

**AGREEMENT**

**Contract #UVA-AGR-2203**

This Agreement executed this 10<sup>th</sup> day of November 2022, by and between the Rector and Visitors of the University of Virginia, (the “University”) and Verbit, Inc. (“Verbit”) to meet the requirements of the University and the Virginia Higher Education Procurement Consortium (“VHEPC”) and its members (collectively the “University”).

**TERM**

The initial term of this Agreement will be for two years effective upon execution of this Agreement, with the ability to renew on the same or similar terms and conditions, for one additional two-year period and three subsequent one-year periods. Verbit and the University will mutually agree at least 180 days prior to each renewal option on whether to renew the terms of this Agreement.

**WITNESS**

By its Request for Proposal RFP-UVA-00063-LP021722 for Captioning and Related Services dated February 17, 2022, the University requested proposals from firms to provide Captioning and Related Services (the “Goods and Services”). In response to the RFP, Verbit submitted a written proposal on March 14, 2022, and a letter responding to negotiations dated June 9, 2022. The parties, having negotiated concerning the Goods and Services wish to express in this Agreement the basis on which Verbit will provide the Goods and Services to the University.

Accordingly, and in consideration of the mutual premises and provisions hereof, the parties hereby agree as follows:

I. Contents

These documents are hereby incorporated into this Agreement:

- A. The RFP dated February 17, 2022, including its Attachments 1, 2, 3, 4 & 5.
- B. Agreement Attachment 1, Contractual Provisions.

- C. Verbit's Proposal submitted on March 14, 2022; and
- D. Verbit's response to negotiations with the University, consisting of documents dated June 9, 2022, from Lindsay Tulloss (Verbit) to Lori Ponton (University).

To the extent that the terms of the various Agreement documents are in conflict, the terms of this Agreement, the RFP, and Agreement Attachment 1 will prevail over all other Agreement documentation.

## II. Specific Provisions

### **Scope of Goods and Services**

These specific provisions are restated here for clarification:

Verbit will provide services such as audio-visual captioning/transcription, live captioning/CART, and audio description. Services include:

#### A. General Requirements

##### 1. **Live Captioning (on-site or remote)**

A transcriptionist transcribes all that is heard during a live event (i.e., video conferencing, conference calls, classroom lecture and discussion, meetings, presentations, conferences, sports venues, etc.) with text displayed on a computer monitor, on a web page, through a projection system, or other medium or device which can display the text of the audio created in real-time with a high-level of accuracy and minimal latency.

Live captioning will be required for both in-person and remote events. Firms may offer one or both services. Both services will require the services of human transcriptionists.

##### 2. **Post-production Captioning**

Post-production captions are added to a video after it has been recorded, also known as prerecorded media. Captions are text versions of the verbal and non-verbal audio content, synchronized with video, and include descriptions of all audio components necessary to understand the content and context of the video. It is the expectation the creation and resulting caption files will follow best practices

and guidelines such as those outlined in the [WCAG Standards for Time-Based Media](#) and [The Captioning Key](#).

Although most of the media requiring captions will be video, audio-only files will also be submitted for transcription-only services.

Proposed post-production captioning services may include one or more of the following:

- Closed captioning
- Open captioning
- Transcription only
- Translation

### 3. **Audio Descriptions**

Audio Description is the verbal depiction of key visual elements in media and live productions and involves the interspersing of these depictions with the program's original audio.

It is the expectation the creation and resulting caption files will follow best practices and guidelines such as those outlined in the [WCAG Standards for Time-Based Media](#) and [The Description Key](#).

Proposed audio description services may include one or more of the following:

- Machine-generated descriptions
- Descriptions provided by human narration
- Combination of the two options above
- Services for live events
- Services for prerecorded media

#### B. Fees

Verbit will provide the following tiered pricing:

**KEY:**

LV: Low volume \$0-\$50,000

MV: Medium volume \$50,000-\$100,000

HV: High Volume \$100,000+

<u>SERVICE</u>	LV	MV	HV
Live Captioning Remote (English)	\$1.61 per min	\$1.45 per min	\$1.37 per min
Live Captioning Remote (French/Spanish)	\$2.67 per min	\$2.40 per min	\$2.27 per min
Live Captioning for Medical/Legal/STEM (Elite pricing)	\$2.80 per min	---	\$2.46 per min
Post-production audio captioning/transcription (2-4 hr TAT)	\$3.00 per min	\$2.70 per min	\$2.55 per min
Post-production audio captioning/transcription (24 hr TAT)	\$1.40 per min	\$1.26 per min	\$1.19 per min
Post-production audio captioning/transcription (48 hr TAT)	\$1.33 per min	\$1.20 per min	\$1.13 per min
Post-production audio captioning/transcription (3-4 day TAT)	\$1.26 per min	\$1.13 per min	\$1.07 per min
Post-production audio captioning/transcription (5+ days TAT)	\$1.20 per min	\$1.08 per min	\$1.02 per min

### C. Payment Terms and Invoicing

Verbit will be paid in accordance to the payment terms selected by Verbit upon registration to do business with the University. Verbit will submit invoices referencing the correct purchase order number to the appropriate University Accounts Payable Division which will be shown on the purchase order for invoicing. The University's invoices will be sent to:

University of Virginia Accounts Payable  
P.O. Box 3025  
Scranton, PA 18508  
Email: [vendor-invoices@virginia.edu](mailto:vendor-invoices@virginia.edu)

### D. Contract Administrators

1. Primary Administration: The individual named below will serve as the point of contact at the University for day-to-day operations under this Agreement. The Primary Administrator cannot approve amendments or price changes to this Agreement. Verbit will channel specific service request communications through:

- Lori Kressin  
Coordinator of Academic Accessibility  
VP for Academic Affairs  
University of Virginia  
102 Cresap Rd.  
P.O. Box 400199  
Charlottesville, VA 22901  
E: [coaa@virginia.edu](mailto:coaa@virginia.edu)  
Ph: 434-982-5784
- Korey Singleton, Manager  
Assistive Technology Initiative

George Mason University  
Aquia Building RM 238 MSN: 6A11  
4400 University Drive  
Fairfax, VA 22030  
E: [ati@gmu.edu](mailto:ati@gmu.edu)  
Ph: 703-993-4743

