



Administered by  
**UNIVERSITY OF MAINE SYSTEM**  
Office of Strategic Procurement

**REQUEST FOR QUALIFICATIONS**

**Capital Campaign Fundraising Consulting Firm**

**RFQ #02-14**

ISSUE DATE:  
August 5, 2013

LETTERS OF INTEREST MUST BE RECEIVED BY:  
August 29, 2013

DELIVER TO:

Gary Haslam  
University of Maine  
5765 Service Building  
Orono, Maine 04473  
gary.haslam@maine.edu

## CAPITAL CAMPAIGN CONSULTING SERVICES

The University of Maine, acting through the University of Maine System, is seeking the services of a nationally-recognized fundraising consulting firm. The firm's work may include three separate, sequential, engagements to be provided by a Campaign Consultant reporting to the President and working closely with the Vice President for Development, the President of the University of Maine Foundation, and the Chair of the Board of Visitors Advancement Committee. Each engagement includes specific deliverables comprising a Campaign Readiness Assessment, Fundraising Feasibility Study, and a service engagement for Ongoing Campaign Counsel.

### **Overview:**

Over the past two decades, the University of Maine has been successfully transitioning its revenue stream from one that was predominately dependent upon state funds, tuition and fees to one that now includes a growing percentage of private gift support, as evidenced by the comprehensive campaign ending in July 2011 that raised \$157 million against a goal of \$150 million. In addition, capital improvements which were once almost entirely funded with state funds now include a much greater percentage of private support. University leadership recognizes that in order to ensure the success of its next campaign professional philanthropic guidance is needed. With the judicious use of fundraising counsel, UMaine anticipates achieving the largest comprehensive campaign in its history—one dedicated to funding the university's Blue Sky strategic planning initiatives and enhancing the university's culture of philanthropy by raising the sights of current supporters, attracting new first time donors, and engaging a much larger cadre of volunteer leaders.

The respective goals of these three engagements are to measure the University's current level of philanthropic program readiness; to test the validity of campaign objectives and the proposed dollar goals, and to provide ongoing counsel during the course of the campaign.

### **The scope of work shall include, but is not limited to:**

1. **Campaign Readiness Assessment:** Measure the University's current level of philanthropic program readiness by surveying internal and external organizational structures; appraise the current status and use of the Advance database; review prospect, donor and gift acceptance policies; evaluate the translation of [Blue Sky Plan](#) priorities into campaign goals; assess professional and clerical resources; and guide the creation of volunteer committees. Counsel shall also help design a volunteer leadership structure; advise on a timeline for campaign preparation and execution; confirm any additional processes and resources essential for campaign success; identify gaps and weaknesses; and make recommendations thereon.
2. **Fundraising Feasibility Study:** Evaluate the draft Campaign Case for Support and Naming Opportunities. Review pool of top donors for interviewee selection criteria. Consult regarding interview questions and provide direction regarding timing and logistics of the interview process. Complete interviews with 100+ UMaine donors and prospects; guide the construction of the Gift Table; and provide recommendations on dollar goal, constituencies, campaign leadership and level of funding attractiveness of the various parts tested.

Counsel shall also offer strategic advice on campaign activity timing and sequencing, including the advisability of regional efforts and scheduling the public phase; recommend communication strategies to promote and support the campaign; make recommendations on the choice, use and roles of volunteer leadership; and deliver a comprehensive report with enough raw data to confirm conclusions by tabulating data, collecting narratives and synthesizing all responses.

3. **Ongoing Campaign Counsel:** Help nurture UMaine's culture of philanthropy through ongoing education that is appropriate for different audiences, i.e. university leadership, faculty, volunteers, principal prospects, etc. Advise the President, Advancement Team and volunteer leadership on campaign strategies and implementation of the study's recommendations. Be on call to help troubleshoot the unforeseen and unexpected; work closely with campaign leadership, reviewing campaign progress; and recommend allocation of resources and campaign communications.

