

---

**UNIVERSITY OF MARYLAND, BALTIMORE COUNTY  
PURCHASE ORDER TERMS & CONDITIONS**

1. **Complete Agreement:** The purchase order and these terms and conditions, together with any other documents incorporated by reference, constitute the sole and entire agreement between the University and the Seller with respect to the subject matter, superseding completely any oral or written communication unless the terms are expressly incorporated into additional written documentation that has been accepted by the University as indicated by an authorized execution of the documentation. Where Seller's quotation is referenced in the purchase order, such quotation is incorporated into the purchase order only to the extent of specifying the nature or description of the goods or services ordered.
2. **Agreement Terms:** The performance of the purchase order shall be governed solely by the terms and conditions as set forth in this document, notwithstanding any language contained on any invoice, shipping order, bill of lading, or other document furnished by the Seller at any time. The acceptance by the University of any goods or services shall not be construed as acceptance by the University of any terms or conditions which are inconsistent with the terms and conditions stated herein. In the event that Seller enters into terms of use agreements or other agreements or understandings, whether electronic, click-through, verbal, or in writing, with University's employees or students, such agreements shall be null, void, and without effect, and the terms of this Agreement shall apply. Additionally, all terms and conditions in any University solicitation are made part of this Agreement, as applicable. Any contrary, inconsistent, or additional terms appearing in Seller's purchase orders, invoice, shipping order, bill of lading, acknowledgements, or other documents are not binding on the University.
3. A separate invoice for this purchase for each shipment thereon shall be rendered immediately following shipment. All copies of invoices must be forwarded directly to the University of Maryland, Baltimore County, Accounts Payable Department, Administration Building, 1000 Hilltop Circle, Baltimore, MD 21250 or emailed to: busserv@umbc.edu.
4. The Seller's Federal Identification Number or Social Security Number must be included on each invoice. Questions concerning invoices should be referred to (410) 455-3638.
5. The purchase order number must be shown on all related invoices, delivery memoranda, bills of lading, packages, and correspondence. **FAILURE TO INCLUDE THE PURCHASE ORDER NUMBER MAY RESULT IN THE INVOICE BEING RETURNED TO THE SELLER OR SHIPMENTS BEING REJECTED.**
6. **Tax Exemption.** The University, as an instrumentality and agency of the State of Maryland, is generally exempt from Federal excise taxes, Maryland sales and use taxes, District of Columbia sales taxes, and transportation taxes. Exemption certificates shall be provided upon request. Where a Seller is required to furnish and install material in the construction or improvement of real property in performance of a contract, the Seller shall pay the Maryland Sales Tax and the exemption does not apply.
7. **Payment of University Obligations.** Payments to the Seller pursuant to this Agreement shall be made no later than 45 days after the University's receipt of a proper invoice from the Seller. Charges of late payment of invoices are prohibited, other than as prescribed by the Maryland Code, State Finance and Procurement Article, §15-101 et seq., as amended.
8. **Specifications.** All goods or services shall conform to Federal and State laws and regulations, and to the specifications contained in the purchase order or solicitation, as applicable. The University assumes no obligation for goods shipped in excess of the quantity ordered. Any over shipments will be subject to rejection and will be returned at Seller's expense.
9. **Delivery and Packing.** All deliveries shall be FOB destination. All prices quoted must include delivery. All goods delivered under this purchase order shall be packaged in accordance with accepted trade practices. No charges may be made above a quoted price for packaging unless specified in the quote. No charge will be allowed for cartage unless by prior written agreement. Delivery shall be made in accordance with instructions on the purchase order. A packing slip shall be included in each shipment. All deliveries must be prepaid and must be delivered to each location designated on purchase order at no additional cost. **DELIVERIES MUST BE MADE TO THE SPECIFIED LOCATION. NO COLLECT SHIPMENTS OR SIDEWALK DELIVERIES WILL BE ACCEPTED.**
10. **TIME IS OF THE ESSENCE.** Time is of the essence in performance of this purchase order. The University, in its sole discretion, may extend the time of performance for excusable delays due to unforeseeable causes beyond the Seller's control. No charges or claims for damages shall be made by Seller for any delays or hindrances from any cause whatsoever during the progress of any portion of Seller's obligations specified in this Agreement. Time extensions will be granted only for excusable delays that arise from unforeseeable causes beyond the control and without the fault or negligence of Seller, including but not limited to, acts of God, acts of public enemy, acts of the State in either its sovereign or contractual capacity, acts of another Seller in the performance of an agreement with the State or the University, changes in law or regulation, action by government or other competent authority, fires, earthquakes, floods, epidemics, quarantine restrictions, strikes, freight embargoes, malicious or criminal acts of third parties, or delays of subcontractors or suppliers arising from unforeseeable causes beyond the control and without the fault or negligence of either Seller or the subcontractors or suppliers.
11. **Inspection and Acceptance.** No goods received by the University pursuant to the purchase order shall be deemed accepted until the University has had reasonable opportunity to inspect said goods for hidden damage or failure to meet specifications. Damaged/unacceptable goods shall be rejected and will be returned at Seller's expense for full credit or replacement at the University's sole option and discretion. The University reserves the right to test any goods, or effectiveness of services, delivered to determine if the specifications have been met. The University reserves the right to purchase replacement materials in the open market. Seller, failing to promptly replace materials lawfully rejected, shall be liable for any excess price paid for the replacement, plus applicable expenses, if any.
12. **Suspension of Performance.** The University's Procurement Officer unilaterally may order the Seller in writing to suspend, delay, or interrupt all or any part of its performance under this Agreement for such period of time as the

