Section XVII. Insurance of this document, to Lincoln University's Office of Finance and Administration, 1570 Baltimore Pike, Lincoln University, PA 19352; and

The Effective Date shall be affixed by Lincoln University (the "University") after the Agreement has been fully executed by the Contractor and by the University, all approvals required by the University Contracting Procedures having been obtained, and the COI has been received; and

The Contractor shall not start the performance of any work prior to the Effective date set forth in the Agreement for Services and the University shall not be liable to pay the Contractor for any service or work performed or expenses incurred before the Effective date set forth in the Agreement for Services. No University employee has the authority to verbally direct the commencement of any work under this Agreement.

II. INDEPENDENT CONTRACTOR

In performing the services required by the Agreement, the Contractor will act as an Independent Contractor and not as an employee or agent of the University. Contractor shall be wholly responsible for the work to be performed and for the supervision of its employees in connection with the provision of the Services outlined and incorporated in the Agreement for Services. Nothing herein is intended or shall be construed to establish any agency, partnership, or joint venture between the Contractor and the University. Contractor represents that it has, or will secure at its own expense, all personnel required to perform the Services under this Agreement. Such employees shall not be employees of or have any individual contractual relationship with the University.

III. COMPLIANCE WITH LAW

The Contractor shall comply with all applicable Federal, State and local law, regulations and ordinances in the performance of the Agreement.

IV. COMPENSATION/EXPENSES

The Contractor shall be required to perform the specified services at the price(s) quoted in the Agreement. All services shall be performed within the time period(s) specified in the Agreement. The Contractor shall be compensated only for work performed to the satisfaction of the University. The Contractor shall not be allowed or be paid travel or per diem expenses, except as specifically set forth in the Agreement.

V. PAYMENT

The Contractor shall send an itemized invoice for payment to the address contained either in the Agreement or the Special Provisions. Any payment terms requiring payment in less than 30 days will be regarded as requiring payment within 30 days after invoice or delivery, whichever occurs later. The University payment system is set up to make payment within 30 days but it will not be liable for interest or penalties for late payment. The Contractor shall provide the University with a General Release in a form acceptable to the University as a condition of final payment.

VI. PROTECTION OF MINORS

A. Compliance with PA Child Protective Services Law

Contractor agrees to comply with all requirements for obtaining and maintaining background certifications and reporting child abuse set forth in the Pennsylvania Child Protective Services law ("CPSL"), 23 Pa. C.S., Chapter 63 (§§ 6301 et seq.) as amended, and its governing regulations for any program, activity, service, or event that involves direct contact with a minor including a three-part background check consisting of:

1. a report of criminal history record information from the Pennsylvania State Police (PSP); and
2. a child abuse history clearance certification from the Pennsylvania Department of Human Services (DHS); and
3. a report of federal criminal history record information, generated by fingerprints transmitted to the Federal Bureau of Investigation (FBI).

B. Compliance with Lincoln University Policy Protecting Minors on Campus

Contractor, agrees to abide by the Lincoln University policy on Protecting Minors on Campus HRM-128, made part of this Agreement and incorporated herein, in any program, activity, service or event that is sponsored by Lincoln University or provided on Lincoln University's campus that involves direct contact with a minor (anyone under the age of 18 years old).

- ##### **C. Contractor represents that NO employee, volunteer, or other representative of the Contractor, who has committed, any of the offenses identified in 23 Pa. C.S. Section 6344(c) shall provide any service, activity, program, or event to Lincoln University involving any Direct Contact with a minor as defined in the CPSL§ 6303(a).**

VII. INSURANCE

Before any of the Services outlined within this Agreement are performed, without limiting or diminishing the Contractor's obligation to indemnify or hold harmless Lincoln University and the Commonwealth of Pennsylvania, the Contractor:

- ##### **A. Shall at its own cost and expense, procure and maintain or cause to be maintained, insurance (the "Insurance") as applicable and required in a form satisfactory to Lincoln University for the performance of its Services under this Agreement and for the term of this Agreement in its entirety as noted in Sections 1 through 7 as follows:**