**Deliverables shall include, but are not limited to:**

1. **Readiness Assessment:** This will include a comprehensive Assessment Report, delivered in writing and presented orally, that details all aspects of the ongoing fund development activities of the multi-partner Advancement team as it bears on the University's capacity to perform at an optimal level during a contemplated comprehensive capital campaign. The report will provide a record of the current system of donor relationship building, prospect management and donor stewardship, and as such will become a benchmark against which improvements will be measured in coming years. The report also will contain recommendations that will position the University to add a robust multi-year campaign to its existing development activities, including funding options such as gift fees and/or endowment management fees and justification for such based upon best practices nationwide.
2. **Fundraising Feasibility Study:** This engagement will include several deliverables: a Fundraising Feasibility Study Report which, while maintaining interviewee confidentiality, will provide extensive summary information and enough raw data to confirm conclusions and recommendations for campaign success. In addition, the consultant will conduct at least three Study Presentations including but not limited to University development and Foundation staff, Board of Visitors, and University Executive Leadership and for that purpose will provide an Executive Summary of the Report.
3. **Ongoing Campaign Counsel:** This engagement will have two deliverables: ongoing communication with the President and his/her designees at a frequency and for a period of time to be determined, and the end of service status report. It is anticipated that the ongoing advice provided by the firm will include email and telephone interactions, however, face to face interactions with key campaign and University leadership will occur periodically. At the conclusion of the ongoing campaign counsel engagement, the firm will present a written campaign status report with any recommendations for the successful conclusion of the campaign and post-campaign strategic initiatives.

**Submission requirements and instructions:**

Vendors desiring to be considered for this project should submit a letter indicating interest and the ability to start work on the first engagement during November 2013. The University has the expectation that this project, including the delivery of a final report for the first engagement, would conclude by **no later than** December 31, 2013. Phase Two of the engagement, the Feasibility Study, is preliminarily scheduled for January – March 2014. The need for on-going counsel is anticipated to last until the conclusion of the campaign in 2020.

Consultants have an obligation to disclose any situation of actual *or* potential conflict that impacts their capacity to serve the best interest of the University of Maine System and the University of Maine, or that may reasonably be perceived as having this effect. Failure to disclose said situations may lead to the disqualification of the Consultant or the termination of the contract. The System reserves the right to consider potential conflict in the selection process to include potential relationships that may affect implementation solutions.

**Original and one (1) copy of the following must accompany the letter:**

1. A statement of qualifications to include experience as a consultant in similar projects;
2. A list of analogous consulting projects conducted in the last three years for public colleges and universities similar in size and resources to the University of Maine;
3. A list of three references from public colleges and universities for work performed within the last three years on projects of similar size and scope;

4. A profile of key personnel to be involved in the project (these individuals must participate in the interview, if granted);
5. An indication of the types of information and data you would require from the University;
6. A proposed schedule and budget for the three phases of the project. The University desires that consulting fees be kept to a minimum consistent with the highest quality of professional service. Please thoroughly describe pricing structure including assumed hours and hourly rates for various levels of staff. If a bidder chooses to present multiple approaches to this project, a bidder may present different prices along with the associated scope of service. As the University works through this process and its understanding of the scope of services needed, the University may ask for clarification on scope and/or pricing;
7. The standard rates for the key personnel identified in the submission pursuant to item 4 above;
8. Affirmation of the University's standard terms and conditions. Any desired deviations from the standard terms and conditions must be identified in the affirmation and the System reserves the right to reject any such requests or proposals making such requests.

**Additional instructions:**

**The University's Professional Service Contract:** Is attached for your review. **Please be advised that the University will require the standard terms and conditions included with that contract as part of any agreement resulting from this request for qualifications, pursuant to item 8 above.** It is not necessary to complete the contract at this time; it is for your information. The bidder selected for this project will be required to show evidence of, and maintain through completion of the project, all required insurance as provided for in Attachment B of the Professional Services Contract.

**Evaluation Criteria:** Proposals shall be evaluated on many criteria deemed to be in the University's best interests, including, but not limited to; fees for services, bidder's experience and success with engagements of comparable size and scope, and the communication, experience, and leadership skills of the bidder and proposed principal account representative.

**Interviews:** Bidders may be contacted to participate in interviews. **Interviews currently are expected to be conducted in September 2013. Any bidder making a submission must be prepared to participate during that timeframe.** The System will make reasonable attempts to accommodate scheduling constraints.

