



Contract No.: UB-16-N-25

This Agreement is entered as of the date of full execution between CDygart Solutions, LLC, with principal offices located at 511 NW 80th Blvd, Gainesville, FL 32607, and authorized to do business in the State of Maryland (hereinafter “Contractor”) and the Maryland Educational Enterprise Cooperative (MEEC), University System of Maryland, 1450 S. Rolling Road, Baltimore, MD 21227, a constituent institution of higher education in the University System of Maryland.

1. Scope Of Work:

“Indefinite delivery, indefinite quantity” (IDIQ) contract for library e-resource services as described in RFP *UB-16-N-25 for Library e-Resources Licensing and Subscription Management Services*, and CDygart Solutions proposal dated 12/19/2016.

MEEC and the University of Baltimore do not guarantee any dollar amount or level of services as a result of this contract, nor will either have any financial responsibility for Task Order agreements under this master contract. MEEC member institutions may elect to initiate Task Order contracts with CDygart Solutions (without secondary competition, based on the rates provided in this master contract), and will have full financial and management responsibility for Task Orders under this master IDIQ contract. CDygart Solutions is cautioned to obtain a valid, written contract or purchase order from a MEEC member institution before rendering services under any Task Order.

Task Order Process

Since successful completion of Task Orders depends on a Statement of Work acceptable to both parties, pricing that is fair to both parties, and a timeframe that accommodates the needs of both parties, the Task Order Process shall be handled as follows.

1. MEEC and CDygart Solutions will provide a template Task Order that includes a Statement of Work for each service they seek to engage CDygart Solutions’ to perform. The template Task Order will include a description of the services, the deliverables, the time for performance of the work (start date and estimated or required end date), pricing (which pricing may be a fixed fee, a fee expressed as a percentage, or a time and materials formulation) and payment schedule. The MEEC Participating Institution will send the completed template Task Order to CDygart Solutions for review and comment. The request for review may include a reasonable deadline for response.

2. CDygart Solutions will review the Task Order and will recommend revisions, as necessary, to the work to be performed, the deliverables, the term, the pricing, and/or the payment schedule. CDygart Solutions will return the Task Order (with necessary revisions) to the MEEC Participating Institution (or consortium). The request for review may include a reasonable deadline for response.
3. The MEEC Participating Institution (or consortium) will return the Task Order to CDygart Solutions and will ask CDygart Solutions to sign the Task Order, or to review further amendments to the Task Order.
4. If the Task Order is not acceptable, steps 2 and 3 will be repeated until an acceptable Task Order has been finalized, or the parties agree to discontinue the process.
5. Once the Task Order has been finalized, it will be sent to CDygart Solutions, who will sign the Task Order, and return the signed copy to the MEEC Participating Institution (or consortium) for signature. The MEEC Participating Institution (or consortium) will then sign and send to CDygart Solutions a fully executed copy of the Task Order and a purchase order, or other funding document with instruction for sending invoices and processing payments for the work.
6. Work will commence per the terms of the fully executed Task Order.
7. MEEC Member Institutions are responsible for institution and State approvals (including Board of Regents and Board of Public Works approvals) before executing task orders, purchase orders or contracts.

CDygart Solutions Service Options:

Assessment & Strategic Planning to Reduce the Costs of E-resources

One of CDygart Solutions primary services is helping libraries develop planning and negotiation strategies to contain e-resource costs. Contractor follows the practice of principled negotiations as developed by the Harvard Negotiation Project, and have integrated this practice into a system that can be successfully employed by libraries year after year to manage vendor relationships in ways that are beneficial to the library.

Outcomes of CDygart Solutions' e-resource assessment and strategic planning services may include:

- An analysis of vendor pricing history to identify trends that are unfairly burdensome to the library (e.g., annual price increases that exceed national averages.)
- Identification of factors that affect the institutional and library budget (e.g. decreasing enrollment, state funding, grants, etc.) in order to quantify changes in the library's buying power over time.
- The development of a set of talking points regarding the institutional and library budget to be used with vendors in the negotiation process.
- Creation of an annual plan to get out in front of the renewal process and provide windows of opportunity to employ negotiation strategies.
- Negotiation of advantageous pricing terms.
- Negotiation of contract terms that adhere to best practices of licensing electronic resources.