- Procurement Officer may determine to be appropriate for the convenience of the University. Seller agrees to prosecute its obligations under this Agreement continuously and diligently. Such suspension, delay, or interruption may be subject to applicable fees and expenses incurred by the Seller. Such fees and expenses, if any, will be subject to negotiation between the University and the Seller.
13. **Warranty.** Seller expressly warrants that all goods and services offered shall conform to each and every specification, drawing, sample, or other description which is furnished to or adopted by the University and that they will be fit and sufficient for the purpose intended, merchantable, of good material and workmanship, and free from defect. Such warranty shall survive this purchase Agreement and shall not be deemed waived either by the University's acceptance of said goods and services, in whole or in part, or by payment for them, in whole or in part. The Seller further warrants all goods and services performed for a period of one (1) year from date of acceptance of the items delivered and installed, unless a longer period is otherwise provided as a component of the purchase. All repairs, replacements, or adjustments during the warranty period shall be at Seller's expense.
  14. **Responsibility for Technology Export Control.** The Seller shall comply with all applicable U.S. export control laws and regulations in the performance of this purchase order, and the distribution and use of resulting work products. Generally, U.S. export control laws and regulations apply to any shipment, transmission, transfer, or exposure to any foreign person, as defined in 22 CFR 120.16, of commodities (equipment, hardware, or material); technology (technical data, information, or assistance); and software (commercial or custom), regardless of where (inside or outside the United States) or whom it may occur. The Seller shall be responsible for obtaining the appropriate licenses or other approvals for exports of commodities, technology, and software, unless an exemption or exception applies. The Seller shall also be responsible for obtaining the appropriate licenses or other approvals before utilizing a foreign person or entity in the performance of this purchase order, including instances where the work is to be performed at the University, where the foreign person or entity will have access to any information, technology, or software subject to export control. The Seller shall be responsible for all regulatory record-keeping requirements associated with the use of license exemptions and exceptions. The Seller shall ensure that the provisions of this clause apply to its subcontractors. In the event that export controlled information is required to be provided by Seller to University, the seller will so inform the University in writing and mark all Proprietary Information, which is subject to U.S. Export Control Laws and Regulations, with the Export Control Classification Number (ECCN). Notice of such information will be directed to the University's Authorized Representative prior to any such disclosure, and the University shall not be forwarded or provided any export controlled information without the express written permission of the University.
  15. **Non-Hiring of Employees.** No employee of the State, or any department, commission, agency, or branch thereof, whose duties include matters relating to or affecting the subject matter of this Agreement shall, while so employed, become or be an employee of the party or parties hereby contracting with the State or any unit thereof, including the University.
  16. **Non-Discrimination.** During the performance of this purchase order, the Seller agrees as follows: (a) The Seller will not discriminate against any employee, applicant for employment, or individual because of race, color, religion, creed, age, sex, gender, pregnancy, ancestry, sexual orientation, gender identity or expression, marital status, national origin, veteran's status, genetic information, or physical or mental handicap. The Seller will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, creed, age, sex, sexual orientation, gender identity or expression, marital status, national origin, veteran's status, genetic information, or physical or mental handicap; (b) The Seller shall establish and maintain a written sexual harassment policy and shall inform their employees of the policy. The policy must, at minimum, contain a notice that sexual harassment will not be tolerated and employees who practice it will be disciplined; (c) The Seller will post in conspicuous places, available to employees, applicants for employment, and representatives of each labor union with which the covered Seller has a collective bargaining agreement, notices setting forth the provisions of the nondiscrimination clause in subsection (a); (d) In the event of the Seller's noncompliance with the nondiscrimination clause, this purchase order may be cancelled, terminated, or suspended in whole or in part and the Seller may be declared ineligible for further agreements with the University; and (e) The Seller will include the provisions of paragraphs (a) through (d) in every subcontract so that such provisions will be binding upon each subcontractor.
  17. **Financial Disclosure.** The Seller shall comply with the Maryland Code, State Finance and Procurement Article, §13-221, as amended, which requires that every business that enters into contracts, leases or other agreements with the State and receives in the aggregate \$200,000 or more during a calendar year shall, within 30 days of the time when the \$200,000 is reached, file with the Secretary of State certain specified information to include disclosure of beneficial ownership of the business.
  18. **Political Contribution Disclosure.** The Seller shall comply with the provisions of the Maryland Code, Election Law Article, §§14-101 through 14-109, as amended, which require that every person that enters into contracts, leases, or other agreements with the State of Maryland, or a political subdivision of the State, including its agencies, during a calendar year under which the person receives in the aggregate \$200,000 or more, shall file with the State Administration Board of Election Laws, a statement disclosing contributions in excess of \$500 made during the reporting period to a candidate for elective office in any primary or general election.
  19. **Anti-Bribery.** The Seller warrants that neither it nor any of its officers, directors, or partners nor any of its employees who are directly involved in obtaining or performing contracts with any public body has been convicted of bribery, attempted bribery, or conspiracy to bribe under the laws of any state or of the federal government or has engaged in conduct since July 1, 1977, which would constitute bribery, attempted bribery, or conspiracy to bribe under the laws of any state or the federal government.
  20. **Ethics.** This purchase order is cancelable in the event of a violation of the Maryland Public Ethics Laws by Seller or any University employee in connection with this Agreement.
  21. **Prohibition on Gifts and Gratuities.** Seller warrants that it has not offered or given, and will not offer or give, to any employee, or representative or family member of a University employee, a payment, gratuity, personal service,

