



BUNKER HILL COMMUNITY COLLEGE

Request For Proposal

RFP #BHCLMS25

RFP Description Name: Learning Management System

All Proposals must be delivered digitally as instructed in the RFP. Hard copies of the RFP are not accepted.

Name of Respondent: _____

Primary Contact: _____

Phone: _____

Email: _____

Fax: _____

Web Address: _____

Mailing Address: _____

Signature of Authorized Agent: _____

Date: _____

Request For Proposal RFP #BHCLMS25

General Information

Bunker Hill Community College (BHCC) is seeking proposals from qualified service providers to secure a modern and efficient Learning Management System (LMS) that integrates seamlessly with our existing systems, including Colleague as our Student Information System and Target X for retention data analytics. Our goal is to enhance the learning experience for students and provide faculty with robust tools to facilitate teaching. The primary objectives are to:

- Select an LMS that enhances student engagement and supports various teaching methodologies.
- Ensure compatibility with Ellucian Colleague for streamlined student data access and management.
- Leverage Target X's retention data to identify at-risk students and tailor interventions to improve student success rates.

Proposal Delivery

All Proposals must be securely emailed in PDF format to Grace M. Mah at purchasedoc@bhcc.edu by **February 28, 2025, 5 p.m. ET**. Hard copies of the RFP are not accepted. **If emailing a proposal is difficult, a secure link to upload your proposal will be offered.** You must email the above-mentioned contact with the request. All proposals must include a Non-Collusion Form, Reference letters, and a Tax Compliance Form.

The selected proposer must agree to use the Massachusetts Standard Contract Form with the included Terms and Conditions to enter into a contract. Exhibit E consists of these forms for the proposer to review before proposal submission. **The MA Standard Contract form and Terms are major requirements of the contract that will be entered referencing the successful proposal, and they are non-negotiable.**

Proposal Signature

A proposal must be signed as follows: 1) if the proposer is an individual, by her/him personally; 2) if the proposer is a partnership, with the signature of at least one general partner; and 3) if the proposer is a corporation, by the authorized officer, whose signature must be attested to by the clerk/secretary of the corporation, and with an affixed corporate seal affixed. Please complete and include the authorized signatory listing form with your proposal. The form is included as Exhibit D with the RFP.

Time for Proposal Acceptance

The contract will be awarded within 45 Days after the proposal opening. The time for award may be extended for up to 45 additional days by mutual agreement between Bunker Hill Community College and the apparent highest responsive and responsible proposer that offers the best value to the College. The College reserves the right to reject all proposals without a cause if it is in the college's best

interests to do so. This proposal is a revenue-generating contract for the College.

Changes and Addenda

If any changes are made to this RFP, an addendum will be issued to all proposers on record as having picked up the RFP. Proposer may not alter the RFP language, specifications, terms & conditions or RFP component; Proposer modifications to the RFP are prohibited; any such modifications will disqualify a proposer.

Questions about the RFP

Questions are sent written via email to Grace M. Mah purchasedoc@bhcc.edu referencing the proposal number in email’s subject line, with any technical questions. All questions and answers will be distributed to all registered proposers on record as having picked up the RFP.

Proposers are prohibited from communicating directly with any employee of the procuring committee except as specified in this RFP, and no other individual, or representative of the College is authorized to provide any information or respond to any question or inquiry concerning the terms of this RFP. The contact is Grace M. Mah purchasedoc@bhcc.edu

Modification or Withdrawal of Proposals, Mistakes, and Minor Informalities

A proposer may correct, modify, or withdraw a proposal by written notice received by the Bunker Hill Community College prior to the time and date set for the deadline of proposal submission. Each modification must be numbered in sequence and must reference the original RFP. Resubmission must obtain a confirmation of a receipt. After the proposal opening, the proposer may not change any provision of the proposal in a manner prejudicial to the interests of the College or fair competition.

Proposer Responsibility

Please note that the finalists will be required to participate in a series of demonstrations to various BHCC user groups for final evaluation. Demonstration topics and audiences are outlined below. With the exception of the first listed demonstration, specific attention should be given to currently available features. Demonstrations should be recorded to facilitate viewing by those unable to attend. Alternate option – second demonstration

Table1.0

Topic	Audience	Approx. Length
- Company & Product Overview: highlights, road map, support options and accessibility functions -Assessment & Analytics course & program level	LMS Review Committee	No more than 90 min
Product Demonstration – Admin Functions	Subset of LMS Review Committee, IT	No more than 90 min

Virtual Product Demonstration – Sample Course · Navigation, tools overview, Design/creation and accessibility functions	LMS Review Committee, Faculty, Academic Deans, Business & Community Services	No more than 90 min
Onsite Product Demonstration – Sample Course · Navigation, tools overview, Design/creation and accessibility functions	BHCC Community (includes Faculty, Staff, Professional Staff, Students, etc.)	Minimum half a day- Full day preferred
Final Product Demonstration and Q&A session	LMS Review Committee, Institutional Research, IT, General Education Assessment Committee, Faculty	No more than 90 min

BHCC reserves the right to request additional demonstrations if during the evaluation process the LMS Review Committee deems it necessary to clarify questions and/or services.