- Training to empower staff involved in the acquisitions to employ simple and effective negotiating techniques throughout the acquisitions process to consistently reduce costs.

Service Fees: Fees for this service will be negotiated on a case-by-case basis depending upon the extent of assessment and negotiation services to be employed.

Consolidated Invoicing Services

CDygart Solutions may provide consolidated invoicing services for annual renewal of electronic resources for MEEC libraries, either individually or in groups. Current and historical invoices will be available through the CDygart Solutions service portal for participating institutions. The following conditions must apply for consolidated invoicing to be employed:

- Subscriptions are on a fiscal or calendar year.
- The value of the cumulative subscribed content (whether by an individual library or a group) to be handled through the consolidated invoicing process is at minimum \$1,000,000.
- Interest in and adoption of consolidated invoicing services through CDygart Solutions is led and managed by each institution or consortia by a designated primary contact.
- Pricing negotiations and license agreements are the responsibility of the individual institution or consortium.
- Specific details about consolidated invoicing processes, including timelines and the responsibilities of CDygart Solutions and the participating libraries, will be documented in a Task Order.
- CDygart Solutions reserves the right to determine the list of vendors that they will work with in providing consolidated invoicing services.

Service Fee: Consolidated invoicing fees of 3% of per product value. Product is defined as individual online subscriptions (e.g. EBSCO's *Academic Search Premier*, ProQuest's *Academic Complete*, or Cengage Gale's *Opposing Viewpoints in Context*.)

Participation in Multi-Year E-Journal Contracts Negotiated and Managed by CDygart Solutions, LLC.

CDygart Solutions may provide MEEC libraries opportunities to participate in e-journal package contracts (e.g., Cambridge University Press, Springer Nature, Wiley) negotiated and managed by our company. This service will include:

- Negotiation of advantageous annual price caps and access fees.
- Negotiation of contract terms that adhere to best practices for the licensing of electronic resources.
- A centralized license agreement signed and held by CDygart Solutions on behalf of participating customers.
- Facilitation in the reconciliation process of subscription and transfer titles lists.
- 24/7 access to all contract documentation through the CDygart Solutions e-licensing portal for all participating libraries.

Invoicing for e-journal packages will be handled by participating institutions through a subscription agent or directly with the publisher.

Service Fees: 3% of value per year or \$5,000 per year per contract, whichever is lesser.

Negotiation, Management, and Invoicing Services for Annual E-Resources (Non-e-journal) Subscriptions

CDygart solutions may provide MEEC libraries the service of negotiating and managing annual subscriptions to e-resources. The following conditions will apply:

- 180 days' notice of intent to elect this service will be provided to CDygart Solutions.
- Subscriptions are on a fiscal or calendar year.
- The value of the cumulative subscribed content (whether by an individual library or a group) to be handled through the consolidated licensing process is at minimum \$1,000,000.
- Interest in and adoption of e-resource negotiation and management services through CDygart Solutions is led and managed by each institution or consortia by a designated primary contact.
- Specific details about consolidated e-resources negotiation and management process, including timelines and the responsibilities of CDygart Solutions and the participating libraries, will be documented in a Task Order.
- CDygart Solutions reserves the right to determine the list of vendors that they will work with in providing these services.

The service shall include:

- Negotiation of advantageous annual price caps and access fees.
- Negotiation of contract terms that adhere to best practices for the licensing of electronic resources.
- A centralized license agreement signed and held by CDygart Solutions on behalf of participating customers.
- Centralized invoicing services.
- 24/7 access to all contract documentation through the CDygart Solutions e-licensing portal for all participating libraries.

Service Fees: 4% of the value of each product per year. Product is defined as individual online subscriptions (e.g. EBSCO's *Academic Search Premier*, ProQuest's *Academic Complete*, or Cengage Gale's *Opposing Viewpoints in Context*.)

