



VCU Procurement Services

CONTRACT RENEWAL

DATE: 6-18-2024

CONTRACT TITLE: Bleacher, Curtain, and Basketball Goal Maintenance & Repairs

CONTRACT NO: C0002438

LEGACY CONTRACT NO: N/A

NEW START DATE: 8-1-2024

NEW END DATE: 7-31-2025

RENEWAL NUMBER: 1 of 3

CONTRACTOR: Precision Installations Inc.

PRICING:

Select one of the options below.

- ☒ Pricing remains the same as the previous contract period.
- ☐ Attached is the revised pricing in accordance with the contract terms.

PAYMENT METHOD:

VCU is migrating away from processing payments via paper check and strongly encourages the use of our electronic payment options.

- ☐ Virtual Card (Net 20) [Preferred Method]
- ☐ ACH - Paymode-X Premium (Net 20)
- ☐ ACH - Paymode-X Basic (Net 35)
- ☒ Paper Check (Net 30). If selecting this option, we encourage you to offer an EPD.
- ☐ Other _____

ACTION REQUIRED: For more information about costs and to sign up, please visit [Vendor Invoicing and Payment](#).

EARLY PAYMENT DISCOUNT (EPD):

Please check one of the below. If you selected Paymode Basic above, select one of the options below. If you select "Other" below, please add a comment (e.g., 2.0% Net 15 / Net 30, enrolled in Virtual Card Program, etc.)

- ☐ 2.5% Net 15 / Net 30
- ☐ 1.5% Net 20 / Net 30
- ☐ 0.5% Net 25 / Net 30
- ☐ Other: _____

CERTIFICATE OF INSURANCE:

- ☒ By signing and submitting this contract renewal letter Contractor certifies that it will maintain the insurance coverages required at the time the contract was awarded. At renewal, Contractor shall have a new Certificate of Insurance listing Virginia Commonwealth University as the "Additional Insured", citing the contractor's name and contract number, emailed to msmosley@vcu.edu or mailed to Virginia Commonwealth University Risk Management, P.O. Box 843040, Richmond, VA.

All other terms and conditions of **C0002438** shall remain unchanged and in full force and effect.

RESPONSE:**Precision Installations Inc.**

Name of Firm

Signature**David Brownson**

Name Printed

President

Title

Date

6-24-24

MASTER SERVICES AGREEMENT

This MASTER SERVICES AGREEMENT ("MSA"), effective as of the last date executed ("Effective Date"), is between Virginia Commonwealth University, a corporation and an institution of higher education of the Commonwealth of Virginia, whose address is 912 West Grace Street, Richmond, VA 23298 ("VCU", or "University"), and Precision Installations Inc a Virginia corporation, with offices located at 2210 Cedarwood Road, Powhatan, VA, ("Precision" or "Contractor"). VCU and Precision are sometimes referred to individually as a "Party" and collectively as the "Parties."

WHEREAS, VCU issued a Request For Proposals to solicit proposals for the maintenance and repair of bleachers, curtain, and basketball goals, RFP # 147497681CH issued April 20, 2021 (the RFP); and

WHEREAS, Precision submitted its proposal dated April 28, 2022, (the "Proposal") wherein it wished to be considered, inter alia, for the maintenance and repair services as more fully specified therein (the "Services"); and

WHEREAS, VCU considered all proposals submitted, including the Precision Proposal, and VCU now desires to award to Precision, as set forth in greater detail below; and

WHEREAS, Precision desires to perform the maintenance, preventive maintenance, and repairs of bleachers, curtains, and basketball goals as set forth herein.

NOW THEREFORE, in consideration of the mutual promises set forth herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. **CONTRACT DOCUMENTS.** The contract documents shall consist of this MSA, and any scopes of work or orders agreed to between the parties (the "Contract").
2. **SERVICES/GOODS.** Precision shall perform the following Services: Maintenance, Preventive Maintenance, and Repairs of Bleachers, Curtains, and Basketball Goals as more fully described in this Contract.
3. **TERM and RENEWAL OF CONTRACT:** This contract shall have a two (2) year initial term (the "Initial Term") and may be renewed by VCU upon mutual written agreement of authorized representatives of both Parties for three (4) successive one (1) year periods (the "Renewal Term") under the terms and conditions of this original Contract or as otherwise agreed in writing by the Parties at such time.
4. **FEES:** VCU shall pay Contractor at the rates identified in Exhibit A net 30 days from the receipt of an invoice, services rendered, and goods delivered, to VCU's satisfaction, pursuant to and in accordance with Code of Virginia §§ 2.2-4347 through 2.2-4354 known as the Virginia Prompt Payment Act. Should VCU choose to exercise its right to Renew, the fee shall remain fixed during the Renewal Term. Thereafter, VCU shall pay any additional fees or payments due in accordance with this Section 4. Any payment terms requiring payment in less than 30 days will be regarded as requiring payment 30 days after receipt of invoice or delivery, whichever occurs last. This shall not affect offers of discounts for payment in less than 30 days, however. Fees appearing to be incorrect will be researched and challenged, and that portion of the invoice held in abeyance until a settlement can be reached. Interest on past due amounts accrues at the rate

permitted by Code of Virginia §§ 2.2-4347 through 2.2-4354 known as the Virginia Prompt Payment Act. For proper invoicing practices follow the link below.

