

# **UCOP2025RC01 - Student Health Commercial Billing Advisor**

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## **Section 1: Introduction**

The University of California Office of the President provides the organizational framework that enables the University of California and the University of California Health to fulfill its teaching, research, patient care, and public service missions. The University of California (UC) operates 10 campuses and the largest health sciences instructional program in the nation, annually enrolling nearly 15,000 students and trainees (approximately 5.2 percent of total UC systemwide student enrollment) in 20 professional schools on seven health sciences campuses. These include six schools of medicine; four schools of nursing; three schools each of pharmacy and public health; two schools of dentistry; and one school each of optometry and veterinary medicine. Across the professions, UC programs are recognized nationally for their preparation of highly skilled clinicians, future faculty and leaders in research, industry, and public service. The University's now 20 health professional schools and associated hospitals and clinics are referred to collectively as University of California Health (UCH). UCH includes six academic health centers, five of which own or operate their hospitals, and one that leverages community hospitals to deliver care. UC Davis Health, UC Irvine Health, UC Los Angeles Health, UC San Diego Health, and UCSF Health own or operate hospitals. UC Riverside Health provides clinical care through community facilities, along with owned or operated clinics.

The University of California (UC) is seeking a strategic advisor to support the development and implementation of student health initiatives across the UC system. The advisor will collaborate with clinical, administrative, compliance, information technology (IT), and financial experts from UC academic campuses, UC Health, and the Office of the President (UCOP). The purpose of this engagement is to advance initiatives that ensure the long-term financial sustainability of student health centers while expanding access to services for all UC students.

Key initiatives include third-party billing, SHIP reimbursement, and the establishment of a universal student health fee. The advisor's work will emphasize collaborative problem solving, interdepartmental governance, and timely execution of shared responsibilities, with a focus on financial modeling, credentialing, technical integration, and regulatory compliance.

Following the initial review of bids and proposals, the evaluation team may request additional information as needed. It's important to understand that while this RFP serves as an Invitation for Bid and Request for Proposal, it does not imply a commitment by the University of California.

## **Section 2: UC Student Health Background**

- [UC Berkeley](#)

University Health Services, Tang Center 2222 Bancroft Way Berkeley, CA 94720

- [UC Davis](#)

Student Health and Wellness Center 930 Orchard Rd, Davis, CA 95616

- [UC Irvine](#)

Student Health Center 501 Student Health Irvine, CA 92697

- [UC Los Angeles](#)

Arthur Ashe Student Health and Wellness Center 221 Westwood Plaza Los Angeles, CA 90095

- [UC Merced](#)

H. Rajender Reddy Health Center 5200 North Lake Road Merced, CA 95343

- [UC Riverside](#)

Student Health and Counseling Center 388 W. Linden Street Riverside, CA 92521

- [UC Santa Barbara](#)

Student Health Service Santa Barbara, CA 93106-7002

- [UC Santa Cruz](#)

Student Health Center 1156 High Street Santa Cruz, CA 95064

- [UC San Diego](#)

Student Health Services 9500 Gilman Dr. La Jolla, CA 92093

- [UC San Francisco](#)

Student Mental Health and Wellbeing Millberry Union West 500 Parnassus Ave., level P8, room 005 San Francisco, CA 94143

#### Overall Responsibility and Program Expectations

- The University of California requires its partner(s) to offer support to run a student health program and scale with us as we transform Student Health to state-of-the-art and Best in Class.
- It is also the expectation of the University of California that any potential contract leverages the collective aggregate spend of the health systems, campus locations and affiliates.

#### Summary of Financial Reporting Requirements:

Any expectation of reimbursement for travel and business meal expenses incurred in the implementation of the Student Health Commercial Billing Advisor shall be consistent with the University of California Policy and Regulations Governing Travel and Entertainment, both of which may be found at <http://www.ucop.edu/central-travel-management/resources/index.html>.

## **Section 3: RFP Timeline**

UCOP Systemwide Revenue Cycle anticipates the following schedule for this RFP:

Milestone	Date
RFP Published	Tuesday September 16, 2025
Deadline to Confirm Interest in RFP	Friday September 19, 2025
Written Inquiry Deadline	Thursday September 18, 2025

Response to Written Inquiry	Monday, September 22, 2025
Submission Deadline	Friday September 26, 2025
Round 1 - Review and Scoring by UC Evaluation Team	September 29- October 3, 2025
Estimated Award Date	October 13, 2025

## **Section 4: RFP Instructions**

This document is developed to provide Vendors with the necessary information to allow them to prepare a comprehensive response. This section contains solicitation information and procedures, response submission instructions, and general response format requirements. Vendors are expected to carefully examine all requirements stipulated in this document and respond to each requirement in the format prescribed.

### **4.1. General Guidelines**

Vendors are advised to review all sections of this RFP carefully. Follow instructions in this document for proposal submission. Vendors will submit their proposal as well as any questions by the date specified herein. Failure to make a complete submission as required herein may result in rejection of the RFP and disqualification of that Vendor from further participation. Also, RFP responses that depart from or alter the terms, requirements, or scope of work defined by this RFP may be rejected.

Qualified Vendors should read the RFP requirements in full and respond to each question or requested qualification with enough detail to ensure that UC Health - UCOP has a complete understanding of that Vendor's capabilities to perform the requested service(s). Failure to do so may result in a determination that the aforementioned Vendor's response is incomplete and therefore disqualified from further consideration.

### **4.2. Response Instructions**

Each Vendor is required to submit its response to the pricing and non-pricing questions in this RFP through Valify. UC Health- UCOP is using Valify to manage the RFP process with the aforementioned Vendors. Valify provides a web-based solution to health care entities for Purchased Services, and, as such, all proposal entry, Q&A, and general communication with Vendors will occur through the Valify solution, all submissions must be received **no later than the time and due date reflected in Section 3, RFP Timeline**. No other mailed, telephone, emailed, facsimiled, or late proposals will be considered.

RFP documents will also be posted to UCLA Procurement website:  
<http://purchasing.uclahealth.org/bidding-on-jobs>

UCOP Revenue Cycle Program Manager is the sole point of contact regarding all procurement and contractual matters relating to the requirements described in this RFP. UCOP Procurement Sourcing is also the only office authorized to change, modify, clarify, etc., the specifications, terms, and conditions of this RFP and any Agreements(s) awarded as a result of this RFP.

Proposers are not permitted to communicate with any UCOP employee regarding this solicitation during the period between the RFP issue date and the announcement of awards, unless authorized by UCOP Revenue Cycle and the sole point of contact named below.

UCOP Revenue Cycle Program Manager:

Theresa Gamache

E-mail: Theresa.gamache@ucop.edu

Phone: 510-987-9711

If a Proposer is found to be in violation of this provision, UCOP reserves the right to disqualify that Proposer from further consideration.

Proposers must provide a complete, straightforward, concise response to all Guidelines, Questionnaires, Price Sheets, and any other information requested in the RFP as detailed in the RFP. Proposers warrant that all information provided is true and accurate. The submission of false, inaccurate, or otherwise misleading information may be grounds for disqualification from the RFP process, as well as jeopardize Proposer's eligibility to participate in future UCOP business.

All response attachments are to be labeled with your company name and the title of the response section to make it easy for the evaluators to find the referenced attachment, e.g., "Company XYZ Proposal."

Proposers must not provide superfluous materials such as marketing materials or website links in response to, or in lieu of, specific responses to the questions herein, and may be disqualified for providing superfluous materials.

Collusion among proposers is not allowed. If there is proof of collusion among proposers, all Proposals involved in the collusive action will be rejected.

Proposers must operate within the guidelines of all Federal and State Labor Codes. Late proposals will not be accepted.

#### **4.3. Vendor Questions**

All questions regarding any solicitation must be submitted through the Valify solution. Vendors' questions regarding any aspect of this solicitation shall be submitted exclusively through the portal no later than the due date defined in the RFP Timeline. Questions should be asked in consecutive order, from beginning to end, following the organization of the solicitation. Each question should begin by referencing the solicitation page number and section number to which it relates.

Each vendor is expected to exercise their best professional independent judgment in analyzing the requirements of this RFP to ascertain whether additional clarification is necessary or desirable before responding. If there are any discrepancies in, omissions to, or questions about the information provided in the RFP or by any other source, a request must be submitted via the contact information listed in Section 4.2, above by the stated deadline. Responses to individual Proposer questions will be made available to all Proposers that submit a notification of their intent to bid.

#### **4.4. Proposal Submissions**

Each Vendor is required to submit its response through the Valify solution. No submissions submitted on paper or by e-mail will be accepted. Vendors must furnish all information requested in this solicitation. If only a portion of the requested information is furnished in a Vendor's response, that response may be deemed non-responsive. All contact with UCOP Systemwide Revenue Cycle must be made through the Valify solution.

#### **4.5. Proposal Evaluation and Agreement Award**

1. Any Agreements(s) resulting from this RFP will be awarded to the most responsive and responsible Proposer(s) whose Proposal, in the opinion of UCOP, offers the greatest benefit to UCOP when considering the total value, including, but not limited to, the quality of the Goods and Services, and total cost (including prompt payment discounts, available volume discounts, and other elements of value to UCOP). A responsive Proposer is one whose offer satisfies the Requirements of this RFP. A responsible Proposer is one that is considered capable of performing and is otherwise eligible and qualified to perform in the manner stated in this RFP.

2. Proposals will be evaluated by UCOP using a Best Value Evaluation Methodology which is defined as the most advantageous balance of price, quality, service, performance, and other elements as defined by the University, achieved through methods in accordance with Public Contract Code Section 10507.8 and determined by objective performance criteria that may include price, features, long-term functionality, life-cycle costs, quality, overall sustainability, required services, current and past performance and the reduction of overall operating costs included in the proposal. The Evaluators will examine each Proposal to determine, through the application of uniform criteria, the ability of each Proposer to meet UCOP's specifications.
3. UCOP may request additional information either from the Proposer or others, and Proposer presentations, sandbox testing, and make any other investigations as it deems necessary to verify the Proposer's qualifications and ability to successfully meet the requirements of this RFP. UCOP also reserves the right to obtain Dun & Bradstreet reports, or similar independent reports for further indications of the Proposer's ability.
4. Until an award is made, UCOP has the unconditional and unqualified right to allow a time extension for the submission of proposals. In this case, an RFP Addendum will indicate the new submission date.
5. UCOP reserves the right to reject any proposal in which the information submitted fails to satisfy UC requirements and/or the Proposer is unable to provide the information or documentation within the period requested. Any submitted proposal that fails to comply with the requirements of this RFP may be considered non-responsive and may not be evaluated or eligible for award of any subsequent contract.
6. UCOP may waive irregularities in a proposal provided that, in the judgment of UCOP, such action will not negate fair competition and will permit proper comparative evaluation of Proposals submitted. UCOP's waiver of an immaterial deviation or defect shall in no way modify the RFP documents or excuse the Proposer from full compliance with the RFP specifications in the event the Agreement is awarded to that Proposer.
7. Any contract awarded pursuant to this RFP will include the requirements and specifications in the RFP, as well as the contents of the proposal response as accepted by UC and will be in writing. UCOP's selection may be made based on the initial proposals or may elect to negotiate with Proposers selected as finalists. UCOP reserves the right to negotiate the modification of proposed prices and/or terms and conditions with the Proposer offering the best value to UCOP prior to the execution of an Agreement. UCOP shall have the unconditional and unqualified right to withdraw, cancel, or amend the RFP at any time, without liability.

#### **4.6. Multi-Phased Initiative**

This Initiative will consist of the following separate phases:

##### **1. Phase I: Prerequisites**

Proposer must acknowledge and agree to all requirements of the RFP as outlined in the Guidelines section in the RFP before advancing in the proposal process. Proposer must answer every question in the requirements to advance to the selection of Finalists.

##### **2. Phase II: Selection of Finalists**

Finalists will be identified based on the quality and responsiveness of the written proposals. Finalists must score a minimum number of points to enter Phase III – Finalist Presentations.

##### **3. Phase III: Finalist Presentations (At UCOP Discretion)**

- The top finalists resulting from Phase II may advance to Phase III.
- Proposers may be requested to conduct a Zoom or web-based presentation regarding the Proposer's ability to provide the Goods and Services. However, UCOP may determine that presentations are not necessary. In the event presentations are conducted, information provided during the presentation process shall be taken into consideration when evaluating the stated criteria. UCOP will not reimburse the proposer for the costs associated with the presentation process.

#### **4.7. Proposal Preparation Costs**

Without limitation, all costs incurred in the preparation and submission of Proposals and related documentation, including proposer's presentations, demonstrations and provision of the Goods and Services to UC for independent testing purposes, will be borne by the Proposer.

#### **4.8. Proposal Validity Period**

All Proposals and pricing shall remain available for UCOP acceptance for a minimum of one-hundred and eighty (180) days following the RFP closing date.

#### **4.9. Agreement Term**

The term of the Agreement shall commence upon execution of the Agreement and will be for a period of three (3) years (the "Initial Term") with an optional two one-year extensions (the "Renewal Terms"), at the sole discretion of UCOP. Pricing shall remain firm for the Initial Term and all Renewal Terms of any agreement which may be awarded pursuant to this RFP. All pricing must be verifiable and auditable from the date of the contract award.

All agreements resulting from this RFP shall be construed and enforced in accordance with the laws of the State of California.

#### **4.10. No Mandatory Use**

Supplier is advised that there is no mandatory use policy at the University of California for agreements. As a result, UC does not guarantee any specific amount of business forthcoming from this RFP. A winning Supplier may still see some competition at any given UC location for any given Service.

#### **4.11. Disclosure of Records/Confidentiality of Information**

1. All Proposal responses and related documents submitted to UCOP in response to this RFP will become the exclusive property of UCOP upon receipt and will not be returned.
2. Proposal response(s) which are incorporated into any resulting contract(s) with the University of California, may be subject to the State of California Public Records Act (CA State Government Code 6250, et. seq.). This Request for Proposal, together with copies of all documents pertaining to any award, if issued, shall be kept for a period of five (5) years from date of contract expiration or termination and made part of a file or record which shall be open to public inspection. Certain private, trade secret or confidential information may be considered exempt from the California Public Records Act. Any trade secret or company confidential information submitted as a part of this proposal shall be clearly marked "Trade Secret Information" or "Confidential Information."
3. Should a request be made of the University of California for access to the information designated confidential or trade secret by the Proposer and, on the basis of that designation, UC denies the request, the Proposer may be responsible for all legal costs necessary to defend such action if the denial is challenged in a court of law.
4. Bidders may not distribute an announcement or news release regarding this RFP project without written approval by UCOP. Any materials to be provided to regulatory agencies, other entities, or the public will be submitted to UCOP for review and written approval, prior to disclosure.

#### **4.12. Audit Requirements**

1. Any potential agreement issued as a result of this RFP shall be subject to the examination and audit of the Auditor General of the State of California for a period of three (3) years after final payment under the agreement.
2. UCOP, and if the applicable contract or grant so provides, the other contracting party or grantor (and if that be the United States, or any services or instrumentality thereof, then the Controller

- General of the United States) shall have access to and the right to examine any pertinent books, documents, papers, and records of the Proposer involving transactions and work related to any such agreement until the expiration of five (5) years after final payment hereunder.
3. The examination and audit will be confined to those matters connected with the performance of the agreement, including, but not limited to, pertinent books, documents, papers, and records of the Proposer involving transactions and work related to the agreement as well as the costs of administering the agreement.

#### **4.13. Business Review/Business Reports**

Supplier shall meet with UCOP for Regular Business Reviews to review contract usage and effectiveness, discuss current Goods and/or Services offerings and provide suggestions and discussion for continuous improvement in Goods and Services efficiencies, and address additional topics pertinent to the relationship towards UCOP's strategic goals. For each Business Review the Supplier must provide pertinent performance and management reports detailing a wide range of information related to the resulting agreement.

#### **4.14. Errors and Omissions**

If the Proposer discovers any discrepancy, error, or omission in this RFP or in any of the attached documents, UCOP shall be notified immediately, and a clarification/notification will be issued to all Proposers who have access to this RFP. No Proposer will be entitled to additional compensation for any error or discrepancy that appears in the RFP where UCOP was not notified, and a response provided. All Addendums of Clarification will be distributed to the Proposal Participants via the UCLA Procurement website.

#### **4.15. General Information**

The Bidder shall not maintain or provide racially segregated facilities for employees at any establishment under the Bidder's control. The Bidder agrees to adhere to the requirements set forth in Executive Orders 11246 and 11375, and with respect to activities occurring in the State of California, to the California Fair employment and Housing Act Government Code section 2900 et seq. Expressly, the Bidder shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, ancestry, medical condition, marital status, age, physical and mental handicap in regard to any position for which the employee or applicant for employment is qualified, or because he or she is a disabled veteran or veteran of the Vietnam era. The Bidder shall further specifically undertake an outreach effort in regards with the hiring, promotion and treatment of minority group persons, women, the handicapped, and disabled veterans, and veterans of the Vietnam era. The Bidder shall communicate this policy in both English and Spanish to all people as concerned within its company, with outside recruiting services and the minority community at large. The Bidder shall provide the University, upon request, a breakdown of its labor force by groups, specifying the above characteristics within job categories, and shall discuss with the University its policies and practices relating to its programs.