Collection of Usage Statistics

CDygart Solutions may provide MEEC libraries usage statistics collection services on an annual basis, using the SUSHI protocol to collect COUNTER compliant statistics. Customers may elect to have fees collected on a fiscal or calendar year schedule. Fees will be assessed per vendor platform. Fees for the collection of statistics from platforms that require manual intervention may be subject to further discussion and negotiation. Users of this service will have access to usage statistics reports through the CDygart Solutions service portal.

Service Fees: \$500 per platform for the annual collection of e-resource statistics.

Event Planning Services

CDygart Solutions may offer services to support local events, such as annual “vendor days,” consortium meetings, and other events. Event planning services may include the identification of event venue, registration services, recruitment of Resource Vendor participants and sponsorships, and arrangements for food and beverage services. All costs are to be covered by the Customer and Vendor sponsorships as appropriate. Event planning service fees do not include travel costs incurred by CDygart Solutions. The cost of travel, including transportation, lodging and parking, incurred by CDygart Solutions to support events will have prior approval by the Customer, and be billable to the sponsoring institution or consortium.

Service Fees: Event planning services are \$2000 per day-long event, excluding necessary travel costs incurred by CDygart Solutions and pre-approved by the Customer.

2. Notice of Availability of Services

MEEC shall provide its members notification of the availability of the services herein via the “Services” menu on the MEEC website. In order to build and maintain awareness of available services offered by CDygart Solutions to MEEC members, eligible member library consortia such as, but not limited to, the Maryland Digital Library (MDL), Maryland Library Consortium (MLC), and University System of Maryland and Affiliated Institutions (USMAI) are encouraged to establish a primary communications contact and facilitate communication of the services herein via established listservs and other communication channels.

3. Compensation and Method of Payment

Each participating institution will be responsible for payment resulting from purchase orders or contracts issued by the institution.

Payments to the Contractor pursuant to this Purchase Order shall be made no later than thirty (30) days after the Customer's receipt of a proper invoice from the Contractor. Charges for late payment of invoices, other than as prescribed by Title 15, Subtitle 1, of the State Finance and Procurement Article, Annotated Code of Maryland, or by the Public Service Commission of Maryland with respect to regulated public utilities as applicable, are prohibited.

Contractor’s Federal Tax Identification Number or Social Security Number is 81-2856465.

3.1. Invoicing - Invoices will be posted on the CDygart Solutions portal for retrieval by the participating institution’s designated representative. CDygart Solutions will notify the designated representative that invoices have been posted via email. Contractor agrees to include on the face of all invoices its Taxpayer Identification Number, which is the Social Security Number for individuals and sole proprietors and the Federal Employer Identification Number for all other types of organizations. If a Purchase Order document is issued, the Purchase Order Number must be included.

4. Contract Term

The contract will commence on March 1, 2017 and will expire on February 28, 2020. The contract term shall commence on the date the contract is signed on behalf of the University or such later date as the University directs.

Renewal - The University reserves the right to renew the contract for up to three additional, separately exercisable, 12 month periods, with the same contract terms and conditions at the pricing identified herein.

The University reserves the right to extend the contract on a month-to-month basis for up to six additional months at the same basis of pricing (prorated to the time required), terms and conditions.

5. Eligibility to Purchase

Contractor agrees to extend the proposed price structure and discounts to **all** of the following:

- All University System of Maryland campuses and facilities within the state of Maryland.
- Maryland Educational Enterprise Consortium (MEEC) members.
- Maryland Digital Library (MDL) members.
- Maryland Library Consortium (MLC) members.
- University System of Maryland and Affiliated Institutions (USMAI) members.

6. Modifications

This Contract may be amended with the consent of both parties in writing. Amendments may not change significantly the scope of the Contract.