2. Secondary Administration: Verbit will channel all Contract Administration questions not pertaining to a specific service request through the VHEPC and University's Procurement & Supplier Diversity Services department, and specifically the individuals named below:

- **University of Virginia**  
Devon Stribling, Senior Sourcing Specialist  
Procurement & Supplier Diversity Services  
University of Virginia  
Carruthers Hall, 1001 N. Emmet Street  
P.O. Box 400202  
Charlottesville, Virginia 22904-4202  
Email: [dts6c@virginia.edu](mailto:dts6c@virginia.edu)  
Ph: 434-924-1742
  
- **VHEPC**  
Ryan Balber, Director  
VHEPC  
Carruthers Hall, 1001 N. Emmet Street  
Charlottesville, Virginia 22904-4202  
Email: [rb7pq@virginia.edu](mailto:rb7pq@virginia.edu)  
Phone: 434-297-6099; Mobile: 217-649-9700

Verbit will not make any commitments or comments, or actions on behalf of the University without the explicit direction of the Contract Administrators. The University reserves the right to change its Contract Administrators, upon notice to Verbit.

E. Price Escalation

Changes to Price List: The VHEPC will only entertain proposed changes to the price list for review on a **yearly basis** (*July-June*), unless it is in the best interest of the VHEPC to make cost reduction changes that will benefit the VHEPC participating members. Verbit is expected to notify the VHEPC of any price decreases to their published price list, and

to make price changes to any web based catalog within 30 days. If price decreases are made for services that are on unfilled purchase orders, those items will be sold to the VHEPC members for the lower cost. Promotional Priced services, which are below the VHEPC net price, are included, and the promotional price, if a price advantage to the participating VHEPC members, must also be offered and included in any open, unfilled, purchase orders at the promotional price for the term of the promotion.

Any proposed price increase adjustments will be reviewed yearly, based on the University fiscal year (July-June). The VHEPC reserves the right to audit and review any proposed changes. The VHEPC requires thirty (30) calendar days after receiving a written letter documenting and justifying the reasons for a requested increase; and after receiving any reports requested, showing the total dollar (\$) impact for each participating members (based on the services sold to that particular member from the previous fiscal year). The 30 days for analysis begins after receiving all requested information, in the format requested, and accepted by the VHEPC. Price adjustments will not go into effect until after all the analysis is complete, and recommendation is documented by the VHEPC Contract Administrator, and approved by the Director of the VHEPC. Once approved the price adjustment will be effective the following first of the Month.

Verbit should note that price adjustments are not guaranteed and the VHEPC retains the right to verify price movement against various market analytics. Price adjustments will not be granted for any amount over the stated Producer's Price Index (PPI) percent (%) adjustment, except in special and documented instances (i.e. a force majeure event). The PPI is an average of the change in the price of tracked indices. The VHEPC expects that any changes will be below the average, and will not exceed the ceiling, defined as the yearly percent % change in the index tracked. The VHEPC is using the Bureau of Labor Statistics (BLS) data in order to show a fair and equitable adjustment, if it is so warranted, based on hard data and purchase history. PPI data can be accessed through the Bureau of Labor Statistic's web page located at: [www.bls.gov/ppi/data.htm](http://www.bls.gov/ppi/data.htm)

Additionally, the VHEPC will not entertain a price increase based on the cost associated with "the cost of doing business"; which includes, but is not limited to, overhead and transportation costs. There also will be no additional cost increase passed on to the

VHEPC by means of surcharges, or other price increases, unless approved by the VHEPC Contract Administrator prior to implementation; and as a result of price analysis of the market conditions.

F. VHEPC Reporting Requirements

Verbit will provide quarterly reporting data of all activity for VHEPC members and non-member spend. Reporting data will be sent to the VHEPC Contract Administrator listed in Section D. Part 2.

G. Special Work Performance Requirements

Verbit will maintain a mandatory background check and drug and alcohol-testing program for all its employees. A Criminal History Records Check must be completed through the Virginia State Police for each employee. If the check reveals any of the following, Verbit will not assign that individual to perform Services for the University:

1. Any felony
2. Any of the following misdemeanor offenses, regardless of when the conviction occurred:
  - Burglary
  - Breaking and entering
  - Robbery
  - Theft
  - Larceny
  - Any sexual offenses
3. Any of the following misdemeanor offenses if convicted within the previous five years:
  - Forgery
  - Fraud
  - Assault and battery
  - Weapons violations
  - Possession, distribution, sale or delivery of a controlled substance

The University reserves the right to review information obtained via Verbit's mandatory background check and drug and alcohol-testing program upon request for all employees assigned by Verbit to University projects/work.

H. Compliance

Verbit warrants that the service(s) it will provide to the University is fully compliant with all state and federal laws, regulations, industry codes, and guidance that may be applicable to the service, which may include:

Any applicable national, federal, state or local law, rule, directive or regulation relating to the privacy of personal information, including, without limitation, the Family Educational Rights and Privacy Act, 20 U.S.C. §1232g, and its implementing regulations (“FERPA), the Americans with Disabilities Act, and the Virginia Consumer Data Protection Act.

I. Data Protection

Sensitive, non-public “University Data” is strictly regulated by state or federal law. Such data includes but is not limited to: business, administrative and financial data, intellectual property, and patient, student and personnel data. If Verbit provides goods or services to the University and will receive, create, or come into non-incident contact with University Data, Verbit agrees to abide by the terms and conditions of the Data Protection Addendum attached hereto. Notwithstanding the foregoing, the Parties agree that Verbit is not a Business Associate of the University, and that no Business Associate Agreement shall apply.

**ACCEPTANCE**

**For the Rector and Visitors  
of the University of Virginia**

DocuSigned by:  
*Alita Salley*  
B163FD2E8E67476

Alita Salley, Interim Director  
Procurement and Supplier Diversity Services

11/10/2022

Date

RFP-UVA-00063-LP021722  
Contract #UVA-AGR-2203

**For Verbit, Inc.**

*Brian Troesch*

Brian Troesch  
SVP Sales

November 10, 2022

Date



**Attachment 1**  
**General Contractual Provisions**

A. Nondiscrimination

During the performance of this Agreement, Verbit will comply with the contract provisions contained in Section 2.2-4311(1)& (2) of the Code of Virginia or any successor provisions which may be applicable to this Agreement. Also, in accordance with Section 2.2- 4343.1,the University does not discriminate against faith-based organizations.