Outsourcing (Public Contract Code section 12147) Compliance. Supplier warrants that if the Agreement will displace UC employees, no funds paid under the Agreement will be used to train workers who are located outside of the United States, or plan to relocate outside the United States as part of the Agreement. Additionally, Supplier warrants that no work will be performed under the Agreement with workers outside the United States, except as described in Supplier's bid. If Supplier or its sub supplier performs the Agreement with workers outside the United States during the life of the Agreement and Supplier did not describe such work in its bid, Supplier acknowledges and agrees that a) UC may terminate the Agreement without further obligation for noncompliance, and b) Supplier will forfeit to UC the amount UC paid for the percentage of work that was performed with workers outside the United States and not described in Supplier's bid.

#### **4.16. Addendums**



Any interpretations, revisions or corrections to this RFP issued during the response period will be by addendum. Notification of an addendum will be issued to each participant in writing through the Valify solution. No one is authorized to amend or interpret any document by oral statement.

#### Addenda to the RFP

Any changes, additions, or deletions to this RFP will be in the form of written addenda issued by UCOP via the UCOP Revenue Cycle Contact. Any addenda to this RFP will also be distributed to all participating Proposers via the UCLA website <http://purchasing.uclahealth.org/bidding-on-jobs>. UCOP will not be responsible for the failure of any prospective Proposer to receive such Addenda. All Addenda will become part of the RFP. UCOP shall have the unconditional and unqualified right to withdraw, cancel, or amend the RFP at any time without any liability.

## **Section 5: Supplier/Vendor Guidelines**

### **5.1. Prerequisites**

The Guidelines Section of the RFP include mandatory prerequisites. Responses to the prerequisites must be included with submitted proposals; failure to do so may result in disqualification from participation. In the sole determination of UCOP, submission of exceptions or conditions may or may not be considered for inclusion in a final contract.

### **5.2. Instructions for UC Terms and Conditions**

Proposers must accept, and Proposals must comply with the requirements of the University of California Health Terms and Conditions of Purchase dated 07/01/24. Please acknowledge that you have read, understand, and accept the UC Terms and Conditions of Purchase listed in section 7. UC reserves the right to update the UC Terms and Conditions at any time before the executed contract. Submission of a Proposal affirms Proposer's understanding and acceptance of the University of California Terms and Conditions of Purchase unless specific exceptions are proposed, and alternative language or provisions are offered. If a Proposer is unwilling to accept some of the terms of the University of California Terms and Conditions of Purchase, then Proposer must attach to their proposal a document labelled "Exceptions UC Health Terms and Conditions" that states which specific section of the University of California Health Terms and Conditions of Purchase is an issue, explain your reasoning, and propose specific alternative language. The Exceptions document must be returned with the Proposal.

Article 2.B. UC's obligation to proceed is conditioned upon the appropriation of state, federal and other sources of funds not controlled by UC ("Funding"). UC will have the right to terminate the Agreement without damage, penalty, cost, or further obligation in the event that through no action or inaction on the part of UC, the Funding is withdrawn.

Article 2.C. UC may, by written notice stating the extent and effective date thereof, terminate the Agreement for convenience in whole or in part, at any time. The effective date of such termination shall be consistent with any requirements for providing notice specified in the Agreement, or immediate if no such terms are set forth in the Agreement. As specified in the termination notice, UC will pay Supplier as full compensation the pro rata Agreement price for performance through the later of the date that (i) UC provided Supplier with notice of termination or (ii) Supplier's provision of Goods and/or Services will terminate.

**S5Q1.** I have read, understand, and accept Article 2.B. of the UC Terms and Conditions. Initial and Date

**S5Q2.** I have read, understand, and accept Article 2.C. of the UC Purchasing Agreement. Initial and Date

**S5Q3.** I have read, understand, and accept the UC Terms and Conditions. Initial and Date

**S5Q4.** Exceptions have been noted. Initial and Date

### **5.3. Instructions for Data Security Appendix**

Proposers must accept, and Proposals must comply with the requirements of the University of California Appendix Data Security and Privacy dated 08/20/21 listed in Section 8. Please acknowledge that you have read, understand, and accept the UC Appendix Data Security and Privacy listed in section 8. UC reserves the right to update the UC Appendix at any time before the executed contract.

Submission of a Proposal affirms Proposer's understanding and acceptance of the University of California Appendix Data Security and Privacy unless specific exceptions are proposed, and alternative language or provisions are offered. If a Proposer is unwilling to accept some of the terms of the University of California Appendix Data Security and Privacy, then Proposer must attach to their proposal a document labelled "Exceptions Appendix DS" that states which specific section of the University of California Appendix Data Security and Privacy is an issue, explain your reasoning, and propose specific alternative language. The Exceptions document must be returned with the Proposal.

Supplier agrees that if a Business Associate Agreement ("BAA") or a Data Security Form ("DS") is determined to be required that supplier agrees to execute the document(s)

**S5Q5.** I have read, understand, and accept the UC Data Security Appendix. Initial and Date

**S5Q6.** Exceptions have been noted. Initial and Date

### **5.4. Instructions for UC Business Associate Appendix (If applicable)**

Proposers must accept, and Proposals must comply with the requirements of the attached University of California Appendix-HIPAA Business Associate Agreement dated 08/10/21. Please acknowledge that you have read, understand, and accept the attached UC Appendix-HIPAA Business Associate Agreement. UC reserves the right to update the UC Appendix at any time before the executed contract.

Submission of a Proposal affirms Proposer's understanding and acceptance of the University of California Appendix-HIPAA Business Associate Agreement. Please note that the UC BAA has been preapproved at the UC Office of the President level; therefore, very few exceptions to the Business Associate Appendix can be considered.

Supplier agrees that if a Business Associate Agreement ("BAA") or a Data Security Form ("DS") is determined to be required that supplier agrees to execute the document(s)

**S5Q7.** I have read, understand, and accept the UC Business Associate Appendix. Initial and Date

**S5Q8.** Exceptions have been noted. Initial and Date

### **5.5. Instructions for Pricing**

**Each Bidder must include definitive pricing, including any and all costs, expenses, charges, and fees, based on the information contained in this RFP, and the following:**

- Provide complete and detailed cost proposals for a one-year term.
- Include any/all software license fees (including third party, if applicable) and types, if prices differ,
- Consulting fees, including estimated travel expenses, if any.

- Adapters and implementation costs for each academic location;
- Any other costs associated with the purchase, implementation, and maintenance of the system;
- Pricing for any options that are available;
- Provide examples of your company's invoice consistent with the pricing proposals in this RFP.

**Please note:**

1. UCOP has the right to audit your company's billing process at any time during the term of contract.
2. Please specify any and all ancillary charges and how these charges will be assessed and measured. Any fees, charges, costs, or other monetary invoicing expenses that are not included in your pricing proposals hereto but are later presented to UCOP to become part of the contract negotiation process for this engagement, may be rejected by UCOP at the sole discretion of UCOP; moreover, such non-disclosures may disqualify bidder from this engagement.
3. Please indicate in detail what factors will be used to adjust pricing (if applicable) upward and downward, during the term of the contract.
4. Net terms are thirty (30) days from receipt of undisputed invoices, with no fees or interest for untimely payment.

**S5Q9.** I have read, understand, and accept the Instructions for Pricing. Initial and Date

**5.6. Questionnaires and Attachments**

The following Questionnaires and additional documents are included with the RFP:

- Scope of Work – Exhibit "A"
- Section 6 - Project Proposal Questions
- UC Health Terms and Conditions of Purchase
- UC Data Security Appendix
- UC Appendix-HIPAA Business Associate Agreement – Exhibit "B"
- Institutional Information - Exhibit "C"
- Supplier's Initial Information Security Plan "Exhibit "D" (if applicable)
- Section 13: Vendor Specific Questions

Each of the documents listed above requires the proposer to attach a set of responses. Please label the attachments with your company name and the title of the document, e.g., "*Company XYZ Supplier Information Questionnaire.*"

Failure to provide the information necessary to fully evaluate the bid response may result in disqualification of the bid.

**NOTICE:** The responses to the questions included in these documents are scored as part of basis for award.

**S5Q10.** Certification of Proposal: Please include - Company Name, Federal Employer Identification #, Contact Person/Title, Address, Telephone, Fax

**S5Q11.** I certify that I am authorized to sign on behalf of the organization I represent for this offer and agree to all terms and conditions described herein. Include Name and Date

## **Section 6: Scope of Work - Exhibit A**

### **6.1. Objectives**

UC Health - UCOP is seeking an experienced vendor to Support for the Development and Integration of Multiple Student Health Financial Sustainability Initiatives and achieve the following objectives:

- Establish cross-functional collaboration between student health center leadership, UC health system, and UCOP operational experts to accomplish four tasks.
- Facilitate the development of an integrated financial model that forecasts impacts to the budgeting and expenditures of funds within each student health location as a result of implementing three key systemwide initiatives
- Facilitate systemwide guidance for the plan, design and implementation phases for third-party billing, including
  - Designing a revenue cycle model that supports insurance billing while meeting state and federal regulatory requirements.
  - Ensuring provider credentialing, payer enrollment, system configuration, and operational workflows are implemented jointly and efficiently.
  - Promote data, legal, and technical coordination between campus-based and hospital-based teams.
  - Maintaining compliance with the Health Insurance Portability and Accountability Act (HIPAA), the Family Educational Rights and Privacy Act (FERPA), California privacy laws, and payer-specific rules.
- Facilitate the development of alternative funding sources to address resource constraints at student health centers

### **6.2. Scope**

The selected vendor will facilitate the organization, coordination and progress of the four financial sustainability initiatives in the following workstreams:

#### **A. Cross-Institutional Governance & Collaboration**

- Utilize existing student health governance models to advance the work including:
  - UCOP executive leadership, management and initiative teams
  - Vice Chancellors of Student Affairs (VCSAs), student health directors, and the SHIP Executive Oversight Board
- Set up additional teams/governance as needed to support the initiatives, which will likely include:
  - Student health center directors and administrative/medical direct reports
  - UC Health revenue cycle and credentialing managers
  - IT and Electronic Health Record (EHR) leads from both settings
  - Compliance and legal counsel
  - UC Health managed care contracting officers
- Facilitate regular meetings to drive progress, resolve roadblocks, and align on shared deliverables.
- Act as a facilitator to help UC academic campuses and hospital leaders reach consensus on high-impact decisions. Help prepare executive briefings and document decisions.
- Create shared documentation repositories, decision logs, and workflows accessible to the teams.

## **B. Integrated financial model**

- Facilitate cross functional teams across UC academic campuses, UC Medical Centers, and UCOP to develop a comprehensive integrated financial model focused on development of the following:
  - Anticipated revenue from third party insurers, commercial and government
  - Projected SHIP reimbursement revenue based using historical and projected utilization
  - Analysis of alternative funding sources to support student health operations
  - Perform sensitivity analyses for changes in SHIP enrollment, payer mix, and regulatory reimbursement adjustments.

## **C. Third Party Billing**

### **1. Credentialing & Enrollment**

- Coordinate activities between UCOP, academic medical staff offices and hospital credentialing teams to facilitate enrollment of Student Health based providers to bill for services rendered.
- Lead credentialing working sessions to clarify documentation requirements, assign task owners, and track progress to effective dates.

### **2. Compliance, Legal, and Data Sharing**

- Collaborate with legal and compliance experts from UC Health and Academic campuses to ensure privacy and data governance protocols are compliant with HIPAA, FERPA, and UC policies

### **3. Technical Design & Integration**

- Facilitate joint design sessions with UCOP, UC EHR architects and campus IT leads to determine work streams and requirements to enable electronic data transfers between Student Health Centers and payers.
- Facilitate the preparation of a detailed configuration plan with shared testing responsibilities between hospital IT and campus teams.

### **4. Revenue Cycle Operations**

- Coordinate with revenue cycle experts from UC Health to:
  - Align coding guidelines and charge description master (CDM) entries for student health services
  - Determine responsibilities for denial management, accounts receivable follow-up, and appeals
  - Support student health centers in defining roles, training needs, and compliance expectations for front-desk and billing staff
- Help establish workflows for financial assistance, coordination of benefits, and student insurance plan processing.

## 5. Financial Modeling

- Facilitate the development of a financial model that identifies the potential and timing of revenues and expenses
- Incorporate the proposed approach into the integrated financial model

## 6. Implementation Support & Go-Live Readiness

- Facilitate development of a readiness task list, including, e.g.: sample testing of billing workflows, credentialing status checks, and system validation testing, day-one and week-one support tasks, escalation paths, and communications.

## D. Alternative Funding Sources

- Work with internal stakeholders to identify additional sources of funding to support Student Health Operations, e.g. University funding, grant/government funding, campus fees, etc.
- Facilitate development of work products to address funding opportunities
- Facilitate vetting of proposals with campus stakeholders
- Incorporate the proposed approach into the integrated financial model

**S6Q1.** Suppliers proposals must include responses to all questions and requirements in Exhibit A and ensure all information requested includes the following: Provide a detailed response clearly articulating the approach your firm would take to the UCOP Scope of Work. Suppliers response should be as detailed as possible and include the following: Please provide a detailed description of the experience, qualifications, and expertise that your team will provide to UCH, as it pertains to this RFP. Please include resumes/CV (if applicable) of the proposed team. Description of your organization and proposed team experience on similar projects (Preferred California and healthcare experience) Description of how your organization is qualified for this specific opportunity

**S6Q2.** Describe your approach to assuring timely completion of services, including methods you will utilize.

**S6Q3.** Please include any information demonstrating your capability of meeting and performing all specifications of this RFP from engagement to implementation, maintenance, and support.

**S6Q4.** History of working with any departments or units in the Office of the President or any UC location.

## 6.3. See Section 13 Vendor Questionnaire for additional mandatory questions

## 6.4. Service

All services must be provided in a manner compliant with HIPAA and all other applicable laws, regulations, and requirements. It is through the provision of services that UC Health -UCOP hopes to accomplish/obtain the following:

- Improved workflow across the UC Student Health Centers
- Improved ability to meet complex and changing UC Student Health Center conditions
- Transparent and accurate reporting of UC Student Health Centers metrics
- Increased efficiency and access to medical services at academic campuses

## 6.5. Vendor Questions

**S6Q5.** How long have you provided services similar in scope to those of this contract?

- S6Q6.** How will you ensure that you comply with all applicable federal, state, and local laws, regulations, and licensing requirements (particularly HIPAA) throughout the provision of services?
- S6Q7.** If any, what part(s) of the provision of services do you plan to outsource to a subcontractor?
- S6Q8.** Describe your staffing plan, detailing how many employees (in terms of hours spent) will be assigned to each aspect of the provision of services. An organizational chart may be provided as a visual aid as an attachment to this RFP.
- S6Q9.** What reports will you provide to this organization as part of the provision of services? How will reports be delivered? How often will reports be provided?
- S6Q10.** Provide one or more sample reports.
- S6Q11.** What equipment/resources will you need from this organization for the successful provision of services?

## **Section 7: Terms and Conditions 07/01/24**

This RFP does not commit UCOP Systemwide Revenue Cycle to any specific course of action. The issuance of this RFP does not bind UCOP Systemwide Revenue Cycle to accept any bid, in whole or in part, whether or not it includes the lowest bid, nor does it bind UCOP Systemwide Revenue Cycle to provide any explanation or reason for its decision to accept or reject any bid.

### **7.1. Disclaimer**

UCOP Systemwide Revenue Cycle reserves the right to:

- Discontinue this RFP process without obligation
- Reject any or all bids or any portion of the bids or waive irregularities in the bids
- Accept offers other than the lowest price offer
- Choose a Vendor or Vendors on the basis of bids received through the bid process, with or without discussions or requests for best and final offers
- Choose more than one Vendor
- Modify or exclude any consideration, information, or requirement contained in this RFP and to add new considerations, information, or requirements at any stage of the process, including negotiations with Vendors, at any time before any contract is awarded for the services outlined in this RFP

**Bids submitted during the RFP process are considered binding offers and the Vendor assumes sole responsibility for its bids.**

### **7.2. Terms and Conditions of Purchase**

These Terms and Conditions of Purchase ("Terms and Conditions") govern the provision of the equipment, materials, and supplies ("Goods") and/or services ("Services") furnished by Supplier (together, the "Goods and/or Services") under the UC Purchase Order ("PO") or agreement entered into by UC and Supplier

(which, together with these Terms and Conditions and any other documents incorporated by reference, constitute the "Agreement"). As used herein, the term "Supplier" includes Supplier and its sub-

suppliers at any tier, and “UC” refers to The Regents of the University of California, a corporation described in California Constitution Art. IX, Sec. 9, on behalf of the UC locations identified in the Agreement (each a “UC Location”). UC and Supplier individually will be referred to as “Party” and collectively as “Parties.” Any terms not defined in these Terms and Conditions will have the meaning ascribed to such term in any of the other documents incorporated in and constituting the Agreement. Supplier accepts all of the Agreement’s terms and conditions either in writing, by shipping any portion of the Goods, or performing any portion of the Services. If the Agreement refers to a proposal, then the terms of that proposal become part of the Agreement, but only to the extent the proposal terms specify the Goods and/or Services ordered, prices, and/or delivery, and to the extent that they are not inconsistent with the terms and conditions of the Agreement. Any additional terms that Supplier includes in an order form or other document not incorporated into the Agreement, or in any click-through, or other end user terms and conditions or agreements provided with any Goods and/or Services hereunder (“Additional Terms”), will not be binding on UC, even if use of such Goods and/or Services requires an affirmative “acceptance” of such Additional Terms before access is permitted. Any such Additional Terms will be of no force and effect, and are rejected by UC in their entirety, unless UC expressly agrees to such Additional Terms in writing as provided for in these Terms and Conditions.