7. Cost and Price Certification

The Contractor by submitting cost or price information certifies that, to the best of its knowledge, the information submitted is accurate, complete, and current as of a mutually determined specified date prior to the conclusion of any price discussions or negotiations for:

- a. A negotiated contract, if the total contract price is expected to exceed \$100,000, or a smaller amount set by the procurement officer; or
- b. A change order or contract modification, expected to exceed \$100,000, or a smaller amount set by the procurement officer.
- c. The price under this Contract and any change order or modification hereunder, including profit or, fee, shall be adjusted to exclude any significant price increases occurring because the Contractor furnished cost or price information which, as of the date agreed upon between the parties, was inaccurate, incomplete, or not current.

8. Multi-Year Contracts Contingent Upon Appropriations

If the General Assembly fails to appropriate funds or if funds are not otherwise made available for continued performance for any fiscal period of this Contract succeeding the first fiscal period, this Contract shall be canceled automatically as of the beginning of the fiscal year for which funds were not appropriated or otherwise made available; provided, however, that this will not affect either the University's rights or the Contractor's rights under any termination clause in this Contract. The effect of termination of the Contract hereunder will be to discharge both the Contractor and the University from future performance of the Contract, but not from their rights and obligations existing at the time of termination. The Contractor shall be reimbursed for the reasonable value of any non-recurring costs incurred but not amortized in the price of the Contract. The University shall notify the Contractor as soon as it has knowledge that funds may not be available for the continuation of this Contract for each succeeding fiscal period beyond the first.

9. Delays and Extensions of Time

The Contractor agrees to prosecute the work continuously and diligently and no charges or claims for damages shall be made by it for any delays or hindrances from any cause whatsoever during the progress of any portion of the work specified in this Contract.

Time extensions will be granted only for excusable delays that arise from unforeseeable causes beyond the control and without the fault or negligence of the Contractor, including but not restricted to, acts of God, acts of the public enemy, acts of the State in either its sovereign or contractual capacity, acts of another Contractor in the performance of a contract with the State, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, or delays of subcontractors or suppliers arising from unforeseeable causes beyond the control and without the fault or negligence of either the Contractor or the subcontractors or suppliers.

10. Delivery and Acceptance

Delivery shall be made in accordance with the solicitation specifications. The University, in its sole discretion, may extend the time of performance for excusable delays due to unforeseeable causes beyond the Contractor's control. The University unilaterally may order in writing the suspension, delay, or interruption of performance hereunder. The University reserves the right to test any materials, equipment, supplies, or services delivered to determine if the specifications have been met.

The materials listed in the bid or proposal shall be delivered FOB the point or points specified prior to or on the date specified in the bid or proposal. Any material that is defective or fails to meet the terms of the solicitation specifications shall be rejected. Rejected materials shall be promptly replaced. The University reserves the right to purchase replacement materials in the open market. Contractors failing to promptly replace materials lawfully rejected shall be liable for any excess price paid for the replacement, plus applicable expenses, if any.

11. Harmony

Contractor shall be entirely responsible for working in harmony with all others on the work site when Contractor is working on University premises.

12. Insurance

The Contractor shall maintain, during the term hereof, Personal Injury and Property Insurance. Contractor shall furnish the University, upon request, with copies of policies or other satisfactory proof of insurance.

13. Non-Hiring of State Employees

No employee of the State of Maryland or any unit thereof, whose duties as such employee include matters relating to or affecting the subject matter of this contract, shall, while so employed, become or be an employee of the party or parties hereby contracting with the State of Maryland or any unit thereof.

14. Disputes

This contract shall be subject to USM Procurement Policies and Procedures. Pending resolution of a claim, the Contractor shall proceed diligently with the performance of the contract in accordance with the procurement officer's decision.

15. Termination for Default.

(1) The University may, subject to the provisions of paragraph (3) below, by written notice of default to the Contractor, terminate the whole or any part of this contract in any one of the following circumstances: (a) If the Contractor fails to perform within the time specified herein or any extension thereof-, or (b) If the Contractor fails to perform any of the other provisions of this contract, or so fails to make progress as to endanger performance of this contract in accordance with its terms, and in either of these two circumstances does not cure such failure within a period of 30 days (or such longer period as the procurement officer may authorize in writing) after receipt of notice from the procurement officer specifying such failure.

