

June 4, 2021

We Video  
1975 W El Camino Real #202  
Mountain View, CA 94040



**Re: Illinois Student Online Personal Protection Act (105 ILCS 85) student data privacy requirements for educational technology software used in Illinois schools.**

Dear Jaime Hernandez,

Illinois State University ("ISU"), a public Illinois university, is a body corporate and politic of the State of Illinois. ISU includes two laboratory schools: Thomas Metcalf School (Grades: PreK – 8) and University High School (Grades 9-12) ("University Laboratory Schools"). The University Laboratory Schools are using the software, We Video, as part of instructional activities and would like to continue to do so. There is a new Illinois law, named the Student Online Personal Protection Act, 105 ILCS 85, ("SOPPA"), that establishes new student data privacy requirements for providers (or operators) of educational technology. Information and resources about SOPPA are available from multiple sources including the Illinois Student Privacy Alliance ([www.sdpc.a4i.org](http://www.sdpc.a4i.org)) and the Learning Technology Center of Illinois (<https://itcillinois.org/services/dataprivacy/>). In addition, a copy of the law can be accessed on the Illinois legislature [website](#).

The purpose of this letter is to update and modify the terms/conditions and privacy policy for the software consistent with the requirements of SOPPA and other Illinois law. The University, as a public Illinois university, is also subject to the Illinois Procurement Code requirements, which require vendors to make certain required certifications.

The revised provisions of SOPPA become effective July 1, 2021. The primary requirements for vendors/operators include:

- Prohibitions against vendor/operators to use student data to engage in targeted advertising on behalf of the vendor/operator, against amassing student data profiles for commercial purposes, selling/renting student data, or disclosing student data to third-parties for purposes unrelated to the contract.
- Vendor/operator must maintain reasonable security procedures/practices appropriate to the nature of any data retained or collected by the vendor/operator, including appropriate procedures to respond in the event of a breach of security such as a 30-day notice obligation.
- A requirement that vendor/operators comply with federal and state student privacy protections, including the Family Educational Rights and Privacy Act (20 USC 1232g) and the Illinois School Student Records Act (105 ILCS 110).
- Appropriate procedures to return or delete student data.

ISU proposes to modify the software terms and conditions (attached at Attachment 1) to include an addendum incorporating SOPPA, Illinois Procurement Code, and ISU requirements (attached at



# Terms of Use

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 [wevideo.com/terms-of-use](https://wevideo.com/terms-of-use)

For WeVideo Enterprise Agreement, please [click here](#)

Last Modified: April 8, 2021

WeVideo, Inc. (“WeVideo,” “we” or “our”) offers different types of accounts, ranging from free (“Free Account”) to paid accounts. Within the paid accounts (“Paid Accounts”), WeVideo offers individual accounts (“Individual Accounts”), multi-user accounts for small teams (“Team Accounts”), and multi-user accounts for organizations and companies (“Enterprise Account”) (collectively, our “Services”).

These general Terms of Use (“Terms”) govern your access to, and use of, the Services. You should carefully read these Terms and the applicable agreement before using the Services because by using and/or visiting the Services, you agree to be bound by these Terms and the applicable agreement. If you are using the Services on behalf of an organization, you are agreeing to these Terms and the applicable agreement on behalf of that organization and promising that you have the authority to bind that organization to these terms. In that case, “you” and “your” will refer to that organization.

If you do not agree with these Terms, immediately stop using our Services.

We reserve the right to change, update or cease to offer our Services or any part thereof, or to update these Terms at our discretion. If we do, we will use commercially post notice of the changes at our website.

## ACCOUNT SPECIFIC TERMS

### **Free Accounts**

Your Free Account allows you to store up to 1 GB and export up to 5 minutes of 720p video per month, free of charge. However, there are a few restrictions on this. First, we may limit, change, or modify the functionality that we provide to Free Accounts at anytime. Second, we reserve the right to embed a watermark or to add a bumper (including a third-party bumper) in any videos published from your Free Account. You agree not to remove watermarks/bumpers from such videos unless you upgrade to one of our “Paid Accounts”. By embedding a watermark or adding a bumper in such videos, we are not endorsing, and we assume no liability for, the content of such videos or their use. Finally, you agree that we may terminate your Free Account at any time, without notice and, if your Free Account is inactive for ninety (90) days, we may also delete any or all of your media files and published videos without providing additional notice.

Free accounts are not intended for use by an organization - School, Business or other. WeVideo defines organizational use as multiple users from the same email domain. When a single organization has multiple free accounts and high volumes of use, WeVideo considers the amount of use in aggregate and in total across all users in the organization and applies additional limitations beyond our published limitations for the personal free accounts. These include, but are not restricted to, limiting the number of users signing up from a single organization, concurrent logins, and the ability to edit and publish videos.

## **Paid Accounts**

WeVideo offers you the option to upgrade your Free Account to a Paid Account for a fee. WeVideo offers several Paid Accounts. Flex is a one time payment product with one year term. Individual and Team Accounts are subscription-based plans that are renewable on a monthly or annual basis. WeVideo accept payment by credit cards or digital wallets. For annual and monthly subscriptions, we will automatically charge your credit card or digital wallet commencing on the date you elect to purchase or upgrade to a Paid Account; and thereafter you will be automatically charged at the beginning of your next billing cycle based on your annual or monthly term and until you cancel your subscription. Click on the link on your “Account” page to see the commencement date for your next renewal period. In the event your WeVideo Paid account began on a day not contained in a given month or year, WeVideo will bill you on the last day of such month or year. For example, if your WeVideo Paid account began on January 31st, February 28th is the next time your credit card or digital wallet would be billed. You acknowledge that the amount billed each year may vary for reasons that include differing amounts due to promotional offers, differing amounts due to changes in your account, or changes in the amount of applicable sales tax, and you authorize us to charge your credit card for such varying amounts.

If you wish to cancel your Paid Account at anytime, you may do so via your “Account” page. Once you choose to downgrade or cancel your Paid Account, it will remain active for the remainder of your current subscription period but will not be renewed once that subscription term expires. You will not receive a refund for pre-paid portions of your subscription term. For example, if you have selected an annual subscription, your Paid Account will remain active for the remainder of that annual term and then be downgraded to a Free Account at the end of the Term.

If any fee is not paid in a timely manner, or WeVideo is unable to process your transaction using the credit card information provided, WeVideo reserves the right to suspend your Paid Account. If you do not bring your balance current within fifteen (15) days after WeVideo provides you with notification that your Paid Account is in arrears, we will downgrade your WeVideo Paid account to a Free Account and, if your storage space exceeds 1 GB, WeVideo reserves the right to delete some or all of your media files as necessary to reduce your storage space to below 1 GB.

WeVideo may change the fees and charges in effect, or add new fees and charges from time to time, for the next billing cycle, but we will give you advance notice of these changes by email. If you want to use a different credit card or if there is a change in your credit card validity or expiration date, you may edit your information by accessing your “Account” page. If your credit card reaches its expiration date, your continued use of the Services constitutes your authorization for us to continue billing that credit card and you remain responsible for any uncollected amounts. It is your responsibility to keep your contact information and payment information current and updated.