- entertainment, or gift, other than novelty advertising items of a nominal value (e.g. pens, pencils, calendars, writing pads, clipboards, cups). Legitimate business-related activities (e.g. site inspections, business symposiums, business meals, and other Seller functions) are allowed. Any other offerings may be construed as Seller's attempt to improperly influence decisions at the University. Seller agrees that the University may, by written notice to Seller, terminate this purchase order if the University determines that Seller has violated this provision.
22. **Registration.** Pursuant to the Maryland Code, Corporations and Associations Article, §7-201 *et seq.*, as amended, corporations not incorporated in the State shall be registered with the State Department of Assessments and Taxation, 301 West Preston Street, Baltimore, Maryland 21201, before doing any interstate or foreign business in this State. Before doing any intrastate business in the State, a foreign corporation shall qualify with the Department of Assessments and Taxation.
23. **Contingent Fees.** The Seller warrants that it has not employed or retained any person, partnership, corporation, or other entity other than a bona fide employee or agent working for the Seller, to solicit or secure this Agreement, and that it has not paid or agreed to pay any person, partnership, corporation, or other entity other than a bona fide employee or agent, any fee or any other consideration contingent on the making of this Agreement.
24. **EPA Compliance.** Goods or services shall comply in all respects with the Federal Noise Control Act of 1972 where applicable.
25. **Occupational Safety and Health Act (O.S.H.A.).** All goods or services supplied as a result of this Agreement shall comply with the applicable U.S. and Maryland Occupational Safety and Health Act standards.
26. **Termination for Convenience.** Upon written notice to the Seller, the University may terminate this purchase order, in whole or in part, whenever the University shall determine that such termination is in the best interest of the University. The University shall pay all reasonable costs associated with the termination of the purchase order. However, the Seller may not be reimbursed for anticipatory profits. Termination hereunder, including the determination of rights and obligations of the parties, shall be governed by the provisions of the University System of Maryland (USM) Procurement Policies and Procedures.
27. **Termination for Default.** When the Seller has not performed, or has unsatisfactorily performed this Agreement, payment shall be withheld at the discretion of the University. Failure on the part of a Seller to fulfill contractual obligations shall be considered just cause for termination of the purchase order and the Seller is not entitled to recover any costs incurred by the Seller up to the date of termination. Termination hereunder, including the determination of the rights and obligations of the parties, shall be governed by the provisions of the USM Procurement Policies and Procedures.
28. **Disputes.** This Agreement shall be subject to the USM Procurement Policies and Procedures. Pending resolution of the claim, the Seller shall proceed diligently with the performance of this Agreement in accordance with the Procurement Officer's decision.
29. **Changes.** This Agreement may be amended only with the written consent of both parties. Amendments may not change significantly the scope of the Agreement (including the price).
30. **Multi-Year Contracts Contingent upon Appropriations.** If the General Assembly or other funding source fails to appropriate funds or if funds are not otherwise made available for continued performance for any fiscal period of this Agreement succeeding the first fiscal period, this Agreement shall be canceled automatically as of the beginning of the fiscal year for which funds were not appropriated or otherwise made available; provided, however, that this will not affect either the University's rights or the Seller's rights under any termination clause in this Agreement. The effect of termination of the Agreement will be to discharge both the Seller and the University from future performance of the Agreement, but not from their rights and obligations existing at the time of termination. The Seller shall be reimbursed for the reasonable value of any non-recurring costs incurred but not amortized in the price of the Agreement. The University shall notify the Seller as soon as it has knowledge that funds may not be available for the continuation of this Agreement for each succeeding fiscal period beyond the first.
31. **Intellectual Property.** Seller agrees to indemnify and save harmless the University, its officers, agents and employees with respect to any claim, action, cost, or judgment for patent infringement, or trademark or copyright violation arising out of purchase or use of goods or services covered by this purchase order.
32. **Maryland Public Information Act.** Seller recognizes that the University is subject to the Maryland Public Information Act, Maryland Code, General Provisions Article, Title 4, as amended. Seller agrees that it will provide any justification as to why any information, in whole or in part, is deemed to be confidential, proprietary information, or trade secrets, and provide any justification why such information should not be disclosed pursuant to the Maryland Public Information Act.
33. **Pre-Existing Regulations.** The regulations set forth in USM Procurement Policies and Procedures in effect on the date of the issuance of the purchase order are applicable to this Agreement.
34. **Indemnification.** The University shall not assume any obligation to indemnify, hold harmless, or pay attorneys' fees that may arise from, or in any way be associated with, the performance or operation of this agreement. The Seller shall be responsible for all damage to life and property due to its activities or those of its agents or employees, in connection with the services or goods required under the purchase order. The Seller shall defend and indemnify the University against, and shall hold the University harmless from, any claims made by any person or entity as a result of injuries, damages, expenses and losses incurred by such a person or entity, including without limitation such person's or entity's legal cost and attorney's fees (hereinafter collectively "Liabilities"), arising out of or relating to Seller's performance or failure to perform pursuant to the purchase order, except to the extent that the Liabilities are a result of the direct and sole negligence of the University. This provision shall survive the termination or completion of the work or expiration of the purchase order.
35. **Conflicting Terms.** Any proposal for terms in addition to or different from those set forth in this purchase order, or any attempt by the Seller to vary any of the terms of this offer by Seller's acceptance, shall not operate as a rejection of this offer, unless such variance is in the terms of the description, quantity, price, or delivery schedule, but shall be deemed a