B. Conflict of Interests

Verbit represents to the University that its entering into this Agreement with the University and its performance through its agents, officers and employees does not and will not involve, contribute to nor create a conflict of interest prohibited by the Virginia State and Local Government Conflict of Interests Act (Va. Code 2.2-3100 *et seq*), the Virginia Ethics In Public Contracting Act (Va. Code 2.2-4367 *et seq*), the Virginia Governmental Frauds Act (Va. Code 18.2-498.1 *et seq*) or any other applicable law or regulation.

C. Independent Contractor

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

D. Drug-Free Workplace

Verbit, its agents and employees are prohibited, under the terms of this Agreement, Code of Virginia Section 2.2-4312, and the Commonwealth of Virginia, Department of Human Relations Management Policy Number 1.05, from manufacturing, distributing,

dispensing, possessing, or using any unlawful or unauthorized drugs or alcohol while on University property.

During the performance of this Agreement, Verbit agrees to 1) provide a drug-free workplace for Verbit's employees; 2) state in all solicitations or advertisements for employees placed by or on behalf of Verbit that it maintains a drug-free workplace; and 3) include the provisions of the foregoing clauses in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

For the purposes of this section, "drug-free workplace" means a site for the performance of work done in connection with a specific agreement awarded to a Verbit, the employees of whom are prohibited from engaging in the unlawful manufacturing, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of this Agreement.

E. Information Technology Access

All electronic and information technology procured through this agreement must meet the applicable accessibility standards of Section 508 of the Rehabilitation Act of 1973 (29 U.S.C. 794d) as amended and is viewable at <https://www.section508.gov/>. Additionally, in accordance with § 2.2-3504 of the Code of Virginia, the following will apply to all information technology Agreements:

NON-VISUAL ACCESS TO TECHNOLOGY: All information technology (the "Technology") which is purchased or upgraded by the University will comply with the following non-visual access standards from the date of purchase or upgrade until the expiration of this Agreement

- O Effective, interactive control and use of the Technology will be readily achievable by non-visual means;
- O Technology equipped for non-visual access will be compatible with information technology used by other individuals with whom any blind or visually impaired user of the Technology interacts;

- O Non-visual access technology will be integrated into any networks used to share communications among employees, program participants or the public; and
- O Technology for non-visual access will have the capability of providing equivalent access by non-visual means to telecommunications or other interconnected network services used by persons who are not blind or visually impaired.

Installation of hardware, software, or peripheral devices used for non-visual access is not required when the Technology is being used exclusively by individuals who are not blind or visually impaired, but applications programs and underlying operating systems (including the format of the data) used for the manipulation and presentation of information will permit the installation and effective use of non-visual access software and peripheral devices.

The agreement must provide a detailed explanation of how compliance with the foregoing non-visual access standards is achieved and a validation of concept demonstration.

F. Unauthorized Alien Use

Verbit warrants that it does not knowingly employ an “unauthorized alien,” as such term is defined in the federal Immigration Reform and Control Act of 1986. Verbit furthermore agrees that, during the term of this Agreement, it will not knowingly employ an unauthorized alien.

G. Additional Federal Grant Provisions

The following provisions apply to a contract made under a federal grant: [Appendix II to Part 200 - Contract Provisions for Non-Federal Entity Contracts Under Federal Awards](#).

H. Assignment

Neither party to this Agreement will have the right to assign this Agreement in whole or in part without the prior written consent of the other.

I. Amendments

No amendment of this Agreement will be effective unless it is reduced to writing and

executed by the University's Director of Procurement and Supplier Diversity Services, or other authorized party, and by the individual signing Teknion's proposal or by other individuals named by either party as specified in the Notices provision below. If Verbit deviates from the terms of this Agreement without a written amendment, it does so at its own risk.

J. Notices

Any notice required or permitted to be given under this Agreement will be in writing and will be deemed duly given: (1) if delivered personally, when received;(2)if sent by recognized overnight courier service, on the date of the receipt provided by such courier service; (3) if sent by registered mail, postage prepaid, return receipt requested, on the date shown on the signed receipt, or (4) if sent by facsimile, when received (as verified by sender's machine) if delivered no later than 4:00 p.m. (receiver's time) on a business day or on the next business day if delivered (as verified by sender's machine) after 4:00 p.m. (receiver's time) on a business day or on a non- business day. All such notices will be addressed to a party at such party's address or facsimile number as shown below.

If to the University:

Procurement and Supplier Diversity Services  
Strategic Sourcing Director  
University of Virginia  
P.O. Box 400202  
Charlottesville, Virginia 22904-4202  
Phone: 434-924-4019  
Fax: 434-982-2690  
Contract Reference Number: UVA-AGR-2203

If to Verbit:

Legal Department  
500 7<sup>th</sup> Ave.; 8<sup>th</sup> Floor  
New York, NY 10018  
Email: [legal@verbit.ai](mailto:legal@verbit.ai)

K. University Registration

Verbit agrees to register and remain registered as a supplier with the University during the term of this Agreement, and to comply with all applicable terms and conditions associated with registration.

L. eVA Registration / Transaction Fee

The eVA Internet electronic procurement solution is the Commonwealth of Virginia's comprehensive electronic procurement system. The portal is a gateway for firms to conduct business with state agencies and public bodies. All agencies and public bodies are expected to utilize eVA and all firms desiring to provide goods and/or services in the Commonwealth are encouraged to participate in the eVA Internet e-procurement solution.

Verbit is required to register in the eVA Internet e-procurement solution as a condition of award and remain eVA registered during the term of this Agreement. Verbit will be subject to an eVA transaction fee, for which Verbit will be invoiced by Commonwealth of Virginia, Department of General Services. Verbit may not recoup the eVA fee by invoicing the University for the fee. Additional information is available at [www.eva.virginia.gov](http://www.eva.virginia.gov)

Verbit must ensure that only eVA registered sites are maintained in the University's supplier registration system. If the firm does not meet this requirement throughout the term of the Agreement, Verbit may be responsible for all additional eVA expenses incurred by the University as a result of the firm not maintaining proper eVA registration and / or having a non-eVA registered site(s) within the University's supplier registration system.

M. Waiver

No waiver of any right will be deemed a continuing waiver, and no failure on the part of either party to exercise wholly or in part any right will prevent a later exercise of such or any other right.