## **7.3. Article 1: TERM AND TERMINATION**

**1.1 Term.** The term of the Agreement is as set forth in the Agreement.

**1.2 Extension.** The Agreement may be extended by written mutual agreement unless otherwise stated in the Agreement.

**1.3 Non-appropriation of Funding.** UC’s obligation to proceed is conditioned upon the appropriation of state, federal and other sources of funds whether controlled by UC (“Funding”) or not. UC will have the right to terminate the Agreement without damage, penalty, cost, or further obligation in the event that through no action or inaction of UC, Funding is not appropriated or is withdrawn.

**1.4 Termination for Convenience.** UC may, by written notice stating the extent and effective date thereof, terminate the Agreement for convenience in whole or in part, at any time. The effective date of such termination shall be consistent with any requirements for providing notice specified in the Agreement, or immediate if no such terms are set forth in the Agreement. As specified in the termination notice, UC will pay Supplier as full compensation the pro rata Agreement price for performance through the later of the date that: (i) UC provided to Supplier in the notice of termination; or (ii) Supplier’s provision of Goods and/or Services will terminate.

**1.5 Termination for Cause.** UC may by written notice terminate the Agreement for Supplier’s breach of the Agreement, in whole or in part, at any time, if any of the following apply:

- (a)** Supplier refuses or fails to comply with the provisions of the Agreement or applicable law;
- (b)** Supplier fails to make progress as to endanger performance within five (5) business days;
- (c)** Supplier does not cure such failure within 15 business days;
- (d)** Supplier fails to supply the Goods and/or Services in the manner or within the time specified in the written notice of termination or any written extension thereof; or
- (e)** Supplier does not comply with all applicable state and federal laws relating to providing Goods and Services to UC, including but not limited to laws and policies relating to wages, benefits, and fair labor practices.

In such event, UC may purchase or otherwise secure Goods and/or Services elsewhere and, except as otherwise provided herein, Supplier will be liable to UC for any excess costs UC incurs thereby.



**1.6 Appendices.** If any of the following appendices are incorporated into the Agreement, they will control in the event that the appendices conflict with the provisions of this Article: (i) UC's Appendix – Data Security; (ii) Appendix – BAA; and/or (iii) Appendix – GDPR.

## **7.4. ARTICLE 2: PRICING AND INVOICING, AND LIENS**

**2.1 Pricing.** Pricing is set forth in the Agreement, and the amount UC is charged and responsible for shall not exceed the amount specified in the Agreement unless UC has given prior written approval.

**2.2 Invoicing.** Unless otherwise stated in the Agreement, Supplier shall use the invoicing methods and payment settlement methods agreed to upon supplier enablement at the UC Location. UC will pay Supplier, following submission of acceptable invoices according to agreed-upon payment terms, for Goods and/or Services provided and accepted. Invoices must be itemized and must reference the Agreement or PO number. Supplier invoicing shall be subject to verification by UC and its authorized representatives; Supplier will provide supporting documentation and information upon request by UC. UC will not pay shipping, packaging, or handling expenses, unless specified in the Agreement. Unless otherwise provided, freight is to be Free on Board ("FOB") destination on domestic shipments, and Delivered Duty Paid ("DDP") for international shipments. Any reimbursement of Supplier's expenses that UC agrees to will be reimbursed pursuant to UC's Travel Policy, which may be found at <http://www.ucop.edu/central-travel-management/resources/index.html>. Where applicable, Supplier will pay all taxes imposed on Supplier in connection with its performance under the Agreement, including any federal, state, and local income, sales, use, excise and other taxes or assessments. Notwithstanding any other provision to the contrary, UC will not be responsible for any fees, interest or surcharges Supplier wishes to impose.

**2.3 Liens.** Supplier agrees upon request to furnish UC with a sworn statement setting forth the work performed or material furnished by sub-suppliers and material men, and the amounts due and to become due to each. Prior to final payment, Supplier will, upon UC request, submit a complete set of vouchers showing the payments that have been made for such work performed or material furnished. Supplier will promptly notify UC in writing of any claims, demands, causes of action, liens or suits brought to its attention that arise out of the Agreement. UC may withhold final payment until Supplier delivers to UC a complete release of all liens arising out of the Agreement or complete set of receipts in full. In either case, UC may require Supplier to submit an affidavit that, as far as Supplier has knowledge or information, the receipts include all the labor and materials for which a lien could be filed. If any sub-supplier refuses to furnish a release or receipt in full, Supplier may furnish a bond satisfactory to UC to indemnify UC against any claim by lien or otherwise. If any lien or claim remains unsatisfied after all payments are made, Supplier will refund to UC all monies that UC may be compelled to pay in discharging such lien or claim, including all costs and reasonable attorneys' fees.

## **7.5. ARTICLE 3: INSPECTION**

The Goods and/or Services furnished will be as specified in the Agreement, free from all defects in Supplier's performance, design, skill, and materials, and will be subject to inspection and testing by UC unless otherwise provided in the Agreement. If, prior to final acceptance, any Goods and/or Services are found to be incomplete, or not as specified, UC may reject them, require Supplier to correct them at the sole cost of Supplier, or require provision of such Goods and/or Services at a fair and reasonable reduction in price. Supplier bears all risks as to rejected Goods and/or Services. In addition to any costs for which Supplier may become liable to UC under other provisions of the Agreement, Supplier will reimburse UC for all transportation costs, other related costs incurred, or payments to Supplier in accordance with the terms of the Agreement for unaccepted Goods and/or Services and materials and supplies incidental thereto. Notwithstanding final acceptance or payment, Supplier will be liable for latent defects, fraud, or such gross mistakes as amount to fraud.

## **7.6. ARTICLE 4: INTELLECTUAL PROPERTY, COPYRIGHT, PATENTS, AND DATA RIGHTS**

### **4.1 Rights to Deliverables.**

**(a) Ownership of Deliverables.** UC owns any deliverables due to UC as set forth in the Agreement, including intellectual property rights therein (hereinafter the "Deliverables"), unless UC agrees in writing that the Goods and/or Services do not involve work made for hire. The Deliverables will be considered "work made for hire" under U.S. copyright law, and UC will own all right, title, and interest to and in such Deliverables including, but not limited to, any and all copyrights or trademarks. In the event that it is determined that UC is not the owner of such Deliverables under the "work made for hire" doctrine of U.S. copyright law, Supplier hereby irrevocably assigns to UC all right, title, and interest to and in such Deliverables and any copyrights or trademarks thereto.

**(b) Pre-Existing Materials.** In the event Supplier uses any pre-existing patented, copyrightable or trademarked images, writings, or other proprietary materials of Supplier or any third party (hereinafter "Pre-Existing Materials") in the performance of the Agreement, Supplier hereby grants to UC, and will secure for UC from any third-party owner, a non-exclusive, royalty-free, irrevocable, perpetual, paid-up, worldwide license (with the right to sublicense) to make, have made, copy, modify, make derivative works of, use, perform, display publicly, sell, and otherwise distribute such Pre-Existing Materials in connection with the Deliverables.

**(c) Inventions and Discoveries.** Whenever Supplier makes or conceives of any invention or discovery in the direct performance of providing Goods and/or Services to UC under the Agreement, Supplier will promptly furnish UC with complete information with respect thereto. In addition, whenever Supplier makes or conceives of any invention or discovery that incorporates UC Institutional Information (collectively "UC Inventions"), Supplier will promptly furnish UC with complete information with respect thereto. UC will have the sole discretion to make any and all decisions regarding the filing, management, and disposition of UC Inventions, including any patent applications and patent rights covering UC Inventions. As used herein, "Institutional Information" means any information or data created, received, and/or collected by UC or on its behalf, including but not limited to application logs, metadata, and data derived from such data.

**(d) Supplier Assignment.** Supplier hereby assigns to UC all right, title and interest in any intellectual property rights to UC Inventions as well as all right, title and interest in tangible research products embodying UC Inventions. Supplier agrees to promptly execute any documentation needed for such assignment and to ensure that Supplier's employees do the same as necessary to perfect title of UC Inventions for UC.

**4.2 General.** Should the Goods, Services, Pre-Existing Materials, and/or Deliverables become, or in Supplier's opinion be likely to become, the subject of a claim of infringement of any patent, copyright, trademark, trade name, trade secret, or other proprietary or contractual right of any third party, Supplier will provide written notice to UC of the circumstances giving rise to such claim or likely claim. In the event that UC receives notice of a claim of infringement, is made a party to, or is threatened with being made a party to any claim of infringement related to the Goods and/or Services, UC will provide Supplier with notice of such claim or threat. Following receipt of such notice, Supplier will either (at Supplier's sole election): (i) procure for UC the right to continue to use the affected portion of the Goods and/or Services; (ii) replace or otherwise modify the affected portion of the Goods and/or Services to make them non-infringing; or (iii) obtain a reasonable substitute product for the affected portion of the Goods and/or Services. Any replacement, modification or substitution under this paragraph shall not affect a material change in the Goods and/or Services' functionality. If none of the foregoing options is reasonably acceptable to UC, UC will have the right to terminate the Agreement without damage, penalty, cost, or further obligation.

**4.3 UC Rights to Institutional Information.** Institutional Information shall belong exclusively to UC and, unless expressly provided, this Agreement shall not be construed as conferring on Supplier any patent, copyright, trademark, license right or trade secret owned or obtained by UC. Any right for Supplier to use Institutional Information is solely provided on a non-exclusive basis, and only to the extent required for Supplier to provide the Goods or Services under the Agreement.

## **7.7. ARTICLE 5: LIABILITY FOR UC MATERIALS**

To the extent UC furnishes Supplier with, or Supplier otherwise uses, any UC materials in connection with the Agreement ("UC Materials"), Supplier assumes complete liability for such UC Materials. Supplier agrees to pay for any UC Materials Supplier damages or otherwise is not able to account for to UC's

reasonable satisfaction. Unless otherwise expressly provided in writing by UC, Supplier shall not obtain title to any UC Materials. For clarity, UC Materials may include Institutional Information. Supplier will use UC Materials for the limited purpose of performing hereunder. Supplier will not transfer UC Materials, or parts thereof, to any third party without express written consent of UC. UC MAKES NO REPRESENTATIONS OR WARRANTIES OF MERCHANTABILITY OR FITNESS OF THE UC MATERIALS FOR ANY PARTICULAR PURPOSE, NON-INFRINGEMENT OF THIRD-PARTY RIGHTS, NOR ANY OTHER WARRANTY OF ANY KIND. No other right or license to the UC Materials is granted to Supplier or implied as a result of transferring UC Materials hereunder. In no event will Supplier use the UC Materials in human subjects.

## **7.8. ARTICLE 6: USE OF UC NAME AND TRADEMARKS**

Supplier will not use the UC name, abbreviation of the UC name, trade names, and/or trademarks (i.e., logos and seals) or any derivation thereof (collectively, "UC Name"), in any form or manner in advertisements, reports, or other information released to the public, or place a UC Name on any consumer goods, products, or services for sale or distribution to the public, without UC's prior written approval. Supplier agrees to comply at all times with California Education Code Section 92000.

If the Goods will bear the UC Name, Supplier must hold a valid license from UC and comply with UC's Trademark Licensing Code of Conduct policy, available at <http://policy.ucop.edu/doc/3000130/TrademarkLicensing>.

## **7.9. ARTICLE 7: PROHIBITION ON UNAUTHORIZED USE OR DISCLOSURE OF INSTITUTIONAL INFORMATION**

**7.1 Prohibition on Access, Use and Disclosure of Institutional Information.** Supplier will not access, use, or disclose Institutional Information, other than to carry out the purposes for which UC disclosed the Institutional Information to Supplier, except as required by applicable law, or as otherwise authorized in writing by UC prior to Supplier's disclosure. Supplier shall have the limited right to disclose Institutional Information to Supplier's employees provided that: (i) Supplier shall disclose only such Institutional Information as necessary for the Supplier to perform its obligations under this Agreement; and (ii) Supplier informs such employees of the obligations governing the access, use and disclosure of Institutional Information prior to Supplier's disclosure. Supplier shall be liable for any breach of this Agreement by its employees. For avoidance of doubt, this provision prohibits Supplier from using for its own benefit Institutional Information and any information derived therefrom. The sale of Institutional Information is expressly prohibited. For the avoidance of doubt, Supplier use of artificial intelligence (AI) systems with UC Institutional Information is not permitted except with prior written consent from the Chancellor or delegee for the applicable UC Location(s) or as explicitly set forth in the SOW. "AI system" has the meaning provided in NIST AI RMF 1.0, as may be amended from time to time.

### **7.2 Compliance with Applicable Laws and Industry Best Practices.**

Supplier agrees to comply with all applicable state, federal, and foreign laws, as well as industry best practices, governing the collection, access, use, disclosure, safeguarding, and destruction of Institutional Information. Supplier agrees to protect the privacy and security of Institutional Information according to all applicable laws and industry best practices. Further, Supplier agrees to protect Institutional Information at least as rigorously as it protects its own information and in no case less than reasonable care.

**7.3 Confidential Institutional Information.** Supplier agrees to hold UC's Confidential Institutional Information, and any information derived therefrom, in strict confidence. Confidential Institutional Information shall be defined as any Institutional Information that is:

- (a) marked as "Confidential" at the time of disclosure;
- (b) if disclosed orally, identified at the time of such oral disclosure as confidential, and reduced to writing as "Confidential" within thirty (30) days of such oral disclosure; or
- (c) if not marked as "Confidential," information that would be considered by a reasonable person in the relevant field to be confidential given its content and the circumstances of its disclosure.

As applicable to Supplier's Services, Confidential Institutional Information includes any information that identifies or is capable of identifying a specific individual.

**7.4 Exceptions.** Information will not be considered Confidential Institutional Information to the extent:

- (a) Supplier can demonstrate by written records it was lawfully known to Supplier prior to the effective date of the Agreement and not subject to any other confidentiality agreement in effect between Supplier and UC;
- (b) it is currently in, or in the future enters, the public domain other than through a breach of the Agreement or through other acts or omissions of Supplier;
- (c) it is obtained lawfully from a third party; or
- (d) it is disclosed under the California Public Records Act or valid legal process.

#### **7.5 Required Disclosures of Institutional Information.**

If Supplier is required by a court of competent jurisdiction, or a governmental administrative body with jurisdiction, to disclose Institutional Information, Supplier will notify UC in writing immediately upon receiving notice of such requirement and prior to any such disclosure (unless Supplier is prohibited by law from doing so), to give UC an opportunity to oppose or otherwise respond to such disclosure. To the extent Supplier is still required to disclose Institutional Information, Supplier will furnish only that portion that is legally required and will exercise all reasonable efforts to obtain reliable assurance that confidential treatment will be afforded to any Confidential Institutional Information.

**7.6 No Offshoring.** Supplier's transmission, transportation or storage of Institutional Information outside the United States, or access of Institutional Information from outside the United States, is prohibited except with prior written authorization by UC.

**7.7 Conflict in Terms.** UC's Appendix – Data Security, Appendix – BAA, and/or Appendix GDPR will control in the event one or more appendices is incorporated into the Agreement and conflicts with the provisions of this Article.

**7.8 Injunctive Relief.** Supplier acknowledges that remedies at law would be inadequate to protect UC against any actual or threatened breach of this Section by Supplier, and, without prejudice to any other rights and remedies otherwise available to UC, Supplier agrees to the granting of injunctive relief in UC's favor without proof of actual damages.

**7.9 Third-Party Analytics.** Supplier agrees not to use any third-party analytics services, software, or tools of any kind (including but not limited to any user analytics or website analytics tool that shares Institutional Information with a third party, such as Google Analytics or Meta Pixel) in connection with the performance of its obligations under this Agreement without first obtaining the express written consent of the UC Location Chancellor or their delegee. In the event Supplier wishes to use any third-party analytics services, software, or tools, Supplier must first obtain such express written consent, which consent may be withheld in UC's sole discretion. Supplier acknowledges and agrees that any use of third-party analytics services, software, or tools without such express written consent shall constitute a material breach of this Agreement that is incapable of cure by Supplier and, therefore, may result in the termination of the Agreement by UC, at UC's sole election.

### **7.10. ARTICLE 8: FEDERAL FUNDS**

**8.1** Supplier certifies and represents its compliance with the following clauses, as applicable. Supplier shall promptly notify UC of any change of status with regard to these certifications and representations. These certifications and representations are material statements upon which UC will rely.

