



UNIVERSITY OF
CENTRAL
ARKANSAS™

INVITATION FOR COMPETITIVE SEALED “TERM” BID

Submit Bids To: Procurement Department
University of Central Arkansas
201 Donaghey Avenue, Wingo 113
Conway, AR 72035

This is a “**Term**” bid to be used July 1, 2024 through June 30, 2025 with an option to renew in one-year increments not to exceed a total of seven (7) consecutive years. Work will be on “**AS NEEDED**” basis. All prices must remain firm for each period of the Contract.

General Description of Needs: **Towing Service for University of Central Arkansas.** See pages 3-6 for more information.

UCA Contact Person: Daryl Babb

Phone Number: 501-450-5029

Fax Number: 501-450-5020

Type of Contract: TERM

Contract Period: July 1, 2024– June 30, 2025

Invoice To: University of Central Arkansas
Attn: Accounts Payable,
201 Donaghey Avenue
McCastlain Hall Basement
Conway, AR. 72035

Special Terms and Conditions:

1. This bid will be awarded to the lowest responsible/responsive bidder on an “ALL OR NONE” basis.
2. The successful Contractor shall be required to furnish General Liability Insurance, Automobile Insurance and Worker’s Comp Insurance (if applicable).
3. Any contract entered into as a result of the Invitation for Bid could be renewed for a total of seven (7) consecutive years, in one (1) year increments. Pricing is subject to negotiation with each renewal period.

**REQUEST FOR BID
SIGNATURE CERTIFICATION PAGE**

Description: Towing Service
Issue Date: April 30, 2024
Opening Time: 9:00 a.m. CST

Bid Number: UCA-25-001R
Opening Date: May 14, 2024
Procurement Contact: Daryl Babb

BIDS WILL BE ACCEPTED UNTIL THE TIME AND DATE SPECIFIED ABOVE. THE BID MUST BE SEALED AND PROPERLY MARKED WITH THE BID NUMBER, DATE AND TIME OF BID OPENING AND BIDDER'S RETURN ADDRESS. IT IS NOT NECESSARY TO RETURN "NO BIDS" TO THE UNIVERSITY OF CENTRAL ARKANSAS PROCUREMENT OFFICE.

Company Name: _____

Contact Name (Type or Print) _____

Title: _____

Address: _____

Point of Contact Phone Number: _____

Point of Contact E-Mail Address: _____

FAILURE TO PROVIDE A TAXPAYER IDENTIFICATION NUMBER MAY RESULT IN BID REJECTION:

Federal Employer Identification Number or Social Security Number

The undersigned affirms that they are duly authorized to execute this contract, that this bid has not been prepared in collusion with any other Offeror, and that the contents of this bid have not been communicated to any other Offeror or any employee of University of Central Arkansas prior to the official review of this bid. **THE BID MUST BE SIGNED. UNSIGNED BIDS WILL NOT BE CONSIDERED.**

Signature: _____

University of Central Arkansas

**Conway, AR 72035
INVITATION FOR BID**

GENERAL INFORMATION

The University of Central Arkansas (UCA) is soliciting responses from interested vendors for towing/wrecker services. The majority of these vehicles must be removed from the campus or surrounding areas due to parking violations or other various reasons as deemed necessary by the UCA Police Department. Estimated number of calls for this type of service is fifty (50) per calendar year.

The service(s) will involve, but will not be limited to, the following:

- a. Responding to calls, authorized by the UCA Police Department, for the nonconsensual removal of vehicles from the UCA campus and surrounding areas.
- b. Impoundment and storage of vehicles by order of the UCA Police Department.
- c. Proper notification of the last known owner of such stored vehicles, as required by law.
- d. Not releasing such vehicles until approved by the UCA Police Department.

OWNER’S PREFERENCE

- 1.1** Before utilizing the awarded tow company, “owner’s preference,” shall be offered by the UCAPD to the registered owner, driver, or any competent occupant, if available, of any disabled or inoperative vehicle, except in those circumstances when an emergency exists or where the immediate clearing of a public thoroughfare mandates that a tow operator be requested on an expedited basis, or when the occupant(s) have been physically arrested.

- 1.2** “Owner preference” means the right of the owner or person in charge of any disabled or inoperative vehicle to request some responsible and reasonable person, gratuitous bailee, or bailee for hire of his or her choosing to take charge and care of said vehicle.

MINIMUM REQUIREMENTS

Any towing business that wishes to respond to this bid shall meet the following requirements:

- 2.1** The towing business shall be approved by the Arkansas Towing and Recovery Board and be licensed to engage in the non-consent towing business. Each tow vehicle must have a current “Tow Vehicle Safety Permit” (decal issued by the Arkansas Towing and Recovery Board) affixed to the windshield. (See attached Arkansas Towing and Recovery Board Rules as of April 2024)

- 2.2** The towing business shall be willing to provide towing, storage, or other related services at all hours.

2.3 The towing business shall have a phone number listed in the name of the towing business, and in addition, have a phone number at which the towing business can be contacted after business hours. During normal business hours, Monday through Friday, the towing business shall have someone at the business that will be available for administrative matters, and for the release of motor vehicles or other related items stored at the request of UCAPD. After normal business hours, a person shall be on-call to provide said services.

2.4 The towing business shall provide UCA Procurement a complete list of all prices annually for the services it performs or may perform related to the towing and storage of any vehicle for the UCAPD. The list shall be on the letterhead of the towing business. The towing business shall not exceed the prices on file with UCA for services performed at the request of the UCAPD.

