Amendment I

This agreement is made by and between Texas A&M University and StataCorp LLC for the purpose of amending the University Terms and Conditions of Bid, revised 2/15/16, ("Terms") attached heretofore.

The Terms are amended as follows:

Section 6. BIDDER AFFIRMATION, subsection 6.6 is revised to read:

6.6 StataCorp (the SUPPLIER) will defend, indemnify, and hold harmless the State of Texas, all of its officers, agents and employees from and against all claims, actions, suits, demands, proceedings costs, damages, and liabilities resulting from any claim of intellectual property infringement by a third party in the execution or performance of this purchase order. To the extent permitted by the Constitution and laws of the State of Texas, StataCorp shall have no obligation to the extent any claim of infringement results from: (i) the use of the licensed software in combination with any other products or materials not provided by StataCorp, except where such combination is reasonably necessary for the intended use of the licensed software or suggested in writing by StataCorp; or (ii) any alteration or modification of the licensed software not provided or authorized by StataCorp, if the infringement would not have occurred but for such alteration or modification.

If such a claim appears likely, then StataCorp shall: (i) modify the licensed software to make it non-infringing, (ii) procure for TEXAS A&M the necessary rights to use the licensed software, or, failing (i) or (ii), (iii) terminate the license and refund a pro-rated portion of the purchase price. If the licensed software has an expiring term, the refund will equal the remaining, unused term of the license. If the licensed software is perpetual, the refund will be amortized over a 5-year period from the date of the original license purchase.

Except as set forth in this Amendment, the Terms are unaffected and shall continue in full force and effect. If there is conflict between this amendment and the Terms or any earlier amendment, this amendment will prevail.

Texas A&M University

By: ____________________________

Printed Name: ROBERT C. BOUNDS
Title: DIRECTOR, PROCUREMENT SERVICES
Dated: 7.3.2018

StataCorp LLC

By: ____________________________

Printed Name: __________________
Title: Director, Sales Policies and Practices
Dated: June 21, 2018
ITEMS BELOW APPLY TO AND BECOME A PART OF TERMS AND CONDITIONS OF BID AND ANY SUBSEQUENT AWARD
EXCEPTIONS MUST BE MADE IN WRITING

1. BIDDING REQUIREMENTS

1.1 Bidders must comply with all rules, regulations and statutes relating to purchasing in the State of Texas in addition to the requirements of this form.

1.2 Pricing must be quoted on a “per unit” basis, extended as indicated. Any trade discounts included must be itemized and deducted from extended prices. Unit Prices shall govern in the case of extension errors. Bids on products or service offered will meet or exceed specifications included as part of this Invitation for Bids.

1.3 Bids should be submitted on this form. Each bid that is mailed should be placed in a separate envelope completely and properly identified. Instructions on page 1, top center. Bids must be received by the TExAS aMD DEPARTMENT OF PROCUREMENT SERVICES on or before the hour and date specified for the bid opening.

1.4 When sending bids via the U.S. Postal Service, use the address on page 1 of this Invitation for Bid. When using a delivery service or hand delivering, which requires a street address, address is Agonomy Road, College Station, TX 77843.

1.5 Late bids will not be considered under any circumstances.

1.6 Bids should be quoted “F.O.B. destination, freight prepaid and allowed”. If quoting freight otherwise, show exact delivery cost and who bears cost if not included in unit and/or discount for freight.

1.7 Bids are requested to be firm for TExAS aMD acceptance within 30 days of bid opening date. “Discount from list” bids are not acceptable unless restricted. Cash discount will not be considered in determining the low bid. All cash discounts will be applied to the total bid.

1.8 Bids should give SUPPLIER ID Number, full name and address of bidder (enter in the block provided if not shown). Failure to sign bid will disqualify it. Person signing bid should state or authority to bind him or her in a contract. Firm name should appear on each page of a bid, in the block provided in the upper right hand corner. The SUPPLIER ID Number is the taxpayer number assigned and used by the Comptroller of Public Accounts of Texas. Enter this number in the space provided on page 1, upper right if it is not provided. If this number is not known, complete the following. Enter your Federal Employer Identification Number. 3. Sole owner should also enter Social Security Number.