<https://procurement.vcu.edu/for-suppliers/vendor-invoicing--payment/>

5. CONTRACTOR RESPONSIBILITIES.

- A. Precision will provide all labor, supervision, equipment, tools, parts, materials and travel costs as necessary to maintain the equipment listed below in compliance with the manufacturer's service manuals.
 - i. Five (5) sections/banks of retractable bleachers manufactured by Interkal
 - ii. The Siegel Center has 7,500 (expandable to 8,000) seats and approximately 2,000 seats are permanently fixed seats
 - iii. Ten (10) retractable (hanging) basketball goals which are manufactured by Porter
 - iv. Nine (9) divider curtains which are manufactured by Porter
 - v. The Auxiliary Gym Motorized Curtain manufactured by Draper Athletics
 - vi. Two stagnant nets
- B. Precision will provide full-service maintenance to include all preventive maintenance, on-call maintenance, and emergency maintenance for the above-listed equipment. Emergency will include sudden, accidental or catastrophic equipment failure as necessary to maintain all of the equipment. More specifically:
 - i. Bleachers: Routinely tested and inspected, properly timed, lubricated, and repaired as needed
 - ii. Goals: Routinely tested and inspected, lubricated, drive belts adjusted, inspect/test safety straps, check and tighten all hardware, check and tighten all points of installation
 - iii. Curtains: Routinely tested and inspected, lubricated, check, and tighten all hardware, check and tighten all points of installation, and straighten/repair bottom weight bars
- C. Precision shall direct all communication relevant to the contract to the VCU Project Manager or the Contract Administrator (or his/her designee). Precision will obtain written authorization from the VCU Contract Administrator prior to executing any repairs estimated to exceed \$2,000.00.
- D. Original Equipment Maintenance (OEM): Precision will provide and perform all preventive maintenance in accordance with the OEM's procedures and shall make recommendations to the University regarding additional high- priority maintenance issues that are identified during each visit as well as any recommendations regarding future repairs/replacements to prevent future equipment breakdowns or failures.
 - i. Precision shall use only OEM equipment and parts, with no substitutes allowed.
 - ii. Precision shall establish and maintain records by keeping them updated to reflect the guidelines of the OEM for the bleachers, divider curtains, and basketball goals.
- E. Clean-Up: Precision will clean-up after all maintenance, preventive maintenance, emergency and non-emergency unscheduled repair services have been provided or performed, at no additional cost to VCU. Clean-up should include, but not limited to, proper disposal of all part containers and all shipping crates.
- F. Precision will maintain or have "just in time" access to an inventory for parts or materials on-site at VCU. It will properly identify any parts or materials that it owns and provide proper security for

such items at its own risk and expense. Precision assumes responsibility for safekeeping the "storage space" provided to it by VCU, and shall take adequate precautions to prevent fire hazards, odors, vermin, and any other safety precautions. VCU will not be responsible for losses of Precisions' materials and parts stored on VCU premises.

- G. The Contractor shall provide a services record log posted by each piece of equipment each time services are rendered. The log will include the following:
 - i. The name of the employee
 - ii. The service date
 - iii. A description of the services provided and performed
 - iv. The service completion date.
- H. Precision shall perform all services in a workmanlike manner in accordance with industry standards.

6. GENERAL TERMS AND CONDITIONS

- A. **APPLICABLE LAW AND COURTS:** This Contract shall be construed, governed, and interpreted pursuant to the laws of the Commonwealth of Virginia without regard to choice of law principles. The Parties agree that all disputes arising under this Contract shall be brought in the state or federal courts located in Richmond, Virginia. To the extent any provision of the Contract is prohibited by Virginia law, or is otherwise not authorized by Virginia law, due to VCU's status as an agency of the Commonwealth of Virginia, such provision is null and void. Each party shall be responsible for its own legal fees and costs unless otherwise ordered by a court of law.
- B. **ARBITRATION:** Neither Party shall be compelled to arbitrate any matter or otherwise be subject to any form of alternative dispute resolution, but may request and/or opt to participate in alternative dispute resolution in its sole discretion.
- C. **WAIVER OF CLAIMS:** Notwithstanding anything contained herein to the contrary, VCU is an agency of the Commonwealth of Virginia and as such, pursuant to Va. Code § 2.2-514, cannot waive or settle legal claims that VCU may have against another party nor may VCU bestow any right or obligation that is beyond the duly granted authority of the signatory to bestow or incur on behalf of the Commonwealth of Virginia.
- D. **ANTI-DISCRIMINATION:** Contractor certifies to the Commonwealth that it will conform to the provisions of the Federal Civil Rights Act of 1964, as amended, as well as the Virginia Fair Employment Contracting Act of 1975, as amended, the Virginians With Disabilities Act, the Americans With Disabilities Act and Section 2.2-4311 of the *Virginia Public Procurement Act*. If the award is made to a faith-based organization, the organization shall not discriminate against any recipient of goods, services, or disbursements made pursuant to the contract on the basis of the recipient's religion, religious belief, refusal to participate in a religious practice, or on the basis of race, age, color, gender or national origin and shall be subject to the same rules as other organizations that contract with public bodies to account for the use of the funds provided; however, if the faith-based organization segregates public funds into separate accounts, only the accounts and programs funded with public funds shall be subject to audit by the public body. (*Code of Virginia*, § 2.2-4343.1). In every contract over \$10,000 the provisions in 1. and 2. below apply:

- 1. During the performance of this Contract, the Contractor agrees as follows:

- a. VCU is an equal opportunity/affirmative action institution providing access to education and employment without regard to age, race, color, national origin, gender, religion, sexual orientation, veteran's status, political affiliation or disability. As such, the Contractor will not discriminate against any employee or applicant for employment because of age, race, color, national origin, gender, religion, sexual orientation, veteran's status, political affiliation or disability or any other basis prohibited by state law related to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the Contractor. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
 - b. The Contractor, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, will state that such Contractor is an equal opportunity employer.
 - c. Notices, advertisements, and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting these requirements.
- B. The Contractor will include the provisions of a. above in every subcontract or purchase order over \$10,000 so that the provisions will be binding upon each subcontractor or vendor who performs work relative to this RFP.
- E. IMMIGRATION REFORM AND CONTROL ACT OF 1986: Contractor certifies that it does not and will not during the performance of this contract employ illegal alien workers or otherwise violate the provisions of the Federal Immigration Reform and Control Act of 1986.
- F. ANTITRUST: By entering into a contract, Contractor conveys, sells, assigns, and transfers to the Commonwealth of Virginia all rights, title and interest in and to all causes of the action it may now have or hereafter acquire under the antitrust laws of the United States and the Commonwealth of Virginia, relating to the particular goods or services purchased or acquired by the Commonwealth of Virginia under this Contract.
- G. ASSIGNMENT OF CONTRACT: The Contract shall not be assignable by Contractor in whole or in part without the written consent of the University.
- H. TESTING AND INSPECTION: To the extent applicable, VCU reserves the right to conduct any testing/inspection it may deem advisable to assure goods and services conform to the specifications/Contract.
- I. TERMINATION OF CONTRACT:
 - 1. Either Party may terminate this Contract if the other Party materially breaches this Contract and such breach is not cured within thirty (30) days after written notice to the breaching Party.
 - 2. University reserves the right to terminate this Contract, in part or in whole, without penalty, upon sixty (60) days written notice to the Contractor.
 - 3. Either Party may terminate this Contract after the initial twelve (12) months of this Contract upon sixty (60) days written notice to the other Party.