2.4.A The towing business understands these prices may be provided to citizens needing a tow service and will be subject to public release under the Arkansas Freedom of Information Act.

2.5 The towing business shall provide reasonable accommodations for after-hour release of stored vehicles or the release of personal property in stored vehicles or other related storage. Once UCAPD releases any hold on personal property inside or affixed to the towed vehicle, the towing company, unless they can show just cause, shall release personal property to the rightful owner. Nothing herein shall be construed to require a towing business to forfeit or relinquish its possessory lien as established under Arkansas law.

2.6 The towing business shall maintain a reasonably secure area for the safe storage of motor vehicles or other items stored at the request of the UCAPD. Storage facilities shall be clearly marked as belonging to that particular towing business.

2.6.A Each storage facility must have adequate lighting to illuminate the fenced-in area.

2.6.B Fencing shall be adequate to reasonably secure the storage facility and prevent unauthorized entrance. The towing business shall maintain a sufficient amount of insurance to cover loss or damage to stored vehicles or property.

2.7 Towing businesses shall remove any glass, vehicle parts, or other substances dropped or spilled prior to leaving the incident scene.

2.8 No towing business shall accept a service call if the tow vehicle operator is under the influence of any substance that could cause impairment.

2.9 The towing business shall maintain a record or ledger of all vehicles towed at the direction of the UCAPD. This record or ledger shall contain the following information: (1) date, time and location of the tow; (2) description of vehicle being towed with VIN

and license plate number; (3) name of tow vehicle operator; and (4) location to which the vehicle was towed.

2.10 Towing businesses shall cooperate with UCA and allow the inspection of records or equipment associated with compliance of these Rules.

2.11 The owner, or owners, and any employee of the towing business who operate a tow vehicle, shall comply with all federal and state laws.

2.12 Indicate the ability to respond within thirty (30) minutes from the time the University's request has been received with the exception of severe inclement weather as determined by the University. If not, describe why or how you may be able to meet this requirement.

RATES AND CHARGES REQUIREMENTS

A towing business receiving calls from the UCAPD shall not charge fees in excess of those provided in writing by the towing business as part of this bid, nor shall a towing business charge for the use of equipment and/or personnel not reasonably necessary to perform the requested services in a timely and professional manner.

3.1 Any and all fees for services rendered must be the responsibility of the vehicle owner. UCA will not be responsible for any liability claims nor charges of any kind.

3.2 Storage fees shall be reasonable, as determined by industry standards. A list of fees and how those fees are calculated shall be given to the UCAPD. Consumer charges shall not deviate from the list provided.

3.3 Whenever complaints are received by the UCAPD concerning the services provided or the fees charged for towing and related services requested through the UCAPD, the complaint shall be investigated to determine the validity of the complaint and if any action is warranted against the towing business.

3.4 Any towing business found to have exceeded its posted prices, using unnecessary services to increase its fee, or engaging in unethical business practices shall be subject to contract termination. Towing businesses shall maintain a current price list, on its letterhead, of all charges for equipment and services at UCAPD.

3.5 All non-consent towing businesses shall develop for each vehicle towed a true and correct itemized statement, bill, or invoice of all charges, separately itemizing fee for notification to owner(s) and lien holders and shall furnish the owner of the tow vehicle or his agent with a duplicate of the itemized statement, bill, or invoice of all charges incurred.

3.6 Below is a list of mandatory response fees or charges

3.6. A Charge/Fee for any vehicle towed from the premises of UCA or at the request of UCAPD:

\$ _____

3.6. B Storage / Impound charge/fee on a per day basis:

\$ _____

3.6.C Storage/Impound charges/fees are initiated on the:

Date of Impoundment: _____ Date after Impoundment: _____

(Check the appropriate response)

3.6.D Charge/Fee if the owner of the vehicle shows up prior to “hook-up”:

\$ _____

3.6.E Charge/Fee if owner of the vehicle shows up prior to the tow but “hook-up” has been made: \$ _____

3.6.F Awarded tow company will provide the University of Central Arkansas with a minimum of fifteen (15) tows annually of University vehicles within a thirty-five (35) mile radius of the University at no charge to the University.

_____ yes _____ no

3.6.G Responding tow business is to provide any additional charges or fees to this response.

STANDARD TERMS & CONDITIONS

I. GENERAL

1. Parties. As used in these Terms and Conditions, “University” refers to the University of Central Arkansas that issues a purchase order (PO) or enters into an agreement incorporating these terms. “Vendor” refers to the party to which a purchase order is issued by the University, or to a party to another form of agreement with the University.

2. Application. These Terms and Conditions are incorporated by reference in each PO issued by the University and may be incorporated by reference in a written agreement between the University and a Vendor. Any terms or conditions included in a PO issued by University or in a separate written agreement between University and Vendor take precedence over these Terms and Conditions, unless provided otherwise in such PO or agreement.

3. Debarment and Suspension. Vendor shall not be eligible to contract with the University for goods or services covered by the Arkansas Procurement Law if Vendor is presently debarred or suspended pursuant to Ark. Code Ann. § 19-11-245. Vendor shall not be eligible to contract with the University to provide goods or services that are a “covered transaction” within the scope of the Federal Acquisition Regulation or similar Federal law if Vendor is presently disbarred under Federal law. The University may immediately terminate the PO or agreement if the University determines that Vendor has been disbarred or suspended.