**(a) Commercial Transactions.** For commercial transactions involving funds on a federal contract (federal awards governed by the FAR), the following provisions apply, as applicable:

- (i) FAR 52.203-13, Contractor Code of Business Ethics and Conduct;
- (ii) FAR 52.203-17, Contractor Employee Whistleblower Rights and Requirement to Inform Employees of Whistleblower Rights;
- (iii) FAR 52.203-19, Prohibition on Requiring Certain Internal Confidentiality Agreements or Statements;
- (iv) FAR 52.219-8, Utilization of Small Business Concerns;
- (v) FAR 52.222-21, Prohibition of Segregated Facilities;
- (vi) FAR 52.222-26, Equal Opportunity;

- (vii) FAR 52.222-35, Equal Opportunity for Veterans;
- (viii) FAR 52.222-36, Equal Opportunity for Workers with Disabilities;
- (ix) FAR 52.222-37, Employment Reports on Veterans;
- (x) FAR 52.222-40, Notification of Employee Rights Under the National Labor Relations Act;
- (xi) FAR 52.222-41, Service Contract Labor Standards;
- (xii) FAR 52.222-50, Combating Trafficking in Persons;
- (xiii) FAR 52.222-51, Exemption from Application of the Service Contract Labor Standards to Contracts for Maintenance, Calibration, or Repair of Certain Equipment -Requirements;
- (xiv) FAR 52.222-53, Exemption from Application of the Service Contract Labor Standards to Contracts for Certain Services -Requirements;
- (xv) FAR 52.222-54, Employment Eligibility Verification;
- (xvi) FAR 52.222-55, Minimum Wages Under Executive Order 13658;
- (xvii) FAR 52.222-62, Paid Sick Leave under Executive Order 13706;
- (xviii) FAR 52.224-3, Privacy Training;
- (xix) FAR 52.226-6, Promoting Excess Food Donation to Nonprofit Organizations;
- (xx) FAR 52.233-1, Disputes; and
- (xxi) FAR 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels.

**(b) Non-Commercial Transactions.** For non-commercial transactions involving funds on a federal contract, the UC Appendix titled 'Federal Government Contracts Special Terms and Conditions (Non-Commercial Items or Services)' and located at <https://procurement.ucop.edu/resources/p-policies> is hereby incorporated herein by reference.

**(c) Federal Grants or Cooperative Agreements.** For transactions involving funds on a federal grant or cooperative agreement (federal awards governed by CFR Title 2, Subtitle A, Chapter II, Part 200) the following provisions apply, as applicable:

- (i) **Rights to Inventions** If Supplier is a small business firm or nonprofit organization, and is providing experimental, development, or research work under this transaction, Supplier must comply with the requirements of 3 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts, and Cooperative Agreements."
- (ii) **Clean Air Act.** Supplier agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. § 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. § 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).
- (iii) **Byrd Anti-Lobbying.** Supplier certifies that it will not, and has not, used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. § 1352.
- (iv) **Procurement of Recovered Materials.** If Supplier is a state agency or agency of a political subdivision of a state, Supplier complies with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act.
- (v) **Domestic Preferences for Procurements.** As appropriate and to the extent consistent with law, Supplier should, to the greatest extent practicable under a federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States. "Manufactured products" means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

**(d) Definitions.** In these provisions, the term "contractor" as used therein will refer to Supplier, and the terms "Government" or "Contracting Officer" as used therein will refer to UC. Where a purchase of items is for fulfillment of a specific U.S. Government prime or subcontract, additional information and/or terms and conditions may be included in an attached supplement. By submitting an invoice to UC, Supplier is representing to UC that, at the time of submission:

- (i) **Debarment, Suspension**. Neither Supplier nor its principals are presently debarred, suspended, or proposed for debarment by the U.S. government (see FAR 52.209-6);
- (ii) **Compliance Reports**. Supplier has filed all compliance reports required by the Equal Opportunity clause (see FAR 52.222-22); and
- (iii) **Supplier Classifications**. Any Supplier representations to UC about U.S. Small Business Administration or state and local classifications, including but not limited to size standards, ownership, and control, are accurate and complete.
- (iv) **Byrd Anti-Lobbying**. Supplier certifies that it will not, and has not, used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352.

## 7.11. **ARTICLE 9: INDEMNITY AND LIABILITY**

**9.1 Indemnity**. To the fullest extent permitted by law, Supplier will defend, indemnify, and hold harmless UC, its officers, employees, and agents, from and against all claims, losses, expenses (including, without limitation, reasonable attorneys' fees and costs), damages, and liabilities of any kind ("Claims") resulting from or arising out of the Agreement, provided such Claims are due or claimed to be due to the acts or omissions of Supplier, its officers, employees, agents, sub-suppliers, or anyone directly or indirectly employed by Supplier, or any person or persons under Supplier's direction and control. UC agrees to provide Supplier with prompt notice of any such Claim and to permit Supplier to defend any Claim, and that UC will cooperate fully in such defense. UC retains the right to participate in the defense against any such Claim, and the right to consent to any settlement, which consent will not unreasonably be withheld.

**9.2 Data Breach Costs**. Supplier shall reimburse or otherwise be responsible for any costs, fines or penalties imposed against UC as a result of Supplier's Breach of Institutional Information and/or failure to cooperate with UC's response to such Breach. As used herein, "Breach" means:

- (a) Any disclosure of Institutional Information to an unauthorized party or in an unlawful manner;
- (b) Unauthorized or unlawful acquisition of information that compromises the security, confidentiality, or integrity of Institutional Information and/or IT Resources; or
- (c) The acquisition, access, use, or disclosure of Protected Health Information or medical information in a manner not permitted under the Health Insurance Portability and Accountability Act (HIPAA) or California law.

"IT Resources" means IT infrastructure, cloud services, software, and/or hardware with computing and/or networking capability that is Supplier owned/managed, or UC-owned, or a personally owned device that stores Institutional Information, is connected to UC systems, is connected to UC networks, or is used for UC business.

## 7.12. **ARTICLE 10: INSURANCE**

**10.1 Supplier Insurance**. Supplier, at its sole cost and expense, will insure its activities in connection with providing the Goods and/or Services and obtain, keep in force, and maintain the following insurance with the minimum limits set forth below, unless UC specifies otherwise:

- (a) **Commercial Form General Liability Insurance**. (contractual liability included) with limits as follows:

- (i) Each Occurrence \$ 1,000,000
- (ii) Products/Completed Operations Aggregate \$ 2,000,000
- (iii) Personal and Advertising Injury \$ 1,000,000
- (iv) General Aggregate \$ 2,000,000

- (b) **Business Automobile Liability Insurance**. Business Automobile Liability Insurance for owned, scheduled, non-owned, or hired automobiles with a combined single limit of not less than one million dollars (\$1,000,000) per occurrence. (Required only if Supplier drives on UC premises or transports UC employees, officers, invitees, or agents in the course of supplying the Goods and/or Services to UC.)

- (c) **Professional Liability Insurance**. If applicable, Professional Liability Insurance with a limit of two million dollars (\$2,000,000) per occurrence or claim with an aggregate of not less than two million dollars (\$2,000,000). If this insurance is written on a claims-made form, it will continue for three years following termination of the Agreement. The insurance will have a retroactive date of placement prior to or coinciding with the effective date of the Agreement.

(d) **Workers' Compensation.** Workers' Compensation as required by applicable state law and Employer's Liability with limits of one million dollars (\$1,000,000) per occurrence.

**10.2 Fidelity Bond or Crime Coverage.** If applicable, Supplier Fidelity Bond or Crime coverage for the dishonest acts of its employees in a minimum amount of one million dollars (\$1,000,000). Supplier will endorse such policy to include a "Regents of the University of California Coverage" or "Joint Payee Coverage" endorsement. UC and, if so requested, UC's officers, employees, agents, and sub-suppliers will be named as "Loss Payee, as Their Interest May Appear" in such Fidelity Bond.

**10.3 Appendix – Data Security (DS).** In the event Appendix - Data Security (DS) applies to this Agreement, Supplier, at its sole cost and expense, will obtain, keep in force, and maintain one or more insurance policies that provide coverage for technology, professional liability, data protection, and/or cyber liability. Typically referred to as Privacy, Technology and Data Security Liability, Cyber Liability, or Technology Professional Liability insurance, it will cover liabilities for financial loss due to the acts, omissions, or intentional misconduct of Supplier, its officers, employees, agents, sub-suppliers, or anyone directly or indirectly employed by Supplier, or any person or persons under Supplier's direction and control, in connection with the performance of this Agreement, as well as all Supplier costs, including damages it is obligated to pay UC or any third party, that are associated with any confirmed or suspected Breach or compromise of Institutional Information. In some cases, Professional Liability policies may include some coverage for data breaches or loss of Institutional Information. Regardless of the type of policy(ies) in place, such coverage will include without limitation:

- (a) costs to notify parties whose data were lost or compromised;
- (b) costs to provide credit monitoring and credit restoration services to parties whose data were lost or compromised;
- (c) costs associated with third party claims arising from the confirmed or suspected Breach or loss of Institutional Information, including litigation costs and settlement costs;
- (d) any investigation, enforcement, fines and penalties, or similar miscellaneous costs; and
- (e) any payment made to a third party as a result of extortion related to a confirmed or suspected Breach.

The following insurance coverage is based on the highest Protection Level Classification of Institutional Information identified in Exhibit 1 to Appendix - Data Security (DS):

- (i) P1 - This insurance policy must have minimum limits of \$500,000 each occurrence and \$500,000 in the aggregate.
- (ii) P2 - This insurance policy must have minimum limits of \$1,000,000 each occurrence and \$1,000,000 in the aggregate.
- (iii) P3 and P4, less than 70,000 records - this insurance policy must have minimum limits of \$5,000,000 each occurrence and \$5,000,000 in the aggregate.
- (iv) P3 and P4, 70,000 or more records - this insurance policy must have minimum limits of \$10,000,000 each occurrence and \$10,000,000 in the aggregate.

Protection Level Classifications are defined in the UC Systemwide Information Security Classification of Information and IT Resources: <https://security.ucop.edu/policies/institutional-information-and-it-resource-classification.html>

**10.4 Additional Requirements.** Additional other insurance in such amounts as may be reasonably required by UC against other insurable risks relating to performance. If the above insurance is written on a claims-made form, it will continue for three (3) years following termination of the Agreement. The insurance will have a retroactive date of placement prior to or coinciding with the effective date of the Agreement. If the above insurance coverage is modified, changed, or cancelled, Supplier will provide UC with not less than fifteen (15) days' advance written notice of such modification, change, or cancellation, and will promptly obtain replacement coverage that complies with this Article.

**10.5 UC Additional Insured; Certificates of Insurance.** The coverages referred to under 10.1(a) (Commercial Form General Liability Insurance) and 10.2(b) (Business Automobile Liability Insurance) of this Article must include UC as an additional insured. It is understood that the coverage and limits referred to under 10.1(a) (Commercial Form General Liability Insurance) and 10.2(b) (Business Automobile Liability Insurance) and 10.1(c) (Professional Liability Insurance) of this Article will not in any way limit Supplier's liability. Supplier will furnish UC with certificates of insurance (and the relevant endorsement pages) evidencing compliance with all requirements prior to commencing work under the Agreement.

Such certificates (and any endorsement pages as applicable) will:

(a) Indicate that The Regents of the University of California has been endorsed as an additional insured for the coverage referred to under 10.1(a) (Commercial Form General Liability Insurance) and 10.2(b) (Business Automobile Liability Insurance) of this Article.

(b) Include a provision that the coverage will be primary and will not participate with or be excess over any valid and collectible insurance or program of self-insurance carried or maintained by UC.

## **7.13. ARTICLE 11: ADDITIONAL WARRANTIES**

**Supplier Warranties.** Failure to comply with any of the warranties in the Agreement will constitute a material breach of the Agreement. In addition to any warranties set forth elsewhere herein, Supplier represents, warrants and covenants:

**11.1** Supplier is not, and will not become during the Agreement term, subject to any restrictions that might restrict or prohibit Supplier from performing the Services or providing the Goods ordered hereunder.

**11.2** Supplier will comply with all applicable laws, rules, and regulations in performing Supplier's obligations hereunder, including but not limited to procuring all necessary permits or licenses.

**11.3** The Goods and/or Services shall be rendered with promptness and diligence and shall be executed in a skilled manner by competent personnel, in accordance with prevailing industry standards.

**11.4** Supplier has developed a business interruption and disaster recovery program and is executing such program to assess and reduce the extent to which Supplier's systems may be susceptible to errors or failures in various crisis or force majeure situations.

**11.5 Water and Air Pollution.** As applicable, Supplier complies with the requirements in UC Business and Finance Bulletin BUS-56 (Materiel Management; Purchases from Entities Violating State or Federal Water or Air Pollution Laws). Consistent with California Government Code § 4477, UC is prohibited from contracting with entities in violation of Federal or State water or air pollution laws.

**11.6 Accessibility.** As applicable to the Goods and/or Services provided under the Agreement:

(a) Supplier complies with California and federal disability laws and regulations applicable to Supplier and UC;

(b) Supplier warrants that the Goods and/or Services provided will meet or exceed the accessibility requirements of the UC Information Technology Accessibility policy (IMT-1300, <https://policy.ucop.edu/doc/7000611>) in place as of the effective date of the Agreement and failure to meet or exceed such policy shall constitute a material breach of under the Agreement. This warranty shall include any of the following Good and/or Services provided by the Supplier: hardware, software, website development and/or maintenance, and any other information technology, including textbooks or any other documents.

(c) Supplier agrees to promptly respond to and make all reasonable efforts to resolve complaints regarding accessibility of its Goods and/or Services within a reasonable and mutually agreeable timeline. In determining this remediation timeline, Supplier and UC shall in good faith consider any relevant factors, including but not limited to, UC's liability exposure (e.g., public facing Goods and/or Services versus Goods and/or Services used only by a handful of employees), the scope of alleged accessibility issues and their severity, and the urgency in remediating the complainant's alleged accessibility issues.

(d) To the fullest extent permitted by law, the indemnity clause herein (Article 9) shall apply to any complaint, claim, or actions relating to the accessibility of Supplier's Goods and/or Services to persons with disabilities.

**11.7 California Child Abuse and Neglect Reporting Act ("CANRA").** Where applicable, Supplier complies with the California Child Abuse and Neglect Reporting Act ("CANRA").

**11.8 Debarment, Suspension, U.S. Government Restricted Party Lists.** Supplier is not on the U.S. government's Denied Parties List, the Unverified List, the Entities List, the Specially Designated Nationals and Blocked Parties List, and neither it nor its employees and agents is now nor has ever been debarred, suspended, excluded, sanctioned, or otherwise declared ineligible for award of federal contracts or participation in any government sponsored program, including any federal or state health care program (e.g., Medicare, Medi-Cal), and no proceedings, investigations, or inquiries are currently pending or threatened by any federal or state agency as a result of which Supplier or its employees or agents could be excluded, sanctioned, debarred or otherwise made ineligible from participation in any government sponsored program or sanctioned for any violation of any rule or regulation of such programs (excluding denial of reimbursement or payment of any specific claim or claims). Supplier will immediately provide



written notice to UC of any such pending or threatened investigation or inquiry upon becoming aware of such investigation or inquiry. Any breach of this Section shall give UC the right to terminate the Agreement immediately for cause.

**11.9 Equal Opportunity Affirmative Action.** Supplier will abide by the requirements set forth in Executive Orders 11246 and 11375. Where applicable, Supplier will comply with 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a), incorporated by reference with this statement: **“This contractor and subcontractor shall abide by the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity, or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, protected veteran status or disability.”** With respect to activities occurring in the State of California, Supplier agrees to adhere to the California Fair Employment and Housing Act. Supplier will provide UC on request a breakdown of its labor force by groups as specified by UC, and Supplier will discuss with UC its policies and practices relating to its affirmative action programs. Supplier will not maintain or provide facilities for employees at any establishment under its control that are segregated on a basis prohibited by federal law. Separate or single-user restrooms and necessary dressing or sleeping areas must be provided, however, to ensure privacy.

**11.10 Covered Telecommunications Equipment.** The Goods and/or Services will not require Supplier to use for UC, or provide to UC to use, "covered telecommunications equipment or services" as a substantial or essential component of any system, or as critical technology as part of any system, within the meaning of Federal Acquisition Regulation ("FAR") Section 52.204-25. Supplier will provide "Timely Notice" to UC of any changes to the statements, confirmations or representations made in its proposal response or in any information provided as part of the contract award process, including in particular any changes to the certifications or representations made regarding NDAA Section 889. Timely Notice means that Supplier will notify UC in writing within three (3) business days of any changes to the representations or confirmations made in relation to NDAA Section 889. Notice shall include the representations or confirmations made and the changes to those representations or confirmations. The notice shall be provided by a Supplier representative authorized to bind the Supplier.

**11.11 Cooperation.** Supplier and its sub-suppliers, if any, will cooperate with UC and other suppliers and will not hinder, delay, or interfere with the progress of their work.

**11.12 Conflict of Interest.** Supplier will not be in a reporting relationship to a UC employee who is a near relative, nor will a near relative be in a decision-making position with respect to Supplier. Supplier affirms that, to the best of Supplier's knowledge, no UC employee who has participated in UC's decision-making concerning the Agreement has an "economic interest" in the Agreement or Supplier. A UC employee's "economic interest" means: an investment worth \$2,000 or more in Supplier or its affiliate;

(a) a position as director, officer, partner, trustee, employee or manager of Supplier or its affiliate;

(b) receipt during the past 12 months of \$500 in income or \$440 in gifts from Supplier or its affiliate; or

(c) a personal financial benefit from the Agreement in the amount of \$250 or more.

In the event of a change in these economic interests, Supplier will provide written notice to UC within thirty (30) days after such change, noting such changes.

**11.13 Outsourcing (Public Contract Code section 12147).** If the Agreement will displace UC employees, Supplier will not use any funds paid to Supplier under this Agreement to train workers who are located outside of the United States, or plan to relocate outside the United States as part of the Agreement. If displacing UC employees, Supplier will ensure that no work will be performed under the Agreement with workers outside the United States, except as described in Supplier's bid. If Supplier or its sub-supplier performs the Agreement with workers outside the United States during the Agreement term and Supplier did not describe such work in its bid, Supplier acknowledges and agrees that: (i) UC may, without further obligation, terminate the Agreement for noncompliance; and (ii) Supplier will forfeit to UC the amount UC paid for the percentage of work that was performed with workers outside the United States and not described in Supplier's bid.