N. Indemnification

Verbit will indemnify and hold harmless The Commonwealth of Virginia, The Rector and Visitors of the University of Virginia, and its agents, employees and officials from any and all costs, damage or loss, claims, liability, damages, expenses (including, without limitation, attorneys' fees and expenses) caused by or arising out of the performance or

non-performance of this Agreement by Verbit or its agents or subcontractors, including the provision of any services or products. Verbit warrants that the products, services provided the University may be used by the University without being in violation of any copyright, patent or similar property right or claim by others and will defend, indemnify and save the University (its employees and agents) from and against any such claim.

O. Termination

If Verbit fails to provide quality goods or services in a professional manner, solely as determined by the University, and, upon receipt of notice from the University, does not correct the deficiency to the University's satisfaction within 15 calendar days or a time agreed to by both parties in writing, the University reserves the right to terminate this Agreement upon written notice to Verbit.

In addition, this Agreement may be terminated by the University for convenience by providing 30 days' notice. The University remains responsible for payment of all products and services it has implemented, used or purchased through the time of termination.

P. Non-Appropriation

Funding for any Agreement between the University and Verbit is dependent at all times upon the appropriation of funds by the Virginia General Assembly and/or any other organization of the Commonwealth authorized to appropriate such funds. In the event that funding to support this Agreement is not appropriated, whether in whole or in part, then this Agreement may be terminated by the University effective the last day for which appropriated funding is available.

Q. Right of Audit

The University reserves the right to audit or cause to be audited Verbit's books and accounts regarding the University's account at any time during the term of this Agreement and for three years thereafter. Verbit will make available to the University all books and records relating to performance of this Agreement as may be requested during said period. This specifically includes, but is not limited to, the right of the University to require Verbit to perform self-audits within reasonable parameters established by the

University.

R. Contractual Claims Procedure

The Virginia Acts of Assembly of 2007, Chapter 943, Chapter 3, Exhibit P and its attachments requires contractors with the University to submit any claims, whether for money or other relief, in writing no later than 60 days after final payment; however, written notice of the contractors intention to file such a claim must be given at the time of the occurrence or beginning of the work upon which the claim is based.

The University's procedure for deciding such contractual claims is:

1. Verbit must provide the written claim to:  
Procurement and Supplier Diversity Services  
Strategic Sourcing Director  
University of Virginia  
Carruthers Hall  
1001 North Emmet Street  
P.O. Box 400202  
Charlottesville, Virginia 22904-4202
2. Although Verbit may, if it chooses, attempt to resolve its claim by dealing with a University department other than the one stated in Section 1 above, Verbit must submit any unresolved claim in writing no later than 60 days after final payment to the Strategic Sourcing Director if it wishes to pursue its claim.
3. Upon receiving the written claim, the Strategic Sourcing Director will review the written materials relating to the claim and decide whether to discuss the merits of the claim with Verbit. If such discussion is to be held, the Strategic Sourcing Director will contact Verbit and arrange such discussion. The manner of conducting such discussion will be as the Strategic Sourcing Director and Verbit mutually agree.
4. The Strategic Sourcing Director will mail his or her decision to Verbit within 60 days after receipt of the claim. The decision will state the reason for granting or denying the claim.
5. Verbit may appeal the decision to:  
Director of Procurement and Supplier Diversity Services  
University of Virginia

Carruthers Hall  
1001 North Emmet Street  
P.O. Box 400202  
Charlottesville, Virginia 22904-4202

Provide a written statement explaining the basis of the appeal within 15 days after Verbit's receipt of the decision.

6. Upon receiving the written appeal, the Director of Procurement and Supplier Diversity Services will review the written materials relating to the claim and decide whether to discuss the merits of the claim with Verbit. If such discussion is to be held, the Director of Procurement and Supplier Diversity Services will contact Verbit and arrange such discussion. The manner of conducting such discussion will be as the Director of Procurement and Supplier Diversity Services and Verbit mutually agree.
7. The Director of Procurement and Supplier Diversity Services will mail his or her decision to Verbit within 60 days after the Director of Procurement and Supplier Diversity Services receipt of the appeal. The decision will state the reasons for granting or denying the appeal.

Nothing in this procedure will preclude either party from filing a claim in any court of the Commonwealth of Virginia to seek legal or equitable remedy if a dispute should arise, in addition to such other remedies as are expressly provided in this Agreement. Verbit may not, however, file such claim unless and until it has complied fully with the procedure set forth in this provision.

S. Cooperative Procurement / Use of Agreement by Third Parties

It is the intent of this Agreement to allow for cooperative procurement. Accordingly, any public body, public or private health or educational institution, or any University related foundation may access this Agreement if authorized by Verbit.

Participation in this cooperative procurement is strictly voluntary. If authorized by Verbit, this Agreement may be extended to the entities indicated above to purchase at fees in accordance with this Agreement. Verbit will notify the University in writing of



any such entities accessing this Agreement. No modification of this Agreement or execution of a separate agreement is required to participate. Verbit will provide semi-annual usage reports for all entities accessing this Agreement. Participating entities will place their own orders directly with Verbit and will fully and independently administer their use of this Agreement to include contractual disputes, invoicing and payments without direct administration from the University. The University will not be held liable for any costs or damages incurred by any other participating entity as a result of any authorization by Verbit to extend this Agreement. It is understood and agreed that the University is not responsible for the acts or omissions of any entity, and will not be considered in default of this Agreement no matter the circumstances.

Use of this Agreement does not preclude any participating entity from using other agreements or competitive processes as the need may be.

T. The University's Authorized Representatives

The only persons who are or will be authorized to speak or act for the University in any way with respect to this Agreement are those whose positions or names have been specifically designated in writing to Verbit by the University's Director of Procurement and Supplier Diversity Services.

U. Purchasing Manual

This Agreement is subject to the provisions of the Commonwealth of Virginia "Purchasing Manual for Institutions of Higher Education and Their Vendors" and any subsequent revisions, which is available at this web site: <https://vascupp.org/>

V. Goods and/or Services

During the term of this Agreement, Verbit will provide for the University the goods and/or services offered to the University by the firm in its proposal and/or any addenda to its proposal which has been approved in writing by the University and as may be further specified by the University in writing when it selected the firm.