J. CHANGES TO THE CONTRACT: Changes may be made to the Contract:

1. The parties may agree to modify the scope of the Contract. An increase or decrease in the price of the Contract resulting from such modification shall be agreed by the parties as a part of their written Contract to modify the scope of the Contract.
2. The Purchasing Agency may order changes within the general scope of the contract at any time by written notice to the Contractor. Changes within the scope of the contract include, but are not limited to, things such as services to be performed, the method of packing or shipment, and the place of delivery or installation. The Contractor shall comply with the notice upon receipt. The Contractor shall be compensated for any additional costs incurred as the result of such order and shall give the Purchasing Agency a credit for any savings.
3. Material, substantive modifications, changes, and amendments to the Contract must be in a writing executed by authorized representatives of each party.

K. NOTICE: All notices provided hereunder in regard to default, claims, actions, or similar events shall be in writing and delivered personally, or sent by registered or certified mail, return receipt requested, postage prepaid, to the respective party at the following addresses:

For VCU:
Director, Procurement Services
912 West Grace Street, 5th Floor
Richmond, Virginia 23298-0327

For Contractor:
President: David Brownson
Precision Installation, Inc.
P.O. Box 568
Powhatan, VA 23139

Any notice sent by any other means shall not be considered duly given or delivered unless the receiving party affirmatively acknowledges receipt. Notices with respect to any services and communications specifically for day-to-day servicing purposes shall be sent to the designated points of contact as specified by each Party.

- L. TAXES: Contractor acknowledges all sales to the Commonwealth of Virginia are normally exempt from State sales tax. State sales and use tax certificates of exemption, Form ST-12, will be issued upon request. Deliveries against this Contract shall usually be free of Federal excise and transportation taxes. The Commonwealth's excise tax exemption registration number is 54-73-0076K.
- M. FAILURE TO DELIVER GOODS OR SERVICES: In case of failure to deliver goods or services in accordance with the Contract terms and conditions, VCU, after due oral or written notice, may procure them from other sources and hold the Contractor responsible for any resulting additional purchase and administrative costs. This remedy shall be in addition to any other remedies which VCU may have.
- N. SHIPPING: Contractor shall ship all goods FOB destination at the actual freight rate based upon the actual weight of the goods to be shipped.

- O. **INSURANCE:** Contractor certifies it will have the following insurance coverages, and any insurance otherwise required by applicable law, throughout the entire term of the Contract, as well as renewal terms. For construction contracts, if any subcontractors are involved, the subcontractor will have workers' compensation insurance in accordance with §§ 2.2-4332 and 65.2-800 et seq. of the *Code of Virginia*. Contractor further certifies all insurance coverage will be provided by insurance companies authorized by the Virginia State Corporation Commission to sell insurance in Virginia. Minimum Insurance Coverages and Limits Required for Most Contracts:
1. Worker's Compensation - Statutory requirements and benefits. Coverage is compulsory for employers of three or more employees, to include the employer.
 2. Employers Liability - \$100,000.
 3. Commercial General Liability - \$1,000,000 per occurrence. Commercial General Liability is to include bodily injury and property damage, personal injury and advertising injury, products, and completed operations coverage. The Commonwealth of Virginia must be named as an additional insured and so endorsed on the policy.
 4. Automobile Liability - \$1,000,000 per occurrence.
- P. **DRUG-FREE WORKPLACE:** During the performance of this contract, the Contractor agrees to (i) provide a drug-free workplace for the contractor's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the contractor's workplace and specifying the actions that will be taken against employees for violation of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the Contractor that the Contractor maintains a drug-free workplace; and (iv) includes the provisions of the foregoing clauses in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor providing services under this Contract. For the purposes of this section, "*drug-free workplace*" means a site for the performance of work done in connection with a specific contract awarded to a contractor, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the Contract.
- Q. **NONDISCRIMINATION:** As applicable, federal law requires compliance with the following:
1. 41 CFR § 60-1.4 Equal Opportunity Clause prohibiting discrimination on the basis of race, color, religion, sex, or national origin.
 2. 41 CFR 60-741.5(a) and 41 CFR 60-300.5(a). These regulations prohibit discrimination against qualified individuals on the basis of disability (60-741.5(a)) and protected veteran status (41 CFR 60-300.5(a)), and require affirmative action to employ and advance in employment qualified individuals with disabilities and qualified protected veterans.
- R. **FERPA:** To the extent that University provides to Contractor any identifiable student information, including student address, phone number and email address, the University hereby designates Contractor as a school official with a legitimate educational interest in using such student information, and Contractor agrees to use such information only for the purpose of fulfilling its

obligations under this Contract. Contractor further agrees not to disclose any such student information to any individual other than the student except as required by applicable law, rule or regulation or court or governmental order or as authorized in writing by the University or the individual student. Contractor acknowledges that this protection of student information is necessary for the University's compliance with the Code of Virginia section 23.1-405(C) and the federal Family Educational Rights and Privacy Act (FERPA).