1.9 Bid cannot be altered or amended after opening time. Any alterations made before opening time should be initialed by bidder or authorized agent of bidder. No bid can be withdrawn after opening time without approval by the TExAS aMD DEPARTMENT OF PROCUREMENT SERVICES based on a written acceptable reason.

1.10 Purchases made for TExAS aMD use are exempt from the State Sales Tax and Federal Excise Tax. Do not include sales tax in bid. Excise Tax Exemption Certificate will be furnished by TExAS aMD upon request.

1.11 TExAS aMD reserves the right to accept or reject all or any part of any bid, waive minor technicalities and award the bid to best serve the interests of the State.

1.12 Consistent and continued bid bidding could cause rejection of bids by TExAS aMD and/or investigate for antitrust violations.

1.13 Other preferences as defined in Rule 1 TAC 113.8 (check any that are applicable)

☐ Products of persons with mental or physical disabilities
☐ Products made of recycled, remanufactured, or environmentally sensitive materials
☐ Energy efficient products
☐ Rubberized asphalt paving material
☐ Recycled motor oil and lubricants
☐ Products produced at facilities located on formerly contaminated property
☐ Products and services from economically deprived or blighted areas

1.14 The telephone number for SAB submission of bids is 979-845-3500. This is the only number that will be used for the receipt of bids. TExAS aMD shall not be responsible for failure of electronic equipment or operator error. Late, illegible, incomplete, or otherwise non-responsive bids will not be considered.

1.15 Inquiries pertaining to IFBs must include the IFB number and opening date.

2. SPECIFICATIONS

Any catalogue, brand name or manufacturer’s reference used in the Invitation for Bid is for descriptive only (not restrictive), and is used to indicate type and quality desired. Bids on brands of like nature and quality will be considered unless otherwise specified. If bidding on other than reference, bid should show manufacturer, brand or trade name, and other description of the product offered. If other than brand(s) specified is offered, illustrations and complete description of product offered are requested to be made part of the bid. If bidder takes an exception to specifications or reference data in his bid or her bid, bidder will be required to furnish brand names, numbers, etc., as specified in the Invitation for Bid (IFB).

2.1 All items shall be new and unused in first class condition, including containers suitable for storage and shipping, unless otherwise indicated in IFB. Oral agreements to the contrary will not be recognized.

2.2 All electrical items must meet all applicable OSHA standards and regulations, and bear the appropriate listing from UL or UL (ultrade) or NEMA.

2.3 Samples, when requested, must be furnished free of expense to TExAS aMD. If not destroyed in examination, they will be returned to the bidder, upon request, at bidder’s expense. Each sample should be marked with bidder’s name and address, and TExAS aMD bid number. Do not enclose in or attach to bid sample.

2.4 TExAS aMD will not be bound by any oral statement or representation contrary to the written specifications of this IFB.

2.5 Manufacturer’s standard warranty shall apply unless otherwise stated in the IFB.

3. TIE BIDS - In case of tie bids, the award will be made in accordance with Rule 1 TAC Section 113.6 (b)(3) and 113.8 (Preferences).

4. DELIVERY

4.1 Bid should show number of days required to place material in receiving agency’s designated location under normal conditions. Failure to state delivery time obligates SUPPLIER to complete delivery in 14 calendar days. Unrealistically short or long delivery promises may cause bid to be disregarded.

4.2 If delay is foresee, SUPPLIER shall give written notice to TExAS aMD. TExAS aMD has the right to extend delivery date if reasons appear valid. Default in promised delivery (without accepted reasons) or failure to meet specifications authorizes TExAS aMD to purchase supplies elsewhere and charge full increase, if any, in cost and handling to defaulting SUPPLIER.

4.3 No substitutions or cancellations permitted without written approval of the TExAS aMD DEPARTMENT OF PROCUREMENT SERVICES.

4.4 Delivery must be made during normal working hours only, unless prior approval for late delivery has been obtained from TExAS aMD.