1. **Commercial General Liability:** Commercial General Liability insurance coverage, including but not limited to, premises liability, unmodified contractual liability, products and completed operations liability, personal and advertising injury, and cross liability coverage, covering claims which may arise from or out of the University's performance of its obligations hereunder. Policy shall name the University as Additional Insured. Policy's limit of liability shall not be less than \$1,000,000 per occurrence combined single limit. If such insurance contains a general aggregate limit, it shall apply separately to this agreement or be no less than two (2) times the occurrence limit.
2. **Auto Liability:** Auto liability insurance for all owned, non-owned or hired vehicles so used in an amount not less than \$1,000,000 per occurrence combined single limit. If such insurance contains a general aggregate limit, it shall apply separately to this agreement or be no less than two (2) times the occurrence limit. Policy shall name the University as Additional Insureds.
3. **Workers' Compensation:** Workers' Compensation Insurance (Coverage A) as prescribed by the laws of the Commonwealth of Pennsylvania. Policy shall include Employers' Liability (Coverage B) including Occupational Disease with limits not less than \$1,000,000 per person per accident. The policy shall be endorsed to waive subrogation in favor of the University and Commonwealth of Pennsylvania
4. **Cyber Liability:** Cyber Liability Insurance, with limits not less than \$2,000,000 per occurrence or claim, \$2,000,000 aggregate. Coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by Contractor in this agreement and shall include, but not limited to, claims involving infringement of intellectual property, including but not limited to infringement of copyright, trademark, trade dress, invasion of privacy violations, information theft, damage to or destruction of electronic information, release of private information, alteration of electronic information, extortion and network security. The policy shall provide coverage for breach response costs as well as regulatory fines and penalties as well as credit monitoring expenses with limits sufficient to respond to these obligations. If the Contractor maintains broader coverage and/or higher limits than the minimums shown above, the University requires and shall be entitled to the broader coverage and/or higher limits maintained by the Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the University.
5. **Aviation Liability:** Coverage shall be at least as broad as Aviation Liability Insurance on an "occurrence" basis, including products and completed operations, property damage, bodily injury with limits no less than \$1,000,000 per occurrence, and \$2,000,000 in the aggregate. This coverage may also be provided by endorsement to a Commercial General Liability policy.
6. **Umbrella or Excess Liability Coverage.** Umbrella or Excess Liability coverage with limits not less than \$1,000,000 per occurrence and aggregate and will be excess over and be no less broad than "following form" of all included coverage described herein.

B. Shall furnish to the University, a Certificate of Insurance (COI), naming Lincoln University as primary additional insured, prior to or at the time of execution of this Agreement, to Lincoln University's Office of Finance and Administration, 1570 Baltimore Pike, Lincoln University, PA 19352; and

C. Warrants that its insurance carriers are accurately informed regarding the business activities of the Contractor and intends to cover those business exposures; and

D. Agrees and acknowledges that failure to submit a COI in a form satisfactory to Lincoln University will render this Agreement immediately null and void.

VIII. CONTRACTOR OBLIGATIONS

A. Warranties

1. The Contractor warrants and certifies that it is not currently under suspension or debarment by the Commonwealth of Pennsylvania or any other state or the Federal Government and that if the Contractor cannot so certify, then agrees to submit a written explanation of why such certification cannot be made.
2. The Contractor agrees that if it enters into Subcontracts or employs under this Agreement any Subcontractor/individual who is currently suspended or debarred by the Commonwealth or any other State or the Federal Government, or becomes suspended or debarred by the Commonwealth or any other State or the Federal Government during the term of the Agreement, or any extensions thereof, the University shall have the right to require the Agreement to terminate such Subcontracts or employment. Contractor shall flow this clause down to its Subcontractors.
3. The Contractor warrants and certifies that it has all the proper licenses necessary to provide the services required by this Agreement or will become so licensed by the anticipated award date stated in the Solicitation.

B. Responsibilities

1. Key Personnel. Contractor shall not substitute key personnel assigned to the performance of this Agreement without the prior written approval of the University.
2. Background Check. Contractor is responsible for the performance of all individuals performing Services under this Agreement. Prior to commencing any Services, Contractor shall at its expense:
 - a. ensure that criminal background screenings as set forth herein, comply with and are completed prior to assigning any employee, subcontractor, or other individual employed, contracted or otherwise engaged by the Contractor in the provision of Services to Lincoln University under this Agreement, and
 - b. provide the University's Primary Contact with a list ("List") of all individuals who may be assigned to perform Services, and update the List immediately each time there is a change in the individuals assigned to perform Services, and
 - c. shall not assign any individual to provide Services who has a history of unacceptable criminal conduct, including violent or sexual offenses.
3. Care of Property. Contractor shall be responsible for the proper custody and care of any property furnished by the University to Contractor for use in connection with the provision of Services, and Contractor shall reimburse the University for loss or damage to any such property.
4. Subcontracting, Assignment, and Transfer Prohibited. Due to Contractor's unique abilities, this Agreement is for personal Services and Contractor shall not subcontract, assign, or transfer any interest in this Agreement without prior written approval of the University. Contractor shall remain responsible for all obligations under this Agreement.
5. Compliance with Employment Regulations. Contractor shall comply with all federal and state requirements concerning equal opportunity and non-discrimination in employment and shall treat all employees equally without regard to their age, color, disability, gender identity, genetic information, national origin, race, religion, sex (including pregnancy), sexual orientation, or veteran status.
6. Compliance with Applicable Law. Contractor shall comply with all federal, state, and local laws, ordinances, codes, rules, regulations, and licensing requirements applicable to the conduct of its business and the provision of the Services.
7. Compliance with Agreement. Contractor shall comply with the Agreement for Services and the Lincoln University Standard Agreement Terms and Conditions in the conduct of its business and the provision of the Services.