4. No Other Terms Accepted. No additional terms or conditions shall be effective without the written consent of the University. The University expressly rejects any terms or conditions proposed or published by Vendor. In the event of a conflict between these Terms and Conditions and Vendor’s proposed terms, these Terms and Conditions shall control.

II. PURCHASING

1. Prices. In case of errors in extension, unit prices shall govern. Prices shall be firm and not subject to adjustment or deviation unless specifically approved in writing by the University prior to delivery.

2. Discounts. All cash discounts offered will be taken if earned.

3. Taxes. The University is not exempt from paying sales or use taxes, except on those items and /or purchase transactions that are specifically exempted by law. When applicable, sales or use tax must be itemized on invoices.

4. Shipment. All products to be delivered to the University shall be shipped only FOB Point of Destination or, in the case of international shipments, delivered to the point of destination specified by the University, cleared for import and with all applicable duties and taxes paid. Risk of loss for products shall pass to the University upon delivery of the products to point of destination designated by the University.

5. Backorders or delay in delivery. Backorders or failure to deliver within the time required may, at the sole discretion of the University, be deemed an event of default. Vendor must give written notice to the University Procurement Department of the reason for any such delay and the expected delivery date. The University's Procurement Department may, in its discretion, extend the date of delivery.

6. Delivery requirements. No substitutions or cancellations are permitted without approval of the University Procurement Department. The delivery shall be made during University work hours only (generally, 8 a.m. – 4:30 p.m., Central Standard Time, though slightly varies depending on particular campus, and closed Saturday, Sunday and University Holidays), unless prior approval for other delivery has been obtained. Items should be shipped to the "Ship-To" address listed on the PO or agreement. .

7. Variation in quantity. The University assumes no liability for commodities produced, processed, or shipped in excess of the amount specified on the PO.

8. Duties and customs fees. All duties and customs fees shall be paid in advance by the Vendor prior to shipping any product for import or export to the University.

9. Permits and licenses. Vendor shall, at its own expense, procure and keep in effect all necessary permits, certifications or licenses as required by law or as otherwise required to fulfill the PO or agreement.

10. Inspection and testing. All goods and other products furnished will be subject to inspection and acceptance by the University after delivery. Failure to meet the agreed upon product or services specifications entitles the University to cancel the PO or agreement, to reject some or all of the goods or services, to purchase replacement goods or services elsewhere and to charge the full increase, if any, in cost and handling to Vendor, and to obtain from Vendor a refund of all monies paid by the University. Payments made by the University to Vendor shall not be deemed a waiver of the University's rights or remedies.

11. Time of the Essence. Vendor and University agree that time is of the essence in all respects concerning the PO and the performance of the obligations thereunder.

III. PAYMENT

1. Invoicing. The Vendor will be paid in a timely manner upon submission of a properly itemized invoice, after delivery and acceptance of goods or services by the University. All invoices must be sent to the “Bill To” point listed on the University purchase order, and must also include the following additional information where applicable:

- The complete name and remittance address of the Vendor
- Invoice Date
- Invoice Number
- Purchase Order Number
- Itemized listing of purchases, to include a description of the merchandise and/or services, unit price and extended line total
- Name and location of department for whom the goods or services were provided.
- Discount payment terms
- Itemized taxes.

2. Interest and Late Charges. Under Ark. Code Ann. §§ 19-4-706 and 19-11-224, the University shall not pay interest or late charges until 60 days after payment is due.

3. Deposits. The University may not make payments in advance of receiving goods or services. Title to any amount remitted by the University as a deposit remains with the University pending completion of the transaction and shall be immediately returned by Vendor to the University in the event that: (a) the Vendor does not deliver the agreed upon product, service or performance when and as agreed; (b) the agreement or PO is terminated by the University for cause; or (c) if either party is unable to perform its obligations under the agreement or PO as a result of an Excused Performance Event (as defined in these Terms and Conditions).

4. Payment Instructions. Vendor agrees that in the course of making payments the University is entitled to rely on information contained in written or electronic communications that the University reasonably believes have been transmitted or authorized by Vendor. Vendor shall hold the University harmless against any loss or damage related to or arising from University’s reliance on such communications.

IV. MINIMUM STANDARDS

1. Service Warranties. Vendor shall perform all services using personnel of required skill, experience and qualifications and in a professional and workmanlike manner in accordance with generally accepted standards for similar services in Vendor’s industry, trade or profession, and shall devote adequate resources to timely meet its obligations under the PO or agreement.

2. Product Warranties. Unless otherwise specified in a PO or a separate written agreement, all items shall be newly manufactured, in first class condition, latest model and design and shall include, where applicable, containers suitable for shipment and storage. Vendor guarantees that everything furnished will be free from defects in design, workmanship and material and that items sold by drawing, sample or specification will conform thereto and will serve the function for which furnished under the PO or agreement (“Specifications”). Vendor further guarantees that if the items furnished are to be installed by the Vendor, such items will function properly when installed and any manufacturer warranties will be assigned to the University. Vendor also guarantees that all applicable laws have been complied with relating to construction, packaging, labeling and registration of the items furnished. Vendor’s obligations under this paragraph shall survive for a period of one (1) year from date of delivery, unless otherwise specified herein.

3. Confidentiality of Student Education Records. To the extent that Vendor has access to, stores or receives student education records, Vendor will abide by the limitations on use and re-disclosure of such records set forth in the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g, and 34 CFR Part 99. Vendor shall hold student record information in strict confidence and shall not use or disclose such information except as authorized in writing by the University or as required by law. Vendor shall not use the information for any purpose other than the purpose for which the disclosure was made. Upon termination or expiration of the PO or agreement Vendor shall return or destroy all student education record information within 30 days.