## **7.14. ARTICLE 12: PREMISES WHERE SERVICES ARE PROVIDED**

The following provisions apply to the extent Services are performed on UC Premises (defined as any location owned or leased by UC):

**12.1. Cleaning Up.** Supplier will keep UC Premises where the Services are performed and adjoining premises free from accumulations of waste caused by its employees or sub-suppliers; will remove all rubbish from and about the Premises and all its tools, scaffolding, and surplus materials, and will leave the premises "broom clean" or its equivalent, unless more exactly specified. In case of a dispute between Supplier and its sub-suppliers as to responsibility for the removal of the rubbish, or if it is not promptly removed, UC may remove the rubbish and charge the cost to Supplier.

**12.2. Environmental, Safety, Health, and Fire Protection.** Supplier will take all reasonable precautions in providing the Goods and/or Services to protect the health and safety of UC employees, agents, and members of the public; to minimize danger from all hazards to life and property; and to comply with all applicable environmental protection, health, safety, and fire protection regulations and requirements (including reporting requirements). In the event Supplier fails to comply with such regulations and requirements, UC may, without prejudice to any other rights of UC, issue an order stopping any or all provision of the Goods and/or Services; thereafter a start order for resumption of providing the Goods and/or Services may be issued at UC's discretion. Supplier will not be entitled to make a claim for extension of time or for compensation or damages by reason of or in connection with such stoppage. Supplier is solely responsible for the safety of all persons employed by Supplier and its sub-suppliers on UC Premises, or any other person who enters upon UC Premises at Supplier's request or for reasons relating to the Agreement. Supplier will at all times maintain good order among its employees and all other persons who come onto UC's premises at Supplier's request and will not engage any unfit or unqualified person to provide the Goods and/or Services. Supplier will confine its employees and all other persons who come onto UC's premises at Supplier's request or for reasons relating to the Agreement and its equipment to that portion of UC's premises where the Services are to be provided or to roads leading to and from such work sites, and to any other area that UC may permit Supplier to use. Supplier will take all reasonable measures and precautions at all times to prevent injuries to or the death of any of its employees or any other person who enters UC Premises at Supplier's request or for reasons relating to the Agreement. Such measures and precautions will include, but will not be limited to, all safeguards and warnings necessary to protect workers and others against any conditions on the premises that could be dangerous and to prevent accidents of any kind whenever the Goods and/or Services are being provided in proximity to any moving or operating machinery, equipment or facilities, whether such machinery, equipment or facilities are the property of or are being operated by, Supplier, its sub-suppliers, UC or other persons. To the extent compliance is required, Supplier will comply with all relevant UC safety rules and regulations when on UC Premises.

**12.3. Smoke and Tobacco Free Policy.** Per the UC Smoke and Tobacco Free Policy, UC is a smoke and tobacco-free institution. All UC campuses, labs and medical centers have adopted this policy to improve the health and safety of all students, staff, faculty, patients, and visitors. The policy prohibits the use of cigarettes, e-cigarettes, cigars, snuff, snus, water pipes, pipes, hookahs, chew, unregulated electronic nicotine delivery system, and any other non-combustible tobacco product at all UC campuses, medical centers, and facilities. (See website: <https://www.ucop.edu/safety-and-loss-prevention/environmental/program-resources/uc-smoke-free/uc-smoke-tobacco-free.html>)

## **7.15. ARTICLE 13: ADDITIONAL TERMS APPLICABLE TO THE FURNISHING OF GOODS**

This Article applies to the extent Supplier furnishes Goods:

**13.1 Price Decreases.** Supplier agrees immediately to notify UC of any price decreases from its suppliers and to pass through to UC any price decreases.

**13.2 Declared Valuation of Shipments.** Except as otherwise provided in the Agreement, all shipments by Supplier under the Agreement for UC's account will be made at the maximum declared value applicable to the lowest transportation rate or classification and the bill of lading will so note.

**13.3 Title to Goods.** Title to the Goods purchased under the Agreement will pass directly from Supplier to UC at the Free On Board (FOB) destination on domestic shipments, and Delivered Duty Paid ("DDP") for

international shipments, or as otherwise specified in the Agreement, subject to UC's right to reject upon inspection and/or testing.

**13.4 Changes.** Notwithstanding the provisions of Article 18.7 (Amendments) herein, UC may make changes within the general scope of the Agreement in drawings and specifications for specially manufactured Goods, place of delivery, method of shipment or packing by giving notice to Supplier and subsequently confirming such changes in writing. If such changes affect the cost of or the time required for performance, UC and Supplier will agree upon an equitable adjustment in the price and/or delivery terms. Supplier may not make changes without UC's written approval. Any claim of Supplier for an adjustment under the Agreement must be made in writing within thirty (30) days from the date Supplier receives notice of such change unless UC waives this condition in writing.

**13.5 Forced, Convict and Indentured Labor.** Supplier warrants that no foreign-made Goods furnished to UC pursuant to the Agreement will be produced in whole or in part by forced labor, convict labor, or indentured labor under penal sanction. If UC determines that Supplier knew or should have known that it was breaching this warranty, UC may, in addition to terminating the Agreement, remove Supplier from consideration for UC contracts for a period not to exceed one (1) year.

**13.6 Export Control.** Supplier agrees to provide UC (the contact listed on the Agreement) with written notification that identifies the export-controlled Goods and such Goods' export classification if any of the Goods is export-controlled under the International Traffic in Arms Regulations (ITAR) (22 CFR §§ 120-130), the Export Administration Regulations (15 CFR §§ 730-774) 500 or 600 series, or controlled on a military strategic goods list. Supplier agrees to provide UC (the contact listed on the Agreement) with written notification if Supplier will be providing information necessary for the operation, installation (including on-site installation), maintenance (checking), repair, overhaul, and refurbishing of the Goods that is beyond a standard user manual (i.e. "Use" technology as defined under the EAR 15 CFR § 772.1), or "Technical Data" (as defined under the ITAR 22 CFR § 120.10).

## **7.16. ARTICLE 14: AUDIT REQUIREMENTS**

The Agreement, and any pertinent records involving transactions relating to this Agreement, is subject to the examination and audit of the California State Auditor and Comptroller General of the United States or designated Federal authority for a period of up to five (5) years after final payment under the Agreement. UC and its authorized representatives, and if the underlying grant, cooperative agreement, or federal contract so provides, the underlying contracting Party or grantor (and if that be the United States or an instrumentality thereof, then the Comptroller General of the United States), will have access to and the right to examine Supplier's pertinent books, documents, papers, and records involving transactions and work related to the Agreement until the expiration of five (5) years after final payment under the Agreement. The examination and audit will be confined to those matters connected with the performance of the Agreement, including but not limited to the costs of administering the Agreement.

## **7.17. ARTICLE 15: SUSTAINABLE PROCUREMENT**

**Sustainable Practices.** Supplier will conduct business using environmentally, socially, and economically sustainable products and services (defined as products and services with a lesser or reduced effect on human health and the environment, and which generate benefits to UC as well as to society and the economy, while remaining within the carrying capacity of the environment), to the maximum possible extent consistent with the Agreement, and with UC Sustainable Practices Policy (<https://policy.ucop.edu/doc/3100155>) ("Policy") and the UC Sustainable Procurement Guidelines ("Guidelines"): <https://procurement.ucop.edu/suppliers/what-sustainable-procurement-uc/policy>. In accordance with the Policy, Supplier will adhere to the following requirements and standards, as applicable. Supplier acknowledges that failure to comply with this Article will constitute a material breach of the Agreement and UC will have the right to terminate the Agreement without damage, penalty, cost, or further obligation.

**15.1 Standards.** Supplier must meet UC-recognized certifications and standards set forth in the Guidelines and/or meet the standards of Federal Trade Commission's Green Guides.

**15.2 Electronic Format.** Supplier, when interacting with UC, shall be prohibited from providing hard copies of presentations, marketing material, or other informational materials, unless otherwise required by the Agreement or requested by UC. Supplier will be required to present all information in electronic format.

**15.3 Packaging Requirements.** All packaging must comply with the Toxics in Packaging Prevention Act and meet all standards and requirements set forth in the Policy. In addition, UC requires that all packaging meet at least one of the criteria listed below:

- (a) uses bulk packaging;
- (b) uses reusable packaging (e.g. totes reused by delivery service for next delivery);
- (c) uses innovative packaging that reduces the weight of packaging, reduces packaging waste, or utilizes packaging that is a component of the product;
- (d) maximizes recycled content and/or meets or exceeds the minimum post-consumer content level for packaging in the U.S. Environmental Protection Agency Comprehensive Procurement Guidelines; or
- (e) uses locally recyclable or certified compostable material.

**15.4 Foodservice Foam Ban.** UC disallows packaging foam or expanded polystyrene (EPS) for takeaway containers or other food service items, in any UC-owned or -operated food service facility.

**15.5 Product Packaging Foam Ban.** UC prohibits all contracted and non-contracted suppliers from selling or distributing packaging foam (other than that utilized for laboratory supply or medical packaging) to UC campuses. Packaging foam is defined as any open or closed cell, solidified, polymeric foam used for cushioning or packaging including, but not limited to, low-density polyethylene foam, polypropylene foam, polystyrene foam (i.e. expanded polystyrene), polyurethane foam, polyethylene foam, polyvinyl chloride foam, and microcellular foam. Not included in this ban are easily biodegradable, plant-based foams such as those derived from corn or mushrooms.

**15.6 E-Waste Recycling Requirements.** All recyclers of UC electronic equipment must be e-Steward certified by the Basel Action Network.

**15.7 Hosted and Punch-out Catalog Requirements.** Suppliers enabled with eProcurement hosted catalog functionality must clearly identify products with UC-recognized certifications, as defined by the Guidelines, in both hosted and punch-out catalog e-procurement environments.

## **7.18. ARTICLE 16: UC HEALTH TERMS**

**Applicability.** The following applies in the event and to the extent Supplier is providing Goods and/or Services to any component of UC Health, which includes UC's medical centers; UC health care providers; UC health clinics, including but not limited to its occupational health, student health and counseling centers; clinical operations of UC's medical and health professional schools; and/or UC health plans.

**16.1 Compliance with Laws.** Supplier represents and warrants that it is currently, and shall remain throughout the term of the Agreement, in material compliance with applicable laws, rules and regulations, including, but not limited to, those relating to participation in the Medicare and Medi-Cal programs, the False Claims Act, the Civil Monetary Penalties Law, the State and Federal Anti-Kickback Statutes, Stark Law, and corresponding state laws; the Health Insurance Portability and Accountability Act of 1996, as amended, and its implementing regulations ("HIPAA"), the California Confidentiality of Medical Information Act ("CMIA"), and all other applicable, state, local and federal requirements. The Parties acknowledge that this Agreement, together with other contracts between Supplier and UC, will be included on the main list of physician contracts maintained by UC, as applicable.

### **16.2 Access to Books and Records.**

(a) As and to the extent required by law, upon the written request of the Secretary of the U.S. Department of Health and Human Services ("Secretary") or the U.S. Comptroller General or any of their duly authorized representatives, Supplier shall make available those contracts, books, documents, and records necessary to verify the nature and extent of the costs of providing the Goods and/or Services under the Agreement. Such inspection shall be available for up to four (4) years after the provision of such Goods and/or Services.

(b) If Supplier is requested to disclose books, documents, or records pursuant to this Section for any purpose, Supplier shall notify UC of the nature and scope of such request within ten (10) days of receiving

such request, and Supplier shall make available, upon written request by UC, all such books, documents, or records.

(c) If Supplier carries out any of the duties of the Agreement through a subcontract with a value of \$10,000 or more over a twelve (12) month period with a related individual or organization (as that term is defined in 42 C.F.R. § 420.300), Supplier agrees to include this requirement in any such subcontract.

(d) Supplier shall indemnify and hold harmless UC if any amount of reimbursement is denied or disallowed because of Supplier's failure to comply with this Section 16.2 (Access to Books and Records). Such indemnity shall include, but not be limited to, the amount or reimbursement denied, plus any interest, penalties, and legal costs.

**16.3 No Requirement to Refer, Fair Market Value.** Supplier and UC each declare their intent that none of the terms of the Agreement are in exchange for any direct or indirect patient referrals or any arranged for, recommended, or promised referrals of patients. It is not the purpose nor is it a requirement of the Agreement to offer or receive any remuneration or benefit of any nature or to solicit, require, induce, or encourage the referral of any patient, nor the purchase, lease, order, arrangement, or recommendation to purchase, lease, or order any goods, services, items, or products for which payment may be made in whole or in part by Medicare or Medi-Cal or any other Federal Health Care program. Any payments made by UC to Supplier represent the fair market value of the Goods and/or Services rendered under this Agreement and are not in any way related to or depend upon referrals by and between the Parties. Supplier shall disclose to UC the existence of any financial relationship Supplier currently has or enters in to during the term of the Agreement with a physician (or entity composed of or employing a physician) who Supplier has reason to believe is a member of the medical staff of any UC facility, as applicable. The Agreement is not intended to influence a medical professional's judgment in choosing the medical facility appropriate for the proper care and treatment of her or his patients.

**16.4 Disclosure of Discounts.** UC acknowledges that discounts, rebates, credit, free goods and/or services, coupons, or other things of value that it may receive from Supplier under the Agreement constitute a discount or reduction in price for purposes of 42 U.S.C. §1320a-7(b)(3)(A). UC agrees to file all appropriate reports and to properly disclose and reflect all such discounts, rebates, credit, free goods and/or services, coupons or other things of value or any price reductions in any report filed in connection with state or federal cost reimbursement programs.

**16.5 Protected Health Information or Medical Information.**

**(a) PHI, Defined.** As used herein, PHI shall collectively refer to "Protected Health Information," as defined by the privacy and security standards of HIPAA, the regulations promulgated thereunder by the U.S. Department of Health and Human Services, and "Medical Information", as defined by the California Confidentiality of Medical Information Act, California Civil Code §§ 56-56.16 or California Health and Safety Code §1280.15 and California Civil Code §§ 1798.82 and 1798.29.

**(b) Ownership.** Any and all of UC's medical records and charts created at UC's facilities as a result of performance under this Agreement shall be and shall remain the property of UC.

**(c) No Access to PHI.** In the event Supplier does not require access to PHI in order to perform Services pursuant to this Agreement, and Supplier has unintentionally received PHI, Supplier will notify UC immediately and Supplier shall use commercially reasonable efforts to return the PHI to UC, as applicable, and to maintain the confidentiality of the PHI. Additionally, in the event the nature of the Goods and/or Services change such as to require Supplier to have access to PHI, Supplier will notify UC, as applicable, and Supplier will execute and deliver the UC Appendix - Business Associate or modify the terms of this Agreement.

**16.6 Compliance Auditing.** Supplier shall allow UC to audit Supplier's compliance with this Article on UC Health Terms at least quarterly. If upon audit by UC, non-compliance in regard to UC policies, and/or this Agreement, is identified, UC may give notice to cure the deficiency, and if such deficiency is not cured to UC'S reasonable satisfaction, UC may terminate this Agreement.

**16.7 Medical Devices.** This Section applies when the Goods and/or Services involve UC purchasing or leasing one or more medical devices from Supplier, or when Supplier uses one or more medical devices in providing Goods and/or Services to UC.

- (a) "Medical Device" as used herein will have the meaning of "device" as set forth in 21 U.S.C. § 321(h).
- (b) Supplier warrants that prior to UC's purchase or lease of any Medical Device or Supplier's use of any Medical Device in providing Goods and/or Services hereunder, Supplier will: (1) perform security testing and validation for each such Goods and/or Services or Medical Device, as applicable; (2) perform security scans to detect malware on any software embedded within any Goods and/or Services or Medical Device, as applicable, in order to verify that the software does not contain any known malware; (3) conduct a vulnerability scan encompassing all ports and fuzz testing; and (4) provide UC with reports for compliance with (1) – (3).
- (c) Supplier warrants that all Goods or Medical Devices comply with U.S. Food and Drug Administration's most current guidance or regulation for the quality system related to the cybersecurity and the Management of Cybersecurity in Medical Devices, and that Supplier will maintain compliance with any updates to such guidance or regulations.
- (d) Supplier will provide UC with reasonably up-to-date patches, firmware and security updates for any Medical Device provided to UC, and any other Medical Device used in the course of providing Services, as applicable. All such patches and other security updates will be made available to UC within thirty (30) days of its commercial release or as otherwise recommended by Supplier or Supplier's sub-supplier, whichever is earlier.
- (e) Supplier warrants that all software and installation media not specifically required for any Medical Device used by Supplier or Goods and/or Services delivered to UC under this Agreement as well as files, scripts, messaging services and data will be removed from all such Goods and/or Services or Medical Device following installation, and that all hardware ports and drivers not required for use or operation of such Goods and/or Services or Medical Device will be disabled at time of installation. In addition, Medical Devices must be configured so that only Supplier-approved applications will run on such Medical Devices.
- (f) Supplier agrees that UC may take any and all actions that it, in its sole discretion, deems necessary to address, mitigate and/or rectify any real or potential security threat, and that no such action, to the extent such action does not compromise device certification, will impact, limit, reduce or negate Supplier's warranties or any of Supplier's other obligations hereunder.
- (g) If the Goods and/or Services entail provision or use of a Medical Device, Supplier will provide UC with a completed Manufacturer Disclosure Statement for Medical Device Security (MDS2) form for each such Medical Device before UC is obligated to purchase or lease such Medical Device or prior to Supplier's use of such device in its performance of Services. If Supplier provides an MDS2 form to UC concurrently with its provision of Goods and/or Services, UC will have a reasonable period of time to review such MDS2 form, and if the MDS2 form is unacceptable to UC, then UC in its sole discretion may return the Goods or terminate the Agreement with no further obligation to Supplier.