Right to Cancel/Reject Proposals

Bunker Hill Community College may cancel this RFP or reject, in whole or in part, any and all proposals if the College determines that cancellation or rejection serves the best interests of the College. The College will not acknowledge a proposer’s Terms & Conditions throughout the award. Terms & Conditions are negotiable by mutual agreement/contract; final Terms & Conditions are at the sole discretion of the College. The College makes no guarantee that any service will be purchased resulting from this RFP.

Proposal Prices to Remain Firm

All proposal price quotes or costs submitted in response to this RFP must remain firm for 120 days following the proposal opening through the award date of the contract execution.

Contract Term Length and Renewal Options

The contract period will run for an initial three (3) years from July 1st, 2025, through June 30th, 2028, with two (2) one (1) year options to renew or extend at the discretion of the College from July 1st, 2028 to June 30th, 2029 and from July 1st, 2029 to June 30th, 2030. Options to renew the contract will be determined at least 90 days before the three (3) year period ends.

Scope of Services and Performance Standards

Functionality and Features

- **Core Features:** What are the core features of your LMS?
- **Customization:** How customizable is the platform? Can it be tailored to meet our specific needs?
- **Content Management:** What types of content can be uploaded or created in the LMS (e.g., SCORM, video, quizzes)?
- **User Experience:** How intuitive is the user interface for both instructors and students?
- **Mobile Access:** Is the LMS fully functional on mobile devices? Is there a dedicated app?
- **Assessment Tools:** What types of assessment and grading tools are available? How are grades managed and reported?
- **AI Integration:** What are the company plans for adapting to the increased use of AI? Are there tools embedded to help faculty and students navigate the use of AI?

Integration and Compatibility

- **Integration with Existing Systems:** How well does the LMS integrate with our existing systems (e.g., SIS, CRM, ERP)?
- **Third-Party Tools:** Can the LMS integrate with third-party tools and applications (e.g., Zoom, Google Workspace, Microsoft 365)?
- **API Access:** Does the LMS offer API access for custom integrations?

Support and Training

- **Technical Support:** What level of technical support is provided? Is support available 24/7?
- **Training:** What training resources are available for administrators, instructors, and students?
- **Onboarding:** What is the onboarding process like? What is the typical timeframe for implementation?

Security and Compliance

- **Data Security:** What measures are in place to ensure data security and privacy?
- **Compliance:** Is the LMS compliant with regulations such as GDPR, FERPA, or HIPAA? Who owns the student data? Is this property of the vendor or the college?
- **Backup and Recovery:** How are data backups managed, and what is the disaster recovery plan?

Scalability and Performance

- **Scalability:** Can the LMS scale with our institution as we grow? How does it handle a large number of concurrent users?
- **Performance:** What uptime guarantees do you offer? How do you handle performance issues?
- **System Updates/Upgrades, Plugin Management:** When are updates/upgrades scheduled for the system. Are the time frames for updates scheduled by the college or the vendor? Who determines if a plugin can be added to the platform?

Compliance and Accessibility

- **Accessibility:** How does your LMS support accessibility for users with disabilities? Is it compliant with WCAG standards? How does LMS offer support for navigating the LMS, i.e. “breadcrumbs,” to improve accessibility? Is LMS compatible with conversion tools, such as

ALLY or other conversion tools? What accessibility tools are imbedded in the LMS? Are there accessibility checkers that not only alert faculty to inaccessible course materials but offer instruction for how to mitigate? For visually impaired students in particular, how compatible is the LMS with common screen readers and other assistive technologies such as JAWS? Magnification such Zoom text or the built-in magnification? Does the LMS have its own TTS capability? Does the LMS have a reader built in so students can listen to the documents (ALLY would convert to an mp3) and not have to turn on a 3rd party screen reader. What questions/challenges have students with disabilities experienced using the LMS and what troubleshooting or solutions do you provide? How “user-friendly” are the accessibility features that are built into the LMS for both faculty and student users?

Pricing Model

Here are the key elements that should be included with the price offer.

- **Per User:** Cost based on the number of users (students, faculty, administrators) accessing the LMS.
- **Per Course:** Cost based on the number of courses hosted on the LMS.
- **Flat Fee:** A fixed cost for the entire LMS implementation and usage.
- **Additional Costs:** Any other costs that may be incurred, such as setup fees, customization fees, or additional support fees.

Future Upgrades

- **Software Updates and Upgrades:** Information on how updates and upgrades are handled and whether they are included in the pricing.
- **Future Development:** Costs associated with future development and new features.

Cost Breakdown

- **Implementation Costs:** Costs associated with the initial setup and implementation of the LMS.
- **Training Costs:** Costs for training administrators, instructors, and students.
- **Support Costs:** Costs for ongoing technical support, including 24/7 support if available.
- **Customization Costs:** Costs for customizing the LMS to meet specific needs of BHCC.
- **Integration Costs:** Costs for integrating the LMS with existing systems (e.g., SIS, CRM, ERP).

Total Project Cost Quote

- **Total Cost:** A comprehensive quote that includes all the above elements, providing a clear picture of the total cost of ownership for the LMS over the contract period.