5. INSPECTION AND TESTS - All goods will be subject to inspection and test by TExAS aMD to the extent practicable at all times and places. Authorized TExAS aMD personnel shall have access to any SUPPLIER’S place of business for the purpose of inspecting merchandise. Tests shall be performed on samples submitted with the bid or on samples taken from regular shipment. In the event products tested fail to meet or exceed all conditions and specifications of the requirements, the cost of the sample used and the cost of the testing shall be borne by the SUPPLIER. Goods which have been delivered and rejected in whole or in part may, at TExAS aMD’S option, be returned to SUPPLIER or held for disposition at SUPPLIER’S risk and expense. Late defects may result in revocation of acceptance.

6. BIDDER AFFIRMATION - Signing this bid with a false statement is a material breach of contract and shall void the submitted bid or any resulting contracts, and the bidder shall be removed from all bids. By signature hereon affixed, the bidder hereby certifies that:

6.1 The bidder has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, tip, favor, or service to a public servant in connection with the submitted bid.

6.2 The bidder is not currently delinquent in the payment of any franchise tax owed the State of Texas.

6.3 Pursuant to Section 2155.004 Government Code, relating to collection of state and local sales and use taxes, the bidder certifies that the individual or business entity named in this bid is not ineligible to receive the specified contract and acknowledges that this contract may be terminated and/or payment withheld if this certification is inaccurate.

6.4 Neither the bidder nor the firm, corporation, partnership or institution represented by the bidder, or anyone acting for such firm, corporation or institution has violated the antitrust laws of this State, codified in Section 15.01, et seq., Texas Business and Commerce Code, or the Federal Antitrust Laws, nor communicated directly or indirectly the bid made to any competitor or any other person engaged in such line of business.

6.5 The bidder has not received compensation for participation in the preparation of the specifications for this IFB.

6.6 The SUPPLIER shall defend, indemnify, and hold harmless the State of Texas, all of its officers, agents and employees from and against all claims, actions, suits, demands, proceedings costs, damages, and liabilities, from any acts or omissions of SUPPLIER or any agent, employer, subcontractor, or SUPPLIER of SUPPLIER in the execution or performance of this purchase order.

6.7 Bidder agrees that any payments due under this contract will be applied towards any debt, including but not limited to delinquent taxes and child support that is owed to the State of Texas.

6.8 Bidder certifies that they are in compliance with section 669.003 of the Government Code, relating to contracting with executive head of a State agency. If section 669.003 applies, bidder will complete the following information in order for the bid to be evaluated:

Name of Former Executive:
Name of State Agency:
Date of Separation from State Agency:
Position with Bidder:
Date of Employment with Bidder:

6.9 Bidder agrees to comply with Government Code 2155.4441, pertaining to service contract use of products produced in the State of Texas.

6.10 Contractor understands that acceptance of funds under this contract acts as acceptance of the authority of the State Auditor’s Office, or any successor agency, to conduct an audit or investigation in connection with these funds. Contractor further agrees to cooperate fully with the State Auditor’s Office or its successor in the conduct of the audit or investigation, including providing all records requested. Contractor will ensure that this clause covering the authority to audit funds received indirectly by subcontractors through Contractor and the requirement to cooperate is included in any subcontract awards.

7. CONFLICTING TERMS & CONDITIONS - Any terms and conditions attached to a bid will not be considered unless the bidder specifically refers to them on the front of this bid form.

WARNING: SUCH TERMS AND CONDITIONS MAY RESULT IN DISQUALIFICATION OF THE BID. E.G. BIDS WITH THE LAWS OF A STATE OTHER THAN TEXAS, REQUIREMENTS FOR PREPAYMENT, LIMITATIONS ON REMEDIES, ETC.
8. AWARD OF CONTRACT - A response is an IFB is an offer to contract with TEXAS A&M based upon the terms, conditions and specifications contained in the IFB. Bids shall not be accepted and no contract issued if the contract does not become a contract until they are accepted and an authorized purchase order is issued. The contract shall be governed, construed and interpreted under the laws of the State of Texas.

9. PAYMENT - SUPPLIER shall submit one copy of an itemized invoice showing order number and agreement number when requested. TEXAS A&M will invoice for late payment if payment is made in 30 or fewer days from receipt of goods or services and an uncontested invoice.

10. PATENTS OR COPYRIGHTS - The SUPPLIER agrees to protect TEXAS A&M from any claims involving infringement of patents or copyrights.