4. HIPAA. To the extent that the PO or agreement involves covered use or receipt of Protected Health Information, as defined under the Health Insurance Portability and Accountability Act (HIPAA), Vendor agrees to fully comply with all applicable requirements of HIPAA and the regulations promulgated pursuant to HIPAA.

5. Campus Policies. In the event Vendor provides services or deliver goods to the University campus, Vendor and its permitted subcontractors will fully comply with all applicable University policies and Arkansas and federal law while on campus or on any other University property. This includes, but is not limited to, the following: (a) Vendor shall not permit tobacco, electronic cigarettes, alcohol, or illegal drugs to be used by any of its officers, agents, representatives, employees, subcontractors, licensees, guests or invitees while on the campus of the University; (b) Vendor will not permit any of its officers, directors, agents, employees, contractors, subcontractors, licensees, guests or invitees to bring any explosives, firearms or other weapons onto the campus of the University, except to the extent expressly permitted by University policies or by the Arkansas enhanced concealed carry laws; (c) Vendor will not allow any of its officers, directors, agents, employees, contractors, subcontractors, licensees, guests or invitees that are registered sex offenders or have been convicted of a felony involving force, violence, or possession or use of illegal drugs to enter the campus of the University.

6. Compliance with NCAA and Athletic Conference Rules and Regulations.

Vendor and its officers, employees, volunteers, subcontractors, agents, representatives, and guests will comply with all applicable National Collegiate Athletic Association (“NCAA”) and athletic conference bylaws, rules, and regulations; and the rules of any other conference or association to which the University’s athletic teams may belong.

Vendor and its officers, employees, volunteers, subcontractors, agents, representatives, and guests will not engage in any of the following activities: (a) wager on any collegiate sporting or athletic event involving the University; (b) exert, attempt to exert, or conspire to exert, authority or influence over any student-athlete or other participant in an attempt to manipulate any outcome of a University sporting or athletic event or the final outcome of any University sporting or athletic event; (b) disseminate, utilize, or permit others to disseminate or utilize, non-public confidential information regarding a student-athlete or University athletic team for the purposes of gambling; or (c) offer or provide, or become any way involved in offering or providing, a prospective or an enrolled student-athlete an improper inducement or extra benefit or improper financial aid. Vendor and its officers, employees, volunteers, subcontractors, agents, representatives, and guests will: (a) report all perceived or potential violations of NCAA, athletic conference, University, and University Athletic Department rules, policies, and procedures to the appropriate individuals (e.g., the University Athletic Department Compliance Office); (b) attend all compliance rules education meetings requested by University; and (c) cooperate fully in any NCAA infractions process, including the investigation and adjudication of a case by law enforcement, the University, its Office of General Counsel and its athletic governing athletic bodies or conferences. Vendor will hold harmless and indemnify University for any violation of such bylaws, rules or regulations by Vendor, its officials, employees, volunteers, subcontractors, agents, representatives, and guests.

7. Web Site Accessibility. Vendor agrees that any web-based services provided by Vendor substantially comply with the accessibility guidelines of Section 508 of the Rehabilitation Act of 1973 and with the current version of the Web Content Accessibility Guidelines (WCAG) and shall promptly respond to and resolve any accessibility complaints received from the University or from web-site users.

8. Non-Discrimination. Vendor agrees to comply with all applicable Federal and State laws, including without limitation laws pertaining to non-discrimination and affirmative action. Without limiting the generality of the foregoing, Vendor agrees as follows: (a) Vendor will not discriminate against any qualified employee, applicant for employment or participant in any program because of race, sex (including sexual orientation and gender identity), color, age, religion, disability, genetic information, national origin or veteran status; (b) in all solicitations or advertisements for employees, Vendor will state that all qualified applicants will receive consideration without regard to race, sex (including sexual orientation and gender identity) color, age, religion, disability, genetic information, national origin or veteran status; (c) Vendor’s failure to comply with this non-discrimination clause shall be deemed a breach of any agreement between the parties and such agreement may be canceled, terminated or suspended in whole or in part; (d) Vendor will include the provisions of items (a) through (c) in every permitted subcontract so that such provisions will be binding upon each subcontractor of Vendor.

9. Data Security. The following apply to any agreement, PO or engagement in which Vendor has access to, stores or processes electronic or digital records and information or records of any type owned, created, received, collected or stored by the University or on its behalf (“Data”). Data includes, but is not limited to, personally identifiable information, University, student, faculty and staff Data, metadata, and user content.

Vendor shall collect and use Data only for the purpose of performing its obligations under a PO or agreement. Vendor shall not provide or disclose Data to any entity or person not employed by Vendor without prior written consent of the University, except as may be required by law or permitted by the express terms of the PO or agreement. Vendor shall not change the manner in which Data is collected, used, or shared without the prior written consent of the University.

All Data in the possession or control of Vendor or its subcontractors or agents shall be destroyed, or transferred to the University when the Data is no longer needed for performance of the PO or agreement.