**Award of Proposal:** Presentations may be requested of two or more bidders deemed by the University to be the best suited among those submitting proposals on the basis of the selection criteria. After presentations have been conducted, the University may select the bidder which, in its opinion, has made the proposal that is the most responsive and most responsible and may award the Contract to that bidder.

1. The University reserves the right to waive minor irregularities. Scholarships, donations, or gifts to the University, will not be considered in the evaluation of proposals. The University reserves the right to reject any or all proposals, in whole or in part, and is not necessarily bound to accept the lowest cost proposal if that proposal is contrary to the best interests of the University. The University may cancel this Request for Qualifications or reject any or all proposals in whole or in part. Should the University determine in its sole discretion that only one bidder is fully qualified, or that one bidder is clearly more qualified than any other under consideration, a contract may be awarded to that bidder without further action.
2. Bidders may appeal the award decision by submitting a written protest to the UMS Director of Strategic Procurement within 5 business days of the date of the award notice with a copy of the

protest to the successful bidder. The protest must contain a statement of the basis for the challenge.

3. Any contract or agreement for services that will, or may, result in the expenditure by the University of \$50,000 or more must be approved in writing by the Director of Strategic Procurement and it is not approved, valid or effective until such written approval is granted.
4. The University must adhere to the provisions of the Maine Freedom of Access Act (FOAA), 1 MRSA §401 et seq. As a condition of accepting a contract under this section, a contractor must accept that, to the extent required by the Maine FOAA, responses to this solicitation, and any ensuing contractual documents, are considered public records and therefore are subject to freedom of access requests.

**All responses should be addressed to:**

**Gary Haslam  
University of Maine  
5765 Service Building  
Orono, Maine 04469  
gary.haslam@maine.edu**

Letters of interest must be received prior to 4:30 p.m., EST **August 29, 2013.**

***If required, clarifications or other addenda to this RFQ will be posted as addenda on the University's web site at: [http://www.maine.edu/strategic/upcoming\\_bids.php](http://www.maine.edu/strategic/upcoming_bids.php) Vendors are responsible for checking the web site for addenda.***

**UNIVERSITY OF MAINE SYSTEM  
CONTRACT FOR SERVICES  
ATTACHMENT A**

This contract entered into this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by and between the University of Maine System, hereinafter referred to as the "University", and \_\_\_\_\_, hereinafter referred to as "Contractor".

**WHEREAS**, the University desires to enter into a contract for services, and the Contractor represents itself as competent and qualified to accomplish the specific requirements of this contract to the satisfaction of the University;

**NOW THEREFORE**, in consideration of the mutual promises contained herein, the parties hereby agree as follows:

1. **Specifications of Work:** The Contractor agrees to perform the Specifications of Work as described in **Attachment A**, hereby incorporated by reference.

2. **Term:** This contract shall commence on \_\_\_\_\_ and shall terminate on \_\_\_\_\_, unless terminated earlier as provided in this contract.

3. **Payment:**

A. The total of **all** payments made against this contract shall not exceed \$ \_\_\_\_\_. Any expenses not listed here will not be reimbursed.

B. The University shall compensate the Contractor at the rate of \$ \_\_\_\_\_ per \_\_\_\_\_ (hour, week, semester, entire project). Payment will be made within 30 days upon submittal and approval of invoices.

C. Reimbursement for travel:

\_\_\_\_\_ All travel, lodging and meals are part of the compensation described in section A. No additional reimbursement will be made.

**OR**

\_\_\_\_\_ Contractor will be reimbursed for pre-approved travel, lodging and meals in an amount not to exceed \$ \_\_\_\_\_. Copies of receipts or itemized bills for expenses must be submitted for reimbursement.

D. Other expenses (postage, printing, phone, etc.) shall not exceed \$ \_\_\_\_\_. Copies of receipts or itemized bills for expenses must be submitted for reimbursement.

4. **Termination:** This contract may be terminated by mutual agreement of the parties or by either party upon thirty (30) days prior written notice to the other. If at any time the Contractor fails to comply with the provisions of this contract, the University shall have the right to terminate this contract immediately with written notice. Termination does not release the Contractor from its obligations to provide services per the terms of the contract during the notification period.