WeVideo Paid accounts are prepaid and are non-refundable, except as required by law.  
WEVIDEO DOES NOT PROVIDE REFUNDS OR CREDITS.

### **Enterprise Accounts**

WeVideo also offers Enterprise Accounts for organizations looking to have one account that multiple users can access and use. In addition to the terms and conditions of the “General” sections below, Enterprise Accounts are also subject to the terms and conditions of the [WeVideo Enterprise Agreement](#).

### **PRIVACY POLICY**

Data privacy is important to WeVideo. We believe you should always know how information about you is collected, used, and disclosed by WeVideo when you use our services, or otherwise interact with us. WeVideo provides a Privacy Policy explaining how we collect and process your personal data and protect your privacy when you use our Services. By using our Services, you agree that WeVideo can use such data in accordance with our privacy policies.

### **GENERAL TERMS**

#### **User Content**

By using our Services, you provide us with information, media files, video projects and final WeVideo videos (“WeVideo Videos”) that you submit to and create at WeVideo (collectively your “User Content”).

You retain full ownership to your User Content. We don’t claim any ownership to any of it. These Terms do not grant us any rights to your User Content or intellectual property except for the limited rights that are needed to provide the Services, as explained below.

In order to provide the Service, we need your permission to host, share, distribute, display, and perform your User Content. This is called a license. By uploading User Content to the Services, you grant WeVideo this license solely as is necessary to provide the Services, including sharing your User Content with third party service providers, for example Amazon, which provides our storage space.

If you are using the Services on behalf of an organization (for example a school), WeVideo may include the organization's name in a list of organizations using WeVideo on the WeVideo website.

You are solely responsible for your conduct, the content of your media files and video projects, and your communications with others while using the Services. We reserve the right, but have no obligation, to review your User Content at any time to ensure it does not contain any Prohibited Content. For the purpose of these Terms, "Prohibited Content" includes any content that: (a) is obscene, patently offensive, or promotes racism, bigotry, hatred or physical harm of any kind against any group or individual; (b) harasses or advocates harassment of another person; (c) involves the transmission of "phishing" emails, "junk mail", "chain letters", or unsolicited mass mailing or "spamming"; (d) promotes information that you know is false or misleading or promotes illegal activities or conduct that is abusive, threatening, obscene, defamatory or libelous; (e) promotes an illegal or unauthorized copy of another person's copyrighted work, such as providing pirated computer programs or links to them, providing information to circumvent manufacturer-installed copy-protect devices, or providing pirated music or links to pirated music files; (f) provides material that is sexual or violent in nature; or (g) provides instructional information about illegal activities such as making or buying illegal weapons, violating someone's privacy, or providing or creating computer viruses. We are not responsible for the accuracy, completeness, appropriateness, or legality of media files, WeVideo Videos, user posts, or any other information you may be able to access using the Services.

### **Your Responsibilities**

You are responsible for safeguarding the password that you use to access the Services and you agree not to disclose your password to any third-party. You are responsible for any activity using your account, whether or not you authorized that activity. If your contact information, or other information related to your account, changes, you must notify us promptly and keep your information current. You should immediately notify WeVideo of any unauthorized use of your account.

You are required to provide an email address in order to use the Services. You may be required to verify your email address and accept to receive emails from WeVideo to use certain features of the Services.

Media files and other content in the Services may be protected by intellectual property rights of others. You are expressly prohibited from copying, uploading, downloading, or sharing files unless you have the right to do so. You, not WeVideo, will be fully responsible and liable for what you copy, share, upload, download or otherwise use while using the Services. You must not upload spyware or any other malicious software to the Service.

You, and not WeVideo, are responsible for maintaining and protecting all of your User Content. WeVideo will not be liable for any loss or corruption of your User Content, or for any costs or expenses associated with backing up or restoring any of your User Content.

By agreeing to these Terms, you are representing to us that you are over 13 or that you have parental consent as described in our Privacy policy online, which is hereby incorporated in these Terms of Use by reference. PARENTS please read our Privacy Policy to understand how you can control and limit the information your child shares.

## **Software**

Services may include downloadable software, which may update automatically on your device to newer versions. We grant you a worldwide, non-exclusive and non-transferable right to use the Services for any purpose that does not knowingly infringes on existing intellectual property rights. Your license to use the Software is automatically revoked if you violate these Terms in a manner that implicates our intellectual property rights. We hereby reserve all rights not expressly granted in these Terms. You must not reverse engineer or decompile the Software, nor attempt to do so, nor assist anyone else to do so.

## **Intellectual Property and Feedback**

These Terms do not grant you any right, title, or interest in the Services, Software, or the content in the Services. While we appreciate it when users send us feedback, please be aware that we may use any feedback, comments, or suggestions you send us or post in forums without any obligation to you.

The Software and other technology we use to provide the Services are protected by copyright, trademark, and other laws of both the United States and foreign countries. These Terms do not grant you any rights to use the WeVideo trademarks, logos, domain names, or other brand features.

All trademarks and/or service marks displayed on the Services are the exclusive property of their respective owners, and may not be used without the owner's permission.

## **Acceptable Use Policy**

You agree not to misuse the Services. For example, you must not attempt to use the Services to do the following things:

- probe, scan, or test the vulnerability of any system or network;
- breach or otherwise circumvent any security or authentication measures;
- access, tamper with, or use non-public areas of the Services, shared areas of the Services you have not been invited to, WeVideo (or our service providers') computer systems;

- interfere with or disrupt any user, host, or network, for example by sending a virus, overloading, flooding, spamming, or mail-bombing any part of the Services;
- plant malware or otherwise use the Services to distribute malware;
- access or search the Services by any means other than our publicly supported interfaces (for example, “scraping”);
- send unsolicited communications, promotions or advertisements, or spam;
- send altered, deceptive or false source-identifying information, including “spoofing” or “phishing”;
- publish any Prohibited Content;
- impersonate or misrepresent your affiliation with any person or entity; or
- violate the law in any way, or to violate the privacy of others, or to defame others.

## **Copyright**

### Notice of Copyright or Intellectual Property Infringement

WeVideo respects others’ intellectual property and asks that you do too. In accordance with the Digital Millennium Copyright Act (“DMCA”) of 1998, WeVideo will respond expeditiously to claims of copyright infringement committed using the Services if such claims are reported to our designated agent listed below in writing, by mail.

To be effective the notification should include:

- identification of the copyrighted work claimed to have been infringed, or, if multiple copyrighted works are covered by a single notification, a representative list of such works;
- identification of the claimed infringing material and information reasonably sufficient to permit WeVideo to locate the material on the Services;
- information reasonably sufficient to permit WeVideo to contact you, such as an address, telephone number, and, if available, an e-mail address;
- statement by you that you have a good faith belief that the disputed use is not authorized by the copyright owner, its agent, or the law;
- statement by you, made under penalty of perjury, that the above information in your notification is accurate and that you are the copyright owner or authorized to act on the copyright owner's behalf; and
- your physical or electronic signature.