Vendor, and each subcontractor and agent of Vendor with access to Data, shall maintain appropriate technical and organizational measures for the protection of the security, confidentiality and integrity of Data and to prevent unauthorized access to including without limitation, safeguards that meet the requirements of the Federal Trade Commission Safeguard Rule, set forth at 16 CFR Part 314 and the European Union’s General Data Protection Regulations (“GDPR”). Vendor’s technical and organizational measure shall conform to the standards set in the current version of the NIST Cybersecurity Framework (or its equivalent). Such measures shall include measures for protection against unauthorized or unlawful access to Data and against accidental or unlawful destruction, loss, alteration, damage, disclosure of, or access, to Data.

Vendor shall maintain and operate a formal security program materially in accordance with industry standards that is designed to: (i) ensure the security and integrity of Data, (ii) protect against threats or hazards to the security or integrity of Data, (iii) prevent unauthorized access to Data, and (iv) prevent unauthorized access to the University’s information technology infrastructure including, without limitation, data processing devices, data storage devices, servers, networks, information services and computing devices and communication devices (“IT Infrastructure”).

If Vendor processes payment card data, Vendor shall also comply with all applicable requirements for validation and compliance with the PCI DSS (Payment Card Industry Data Security Standard), as appropriate for its Service Provider level.

In the event Vendor discovers unauthorized access to IT Infrastructure or unauthorized use or disclosure of Data (a “Security Breach”) or reasonably believes that a Security Breach has occurred, Vendor shall promptly (and within any timeframe established by applicable law concerning Vendor’s notification requirement) notify the University of such Security Breach, shall provide to the University any information regarding the

incident reasonably requested by the University (including a list of the Data and IT Infrastructure affected and all affected individuals and their contact information) and shall promptly take all measures reasonably required to recover Data, to remedy any flaws, defects or vulnerabilities in Vendor's systems, software or personnel related to the Security Breach and, if requested by the University, to assist the University in identifying and remedying any other flaws, defects or vulnerabilities related to the Security Breach.

If Vendor maintains or stores Data, Vendor shall engage, at its cost, an independent accounting firm to produce annual audit reports. The University reserves the right to require that such audits employ the SOC 2 standards of the American Institute of Certified Public Accountants. Vendor will transmit a copy of each audit report to the University immediately following Vendor's receipt of such report.

With respect to any processing of personal data of persons located in the European Union or the European Economic Area, Vendor shall only act on the written instruction of the University and shall assist the University in compliance with GDPR in relation to the security of processing, the notification of personal data breaches, data protection impact assessments, answering data subjects' requests, and allowing data subjects to exercise their rights. Vendor shall ensure that individuals processing the data are subject to a duty of confidentiality and only engage sub-processors with the prior consent of the University and under a written contract.

Vendor shall limit access to Data and IT Infrastructure ("Data Access") to individuals whose duties require Data Access in order for Vendor to perform its contractual obligations. Before permitting Data Access to any individual, Vendor shall obtain, to the extent permitted by law, current criminal and financial background checks for such individual. Vendor shall not permit Data Access by any individual that Vendor reasonably determines may expose the University to a risk of loss or damage, unauthorized use or modification of Data, damage to IT Infrastructure.

Except as may be provided by a separate written agreement, all rights in Data and IT Infrastructure, including all intellectual property rights, shall remain the property of the University, and Vendor has only a limited, nonexclusive license for the sole purpose of performing its obligations as outlined in the PO or agreement.

Vendor shall maintain insurance, in the amount of at least \$5,000,000 per occurrence, protecting the University against loss or damages (including costs of litigation) arising from a Security Breach related to or arising from Vendor's acts or omissions.

V. UNIVERSITY PROPERTY RIGHTS

1. University Property. Specifications, drawings, information, dies, cuts, negatives, positives, data or any other commodity or intellectual property furnished to Vendor shall

remain property of the University, shall be kept confidential by Vendor unless disclosure is required by law, shall be used only as expressly authorized, and shall be returned to the University at Vendor's expense. Vendor shall, at the request of the University, sign a written assignment of all intellectual property (including, without limitation, rights under copyright, trademark and patent law) developed by or for Vendor expressly for the University in the course of performing Vendor's obligations, and all such intellectual property shall be the property of the University unless provided otherwise in a signed, written agreement.

2. Marks and Logos. The University's trade names, nicknames, trade dress, logos, mascots, uniforms, images, facilities, landmarks, symbols, trademarks, and service marks, or other indicia of intellectual property whether presently existing or later established, including without limitation any derivative marks (collectively "Marks") are the exclusive property of the University. Nothing in any agreement or PO transfers, licenses, or allows any use of the University's Marks unless expressly agreed upon in writing by both parties. In the event that an agreement between Vendor and the University grants such authorization, Vendor must immediately discontinue use of the Marks of the University upon the expiration or termination of the agreement. Unauthorized use of the Marks of the University by Vendor or its respective employees, affiliates, or subagents constitutes infringement of the University's rights and a material breach of contract. Under no circumstances may Vendor use the University's Marks in such a manner as to imply or state an endorsement of Vendor or its products by the University.

3. Use of Logo Products. Merchandise that carries a University logo or trademark must be purchased from vendors that are licensed by or through the University.

4. Liens and Security Interests. Property of the University shall not be subjected to liens or security interests of any nature. Any provision of an agreement, quotation, PO or invoice that purports to impose a lien or security interest is expressly rejected by the University and is of no effect.