5. **Obligations Upon Termination:** Any materials produced in performance of this contract are the property of the University and shall be turned over to the University upon request. The University shall pay the Contractor for all services performed to the effective date of termination subject to offset of sums owed by the Contractor to the University.
6. **Conflict of Interest:** No officer or employee of the University shall participate in any decision relating to this contract which affects his or her personal interest in any entity in which he or she directly or indirectly has interest. No employee of the University shall have any interest, direct or indirect, in this contract or proceeds thereof.
7. **Modification:** This contract may be modified or amended only in a writing signed by both parties.
8. **Assignment:** This contract, or any part thereof, may not be assigned, transferred or subcontracted by the Contractor without the prior written consent of the University.
9. **Applicable Law:** This contract shall be governed and interpreted according to the laws of the State of Maine.
10. **Administration:** \_\_\_\_\_ shall be the University's authorized representative in all matters pertaining to the administration of the terms and conditions of this contract and to whom all notices must be sent.
11. **Non-Discrimination:** In the execution of the contract, the Contractor shall not discriminate on the basis of race, color, religion, sex, sexual orientation, transgender status or gender expression, national origin or citizenship status, age, disability, genetic information, or veteran status and shall provide reasonable accommodations to qualified individuals with disabilities upon request. The university encourages the employment of qualified individuals with disabilities.
12. **Indemnification:** The Contractor shall comply with all applicable federal, state and local laws, rules, regulations, ordinances and orders relating to the services provided under this contract. Contractor shall indemnify, defend and hold the University, its Trustees, officers, employees, and agents, harmless from and against any and all loss, liability, claims, damages, actions, lawsuits, judgments and costs, including reasonable attorney's fees, that the University may become liable to pay or defend arising from or attributable to any acts or omissions of the Contractor, its agents, employees or subcontractors, in performing its obligations under this contract, including, without limitation, for violation of proprietary rights, copyrights, or rights of privacy, arising out of a publication, translation, reproduction, delivery, performance, use or disposition of any data furnished under the contract or based on any libelous or other unlawful matter contained in such data.
13. **Contract Validity:** In the event one or more clauses of this contract are declared invalid, void, unenforceable or illegal, that shall not affect the validity of the remaining portions of this contract.
14. **Independent Contractor:** Contractor is an independent contractor of the University, not a partner, agent or joint venturer of the University and neither Party shall hold itself out contrary to these terms by advertising or otherwise, nor shall either party be bound by any

representation, act or omission whatsoever of the other. Contractor, its employees and subcontractors if any, is/are independent contractors for whom no Federal or State Income Tax will be deducted by the University, and for whom no retirement benefits, social security benefits, group health or life insurance, vacation and sick leave, Worker's Compensation and similar benefits available to University's employees will accrue. The parties further understand that annual information returns as required by the Internal Revenue Code and Maine Income Tax Law will be filed by the University with copies sent to Contractor. Contractor will be responsible for compliance with all applicable laws, rules and regulations involving but not limited to, employment, labor, Workers Compensation, hours of work, working conditions, payment of wages, and payment of taxes, such as unemployment, social security and other payroll taxes, including other applicable contributions from such persons when required by law.