We reserve the right to remove any User Content alleged to be infringing and to terminate repeat infringers.

You acknowledge and agree that upon receipt of any notice of claimed infringement, WeVideo may immediately remove the identified materials from the Services and may disclose the notice to the party that originally posted the materials, without liability.

### **Counter-Notice by Accused User**

If we have taken down your materials due to suspicion of copyright infringement, you may dispute the alleged infringement by sending a written communication by mail to our designated agent below. That written communication should include the following:

- a physical or electronic signature of the user;
- identification of the material that has been removed or to which access has been disabled and the location at which the material appeared before it was removed or access to it was disabled;
- a statement under penalty of perjury that the user has a good faith belief that the material was removed or disabled as a result of mistake or misidentification of the material to be removed or disabled; and
- the user's name, address, and telephone number, and a statement that the user consents to the jurisdiction of Federal District Court for the judicial district in which such address is located, or if the user's address is outside of the United States, the Federal District Court for the Northern District of California, and that the user will accept service of process from the person who provided notification of copyright infringement or an agent of such person.

Please send all notices under the above copyright infringement policies by mail to the following individual, designated as WeVideo's agent for receipt of notifications of claimed infringement:

WeVideo, Inc.  
1975 W El Camino Real #202  
Mountain View CA 94040

or email: [legal@wevideo.com](mailto:legal@wevideo.com).

### **Repeat Infringers**

Your account will be terminated if, at WeVideo's sole discretion, you are determined to be a repeat infringer. Repeat infringers are users who have been the subject of more than one valid takedown request that has not been successfully rebutted.

## **Other Content**

The Services may contain links to third-party websites or resources. WeVideo does not endorse and is not responsible or liable for their availability, accuracy, the related content, products, or services. You are solely responsible for your use of any such websites or resources. Also, if we provide you with any software under an open source license, there may be provisions in those licenses that expressly conflict with these Terms, in which case the open source provisions will apply.

WeVideo reserves the right to replace, remove or charge for any or all Content Materials including graphics, transitions, music, sound effects, special effects and fonts. WeVideo can do this at any time without providing prior notice to the users.

The Content Materials that WeVideo offers are licensed to WeVideo and its users by the individual artists and partners. This content can be used in any video project without providing credit to the individual creators. In some cases, WeVideo partners have End User License Agreements(EULAs) that WeVideo is required to publish and that you must agree to in order to use the services of WeVideo. One such case is [Footage Firm, Inc.](#)

## **Termination**

You can stop using our Services any time. We reserve the right to suspend or end the Services at any time, with or without cause, and with or without notice. For example, we may suspend or terminate your use if you are not complying with these Terms, or use the Services in any way that would cause us legal liability or disrupt others' use of the Services. If we suspend or terminate your use, we will try to let you know in advance and help you retrieve data, though there may be some cases (for example, repeatedly or flagrantly violating these Terms, a court order, or danger to other users) where we may suspend immediately.

## **WeVideo is Available “AS-IS”**

THE SERVICES AND SOFTWARE ARE PROVIDED “AS IS”, AT YOUR OWN RISK, and “AS AVAILABLE” without warranty of any kind, either express or implied, including but not limited to, fitness for a particular purpose, title, or non-infringement. Should applicable law not permit the foregoing exclusion of express or implied warranties, then WEVIDEO hereby grants the minimum express or implied warranty required by such applicable law. No advice or information, whether oral or written, obtained by you from WEVIDEO, its employees, agents, suppliers or any other persons shall create any warranty, representation or guarantee not expressly stated in this section. Additionally, WeVideo does not make any warranties that the Services will be uninterrupted, secure or error free or that your use of the Services will meet your expectations, or that the Services, or any portion thereof, is correct, accurate, or reliable. WeVideo reserves the right to change any part of the Services at anytime without

notice. WeVideo has no responsibility for any harm to your computer system (including, for clarity, any mobile device based systems), loss or corruption of data, or other harm that results from your access to or use of the Services or Software.

### **Limitation of Liability**

TO THE FULLEST EXTENT PERMITTED BY LAW, IN NO EVENT WILL WEVIDEO, ITS AFFILIATES, OFFICERS, EMPLOYEES, AGENTS, SUPPLIERS OR LICENSORS BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL (INCLUDING LOSS OF USE, DATA, BUSINESS, OR PROFITS) DAMAGES, REGARDLESS OF LEGAL THEORY, WHETHER OR NOT WEVIDEO HAS BEEN WARNED OF THE POSSIBILITY OF SUCH DAMAGES, AND EVEN IF A REMEDY FAILS OF ITS ESSENTIAL PURPOSE. Because some states do not allow the disclaimer of implied warranties or the exclusion or limitation of certain types of damages, these provisions may not apply to you. If any portion of this limitation on liability is found to be invalid or unenforceable for any reason, then the aggregate liability of WeVideo and its affiliates shall not exceed THE AMOUNTS PAID BY YOU TO WEVIDEO FOR THE PAST THREE MONTHS OF THE SERVICES IN QUESTION. The limitation of liability herein is a fundamental element of the basis of the bargain and reflects a fair allocation of risk. The site would not be provided without such limitations and you agree that the limitations and exclusions of liability, disclaimers and exclusive remedies specified herein will survive even if found to have failed in their essential purpose.

### **Fair Use Policy on Storage and Export Time**

Some of the WeVideo subscription plans do not have set limits on storage or export time. Instead, we have a fair use policy, which limits total storage usage to a maximum of 1TB and export time to 96 hours. In addition the fair use policy assumes you are not violating our terms of service and are not intentionally abusing the service by using excessive disk storage or video creation allowance.

### **Modifications**

We may revise these Terms from time to time and the most current version will always be posted on our website. If a revision, in our sole discretion, is material we will notify you (for example via email to the email address associated with your account). Other changes may be posted to our blog or terms page, so please check those pages regularly. By continuing to access or use the Services after revisions become effective, you agree to be bound by the revised Terms. If you do not agree to the new terms, please stop using the Services.