- S. **CONFIDENTIAL INFORMATION:** "Confidential Information" means all information of a party ("Disclosing party") disclosed or made available to the other party ("Receiving party") that (i) is clearly marked or identified as such at the time of disclosure or within a reasonable time thereafter; or (ii) should be reasonably known by the Receiving party to be confidential due to the nature of the information disclosed and the circumstances surrounding the disclosure. Confidential Information of VCU shall include, but not be limited to information about VCU personnel and students of VCU to the extent such information is not available to the public domain in accordance with the laws of the Commonwealth of Virginia and FERPA. Contractor shall use its reasonable efforts to prevent and protect Confidential Information from unauthorized use or disclosure, with at least the same degree of care that Contractor uses to protect its own confidential and proprietary information, but in no event less than a reasonable degree of care under the circumstances. Each Party will only disclose the other Party's Confidential Information to its employees, consultants, or subcontractors only on a need-to-know basis, provided that such employees or subcontractors are subject to confidentiality obligations no less restrictive than those contained herein. Upon the completion of the services and upon request of VCU, Contractor shall return all Confidential Information received in written format, including copies or reproductions or other media containing Confidential Information within seven (7) days of such request.
- T. **VA FOIA:** Nothing contained herein is intended to limit VCU's compliance with the Virginia Freedom of Information Act ("VFOIA"). For clarity, contracts and pricing between VCU and its vendors are not considered to be exempt from VFOIA requests.
- U. **INDEMNIFICATION:** Contractor agrees to indemnify, defend, and hold harmless VCU, the Commonwealth of Virginia, and their officers, employees and agents from any claim, damage, liability, injury, expense or loss, including defense costs and attorneys' fees, arising from Contractor's negligence under this Agreement. Accordingly, VCU shall promptly notify Contractor of any claim or action brought against VCU in connection with this Agreement. Upon such notification, and at the request and direction of VCU and/or the Office of the Attorney General, Contractor will immediately defend any such claim or action pursuant to the provisions and requirements of § 2.2-514 of the Code of Virginia.
- V. **LIMITATION OF LIABILITY:** Contractor shall be liable for the direct damages caused by the negligence of itself, its officers, employees, and agents in connection with this Contract or any goods, services, actions, or omissions relating to this Contract.
- W. **STATUTORY DAMAGES:** VCU is not authorized to waive damages granted or otherwise available by statute.
- X. **SOVEREIGN IMMUNITY:** VCU is an agency of the Commonwealth of Virginia and is afforded the protection of sovereign immunity under Virginia law. Any claims against VCU or the Commonwealth are subject to the requirements established under Virginia law for bringing such claims against VCU or the Commonwealth, including the Virginia Tort Claims Act (Va. Code §§ 8.01-195.1 et seq.) and other applicable statutes relating to claims against the Commonwealth or its

agencies. Notwithstanding any other provision, nothing in this Contract shall be deemed to be or construed as a waiver of VCU's or the Commonwealth's sovereign immunity, or any other applicable requirements under Virginia law for bringing claims against VCU or the Commonwealth. The total cumulative liability of the University, its officers, employees, and agents in connection with this contract or in connection with any goods, services, actions or omissions relating to this contract, shall not under any circumstance exceed payment of the maximum purchase price.

- Y. **FORCE MAJEURE:** Neither Party will be responsible for any losses resulting from delay or failure in performance resulting from any cause beyond either Party's reasonable control, including without limitation, war, strikes or labor disputes, civil disturbances, fires, natural disasters, pandemics, including if VCU, in its sole discretion, must close a campus location or take other restrictive actions due to concerns related to the COVID-19 pandemic or acts of God. If the delay or failure in the performance of the Party claiming Force Majeure continues for thirty (30) days or more, then the Party not claiming Force Majeure may terminate this Agreement by written notice to the other Party without penalty. Any funds paid will be reimbursed pro rata based on Services not provided
- Z. **AUDIT:** The Contractor shall retain all books, records, and other documents relative to this contract for five (5) years after final payment, or until audited by the Commonwealth of Virginia, whichever is sooner. The University, its authorized agents, and/or State auditors shall have full access to and the right to examine any of said materials during said period.
- AA. **AVAILABILITY OF FUNDS:** It is understood and agreed between the parties herein that VCU shall be bound hereunder only to the extent the funds are appropriated, or otherwise made available, from the Virginia General Assembly or other funding source, or which funds may hereafter be provided for the purpose of this Contract.
- BB. **ADDITIONAL GOODS AND SERVICES:** The University may acquire other goods or services that the supplier provides than those specifically solicited. The University reserves the right, subject to mutual contract, for Contractor to provide additional goods and/or services under the same pricing, terms and conditions and to make modifications or enhancements to the existing goods and services. Such additional goods and services may include other products, components, accessories, subsystems, or related services newly introduced during the term of the Contract.
- CC. **REALSOURCE REGISTRATION:** This Contract shall result in a purchase order or purchase orders issued via VCU's source-to-pay platform, RealSource. Contractor shall register in RealSource upon award of contract. For information on registering, visit realsource.vcu.edu. Registration is free, and registered vendors shall have access to purchase order, invoice, and payment information. Contractor is responsible for the security of its RealSource portal account, including restricting access to it, maintaining the confidentiality of login information, and taking any other actions necessary to protect the security of the Contractor's account. VCU will not be responsible for a third party's fraudulent collection of VCU payments due to the Contractor's failure to update or protect its account information. If this is a cooperative procurement, this clause shall apply to orders placed by VCU only.
- DD. **eVA REGISTRATION AND FEES:** Contractor agrees to self-register with the Commonwealth of Virginia's electronic procurement system, eVA (information on eVA can be found at <http://www.eva.virginia.gov>), and agrees to maintain self-registered status for the duration of this Contract. The Commonwealth shall assess eVA transaction fees as specified below for each order resulting from this Contract. The Vendor Transaction Fee is:

1. DSBSD-certified Small Businesses: 1%, capped at \$500 per order.
2. Businesses that are not DSBSD-certified Small Businesses: 1%, capped at \$1,500 per order.

The specified Vendor Transaction Fee will be invoiced by the Commonwealth of Virginia Department of General Services, approximately 30 days after the corresponding purchase order is issued and the invoice is payable 30 days after the invoice date.