15. **Intellectual Property:** Any information and/or materials, finished or unfinished, produced in performance of this contract, and all of the rights pertaining thereto, are the property of the University and shall be turned over to the University upon request.
16. **Entire Contract:** This contract sets forth the entire agreement between the parties on the subject matter hereof and replaces and supersedes all prior agreements on the subject, whether oral or written, express or implied.
17. **Licensing:** Contractor shall secure in its name and at its expense all federal, state, and local licenses and permits required for operation under this contract. Contractor shall provide proof of such licensure or permit to the University prior to commencing work under this contract.
18. **Record Keeping, Audit and Inspection of Records:** The Contractor shall maintain books, records and other compilations of data pertaining to the requirements of the contract to the extent and in such detail as shall properly substantiate claims for payment under the contract. All such records shall be kept for a period of seven years or for such longer period as specified herein. All retention periods start on the first day after the final payment of the contract. If any litigation, claim, negotiation, audit or other action involving the records is commenced prior to the expiration of the applicable retention period, all records shall be retained until completion of the action and resolution of all issues resulting therefrom, or until the end of the applicable retention period, whichever is later. The University, the grantor agency (if any), or any of their authorized representatives shall have the right at reasonable times and upon reasonable notice, to examine and copy the books, records and other compilations of data of the Contractor pertaining to this contract. Such access shall include on-site audits.
19. **Publicity, Publication, Reproduction and use of Contract's Products or Materials:** Unless otherwise provided by law or the University, title and possession of all data, reports, programs, software, equipment, furnishings and any other documentation or product paid for with University funds shall vest with the University. The Contractor shall at all times obtain the prior written approval of the University before it, any of its officers, agents, employees or subcontractors, either during or after termination of the contract, makes any statement bearing on the work performed or data collected under this contract to the press or issues any material for publication through any medium of communication. If the Contractor or any of its subcontractors publishes a work dealing with any aspect of performance under the contract, or of the results and accomplishments

attained in such performance, the University shall have a royalty free, non-exclusive and irrevocable license to reproduce, publish or otherwise use and to authorize others to use the publication.

20. **Confidentiality:** The Contractor shall comply with all laws and regulations relating to confidentiality and privacy including, but not limited to any rules or regulations of the University.
21. **Force Majeure:** Neither party shall be liable to the other or be deemed to be in breach of this contract for any failure or delay in rendering performance arising out of causes beyond its reasonable control and without its fault or negligence. Such causes may include, but are not limited to, acts of God or of a public enemy, fires, flood, epidemics, strikes, embargoes or unusually severe weather. Dates or time of performance shall be extended to the extent of delays excused by this section provided that the party whose performance is affected notifies the other promptly of the existence and nature of such delay.
22. **Notices:** Unless otherwise specified in an attachment hereto, any notice hereunder shall be in writing and addressed to the persons and addresses below.
23. **Insurance Requirements: Attachment B,** hereby incorporated by reference.
24. **Standards for Safeguarding Information or Safeguarding Customer Information: Attachment C,** hereby incorporated by reference.

**25. Signatures:**

FOR THE UNIVERSITY OF MAINE  
SYSTEM:

BY: \_\_\_\_\_  
(signature)

Name: \_\_\_\_\_  
(print or type)

Title: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Telephone: \_\_\_\_\_

Fax: \_\_\_\_\_

Date: \_\_\_\_\_

FOR THE CONTRACTOR:

LEGAL NAME: \_\_\_\_\_

BY: \_\_\_\_\_  
(signature)

Name: \_\_\_\_\_  
(print or type)

Title: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Telephone: \_\_\_\_\_

Fax: \_\_\_\_\_

Date: \_\_\_\_\_

Tax ID #: \_\_\_\_\_

**Per University policy, "Any contract or agreement for services that will, or may, result in the expenditure by the University of \$50,000 or more must be approved in writing by the Director of Strategic procurement and it is not approved, valid or effective until such written approval is granted."**

BY: \_\_\_\_\_

Title: Director of Strategic Procurement

Date: \_\_\_\_\_

# Substitute Form W-9 - Taxpayer Identification Number Request & Certification

Please complete the following information. We are required by law to obtain this information from you when making a reportable payment to you.  
 If you do not provide us with this information, your payments may be subject to federal income tax backup withholding. Use this form only if you are a **U.S. person** (including US. resident alien.). If you are a foreign person, use the appropriate Form W-8.