W. Future Goods and/or Services

The University reserves the right to have Verbit provide additional goods and/or services

that may be required by the University during the Term of this Agreement. Any such goods and/or services will be provided under the same terms and conditions of this Agreement. Such additional goods and services may include other products, components, accessories, subsystems or services provided by Verbit. These additional goods and services will be provided to the University at Favored Customer pricing.

X. Favored Customer

Verbit represents that the prices, terms, warranties, and benefits specified in its proposal are comparable to or better than the equivalent terms being offered by Verbit to any present customer where the volume and product mix purchased are similar and made under comparable terms and conditions within the same industry for comparable purchase volumes.

Y. Ordering Procedures

The University does not place verbal orders for Goods and/or Services. The University may only place orders for the Goods and/or Services by issuing a formal written Purchase Order in advance of Verbit's provision of any Goods and/or Services. Accordingly, at the University's request, Verbit will issue a proposal/quotation listing the Goods and/or Services desired by the University and the corresponding fees and/or fee estimates. After any necessary discussions and/or revisions, the University will issue a corresponding Purchase Order for a specified fee amount. This specified fee amount cannot be exceeded by Verbit unless a new formal written Purchase Order or Purchase Order revision is issued by the University authorizing a specific additional fee amount. Under no circumstances does the University authorize Verbit to provide the Goods and/or Services before receipt of a formal written Purchase Order corresponding to its proposal/quotation. If Verbit provides Goods and/or Services prior to receipt of a formal written Purchase Order, or incurs costs in excess of authorized purchase order fee amounts, it does so at its own risk.

Z. Fair Employment Contracting Act

In accordance with Code of Virginia Section 2.2-4201, during the performance of this Agreement, Verbit agrees as follows:

1. Verbit will not discriminate against any employee or applicant for employment because of race, religion, color, sex, or national origin, except where religion, sex, or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of Verbit. Verbit agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause, including the names of all contracting agencies with which the contractor has contracts of over \$10,000.
2. Verbit will, in all solicitations or advertisements for employees placed by or on behalf of Verbit, state that Verbit is an equal opportunity employer. However, notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this provision.
3. If Verbit employs more than five employees, Verbit shall (i) provide annual training on Verbit's sexual harassment policy to all supervisors and employees providing services in the Commonwealth of Virginia, except such supervisors or employees that are required to complete sexual harassment training provided by the Department of Human Resource Management, and (ii) post Verbit's sexual harassment policy in (a) a conspicuous public place in each building located in the Commonwealth of Virginia that Verbit owns or leases for business purposes and (b) Verbit's employee handbook.

Verbit shall include the provisions of subparagraphs 1, 2, and 3 above in every subcontract or purchase order of over \$10,000, so that such provisions shall be binding upon each subcontractor or vendor.

AA. Marketing

The University encourages Verbit to appropriately and specifically market itself to applicable end-using University departments that may be interested in Verbit's Goods and/or Services. However, Verbit will not use non-specific mass marketing formats; such as, but not limited to, spam, emails and junk mail. In the event that Verbit engages in non-specific mass marketing formats, the University, in its sole discretion, may choose to terminate this Agreement immediately.

BB. Compliance

Verbit will comply with all applicable laws and industry standards in performing services under this Agreement. Any Verbit personnel visiting the University's facilities will comply with all applicable University policies regarding access to, use of, and conduct within such facilities.

CC. Intellectual Property Rights/Disclosure

Unless expressly agreed to the contrary in writing, all goods, products, materials, documents reports, writings, video images, photographs or papers of any nature including software or computer images prepared or provided by Verbit (or its subcontractors) for the University will not be disclosed to any other person or entity without the written permission of the University. Verbit warrants to the University that the University will own all rights, title and interest in any and all intellectual property rights created in the performance of this Agreement solely for the benefit of the University as mutually agreed in writing and will have full ownership and beneficial use thereof free and clear of claims of any nature by any third party including without limitation copyright or patent infringement claims. Verbit will execute any assignments or other documents needed for the University to perfect such rights. Notwithstanding anything to the contrary, nothing herein shall be deemed to transfer or assign any right, title, or interest in Verbit's technology or Platform (or any intellectual property rights therein) to the University.

DD. Brand Standards

Verbit warrants that any Creative Work produced for the University (1) will comply with the University's brand standards and (2) in its end application, will fit the visual look and feel of the overall brand aesthetic, brand concept, color palette, visual effects, photographic and video style standards, and make correct use of all marks including logos and identity components. Verbit agrees that the University, in its sole discretion, will determine Verbit's compliance with this Provision. Creative Work includes, but is not limited to: websites, applications, electronic communications, newsletters, advertisements, mailings, magazines, and other communication materials (digital and print) produced for the University by Verbit. For additional guidance, Verbit should consult the UVA Brand Guidelines at <http://brand.virginia.edu> or contact University Communications ([brandguidelines@virginia.edu](mailto:brandguidelines@virginia.edu)).

EE. International Traffic in Arms Regulations (ITAR)

If Verbit is providing any items, data or services under this order that are controlled by the Department of State, Directorate of Defense Trade Controls, International Traffic in Arms Regulations (ITAR), it must notify (by sending an email to export-controls@virginia.edu), and receive prior written authorization from, the University's Office of Export Controls before delivery. The notification provided by the supplier shall include the name of the University of Virginia point of contact, identify each ITAR controlled commodity, provide the associated U.S. Munitions List (USML) category number(s), and indicate whether or not the determination was reached as a result of a commodity jurisdiction or self-classification process. Verbit agrees that if it fails to notify the University that it is providing ITAR-controlled items, data or services, it shall reimburse the University for any fines, legal costs and other fees imposed by the above-named regulatory agency for any violation of export controls regarding the provided items, data or services

FF. License Requirements

Certain statutes and regulatory agencies require that some firms be properly registered and licensed, or hold a permit, prior to performing specific types of services. It is Verbit's responsibility to comply with the rules and regulations issued by the appropriate regulatory agencies and possess and maintain the appropriate licenses if applicable for the Goods and/or Services to be provided under this Agreement. A copy of any such applicable license and/or permit must be furnished upon request to the University or VASCUPP member institution. For example, if Verbit will be providing removal, repair, improvement, renovation or construction-type services they, or a qualified individual employed by the firm, must possess and maintain an appropriate State of Virginia Class A, B, or C Contractor License (as required by applicable regulations and value of services to be performed) for the duration of this Agreement.