## **7.19. ARTICLE 17: NOTICES**

A Party must send any notice required to be given under the Agreement by overnight delivery or by certified mail with return receipt requested, to the other Party's representative at the address specified by such Party. Notice may be given by email, which will be considered legal notice only if such communications include the following text in the Subject field: FORMAL LEGAL NOTICE [Insert Supplier Name or University of California as appropriate].

## **7.20. ARTICLE 18: MISCELLANEOUS**

**18.1 Rights and Remedies.** The rights and remedies provided in this Agreement are in addition to and do not limit any rights or remedies afforded to UC under law.

**18.2 Independent Contractor.** Supplier will provide the Services as an independent contractor. At no time will Supplier or Supplier's employees, sub-suppliers, agents, or assigns be considered employees of UC for any purpose, including but not limited to workers' compensation provisions. Supplier shall not have the power nor right to bind or obligate UC, and Supplier shall not hold itself out as having such authority. Supplier shall be responsible for all Services performed by Supplier's employees, agents, and subcontractors, and shall be responsible for ensuring payment of all unemployment, social security, payroll, contributions, and other taxes with respect to such employees, agents, and subcontractors.

**18.3 Assigned Personnel; Character of Services.** Supplier will devote only qualified personnel to work under the Agreement. Should UC inform Supplier that anyone providing the Services is not working to this

standard, Supplier will immediately remove such personnel from providing Services and those individuals will not again be assigned to provide Services without UC's written permission.

**18.4 Assignment and Subcontracting.** Except as to any payment due hereunder, Supplier may not assign or subcontract the Agreement without UC's prior written consent. In the event consent is given, the assignee or subcontractor will be subject to all of the terms and conditions of the Agreement.

**18.5 No Third-Party Beneficiaries.** Nothing in the Agreement, express or implied, is intended to make any person or entity that is not a signer to the Agreement a third-party beneficiary of any right created by this Agreement or by operation of law.

**18.6 Waiver.** No waiver of a provision or nonperformance of an obligation of the Agreement is effective unless it is in writing in accordance with Article 18.7 (Amendments) herein. Waiver or non-enforcement by either Party of a provision of the Agreement will not constitute a waiver or non-enforcement of any other provision or of any subsequent breach of the same or any other provision.

**18.7 Amendments.** The Parties may make changes in the Goods and/or Services or otherwise amend the Agreement, but only by a writing signed by both Parties' authorized representatives. In the event there is a Material Change to the Agreement, the Parties agree to meet and confer in good faith in order to modify the terms of the Agreement. Each Party shall notify the other Party upon the occurrence of a Material Change. A Material Change as used herein refers to: (i) a change to the scope of Goods and/or Services to be provided by Supplier, as agreed to by UC; (ii) a change in the Institutional Information Supplier is required to create, receive, maintain or transmit in performance of the Agreement, such that the Protection Level Classification of such Institutional Information changes; (iii) changes in the status of the Parties; (iv) changes in flow down terms from external parties; and (iv) changes in law or regulation applicable to this Agreement.

**18.8 Whistleblower Policy.** UC is committed to conducting its affairs in compliance with the law and has established a process for reporting and investigating suspected improper governmental activities. Please visit <http://www.ucop.edu/uc-whistleblower/> for more information.

**18.9 Assistance with Investigations or Proceedings.** Supplier will make itself and its employees, subcontractors, or agents assisting Supplier in the performance of its obligations reasonably available to UC at no cost to UC to testify as witnesses, or otherwise, in the event of third-party investigations or proceedings against UC, its directors, officers, agents, or employees relating to the Goods or Services.

**18.10 Headings.** The headings in this Agreement are included solely for convenience of reference and shall not affect the interpretation of any provisions of this Agreement or any rights or obligations of the parties to this Agreement.

**18.11 Severability.** If a provision of the Agreement becomes, or is determined to be, illegal, invalid, or unenforceable, that will not affect the legality, validity, or enforceability of any other provision of the Agreement or of any portion of the invalidated provision that remains legal, valid, or enforceable.

## **7.21. ARTICLE 19: FORCE MAJEURE**

Neither Party shall be deemed to be in default of or to have breached any provision of this Agreement due to a delay, failure in performance or interruption of service, if such performance or service are impossible to execute, illegal or commercially impracticable, because of the following "force majeure" occurrences: acts of God, acts of civil or military authorities, civil disturbances, wars, transportation contingencies, freight embargoes, acts or orders of any government or agency or official thereof, earthquakes, fires, floods, unusually severe weather, epidemics, quarantine restrictions and other catastrophes or any other similar occurrences beyond such Party's reasonable control. In every case, the delay or failure in performance or interruption of service must be without the fault or negligence of the Party claiming excusable delay, and the Party claiming excusable delay must promptly notify the other Party of such delay. Performance time under this Agreement shall be considered extended for a period of time equivalent to the time lost because of the force majeure occurrence; provided, however, that if any such delay continues for a period of more than thirty (30) days, UC shall have the option of terminating this Agreement upon written notice to Supplier.

## **7.22. ARTICLE 20: OTHER APPLICABLE LAWS**

Supplier is responsible for fully understanding and complying with all requirements under federal, state, and local law including, but not limited to Part 4.3 of Division 2 of the California Labor Code (commencing with Section 1440) and Sections 1182.14 and 1182.15 of the California Labor Code.

## **7.23. ARTICLE 21: GOVERNING LAW AND VENUE**

California law controls the Agreement without regard to its conflict of law provisions. The exclusive jurisdiction and venue for any and all actions arising out of or brought under the Agreement is in a state court of competent jurisdiction, situated in the county in the State of California in which the UC Location is located or, where the procurement covers more than one UC Location, the exclusive venue is Alameda County, California.

## **7.24. ARTICLE 22: PATIENT PROTECTION AND AFFORDABLE CARE ACT (PPACA) EMPLOYER SHARED RESPONSIBILITY**

If the Services involve Supplier furnishing UC with temporary or supplementary staffing, Supplier warrants that:

**(a)** If Supplier is an Applicable Large Employer (as defined under Treasury Regulation Section 54.4980H-1(a)(4)): (i) Supplier offers health coverage to its full-time employees who perform Services for UC; (ii) Supplier's cost of enrolling such employees in Supplier's health plan is factored into the fees for the Services; and (iii) the fees for the Services are higher than what the Services would cost if Supplier did not offer health coverage to such full-time employees.

**(b)** If Supplier is not an Applicable Large Employer (as defined above): (i) Supplier offers group health coverage to its full-time employees who perform Services for UC and such coverage is considered Minimum Essential Coverage (as defined under Treasury Regulation Section 1-5000A-2) and is Affordable (as defined under Treasury Regulation Section 54.4980H-5(e)); or (ii) Supplier's full-time employees who perform services for UC have individual coverage and such coverage satisfies PPACA requirements for mandated individual coverage.

**(c)** Supplier acknowledges that UC is relying on these warranties to ensure UC's compliance with the PPACA Employer Shared Responsibility provision.

## **7.25. ARTICLE 23: PREVAILING WAGES**

The following provisions apply to the extent Supplier is providing Services constituting construction, alteration, installation, repair, or maintenance, of UC real property or improvements, constituting a "public works" under California Labor Code §§ 1720 et seq. and related regulations.

**(a)** Supplier will comply, and will ensure that all sub-contractors (defined below) comply, with applicable California prevailing wage and related provisions, including but not limited to those set forth in California Labor Code Sections 1770, 1771, 1771.1, 1772, 1773, 1773.1, 1774, 1775, 1776, 1777.5, and 1777.6. For purposes of this Article, the term "sub-contractor" means a person or firm, of all tiers, that has a contract with Supplier or with a sub-contractor to provide a portion of the Services. The term sub-contractor will not include suppliers, manufacturers, or distributors. Specifically, and not by way of limitation, if apprentice-able occupations are involved in providing the Services, Supplier must comply, and ensure that any sub-contractors comply, with Labor Code Section 1777.5. Supplier and any sub-contractor may not provide the Services unless currently registered and qualified to perform public work pursuant to Labor Code Sections 1725.5 and 1771.1. Supplier is solely responsible for tracking and ensuring proper payment of prevailing wages. Supplier will pay not less than the UC Fair Wage (defined \$15 per hour as of 10/1/17) for Services performed at UC Premises.



(b) Supplier will post at any job site: (i) notice of the general prevailing per diem wage rates as ascertained by the California Department of Industrial Relations (DIR), available at each UC Location's procurement office or online at the DIR, Division of Labor Statistics and Research, website (see e.g. <http://www.dir.ca.gov/DLSR/PWD/index.htm>) as amended from time to time; and (ii) any other notices required by DIR rule or regulation. By reference, such notices are made part of the Agreement.

(c) Supplier will pay not less than the prevailing wage rates, as specified in the DIR determination rate schedule and any amendments thereto, to all workers eligible for prevailing wages (including sub-contractors) in providing the Services to UC.

(d) The Services are subject to compliance monitoring and enforcement by the DIR. Such enforcement may include, but not be limited to, penalties for each worker paid less than the prevailing rates as determined by the DIR. The amount of penalty is determined pursuant to applicable law. In the event UC pays such penalties to the DIR for Supplier or sub-contractor's non-compliance, such amounts may be deducted from the amounts due under the Agreement and shall be forfeited by Supplier. If there are insufficient funds remaining in the amounts due under the Agreement, Supplier will be liable for any outstanding amount remaining due. Supplier will also pay to any worker paid less than the prevailing wage rate for the work or craft for which the worker was employed for any portion of the Services, for each day, or portion thereof, for which the worker was paid less than the specified prevailing per diem wage rate, an amount equal to the difference between the specified prevailing per diem wage rate and the amount which was paid to the worker. Review of any civil wage and penalty assessment will be made pursuant to California Labor Code section 1742.

## **7.26. ARTICLE 24: FAIR WAGE/FAIR WORK**

Upon the request by UC, any audit performed as part of Contracting for Covered Services and/or Regents Policy 5402 will suffice for the annual independent verification requirements under this Article 24. (All FW/FW supplier forms and resources needed for Article 24 located here:

<https://procurement.ucop.edu/suppliers/supplier-reporting-requirements/fwfw>)

If the Agreement: (a) is for Services that will be performed at one or more UC Locations, (b) does not solely involve the furnishing of Goods, and (c) is for Services that are not subject to extramural awards containing sponsor-mandated terms and conditions, the following terms of this Article on Fair Wage/Fair Work shall apply. Supplier warrants it complies with applicable federal, state, and local working conditions requirements, including but not limited to those set forth above, and that Supplier pays its employees performing the Services no less than the UC Fair Wage (defined \$15 per hour as of 10/1/17). Supplier agrees UC may conduct such UC Fair Wage/Fair Work audits as UC reasonably requests. Supplier agrees to post UC Fair Wage/Fair Work notices, in the form supplied by UC, in public areas (such as break rooms and lunchrooms) frequented by Supplier employees who perform Services.

(a) Upon request by UC, for Services rendered (actual spend) not subject to prevailing wage requirements in excess of \$100,000 in a year (under the Agreement or any combination of agreements for the same service), Supplier will: (A) at Supplier's expense, provide an annual independent verification performed by a licensed public accounting firm (independent accountant) or the Supplier's independent internal audit department (<http://na.theiia.org/standards-guidance/topics/Pages/Independence-and-Objectivity.aspx>) in compliance with UC's required verification standards and procedures, concerning Supplier's compliance with this provision; and (B) ensure that in the case of a UC audit, its independent accountant/independent internal auditor makes available to UC its work papers for UC Fair Wage/Fair Work for the most recent verification period. Supplier agrees to provide UC with a UC Fair Wage/Fair Work verification annually, in a form acceptable to UC, no later than ninety (90) days after the end of the 12-month period in which \$100,000 in spend is reached. Any audit performed as part of contracting for Covered Services and/or Regents Policy 5402 will suffice for the annual independent verification requirements under this Article.

(b) The Fair Wage Fair Work annual independent verification requirement does not extend to contracts for professional services or consulting for which pre-certification has been provided to UC. Please see the UC

## **7.27. ARTICLE 25: CONTRACTING FOR COVERED SERVICES**

**25.1** Covered Services, for the purpose of this Agreement, are defined as work customarily performed by employees in the American Federation of State, County, and Municipal Employees (AFSCME) Patient Care Technical (EX) and Service (SX) bargaining units. Covered Services include, but are not necessarily limited to, the following services: cleaning, custodial, janitorial, or housekeeping services; food services; laundry services; grounds keeping; building maintenance (excluding skilled crafts); transportation and parking services; security services; billing and coding services; sterile processing; hospital or nursing assistant services; and medical imaging or other medical technician services.

**25.2** Supplier warrants that it provides its employees, and any contracted individuals (each a “Worker”), performing the Covered Services with wages and benefits of equivalent value to those received by UC employees, as defined by law and applicable UC policy, providing the same or similar services at the same, or nearest UC location (“wage and benefit parity rates”). The applicable wage and benefit parity rates are set forth in the Wage and Benefit Parity Appendix attached to the Agreement or in a clause in the Agreement.

**25.3** UC updates its wage and benefit parity rates annually on or around April 1 of each year to reflect any adjustments to wages and benefits. UC will notify Supplier of any such adjustments and Supplier hereby agrees to execute a Wage and Benefit Parity Appendix, by written amendment to the Agreement, to reflect the adjusted wage and benefit parity rates. Supplier shall be responsible for adjusting Worker wages and benefits to conform with the new rates so that the adjusted rates are effective on or before June 1 of each year, and Supplier will notify UC of the adjustment. These dates may be modified by UC from time to time. In the event of a change to these dates, UC will provide supplier with at least thirty (30) days’ advanced notice.

**25.4** Supplier fully acknowledges that should any Worker work (i) 1,000 hours in a rolling twelve (12) month period; or (ii) 35 percent time over a rolling thirty-six (36) month period on behalf of Supplier pursuant to the Agreement, that Worker will be deemed a “qualified individual” (“QI”) and will be eligible for UC employment. Supplier acknowledges and agrees that should UC, at any time, (1) inform any Worker of their right to UC employment as a QI, or (2) make an offer of employment to any QI, and/or if the Worker accepts employment with UC, UC will not be in breach of the Agreement or in violation of any other legal obligation it has to Supplier.

**25.5** Prior to any Worker performing Covered Services on behalf of Supplier, or within **fourteen (14) calendar days** of any request by UC, Supplier agrees to provide UC, or its designated representative, with the following for each Worker in the format requested by UC or UC’s designated representative:

**(a)** The total hours worked by each Worker who performed services on behalf of Supplier pursuant to the Agreement. Upon request, Supplier shall report each Worker’s name and hours worked providing Covered Services at a UC location. Failure to comply with the wage and benefit parity or the hours tracking/reporting requirements of this Article will be considered a breach of the Agreement;

**(b)** Worker’s personal contact information, including but not limited to: (i) name; (ii) personal cell phone number, (iii) personal email address, and (iv) home address;

**(c)** Any other information required by statute, including but not limited to California Public Contract Code §§ 10510.50 *et seq.*, as may be amended from time to time;

**(d)** Executed by the Worker, the Acknowledgment Letter that outlines the Workers’ rights to UC career employment, the wage and benefit parity rate that applies to the Covered Services the Worker will perform, and notice that UC may share the following with AFSCME: the Worker’s personal contact information outlined above and/or required by statute, hours worked, and any payroll and benefit records.

The Acknowledgment Letter shall be provided to Supplier by UC or its authorized representative.;

- (e) Payroll records, including paystubs. Social Security numbers and information relating to garnishments should be redacted.;
- (f) Information pertaining to eligibility for and receipt of benefits credited toward a Worker's wage and benefit parity rate; and
- (g) Any other information required by law or UC policy as amended from time to time.

**25.6** For all of the information referenced in this Article regarding Covered Services, per the direction of UC, Supplier shall submit such information directly to UC or via a third-party tool as UC may designate.

**25.7** UC may from time to time provide AFSCME with a list of all of Supplier's Workers performing Covered Services, along with hours worked, payroll and benefit records, and personal contact information

**25.8** Upon request by UC or its authorized representative, Supplier also agrees to provide verification of an independent audit of wage and benefit parity compliance. This audit must be performed by Supplier's independent auditor or independent internal audit department and at Supplier's expense. Supplier agrees to provide UC requested verification, in a form acceptable to UC, no later than ninety (90) days after receiving request.