Contractor is responsible for the security of its eVA account, including restricting access to it, maintaining the confidentiality of login information, and taking any other actions necessary to protect the security of Contractor's account. VCU will not be responsible for a third party's fraudulent collection of VCU payments due to Contractor's failure to update or protect its account information.

EE. SWAM REPORTING: Contractor will submit a quarterly SWAM business report to the University by the 8th of the month following each calendar quarter, specifically the months of April, July, October, and January. Contractor will submit the quarterly SWAM business reports, based upon the Contractor's proposed commitment to:

VCU SWaM Reporting
E-mail: swamreporting@vcu.edu

The quarterly SWAM business reports will contain the following information:

- a. SWAM firms' name, address and phone number with which Contractor has contracted over the specified quarterly period.
- b. Contact person at the SWAM firm who has knowledge of the specified information.
- c. Type of goods and/or services provided over the specified period of time.
- d. Total amount paid to the SWAM firm as it relates to the University's account.

7. SPECIAL TERMS AND CONDITIONS

- A. ADVERTISING: Contractor shall not state in any of its advertising or product literature that the University, the Commonwealth of Virginia, or any agency or institution of the Commonwealth has purchased or uses its products or services.
- B. TRADEMARKS/LOGOS: The University retains all rights, title and interest to its trademarks, logos and other intellectual property. Contractor shall first submit a request in writing to the VCU Division of University Relations prior to use of any VCU marks, name, or logos.
- C. SPECIAL EDUCATIONAL OR PROMOTIONAL DISCOUNTS: The Contractor shall extend any special educational or promotional sale prices or discounts immediately to University during the term of this Contract. Such notice shall also advise the duration of the specific sale or discount price.
- D. EXTRA CHARGES NOT ALLOWED: The Contract price shall reflect all fees to be incurred for the performance of the Contract, including all applicable freight and installation charges. Any additional fees that arise during the performance of the Contract shall only be paid if approved by the University prior to incurring such fees.

- E. **ADDITIONAL USERS OF CONTRACT:** It is the University's intent to allow for cooperative procurement. Accordingly, any public body, public or private health or educational institution, or any University-related foundation (Additional Users) may access this Agreement if authorized by Selected Firm.

To that end and if agreeable with the Contractor, upon written request from Additional Users the Contractor may allow access to the contract. Although the University desires to provide access on such contract to Additional Users, the Contractor is not required to provide such access. A Contractor's willingness to provide this access to Additional Users, will not be a consideration in awarding this contract. Although the Additional Users have access to any resulting contract, Additional Users are not bound to use the contract and any use of the contract is strictly optional.

If the Additional Users choose to access the contract and the Contractor agrees to such access, the terms and conditions of the contract will be in full force and effect as between the Additional Users and the Contractor. VCU will have no responsibility for the resolution of any contractual disputes, or for payment for services rendered which may arise from an Additional User accessing the contract. The Contractor understands and agrees that it shall not have any recourse against VCU with respect to any claim it may have against another Additional User that accessed this contract.

- F. **SUBCONTRACTS:** No portion of the work shall be subcontracted without prior written consent of the purchasing agency. In the event that the Contractor desires to subcontract some part of the work specified herein, the Contractor shall furnish the University with the names, qualifications and experience of their proposed subcontractors. The Contractor shall, however, remain fully liable and responsible for the work to be done by its subcontractor(s) and shall assure compliance with all requirements of the Contract.
- G. **CRIMINAL BACKGROUND INVESTIGATION:** If Contractor employees and agents will be on the VCU campus, or have access to protected data as defined herein, Contractor must comply with the following: Contractor shall ensure that its employees, full-time or part-time, including newly hired, re-hired, seasonal, and/or temporary, who may have access to VCU confidential or proprietary information, or data about VCU personnel or students, have passed a criminal background check pursuant to the Code of Virginia, § 2.2-1201.1. Criminal background checks shall comply with the standards set forth in VCU's employment policies found at:

<http://www.policy.vcu.edu/sites/default/files/Criminal%20Conviction%20Investigations.pdf>

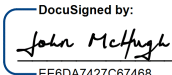
Specifically, Contractor shall ensure an investigation is conducted by a third-party vendor utilizing courthouse records and national databases to obtain records within the past seven (7) years. Convictions related to drugs, violence and/or sexual behavior are generally considered job related due to the nature of the VCU environment and the need to provide reasonable levels of protection for students, patients, employees, visitors, and institutional resources.

- H. **IDENTIFICATION CARDS:** All Contractor employees authorized to work at VCU must obtain a VCU identification card. Information on obtaining a card is available at <http://vcucard.vcu.edu/>. Contractor's employees must wear their VCU identification when they are on VCU property.


- I. **REPRESENTATIONS AND WARRANTIES:** All representations and warranties made by University are made to the best of its knowledge at the time the representation or warranty is made. University will use its best efforts to comply with all conditions and restrictions on its accounts and the services provided hereunder.
- J. **WARRANTY:** All materials and equipment shall be fully guaranteed against defects in material and workmanship for a period of **365** days following date of delivery. Should any defect be noted by the owner, the University will notify the Contractor of such defect or non-conformance. Notification will state either (1) that the Contractor shall replace or correct, or (2) the University does not require replacement or correction, but an equitable adjustment to the contract price will be negotiated. If the Contractor is required to correct or replace, it shall be at no cost to the University and shall be subject to all provisions of this clause to the same extent as materials initially delivered. If the Contractor fails or refuses to replace or correct the deficiency, the University may have the materials corrected or replaced with similar items and charge the Contractor the costs occasioned thereby or obtain an equitable adjustment in the contract price
- K. **DELIVERY AND STORAGE:** It shall be the responsibility of the Contractor to make all arrangements for delivery, unloading, receiving and storing materials in the building during installation. VCU will not assume any responsibility for receiving these shipments. Contractor shall check with VCU and make necessary arrangements for security and storage space in the building during installation.
- L. **INDEPENDENT CONTRACTORS:** The relationship between VCU and Precision created by this Agreement is that of independent contractors. Nothing contained herein shall be construed as constituting any other relationship between VCU and Precision, including that of a legal representative of VCU.
- M. **ENTIRE AGREEMENT:** This Contract constitutes the entire understanding of the parties and supersedes all prior oral or written agreements.