### **Miscellaneous Legal Terms**

THESE TERMS AND THE USE OF THE SERVICES AND SOFTWARE WILL BE GOVERNED BY CALIFORNIA LAW EXCEPT FOR ITS CONFLICTS OF LAWS PRINCIPLES. ALL CLAIMS ARISING OUT OF OR RELATING TO THESE TERMS OR THE

SERVICES OR SOFTWARE MUST BE LITIGATED EXCLUSIVELY IN THE FEDERAL OR STATE COURTS OF SAN FRANCISCO COUNTY, CALIFORNIA, AND BOTH PARTIES CONSENT TO VENUE AND PERSONAL JURISDICTION THERE. These Terms constitute the entire and exclusive agreement between you and WeVideo with respect to the Services, and supersede and replace any other agreements, terms and conditions applicable to the Services. These Terms create no third-party beneficiary rights. WeVideo's failure to enforce a provision is not a waiver of its right to do so later. If a provision is found unenforceable the remaining provisions of the Agreement will remain in full effect and an enforceable term will be substituted reflecting our intent as closely as possible. You may not assign any of your rights in these Terms, and any such attempt is void, but WeVideo may assign its rights to any of its affiliates or subsidiaries, or to any successor in interest of any business associated with the Services. WeVideo and you are not legal partners or agents; instead, our relationship is that of independent contractors. Neither WeVideo nor Customer will be liable for inadequate performance to the extent caused by a condition that was beyond the party's reasonable control (for example, natural disaster, act of war or terrorism, riot, labor condition, governmental action, and Internet disturbance). There are no third-party beneficiaries to these Terms. The export and re-export of data via the Services may be controlled by the United States Export Administration Regulations. The Services may not be used in Cuba; Iran; North Korea; Sudan; or Syria or any country that is subject to an embargo by the United States and you are solely responsible for ensuring that Administrators and End Users do not use the Services in violation of any export restriction or embargo by the United States. In addition, Customer must ensure that the Services are not provided to persons on the Table of Denial Orders, the Entity List, or the List of Specially Designated Nationals.

## University Laboratory School Software Addendum

### Part One: Data Security Addendum

Vendor/Operator (referred to as Vendor or Operator) acknowledges and agrees that compliance with this Addendum in its entirety for the term of the contract and any renewals is a material requirement and condition of this contract. If the Parties determine that any clause in this section is not applicable to this contract it may be stricken without affecting the remaining subsections.

**UNLESS SPECIFICALLY EXEMPTED, THE FOLLOWING CONFIDENTIALITY AND DATA SECURITY REQUIREMENTS APPLY TO ALL DATA MADE AVAILABLE TO THE VENDOR UNDER THE TERMS OF THIS AGREEMENT.**

#### REQUIRED CONDITIONS:

1. **Order of Precedence:**

- a. To the extent, any provision in this Addendum is inconsistent or incompatible to terms included elsewhere in this Agreement, the parties agree that this Addendum shall take precedence and the conflicting provisions shall be null and void.

2. **Definitions:** The following terms shall be defined as follows for purposes of the Agreement.

- i. The term **SOPPA Covered Information** means personally identifiable information or material or information that is linked to personally identifiable information or material in any media or format that is not publicly available and is any of the following:
  1. Created by or provided to an Operator by a student or the student's parent or legal guardian in the course of the student's, parent's, or legal guardian's use of the Operator's site, service, or application for K through 12 school purposes.
  2. Created by or provided to an Operator by an employee or agent of a school or school district for K through 12 school purposes.
  3. Gathered by an Operator through the operation of its site, service, or application for K through 12 school purposes and personally identifies a student, including, but not limited to, information in the student's educational record or electronic mail, first and last name, home address, telephone number, electronic mail address, or other information that allows physical or online contact, discipline records, test results, special education data, juvenile dependency records, grades, evaluations, criminal records, medical records, health records, a social security number, biometric information, disabilities, socioeconomic information, food purchases, political affiliations, religious information, text messages, documents, student identifiers, search activity, photos, voice recordings, or geolocation information.
- ii. The term **Personally Identifiable & Protected University Data** shall include an individual's name first or last, e-mail address or password in an unencrypted or redact form when used in combination one or more of the following data elements including: an (i) identification numbers (e.g. individual's government-issued identification number or social security number, driver's license number); (ii) information protected by federal or state law (e.g. ethnicity, race, religion, disability status, veterans status, etc.), (iii) financial data (including account numbers, credit card number, or other information that would permit access to an individual's financial data; (iii) biometric or health data; or (iv.) other data that if released could create a safety or security concern for the University or members of the University community.
- iii. University Data includes any information provided by the University pursuant to the Agreement.

3. **University Data & SOPPA Covered Information Security Protections:** Vendor shall provide commercially reasonable and adequate protection on its network and systems to protect University Data and SOPPA Covered Information from unauthorized access, acquisition, destruction, use modification or disclosure that shall include but not be limited to include firewalls and intrusion detection/prevention, authentication and encryption capabilities (including mobile devices, USB storage devices and backup media) in accordance with standard industry practices.

- a. **Use of Data:** Vendor agrees that any and all University Data and SOPPA Covered Information exchanged shall be used expressly and solely for the purposes enumerated in the Agreement.
- b. **Data Transmission & Storage:** In general, Vendor shall implement administrative, physical and technical safeguards to protect University Data and SOPPA Covered Information that are no less rigorous than accepted industry practices. Vendor agrees that University Data and SOPPA Covered Information must be stored and transmitted in accordance with standard industry encryption standards. Personally Identifiable & Protected University Data and SOPPA Covered Information may not be processed or stored outside the U.S.

- c. **Third-Party Assurances / Subcontractors:** Vendor may only release University Data and SOPPA Covered Information to a subcontractor, affiliate or other third party with the designated University authorized official's prior written consent and provided that such subcontractor, affiliate, or other third party agrees to comply with all provisions of this Agreement.
- d. **Return/Destruction of Data:**
  - i. As applicable and in accordance with law, within a reasonable time period after termination of this Agreement, for any reason, Vendor shall return or destroy (as specified by the University) all University Data and SOPPA Covered Information and indexing information received from University, or created or received by Vendor on behalf of the University. This provision shall apply to data in the possession of subcontractors or agents of Vendor.
  - ii. Destruction of University Data and SOPPA Covered Information will be conducted in accordance with standard industry practices deemed acceptable by the University and Illinois State Record Act requirements.
  - iii. Vendor shall provide proof or certification of destruction of the data to the University's Information Security Officer.
- e. **Data Processing Integrity:** As applicable, Vendor shall take commercially reasonable measures, including regular data integrity audits, to protect Data against deterioration or degradation of data quality and authenticity. Vendor will maintain appropriate contingency / recovery plans for any University Data and SOPPA Covered Information in the event of loss of data or breach.

4. **Breach:**

- a. **Notice:** Vendor, including any subcontractors, affiliates, and third parties, shall report in the most expedient timeframe possible but no later than 30 days to the University Information Security Officer (i) any breach of security involving, or potentially involving, University Data and SOPPA Covered Information, or (ii) any use or disclosure of University Data and SOPPA Covered Information other than the Permitted Uses or breach of federal and state privacy laws. Vendor shall fully cooperate with the University with respect thereto. The University Information Security Officer can be contacted e-mailing [informationsecurityoffice@illinoisstate.edu](mailto:informationsecurityoffice@illinoisstate.edu).
- b. **Indemnification:** Vendor shall indemnify, defend and hold University harmless from and against all third-party claims, actions, suits and proceedings resulting from the release of any University Data and SOPPA Covered Information, including the University's costs and reasonable attorneys' fees which arise as a result of Vendor's failure to safeguard University Data and SOPPA Covered Information as provided in this Agreement. Any limitations of liability contained in the Agreement shall not be applicable to Vendor's obligations pursuant to this section.