12. PUBLIC INFORMATION ACT

(a) [SUPPLIER] acknowledges that TEXAS A&M University (TEXAS A&M) is obligated strictly comply with the Public Information Act, Chapter 552, Texas Government Code, in responding to any request for public information pertaining to this Agreement, as well as any other disclosure of information required by applicable Texas law.

(b) Upon TEXAS A&M's written request, SUPPLIER will provide specified public information exchanged or created under this Agreement that is not otherwise excepted from disclosure under chapter 552, Texas Government Code, to TEXAS A&M in a non-proprietary format acceptable to TEXAS A&M. As used in this provision, "public information" has the meaning assigned Section 552.002, Texas Government Code, but only includes information to which TEXAS A&M has a right of access.

(c) [SUPPLIER] acknowledges that TEXAS A&M may be required to post a copy of the fully executed Agreement on its Internet website in compliance with Section 2261.25x(a),1), Texas Government Code.

13. TEXAS FAMILY CODE SECTION 231.006 INELIGIBILITY TO RECEIVE STATE GRANTS OR LOANS OR RECEIVE PAYMENT ON STATE CONTRACTS

(a) A child support obligation who is more than 30 days delinquent in paying child support and a business entity in which the obligor is a sole proprietor, partner, shareholder, or owner with an ownership interest of at least 25 percent is not eligible to:

- receive payments from state funds under a contract to provide property, materials, or services;
- receive payments from state funds under a contract to provide property, materials, or services; or
- receive payments from state funds under a contract to provide property, materials, or services.

(b) A child support obligation or business entity ineligible to receive payments under Subsection (a) or a child support obligation ineligible to receive payments under Subsection (a) remains ineligible until all

- all arrearages have been paid;
- the obligor is in compliance with a written repayment agreement or court order as to any delinquency or;
- the court of continuing jurisdiction over the child support obligation has granted the obligor an exemption from Subsection (a) as part of a court-supervised effort to improve earnings and child support payments.

(c) A bid or an application for a contract, grant, or loan paid from state funds must include the social security number of the individual or sole proprietor and each partner, shareholder, or owner with an ownership interest of at least 25 percent of the business entity submitting the bid or application.

(d) A contract, bid, or application subject to the requirements of this section must include the following statement:

"Under Section 231.006, Family Code, the SUPPLIER or applicant certifies that the individual or business entity named in this contract, bid, or application is not ineligible to receive the specified grant, loan, or payment and acknowledges that this contract may be terminated and payment may be withheld if this certification is inaccurate."

(e) If a state agency determines that an individual or business entity holding a state contract is ineligible to receive payment under Subsection (a), the contract may be terminated.

(f) If the certificate required under Subsection (d) is shown to be false, the SUPPLIER is liable to the state for attorney's fees, the costs necessary to complete the contract, including the cost of advertising and awarding a second contract, and any other damages provided by law or contract.

(g) This section does not create a cause of action to contract a bid or award of a state grant, loan, or contract. This section does not impose a duty on the Title IV-D agency to collect information to send to the comptroller to withhold a payment to a business entity. The Title IV-D agency and other affected agencies are encouraged to develop a system by which the Title IV-D agency may identify a business entity that is identified to receive a state payment under Subsection (a) and to ensure that a state payment to the entity is not made. This system should be implemented using existing funds and only if the Title IV-D agency, comptroller, and other affected agencies determine that it will be cost-effective.

(b) This section does not apply to a contract between governmental entities.

(c) The Title IV-D agency may adopt rules or prescribe forms to implement any provision of this section.

(d) A state agency may accept a bid that does not include the information required under Subsection (c) if the state agency collects the information before the contract, grant, or loan is executed.