C. Quality and Integrity

1. Contractor shall perform the Services in a workmanlike and professional manner, to the reasonable satisfaction of the University that conforms with the scope of work described in the Agreement for Services and all prevailing industry, commercial, academic, and professional standards.
2. The Contractor agrees that is shall maintain the highest standards of integrity in the performance of this Agreement and shall take no action in violation of any State or Federal laws, regulations or other requirements that govern contracting with the University.
3. The Contractor warrants that all services performed by the Contractor, its agents and subcontractors, shall be free and clear of any defects in workmanship or materials. Unless otherwise stated in the Agreement, all services and parts are warranted for a minimum period of one year or the manufacture's period whichever is longer, following completion of performance by the Contractor and acceptance by the University. The Contractor shall correct any problem with the service and/or replace any defective part with a part of equivalent or superior quality without any additional cost to the University.
4. The Contractor warrants that it shall perform its services with care, skill, and diligence, in accordance with the applicable professional standards currently recognized by such profession, and shall 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 the Agreement. Contractor shall comply with all applicable federal, state and local laws, ordinances, codes and regulations in performing its services. If Contractor fails to meet applicable professional standards, Contractor shall without additional compensation correct or revise any errors or deficiencies in its reports, drawings, specifications, designs, and other items or services.

D. Prohibited Behavior

1. Prohibited Behavior under this Agreement, constitutes any violation of, the law, including but not limited to, rules, regulations, and/or ordinances, whether federal, state, or local, (the "Laws") and the policies that govern Lincoln University.
2. Contractor agrees to abide by the Laws and policies governing Lincoln University and shall not tolerate any prohibited behavior by its employees, Contractors, or any individual assigned by or under the control of the Contractor, whether directly or indirectly, in the performance of the Services under this Agreement.
3. Contractor shall immediately remove from the jobsite any individual assigned by or under the control of the Contractor, including but not limited to its employees and Contractors, either directly or indirectly, engaging in any prohibited behavior under this Agreement.
4. The Contractor agrees that it shall not, in connection with this or any other agreement with the University, directly or indirectly, offer anything of value to anyone as consideration for the decision, opinion, recommendation, vote or other exercise of discretion or violation of a known legal right by any Trustee, officer or employee of the University.
5. The Contractor agrees that neither the Contractor nor anyone in privity with it, including any Subcontractor or Vendor, shall accept or agree to accept from, or give to, or agree to give to, any person, any gratuity from any person, in connection with the performance of work under the Agreement.

IX. **INDEMNIFICATION AND RELEASE**

- A. For the purposes of this Agreement, to the maximum extent permitted by law, the Contractor shall indemnify and hold harmless the University, its trustees, officers, directors, faculty, students, employees, successors, assigns, elected or appointed officials, agents and/or representatives, from and against any and all actions, causes of action, claims, damages, losses, liabilities, expenses, or demands (including

attorneys' fees), accruing or resulting to any person, firm, or corporation that may be injured or damaged by the Contractor in the performance of this Agreement whether known or unknown, present or future, that arise from or are connected with the provision of the Services and the negotiation, execution and performance of this Agreement.

B. Contractor releases and waives any and all claims, demands, or causes of action against the University, its trustees, officers, directors, faculty, students, employees, successors, assigns, elected or appointed officials, agents and/or representatives, that arise from or are connected with the Contractor's obligations pursuant to this Agreement, any injury to employees or agents of the Contractor or damage to or loss of any property of Contractor or its employees or agents, regardless of whether or not any such claims, losses, liabilities or expenses are caused in part by the negligence of the University or any of the other indemnified parties.

C. The University's liability for bodily injury, property damage or any other matter sounding in tort is determined in accordance with the provisions, procedures, and limits of the Commonwealth of Pennsylvania Tort and Contract Liability Act 42 Pa. Cons. Stat. § 8522. The University does not waive its sovereign immunity or any rights or defenses under the Pennsylvania Tort and Contract Liability Act.

D. In the event that any claim, demand, suit or other legal proceeding arising out of any matter relating to the Agreement is made or instituted by any person against the University, Contractor shall, at its own cost and expense, provide the University with all reasonable information and assistance in the defense or other disposition thereof. This provisions of this Section shall survive the termination or expiration of this Agreement.

X. NON-DISCRIMINATION/SEXUAL HARASSMENT CLAUSE

During the term of this Agreement, the Contractor agrees as follows:

- A. In the hiring of any employees for the manufacture of supplies, performance of work or any other activity required under the Agreement or any Subcontract, the Contractor, Subcontractor (as defined herein) or any person acting on behalf of the Contractor or Subcontractor shall not by reason of gender, race, creed, color, disability, national origin, ancestry or age discriminate against any employee or applicant for employment who is qualified and available to perform the work to which the employment relates. The Contractor further agrees to post in conspicuous places, available to employees and applicants for employment, notices conforming to federal and state law setting forth the provisions of this Non-Discrimination, Sexual Harassment Clause.
- B. Neither the Contractor nor any Subcontractor, nor any person on their behalf, shall in any manner discriminate against or intimidate any employee involved in the manufacture of supplies, the performance of work or any other activity required under the Agreement on account of gender, race, creed, color, disability, national origin, ancestry or age.
- C. Contractors and Subcontractors shall establish and maintain a written sexual harassment policy and shall inform its employees of the policy.
- D. The Contractor and each Subcontractor shall furnish upon request all necessary employment documents and records and permit access to its books, records and accounts by the University or its authorized representatives or designees to verify compliance with this clause.
- E. For purposes of this clause, Subcontractor is defined as any Subcontract over Ten Thousand (\$10,000.00) Dollars. The Contractor shall include the above provisions in all Subcontractors over Ten Thousand (\$10,000.00) Dollars to insure that the provisions of this section will be binding upon each such Subcontractor.
- F. The University may terminate the Agreement for violation of the Terms and Conditions of this Non-Discrimination/Sexual Harassment Clause. Upon such termination, all monies due or to become due under the Agreement shall be forfeited.

XI. DRUG-FREE WORKPLACE

A. The Contractor acknowledges and certifies that it understands the following acts by its employees and/or agents or subcontractors performing services on Lincoln University Property are prohibited:

1. The unlawful manufacture, distribution, dispensing, possession or use of alcohol or other drugs; and
2. Any drug that would cause impairment or incapacitation.

B. The Contractor further acknowledges and certifies that it understands that a violation of these prohibitions constitutes a breach of Agreement and may result in default action being taken by the University, in addition to any criminal penalties that may result from such conduct.

XII. IMMIGRATION REFORM AND CONTROL ACT OF 1986

By submitting its proposal, the offeror certifies that it does not and will not during the performance of this Agreement, employ any illegal alien workers or otherwise violate the provisions of the Federal Immigration Reform and Control Act of 1986.

XIII. INTELLECTUAL PROPERTY

A. All intellectual property, including but not limited to, patentable inventions, patentable plants, novel plant varieties, copyrightable works, mask works, trademarks, service marks and trade secrets invented, developed, created or discovered by Contractor in performance of this Agreement shall be the property of the University.

B. The University shall have unrestricted authority to reproduce, distribute and use any submitted report, data, or material, and any software or modifications and any associated documentation that is designed or developed and delivered to the University as part of the performance of the Agreement.

C. Notwithstanding the foregoing, Contractor shall retain ownership of all intellectual property created by the Contractor prior to execution of this Agreement ("Pre-existing IP") and any improvements or modifications of Pre-existing IP created pursuant to this Agreement and Contractor hereby grants the University an unrestricted, irrevocable, royalty free right to use such Pre-existing IP to the extent necessary to use the Services or any deliverables provided hereunder.

A. Copyright in and to any copyrightable work, including, but not limited to, copy, art, negatives, photographs, designs, text, software, or documentation created as part of Contractor's provision of Services shall vest in the University. Works of authorship and contributions to works of authorship created by Contractor in connection with its provision of Services are hereby agreed to be "works made for hire" within the meaning of 17 U.S.C. 201. However, if the University is not able to obtain copyright ownership under the statutory provisions for "works made for hire," then Contractor hereby assigns to the University all right, title, and interest in such works and contributions.

B. Contractor agrees to provide the University with any and all reasonable assistance which the University may require to file patent applications, to obtain copyright registrations, or to perfect its title in any such inventions or works, including the execution of any documents submitted by the University.

C. Contractor warrants that its Services do not infringe the copyright of others and agrees to indemnify, release, discharge and hold harmless the University, its employees and agents, all persons acting under its authority, and those for whom it is acting, from all claims, causes of action and liability of any kind, in law or equity, based upon or arising out of the Services or this Agreement including, without limitation, claims of libel, slander, invasion of privacy, right of publicity, defamation, trademark infringement, copyright infringement, and patent infringement.

D. The Contractor warrants that it is the sole owner or author of, or has entered into a suitable legal agreement concerning either; 1) the design of any product or process provided or used in the performance of the Agreement which is covered by a patent, copyright, or trademark registration or any other right duly authorized by state or federal law; or 2) any copyrighted matter in any report document other material provided to the University under the Agreement.

E. The Contractor shall defend any suit or proceeding brought against the University on account of any alleged patent, copyright or trademark infringement in the United States of any of the products provided or used in the performance of the Agreement. This is upon condition that the University shall provide prompt notification in writing of such suit or proceeding; full right, authorization and opportunity to conduct the defense thereof; and full information and all reasonable cooperation for the defense of same. The University may participate in or choose to conduct, in its sole discretion, the defense of any such action. If information and assistance are furnished by the University at the Contractor's written request, it shall be at the Contractor's expense, but the responsibility for such expense shall be only that within the Contractor's written authorization.