## ADDITIONAL DATA SECURITY TERMS & CONDITIONS:

Please check those terms and conditions applicable to this Agreement.

**Vendor Certifications:** Prior to performing services which require access to, transmission of and/or storage of **University Data & SOPPA Covered Information**, Vendor will provide a third party certification of compliance with standard industry practices in a form acceptable to the University Information Security Officer.

**FERPA & State Privacy Protections.** Vendor hereby acknowledge and agrees to comply with the limitations on the use and re-disclosure of **University Data and SOPPA Covered Information** from education records as defined in the Family Educational Rights & Privacy Act ("FERPA") 34 CFR § 99.00 et seq. Vendor agrees to comply with all applicable state privacy protections including but not limited to the Illinois School Student Records Act (105 ILCS 10), the Mental Health and Developmental Disabilities Confidentiality Act (740 ILCS 10), the Identity Protection Act (105 ILCS 85), and the Personal Information Protection Act (815 ILCS 530). Vendor agrees that the Vendor is acting as a school official with legitimate educational interest; is performing an institutional service or function for which the school would otherwise use its own employees and is using University Data and SOPPA Covered Information for an authorized purposes and in furtherance of such legitimate educational interest. Vendor further acknowledge and agrees that it shall maintain the confidentiality, and shall not re-disclose, personally Identifiable Information from education records except as authorized by the University in writing.

**SOPPA.** Vendor agrees to comply with all operator prohibitions and restrictions on the use and re-disclosure of **University Data & SOPPA Covered Information** from education records as outlined in the Illinois Student Online Personal Protection Act, 105 ILCS 85, et seq. These include but are not limited to:

- Vendor may not use University Data & Covered Information to engage in targeted advertising, amass profiles on student or the parents, or sell/rent any student information, or disclose info to any third-party, unless such party maintains all required security procedures and practices.
- As required by SOPPA, Vendor agrees, upon request and within reasonable period of time, to provide a copy of any student's information provided or maintained by the Vendor, as operator. Vendor agrees to correct any factual errors within 90 days of such request.
- Vendor may only use data to improve operability/functionality of operator's site, to ensure legal and regulatory compliance, to take precautions against liability, to respond to judicial process, to protect the safety/integrity of users to the site.
- In the event of a breach of SOPPA Covered Information that is attributable to the Vendor, the Vendor agrees to reimburse and indemnify University for any and all costs and expenses University incurs in investigating and remediating the breach, without regard to any limitation of liability provision including but not limited to costs and expenses associated with:
  - Providing notification to parents of students whose data was compromised;
  - Providing credit monitoring to those students whose data was exposed in a manner that a reasonable person would believe may impact the student's credit or financial security;
  - Legal fees, audit costs, fines, and any other fees or damages imposed against the University as a result of the breach; and
  - Provision of any other notification or fulfilling any other requirements as required by law.

**Health Insurance Portability and Accountability Act ("HIPAA"):** If the Vendor is a "covered entity" as that term is defined under HIPAA, the Vendor shall enter into a Business Associate Agreement with the University. If the Vendor is not a "covered entity" as that term is defined under HIPAA, the Vendor acknowledges i) any students working at the Vendor's site or under the Vendor's supervision and control are part of the Vendor's "workforce" as defined in HIPAA Privacy Regulations at 43 C.F.R. 160.103, and ii) no Business Associate agreement is required between the University and Facility. The Facility will provide the necessary HIPAA training to students and students will be expected to comply with HIPAA and any other confidentiality requirements of the Facility.

**PCI Standards:** If, in the course of providing services to University, Vendor has access to or will collect, access, use, store, process, dispose of or disclose credit, debit or other payment cardholder information, Vendor shall at all times remain in compliance with the Payment Card Industry Data Security Standard ("PCI DSS") requirements, including remaining aware at all times of changes to the PCI DSS and promptly implementing all procedures and practices as may be necessary to remain in compliance with the PCI DSS, in each case, at Service Provider's sole cost and expense.

**Vendor Monitoring/Audit:** With prior written notice, University (or its agent or affiliate) may audit Vendor's use of the University Data to ensure that Vendor is in compliance with the terms of this Agreement. Vendor will keep complete and accurate records of all

use of University data, including a log file of all employees with access to University Data. University may at its own expense and upon no less than five working days written notice audit Vendor's use, access, or maintenance of the University Data. As part of such audit, University is entitled to obtain physical and electronic data concerning use of University's data upon submitting a reasonable request to Vendor. Such audit will not interfere unreasonably with Vendor's business activities, will be conducted no more often than once per calendar year at a location, unless a previous audit disclosed a material breach. If an audit reveals the Vendor has breached this Agreement, University may immediately terminate the Agreement.

**Illinois State University reserves the right and the parties agree to amend the Data Security Addendum and related Agreement to address required data security requirement changes in law, including those changes that may apply under the European Union General Data Protection Regulations, effective May 25, 2018.**



## Part 2: University & Illinois Procurement Code Addendum

The Board of Trustees of Illinois State University (University, ISU), a body corporate and politic of the State of Illinois and the Vendor are entering into a contract/agreement. For the parties' mutual convenience, the parties are using the Vendor's Contract Form. This Addendum is incorporated into the Vendor's Contract Form and made an integral part thereof.

Vendor acknowledges and agrees that the Vendor's Contract Form may include some types of clauses or sales terms not acceptable to the University because of statutory restrictions or other policy considerations. If the Parties determine that any provision of this Addendum in this section is not applicable to this contract it may be stricken without affecting the remaining subsections.

### 1. **Order of Precedence:**

- a. To the extent, any provision in this Addendum is inconsistent or incompatible to the Vendor's Contract Form, the parties agree that this Addendum shall take precedence and the conflicting provisions of the Vendor's Contract Form shall be null and void.

### 2. **Insurance:**

- a. Illinois State University shall not be required to maintain any type of insurance for the Vendor's benefit.
- b. During all times relevant to this agreement, Vendor shall maintain and keep in effect applicable general liability insurance with limits acceptable to the Board of Trustees of Illinois State University, and shall provide proof of coverage upon request. Additional insurance coverage, as specified in subsection c below, may be required for this agreement depending upon the services provided by the Vendor

### 3. **Confidential Information:**

- a. Confidential Information may be made available to the Vendor under this Agreement. The Vendor agrees to i) protect any Confidential Information from unauthorized use or disclosure; ii) disclose Confidential Information only to employees and other representatives who have agreed to comply with this agreement; and iii) use the Confidential Information only for the purposes authorized in this Agreement.
- b. All Confidential Information remains the property of the University.
- c. "Confidential Information" means any information provided by the University whether of a technical, business or other nature that is disclosed to the Vendor that is designated as Confidential by the University, that is protected from disclosure by applicable state or federal law, or that the Vendor has reason to believe is confidential, proprietary, or trade secret information of the University. Confidential Information does not include any information that: (a) was acquired lawfully by the Vendor or independently developed or acquired by the Vendor outside this Agreement; (b) is or becomes part of the public domain through no fault of the Vendor; or, (c) is authorized for release by written notice from University to Vendor; or (d) is otherwise required to be disclosed by law.
- d. ISU reserves the right to disclose contract purchase information as required by the State of Illinois Freedom of Information Act without pre-notification or approval from the Vendor.