GG. Force Majeure

Neither Party will be deemed in default or otherwise liable hereunder due to its inability to perform by reason of any fire, earthquake, flood, epidemic, accident, explosion, casualty, strike, lockout, labor controversy, riot, civil disturbance, act of public enemy,

embargo, war, act of God, or any municipal, county, state, national or international ordinance or law or any executive, administrative, judicial or similar order, including orders from any governing body (which order is not the result of any act or omission to act which would constitute a default under this Agreement), or any failure or delay of any transportation, power, or other essential thing required, or similar causes beyond the Party's control. Any delay in performance will be no greater than the event of force majeure causing the delay.

HH. Promotional Activity

During the Term of the Agreement, Verbit may reference the University as a customer in sales and marketing materials and public statements (Promotional Materials), provided such Promotional Materials do not include opinions explicitly or implicitly attributed to the University about the quality of the goods and/or services provided to the University. In no event shall Verbit request that the University or any University employee endorse Verbit or Verbit's goods and/or services. Promotional Materials may include the name "University of Virginia" and UVA's approved institutional logo solely to identify accurately the University as an entity to whom Verbit provides goods and/or services. Furthermore, the University grants Verbit a limited, nonexclusive license to display the University's Marks solely as they are made available to Verbit in connection with Verbit's goods and/or services

II. Insurance

Verbit shall procure and maintain for the duration of the contract, insurance against claims which may arise from or in connection with the performance of the work and the results of that work by Verbit, its agents, representatives, employees or subcontractor. Beginning on the Commencement Date and continuing during the Initial Term of the Contract and any Renewals or extensions thereof, Verbit, at Verbit's expense, shall keep in force, with an insurance company with a current A.M. Best's rating of no less than A:VII, one which is authorized to transact business in Virginia, and in a form acceptable to UVA the following:

{X} **Commercial General Liability (CGL):** providing CGL coverage on an "occurrence" basis, including for

(X) bodily injury liability including: death, assault or battery,  
(X) property damage liability for damage to property of third parties,  
(X) personal injury liability,  
(X) contractual liability,  
(X) products / completed operations liability and with limits no less than Two Million Dollars (\$2,000,000) per occurrence and Four Million Dollars (\$4,000,000) aggregate.

{X} **Automobile Liability:** providing coverage on all vehicles (i.e., owned, non-owned, and hired) operated with combined minimum limits of liability of at least One Million Dollars (\$1,000,000) per occurrence for bodily injury and property damage.

{X} **Workers' Compensation:** providing coverage of at least the statutory amounts covering all employees, and employer's liability insurance with minimum limits of One Million Dollars (\$1,000,000) for each coverage part.

{X} **Employment Practices Insurance:** providing coverage against claims made by any employee, former employee, or potential employee or third party who alleges discrimination (e.g., age, sex, race, or disability), wrongful termination of employment, harassment or any other employment practices-related injuries with limits of liability of at least One Million Dollars (\$1,000,000).

{X} **Cyber Insurance:** providing coverage against information security and privacy breaches (including social engineering coverage, legal and forensic services, credit monitoring programs, website media content liability, crisis management and public relations and violations of Payment Card Industry compliance with combined limits of liability of at least One Million Dollars (\$1,000,000).

{X} **Professional Liability Insurance:** providing coverage against claims made for professional liability, errors and omissions with a minimum limit of One Million Dollars (\$1,000,000) per claim and Three Million Dollars (\$3,000,000) aggregate and remain in effect for at least Five (5) years from date of contract termination.

**Other Insurance Provisions**

The insurance policies are to contain, or be endorsed to contain, the following provisions:

***Additional Insured Status***

The Commonwealth of Virginia, and the Rector and Visitors of the University of Virginia, its officers, employees, and agents are to be covered on the CGL policy with respect to liability arising out of work or operations performed including materials, parts, or equipment furnished in connection with such work or operations.

***Primary Coverage***

For any claims related to this contract, Verbit's insurance coverage shall be primary insurance as respects the Commonwealth of Virginia, the Rector and Board of Visitors of the University of Virginia, its officers, employees, and agents. Any insurance or self-insurance maintained by the Commonwealth of Virginia, the Rector and Board of Visitors of the University of Virginia, its officers, employees, and agents shall be excess of Verbit's insurance and shall not contribute with it.

***Notice of Cancellation***

Verbit will notify UVA within thirty (30) days of cancellation of any insurance policy required above.

***Waiver of Subrogation***

Verbit will grant to UVA a waiver of any right to subrogation which any insurer of Verbit may acquire against UVA by virtue of the payment of any loss under CGL and WC insurance. Verbit will agree to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not UVA has received a waiver of subrogation endorsement from the insurer.

***Deductibles and Self-Insured Retentions***

Verbit will responsible for any deductibles to the extent of its indemnity obligations under this Agreement.

***Claims Made Policies***



If any of the required policies provide claims-made coverage:

1. The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work.
2. Insurance must be maintained, and evidence of insurance must be provided *for at least five (5) years after completion of the contract of work.*
3. If coverage is canceled or non-renewed, and not replaced *with another claims- made policy form with a Retroactive Date prior to* the contract effective date, Verbit must purchase “extended reporting” coverage for a minimum of *five (5)* years after completion of work.

### ***Verification of Coverage***

Verbit shall furnish UVA with original certificates and amendatory endorsements, or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved by UVA before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive Verbit’s obligation to provide them. UVA reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

### ***Special Risks or Circumstances***

UVA reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances, provided, however, that UVA’s sole remedy for Verbit’s failure to agree to any such modification shall be to terminate this Agreement in accordance with its terms.

### JJ. Virginia’s Freedom of Information Act (FOIA)

This Agreement is governed by and subject to the Commonwealth of Virginia’s Freedom of Information Act (FOIA). All pricing information, consistent with the public interest and the underlying policy of the Commonwealth of Virginia, is open to the inspection of any qualified requestor and cannot be designated as confidential, proprietary or trade secret to avoid disclosure. Pricing information is also shared on a need-to-know basis both within the University and its affiliates and consultants for purposes of operational

review, transaction management, contract compliance & monitoring, benchmarking and performance improvement. Attempts to prevent disclosure of pricing information by designating it as confidential, proprietary or trade secret will be ignored. In addition, any non-price information considered by a firm to be proprietary or to constitute trade secret(s) is also subject to disclosure under FOIA, except that information provided by Verbit that constitutes proprietary information or trade secret(s), other than pricing information, may be exempted from disclosure if Verbit invokes the protections of Virginia Code Section 2.2-4342(F) in writing and follows its stated requirements prior to or upon submission of the information for which Verbit is seeking protection.