5. Work for Hire. All goods, products, software or other items (collectively the "deliverables") under this agreement shall be and remain the exclusive property of UCA. All right, title and interest in such deliverables shall vest in, and be the property of, UCA. The parties agree that all deliverables shall, to the fullest extent permitted by law constitute "work for hire" under the U.S. copyright law, or any other law. Company shall retain its rights in its know-how, concepts, materials and information developed independently of this agreement. However, with regard to the deliverables paid for by UCA and produced under this agreement, UCA is hereby granted an exclusive, perpetual license (royalty-free) to use such deliverables in UCA's business. Company agrees to execute and deliver to UCA any and all instruments, documents or assignments to reflect the matters set forth in this paragraph.

VI. PERFORMANCE AND TERMINATION

1. Waiver. No waiver of any term, provision or condition of a PO or agreement, whether by conduct or otherwise, in any one or more instances, shall be deemed or construed to be a further or continuing waiver of any such term, provisions or condition of the contract.

2. Excused Performance. In the event that the performance of any terms or provisions of a PO or agreement shall be delayed or prevented because of compliance with any law, decree, or order of any governmental agency or authority, either local, state, or federal, or because of riots, war, acts of terrorism, public disturbances, unavailability of materials meeting the required standards, strikes, lockouts, differences with workmen, fires, floods, Acts of God, epidemic or pandemic or any other reason whatsoever which is not within the control of the party whose performance is interfered with and which, by the exercise of reasonable diligence, such party is unable to prevent (the foregoing collectively referred to as "Excused Performance"), the party so interfered with may at its option suspend, without liability, the performance of its obligations during the period such cause continues, and extend any due date or deadline for performance by the period of such delay, but in no event shall such delay exceed six (6) months unless agreed otherwise by the University.

3. Disputes. Vendor and the University agree that they will attempt to resolve any disputes in good faith. Subject to the provisions on sovereign immunity herein, the State of Arkansas shall be the sole and exclusive venue for any litigation or proceeding that may arise out of or in connection with a PO or agreement. The Vendor acknowledges, understands and agrees that any actions for damages against the University may only be initiated and pursued in the Arkansas Claims Commission. Under no circumstances does the University agree to binding arbitration of any disputes or to the payment of attorney fees, court costs or litigation expenses including appeals.

4. Termination. The agreement between Vendor and the University or PO issued by the University may be terminated by the University as follows:

For Breach: In the event that the Vendor fails to perform any obligation provided in these terms and conditions, the PO or the agreement, the University may notify the Vendor in writing of such failure and demand that the same be remedied within ten (10) days. Should the Vendor fail to remedy the same within said period, the University shall then have the right to immediately terminate the PO or agreement without penalty or further obligation and exercise any rights and remedies available to it by law or in equity. Additionally, upon Vendor's failure to remedy as provided above, the University may, without prejudice to any other rights or remedies available to the University, terminate the PO or agreement, in whole or in part, and procure the goods and/or services elsewhere and charge to Vendor all costs exceeding the price set forth in the PO or agreement.

For Convenience: The University may terminate the PO or agreement for the convenience of the University upon sixty (60) days advance written notice to Vendor

Non-appropriation: The University may cancel a PO or agreement to the extent the funds are no longer legally available for expenditures under the PO or agreement. Any delivered but unpaid for goods will be returned to the Vendor. If the University is unable to pay for goods that it retains or services provided, the Vendor may file a claim with the Arkansas State Claims Commission.

VII. CERTIFICATIONS REQUIRED BY LAW

1. Contract and Grant Disclosure and Certification. Any contract, or amendment to any contract, executed by the University which exceeds \$25,000.00 shall require Vendor to disclose information consistent with the terms of Arkansas Executive Order 98-04, and any amendments or replacements, and the regulations pursuant thereto. Failure of any individual or entity to disclose, or the violation of any rule, regulation or policy promulgated by the Department of Finance and Administration pursuant to this Order, shall be considered a material breach of the terms of the contract, lease, purchase agreement, or grant and shall subject the party failing to disclose, or in violation, to all legal remedies available to the University under the provisions of the existing law. The Contract and Grant Disclosure and Certification Forms (F-1 and F-2) can be found on the following website: <https://www.transform.ar.gov/procurement/agencies/forms-and-reporting/>

2. Illegal Immigrant Certification. For services contracts and construction contracts with a value of \$25,000 or greater, Vendor must certify that Vendor does not employ illegal immigrants and will not employ illegal immigrants during the term of the agreement between the University and the Vendor.

3. Prohibition Against Boycotting Israel. In accordance with Ark. Code Ann. § 25-1-503, if the PO or agreement has a value of \$1,000.00 or more, Vendor certifies to University that Vendor (a) is not currently engaged in a boycott of Israel and (b) agrees for the duration of its agreement with the University not to engage in a boycott of Israel.

4. Technology Access. When procuring a technology product or when soliciting the development of such a product, the State of Arkansas is required to comply with the provisions of Ark. Code Ann. § 25-26-201 et seq., as amended by Act 308 of 2013, which expresses the policy of the State to provide individuals who are blind or visually impaired with access to information technology purchased in whole or in part with state funds. Vendor acknowledges and agrees that state funds may not be expended in connection with the purchase of information technology unless that technology meets the statutory Requirements found in 36 C.F.R. § 1194.21, as it existed on January 1, 2019 (software applications and operating ICSs) and 36 C.F.R. § 1194.22, as it existed on January 1, 2019 (web-based intranet and internet information and applications), in

accordance with the State of Arkansas technology policy standards relating to accessibility by persons with visual impairments. Accordingly, Vendor providing a technology product shall expressly represent and warrant to the University through the procurement process by submission of a Voluntary Product Accessibility Template (VPAT) for 36 C.F.R. § 1194.21, as it existed on January 1, 2019 (software applications and operating ICSs) and 36 C.F.R. § 1194.22, that the technology provided to the University for purchase is capable, either by virtue of features included within the technology, or because it is readily adaptable by use with other technology, of:

Providing, to the extent required by Ark. Code Ann. § 25-26-201 et seq., equivalent access for effective use by both visual and non-visual means.