Additional Considerations

- **Discounts:** Any available discounts for multi-year contracts or bulk user licenses.
- **Payment Terms:** Details on payment schedules, terms, and conditions.

By providing detailed and transparent pricing information, the proposer can help BHCC make an informed decision based on the total cost of ownership and the best value offered by the LMS. This will be a key element in determining the best value for the college.

References

At least three Business references, in the form of signed letters, are required from customers with whom there is a standing business relationship of one year or greater duration. References are important elements of the proposal process.

Financial Stability

The proposer must include their previous two years of audited Financial Statements. These statements will be held as confidential and proprietary and will not be returned.

Rule of Award

The goal is to select a service provider that can best demonstrate the capability to provide the desired services with high quality and in an efficient manner. One contract will be awarded to the most responsible and responsive proposer, offering the college the best value. Only the RFP procurement committee can decide on the best value for the college through this procurement. Proposers responding to this RFP can be requested to clarify issues or to provide additional insights into their proposal through written clarifications and/or oral presentations.

The award of this proposal is for service to Bunker Hill Community College only. Massachusetts state higher education institutions have the option to engage the competitively selected vendor for a similar service but through a separate and independent contract. Bunker Hill Community College will have no responsibility for other agency agreements or payments.

Selection Criteria

The Proposals meeting the RFP requirements will be evaluated using the following categories:

1. Business Experience

- **Description:** Evaluation of the proposer's experience in the LMS marketplace, including the number of years in business and relevant project experience.

2. Business Capacity & Quality

- **Description:** Assessment of the proposer's capacity to deliver the required services, including organizational structure, resources, and quality of previous work.

3. RFP Requirement Compliance

- **Description:** Evaluation of the proposer's compliance with all RFP requirements, including submission of all required forms and adherence to proposal guidelines.

4. Financial Stability

- **Description:** Assessment of the proposer's financial stability, including the review of audited financial statements for the past three years.

5. Professional References

- **Description:** Evaluation of references provided by the proposer, including feedback on the proposer's performance, reliability, and quality of service.

6. Cost or Price Proposal Package

- **Description:** Assessment of the overall cost of the proposal, including pricing model, total

project cost, and any additional costs. Consideration of the value offered relative to the cost.

7. Technical Support and Training

- **Description:** Evaluation of the level and quality of technical support and training provided, including availability, responsiveness, and comprehensiveness of training resources.

8. Integration and Compatibility

- **Description:** Assessment of the LMS's ability to integrate with existing systems (e.g., SIS, CRM, ERP), compatibility with third-party tools and applications, security and compliance.

College Conditions

Bunker Hill Community College will not be liable for any costs incurred by respondents in the preparation and production of a proposal or the costs of any services performed prior to receiving approval of the agreement. All proposals and materials submitted in conjunction with the proposals shall become the property of Bunker Hill Community College for use as deemed appropriate, respecting all copyrights. Upon award of the contract, standard commonwealth terms and conditions must be incorporated. That form is attached to the RFP. Please sign and include the condition form included in Exhibit A with your response.

Non Collusion Form and Tax Compliance Form

These forms are included with the RFP in the Exhibits **B and C**. These forms must be completed and submitted with the proposal.

Basic College Information

BHCC, located in Boston, Massachusetts, is the largest community college in Massachusetts, with more than 13,000 students enrolled per semester. BHCC, founded in 1973, is fully accredited by the New England Association of Schools and Colleges (NEASC). Bunker Hill Community College's Charlestown Campus is situated on approximately 42 acres in the historic Charlestown neighborhood of Boston.

With two main campuses in Charlestown and Chelsea, in addition to three satellite campuses and several instructional centers throughout the Greater Boston Area, BHCC offers a wide range of learning options to suit the diverse needs of our student body. The main campus consists of six buildings (A, B, C, D, E and G) and H-Building located in the Hood Business Park, just beyond the G Building. Students can choose from day, afternoon, evening, late-evening, weekend, web-based and distance-learning courses to fit their busy schedules.

BHCC is proud to be the most affordable community college in Massachusetts. We offer more than 100 academic programs, including associate degree programs, certificate programs and programs designed to allow students to complete their first two years of a bachelor's degree before transferring to a four-year university. Our dedicated, caring faculty and counselors are here to help students achieve their personal, academic and career goals.

The college runs day, evening, and weekend classes. Enrollment is more than 13000 students. The College is non-residential and diverse in its student population and employees approximately 1124 full-time employees. The College allows agencies and businesses to rent the BHCC facilities for off-site

meetings and functions during its fiscal year.

Exhibit A

College Condition Form

Bunker Hill Community College will not be liable for any costs incurred by respondents in the preparation and production of a Proposal or the costs of any services performed prior to receiving approval of the agreement. All Proposals and materials submitted in conjunction with the Proposals shall become the property of Bunker Hill Community College for use as deemed appropriate, respecting all copyrights.