IN WITNESS WHEREOF, the Parties have executed this Contract on the dates designated below.

VIRGINIA COMMONWEALTH UNIVERSITY

By: 
DocuSigned by:
EE6DA7427C67468...
 Name: John McHugh
 Title: Director of Procurement Services
 Date: 8/1/2022

PRECISION INSTALLATIONS INC.

By: 
 Name: David Brownson
 Title: President
 Date: 7-21-22

Precision Installations Inc

P.O. Box 568
Powhatan Va. 23139
Ph: 804-677-7762
Email: PICl@aol.com

Date; 6-22-22

Attn: Cornelius Hunt

Re: RFP147497681

Mr. Hunt,

I have sharpened my pencil and have derived at this new pricing decrease:

Hourly Rate: \$65.00 per hour

Weekend /OT/Holiday Rate: \$97.50 per hour

Emergency/Rush Rate: \$65.00 per hour

Minimum service charge:\$400.00

Sincerely,
David Brownson

Precision Installations Inc

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Powhatan Va. 23139
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Sincerely,
David Brownson

MASTER SERVICES AGREEMENT

This MASTER SERVICES AGREEMENT ("MSA"), effective as of the last date executed ("Effective Date"), is between Virginia Commonwealth University, a corporation and an institution of higher education of the Commonwealth of Virginia, whose address is 912 West Grace Street, Richmond, VA 23298 ("VCU", or "University"), and Precision Installations Inc a Virginia corporation, with offices located at 2210 Cedarwood Road, Powhatan, VA, ("Precision" or "Contractor"). VCU and Precision are sometimes referred to individually as a "Party" and collectively as the "Parties."

WHEREAS, VCU issued a Request For Proposals to solicit proposals for the maintenance and repair of bleachers, curtain, and basketball goals, RFP # 147497681CH issued April 20, 2021 (the RFP); and

WHEREAS, Precision submitted its proposal dated April 28, 2022, (the "Proposal") wherein it wished to be considered, inter alia, for the maintenance and repair services as more fully specified therein (the "Services"); and

WHEREAS, VCU considered all proposals submitted, including the Precision Proposal, and VCU now desires to award to Precision, as set forth in greater detail below; and

WHEREAS, Precision desires to perform the maintenance, preventive maintenance, and repairs of bleachers, curtains, and basketball goals as set forth herein.

NOW THEREFORE, in consideration of the mutual promises set forth herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. **CONTRACT DOCUMENTS.** The contract documents shall consist of this MSA, and any scopes of work or orders agreed to between the parties (the "Contract").
2. **SERVICES/GOODS.** Precision shall perform the following Services: Maintenance, Preventive Maintenance, and Repairs of Bleachers, Curtains, and Basketball Goals as more fully described in this Contract.
3. **TERM and RENEWAL OF CONTRACT:** This contract shall have a two (2) year initial term (the "Initial Term") and may be renewed by VCU upon mutual written agreement of authorized representatives of both Parties for three (4) successive one (1) year periods (the "Renewal Term") under the terms and conditions of this original Contract or as otherwise agreed in writing by the Parties at such time.
4. **FEES:** VCU shall pay Contractor at the rates identified in Exhibit A net 30 days from the receipt of an invoice, services rendered, and goods delivered, to VCU's satisfaction, pursuant to and in accordance with Code of Virginia §§ 2.2-4347 through 2.2-4354 known as the Virginia Prompt Payment Act. Should VCU choose to exercise its right to Renew, the fee shall remain fixed during the Renewal Term. Thereafter, VCU shall pay any additional fees or payments due in accordance with this Section 4. Any payment terms requiring payment in less than 30 days will be regarded as requiring payment 30 days after receipt of invoice or delivery, whichever occurs last. This shall not affect offers of discounts for payment in less than 30 days, however. Fees appearing to be incorrect will be researched and challenged, and that portion of the invoice held in abeyance until a settlement can be reached. Interest on past due amounts accrues at the rate

permitted by Code of Virginia §§ 2.2-4347 through 2.2-4354 known as the Virginia Prompt Payment Act. For proper invoicing practices follow the link below.

<https://procurement.vcu.edu/for-suppliers/vendor-invoicing--payment/>

5. CONTRACTOR RESPONSIBILITIES.

- A. Precision will provide all labor, supervision, equipment, tools, parts, materials and travel costs as necessary to maintain the equipment listed below in compliance with the manufacturer's service manuals.
 - i. Five (5) sections/banks of retractable bleachers manufactured by Interkal
 - ii. The Siegel Center has 7,500 (expandable to 8,000) seats and approximately 2,000 seats are permanently fixed seats
 - iii. Ten (10) retractable (hanging) basketball goals which are manufactured by Porter
 - iv. Nine (9) divider curtains which are manufactured by Porter
 - v. The Auxiliary Gym Motorized Curtain manufactured by Draper Athletics
 - vi. Two stagnant nets
- B. Precision will provide full-service maintenance to include all preventive maintenance, on-call maintenance, and emergency maintenance for the above-listed equipment. Emergency will include sudden, accidental or catastrophic equipment failure as necessary to maintain all of the equipment. More specifically:
 - i. Bleachers: Routinely tested and inspected, properly timed, lubricated, and repaired as needed
 - ii. Goals: Routinely tested and inspected, lubricated, drive belts adjusted, inspect/test safety straps, check and tighten all hardware, check and tighten all points of installation
 - iii. Curtains: Routinely tested and inspected, lubricated, check, and tighten all hardware, check and tighten all points of installation, and straighten/repair bottom weight bars
- C. Precision shall direct all communication relevant to the contract to the VCU Project Manager or the Contract Administrator (or his/her designee). Precision will obtain written authorization from the VCU Contract Administrator prior to executing any repairs estimated to exceed \$2,000.00.
- D. Original Equipment Maintenance (OEM): Precision will provide and perform all preventive maintenance in accordance with the OEM's procedures and shall make recommendations to the University regarding additional high- priority maintenance issues that are identified during each visit as well as any recommendations regarding future repairs/replacements to prevent future equipment breakdowns or failures.
 - i. Precision shall use only OEM equipment and parts, with no substitutes allowed.
 - ii. Precision shall establish and maintain records by keeping them updated to reflect the guidelines of the OEM for the bleachers, divider curtains, and basketball goals.
- E. Clean-Up: Precision will clean-up after all maintenance, preventive maintenance, emergency and non-emergency unscheduled repair services have been provided or performed, at no additional cost to VCU. Clean-up should include, but not limited to, proper disposal of all part containers and all shipping crates.
- F. Precision will maintain or have "just in time" access to an inventory for parts or materials on-site at VCU. It will properly identify any parts or materials that it owns and provide proper security for