(2) In the event the University terminates this contract in whole or in part as provided in paragraph (1) of this clause, the University may procure substitute performance upon terms and in whatever manner the procurement officer may deem appropriate, and the Contractor shall be liable to the University for any reasonable excess costs for substitute performance; provided, that the Contractor shall continue the performance of this contract to the extent not terminated under the provisions of this clause.

(3) Except with respect to defaults of subcontractors, the Contractor shall not be liable for any excess costs if the failure to perform the contract arises out of causes beyond the control and without the fault or negligence of the Contractor. Such causes may include, but are not restricted to, acts of God or of the public enemy, acts of the University in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather; but in every case the failure to perform shall be beyond the control and without the fault or negligence of the Contractor. If the failure to perform is caused by the default of a subcontractor, and if the default arises out of causes beyond the control of both the Contractor and subcontractor, and without the fault or negligence of either of them, the Contractor shall not be liable for any excess costs for failure to perform unless substitute performance for the subcontractor was obtainable from another source in sufficient time to permit the Contractor to meet the performance schedule.

(4) If, after notice of termination of this contract under the provisions of this clause, it is determined for any reason that the Contractor was not in default under the provisions of this clause, or that the default was excusable under the provisions of this clause, the rights and obligations of the parties shall, if the contract contains a clause providing for termination for convenience of the University, be the same as if the notice of termination had been issued pursuant to such clause. If, after notice of termination of this contract under the provisions of this clause, it is determined for any reason that the Contractor was not in default under the provisions of this clause, and if this contract does not contain a clause providing for termination for convenience of the University, the contract shall be equitably adjusted to compensate for such termination and the contract modified accordingly; failure to agree to any such adjustment shall

be a dispute concerning a question of fact within the meaning of the clause of this contract entitled Disputes.

16. Compliance with Laws

The Contractor hereby represents and warrants that:

- A. It is qualified to do business in the state of Maryland and that it will take such actions as, from time to time hereafter, may be necessary to remain so qualified;
- B. It shall comply with all federal, State and local laws, regulations, and ordinances applicable to its activities and obligations under this contract: and
- C. it shall obtain, at its expense, all licenses, permits, insurance and governmental approvals, if any, necessary to the performance of its obligations under this contract.
- D. It shall comply with background checks, training and reporting of suspected child abuse and neglect in accordance with Maryland law and University policy.
- E. The Parties agree to maintain the privacy and security of personally identifiable education records and health information and to prevent disclosure in compliance with Federal laws.

17. Retention of Records.

The Contractor shall retain and maintain all records and documents relating to this Purchase Order for three years after final payment by the State hereunder or any applicable statute of limitations, whichever is longer, and shall make them available for inspection and audit by authorized representatives of the State, including the procurement officer or designee, at all reasonable times.

18. Tax Exemption

The State is generally exempt from Federal Excise Taxes, Maryland Sales and Use Taxes, District of Columbia Sales Taxes and Transportation Taxes. Exemption certificates shall be completed upon request. Where a Contractor is required to furnish and install material in the construction or improvement of real property in performance of a contract, the Contractor shall pay the Maryland Sales Tax and the exemption does not apply.

19. Nondiscrimination in Employment

The Contractor agrees: (a) not to discriminate in any manner against an employee or applicant for employment because of race, color, religion, creed, age, sex, marital status, national origin, ancestry, or physical or mental handicap unrelated in nature and extent so as reasonably to preclude the performance of such employment; (b) to include a provision similar to that contained in subsection (a), above, in any subcontract except a subcontract for standard commercial supplies or raw materials; and (c) to post and to cause subcontractors to post in conspicuous places available to employees and applicants for employment, notices setting forth the substance of this clause.

20. Equal Employment Opportunity

The Contractor warrants that the contractor shall comply with E.O. 11246, "Equal Employment Opportunity", as amended by E.O. 11375, Amending Executive Order 11246 Relating to Equal Employment Opportunity, and as supplemented by regulations at 41 CFR part 60, Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.