1. Bunker Hill Community College reserves the right to modify the requirements of this proposal after its release. All Proposers will be notified of any modifications to the requirements of this proposal. Wherever the College is referred to herein, such reference will be to the President or his/her designee, as stated periodically in writing during the term of the contract.
2. Proposers who submit a response may be required to give an oral presentation to Bunker Hill Community College. This shall provide an opportunity for a Proposer to clarify or elaborate on the Proposal, but shall in no way change the original Proposal. The College shall schedule the time and location, if needed.
3. By submitting a Proposal, the Proposer agrees that it will not make any claims or have any right to damages because of any misinterpretation or misunderstanding of the specifications or because of any misinformation or lack of information.
4. The successful Proposer will be notified in writing by letter.
5. Omissions, inaccuracies, or misstatements are sufficient cause for rejection of the Proposal.
6. If awarded, the Agreement shall be governed and construed in accordance with the laws of Massachusetts.
7. To participate in this RFP, the proposer must agree to accept the commonwealth terms and conditions to execute the final contract. The Commonwealth of Massachusetts standard contract form and its applicable terms and conditions will be utilized to enter into a contract with a successful proposer.

Signature of individual submitting bid or proposal

Name of business

Exhibit B

Certificate of Non-Collusion

The undersigned certifies under penalties of perjury that this bid or proposal has been made and submitted in good faith and without collusion or fraud with any other person. As used in this certification, the word "person" shall mean any natural person, business, partnership, corporation, union, committee, club, or other organization, entity, or group of individuals.

Signature of individual submitting bid or proposal

Name of business

Exhibit C

Tax Compliance Certification

Pursuant to M.G.L. c. 62C, §49A, I certify under the penalties of perjury that, to the best of my knowledge and belief, I am in compliance with all laws of the Commonwealth relating to taxes, reporting of employees and contractors, and withholding and remitting child support.

Signature of person submitting bid or proposal

Name of business

EXHIBIT D



**Commonwealth of Massachusetts
CONTRACTOR AUTHORIZED SIGNATORY LISTING**

This form is jointly issued and published by the Office of the Comptroller (CTR) and the Operational Services Division (OSD) as the default form for all Commonwealth Departments when another form is not prescribed by regulation or policy.

**Signature for Corporation (C or S), Partnership, Trust/Estate, Limited Liability Company
(must match Form W-9 tax classification)**

Contractor Legal Name	Contractor Vendor/Customer Code <small>(If available, not the Taxpayer Identification Number or Social Security Number)</small>
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INSTRUCTIONS: Any Contractor (other than a sole-proprietor or an individual contractor) must provide a listing of individuals who are authorized as legal representatives of the Contractor who can sign contracts and other legally binding documents related to the contract on the Contractor's behalf. In addition to this listing, any state department may require additional proof of authority to sign contracts on behalf of the Contractor, or proof of authenticity of signature (a notarized signature that the Department can use to verify that the signature and date that appear on the Contract or other legal document was actually made by the Contractor's authorized signatory, and not by a representative, designee or other individual.)

For privacy purposes **DO NOT ATTACH** any documentation containing personal information, such as bank account numbers, social security numbers, driver's licenses, home addresses, social security cards or any other personally identifiable information that you do not want released as part of a public record. The Commonwealth reserves the right to publish the names and titles of authorized signatories of contractors.

There are three types of electronic signatures that will be accepted on this form: 1) Traditional "wet signature" (ink on paper); 2) Electronic signature that is either: a. hand drawn using a mouse or finger if working from a touch screen device; or b. An upload picture of the signatory's hand drawn signature; 3) Electronic signature affixed using a digital tool such as Adobe Sign or DocuSign. Typed text of a name not generated by a digital tool, computer generated cursive, or an electronic symbol are not acceptable forms of electronic signature.

Authorized Signatory Name	Signature (Signature as it will appear on contract or other documents)	Title	Phone Number	Email Address

Acceptance of any payment under a Contract or Grant shall operate as a waiver of any defense by the Contractor challenging the existence of a valid Contract due to an alleged lack of actual authority to execute the document by the signatory.

I certify that I am a responsible authorized officer of the Contractor and as an authorized officer of the Contractor I certify that the names of the individuals identified on this listing are current as of the date of execution and that these individuals are authorized to sign contracts and other legally binding documents related to contracts with the Commonwealth of Massachusetts on behalf of the Contractor. I understand and agree that the Contractor has a duty to ensure that this listing is immediately updated and communicated to any state department with which the Contractor does business whenever the authorized signatories above retire, are otherwise terminated from the Contractor's employ, have their responsibilities changed resulting in their no longer being authorized to sign contracts with the Commonwealth or whenever new signatories are designated.

Please note you cannot self-certify your own signature as a single signer listed above.

Signature	Date
Print Name	Phone Number
Title	Email Address

A copy of this listing must be attached to the "record copy" of a contract filed with the department.

COMMONWEALTH OF MASSACHUSETTS | STANDARD CONTRACT FORM

This form is jointly issued and published by the Office of the Comptroller, the Executive Office for Administration and Finance, and the Operational Services Division as the default contract for all Commonwealth Departments when another form is not prescribed by regulation or policy. The Commonwealth deems void any changes made on or by attachment (in the form of addendum, engagement letters, contract forms or invoice terms) to the terms in this published form or to the [Standard Contract Form Instructions and Contractor Certifications](#), the [Commonwealth Terms and Conditions](#), the [Commonwealth Terms and Conditions for Human and Social Services](#) or the [Commonwealth IT Terms and Conditions](#) which are incorporated by reference herein. Additional non-conflicting terms may be added by Attachment. Contractors are required to access forms at masscomptroller.org/forms or mass.gov/lists/lead-forms.