- material alteration thereof, and this offer shall be deemed acceptable by the Seller without the additional or different terms. If this purchase order is an acceptance of a prior offer by the Seller, the acceptance is expressly conditioned upon Seller's assent to any additional or different terms contained herein. The Seller understands and agrees that the terms and conditions of this purchase order may not be waived.
36. **Drug and Alcohol Free Workplace.** The Seller warrants that the Seller shall comply with COMAR 21.11.08 Drug and Alcohol Free Workplace, and that the Seller shall remain in compliance throughout the term of this purchase order.
37. **Civil Rights Act of 1964.** Sellers providing goods or services to the State under this Agreement represent and warrant that they are conforming to the Civil Rights Act of 1964, the Civil Rights Restoration Act of 1988, and the Civil Rights Act of 1991, and Section 202 of Executive Order 11246 of the President of the United States of America as amended by Executive Order 11375, as applicable.
38. **Affirmative Action.** The Seller and all subcontractors shall develop and maintain affirmative action plans directed at increasing the utilization of women and members of minority groups on State public works projects, pursuant to the Executive Order 11246 of the President of the United States of America and guidelines on Affirmative Action issued by the Equal Employment Opportunities Commission (EEOC) 29 C.F.R. part 1608 and the Governor of Maryland's Executive Order 01.01.1993.16.
39. **Retention of Records.** The Seller shall retain and maintain all records and documents relating to this Agreement for three years after final payment by the University hereunder or any applicable statute of limitations, whichever is longer, and shall make them available for inspection and audit by authorized representatives of the University, including the Procurement Officer or designee, at all reasonable times. Upon demand of the University, Seller will deliver a copy of records related to this Agreement to the University.
40. **Maryland Law Prevails.** This Agreement shall be governed by and construed in accordance with the laws of the State of Maryland, without regard to its conflicts of law or choice of law principles. Any legal proceeding arising out of or relating to the Agreement shall be brought in and heard by the courts of the State of Maryland, and the parties voluntarily consent to the exclusive jurisdiction of the courts of this State for any such proceeding.
41. **Software Contracts:** As specifically provided by the provisions of the Maryland Code, Commercial Law Article, §22-104, the parties agree that this Agreement shall not be governed by the Maryland Uniform Computer Information Transaction Act ("UCITA"), Maryland Code, Commercial Law Article, §§ 22-101 through 22-816, as amended from time to time. This Agreement shall be governed by the common law of Maryland relating to written agreements, as well as other statutory provisions, other than UCITA, which may apply, and shall be interpreted and enforced as if UCITA had never been adopted in Maryland. Seller represents, warrants and agrees that, as delivered to the University, the software does not contain any program code, virus, worm, trap door, back door, timer, or clock that would erase data, or programming or otherwise cause the software to become inoperable, inaccessible, or incapable of being used in accordance with its user manuals, either automatically, upon the occurrence of Seller selected conditions, or manually on command of Seller. Additionally, the terms and conditions of the UMBC Software Addendum shall apply.