F. The Contractor shall indemnify and hold the University harmless from all damages, costs and expenses, including attorney's fees that the Contractor or the University may pay or incur by reason of any infringement or violation of the rights occurring to any holder of copyright, trademark, or patent interests and rights in any products provided or used in the performance of the Agreement. If any of the products provided by the Contractor in such suit or proceeding are held to constitute infringement and the use is enjoined, the Contractor shall, all its own expense and at its option, either procure the right to continue use of such infringement products, replace them with non-infringement equal performance products or modify them so they are no longer infringing. If the Contractor is unable to do any of the preceding, the Contractor agrees to remove all the equipment or software which are obtained contemporaneously with the infringing product or, at the option of the University, only those items of equipment or software which are held to be infringing, and to pay the University: 1) any amounts paid by the University towards the purchase of the product, less straight line depreciation; 2) any license fee paid by the University for the use of any software, less an amount for the period of usage; and 3) the pro rata portion of any maintenance fee representing the time remaining in any period of maintenance paid.

XIV. CONFIDENTIALITY AND NONDISCLOSURE

A. Definitions.

1. Confidential Information. The information and documentation of Lincoln University that has been marked "confidential", as well as all information pertaining to students, prospective students, or employees, financial records, donor lists, fundraising plans, and any other confidential information compiled or maintained internally by the University concerning the operation of Lincoln University. Confidential Information includes but is not limited to the following:
2. University Proprietary Information. Data, information, or intellectual property in which the University has an exclusive legal interest or ownership right which, if compromised could cause harm to the University, including that which is acquired or developed by Contractor pursuant to the performance of the Services.

Confidential and proprietary information and trade secrets, that the Contractor may obtain or create from information that the University, another governmental Contractor, university, or a company may disclose within the scope and in the course of performing the Services.

Examples may include, but are not limited to, research data, notebooks, drawings, technology, know-how, marketing plans, business plans, financial information, trade secret, copyrighted material, and software together with comparable material from a third party when the University has agreed to keep such information confidential, and any other information the disclosure of which could cause competitive harm to the owner.

3. Sensitive Personally Identifiable Information. Data relating to an individual that reasonably identifies the individual and, if compromised, could cause harm to that individual or to University.

Examples may include, but are not limited to: Social Security Numbers, credit card numbers, bank account information, student grades or disciplinary information, salary or employee performance information, donations, health information, information the University has promised to keep confidential, and account passwords or encryption keys used to protect access to such information.

4. Protected Health Information. Each party agrees to fully comply with the Health Insurance Portability and Accountability Act of 1996 and its associated regulations and, more specifically, in 45 C.F.R. §§ 160-164 (collectively referred to as ("HIPAA")), any applicable state privacy and/or security laws, any applicable implementing regulations and the requirements of the Health Information Technology for Economic and Clinical Health Act, as incorporated in the American Recovery and Reinvestment Act of 2009 (the "HITECH Act"), and any regulations adopted or to be adopted pursuant to the HITECH Act that relate to the obligations of either party hereto as applicable to all Protected Health Information (as that term is defined in 45 C.F.R. § 160.103) received from, or received, maintained, transmitted, or created on behalf of, the parties in connection with the Services (collectively, "PHI").
5. Protected Student Information. Contractor acknowledges that, personally-identifiable information about any of College's is subject to the Family Educational Rights and Privacy Act of 1974, as amended, and all applicable implementing regulations at 34 C.F.R. Part 99 (collectively, "FERPA"). In addition to its contractual obligations of confidentiality, Contractor agrees that it will not disclose any personally-identifiable information of students to anyone other than Contractor's employees, except as required by law. (f) Return of Information. Following the expiration, cancellation, or termination of this Agreement, Contractor shall return to College all Confidential Information, in whatever form (hard copy, electronic or other form) maintained, and will not retain any copies of that information.
6. Protected Personal Data. Contractor shall comply with all applicable laws governing the protection of personal data, as amended and updated from time to time, including, when applicable, the Data Protection Act 2018, the Privacy and Electronic Communications (EC Directive) Regulations 2003, the General Data Protection Regulation (Regulation EU 2016/679), any laws substituting, re-enacting, or replacing those laws. Contractor shall ensure that it has in place appropriate technical and organization measures to protect Personal Data (as defined in applicable laws) against accidental, unauthorized, or unlawful destruction, loss, alteration, disclosure, access, or processing. Contractor will respond to, contain, and remediate any unauthorized access of Personal Data (a "Data Breach") using best efforts and shall notify College of any known or suspected Data Breach within twenty-four hours of becoming aware of it. In the event that Contractor experiences a Data Breach, Contractor shall bear full responsibility for complying with any laws governing, and Contractor shall reimburse College for any costs incurred by College in responding to or mitigating damages resulting from any Data Breach that Contractor experiences, including all costs of notice and/or remediation.

B. Exclusions.

Notwithstanding the above, Confidential Information shall not include any information that:

1. Contractor shall have lawfully possessed before entering into this Agreement
2. was at the time of disclosure part of the public domain by publication or otherwise;
3. became part of the public domain after disclosure to Contractor by publication or otherwise, except by breach of this Agreement;
4. was lawfully received from a third party who was under no obligation of confidentiality;

5. was independently developed by Contractor without reference to Confidential Information; or
6. shall be lawfully acquired by Contractor in circumstances not resulting from this Agreement or the performance of the Services;
7. becomes part of the public domain in any manner other than the publication thereof in violation of this Agreement or otherwise unlawfully; or
8. is required to be disclosed by law, regulation or judicial process (See Section 12.h. Legal Disclosure).