CONTRACTOR INFORMATION			COMMONWEALTH INFORMATION		
Contractor Legal Name		d/b/a	Department		MMARS Code
Legal Address As entered on Form W-9 or Form W-4			Contract Manager Name		Business Mailing Address
Contract Manager Name			Billing Address If Different		
Phone	Email	Fax	Phone	Email	Fax
Vendor Code		VC	MMARS Doc ID(s)		
Vendor Code Address ID		AD	RFR/Procurement or Other ID Number		
e.g. 'AD001'. Note: The Address ID must be set up for Electronic Funds Transfer (EFT) payments.					
NEW CONTRACT			CONTRACT AMENDMENT		
Procurement or Exception Type (Check one option only) Statewide Contract (OSD or an OSD-designated department.) Collective Purchase (Attach OSD approval, scope, and budget.) Department Procurement - Includes all Grants 815 CMR 2.00 , (Attach Solicitation Notice or RFR, and Response or other procurement supporting documentation.) Emergency Contract (Attach justification for emergency, scope, and budget.) Contract Employee (Attach Employee Status Form, scope, and budget.) Interim Contract with new Contractor (Attach justification for Interim Contract and updated scope/budget.) Other Procurement Exception (Attach authorizing language, legislation with specific exemption or earmark, and exception justification, scope, and budget.)			Current Contract End Date PRIOR to Amendment		
			Amendment Amount Or Enter "No Change"		
			Amendment Type (Check one option only. Attach details of amendment changes.) Amendment to Date, Scope, or Budget (Attach updated scope and budget.) Interim Contract with Current Contractor (Attach justification for Interim Contract and updated scope/budget.) Contract Employee (Attach any updates to scope or budget.) Other Procurement Exception (Attach authorizing language/justification and updated scope/budget.)		
TERMS AND CONDITIONS					
The Standard Contract Form Instructions and Contractor Certifications and the following document are incorporated by reference into this Contract and are legally binding (Check ONE option): Commonwealth Terms and Conditions Commonwealth Terms and Conditions for Human and Social Services Commonwealth IT Terms and Conditions					
COMPENSATION (Check ONE option.)					
The Department certifies that payments for authorized performance accepted in accordance with the terms of this Contract will be supported in the state accounting system by sufficient appropriations or other non-appropriated funds, subject to intercept for Commonwealth owed debts under 815 CMR 9.00 .					
Rate Contract (No Maximum Obligation). (Attach details of all rates, units, calculations, conditions or terms and any changes if rates or terms are being amended.) Maximum Obligation Contract. Total maximum obligation for total duration of this contract (or new total if contract is being amended):					
PROMPT PAYMENT DISCOUNTS (PPD)					
Commonwealth payments are issued through Electronic Funds Transfer (EFT) 45 days from invoice receipt. See Prompt Pay Discounts Policy .					
Contractors requesting accelerated payments must identify a PPD as follows: Payment issued within: 10 days % PPD. 15 days % PPD. 20 days % PPD. 30 days % PPD. If PPD percentages are left blank, identify reason:					
Statutory/legal		Ready Payments (M.G.L. c. 29, § 23A)	Agree to standard 45-day cycle		Only initial payment
BRIEF DESCRIPTION OF CONTRACT PERFORMANCE or REASON FOR AMENDMENT					
Enter the Contract title, purpose, fiscal year(s) and a detailed description of the scope of performance or what is being amended for a Contract Amendment. Attach all supporting documentation and justifications.					
SUPPLIER DIVERSITY PROGRAM (SDP) PLAN					
Does the Supplier Diversity Program apply? YES IF YES, the Contractor's annual SDP commitment for this Contract is NO IF NO, and the department is an Executive Department, enter the appropriate exemption:					
ANTICIPATED START DATE (Complete ONE option only.)					
The Department and Contractor certify for this Contract, or Contract Amendment, that Contract obligations:					
1. may be incurred as of the Effective Date (latest signature date below) and no obligations have been incurred prior to the Effective Date.					
2. may be incurred as of _____, 20____, a date LATER than the Effective Date below and no obligations have been incurred prior to the Effective Date.					
3. were incurred as of _____, 20____, a date PRIOR to the Effective Date below, and the parties agree that payments for any obligations incurred prior to the Effective Date are authorized to be made either as settlement payments or as authorized reimbursement payments, and that the details and circumstances of all obligations under this Contract are attached and incorporated into this Contract. Acceptance of payments forever releases the Commonwealth from further claims related to these obligations.					
CONTRACT END DATE					
Contract performance shall terminate as of _____, 20____, with no new obligations being incurred after this date unless the Contract is properly amended, provided that the terms of this Contract and performance expectations and obligations shall survive its termination for the purpose of resolving any claim or dispute, for completing any negotiated terms and warranties, to allow any close out or transition performance, reporting, invoicing or final payments, or during any lapse between amendments.					
CERTIFICATIONS					
Notwithstanding verbal or other representations by the parties, the "Effective Date" of this Contract or Amendment shall be the latest date that this Contract or Amendment has been executed by an authorized signatory of the Contractor, the Department, or a later Contract or Amendment Start Date specified above, subject to any required approvals. The Contractor certifies that they have accessed and reviewed all documents incorporated by reference as electronically published and the Contractor makes all certifications required under the Standard Contract Form Instructions and Contractor Certifications under the pains and penalties of perjury, and further agrees to provide any required documentation upon request to support compliance, and agrees that all terms governing performance of this Contract and doing business in Massachusetts are attached or incorporated by reference herein according to the following hierarchy of document precedence, the applicable Commonwealth Terms and Conditions, this Standard Contract Form, the Standard Contract Form Instructions and Contractor Certifications, the Request for Response (RFR) or other solicitation, the Contractor's Response (excluding any language stricken by a Department as unacceptable, and additional negotiated terms, provided that additional negotiated terms will take precedence over the relevant terms in the RFR and the Contractor's Response only if made using the process outlined in 801 CMR 21.07 , incorporated herein, provided that any amended RFR or Response terms result in best value, lower costs, or a more cost effective Contract.					
AUTHORIZING SIGNATURE FOR THE CONTRACTOR Signature and date must be captured at time of signature.			AUTHORIZING SIGNATURE FOR THE COMMONWEALTH Signature and date must be captured at time of signature.		
Signature		Date	Signature		Date
Print Name		Print Title	Print Name		Print Title