42. **Reimbursable Expenses.** Any reimbursable expenses incurred by the Seller in the performance of the scope of work, as applicable, may be reimbursed in accordance with USM and UMBC policies and procedures, as pre-approved by the University.
43. **Security Interest.** The University is not authorized to grant a security interest to Seller.
44. **Insurance.** The University of Maryland, Baltimore County, as a constituent institution of the University System of Maryland, agency of the State of Maryland, is self-insured, pursuant to the Maryland Code, State Finance and Procurement Article, Title 9, as amended, through the State of Maryland under the Maryland Tort Claims Act. As a self-insured entity, the University is unable to insure any outside entities or name third parties as additional insured.
45. **FERPA Obligations.** Seller acknowledges that the University is obligated to comply with the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. §1232g) as amended ("FERPA"). Seller agrees that Seller is a "School Official" (as that term is used in FERPA) with a "legitimate educational interest" in any University Data or University Content that is protected by FERPA, and therefore, Seller agrees that with respect to all University Content and University Data that is protected by FERPA that Seller accesses, receives, stores, or controls, Seller will comply with all obligations that FERPA imposes on a "School Official". Notwithstanding anything in this Agreement to the contrary, Seller shall not use or disclose University Content or University Data, including education records as defined by FERPA, except as necessary (i) to provide the service offerings to University and any End Users in accordance with the Documentation, or (ii) to comply with applicable law (including subpoenas) or a binding order of a Governmental Authority. Seller will give the University reasonable notice of any such request of a governmental or regulatory body (including any subpoena) to allow the University to seek a protective or other appropriate remedy (except to the extent Seller's compliance with the foregoing would cause it to violate a binding order of an Authority or applicable law). Notwithstanding anything in this Agreement to the contrary, nothing in this Agreement is intended to limit Seller's obligations under this Section. Seller shall indemnify and hold harmless the University from and against any and all claims, suits, proceedings, costs, losses, damages, liabilities, expenses, demands, and judgments, including court costs, attorney's fees, and other reasonable expenses of litigation, which may arise out of, relate to, or be a consequence of, an unauthorized disclosure of education records. Seller will, upon discovery, or receipt of notice, of a potential, or actual, material unauthorized disclosure of education records, immediately report said occurrence to the University. Seller will work with the University to remediate the unauthorized disclosure (or anticipated unauthorized disclosure) at the expense of Seller. The terms of the remediation are the sole and exclusive determination of the University.
46. **Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191. ("HIPAA") and Maryland Confidentiality of Medical Records Act (Maryland Health – General Code Annotated §§4-301 et seq. ("the Act").** Seller agrees that Seller's access to and use of protected health information (as defined by HIPAA), if any, under this Agreement will be conducted in accordance with the requirements of the Act and HIPAA, including the terms of a HIPAA Business Associate Agreement if so required by the University. Seller shall also cause any subcontractor, agent, or party