### 4. **Governing Law:**

- a. Notwithstanding any provision to the contrary, the Vendor's Contract Form shall be governed and construed in accordance with the laws of the State of Illinois.
- b. For venue purposes, it is deemed that all obligations of the parties created hereunder are performed in McLean County, Illinois.

### 5. **Term:**

- a. Notwithstanding any provision, the term of the contract (including original and renewal terms) shall not exceed 10 years in total.
- b. No term will automatically renew regardless of stated required notification periods. All renewals will only be valid with the issuance of a University purchase order or other written direction from University.

6. **Indemnification/Hold Harmless/Limitation of Liability:**

- a. It is understood and agreed that neither party to this agreement shall be liable for any negligent or wrongful acts, either of commission or omission, chargeable to the other, unless such liability is imposed by law, and that this agreement shall not be construed as seeking to either enlarge or diminish any obligation or duty owed by one party against the other or against a third party.
- b. The University shall not agree to any additional provision:
  - i. Requiring the University to indemnify or hold harmless the Vendor for any act or omission.
  - ii. Releasing the Vendor or any other entity or person from its legal liability, or limiting liability, or unlawful or negligent conduct or failure to comply with any duty recognized or imposed by applicable law.
  - iii. Requiring the University to make payments for total or partial compensation or payment for lost profit or liquidated damages if the Agreement is terminated before the end of the term.
  - iv. Limiting the liability of the Vendor for property damage or personal injury.
  - v. Binding the University to any arbitration or to the decision of any arbitration board, commission, panel or other entity.
  - vi. Obligating the University to pay costs of collection or attorney's fees.
  - vii. Granting the Vendor a security of interest in property of Illinois State University.
  - viii. Changing the time period within which claims can be made or actions can be brought under the laws of the State of Illinois.
  - ix. Requiring the University to waive the sovereignty of Illinois, waiver of any right to a jury trial, increasing the University's liability beyond that authorized in the Illinois Tort Claims Act, or authorizing Vendor to execute any settlement obligation that would bind the University without the consent of the Board of Trustees of Illinois State University and/or the Illinois Attorney General, as applicable.

7. **Payment Obligations:**

- a. All amounts, including but not limited to interest and/or late charges, owed by the University under the Vendor's Contract Form shall be made in accordance with applicable provisions of the Illinois Prompt Payment Act.

8. **Independent Contractor:** In Vendor's performance under this Agreement, the Vendor acts and will act as an independent contractor and not as an agent or employee of Illinois State University.

9. **Use of University Name & Facilities:** Vendor shall not use the name of the University in any written material including but not limited to brochures, letters, and circulars, without the prior written consent of University. If

applicable, Vendor's use of University Facilities shall comply with all University policies, procedures and requirements.

10. **Force Majeure Provisions:** It is agreed that no claim for damages, losses or liability may be made by either party upon the occurrence of any circumstance, whether directly or indirectly, beyond the control of either party (including without limitation strikes, work stoppages, accidents, acts of war or terrorism, civil or military disturbances, nuclear or natural catastrophes or acts of God, business interruptions, disease, national or local emergency, government action or inaction, travel restrictions, loss or malfunctions of utilities, communications or computer (software and hardware) services ("a Force Majeure Event")), to the extent that such circumstance delays or otherwise makes it illegal or impossible for a party to satisfy its performance obligations under the Agreement. In the event of a Force Majeure Event, the parties agree to negotiate in good faith any modifications of the terms of this Agreement that may be necessary or appropriate in order to resume performance obligations under the Agreement. However, the contract is subject to termination/cancellation by the non-declaring party, unless the parties mutually agree, in writing, to amend the Agreement. As soon as reasonably practicable after a Force Majeure Event occurs, the non-declaring party will provide a written notice to the other party (or parties) that specifies the Agreement termination date. In the event of a termination due to a Force Majeure Event, the Vendor will refund to University all recoverable expenses and 50% of any documented, reasonable, nonrecoverable expenses incurred by Vendor prior to the date of termination. Vendor agrees to provide University with documentation, acceptable to the University, in its sole discretion, that details reasonable, nonrecoverable expenses retained by Vendor relating to the Force Majeure Event.

11. **Procurement Code Required Certifications:**

- a. Vendor acknowledges and agrees that compliance with the attached Certifications and Additional Terms for the term of the contract and any renewals is a material requirement and condition of this contract. By executing the contract Vendor certifies compliance with this subsection in its entirety, and is under a continuing obligation to remain in compliance and report any non-compliance.
- b. This subsection, in its entirety, applies to subcontractors used on the contract. Vendor shall include these Standard Certifications in any subcontract used in the performance of the contract using the Standard Subcontractor Certification form provided by the University.
- c. If this contract extends over multiple fiscal years, including the initial term and all renewals, Vendor and its subcontractors shall confirm compliance with this section in the manner and format determined by the University by the date specified by the University and in no event later than July 1 of each year that this contract remains in effect.

12. **Compliance:**

- a. **Statutory Compliance:** All commitments by the University under this Agreement are subject to constitutional and statutory limitations and restrictions binding upon the University. Vendor agrees to comply with all applicable federal, state, and local laws, orders and regulations.
- b. **University Policies and Procedures:** Vendor agrees to comply with applicable University policies and procedures, as applicable.

- c. **Nondiscrimination:** Vendor agrees to comply with all applicable federal and state nondiscrimination, equal opportunity and affirmative action laws, orders and regulations. Vendor shall not engage in unlawful discrimination or harassment against any person because of race, color, religion, sex, national origin, ancestry, age, marital status, protective order status, disability, unfavorable discharge from the military, or status as a disabled veteran or a veteran of the Vietnam era in the performance of this agreement.
- d. **Taxes:** The Agreement shall not obligate the University to pay taxes unless otherwise required by law.
- e. **Withholding/Legal Status:** Vendor shall provide true and correct information regarding its Federal Tax Payer Identification Number (FEIN), tax withholding status and legal status information. Any change in the Vendor's tax withholding status must be immediately reported to the University by Vendor. If a W-8 or W-9 form is required, payment will not be made prior to receipt of a completed form.
- f. **Export Control:**
  - i. University agrees to comply with applicable U.S. laws, regulations, orders or other restrictions on exports and further shall not sell, license or re-export, directly, or indirectly, any information, data, products, items subject to the Agreement to any person or entity for sale in any country or territory, if, to the knowledge of University, such action would cause the Vendor to be in violation of any such laws or regulations now or hereafter in effect.
  - ii. Vendor shall also notify the University if any of the individuals, equipment, data, services provided or other commitments made or subject to the Agreement are subject to the U.S. Export Administration Regulations, controlled by the International Traffic in Arms Regulations, subject to Office of Foreign Assets Control restrictions, or otherwise subject to export restrictions by a federal agency.