Presenting information, including prompts used for interactive communications, in formats intended for non-visual use.

After being made accessible, integrating into networks for obtaining, retrieving, and disseminating information used by individuals who are not blind or visually impaired.

Providing effective, interactive control and use of the technology, including without limitation the operating system, software applications, and format of the data presented is readily achievable by nonvisual means.

Being compatible with information technology used by other individuals with whom the blind or visually impaired individuals interact.

Integrating into networks used to share communications among employees, program participants, and the public.

Providing the capability of equivalent access by nonvisual means to telecommunications or other interconnected network services used by persons who are not blind or visually impaired.

State agencies cannot claim a product as a whole is not reasonably available because no product in the marketplace meets all the standards. Agencies must evaluate products to determine which product best meets the standards. If an agency purchases a product that does not best meet the standards, the agency must provide written documentation supporting the selection of a different product, including any required reasonable accommodations.

For purposes of this section, the phrase “equivalent access” means a substantially similar ability to communicate with, or make use of, the technology, either directly, by features incorporated within the technology, or by other reasonable means such as assistive devices or services which would constitute reasonable accommodations under the Americans with Disabilities Act or similar state and federal laws. Examples of

methods by which equivalent access may be provided include, but are not limited to, keyboard alternatives to mouse commands or other means of navigating graphical displays, and customizable display appearance. As provided in Ark. Code Ann. § 25-26-201 et seq., as amended by Act 308 of 2013, if equivalent access is not reasonably available, then individuals who are blind or visually impaired shall be provided a reasonable accommodation as defined in 42 U.S.C. § 12111(9), as it existed on January 1, 2019.

If the information manipulated or presented by the product is inherently visual in nature, so that its meaning cannot be conveyed non-visually, these specifications do not prohibit the purchase or use of an information technology product that does not meet these standards.

5. Export Controls. Vendor shall comply with all applicable laws, regulations and restrictions of the United States concerning the export of products, technical data and direct products thereof including, without limitation, all regulations regarding export, asset control and destination control of the Commerce, Treasury, State and Defense Departments of the United States Government, the Export Controls Act of 2018, and the Export Administration Act of 1979, as amended from time to time (each an “Export Control”). Vendor must notify University in advance if Vendor is providing to University any property (whether tangible or intangible), data or services governed by the Department of State, Directorate of Defense Trade Controls, International Traffic in Arms Regulations (ITAR) or controlled by a “600 series” or 9×515 Export Control Classification Number (ECCN).

VIII. LIABILITY

1. Liability Limits. Any language in an agreement, quotation or Vendor’s invoice or standard terms proposing to place a dollar limitation on Vendor’s liability shall not apply to Vendor’s obligation to indemnify the University against third-party claims, a Security Breach or Vendor’s intentional torts, criminal acts, fraudulent conduct or gross negligence.

2. Insurance. The University does not maintain general commercial liability or other liability insurance. Any provision of a quotation, purchase order or invoice requiring that the University purchase or maintain liability insurance is rejected.

3. Sovereign Immunity. Nothing in any PO or Agreement shall be construed to waive the sovereign immunity of the Board of Trustees of the University of Central Arkansas, of the University, or of any entity thereof.

4. Limitation of University’s Liability. The University specifically rejects any provision of any contract, invoice, standard agreement or standard terms that requires the University to indemnify Vendor.

5. Indemnification By Vendor. Vendor shall defend, indemnify, and hold harmless the University, its agents, officers, board members, and employees from and against any and all claims, damages, losses, and expenses, including reasonable attorney's fees, for any claims arising out of or in any way relating to the performance of Vendor's obligations under a PO or agreement, including but not limited to any claims pertaining to or arising from Vendor's infringement of patents, copyrights or other intellectual property rights and Vendor's negligence, intentional acts or omissions.

IX. MISCELLANEOUS

1. Assignments. No PO or agreement may be assigned, nor may the duties thereunder be assigned, delegated or subcontracted, without the written consent of the University.

2. No Exclusivity. This is not an exclusive agreement. The University reserves the right to purchase, use, lease, license or otherwise procure any similar services or products.

3. Antitrust Assignment. Vendor assigns, sells and transfers to the University all rights, title and interest in and to all causes of action it may have under the antitrust laws of the United States or the State of Arkansas for price fixing, which causes of action have accrued prior to the date of this assignment and which relate solely to the particular goods or services purchased by or produced for the University pursuant to a PO or contract.

4. Notification and Communications. Notices and other communications to the University shall be directed to the address provided in the PO or agreement, and to any e-mail address provided by the University and be effective upon receipt. Vendor agrees that the University is entitled to rely on information contained in written or electronic communications that the University reasonably believes have been transmitted or authorized by Vendor. In addition to any notice provisions specified herein, all notices, requests, and other communications required or permitted to be sent, including any notice of demand, claim, termination, cancellation or breach against the University shall also in writing delivered personally, by overnight courier service or by United States certified mail, postage paid, return receipt requested, to the following: University of Central Arkansas, Office of General Counsel, 201 Donaghey Avenue, Wingo Hall, Suite 207, Conway, AR 72035 in order to be effective.