within Seller's direction or control that is participating in this Agreement to promptly execute a standard HIPAA Business Associate Agreement if so requested by the University.

47. **Certification regarding Investments in Iran.** The Seller certifies that, in accordance with the Maryland Code, State Finance & Procurement Article, §17-702 and §17-705, as amended, (i) it is not identified on the list created by the Maryland Board of Public Works as a person engaging in investment activities in Iran; and (ii) it is not engaging in investment activities in Iran. If Seller is unable to make the aforementioned certification regarding its investment activities in Iran, it shall immediately notify the University and provide the details of such activities.

48. **Insolvency.** If the University has reasonable cause to believe the Seller is insolvent, or if any petition in bankruptcy or under any law for the relief of debtors is filed by or in respect of Seller, then at the option of the University, this Agreement shall immediately terminate. In no event shall the Agreement become an asset in any such proceeding nor shall the University be bound hereby after any act of bankruptcy by Seller. Any delay by the University in the exercise of right to terminate under this section shall not diminish or waive that right.

49. **Compliance with University Policies.** While on the University's campus for the performance of work or any deliveries, the Seller agrees to comply with all applicable University policies. Seller understands that the University is an active higher education campus and that all delivery of services or work must be performed in a manner to minimize disruption of operations. Under no circumstance shall any driveway, access road, or walkway be blocked by Seller's vehicles to prohibit use of, or disruption to pedestrian or vehicular traffic to the buildings.