such items at its own risk and expense. Precision assumes responsibility for safekeeping the "storage space" provided to it by VCU, and shall take adequate precautions to prevent fire hazards, odors, vermin, and any other safety precautions. VCU will not be responsible for losses of Precisions' materials and parts stored on VCU premises.

- G. The Contractor shall provide a services record log posted by each piece of equipment each time services are rendered. The log will include the following:
 - i. The name of the employee
 - ii. The service date
 - iii. A description of the services provided and performed
 - iv. The service completion date.
- H. Precision shall perform all services in a workmanlike manner in accordance with industry standards.

6. GENERAL TERMS AND CONDITIONS

- A. **APPLICABLE LAW AND COURTS:** This Contract shall be construed, governed, and interpreted pursuant to the laws of the Commonwealth of Virginia without regard to choice of law principles. The Parties agree that all disputes arising under this Contract shall be brought in the state or federal courts located in Richmond, Virginia. To the extent any provision of the Contract is prohibited by Virginia law, or is otherwise not authorized by Virginia law, due to VCU's status as an agency of the Commonwealth of Virginia, such provision is null and void. Each party shall be responsible for its own legal fees and costs unless otherwise ordered by a court of law.
- B. **ARBITRATION:** Neither Party shall be compelled to arbitrate any matter or otherwise be subject to any form of alternative dispute resolution, but may request and/or opt to participate in alternative dispute resolution in its sole discretion.
- C. **WAIVER OF CLAIMS:** Notwithstanding anything contained herein to the contrary, VCU is an agency of the Commonwealth of Virginia and as such, pursuant to Va. Code § 2.2-514, cannot waive or settle legal claims that VCU may have against another party nor may VCU bestow any right or obligation that is beyond the duly granted authority of the signatory to bestow or incur on behalf of the Commonwealth of Virginia.
- D. **ANTI-DISCRIMINATION:** Contractor certifies to the Commonwealth that it will conform to the provisions of the Federal Civil Rights Act of 1964, as amended, as well as the Virginia Fair Employment Contracting Act of 1975, as amended, the Virginians With Disabilities Act, the Americans With Disabilities Act and Section 2.2-4311 of the *Virginia Public Procurement Act*. If the award is made to a faith-based organization, the organization shall not discriminate against any recipient of goods, services, or disbursements made pursuant to the contract on the basis of the recipient's religion, religious belief, refusal to participate in a religious practice, or on the basis of race, age, color, gender or national origin and shall be subject to the same rules as other organizations that contract with public bodies to account for the use of the funds provided; however, if the faith-based organization segregates public funds into separate accounts, only the accounts and programs funded with public funds shall be subject to audit by the public body. (*Code of Virginia*, § 2.2-4343.1). In every contract over \$10,000 the provisions in 1. and 2. below apply:

- 1. During the performance of this Contract, the Contractor agrees as follows:

- a. VCU is an equal opportunity/affirmative action institution providing access to education and employment without regard to age, race, color, national origin, gender, religion, sexual orientation, veteran's status, political affiliation or disability. As such, the Contractor will not discriminate against any employee or applicant for employment because of age, race, color, national origin, gender, religion, sexual orientation, veteran's status, political affiliation or disability or any other basis prohibited by state law related to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the Contractor. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
 - b. The Contractor, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, will state that such Contractor is an equal opportunity employer.
 - c. Notices, advertisements, and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting these requirements.
- B. The Contractor will include the provisions of a. above in every subcontract or purchase order over \$10,000 so that the provisions will be binding upon each subcontractor or vendor who performs work relative to this RFP.
- E. IMMIGRATION REFORM AND CONTROL ACT OF 1986: Contractor certifies that it does not and will not during the performance of this contract employ illegal alien workers or otherwise violate the provisions of the Federal Immigration Reform and Control Act of 1986.
- F. ANTITRUST: By entering into a contract, Contractor conveys, sells, assigns, and transfers to the Commonwealth of Virginia all rights, title and interest in and to all causes of the action it may now have or hereafter acquire under the antitrust laws of the United States and the Commonwealth of Virginia, relating to the particular goods or services purchased or acquired by the Commonwealth of Virginia under this Contract.
- G. ASSIGNMENT OF CONTRACT: The Contract shall not be assignable by Contractor in whole or in part without the written consent of the University.
- H. TESTING AND INSPECTION: To the extent applicable, VCU reserves the right to conduct any testing/inspection it may deem advisable to assure goods and services conform to the specifications/Contract.
- I. TERMINATION OF CONTRACT:
 - 1. Either Party may terminate this Contract if the other Party materially breaches this Contract and such breach is not cured within thirty (30) days after written notice to the breaching Party.
 - 2. University reserves the right to terminate this Contract, in part or in whole, without penalty, upon sixty (60) days written notice to the Contractor.
 - 3. Either Party may terminate this Contract after the initial twelve (12) months of this Contract upon sixty (60) days written notice to the other Party.