C. Use and Disclosure Limitations.

1. Contractor shall not disclose Confidential Information to any person or entity whatsoever without the prior written consent of the University.
2. Contractor agrees to maintain strict confidentiality concerning and in accordance with the requirements and conditions set forth herein.
3. Contractor shall use its best efforts to prevent the not use or disclose Confidential Information. Contractor shall advise the University immediately in the event that it knows or has reason to believe that Confidential Information has been disclosed or accessed in violation of this Agreement. Contractor will cooperate with the University in seeking injunctive or other equitable relief against any such person.
4. Contractor shall not use, provide, trade, give away, barter, lend, sell, or otherwise disclose Confidential Information, and shall not make any copies of such data or any type whatsoever, in readable or encrypted form, or in individually identifiable or aggregate form, except as necessary for the Services to be performed.
5. Contractor shall only permit access to Confidential Information acquired by Contractor in connection with this Agreement, and only to employees, agents, or its subcontractors or Contractors, who:
 - a. are directly involved in performing the Services for the University and have a specific need to know such information, and
 - b. have entered into written confidentiality agreements which impose, or are otherwise bound by, restrictions on the Confidential Information at least equivalent to those imposed under this Agreement
6. Contractor will not photograph, sketch, copy or otherwise record confidential documents, material, or the like, except as may be authorized in writing by Lincoln. Contractor agrees that any and all such records and copies made or kept by Contractor, wherever completed or wherever kept, at home or otherwise, in connection with the Services performed under this Agreement shall be and are the sole and exclusive property of Lincoln.

D. Legal Disclosure.

If Contractor is compelled by law to disclose Confidential Information, Contractor shall:

1. Upon receipt of legal process, notify the University immediately in writing;
2. Give reasonable assistance in opposing such disclosure; and
3. After providing such notice and assistance as required herein, if Contractor remains required by law to disclose any Confidential Information, it shall disclose no more than that portion of the Confidential Information it is legally required to disclose.

E. Return of Confidential Information.

Upon the expiration, cancellation, or termination of this Agreement, Contractor shall return to the University all Confidential Information, in whatever form (hard copy, electronic or other form) maintained, and will not retain any copies of that information including but not limited to all Proprietary Information, and Sensitive Personally Identifiable Information, electronic and written records, data, drawings, notebooks, other documents, and information of the University, whether prepared by the Contractor or others and shall not retain or take any notes, records or other reproductions relating or pertaining to Lincoln University, or connected with the Contractor's Services as follows:

1. At its own expense, Contractor shall immediately return to the University all Confidential Information embodied in tangible form, whether or not reduced to such form by Contractor including all copies thereof, or
2. At the University's option, Contractor shall certify in writing to University that all such Confidential Information has been destroyed, except that Contractor may retain Confidential Information to the extent that retention is required by law or is needed to document performance under this Agreement.

F. Office of the General Counsel Approval Notice.

This Lincoln University **STANDARD AGREEMENT TERMS AND CONDITIONS ("this document")** has been pre-approved by the Office of the General Counsel (OGC) at Lincoln University of the Commonwealth System of Higher Education. Users of this document are advised that no further review by the OGC is necessary, provided the document is used in its original, unaltered form. However, if any modifications or changes are made to the terms, conditions, or clauses of this Agreement, it is required that the altered Agreement be resubmitted for review and approval by the OGC before execution. For any questions or to submit a modified Agreement for review, please contact the Office of the General Counsel at generalcounsel@lincoln.edu.

XV. MINORITY-OWNED BUSINESS SUBCONTRACTING AND REPORTING. Because of its recognized role in the education of minority students, Lincoln University views with great importance affirmative efforts to employ on its Agreements women and other minorities. The Contractor therefore agrees to use its best efforts to give women and other minorities the maximum practicable opportunity to participate in its Agreements and in the subcontracts it awards to the fullest extent consistent with efficient performance of its Agreements. Upon request, the Contractor should be prepared to provide evidence or documentation that they have utilized their best efforts concerning minority participation.

XVI. AUDIT PROVISIONS. The University shall have the right, at reasonable times and at a site designated by the University, to audit the books, documents and records of the Contractor to the extent that the books, documents and records relate to the Contractor's performance under the Agreement including the preparation of its proposal. Contractor shall maintain such books, documents and records for three (3) years after final payment. The Contractor shall give full and free access to all records to the University and/or their authorized representatives for the period noted herein.