21. Financial Disclosure.

The Contractor shall comply with the provisions of Section 13-221 of the State Finance and Procurement Article of the Annotated Code of Maryland, which requires that every business that enters into contracts, leases, or other agreements with the State of Maryland or its agencies during a calendar year under which the business is to receive in the aggregate \$100,000 or more, shall, within 30 days of the time when the aggregate value of these contracts, leases or other agreements reaches \$100,000, file with the Secretary of State of Maryland certain specified information to include disclosure of beneficial ownership of the business.

22. Political Contribution Disclosure.

The Contractor shall comply with Article 33, Sections 30-1 through 30-4 of the Annotated Code of Maryland, which requires that every person that enters into contracts, leases, or other agreements with the State, a county, or an incorporated municipality, or their agencies, during a calendar year in which the person receives in the aggregate \$100,000 or more, shall file with the State Administrative Board of Election Laws a statement disclosing contributions in excess of \$500 made during the reporting period to a candidate for elective office in any primary or general election. The statement shall be filed with the State Administrative Board of Election Laws:

- a. before a purchase or execution of a lease or contract by the University, a county, an incorporated municipality, or their agencies, and shall cover the preceding two calendar years; and
- b. if the contribution is made after the execution of a lease or contract, then twice a year, throughout the contract term, on (1) February 5, to cover the 6-month period ending January 31; and (2) August 5, to cover the 6-month period ending July 31.

23. Anti-Bribery.

The Contractor warrants that neither it nor any of its officers, directors, or partners nor any of its employees who are directly involved in obtaining or performing contracts with any public body has been convicted of bribery, attempted bribery, or conspiracy to bribe under the laws of any state or of the federal government or has engaged in conduct since July 1, 1977, which would constitute bribery, attempted bribery, or conspiracy to bribe under the laws of any state or the federal government.

24. Registration.

Pursuant to §7-201 et seq. of the Corporations and Associations Article of the Annotated Code of Maryland, corporations not incorporated in the State shall be registered with the State Department of Assessments and Taxation, 301 West Preston St., Baltimore, Maryland 21201, before doing any interstate or foreign business in this State. Before doing any intrastate business in this State, a foreign corporation shall qualify with the Department of Assessments and Taxation.

25. Contingent Fee Prohibition.

The Contractor warrants that it has not employed or retained any person, partnership, corporation, or other entity, other than a bona fide employee or agent working for the Contractor, to solicit or secure this agreement, and that it has not paid or agreed to pay any person, partnership, corporation,

or other entity, other than a bona fide employee or agent, any fee or any other consideration contingent on the making of this agreement.

26. Pre-existing Regulations.

In accordance with the provisions of Section 11-206 of the State Finance and Procurement Article, Annotated Code of Maryland, the regulations set forth in USM Procurement Policies and Procedures in effect on the date of execution of this Contract are applicable to this Contract.

27. Independent Contractor

It is understood and agreed that Contractor is an independent contractor and not an employee of the University. The University will not withhold income taxes, social security or any other sums from the payments made to the Contractor herein. The Contractor shall in no way hold himself out to any third person as an agent of the University. All persons furnished by Contractor shall be considered solely its employees or agents and Contractor shall be responsible for payment of all unemployment, social security and other payroll taxes, including making contributions when required by law.

28. Drug and Alcohol Free Workplace

The Contractor warrants that the contractor shall comply with COMAR 21.11.08 Drug and Alcohol Free Workplace, and that the Contractor shall remain in compliance throughout the term of this Agreement.

29. Severability

The terms of this Agreement are severable. If any term or provision herein is declared by a court of competent jurisdiction to be illegal, void, unenforceable or otherwise invalid, in whole or in part, the remainder of the terms and provisions of this Agreement which shall remain valid and enforceable in full force and effect.