5. Governing Law. All agreements and POs, including all amendments thereto, shall be construed and enforced in accordance with the laws of the State of Arkansas, without regard to its choice of law principles.

6. Prohibition on Certain Telecommunications Equipment and Services: Vendor represents and warrants that it does not use any "covered telecommunications

equipment or services” as a “substantial or essential component of any system,” or as “critical technology” as part of any system, as those terms are defined in Federal Acquisition Regulation clause 52.204-25. In the event Vendor identifies covered telecommunications equipment or services used as a substantial or essential component of any system, or as critical technology as part of any system, during contract performance, or Vendor is notified of such by a subcontractor at any tier or by any other source, Vendor shall immediately notify the University and provide the information prescribed in Federal Acquisition Regulation clause 52.204-25(d)(2). Any breach of this paragraph shall give the University the right to immediately terminate this Purchase Order upon written notice to Vendor.

7. Use of Federal Transit Administration (FTA) Funds. If Federal Transit Administration (FTA) funds are used in any procurement by the University, certain contract clauses apply based on the nature and dollar value of the procurement. The FTA clauses and applicable types of procurements and thresholds may be found at the following links: [FTA Procurement Resources](#) and [FTA Certifications and Assurances](#) as well as [Federal Required and Other Model Clauses](#) and [Appendix A of the Best Practices and Lessons Learned Manual](#). In addition, for each covered prime contract issued by the University with support from FTA funds, Vendor agrees to the prompt payment and retainage provision at the following link: [Prompt Payment Retainage](#). Additional Resources: [FTA Circular 4220.1F](#) (See Appendix D Provisions, Certifications, Reports, Forms, and other Matrices); [FTA Master Grant Agreements](#).

8. Ethical Standards. It shall be a breach of ethical standards for a person to be retained, or to retain a person, to solicit or secure a state contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except for retention of bona fide employees or bona fide established commercial selling agencies maintained by Vendor for the purpose of securing business in general.

9. UCA Contract Rider. The following provisions are incorporated pursuant to University Board of Trustees Policy No. 416:

(1) Notwithstanding any other provision of this agreement or contract, the University of Central Arkansas shall not be responsible or liable for any type of special or consequential damage to the other party, specifically including, but not limited to, lost profits or commissions, loss of goodwill, or any other damages of such nature.

(2) Notwithstanding any other provision of this agreement or contract, the University of Central Arkansas shall never indemnify or hold another party harmless from any damages, liability, claims, demands, causes of action or expenses. However, with respect to any loss, expense, damage, liability, claim or cause of action, either at law or in equity, for actual or alleged injuries to persons or property, arising out of any negligent act or omission by UCA, or its employees or agents, in the performance of this agreement, UCA agrees that:

(a) it will cooperate with the other party to this agreement in the defense of any action or claim brought against the other party seeking damages or relief;

(b) it will, in good faith, cooperate with the other party to this agreement should such other party present any claims or causes of action of the foregoing nature against UCA to the Arkansas State Claims Commission;

(c) it will not take any action to frustrate or delay the prompt hearing on claims of the foregoing nature by the Arkansas State Claims Commission, and will make reasonable efforts to expedite any hearing thereon.

UCA reserves the right, however, to assert in good faith any and all defenses available to it in any proceedings before the Arkansas State Claims Commission or any other forum.

(3) The University of Central Arkansas does not have any form of general liability insurance. It does have liability insurance coverage on vehicles, as well as certain professional liability coverage for clinical programs (and students assigned through those programs). Please contact the university department with responsibility for the program involved or the Office of General Counsel, if you have any questions concerning insurance coverage.

RIDER

Any contract or agreement to which the University of Central Arkansas (“UCA”) is a party shall be deemed to have the following provisions incorporated by reference:

(1) *“Notwithstanding any other provision of this agreement or contract, the University of Central Arkansas shall not be responsible or liable for any type of special or consequential damage to the other party, specifically including, but not limited to, lost profits or commissions, loss of goodwill, or any other damages of such nature.”*

(2) *“Notwithstanding any other provision of this agreement or contract, the University of Central Arkansas shall never indemnify or hold another party harmless from any damages, liability, claims, demands, causes of action or expenses. However, with respect to any loss, expense, damage, liability, claim or cause of action, either at law or in equity, for actual or alleged injuries to persons or property, arising out of any negligent act or omission by UCA, or its employees or agents, in the performance of this agreement, UCA agrees that:*

(a) it will cooperate with the other party to this agreement in the defense of any action or claim brought against the other party seeking damages or relief;

(b) it will, in good faith, cooperate with the other party to this agreement should such other party present any claims or causes of action of the foregoing nature against UCA to the Arkansas State Claims Commission;

*(c) it will not take any action to frustrate or delay the prompt hearing on claims of the foregoing nature by the Arkansas State Claims Commission, and will make reasonable efforts to expedite any hearing thereon. UCA reserves the right, however, to assert in good faith any and all defenses available to it in any proceedings before the Arkansas State Claims Commission or any other forum.
Nothing herein shall be interpreted or construed to waive the sovereign immunity of UCA.”*

(3) *“The University of Central Arkansas does not have any form of general liability insurance. It does have liability insurance coverage on vehicles, as well as certain professional liability coverage for clinical programs (and students assigned through those programs). Please contact the university department with responsibility for the program involved or the Office of General Counsel, if you have questions concerning insurance coverage.”*