XVII. DEFAULT

A. The University may, subject to the provisions of Paragraph XVIII, Force Majeure, and in addition to its other rights under the Agreement, declare the Contractor in default by written notice thereof to the Contractor, and terminate (as provided in Paragraph XIX, Termination Provisions) the whole or any part of this Agreement for any of the following reasons:

1. Failure to begin work within the time specified in the Agreement or as otherwise specified;
2. Failure to perform the work with sufficient labor, equipment, or material to insure the completion of the specified work in accordance with the Agreement Term;
3. Unsatisfactory performance of the work;

4. Failure or refusal to remove material, or remove and replace any work rejected as defective or unsatisfactory;
5. Discontinuance of work without approval;
6. Failure to resume work, which has been discontinued, within a reasonable time after notice to do so;
7. Insolvency or bankruptcy;
8. Assignment made for the benefit of creditors;
9. Failure or refusal within 10 days after written notice by the University, to make payment or show cause why payment should not be made, of any amounts due for materials furnished, labor supplied or performed, for equipment rentals, or for utility services rendered;
10. Failure to protect, to repair, or to make good any damage or injury to property or the environment; or
11. Breach of any provision of this Agreement.

B. In the event the University terminates this Agreement in whole or in part as provided in Subparagraph a, above, the University may procure, upon such terms and in such manner as it determines, services similar or identical to those so terminated, and the Contractor shall be liable to the University for any reasonable excess costs for such similar or identical services included within the terminated part of the Agreement.

C. If the Agreement is terminated as provided in Subparagraph A, above, the University, in addition to any other rights provided in this paragraph, may require the Contractor to transfer title and deliver immediately to the University in the manner and to the extent directed by the University, such partially completed work, including where applicable, reports, working papers and other documentation, as the Contractor has specifically produced or specifically acquired for the performance of such part of the Agreement as has been terminated. Except as provided below, payment for completed work accepted by the University shall be at the agreed upon price in the Agreement. Except as provided below, payment for partially completed work including, where applicable, reports and working papers, delivered to and accepted by the University shall be in an amount agreed upon by the Contractor and University. The University may withhold from amounts otherwise due the Contractor for such completed or partially completed works, such sum as the University determines to be necessary to protect the University against loss.

D. The rights and remedies of the University provided in this paragraph shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

E. The University's failure to exercise any rights or remedies provided in this paragraph shall not be construed to be a waiver by the University of its rights and remedies in regard to the event of default or any succeeding event of default.

XVIII. FORCE MAJEURE

A. Neither party will incur any liability to the other if its performance of any obligation under this Agreement is prevented or delayed by causes beyond its control and without the fault or negligence of either party. Causes beyond a party's control may include, but are not limited to, acts of God or war, changes in controlling law, regulations, orders or the requirements of any governmental entity, severe weather conditions, civil disorders, natural disasters, fire, epidemics and quarantines, general strikes throughout the trade, and freight embargoes.

B. The Contractor shall notify the University orally within five (5) business days and in writing within ten (10) business days of the date on which the Contractor becomes aware, or should have reasonably become aware, that such cause would prevent or delay its performance. Such notification shall (i) describe fully such cause(s) and its effect on performance, (ii) state whether performance under the

Agreement is prevented or delayed and (iii) if performance is delayed, state a reasonable estimate of the duration of the delay.

C. The Contractor shall have the burden of proving that such cause(s) delayed or prevented its performance despite its diligent efforts to perform and shall produce such supporting documentation as the University may reasonably request. After receipt of such notification, the University may elect either to cancel the Agreement or to extend the time for performance as reasonably necessary to compensate for the Contractor's delay.

D. In the event of a declared emergency by competent governmental authorities, the University by notice to the Contractor, may suspend all or a portion of the Agreement.

XIX. TERMINATION PROVISIONS. The University has the right to terminate this Contract for any of the following reasons:

- A. **TERMINATION FOR CONVENIENCE:** The University shall have the right to terminate the Contract for its convenience if the University determines termination to be in its best interest. The Contractor shall be paid for work satisfactorily completed prior to the effective date of the termination, but in no event shall the Contractor be entitled to recover loss of profits.
- B. **TERMINATION FOR CAUSE:** The University shall have the right to terminate the Contract for default under Paragraph XVII, Default, upon written notice to the Contractor. The University shall also have the right, upon written notice to the Contractor, to terminate the Contract for other cause as specified in this Contract or by law. If it is later determined that the University erred in terminating the Contract for cause, then, at the University's discretion, the Contract shall be deemed to have been terminated for convenience under the Subparagraph A.
- C. Termination shall be effective upon written notice to the Contractor.

XX. TESTING AND INSPECTION. The University reserves the right to conduct any test and/or inspection at any time that it may deem advisable to assure itself that the services or product being provided under the Agreement conform to the specifications. The Contractor acknowledges that this provision grants the University certain audit or inspection rights which shall, however, in any way relieve the Contractor of any of its obligations under the Agreement nor shall it require the University to conduct any such audit or inspection. The University shall bear the costs of such tests and/or inspections unless it is determined through such tests and/or inspections that the Contractor's services or product does not conform to the Agreement Requirements, in which case the Contractor shall reimburse the University for the costs of such tests and/or inspections.