30. Notice

Any notice to either Party hereunder must be in writing and signed by the Party giving notice, unless otherwise stated in this Agreement. Written notice shall be served (1) by e-mail (2) by hand, (3) through the United States Mail, postage prepaid, registered or certified mail, return receipt requested, or (4) through an expedited mail or package service, if a receipt showing the delivery has been retained, and addressed as identified in this Addendum or to such other addressee as may be hereafter designated by written notice. Notice shall be effective upon receipt.

University of Baltimore Contact Person: Blair Blankinship
Address: 1420 North Charles Street, Baltimore, MD 21201
Telephone: 410-837-5714
e-mail address: bblankinship@ubalt.edu

Contractor Contact Person: Claire Dygert
Address: 511 NW 80 Blvd., Gainesville, FL 32607
Telephone: 352-672-1907
e-mail address: cdygert@cdygertsolutions.com

31. MUCITA

The Maryland Uniform Computer Information Transactions Act (MUCITA), Maryland Code Annotated [Commercial Law] 21-101 through 21-816, does not govern this Agreement, except to the extent that section 21-104(2) of the Act applies. The parties further agree that this Agreement shall be governed by the common law of Maryland relating to written agreements and Maryland statutes other than MUCITA which may apply.

32. Protests and Claims

Any protest regarding the award of this contract or claim arising out of this contract shall be administered in accordance with the University System of Maryland Procurement Policies and Procedures, Section X - Protests and Claims. Detail is available by accessing the following web site: www.purchase.umd.edu.

Click on this web site, then select the category "Policies and Procedures", followed by "USM Procurement Policies and Procedures".

33. Indemnification.

Neither party shall not assume any obligation to indemnify, hold harmless, or pay attorneys' fees that may arise from or in any way be associated with the performance or operation of this agreement.

34. Entire Agreement

This Agreement, Attachments A and B, and the University's standard contract terms and conditions, which are hereby incorporated by reference (and are available on the internet at <http://www.usmd.edu/Leadership/BoardOfRegents/Bylaws/SectionVIII/VIII300.html> – see Policy and Procedures Appendix A) contain the entire agreement of the parties and supersede all prior agreements and understanding, oral or otherwise, between the parties. No modification or amendment of this Agreement shall be effective unless the same shall be in writing duly executed by all parties hereto.

Any change to the agreement must be in writing and signed by both parties, with the same formalities as this agreement.

35. Conflicting Terms.

Any proposal for terms in addition to or different from those set forth in this contract or any attempt by the Contractor to vary any of the terms of this offer by Contractor's acceptance shall not operate as a rejection of this offer, unless such variance is in the terms of the description, quantity, price or delivery schedule, but shall be deemed a material alteration thereof, and this offer shall be deemed acceptable by the Contractor without the additional or different terms. If this purchase order is an acceptance of a prior offer by the Contractor, the acceptance is expressly conditioned upon Contractor's assent to any additional or different terms contained herein. The Contractor understands and agrees that the terms and conditions of this purchase order may not be waived.

36. Precedence

If there is any ambiguity, discrepancy or conflict in the terms of the documents referenced in this Contract, the discrepancy or conflict will be resolved by giving precedence to the documents in the following order:

First: This Contract

Second: The Request For Best and Final Offers

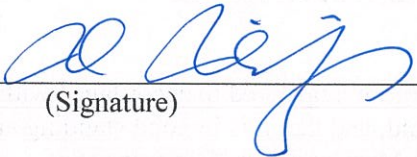
Third: The RFP

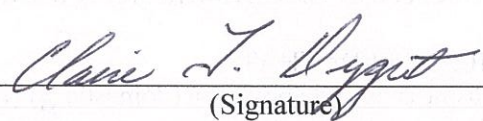
Fourth: The Contractor's Best and Final Offer

Fifth: The Contractor's Proposal

AGREED TO BY: The University of Baltimore

AGREED TO BY: (Contractor)

By 
(Signature)

By: 
(Signature)

Blair Blankinship
(Printed name)

CLAIRE T. DYGERT
(Printed name)

Director of Procurement 3/9/17
(Title) (date)

PRESIDENT, CDygert Solutions 3/7/17
(Title) (date)