COMMONWEALTH TERMS AND CONDITIONS FOR INFORMATION TECHNOLOGY CONTRACTS

This Commonwealth Terms and Conditions for Information Technology Contracts ("IT Terms and Conditions") form is jointly issued by the Executive Office of Technology Services and Security (EOTSS), the Executive Office for Administration and Finance (ANF), the Office of the Comptroller (CTR) and the Operational Services Division (OSD) for use by all Commonwealth of Massachusetts ("State") Departments and Contractors to govern Contracts subject to the object codes for information technology, as defined by the Office of the Comptroller's [Expenditure Classification Handbook](#), or other Contracts as expressly approved in writing by EOTSS, ANF, OSD, and CTR. Any changes or electronic alterations by either the Department or the Contractor to the official version of this form shall be void. Upon execution of the Standard Contract Form and filing as prescribed by the Office of the Comptroller, these IT Terms and Conditions will be incorporated by reference into any Contract for IT commodities or services executed by the Contractor and any State Department, in the absence of a superseding law or regulation requiring a different Contract form. Performance shall include services rendered, obligations due, costs incurred, commodities and deliverables provided and accepted by the Department, programs provided or other commitments authorized under a Contract. A deliverable shall include any tangible product to be delivered as an element of performance under a Contract. The Commonwealth is entitled to ownership and possession of all deliverables purchased or developed with State funds. The Commonwealth's possession, installation, or use of proprietary IT commodities or services, developed by Contractor for the open market without the use of State funds, shall not transfer title or ownership thereof to the Commonwealth. A "Contract" shall mean, in the following order of priority: (i) these IT Terms and Conditions; (ii) the Standard Contract Form issued jointly by ANF, CTR and OSD, and the Standard Contract Form Instructions and Contractor Certifications; (iii) the Request for Response (RFR) or applicable solicitation document, as it may be amended by the Department; (iv) the Contractor's response to the RFR or applicable solicitation document, as it may be amended by the Department and Contractor, including any negotiated terms and conditions allowable pursuant to law or regulation; (v) a solicitation created by the Department for a particular engagement such as a Request for Quote (RFQ), as it may be amended by the Department; (vi) any negotiated terms and conditions governing a particular engagement, as expressly agreed to in writing between the Department and the Contractor; and (vii) the Contractor's response to the Department's solicitation.

1. Contract Effective Start Date. Notwithstanding verbal or other representations by the parties, the effective start date of performance under a Contract shall be the later of the date the Contract was executed by an authorized signatory of the Contractor, the date the Contract was executed by an authorized signatory of the Department, the date specified in the Contract, or the date of any approvals required by law or regulation.

2. Payments And Compensation. The Contractor shall only be compensated for performance delivered and accepted by the Department in accordance with the specific terms and conditions of a Contract. The Department may, in its sole discretion, agree to pre-payment for subscription-based IT commodities or services for a term length as specified in the Contract. All Contract payments are subject to appropriation pursuant to M.G.L. c. 29, § 26, or the availability of sufficient non-appropriated funds for the purposes of a Contract, and shall be subject to intercept pursuant to M.G.L. c. 7A, § 3 and 815 CMR 9.00. Overpayments shall be reimbursed by the Contractor or may be offset by the Department from future payments in accordance with state finance law. Acceptance by the Contractor of any payment or partial payment, without any written objection by the Contractor, shall in each instance operate as a release and discharge of the State from all claims, liabilities or other obligations relating to the performance of a Contract.