KK. Governing Law

This Agreement will be governed and construed in all respects by the laws of the Commonwealth of Virginia.

LL. Entire Agreement

This is the entire agreement between the University (including University employees and other End Users) and Verbit relating to the services. In the event that Verbit enters into terms of use agreements or other agreements or understanding, whether electronic, click-through, verbal or in writing, with University employees or other End Users related to the services, such agreements shall be null, void and without effect, and the terms of this Agreement shall apply to the services.

MM. Agreement Signature

This Agreement may be executed in counterparts, each of which will be deemed an original, and both of which taken together will constitute one and the same document. Electronically transmitted signatures will be deemed originals for all purposes relating to the agreement.

## Data Protection Addendum

This Data Protection Addendum (“Addendum”) is an add-on to the Agreement between the Parties. It is applicable only in those situations where the Selected Firm/Vendor provides goods or services under a Purchase Order which necessitate that the Selected Firm/Vendor create, obtain, transmit, use, maintain, process, or dispose of University Data (as defined in the Definitions Section of this Addendum) in order to fulfill its obligations to the University.

This Addendum sets forth the terms and conditions pursuant to which University Data will be protected by the Selected Firm/Vendor during the term of the Parties Agreement and after its termination.

### STANDARD PROVISIONS:

#### 1. DEFINITIONS

- a. “End User” means an individual authorized by the University to access and use the Services provided by the Selected Firm/Vendor under this agreement.
- b. “Protected University Data” includes all data defined as Highly Sensitive, Sensitive, or Internal Use data in UVA's *IRM-003 Data Protection of University Information* policy (<http://uvapolicy.virginia.edu/policy/IRM-003>) that is not intentionally made generally available by the University on public websites or publications, including but not limited to business, administrative and financial data, intellectual property, and patient, student, and personnel data.
- c. “Securely Destroy” means taking actions that render data written on physical (e.g., hardcopy, microfiche, etc.) or electronic media unrecoverable by both ordinary and extraordinary means. These actions must meet or exceed those sections of the National Institute of Standards and Technology (NIST) SP 800-88, REV 1 guidelines relevant to data categorized as high security.
- d. “Security Breach” means the unauthorized access, use or disclosure that compromises or threatens to compromise the confidentiality, integrity, or availability of University Data
- e. “Services” means any goods or services acquired by the University of Virginia from the Selected Firm/Vendor.
- f. “University Data” includes Protected University Data and any other information that is created, possessed or used by the University or is intentionally made generally available by the University on public websites or publications, including but not limited to business, administrative and financial data, intellectual property, and patient, student, and personnel data.
- g. "Audit Trail" means a chronological record that reconstructs and examines the sequence of activities surrounding or leading to a specific operation, procedure, or event in a security-relevant transaction from inception to final result.

## **2. RIGHTS AND LICENSE IN AND TO THE UNIVERSITY DATA**

The parties agree that as between them, all rights including all intellectual property rights in and to University Data shall remain the exclusive property of the University, and Selected Firm/Vendor has a limited, nonexclusive license to use these data as provided in this agreement solely for the purpose of performing its obligations hereunder. This agreement does not give a party any rights, implied or otherwise, to the other's data, content, or intellectual property, except as expressly stated in the agreement.

## **3. DATA PRIVACY**

a. Selected Firm/Vendor will use University Data only for the purpose of fulfilling its duties under this agreement and will not share such data with or disclose it to any third party without the prior written consent of the University, except as required by this agreement or as otherwise required by law.

b. Protected University Data will not be stored outside the United States without prior written consent from the University.

c. Selected Firm/Vendor will provide access to University Data only to its employees and subcontractors who need to access the data to fulfill Selected Firm/Vendor obligations under this agreement. Selected Firm/Vendor will ensure that employees who perform work under this agreement have read, understood, and received appropriate instruction as to how to comply with the data protection provisions of this agreement.

d. The following provision applies only if Selected Firm/Vendor will have access to the University's education records as defined under the Family Educational Rights and Privacy Act (FERPA): The Selected Firm/Vendor acknowledges that for the purposes of this agreement it will be designated as a "school official" with "legitimate educational interests" in the University education records, as those terms have been defined under FERPA and its implementing regulations, and the Selected Firm/Vendor agrees to abide by the limitations and requirements imposed on school officials. Selected Firm/Vendor will use the education records only for the purpose of fulfilling its duties under this agreement for University's and its End User's benefit, and will not share such data with or disclose it to any third party except as provided for in this agreement, required by law, or authorized in writing by the University.

## **4. DATA SECURITY, INTEGRITY, AND CONFIDENTIALITY**

a. Selected Firm/Vendor will take reasonable measures, including audit trail, to protect University Data to ensure the integrity and availability of University Data against deterioration or degradation of data quality and authenticity. The Selected Firm will be responsible during the terms of this agreement, unless otherwise specified elsewhere in this agreement, for converting and migrating electronic data as often as necessary so that information is not lost due to hardware, software, or media obsolescence or deterioration.

- b. Selected Firm/Vendor will store and process University Data in accordance with commercial best practices, including appropriate administrative, physical, and technical safeguards, and audit trail, to secure such data from unauthorized access, disclosure, alteration, and use. Such measures will ensure the confidentiality, integrity and availability of University Data, and be no less protective than those used to secure Selected Firm/Vendor's own data of a similar type, and in no event less than reasonable in view of the type and nature of the data involved. Without limiting the foregoing, Selected Firm/Vendor warrants that all electronic University Data will be encrypted in transmission (including via web interface) in accordance with latest version of Federal Information Processing Standards Publication (FIPS) Publication 140-2
- c. If the Selected Firm/Vendor stores, transmits, or processes Protected University Data as part of this agreement, the Selected Firm/Vendor warrants that the information will be stored in accordance with latest version of National Institute of Standards and Technology Special Publication 800-171 or the International Organization for Standardization and the International Electrotechnical Commission 27002 (ISO/IEC 27002).
- d. Selected Firm/Vendor will use reasonable, appropriate industry-standard and up-to-date security tools and technologies in providing Services under this agreement.