## Part 1 Tax Status:

Print Name: \_\_\_\_\_  
 Address (number, street, and apt. or suite no.): \_\_\_\_\_  
 City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
 Phone: ( \_\_\_\_ ) \_\_\_\_\_

## Complete One:

Individual/Sole Proprietor Business Name, if different from above \_\_\_\_\_  
 Social Security Number \_\_\_\_ - \_\_\_\_ - \_\_\_\_\_  
 - or - Business EIN \_\_\_\_ - \_\_\_\_\_

Partnership EIN \_\_\_\_ - \_\_\_\_\_

Corporation EIN \_\_\_\_ - \_\_\_\_\_

Please answer questions below if you are a corporation:

1. Corporation providing legal services? **Y** **N**

2. Corporation providing medical services? **Y** **N**

Limited Liability Company EIN \_\_\_\_ - \_\_\_\_\_

Tax-Exempt or Not-for-Profit under § 501(C)(3) EIN \_\_\_\_ - \_\_\_\_\_

Government Entity EIN \_\_\_\_ - \_\_\_\_\_

Estate or Trust EIN \_\_\_\_ - \_\_\_\_\_

All other Entities EIN \_\_\_\_ - \_\_\_\_\_

**Part 2 Exemption:** If exempt from Form 1099 reporting, check here:   
and circle your qualifying exemption reason below

1. An organization exempt from tax under IRC section 501(a)
2. The United States or any of its agencies or instrumentalities
3. A state, the District of Columbia, a possession of the United States, or any of their political subdivisions or instrumentalities
4. A foreign government or any of its political subdivisions, agencies, or instrumentalities
5. An international organization or any of its agencies or instrumentalities
6. Other: \_\_\_\_\_

## Part 3 Certification:

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), **and**
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, **and**
3. I am a U.S. person (including a U.S. resident alien).

**Certification instructions.** You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return.

Signature of U.S. person: \_\_\_\_\_ Date: \_\_\_\_\_

**Please return this form with the attached contract. Thank you for your cooperation.**

**UNIVERSITY OF MAINE SYSTEM  
CONTRACT FOR SERVICES  
INSURANCE REQUIREMENTS**

**ATTACHMENT B**

Contractor's Liability Insurance: During the term of this agreement, the Contractor shall maintain the following insurance:

<u>Insurance Type</u>	<u>Coverage Limit</u>
1. Commercial General Liability (Written on an Occurrence-based form)	\$1,000,000 per occurrence or more (Bodily Injury and Property Damage)
2. Vehicle Liability (Including Hired & Non-Owned)	\$1,000,000 per occurrence or more (Bodily Injury and Property Damage)
3. Workers Compensation (In Compliance with Maine Law)	Required for all personnel

Coverage limit requirements can be met with a single underlying insurance policy or through the combination of an underlying insurance policy plus an Umbrella insurance policy.

The University of Maine System shall be named as Additional Insured on the Commercial General Liability insurance.

Certificates of Insurance for all of the above insurance shall be filed with:  
University of Maine Purchasing  
Attn: Gary Haslam  
5765 Service Building  
Orono, Maine 04469

Certificates shall be filed prior to the date of performance under this Agreement. Said certificates, in addition to proof of coverage, shall contain the standard statement pertaining to written notification in the event of cancellation, with a thirty (30) day notification period.

The University reserves the right to change the insurance requirement or to approve alternative insurances or limits, at the University's discretion.

**UNIVERSITY OF MAINE SYSTEM  
STANDARDS FOR SAFEGUARDING INFORMATION  
ATTACHMENT C**

This Attachment addresses the Contractor's responsibility for safeguarding Compliant Data and Business Sensitive Information consistent with the University of Maine System's Information Security Policy and Standards. ([infosecurity.maine.edu](http://infosecurity.maine.edu))

Compliant Data is defined as data that the University needs to protect in accordance with statute, contract, law or agreement. Examples include Family Educational Rights and Privacy Act (FERPA), Health Insurance Portability and Accountability Act (HIPAA), Gramm-Leach-Bliley Act (GLBA), Maine Notice of Risk to Personal Data Act, and the Payment Card Industry Data Security Standards (PCI-DSS).

Business Sensitive Information is defined as data which is not subject to statutory or contractual obligations but where the compromise or exposure of the information could result in damage or loss to the University.