3. Contractor Payment Mechanism. All Contractors will be paid using the Comptroller's payment system unless a different payment mechanism is required. The Contractor shall timely submit invoices and supporting documentation as prescribed in a Contract. The Department shall review and return rejected invoices within fifteen (15) days of receipt with a written explanation for rejection. Payments shall be made in accordance with the bill paying policy issued by the Office of the Comptroller and 815 CMR 4.00, provided that payment periods listed in a Contract of less than forty-five (45) days from the date of receipt of an invoice shall be effective only to enable a Department to take advantage of early payment incentives and shall not subject any payment made within the forty-five (45) day period to a penalty. The Contractor Payroll System shall be used only for Individual Contractors who have been determined to be Contract Employees as a result of the Department's completion of an Internal Revenue Service SS-8 form in accordance with the Omnibus Budget Reconciliation Act (OBRA) of 1990, and shall automatically process all state and federal mandated payroll, tax and retirement deductions.

4. Contract Termination Or Suspension. A Contract shall terminate on the date specified in a Contract, unless this date is properly amended in accordance with all applicable laws and regulations prior to this date, or unless terminated or suspended under this Section upon prior written notice to the Contractor. The Department may, without penalty, terminate or suspend a Contract: (i) without cause; (ii) if the Contractor breaches any material term or condition or fails to perform or fulfill any material obligation required by a Contract; (iii) in the event of an elimination of an appropriation or availability of sufficient funds for the purposes of a Contract; or (iv) in the event of an unforeseen public emergency mandating immediate Department action. Upon immediate notification to the other party, neither the Department nor the Contractor shall be deemed to be in breach for failure or delay in performance due to Acts of God or other causes factually beyond their control and without their fault or negligence. Subcontractor failure to perform or price



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increases due to market fluctuations or product availability will not be deemed factually beyond the Contractor's control.

5. Written Notice. Any notice shall be deemed delivered and received when submitted in writing in person or when delivered by any other appropriate method evidencing actual receipt by the Department or the Contractor. Any written notice of termination or suspension delivered to the Contractor shall state the effective date and period of the notice, the reasons for the termination or suspension, if applicable, any alleged breach or failure to perform, a reasonable period to cure any alleged breach or failure to perform, if applicable, and any instructions or restrictions concerning allowable activities, costs or expenditures by the Contractor during the notice period.

6. Confidentiality, Privacy, and Protection of Data. The Contractor shall comply with M.G.L. c. 66A if the Contractor becomes a "holder" of "personal data" and shall comply with M.G.L. c. 93H if the Contractor accesses "personal information." The Contractor shall also protect the physical security and restrict any access to personal or other Department data in the Contractor's possession, or used by the Contractor in the performance of a Contract, which shall include, but is not limited to, the Department's public records, documents, files, software, equipment or systems. See also the Commonwealth's Standard Contract Form and the Enterprise Security Policies and Standards: <https://www.mass.gov/handbook/enterprise-information-security-policies-and-standards>.

7. Record-keeping And Retention, Inspection Of Records. The Contractor shall maintain records, books, files and other data as specified in a Contract and in such detail as shall properly substantiate claims for payment under a Contract, for a minimum retention period of six (6) years beginning on the first day after the final payment under a Contract, or such longer period as is necessary for the resolution of any litigation, claim, negotiation, audit or other inquiry involving a Contract. The Department shall have access, as well as any parties identified under Executive Order 195, during the Contractor's regular business hours and upon reasonable prior notice, to such records, including on-site reviews and reproduction of such records at a reasonable expense.

8. Assignment. The Contractor may not assign or delegate, in whole or in part, or otherwise transfer any liability, responsibility, obligation, duty or interest under a Contract, with the exception that the Contractor shall be authorized to assign present and prospective claims for money due to the Contractor pursuant to a Contract in accordance with M.G.L. c. 106, § 9-318. The Contractor must provide sufficient notice of assignment and supporting documentation to enable the Department to verify and implement the assignment. Payments to third party assignees will be processed as if such payments were being made directly to the Contractor and these payments will be subject to intercept, offset, counter claims or any other Department rights which are available to the Department or the State against the Contractor. Upon prompt written notice to the Contractor, the Department may assign or delegate, in whole or

in part, or transfer any liability, responsibility, obligation, duty or interest under a Contract, to another Department, provided that the assignee has agreed to take full responsibility of such Contract, liability, responsibility, obligation, duty or interest.

9. Subcontracting By Contractor. Any subcontract entered into by the Contractor for the purposes of fulfilling the obligations under a Contract must be in writing, authorized in advance by the Department and shall be consistent with and subject to the provisions of these IT Terms and Conditions and a Contract. Subcontracts will not relieve or discharge the Contractor from any duty, obligation, responsibility or liability arising under a Contract. The Contractor shall be responsible for the acts and omissions of its subcontractors. The Department is entitled to copies of all subcontracts and shall not be bound by any provisions contained in a subcontract to which it is not a party.