**12. Assignment:** This contract may not be assigned, in whole or in part, by either party without the prior written approval of the other party, except in connection with a merger or sale of all or substantially all of the assets of such party provided, however, that the obligations of such party under this Contract shall not be extinguished or otherwise affected by any such assignment.

## Certifications and Additional Terms

Vendor acknowledges and agrees that compliance with this subsection in its entirety for the term of any resulting contract and any renewals is a material requirement and condition of the contract. By executing the contract Vendor certifies compliance with this subsection in its entirety, and is under a continuing obligation to remain in compliance and report any non-compliance.

This subsection, in its entirety, also applies to subcontractors used on this contract. Vendor shall include these Standard Certifications in any subcontract used in the performance of the contract using the Standard Subcontractor Certification form provided by the State.

If the contract extends over multiple fiscal years, including the initial term and all renewals, Vendor and its subcontractors shall confirm compliance with this section in the manner and format determined by the State by the date specified by the State and in no event later than July 1 of each year that the contract remains in effect.

If the Parties determine that any certification in this section is not applicable to the contract it may be stricken without affecting the remaining subsections.

1. As part of each certification, Vendor acknowledges and agrees that should Vendor or its subcontractors provide false information, or fail to be or remain in compliance with the Standard Certification requirements, one or more of the following sanctions will apply:
  - the contract may be void by operation of law,
  - the State may void the contract, and
  - the Vendor and its subcontractors may be subject to one or more of the following: suspension, debarment, denial of payment, civil fine, or criminal penalty.

Identifying a sanction or failing to identify a sanction in relation to any of the specific certifications does not waive imposition of other sanctions or preclude application of sanctions not specifically identified.

2. Vendor certifies it and its employees will comply with applicable provisions of the United States Civil Rights Act, Section 504 of the Federal Rehabilitation Act, the Americans with Disabilities Act, and applicable rules in performance of this contract.
3. **This applies to individuals, sole proprietorships, partnerships and LLCs, but is otherwise not applicable.** Vendor, if an individual, sole proprietor, partner or an individual as member of a LLC, certifies he/she is not in default on an educational loan. 5 ILCS 385/3.
4. Vendor certifies that is has reviewed and will comply with the Department of Employment Security Law (20 ILCS 1005/1005-47) as applicable.
5. **This applies only to certain service contracts and does NOT include contracts for professional or artistic services.** To the extent there was a current Vendor providing the services covered by this contract and the employees of that Vendor who provided those services are covered by a collective bargaining agreement, Vendor certifies (i) that it will offer to assume the collective bargaining obligations of the prior employer, including any existing collective bargaining agreement with the bargaining representative of any existing collective bargaining unit or units performing substantially similar work to the services covered by the contract subject to its bid or offer; and (ii) that it shall offer employment to all employees currently employed in any existing bargaining unit who perform substantially similar work to the work that will be performed pursuant to this contract. This does not apply to heating, air conditioning, plumbing and electrical service contracts. 30 ILCS 500/25-80.

6. Vendor certifies it has neither been convicted of bribing or attempting to bribe an officer or employee of the State of Illinois or any other State, nor made an admission of guilt of such conduct that is a matter of record. 30 ILCS 500/50-5.
7. If Vendor has been convicted of a felony, Vendor certifies at least five years have passed after the date of completion of the sentence for such felony, unless no person held responsible by a prosecutor's office for the facts upon which the conviction was based continues to have any involvement with the business. 30 ILCS 500/50-10.
8. If Vendor or any officer, director, partner, or other managerial agent of Vendor has been convicted of a felony under the Sarbanes-Oxley Act of 2002, or a Class 3 or Class 2 felony under the Illinois Securities Law of 1953, Vendor certifies at least five years have passed since the date of the conviction. Vendor further certifies that it is not barred from being awarded a contract. 30 ILCS 500/50-10.5.
9. Vendor certifies it is not barred from having a contract with the State based upon violating the prohibitions related to either submitting/writing specifications or providing assistance to an employee of the State of Illinois by reviewing, drafting, directing, or preparing any invitation for bids, a request for proposal, or request of information, or similar assistance (except as part of a public request for such information). 30 ILCS 500/50-10.5(e).
10. Vendor certifies that it and its affiliates are not delinquent in the payment of any debt to the State (or if delinquent have entered into a deferred payment plan to pay the debt). 30 ILCS 500/50-11, 50-60.
11. Vendor certifies that it and all affiliates shall collect and remit Illinois Use Tax on all sales of tangible personal property into the State of Illinois in accordance with provisions of the Illinois Use Tax Act. 30 ILCS 500/50-12.
12. Vendor certifies that it has not been found by a court or the Pollution Control Board to have committed a willful or knowing violation of the Environmental Protection Act within the last five years, and is therefore not barred from being awarded a contract. 30 ILCS 500/50-14.
13. Vendor certifies it has neither paid any money or valuable thing to induce any person to refrain from bidding on a State contract, nor accepted any money or other valuable thing, or acted upon the promise of same, for not bidding on a State contract. 30 ILCS 500/50-25.
14. Vendor certifies it has read, understands and is not knowingly in violation of the "Revolving Door" provisions of the Illinois Procurement Code. 30 ILCS 500/50-30.
15. Vendor certifies that if it hires a person required to register under the Lobbyist Registration Act to assist in obtaining any State contract, that none of the lobbyist's costs, fees, compensation, reimbursements or other remuneration will be billed to the State. 30 ILCS 500/50-38.
16. Vendor certifies that it will not retain a person or entity to attempt to influence the outcome of a procurement decision for compensation contingent in whole or in part upon the decision or procurement. 30 ILCS 500/50-38.
17. Vendor certifies it will report to the Illinois Attorney General and the Chief Procurement Officer any suspected collusion or other anti-competitive practice among any bidders, offerors, contractors, proposers, or employees of the State. 30 ILCS 500/50-40, 50-45, 50-50.
18. Vendor certifies that if it is awarded a contract through the use of the preference required by the Procurement of Domestic Products Act, then it shall provide products pursuant to the contract or subcontract that are manufactured in the United States. 30 ILCS 517.
19. Vendor certifies steel products used or supplied in the performance of a contract for public works shall be manufactured or produced in the United States, unless the executive head of the procuring Agency/University grants an exception. 30 ILCS 565.
20. Drug Free Workplace
  - 20.1 If Vendor employs 25 or more employees and this contract is worth more than \$5,000, Vendor certifies it will provide a drug free workplace pursuant to the Drug Free Workplace Act

20.2 If Vendor is an individual and this contract is worth more than \$5000, Vendor certifies it shall not engage in the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance during the performance of the contract. 30 ILCS 580.