1. Standards for Safeguarding Information: The Contractor agrees to implement reasonable and appropriate security measures to protect all systems that transmit, store or process Compliant Data and Business Sensitive Information or personally identifiable information from Compliant Data and Business Sensitive Information furnished by the University, or collected by the Contractor on behalf of the University, against loss of data, unauthorized use or disclosure, and take measures to adequately protect against unauthorized access and malware in the course of this engagement.
  - A. Compliant Data and Business Sensitive Information may include, but is not limited to names, addresses, phone numbers, financial information, bank account and credit card numbers, other employee and student personal information (including their academic record, etc.), Drivers License and Social Security numbers, in both paper and electronic format.
  - B. If information pertaining to student educational records is accessed, transferred, stored or processed by Contractor; Contractor shall protect such data in accordance with FERPA.
  - C. If information pertaining to protected health information is accessed, used, collected, transferred, stored or processed by Contractor; Contractor shall protect such data in accordance with HIPAA and Contractor shall sign and adhere to a Business Associate Agreement.
  - D. If Contractor engages in electronic commerce on behalf of the University or cardholder data relating to University activities is accessed, transferred, stored or processed by Contractor; Contractor shall protect such data in accordance with current PCI-DSS guidelines.
  - E. If information pertaining to protected "Customer Financial Information" is accessed, transferred, stored or processed by Contractor; Contractor shall protect such data in accordance with GLBA.

2. Prohibition of Unauthorized Use or Disclosure of Information: Contractor agrees to hold all information in strict confidence. Contractor shall not use or disclose information received from, or created or received by, Contractor on behalf of the University except as permitted or required by this Agreement, as required by law, or as otherwise authorized in writing by the University.
3. Return or Destruction of Compliant or Business Sensitive Information:
  - A. Except as provided in Section 3(B), upon termination, cancellation, or expiration of the Agreement, for any reason, Contractor shall cease and desist all uses and disclosures of Compliant Data or Business Sensitive Information and shall immediately return or destroy (if the University gives written permission to destroy) in a reasonable manner all such information received from the University, or created or received by Contractor on behalf of the University, provided, however, that Contractor shall reasonably cooperate with the University to ensure that no original information records are destroyed. This provision shall apply to information that is in the possession of subcontractors or agents of Contractor. Contractor shall retain no copies of University information, including any compilations derived from and allowing identification of any individual's confidential information. Except as provided in Section 3(B), Contractor shall return (or destroy) information within 30 days after termination, cancellation, or expiration of this Agreement.
  - B. In the event that Contractor determines that returning or destroying any such information is infeasible, Contractor shall provide to University notification of the conditions that make return or destruction infeasible. Upon mutual agreement of the Parties that return or destruction of such information is infeasible, Contractor shall extend the protections of this Agreement to such information and limit further uses and disclosures of such information to those purposes that make the return or destruction infeasible, for so long as Contractor maintains such information.
  - C. Contractor shall wipe or securely delete Compliant Data or Business Sensitive Information and personally identifiable information furnished by the University from storage media when no longer needed. Measures taken shall be commensurate with the standard for "clearing" as specified in the National Institute of Standards and Technology (NIST) Special Publication SP800-88: Guidelines for Media Sanitization, prior to disposal or reuse.
4. Term and Termination:
  - A. This Attachment shall take effect upon execution and shall be in effect commensurate with the term of the Agreement
5. Subcontractors and Agents: If Contractor provides any Compliant Data or Business Sensitive Information received from the University, or created or received by Contractor on behalf of the University, to a subcontractor or agent, the Contractor shall require such subcontractor or

agent to agree to the same restrictions and conditions as are imposed on Contractor by this Agreement.