**Parking.** If at any time Seller shall be on the premises of the University, then Seller is responsible for acquiring a valid University parking permit, obeying all parking regulations, and paying all fines assessed for violations of parking regulations. Seller is responsible for ensuring this clause is included in Seller's agreements with subcontractors.

**Smoke Free Campus.** University is a smoke free environment. Fines may be assessed for violations. Seller is responsible for ensuring this clause is included in Seller's agreements with subcontractors.

50. **Insurance and Indemnification.** Seller shall defend, indemnify, and save harmless the University, University System of Maryland, its officers, employees, and agents, from any and all claims, liability, losses, and causes of actions which may arise out of the performance by the Seller, employees, subcontractors, or agents, of the work covered under this Agreement.

The Seller shall secure, pay the premiums for, and keep in force until the expiration of this Agreement, adequate insurance as provided below, such insurance to specifically include liability assumed by the Seller under this Agreement.

i) Commercial General Liability Insurance including all extensions: \$2,000,000 each occurrence; \$2,000,000 personal injury; \$2,000,000 products/completed operations; \$2,000,000 general aggregated.

ii) Workmen's Compensation Insurance and Unemployment Insurance as required by the laws of the State of Maryland.

iii) Owner's Landlord's and Tenant's and Contractor's bodily injury liability insurance, with limits of not less than \$500,000 for each person and \$2,000,000 for each accident.

iv) Property damage liability insurance with a limit of not less than \$2,000,000 for each accident.

v) If automotive equipment is used in the performance of this Agreement, automobile bodily injury liability insurance with limits of not less than \$1,000,000 for each person and \$2,000,000 for each accident, and property damage liability insurance, with a limit of not less than \$2,000,000 for each accident.

vi) Food products liability insurance, if not included in the Comprehensive, with limits of not less than \$1,000,000 for each person and \$2,000,000 for each accident.

Limits of insurance may be achieved either singularly or by combination of applicable coverages. A policy which allows the costs associated with investigating, management, or defense of any claim, or any other cost incurred by the insured or the insurance carrier, to be deducted from the policy limits is not acceptable.

All policies for liability protection, bodily injury, or property damage and fiduciary bonding must specifically name on its face the University of Maryland, Baltimore County and the University System of Maryland as additional named insured with respect to operations under this Agreement, including but not limited to Seller's data center or other premises where the University's data is stored, provided, however, with respect to Seller's liability for bodily injury or property damages above, such insurance shall cover, and not exclude, Seller's liability for injury to the property of the University and to the persons or property of employees, students, faculty members, agents, officers, regents, invitees, or guests of the University.

Seller will take commercially reasonable and practical steps to ensure that each insurance policy contains endorsements, identical to, or nearly identical to, the following: "It is understood and agreed that the Insurance Company shall notify the UMBC Procurement Officer in writing forty-five days (45) in advance of the effective date of any reduction in or cancellation of this policy." Upon the request of the Procurement Officer, a certified true copy of each policy of insurance including the above endorsement manually countersigned by an authorized representative of the insurance company shall be furnished to the Procurement Officer. Notices of policy changes shall be furnished to the Procurement Officer. All required insurance coverages must be acquired from insurers allowed to do business in the State of Maryland. The insurers must have a policy holder's rating of "A- or better."

51. **Publicity/Use of Name and Logo.** Seller is authorized to identify the University as a party to this Agreement for the purpose of identifying the University as a customer to potential customers. However, any other use of the University's name promotionally or otherwise in connection with Seller's business or the subject matter of this Agreement is prohibited without the prior written consent of the University. This Agreement does not include a trademark license. Except as allowed by law for limited informational purposes, the University grants no rights to use any of its trademarks or service marks, for any purpose, without the prior and explicit written permission of the University. Under no circumstances does the University grant the right to use its logos or marks or any related products or services. Any violation of this Section will be considered a material breach of this Agreement and grounds for its immediate termination in the University's sole discretion.