## **5. EMPLOYEE BACKGROUND CHECKS AND QUALIFICATIONS**

- a. Selected Firm/Vendor shall ensure that its employees who will have potential access to University Data have passed reasonable and appropriate background screening and possess the qualifications and training to comply with the terms of this agreement.

## **6. SECURITY BREACH**

- a. Response. Upon becoming aware of a Security Breach, Selected Firm/Vendor will immediately notify the University consistent with applicable state or federal laws, fully investigate the incident, and cooperate fully with the University's investigation of and response to the incident. Except as otherwise required by law, Selected Firm/Vendor will not provide notice of an actual or suspected Security Breach directly to individuals whose Personally Identifiable Information was involved, regulatory agencies, or other entities, without prior written permission from the University.
- b. Liability. If Selected Firm/Vendor must under this agreement create, obtain, transmit, use, maintain, process, or dispose of Protected University Data, the following provisions apply:
  - 1. Subject to the limitations of liability in the Agreement, in addition to any other remedies available to the University under law or equity, Selected Firm/Vendor will reimburse the University in full for all costs not covered by vendor's insurance incurred by the University in investigation and remediation of any Security Breach caused by Selected Firm/vendor, including but not limited to providing notification to individuals whose Personally Identifiable Information was compromised and to regulatory agencies or other entities as required by law or contract; providing one year's credit monitoring to the affected individuals if the Protected University Data exposed during the breach could be

used to commit financial identity theft; and the payment of legal fees, audit costs, fines, and other fees imposed by regulatory agencies or contracting partners as a result of the Security Breach.

2. In addition to any other insurance coverage required by another contract/agreement with the University, the Selected Firm/Vendor will for the duration of the term of the agreement, maintain at least \$1 million Cyber Liability coverage with insurance companies that hold at least an A- financial rating with A.M. Best Company. In no event, should the Selected Firm/Vendor construe these minimum required limits to be their limit of liability to the University.
3. The University must be named as an Additional Insured on the Cyber Liability Insurance, and the proper name is “The Commonwealth of Virginia, and the Rector and Visitors of the University of Virginia, its officers, employees and agents.” Upon the University’s request, the Selected/Firm Vendor will provide a Certificate of Insurance (COI).

## **7. RESPONSE TO LEGAL ORDERS, DEMANDS OR REQUESTS FOR DATA**

a. Except as otherwise expressly prohibited by law, Selected Firm/Vendor will:

- immediately notify the University of Selected Firm/Vendor’s receipt of any subpoenas, warrants, or other legal orders, demands or requests seeking University Data;
- consult with the University regarding its response;
- cooperate with the University’s reasonable requests in connection with efforts by the University to intervene and quash or modify the legal order, demand or request; and
- provide the University with a copy of its response.

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

## **8. DATA TRANSFER UPON TERMINATION OR EXPIRATION**

a. Upon termination or expiration of this agreement, Selected Firm/Vendor will ensure that all University Data are securely returned or destroyed as directed by the University in its sole discretion. Transfer to the University or a third party designated by the University shall occur within a reasonable period of time, and without significant interruption in service. Selected Firm/Vendor shall ensure that such transfer/migration uses facilities and methods that are compatible with the relevant systems of the University or its transferee, and to the extent technologically feasible, that the University will have reasonable access to University Data during the transition.

b. Upon termination or expiration of this agreement, and after any requested transfer of data, Selected Firm/Vendor must Securely Destroy all data in its possession and in the possession of any subcontractors or agents to which the Selected Firm/Vendor might have transferred University data. The Selected Firm/Vendor agrees to provide documentation of data destruction to the University.

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

## 9. AUDITS

a. The University reserves the right in its sole discretion to perform audits of Selected Firm/Vendor at the University's expense to ensure compliance with the terms of this agreement. The Selected Firm/Vendor shall reasonably cooperate in the performance of such audits. This provision applies to all agreements under which the Selected Firm/Vendor must create, obtain, transmit, use, maintain, process, or dispose of University Data.

b. If the Selected Firm/Vendor must under this agreement create, access, obtain, transmit, use, maintain, process, or dispose of Protected University Data or financial or business data which has been identified to the Selected Firm/Vendor as having the potential to affect the accuracy of the University's financial statements, Selected Firm/Vendor will at its expense conduct or have conducted, at least annually, a:

- security audit by a third party with audit scope and objectives deemed sufficient by the University, which attests the Selected Firm/Vendor's security policies, procedures, and controls;
- vulnerability scan by a third party of Selected Firm/Vendor's electronic systems and facilities that are used in any way to deliver electronic services under this agreement; and
- formal penetration test by a third party of Selected Firm/Vendor's electronic systems and facilities that are used in any way to deliver electronic services under this agreement.

c. Additionally, the Selected Firm/Vendor will provide the University upon request a summary of the results of the above audits, scans and tests, and will promptly modify its security measures as needed based on those results in order to meet its obligations under this agreement. The University may require, at University expense, the Selected Firm/Vendor to perform additional audits and tests, the results of which will be provided promptly to the University.

## **10. COMPLIANCE**

a. Selected Firm/Vendor will comply with all applicable laws and industry standards in performing services under this agreement. Any Selected Firm/Vendor personnel visiting the University's facilities will comply with all applicable University policies regarding access to, use of, and conduct within such facilities. The University will provide copies of such policies to Selected Firm/Vendor upon request.

b. Selected Firm/Vendor warrants that the service it will provide to the University is fully compliant with all state and federal laws, regulations, industry codes, and guidance that may be applicable to the service, which may include:

1. any applicable national, federal, state or local law, rule, directive or regulation relating to the privacy of personal information, including, without limitation, the Family Educational Rights and Privacy Act, 20 U.S.C. §1232g, and its implementing regulations ("FERPA"), , the Americans with Disabilities Act, and the Virginia Consumer Data Protection Act.

## **11. SURVIVAL**

The Selected Firm/Vendor's obligations under Section 8 shall survive termination of this agreement until all University Data has been returned or Securely Destroyed.