21. Vendor certifies that neither Vendor nor any substantially owned affiliate is participating or shall participate in an international boycott in violation of the U.S. Export Administration Act of 1979 or the applicable regulations of the United States Department of Commerce. 30 ILCS 582. Vendor certifies that no foreign-made equipment, materials, or supplies furnished to the State under the contract have been or will be produced in whole or in part by forced labor or indentured labor under penal sanction. 30 ILCS 583.
22. Vendor certifies that no foreign-made equipment, materials, or supplies furnished to the State under the contract have been produced in whole or in part by the labor of any child under the age of 12. 30 ILCS 584.
23. This applies to information technology contracts and is otherwise not applicable. Vendor certifies that information technology, including electronic information, software, systems and equipment, developed or provided under this contract comply with the applicable requirements of the Illinois Information Technology Accessibility Act Standards as published at ([www.dhs.state.il.us/iitaa](http://www.dhs.state.il.us/iitaa)). 30 ILCS 587.
24. **This only applies to vendors who own residential buildings but is otherwise not applicable.** Vendor certifies, if it owns residential buildings, that any violation of the Lead Poisoning Prevention Act has been mitigated. 410 ILCS 45.
25. Vendor certifies it has not been convicted of the offense of bid rigging or bid rotating or any similar offense of any state or of the United States. 720 ILCS 5/33 E-3, E-4.
26. Vendor certifies it complies with the Illinois Department of Human Rights Act and rules applicable to public contracts, which include providing equal employment opportunity, refraining from unlawful discrimination, and having written sexual harassment policies. 775 ILCS 5/2-105.
27. Vendor certifies it does not pay dues to or reimburse or subsidize payments by its employees for any dues or fees to any "discriminatory club." 775 ILCS 25/2.
28. Vendor warrants and certifies that it and, to the best of its knowledge, its subcontractors have and will comply with Executive Order No. 1 (2007). The Order generally prohibits Vendors and subcontractors from hiring the then-serving Governor's family members to lobby procurement activities of the State, or any other unit of government in Illinois including local governments if that procurement may result in a contract valued at over \$25,000. This prohibition also applies to hiring for that same purpose any former State employee who had procurement authority at any time during the one-year period preceding the procurement lobbying activity.
29. Vendor certifies that if an individual, sole proprietor, partner or an individual as a member of a LLC, he/she has not received an early retirement incentive prior to 1993 under Section 14-108.3 or 16-133.3 of the Illinois Pension Code or an early retirement incentive on or after 2002 under Section 14-108.3 or 16-133.3 of the Illinois Pension Code. 30 ILCS 105/15a; 40 ILCS 5/14-108.3; 40 ILCS 5/16-133.
30. Vendor certifies that it has read, understands, and is in compliance with the registration requirements of the Elections Code (10 ILCS 5/9-35) and the restrictions on making political contributions and related requirements of the Illinois Procurement Code. Vendor will not make a political contribution that will violate these requirements. 30 ILCS 500/20-160 and 50-37.
31. A person (other than an individual acting as a sole proprietor) must be a duly constituted legal entity and authorized to transact business or conduct affairs in Illinois prior to submitting a bid or offer. If you do not meet these criteria, then your bid or offer will be disqualified. 30 ILCS 500/20-43.

**Additional Terms:**

**Assignment and Subcontracting:** (30 ILCS 500/20-120 ) Any contract may not be assigned or transferred in whole or in part by Vendor without the prior written consent of the University. For purposes of this section, subcontractors are those specifically hired by the Vendor to perform all or part of the work covered by the contract. Vendor shall describe the names and addresses of all subcontractors to be utilized by Vendor in the performance of the resulting contract, together with a description of the work to be performed by the subcontractor and the anticipated amount of money that each subcontractor is expected to receive pursuant to a subsequent contract. Vendor shall notify the University in writing of any additional or substitute subcontractors hired during the term of a resulting contract, and shall supply the names and addresses and the expected amount of money that each new or replaced subcontractor will receive pursuant to the Contract. All subcontracts must include the same certifications and disclosures that Vendor must make as a condition of their contract.

**Audit / Retention of Records:** (30 ILCS 500/20-65) Vendor and its subcontractors shall maintain books and records relating to the performance of the resulting contract or subcontract and necessary to support amounts charged to the University. Books and records, including information stored electronically, shall be maintained by the Vendor for a period of three years from the later of the date of final payment under the contract or completion of the contract, and by the subcontractor for a period of three years from the later of final payment under the term or completion of the subcontract. If federal funds are used to pay contract costs, the Vendor and its subcontractors must retain its records for a minimum of five years after completion of work. Books and records required to be maintained under this section shall be available for review or audit by representatives of: the University, the Auditor General, the Executive Inspector General, the Chief Procurement Officer, State of Illinois internal auditors or other governmental entities with monitoring authority, upon reasonable notice and during normal business hours. Vendor and its subcontractors shall cooperate fully with any such audit and with any investigation conducted by any of these entities. Failure to maintain books and records required by this section shall establish a presumption in favor of the University for the recovery of any funds paid by the University under the contract for which adequate books and records are not available to support the purported disbursement. The Vendor or subcontractors shall not impose a charge for audit or examination of the Vendor's books and records.

**Availability of Appropriation** (30 ILCS 500/20-60): Any resulting contract is contingent upon and subject to the availability of funds. The University, at its sole option, may terminate or suspend this contract, in whole or in part, without penalty or further payment being required, if the Illinois General Assembly or the federal funding source fails to make an appropriation sufficient to pay such obligation. If funds needed are insufficient for any reason, the University has discretion on which contracts will be funded.

**Transportation Sustainability Procurement Program Act** (30 ILCS 530/10 (b): All contracts for freight, small package delivery, and any transportation of cargo require providers to report the amount of energy the service provider consumed to provide those services to the State and the amount of associated greenhouse gas emissions, including energy use and greenhouse gases emitted as a result of the provider's use of electricity in its facilities and the energy use and greenhouse gas emissions by the service provider's subcontractors in the performance of those services.

**Expatriated Entity:** For purposes of this provision, an expatriated entity is an entity that meets the definition outlined in 30 ILCS 500/1-15.120. Per 30 ILCS 500/50-17, no business or member of a unitary business group, as defined in the Illinois Income Tax Act, shall enter into a contract with a State agency under this Code if that business or any member of the unitary business group is an expatriated entity unless the Chief Procurement Officer:

- a) Has determined the contract is awarded as a sole source; or
- b) the purchase is of pharmaceutical products, drugs, biologics, vaccines, medical supplies, or devices used to provide medical and health care or treat disease or used in medical or research diagnostic tests, and medical nutritionals regulated by the Food and Drug Administration under the Federal Food, Drug, and Cosmetic Act.



**Sexual Harassment Policy:** Per 30 ILCS 500/50-80, Vendor agrees that it has a sexual harassment policy that meets the requirements of or is otherwise in accordance with Section 2-105 of the Illinois Human Rights Act (775 ILCS 5/2-105). Vendor agrees to provide a copy of the policy to the University upon request.