6. Contractor shall control access to University data: All Contractor employees shall be adequately screened, commensurate with the sensitivity of their jobs. Contractor agrees to limit employee access to data on a need-to-know basis. Contractor shall impose a disciplinary process for employees not following privacy procedures. Contractor shall have a process to remove access to University data immediately upon termination or re-assignment of an employee by the Contractor.
7. Unless otherwise stated in the agreement, all Compliant Data or Business Sensitive Information is the property of the University and shall be turned over to the University upon request.
8. Contractor shall not amend or replace hardware, software or data without prior authorization of the University.
9. If mobile devices are used in the performance of this Agreement to access University Compliant Data or Business Sensitive Information, Contractor shall install and activate authentication and encryption capabilities on each mobile device in use.
10. Reporting of Unauthorized Disclosures or Misuse of Information: Contractor shall report to the University any use or disclosure of Compliant Data or Business Sensitive Information not authorized by this Agreement or in writing by the University. Contractor shall make the report to the University not more than one (1) business day after Contractor learns of such use or disclosure. Contractor's report shall identify; (i) the nature of the unauthorized use or disclosure, (ii) the information used or disclosed, (iii) who made the unauthorized use or received the unauthorized disclosure, (iv) what Contractor has done or shall do to mitigate the effects of the unauthorized use or disclosure, and (v) what corrective action Contractor has taken or shall take to prevent future similar unauthorized use or disclosure. Contractor shall provide such other information, including a written report, as reasonably requested by the University. Contractor shall keep University informed on the progress of each step of the incident response. Contractor shall indemnify and hold University harmless from all liabilities, costs and damages arising out of or in any manner connected with the security breach or unauthorized use or disclosure by Contractor of any University Compliant Data or Business Sensitive Information. Contractor shall mitigate, to the extent practicable, any harmful effect that is known to Contractor of a security breach or use or disclosure of Compliant Data or Business Sensitive Information by Contractor in violation of the requirements of this Agreement. In addition to the rights of the Parties established by this Agreement, if the University reasonably determines in good faith that Contractor has materially breached any of its obligations, the University, in its sole discretion, shall have the right to:
  - Inspect the data that has not been safeguarded and thus has resulted in the material breach, and/or

- Require Contractor to submit a plan of monitoring and reporting, as the University may determine necessary to maintain compliance with this Agreement;
- and/or Terminate the Agreement immediately.

11. Survival: The respective rights and obligations of Contractor under Section 12 of the Agreement or Section 3 of this Attachment shall survive the termination of this Agreement.
12. Contractor Hosted Data: If Contractor hosts University Compliant Data or Business Sensitive Information in or on Contractor facilities, the following additional clauses should be used.
- Contractor computers that host University Compliant Data or Business Sensitive Information shall be housed in secure areas that have adequate walls and entry control such as a card controlled entry or staffed reception desk. Only authorized personnel shall be allowed to enter and visitor entry will be strictly controlled.
  - Contractor shall design and apply physical protection against damage from fire, flood, earthquake, explosion, civil unrest, and other forms of natural or man-made disasters. Contractor shall protect hosted systems with Uninterruptible Power Supply (UPS) devices sufficient to meet business continuity requirements.
  - Contractor shall backup systems or media stored at a separate location with incremental back-ups at least daily and full back-ups at least weekly. Incremental and full back-ups shall be retained for 15 days and 45 days respectively. Contractor shall test restore procedures not less than once per year.
  - Contractor shall provide for reasonable and adequate protection on its network and system to include firewall and intrusion detection/prevention.
  - Contractor shall use strong encryption and certificate-based authentication on any server hosting on-line and e-commerce transactions with the University to ensure the confidentiality and non-repudiation of the transaction while crossing networks.
  - The installation or modification of software on systems containing University Compliant Data or Business Sensitive Information shall be subject to formal change management procedures and segregation of duties requirements.
  - Contractor who hosts University Compliant Data or Business Sensitive Information shall engage an independent third-party auditor to evaluate the information security controls not less than every two (2) years. Such evaluations shall be made available to the University upon request.
13. If Contractor employees work under University Management direction, Contractor employees will receive security awareness training and be subject to the same information security standards as University employees. If the Contractor accesses University systems, Contractor shall agree to the University's Acceptable Use Policy.

14. If the Contractor provides system development, Compliant Data or Business Sensitive Information shall not be used in the development or test environments. Records that contain these types of data elements may be used if that data is first de-identified, masked or altered so that the original value is not recoverable. For programs that process University data, initial implementation as well as applied updates and modifications must be produced from specifically authorized and trusted program source libraries and personnel. Contractor shall provide documentation of a risk assessment of new system development or changes to a system.

**UNIVERSITY**

By: \_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed

\_\_\_\_\_  
Title

\_\_\_\_\_  
Address

**CONTRACTOR**

By: \_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed

\_\_\_\_\_  
Title

\_\_\_\_\_  
Address