52. **Set-Off.** The University and State of Maryland may deduct from and set-off any amounts due and payable to the Seller, including but not limited to, any back-charges or damages sustained by the University by virtue of any breach of this Agreement by the Seller or by virtue of the failure or refusal of the Seller to perform the Services or any part of the Services in a satisfactory manner. Nothing herein shall be construed to relieve the Seller of liability for additional costs resulting from a failure to satisfactorily perform the Services.
53. **Prohibition Against Shifting Maryland Income to Out-of-State Affiliates.** Seller may not, for any period during this Agreement term, seek to reduce the amount of Seller's income subject to Maryland income tax by payments made to an affiliated entity or an affiliate's agent for the right to use trademarks, trade names, or other tangible property associated with Seller. Seller agrees that during the course of this Agreement it shall not make any such royalty or similar payments to any affiliated company; and if any such royalty or similar payments are made, Seller and the affiliated company shall file separate Maryland income tax, under a formula that reasonably apportions the income of the affiliated company among the states, including Maryland, in which the Seller does business. Seller agrees that it is authorized to bind its affiliated entities to the terms hereof.
54. **Reporting of Suspected Child Abuse and Neglect.** Maryland law requires any person who suspect child abuse or neglect to report it. Contractors, including Seller, must comply with the University System of Maryland [Board of Regents Policy VI-1.50 – Policy on the Reporting of Suspected Child Abuse & Neglect](#). This Policy is incorporated into this Agreement. The University reserves the right to terminate this Agreement if the Seller fails to comply with this Policy or if the University determines termination is necessary to protect a child's safety or welfare. Any required report must be made to the University Human Relations Office, and the Chief of University Police, and to the local department of social services or law enforcement agency.
55. **Remedies; Damages.** The University shall not waive or limit direct damages arising out of this Agreement and Seller's actions or omissions. The University does not assume any cost of servicing, repair, or correction of problems caused by Seller's acts or omissions, or by viruses or other harmful components. Any limitation of damages shall not apply to Seller's breach of any privacy or other law, or claim of intellectual property infringement. University reserves its right to protest and object to Injunctive Relief on the part of the Seller. The University does not waive any legal remedy, including participation in a class action.
56. **Statute of Limitations and Notice.** University does not waive any statutorily provided claim limitation period or statutorily required notice provision.
57. **Confidentiality.** Seller shall be responsible and liable for any breach of confidentiality by a sub-contractor or third party to which Seller discloses the University's confidential information or to which Seller engages to fulfill Seller's obligations under this Agreement.
58. **Responsibility of Seller.** The Seller shall perform the services with that standard of care, skill, and diligence normally provided by a Seller in the performance of services similar to the services hereunder. Notwithstanding any review, approval, acceptance, or payment for the services by the University, the Seller shall be responsible for professional and technical accuracy of Seller's work, design drawings, specifications and other materials or goods furnished by the Seller under this Agreement.
59. **Force Majeure.** If either party's performance is rendered impossible, hazardous, or is otherwise prevented or impaired due to sickness, inability to perform, accident, interruption or failure of a means of transportation, acts of god, riots, strikes, labor difficulties, epidemics, earthquakes, any act or order of any public authority, or any other cause or event, similar or dissimilar, beyond that party's control, then each party's obligations with respect to the affected performance shall be excused and neither party will have any other liability in connection to the performance.
60. **Waiver of Jury.** The University and Seller waive trial by jury in any action or proceeding to which they are parties arising out of or in any way pertaining to this Agreement. It is agreed and understood that this waiver constitutes a waiver of trial by jury of all claims against all parties who are not parties to this Agreement. This waiver is knowingly, willingly, and voluntarily made by the University and the Seller, who represent and warrant that no representations of fact or opinion have been made to an individual to induce this waiver of trial by jury or to in any way modify or nullify it's effect.