XXI. NO THIRD-PARTY BENEFICIARY RIGHTS. No provisions of this Agreement shall in any way inure to the benefit of any third person (including the public at large) so-as to constitute any such person a third-party beneficiary of the 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.

XXII. APPLICABLE LAW. The Agreement and the rights and obligations of the parties hereto shall be interpreted, construed, governed by and enforced in accordance with the laws of the Commonwealth of Pennsylvania (without regard to any conflict of law provisions) and the decisions of the Pennsylvania courts. The Contractor consents to the jurisdiction of the courts located in the Eastern District of Pennsylvania and any federal courts in Pennsylvania, waiving any claim or defense that such forum is not convenient or proper, for litigation of any disputes arising under this Agreement. The Contractor agrees that any such court shall have personal jurisdiction over it, and consents to service of process in any manner authorized by Pennsylvania law.

XXIII. INTEGRATION. The Agreement, including all referenced documents, constitutes the entire agreement between the parties. If any provision of this Agreement is found invalid, it shall not invalidate the remaining provisions of the Agreement. No agent, representative, employee or officer of either the University or the Contractor has authority to make, or has made, any statement, agreement or representation, oral or written, in connection with the Agreement, which in any way can be deemed to modify, add to or detract from, or otherwise change or alter its terms and conditions. No negotiations between the parties, nor any custom or usage, shall be permitted to modify or contradict any of the terms and conditions of the Agreement. No modifications, alternations, changes, or waiver to the Agreement or

any of its terms shall be valid or binding unless accomplished by a written amendment. All such amendments will be made using the appropriate University form.

XXIV. WAIVER OF CONSEQUENTIAL DAMAGES . The Contractor waives all incidental consequential

and punitive damages that may arise out of its performance of the Agreement including but not limited to loss of anticipatory profits, loss of other business, loss of financing or damage to reputation.

XXV. SUBCONTRACTS . No portion of the work shall be subcontracted without prior written consent of Lincoln University. In the event that the Contractor desires to subcontract some part of the work specified herein, the Contractor shall furnish to Lincoln University the names, qualifications and experience of its proposed subcontractor(s). 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 the Agreement. No portion of this clause shall be construed or interpreted to mean that Lincoln University does not encourage subcontracting with small businesses or minority/women-owned businesses.

XXVI. NO CONFLICTS . Contractor certifies that it is currently under no outstanding agreement or obligation which conflicts or prevents it from performing Services under this Agreement, and that this Agreement does not constitute a breach of any obligation it has to a third party.

XXVII. SEVERABILITY . In the event that any section, paragraph or term of this Agreement shall be determined to be invalid or unenforceable by any competent tribunal for any reason, the remainder of this Agreement shall be unaffected thereby and shall remain in full force and effect and if any section, paragraph, or term of this Agreement is adjudged to any extent to be invalid or unenforceable by any competent tribunal, such section, paragraph, or term will be deemed modified to the extent necessary to make it enforceable.

XXVIII. NOTICES . All notices shall be in writing and addressed to the party to receive such notice at the address given below, or such other address as may hereafter be designated by notice in writing. Notices may be sent by email, fax, hand delivery, private overnight mail service, or registered or certified U.S. mail. Notice will be deemed received on the completion of the third (3rd) business day following the documented date of deposit with the United States Postal Service.

TO: LINCOLN UNIVERSITY:

Lincoln University

Attn: Office of General Counsel
1570 Baltimore Pike

Lincoln University, PA 19352
Email: generalcounsel@lincoln.edu
Phone: 484.365.5247
Fax: 484.365.7316

TO: CONTRACTOR:

Company Name: _____

Attn: Company Contact: _____

Company Address: _____

Company City: _____

Company State/Zip: _____ / _____

Email: _____

Phone / Fax: _____ / _____

XXIX. AMENDMENT . This Agreement may be amended only by mutual agreement of the parties in writing.

XXX. ASSIGNMENT . Neither party shall assign or delegate its rights and obligations under this Agreement or any part hereof without the written consent of the non-assigning or non-delegating party.

XXXI. COMPLETE AGREEMENT . This Agreement contains the entire agreement between the parties in respect to the subject matter hereof and supersedes any and all other agreements for consultation, oral or written, and all other communication between the parties relating to the subject matter of this Agreement. The language of all parts of this Agreement shall in all cases be construed according to its fair meaning and not strictly for or against any of the parties.

XXXII. HEADINGS . The headings and other captions in this Agreement are for convenience and reference only and shall not be used in interpreting, construing or enforcing any of the provisions of this Agreement.

XXXIII. SIGNATURES. The parties' have executed and delivered this Agreement as of the date(s) evidenced below with the intention that it shall be effective and accurate as of the date set forth in the preamble.

FOR CONTRACTOR:

By: _____

Signature

Print Name:_____

Title:

Date

FOR LINCOLN UNIVERSITY:

By:

Signature

Wilbourne Rusere, Vice President

Finance and Administration

Date