10. Affirmative Action, Non-Discrimination In Hiring And Employment. The Contractor shall comply with all federal and state laws, rules and regulations promoting fair employment practices or prohibiting employment discrimination and unfair labor practices and shall not discriminate in the hiring of any applicant for employment nor shall any qualified employee be demoted, discharged or otherwise subject to discrimination in the tenure, position, promotional opportunities, wages, benefits or terms and conditions of their employment because of race, color, national origin, ancestry, age, sex, religion, disability, handicap, sexual orientation or for exercising any rights afforded by law. The Contractor commits to purchasing supplies and services from certified minority or women-owned businesses, small businesses or businesses owned by socially or economically disadvantaged persons or persons with disabilities.

11. Liability. Unless otherwise exempted by law, and subject to Section 13, the Contractor shall be liable for any and all claims, liabilities, and costs which arise out of the Contractor's performance of a Contract.

12. Indemnification. The Contractor shall indemnify and hold harmless the State, including the Department, its agents, officers and employees, against any and all claims, liabilities, and costs for personal injury, property damage, or infringement of intellectual property rights, (each, an "Unlimited Claim"), and all claims, liabilities, and costs, in connection with a security or data breach, or unauthorized disclosure of data, (each, a "Data Breach"), and other claims, liabilities, and costs, which arise out of Contractor's performance of a Contract. After prompt notification by the State, the Contractor shall have an opportunity to participate in the defense of claims and any negotiated settlement agreement or judgment. The State shall not be liable for any costs incurred by the Contractor arising under this Section 12. The Contractor (including its agents, officers, employees or subcontractors) shall at no time be considered an agent or representative of the Department or the State. Any indemnification of the Contractor shall be subject to appropriation and applicable law.

13. Limitation of Liability. Absent a higher limitation of liability expressly agreed to in a particular Contract between the Department and the Contractor, the limitation of liability in this



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Section 13 shall apply. This Section 13 shall not limit the State's right of recovery for the Contractor's indemnification obligations for an Unlimited Claim under Section 12, nor the State's ability to join the Contractor as a third-party defendant in connection with an Unlimited Claim or Data Breach. The Contractor's liability for any Data Breach shall not exceed the greater of: (i) \$250,000; (ii) the amount mandated by applicable State or Federal law; (iii) five times the total value of the Contract (or in the case of subscription-based Contracts, five times the total value of the Contract during the committed subscription term); or (iv) the total coverage provided by Contractor's insurance provider(s) for such Data Breach. The Contractor's liability for any other claim shall not exceed the greater of: (i) \$100,000; or (ii) two times the total value of the Contract (or in the case of subscription-based Contracts, two times the total value of the Contract during the committed subscription term). Except for the Contractor's indemnification obligations for an Unlimited Claim or Data Breach under Section 12, the Contractor shall not be liable for incidental or consequential damages, including without limitation, loss of use of equipment, lost revenue, lost savings or lost profits of the State.

14. Waivers. Forbearance or indulgence in any form or manner by a party shall not be construed as a waiver, nor in any way limit the legal or equitable remedies available to that party. No waiver by either party of any default or breach shall constitute a waiver of any subsequent default or breach.

15. Risk Of Loss. The Contractor shall bear the risk of loss for any Contractor materials used for a Contract and for all deliverables, Department personal or other data which is in the possession of the Contractor or used by the Contractor in the performance of a Contract until possession, ownership and full legal title to the deliverables are transferred to and accepted by the Department.

16. Forum, Choice of Law And Mediation. Any actions arising out of a Contract shall be governed by the laws of Massachusetts, and shall be brought and maintained in State court in Massachusetts, unless a federal court in Massachusetts has

exclusive jurisdiction thereof. The Department, with the approval of the Office of the Attorney General (AGO), may: (i) consent to the jurisdiction of federal courts outside of Massachusetts; or (ii) agree to voluntary mediation through the Massachusetts Office of Dispute Resolution (MODR) of any Contract dispute and will share the costs of such mediation with the Contractor. No legal or equitable rights of the parties shall be limited by this section.

17. Contract Boilerplate Interpretation, Severability, Conflicts With Law, Integration. Any amendment or attachment to any Contract which contains conflicting language or has the effect of deleting, replacing or modifying any printed language of these IT Terms and Conditions, as officially published by EOTSS, ANF, CTR and OSD, or any printed language of the Standard Contract Form shall be interpreted as superseded by the official printed language. If any provision of a Contract is found to be superseded by state or federal law or regulation, in whole or in part, then both parties shall be relieved of all obligations under that provision only to the extent necessary to comply with the superseding law, provided however, that the remaining provisions of the Contract, or portions thereof, shall be enforced to the fullest extent permitted by law. All amendments must be executed by the parties in accordance with Section 1 of these IT Terms and Conditions and filed with the original record copy of a Contract as prescribed by CTR. The printed language of the Standard Contract Form, as officially published by ANF, CTR and OSD, which incorporates by reference these IT Terms and Conditions, shall supersede any conflicting verbal or written agreements relating to the performance of a Contract, or attached thereto, including contract forms, purchase orders or invoices of the Contractor.

IN WITNESS WHEREOF, the Contractor certifies under the pains and penalties of perjury that it shall comply with these IT Terms and Conditions for any applicable Contract executed with the Commonwealth as certified by their authorized signatory signing the Standard Contract Form.