14. EXPORT CONTROL - SUPPLIER agrees to comply with all applicable US Export Control laws and regulations to include the Export Administration Regulations (EAR), the International Traffic in Arms (ITAR) and any other applicable US export laws and regulations. As an institution of higher learning, TEXAS A&M University (TEXAS A&M) has been designated as a Principal Foreign Principal of the U.S. and as such, this agreement is subject to export control laws, technical data, technical services or technology ("Materials") except as may be specifically agreed to by TEXAS A&M. SUPPLIER agrees that it will not provide or make accessible to TEXAS A&M any export controlled goods, technical data, technical services, or technology. This agreement is subject to the Materials and obtaining from TEXAS A&M its written consent to accept such Materials as well as any specific instructions for delivering controlled Materials to TEXAS A&M. SUPPLIER agrees that government access to controlled goods is required from the appropriate US Government agency and to show that information with TEXAS A&M prior to delivery of such Goods.

15. INFORMATION SECURITY

Pursuant to Title 1, Chapter 202, §202.77 of the Texas Administrative Code, SUPPLIER hereby acknowledges responsibility to comply with all applicable TEXAS A&M UNIVERSITY (TEXAS A&M) policies, rules, standards, practices, and agreements, including but not limited to: safety policies, privacy policies, security policies, auditing policies, software licensing policies, acceptable use policies, and nondisclosure as required by TEXAS A&M.

For purposes of this section concerning SUPPLIER Access, Confidential Information is defined as information that must be protected from unauthorized disclosure or public release based on state or federal law or other legally binding agreement and may include but is not limited to the following: personally identifiable information (social security number and/or financial account numbers, student education records); intellectual property (as set forth in Section 51.514 of the Texas Education Code); and medical records. Mission Critical Information is information that is defined by TEXAS A&M to be essential to the continued performance of the mission of TEXAS A&M, the unavailability of which would result in consequences to TEXAS A&M.

In the event SUPPLIER should obtain or be granted access to Confidential and/or Mission Critical Information of TEXAS A&M ("TEXAS A&M Information"), SUPPLIER will keep and protect TEXAS A&M Information confidential in the care, custody, and control of all its employees, agents, contractors, and subcontractors shall use the Texas A&M Information solely in connection with performance by SUPPLIER of the services provided to TEXAS A&M pursuant to this Agreement, and for no other purpose. Should SUPPLIER, its employees, agents, contractors, or subcontractors acquire other TEXAS A&M Information during the course of this Agreement, it shall not be used for SUPPLIER's own purposes or divulged to third parties. SUPPLIER shall comply with all terms and conditions of any TEXAS A&M non-disclosure agreement applicable to this Agreement.

Both parties shall each provide contact information for specific individuals. The designated contact for TEXAS A&M shall be [TEXAS A&M , College Station, TX 77843- , Telephone: (979) , Email: ] and the designated contact for SUPPLIER shall be [ (include email address and phone number)]. Should the designated contact for other party need to be changed, the new contact information shall be updated and provided to the respective parties within 24 hours of any staff changes. Should SUPPLIER have a need to access TEXAS A&M Information, that request shall be directed to TEXAS A&M's designated contact. Further, SUPPLIER is responsible for reporting all security breaches directly to TEXAS A&M. TEXAS A&M's designated contact for breaches shall be Help Desk Central (helpdesk@tamu.edu). Security breach investigation reports shall be provided to the designated contact for TEXAS A&M and TEXAS A&M's Chief Information Security Officer (cio@tamu.edu).

16. SUSTAINABILITY

TEXAS A&M UNIVERSITY is committed to campus sustainability initiatives. Support of these initiatives necessarily includes the purchase of goods and services that minimize the impact on the environment to the greatest extent possible. TEXAS A&M UNIVERSITY requests SUPPLIER's assistance in campus sustainability initiatives by informing in any bid response, or other discussions, of SUPPLIER's sustainability practices or environmentally sustainable product offerings. For example, alternative products available from SUPPLIER which may be recyclable or reusable, end of life (obsolescence) return of equipment to SUPPLIER, energy-saving devices, return to SUPPLIER of shipping containers, packaging or like excess materials.

17. ALTERNATIVE DISPUTE RESOLUTION

SUPPLIER must use the dispute resolution process provided in Chapter 2269 of the Texas Government Code to attempt to resolve a dispute arising under this Agreement and is required to provide a notice in accordance with Chapter 197, Texas Civil Practice and Remedies Code. SUPPLIER shall submit written notice of a claim of breach of contract to the University Contracts Officer, TEXAS A&M UNIVERSITY.