## **7.28. ARTICLE 26: SURVIVAL**

Upon expiration or termination of the Agreement, this Article on Survival and the following provisions will survive: INTELLECTUAL PROPERTY, COPYRIGHT, PATENTS, AND DATA RIGHTS; LIABILITY FOR UC MATERIALS; USE OF UC NAMES AND TRADEMARKS; PROHIBITION ON UNAUTHORIZED USE OR DISCLOSURE OF INSTITUTIONAL INFORMATION; INDEMNITY AND LIABILITY; ADDITIONAL WARRANTIES; ADDITIONAL TERMS APPLICABLE TO THE FURNISHING OF GOODS; AUDIT REQUIREMENTS; UC HEALTH TERMS; GOVERNING LAW AND VENUE, and, to the extent incorporated into the Agreement, the terms of the APPENDIX–DATA SECURITY, APPENDIX–BAA, and/or APPENDIX-GDPR.

# **Section 8: UC Data Security - 8/20/21**

## **8.1. ARTICLE 1. PURPOSE AND INTRODUCTION**

A. In the course of providing the Goods and/or Services contemplated by the Agreement, Supplier may gain access to the University of California's (UC) Institutional Information and/or IT Resources (both defined below). In such an event, UC, and Supplier desire to appropriately protect Institutional Information and IT Resources. The purpose of this Appendix-Data Security is to specify Supplier's cybersecurity and risk management responsibilities when Supplier has access to Institutional Information and/or IT Resources.

B. Any capitalized terms used here have the meaning ascribed to such terms as set forth in the Agreement or Incorporated Documents.

C. Supplier must provide commercially acceptable cybersecurity and cyber risk management to protect Institutional Information and/or IT Resources. This must include, but is not limited to the Supplier:

1.

1. Developing and documenting a plan that protects Institutional Information and IT Resources.
  - Supplier must responsibly execute this plan.
  - Supplier's approach must conform to a recognized cybersecurity framework designed for that purpose.[1](#)

- Supplier's information security plan must be supported by a third-party review or certification. Supplier may only use an alternative to a third-party review if approved by the responsible UC Information Security Officer.
- 2. Conducting an accurate and thorough assessment of the potential risks to and vulnerabilities of the security of the Institutional Information and/or IT Resources. Supplier must mitigate anticipated risks effectively. This includes implementing commercially acceptable security policies, procedures, and practices that protect Institutional Information and/or IT Resources.
- 3. Updating its plan to effectively address new cybersecurity risks.
- 4. Complying with pertinent contractual and regulatory responsibilities.
- 5. Providing UC with evidence of compliance with Supplier's information security plan.
- 6. Keeping UC informed with timely updates on risks, vulnerabilities, Security Incidents, and Breaches.
- 7. Keeping UC informed of any measures UC must perform to ensure the security of Institutional Information and IT Resources.

<sup>1</sup> Examples include the latest versions of PCI DSS, NIST CSF, CIS Critical Security Controls, ISO 27000 series, NIST SP 800-53 and NIST SP 800-171.

D. If, in the course of providing the Goods and/or Services under the Agreement, Supplier engages in transactions with UC affiliated individuals (including but not limited to: students, staff, faculty, customers, patients, guests, volunteers, visitors, research subjects, etc.), as a benefit and result of the Agreement, Supplier must treat any data about UC affiliated individuals that Supplier creates, receives, and/or collects in the course of those transactions with the same level of privacy and security protections and standards as required of Institutional Information by this Appendix.

E. Supplier agrees to be bound by the obligations set forth in this Appendix. To the extent applicable, Supplier also agrees to impose, by written contract, the same terms and conditions contained in this Appendix on any sub-supplier retained by Supplier to provide or assist in providing the Goods and/or Services to UC.

F. To the extent that a requirement of this Appendix conflicts with those of any other UC Agreement or Incorporated Document, the most stringent requirement (including but not limited to: least risk to UC, shortest time, best practice, etc.) will apply.

## **8.2. ARTICLE 2. DEFINED TERMS**

1. "Breach" means: (1) Any disclosure of Institutional Information to an unauthorized party or in an unlawful manner; (2) Unauthorized or unlawful acquisition of information that compromises the security, confidentiality, or integrity of Institutional Information and/or IT Resources; or (3) The acquisition, access, use, or disclosure of protected health information (PHI) or medical information in a manner not permitted under the Health Insurance Portability and Accountability Act (HIPAA) or California law.
2. "Illicit Code" means: (1) Any code UC would not reasonably expect to be present or operating; (2) Hidden software or functionality with adverse or undesired actions or consequences; (3) Code that replicates or transmits Institutional Information or activates operating systems or other similar services without the express knowledge and approval of UC; (4) Code that alters, damages, or erases any Institutional Information or software without the express knowledge and approval of UC; or (5) Code or apparatus that functions in any way as a: key lock, node lock, time-out, "back door," "trap door," "booby trap," "dead drop device," "data scrambling device," or other function, regardless of how it is implemented, which is intended to alter or restrict the use of or access to any Institutional Information and/or IT Resources.
3. "Institutional Information" means: Any information or data created, received, and/or collected by UC or on its behalf, including but not limited to: application logs, metadata, and data derived from such data.

4. "IT Resource" means: IT infrastructure, cloud services, software, and/or hardware with computing and/or networking capability that is Supplier owned/managed or UC- owned, or a personally owned device that stores Institutional Information, is connected to UC systems, is connected to UC networks, or is used for UC business. IT Resources include, but are not limited to: personal and mobile computing systems and devices, mobile phones, printers, network devices, industrial control systems (including but not limited to: SCADA, PLCs, DPC, Operational Technology, etc.), access control systems, digital video monitoring systems, data storage systems, data processing systems, backup systems, electronic and physical media, biometric and access tokens, or Internet of Things (IoT).
5. "Major Change" means: The implementation of a change that could have an effect on the security of an IT Resource or Institutional Information. The scope includes changes to architectures, processes, tools, metrics, and documentation, as well as changes to IT services and other configuration items. These include changes related to:
  1. Technology upgrades or migrations.
  2. Responses to Security Incidents.
  3. Modifications of scope (data elements, features, location of Institutional Information, etc.).
  4. Regulatory guidance.
  5. Law and legal regulations.
  6. Responses to risk assessments.
  7. Addressing vulnerabilities.
  8. Material updates or shifts in technologies used by Supplier.

5. "Security Incident" means: (1) A material compromise of the confidentiality, integrity, or availability of Institutional Information; (2) A single event or a series of unwanted or unexpected events that has a significant probability of compromising UC business operations or threatening Institutional Information and/or IT Resources; (3) Any event involving a cyber intrusion; or (4) A material failure of Supplier's administrative, technical, or physical controls that resulted or could have resulted in an adverse impact to the confidentiality, integrity, or availability of Institutional Information or IT Resources.

### **8.3. ARTICLE 3. ACCESS TO INSTITUTIONAL INFORMATION AND IT RESOURCES**

A. Supplier must limit its access to, use of, and disclosure of Institutional Information and IT Resources to the least invasive degree necessary required to provide the Goods and/or Services.

1. Supplier may not access or use Institutional Information and IT Resources for any purpose except to provide the Goods and/or Services.
2. For the avoidance of doubt, Supplier may not access, use, or disclose Institutional Information and IT Resources outside the scope of the Agreement for purposes of, including but not limited to: marketing, advertising, research, sale, or licensing unless expressly approved in writing by UC.

B. In the event that Goods and/or Services include the review of a specific Security Incident or a threat to or anomaly in Institutional Information or IT Resources, Supplier must limit inspection to the least invasive degree necessary required to perform the investigation.

### **8.4. ARTICLE 4. SUPPLIER'S INFORMATION SECURITY PLAN AND RESPONSIBILITIES**

A. Supplier acknowledges that UC must comply with information security standards as required by law, regulation, and regulatory guidance, as well as by UC's internal security program that protects Institutional Information and IT Resources.

B. Supplier must establish, maintain, comply with, and responsibly execute its information security plan.

C. Supplier's initial information security plan is attached as Exhibit 2 and incorporated by reference.

D. Updates to Exhibit 2 will occur as follows:

1. On an annual basis, Supplier will review its information security plan, update it as needed, and submit it upon written request by UC.
2. In the event of a Major Change, Supplier will review its information security plan, update it as needed, and submit it to UC as detailed herein.

E. If Supplier makes any material modifications to its information security plan that will affect the security of Institutional Information and IT Resources, Supplier must notify UC within seventy-two (72) calendar hours and identify the changes.

F. Supplier's Information Security Plan must:

1. Ensure the security (including but not limited to: confidentiality, integrity, and availability) of Institutional Information and IT Resources through the use and maintenance of appropriate administrative, technical, and physical controls;
2. Protect against any reasonably anticipated threats or hazards to Institutional Information and IT Resources;
3. Address the risks associated with Supplier having access to Institutional Information and IT Resources;
4. Address applicable regulations and/or external obligations listed in Exhibit 1;
5. Comply with all applicable legal and regulatory requirements for data protection, security, and privacy;
6. Clearly document the cybersecurity responsibilities of each party;
7. Follow UC records retention requirements outlined in the Statement of Work (SOW) or in UC's Terms and Conditions;
8. Prevent the sharing of passwords or authentication secrets that provide access to Institutional Information and/or IT Resources;
9. Prevent the use of passphrases (passwords) or other authentication secrets that are common across customers or multiple unrelated UC sites or units;
10. Prevent unauthorized access to Institutional Information and IT Resources;
11. Prevent unauthorized changes to IT Resources;
12. Prevent the reduction, removal, or turning off of any security control without express written approval from UC;
13. Prevent the creation of new Supplier accounts to access Institutional Information and IT Resources without express written approval from UC;
14. Prevent the storing, harvesting, or passing through of UC credentials (username, password, authentication secret, or other factor); and
15. Prevent the use or copying of Institutional Information for any purpose not authorized under the Agreement or any associated Statement of Work (SOW).

## **8.5. ARTICLE 5. REQUESTS FROM UC AND EVIDENCE OF COMPLIANCE**

A. Supplier must provide UC with evidence that demonstrates to UC's reasonable satisfaction Supplier's adherence to its information security plan (including but not limited to: third-party report, attestation signed by an authorized individual, attestation of compliance by a qualified assessor, or a mutually agreed upon equivalent) upon execution of the Agreement, upon reasonable request (including but not limited to: annually, after Major Changes, and/or as a result of a Security Incident), or as required by any applicable regulatory or governmental authority.

B. Supplier must respond to UC's reasonable questions related to cybersecurity controls, Security Incidents, or Major Changes, newly published vulnerabilities, and/or risk assessments within ten (10) business days.

C. UC may request and perform a security audit using a qualified third party or a mutually agreed upon alternative annually or as a result of a Breach.

## **8.6. ARTICLE 6. NOTIFICATION OF MAJOR CHANGES AND VULNERABILITY DISCLOSURES**

A. Within twenty (20) business days, Supplier must notify UC regarding changes in Supplier's security posture or IT infrastructure. Such notices must occur:

1. When Major Changes happen.
2. When Supplier becomes aware of a vulnerability that warrants a CVE<sup>2</sup> rating of "High" or "Critical," based on the latest CVE version, for which a patch is not yet available or for which Supplier will delay application of an available patch.

B. Supplier must use commercially acceptable efforts to remediate, within twenty (20) business days, any vulnerability rated as CVE High or Critical.

C. In response to Major Changes, Supplier must update its information security plan no later than fifteen (15) days into the next calendar quarter and must provide updated evidence of compliance with the information security plan.

<sup>2</sup> Common Vulnerabilities and Exposures (CVE) is a dictionary-type list of standardized names for vulnerabilities and other information related to security exposures maintained by The MITRE Corporation. CVE aims to standardize the names for all publicly known vulnerabilities and security exposures. The goal of CVE is to make it easier to share data across separate vulnerability databases and security tools. The CVE list can be found at: [cve.mitre.org](https://cve.mitre.org)

## **8.7. ARTICLE 7. RETURN AND DISPOSAL OF INSTITUTIONAL INFORMATION**

A. Within thirty (30) calendar days of the termination, cancellation, expiration, or other conclusion of the Agreement, Supplier must return all Institutional Information to UC and then dispose of the Institutional Information in possession of Supplier as detailed herein. This provision also applies to all Institutional Information that is in the possession of sub-suppliers or agents of Supplier.

B. Such disposal will be accomplished using the methods described in UC's Institutional Information Disposal Standard (<https://security.ucop.edu/policies/institutional-information-disposal.html>) or an alternative approved by UC.

C. Supplier will certify in writing to UC that such return and/or disposal has been completed.

D. If Supplier believes that return and/or disposal of Institutional Information is technically impossible or impractical, Supplier must provide UC with a written statement explaining the reason for this conclusion. If UC determines that return and/or disposal is technically impossible or impractical, Supplier will continue to protect the Institutional Information in accordance with the terms of this Appendix for as long as the Institutional Information is in Supplier's possession.

## **8.8. ARTICLE 8. NOTIFICATION OF CORRESPONDENCE CONCERNING INSTITUTIONAL INFORMATION**

A. Supplier agrees to notify UC promptly, both orally and in writing, but in no event more than seventy-two (72) calendar hours after Supplier receives correspondence or a complaint that relates to a regulation, contractual obligation, Breach, or material risk concerning Institutional Information. For purposes of this Article 8.A, a correspondence or complaint may include, but is not limited to, any communication that originates from law enforcement, regulatory or governmental agencies, government investigators, corporations, or an individual, but excludes normal customer service correspondence or inquiries.

## **8.9. ARTICLE 9. COORDINATING, REPORTING, AND RESPONDING TO BREACHES AND SECURITY INCIDENTS**

A. Reporting of Breach or Security Incident: If Supplier reasonably suspects or confirms a Breach and/or a Security Incident impacting Institutional Information and/or IT Resources, Supplier must promptly notify UC both orally and in writing using the contacts in the Agreement. Supplier must provide such notifications no later than (1) seventy-two (72) calendar hours after the initial suspicion of a Security Incident and/or Breach and (2) seventy-two (72) calendar hours after the initial confirmation of a Security Incident and/or Breach, if Supplier is able to make such a confirmation. Supplier's notification must identify:

1. Contacts for both technical and management coordination;
2. Escalation and identifying information, such as ticket numbers, system identifiers, etc.;
3. The nature of the Breach and/or Security Incident;
4. The Institutional Information and/or IT Resources affected;
5. What Supplier has done or will do to mitigate any deleterious effect; and
6. What corrective action Supplier has taken or will take to prevent future Security Incidents.

B. Supplier will provide other information as reasonably requested by UC.

C. In the event of a suspected Breach and/or Security Incident, Supplier will keep UC informed regularly of the progress of its investigation until the incident is resolved.

D. Coordination of Breach Response or Security Incident Activities: Supplier will fully cooperate with UC's investigation of any Breach and/or Security Incident involving Supplier and/or Goods and/or Services. Supplier's full cooperation will include, but not be limited to, Supplier:

1. Promptly preserving any potential forensic evidence relating to the Breach and/or Security Incident;
2. Remedying the Breach and/or Security Incident as quickly as circumstances permit;
3. Promptly, but no more than seventy-two (72) calendar hours after the discovery of Breach and/or Security Incident, designating a contact person to whom UC will direct inquiries and who will communicate Supplier responses to UC inquiries;
4. As rapidly as circumstances permit, assigning/using appropriate resources to remedy, investigate, and document the Breach and/or Security Incident, to restore UC service(s) as directed by UC, and undertake appropriate response activities;
5. Providing status reports to UC regarding Breach and Security Incident response activities, either on a daily basis or a frequency approved by UC;
6. Coordinating all media, law enforcement, or other Breach and/or Security Incident notifications with UC in advance of such notification(s), unless expressly prohibited by law;
7. Ensuring that knowledgeable Supplier employees are available on short notice, if needed, to participate in UC and Supplier initiated meetings and/or conference calls regarding the Breach and/or Security Incident; and
8. Ensuring that knowledgeable Supplier employees and agents participate in after-action analysis, including root cause analysis and preventive action planning.

E. Breaches and Security Incidents – Corrective and Preventive Action: As a result of a Breach and/or Security Incident impacting Institutional Information and/or IT Resources, and upon UC's request, Supplier must prepare a report detailing corrective and preventive actions. The report must include:

1. A mutually agreed upon timeline for the corrective and preventive actions based on the nature of the Breach and/or Security Incident;
2. Identification and description of the root causes; and
3. Precise steps Supplier will take to address the failures in the underlying administrative, technical, and/or physical controls to mitigate damages and future cyber risk.

F. Costs: Supplier must reimburse UC for reasonable costs related to responding to Breaches impacting Institutional Information and IT Resources caused by Supplier. This includes all costs associated with notice and/or remediation of the Breach.



G. Grounds for Termination: Any Breach may be grounds for termination of the Agreement by UC. Agreement obligations to secure, dispose, and report continue through the resolution of the Breach and/or Security Incident.

#### **8.10. ARTICLE 10. ILLICIT CODE WARRANTY<sup>3</sup>**

A. Supplier represents and warrants that the Goods and/or Services do not contain Illicit Code.

B. To the extent that any Goods and/or Services have Illicit Code written into them, Supplier will be in breach of this Agreement, and no cure period will apply.

C. Should Supplier learn of the presence of Illicit Code, Supplier will promptly provide UC with written notice explaining the scope and associated risk.

D. Supplier represents and warrants that it will take commercially reasonable steps to promptly remove Illicit Code.

<sup>3</sup> This provision does not relate to malware or viruses that attack the running IT Resource. These are covered under ARTICLE 9 - COORDINATING, REPORTING, AND RESPONDING TO BREACHES AND SECURITY INCIDENTS.

#### **8.11. ARTICLE 11. BACKGROUND CHECKS**

A. Before Supplier's employee, sub-supplier, or agent may access Institutional Information and/or IT Resources classified at Protection Level 3 or Protection Level 4, Supplier must conduct a thorough and pertinent background check. Supplier must evaluate the results prior to granting access in order to assure that there is no indication that the employee, sub-supplier, or agent presents a risk to Institutional Information and IT Resources.

B. Supplier must retain each employee's, sub-supplier's, or agent's background check documentation for a period of three (3) years following the termination of the Agreement.

<sup>4</sup> Examples include the latest versions of PCI DSS, NIST CSF, CIS Critical Security Controls, ISO 27000 series, NIST SP 800-53 and NIST SP 800-171.

## **Section 9: UC Business Associate Agreement 8/10/21 - Exhibit B (If applicable)**

### **9.1. RECITALS**

This Appendix - Business Associate Agreement ("Appendix BAA") supplements and is made a part of any and all agreements entered into by and between The Regents of the University of California, a California corporation ("UC"), on behalf of its University of California Health System and TBD, Business Associate ("BA").

UC is a "Covered Entity" as defined under 45 C.F.R. § 160.103

B. UC and BA are entering into or have entered into, and may in the future enter into, one or more agreements (each an "Underlying Agreement") under which BA performs functions or activities for or on behalf of, or provides services to UC ("Services") that involve receiving, creating, maintaining and/or transmitting Protected Health Information ("PHI") of UC as a "Business Associate" of UC as defined under 45 C.F.R. § 160.103. This Appendix BAA shall only be operative in the event and to the extent this Appendix BAA is incorporated into an Underlying Agreement between UC and BA.

C. UC and BA desire to protect the privacy and provide for the security of PHI used by or disclosed to BA in compliance with the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), the

regulations promulgated thereunder by the U.S. Department of Health and Human Services (45 C.F.R. Parts 160, 162 and 164) (the "HIPAA Regulations"), the Health Information Technology for Economic and Clinical Health Act of 2009 (the "HITECH Act"), California Civil Code § 56 et seq., §§1798.82 and 1798.29, and other applicable laws and regulations. The purpose of this BA Agreement is to satisfy certain standards and requirements of HIPAA, the HIPAA Regulations, including 45 CFR § 164.504(e), the HITECH Act, including Subtitle D, part 1, as they may be amended from time to time, and similar requirements under California law.

D. UC has designated all of its HIPAA health care components as a single component of its hybrid entity and therefore this BA Agreement is binding on all other UC health care components (collectively, the Single Health Care Component or the SHCC). This BA Agreement is effective on the date of the Underlying Agreement under which BA provides Services to UC ("Effective Date").

## **9.2. DEFINITIONS**

Except for PHI, all capitalized terms in this Appendix BAA shall have the same meaning as those terms in the HIPAA Regulations.

PHI shall have the same meaning as "protected health information" in the HIPAA Regulations that is created, received, maintained, or transmitted by Business Associate or any Subcontractor on behalf of UC and shall also include "medical information" as defined at Cal. Civ. Code § 56.05.

## **9.3. OBLIGATIONS OF BA**

BA agrees to:

A. Comply with the requirements of the Privacy Rule that apply to UC in carrying out such obligations, to the extent BA carries out any obligations of UC under the Privacy Rule. BA also agrees to comply with the requirements of California state privacy laws and regulations that apply to UC in carrying out such obligations, to the extent BA carries out any obligations of UC under California Civil Code § 1798 et seq., California Civil Code § 56 et seq., and California Health & Safety Code §§ 1280.15 and 1280.18, as applicable, unless otherwise mutually agreed to by BA and UC.

B. Not Use or Disclose PHI other than as permitted or required by the Underlying Agreement or as required by law.

C. Use appropriate safeguards, and comply, where applicable, with 45 C.F.R. § 164 Subpart C with respect to ePHI, to prevent the Use or Disclosure of PHI other than as provided for by the Underlying Agreement(s) and the Appendix BAA.

D. Notify UC, orally and in writing, as soon as possible, but in no event more than five (5) calendar days, after BA becomes aware of any Use or Disclosure of the PHI not permitted or required by the Appendix BAA or Underlying Agreement(s), including Breaches of unsecured PHI as required by 45 C.F.R. § 164.410 and potential compromises of UC PHI, including potential inappropriate access, acquisition, use or disclosure of UC PHI (each, collectively an "Incident"). BA shall be deemed to be aware of any such Incident, as of the first day on which it becomes aware of it, or by exercising reasonable diligence, should have been known to its officers, employees, agents or sub-suppliers. The notification to UC shall include, to the extent possible, each individual whose unsecured PHI has been, or is reasonably believed by BA to have been, accessed, acquired, used or disclosed during such Incident. BA shall further provide UC with any other available information that UC is required to include in a notification to affected individuals at the time of the notification to UC, or promptly thereafter as information becomes available. BA shall take prompt corrective action to remedy any such Incident, and, as soon as possible, shall provide to UC in writing: (i) the actions initiated by the BA to mitigate, to the extent practicable, any harmful effect of such Incident; and (ii) the corrective action BA has initiated or plans to initiate to prevent future similar Incidents.

E. Ensure that any Subcontractors that create, receive, maintain, or transmit PHI on behalf of the BA agree to the same restrictions, conditions, and requirements that apply to the BA with respect to such PHI.

F. If BA maintains PHI in a Designated Record Set, BA shall make the PHI in the Designated Record Set available to UC, or if directed by UC to the Individual or the Individual's designee, as necessary to satisfy UC's obligations under 45 C.F.R. § 164.524.

G. If BA maintains PHI in a Designated Record Set, BA shall make any amendments directed or agreed to by UC pursuant to 45 C.F.R. § 164.526, or take other measures as necessary to satisfy UC's obligations under 45 C.F.R. § 164.526.

H. Maintain and make available the information required to provide an accounting of disclosures to UC, or if directed by UC to the Individual, as necessary to satisfy UC's obligations under 45 C.F.R. § 164.528.  
I. Make its internal practices, books, and records, relating to the Use and Disclosure of PHI available to UC, and to the Secretary for purposes of determining UC's compliance with HIPAA, HITECH and their implementing regulations.

#### **9.4. PERMITTED USES AND DISCLOSURES BY BA**

BA may only Use or Disclose the Minimum Necessary PHI to perform the services set forth in the Underlying Agreement.

#### **9.5. TERM AND TERMINATION**

A. Termination for Cause. UC may terminate this Appendix BAA and any Underlying Agreement(s), if UC determines BA has violated a material term of the Appendix BAA.  
B. Upon termination of this Appendix BAA for any reason, with respect to PHI received from UC, or created, maintained, or received by BA on behalf of UC, BA shall return to UC, or if agreed to by UC, destroy, all such PHI that BA still maintains in any form, and retain no copies of such PHI.  
To the extent return or destruction of UC PHI is not feasible, BA shall (1) retain only that PHI which is necessary for BA to continue its proper management and administration or to carry out its legal responsibilities; and (2) continue to use appropriate safeguards for such UC PHI and comply with Subpart C of 45 C.F.R. Part 164 with respect to ePHI to prevent Use or Disclosure of the PHI, other than as provided for in this Section, for as long as BA retains the PHI.  
C. Survival. The obligations of BA under this Section 4.B shall survive the termination of this Appendix BAA and any Underlying Agreement(s).

**S9Q1.** The Appendix BAA is signed below by the parties' duly authorized representatives.  
Supplier Name, Printed Name and Title, Date. Sign and upload Appendix BAA Attachment - Exhibit B (If applicable)

### **Section 10: Institutional Information - Exhibit C**

**10.1.** This exhibit describes the Institutional Information for the benefit of both parties.

See Exhibit C attachment

### **Section 11: Supplier's/Vendors Initial Information Security Plan - Exhibit D (If applicable)**

**11.1.** Please provide a sample initial Information Security Plan

**S11Q1.** Please upload a sample information security plan that would reflect your current processes for this service/solution

### **Section 12: Evaluation Criteria**

UC Health - UCOP will consider a variety of factors in deciding to which Vendor(s) to award the contract. In reviewing proposals, UC Health - UCOP will consider conformance to the requirements of the RFP, price competitiveness, service capabilities/expertise, quality, account management, reporting capabilities, financial stability and other factors UC Health - UCOP considers significant. UC Health - UCOP also reserves the right to take into consideration previous experience with the company/vendor when awarding the contract.

Based on the evaluations of the RFPs, UC Health - UCOP may request additional information and/or negotiation with Vendors. UC Health - UCOP will select Vendors for all or any part of the statement of work.

### **12.1. Basis for Award**

UC Health - UCOP intends to award the Vendor(s) that demonstrate(s) the best overall value. This will be determined by evaluating the technical, management, and staffing approach, quality management system, demonstrated capability in performing similar work, and cost of the Vendor(s).

### **12.2. Evaluation Process**

UC Health - UCOP utilizes a five-step approach to evaluating Vendor responses. This includes:

1. Evaluating Vendor submissions for technical acceptability, including reviewing Vendor responses to ensure complete and thorough responses and that requested attachments were provided
2. Evaluating the Vendor's quality management system to ensure adequacy in being able to manage, control, and correct any deficiencies in service delivery
3. Assessing demonstrated capability through references or past performance write-ups to determine confidence in the Vendor's ability to complete the work
4. Evaluating all proposals to determine whether the price is fair and reasonable for the work being requested; Vendors will then be listed in order by total evaluated price
5. Reviewing the evaluations and determine which Vendor exhibits the best value to UC Health - UCOP when all factors are combined

### **12.3. Evaluation Criteria**

The following evaluation criteria demonstrate the order in which Vendor responses will be evaluated. Each criterion will be assigned a rating of Acceptable or Unacceptable. Vendors who fail to clearly address any of the requirements may receive an Unacceptable rating for the evaluated item. Any criteria evaluated as Unacceptable may render the entire proposal unacceptable. Vendor responses will be evaluated based upon the following:

- **Technical Approach**—The Vendor demonstrates its technical approach for delivering the services outlined in the Statement of Work
- **Management and Staffing Approach**—The Vendor includes a corporate and contract-specific approach to managing all aspects of the contract, if awarded, as well as how the corporate management structure integrates contracts to ensure clear lines of communication and control; the Vendor identifies a proposed staffing approach, including key personnel and proposed positions required to perform the requested services
- **Quality Control System**—The Vendor addresses the methods used for identifying and preventing damages/claims before the performance becomes unacceptable; the system shall include procedures for identifying negative performance trends and problem areas, as well as any corrective action policies that will be utilized to address and mitigate further issue(s)
- **Demonstrated Capability/Past Performance**—Vendor-provided references and past performance submissions must meet the requirement of being both recent and relevant; recent includes those contracts performed within the last five years while relevancy includes contracts similar in scope and size to those being requested by UC Health - UCOP
- **Price**—The price evaluation will document reasonableness and completeness of the proposed total evaluated price; any Vendor whose price is determined to be unreasonable, unbalanced, or unrealistic may not be considered for award

## **Section 13: Vendor Questionnaire**

### **Proposed Solution Overview**

- S13Q1.** Provide an overview of your firm's expertise and explain your fee structure.
- S13Q2.** What sets you apart from your competitors? Take this opportunity to explain briefly why you believe you are the best solution for UC Health

### **13.1. Section 2: Supplier Profile & Financial Information**

#### Company Ownership and Management

- S13Q3.** Company Name
- S13Q4.** Legal Entity Name if different than Company Name:
- S13Q5.** Federal Employer Identification#
- S13Q6.** Contact Person/Title:
- S13Q7.** Legal Address:
- S13Q8.** Telephone Number:
- S13Q9.** Email:
- S13Q10.** Web url:
- S13Q11.** Names and Titles of company principals
- S13Q12.** When was your company founded?
- S13Q13.** Who owns the company?
- S13Q14.** If a subsidiary of another company, please provide name and location of the company's headquarters and principal place of business, if different.
- S13Q15.** Is your organization a corporation, partnership, LLC, or sole proprietorship, and indicate in which state was it formed?
- S13Q16.** Is your organization an Equal Opportunity Employer?
- S13Q17.** Provide the name and title of the individual, telephone number, and email address with whom to communicate with regarding this RFP.
- S13Q18.** Has your company ever been sued for breach of contract? If so, describe in detail, including what the issues were and the outcome.
- S13Q19.** Has your company ever sued a client and/or customer for breach of contract? If so, describe in detail, including what the issues are/were and the outcome.

### **Company Organization and Staff**

**S13Q20.** Identify by name all staff to be involved in the project as well as engaged in management/oversight. Provide profiles or resumes for all of the identified individuals.

**S13Q21.** Please provide a detailed description of the experience, qualifications, and expertise that your company will provide to UC Health, as it pertains to this RFP.

### **13.2. References**

**S13Q22.** Provide a list of at least three customers in the United States of similar size and scope to UC Health that utilize your solution (include at least one large Academic Medical Center). Please list an additional three customers in the contiguous United States. This list must include Organization Name, Contact Person, Phone Number, and Date of Activation. NOTE: UC Health reserves the right to discuss your solution with any existing customer

**S13Q23.** Provide a minimum of three current customers similar in size to this organization and receiving services similar in scope to the services described in this contract as references. Please include the company name, number of years served, number of sites serviced, and details of services provided. Also include a contact name, phone number, and e-mail address for each reference.

### **13.3. Conflict of Interest**

**S13Q24.** Identify by name and University position any University officer, faculty member, or other employee who holds a position of director, officer, partner, trustee, manager or employee in the Supplier's organization, as well as the name of near relatives who are employed by the University. Provide a statement of the total dollar amount of work performed for the University of California in the past twelve (12) months and listing of the campus(es) served. The contract will not be awarded to any person, company, or corporation that has failed to perform in a satisfactory or faithful manner on any previous contract or purchase order with the University of California.

### **13.4. University Terms and Conditions**

**S13Q25.** Please indicate your compliance and acquiescence with the University terms and conditions specified in the RFP, including the University of California Purchase Agreement and HIPPA and Data Security and Privacy Appendices.

### **13.5. Health Care Criminal Offense Exclusion**

**S13Q26.** Does Bidder certify that neither the Bidder, nor any of its shareholders, members, directors, officers, agents, employees, servants, or members of its workforce have ever been excluded or served a notice of exclusion or have been served with a notice of proposed exclusion, or have committed any acts which are cause for exclusion, from participation in, or had any sanctions, or civil or criminal penalties imposed under, any federal or state healthcare program, including but not limited to Medicare or Medicaid, or have been convicted, under federal or state law (including without limitation a plea of nolo contendere or participation in a first offender deferred adjudication or other arrangement whereby a judgment of conviction has been withheld), of a criminal offense related to (a) the neglect or abuse of a patient, (b) the delivery of an item or service, including the performance of management or administrative services related to the delivery of an item or service, under a federal or state healthcare program, (c) fraud, theft, embezzlement, breach of UC Health responsibility, or other financial misfeasance or malfeasance in connection with the delivery of a healthcare item or service or with respect to any act or omission in any program

operated by or financed in whole or in part by an federal, state or local government agency, (d) the unlawful, manufacture, distribution, prescription or dispensing of a controlled substance, or (e) interference with or obstruct UC Health of any investigation into any criminal offense described in (a) through (d), above. Does Bidder further agree to notify UC Health immediately after the Bidder becomes aware, or reasonably suspects, that any of the foregoing representation and warranties may be inaccurate or may become incorrect?

**S13Q27.** Notification Requirement: Bidder shall notify UC Health immediately in the event that: (1) Bidder is convicted of a criminal offense related to health care and/or related to the provision of services paid for by Medicare, Medicaid, or another federal health care program; or (2) Bidder is excluded from participation in any federal health care program, including Medicare and Medicaid. Does Bidder agree to notify UC Health of the above, throughout the term(s) of this engagement?

**S13Q28.** Termination. Does Bidder agree that UCOP may terminate any resulting Agreement, immediately, and bar Bidder from UCOP property(ies) in the event that: (1) Bidder is convicted of a criminal offense related to health care and/or related to the provision of services paid for by Medicare, Medicaid or another federal health care program; or (2) Bidder is excluded from participation in any federal health care program, including Medicare and Medicaid?

**S13Q29.** Briefly describe your organization's strategic direction over the next 5 years

**S13Q30.** Does your company have any ongoing revenue filings (Chapter 7, 11, 13)?

**S13Q31.** How long has your organization been in the market?

### **13.6. Section 3: Implementation and Training**

**S13Q32.** Identify the role in your organization that is ultimately responsible for ensuring the success of this implementation

**S13Q33.** Define your project planning and milestone identification process

**S13Q34.** Provide a sample project plan for an implementation of this size and scope

**S13Q35.** What are the escalation processes when implementation issues are discovered?

**S13Q36.** Indicate the training efforts the UC site will need to provide to your staff by role

### **13.7. Section 4: Additional Information**

**S13Q37.** Describe your experience with facilitating multiple projects and teams to advance a larger strategic effort that improves financial sustainability and operational effectiveness in a higher education setting

**S13Q38.** Describe your experience with developing complex financial models and strategies that include multiple funding streams such as commercial, government, and self-funded

**S13Q39.** Describe your process for aligning stakeholders when there are conflicting priorities

**S13Q40.** Can you provide an example of a project where stakeholder conflict threatened progress? How did you resolve it?

- S13Q41.** Describe your approach in assessing a client's needs
- S13Q42.** Does your organization utilize an offshore workforce?
- S13Q43.** What tools do you use to track project milestones?
- S13Q44.** What type of analysis would you perform to assess market readiness?