J. CHANGES TO THE CONTRACT: Changes may be made to the Contract:

1. The parties may agree to modify the scope of the Contract. An increase or decrease in the price of the Contract resulting from such modification shall be agreed by the parties as a part of their written Contract to modify the scope of the Contract.
2. The Purchasing Agency may order changes within the general scope of the contract at any time by written notice to the Contractor. Changes within the scope of the contract include, but are not limited to, things such as services to be performed, the method of packing or shipment, and the place of delivery or installation. The Contractor shall comply with the notice upon receipt. The Contractor shall be compensated for any additional costs incurred as the result of such order and shall give the Purchasing Agency a credit for any savings.
3. Material, substantive modifications, changes, and amendments to the Contract must be in a writing executed by authorized representatives of each party.

K. NOTICE: All notices provided hereunder in regard to default, claims, actions, or similar events shall be in writing and delivered personally, or sent by registered or certified mail, return receipt requested, postage prepaid, to the respective party at the following addresses:

For VCU:
Director, Procurement Services
912 West Grace Street, 5th Floor
Richmond, Virginia 23298-0327

For Contractor:
President: David Brownson
Precision Installation, Inc.
P.O. Box 568
Powhatan, VA 23139

Any notice sent by any other means shall not be considered duly given or delivered unless the receiving party affirmatively acknowledges receipt. Notices with respect to any services and communications specifically for day-to-day servicing purposes shall be sent to the designated points of contact as specified by each Party.

- L. TAXES: Contractor acknowledges all sales to the Commonwealth of Virginia are normally exempt from State sales tax. State sales and use tax certificates of exemption, Form ST-12, will be issued upon request. Deliveries against this Contract shall usually be free of Federal excise and transportation taxes. The Commonwealth's excise tax exemption registration number is 54-73-0076K.
- M. FAILURE TO DELIVER GOODS OR SERVICES: In case of failure to deliver goods or services in accordance with the Contract terms and conditions, VCU, after due oral or written notice, may procure them from other sources and hold the Contractor responsible for any resulting additional purchase and administrative costs. This remedy shall be in addition to any other remedies which VCU may have.
- N. SHIPPING: Contractor shall ship all goods FOB destination at the actual freight rate based upon the actual weight of the goods to be shipped.

- O. **INSURANCE:** Contractor certifies it will have the following insurance coverages, and any insurance otherwise required by applicable law, throughout the entire term of the Contract, as well as renewal terms. For construction contracts, if any subcontractors are involved, the subcontractor will have workers' compensation insurance in accordance with §§ 2.2-4332 and 65.2-800 et seq. of the *Code of Virginia*. Contractor further certifies all insurance coverage will be provided by insurance companies authorized by the Virginia State Corporation Commission to sell insurance in Virginia. Minimum Insurance Coverages and Limits Required for Most Contracts:
1. Worker's Compensation - Statutory requirements and benefits. Coverage is compulsory for employers of three or more employees, to include the employer.
 2. Employers Liability - \$100,000.
 3. Commercial General Liability - \$1,000,000 per occurrence. Commercial General Liability is to include bodily injury and property damage, personal injury and advertising injury, products, and completed operations coverage. The Commonwealth of Virginia must be named as an additional insured and so endorsed on the policy.
 4. Automobile Liability - \$1,000,000 per occurrence.
- P. **DRUG-FREE WORKPLACE:** During the performance of this contract, the Contractor agrees to (i) provide a drug-free workplace for the contractor's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the contractor's workplace and specifying the actions that will be taken against employees for violation of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the Contractor that the Contractor maintains a drug-free workplace; and (iv) includes the provisions of the foregoing clauses in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor providing services under this Contract. For the purposes of this section, "*drug-free workplace*" means a site for the performance of work done in connection with a specific contract awarded to a contractor, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the Contract.
- Q. **NONDISCRIMINATION:** As applicable, federal law requires compliance with the following:
1. 41 CFR § 60-1.4 Equal Opportunity Clause prohibiting discrimination on the basis of race, color, religion, sex, or national origin.
 2. 41 CFR 60-741.5(a) and 41 CFR 60-300.5(a). These regulations prohibit discrimination against qualified individuals on the basis of disability (60-741.5(a)) and protected veteran status (41 CFR 60-300.5(a)), and require affirmative action to employ and advance in employment qualified individuals with disabilities and qualified protected veterans.
- R. **FERPA:** To the extent that University provides to Contractor any identifiable student information, including student address, phone number and email address, the University hereby designates Contractor as a school official with a legitimate educational interest in using such student information, and Contractor agrees to use such information only for the purpose of fulfilling its

obligations under this Contract. Contractor further agrees not to disclose any such student information to any individual other than the student except as required by applicable law, rule or regulation or court or governmental order or as authorized in writing by the University or the individual student. Contractor acknowledges that this protection of student information is necessary for the University's compliance with the Code of Virginia section 23.1-405(C) and the federal Family Educational Rights and Privacy Act (FERPA).

- S. **CONFIDENTIAL INFORMATION:** "Confidential Information" means all information of a party ("Disclosing party") disclosed or made available to the other party ("Receiving party") that (i) is clearly marked or identified as such at the time of disclosure or within a reasonable time thereafter; or (ii) should be reasonably known by the Receiving party to be confidential due to the nature of the information disclosed and the circumstances surrounding the disclosure. Confidential Information of VCU shall include, but not be limited to information about VCU personnel and students of VCU to the extent such information is not available to the public domain in accordance with the laws of the Commonwealth of Virginia and FERPA. Contractor shall use its reasonable efforts to prevent and protect Confidential Information from unauthorized use or disclosure, with at least the same degree of care that Contractor uses to protect its own confidential and proprietary information, but in no event less than a reasonable degree of care under the circumstances. Each Party will only disclose the other Party's Confidential Information to its employees, consultants, or subcontractors only on a need-to-know basis, provided that such employees or subcontractors are subject to confidentiality obligations no less restrictive than those contained herein. Upon the completion of the services and upon request of VCU, Contractor shall return all Confidential Information received in written format, including copies or reproductions or other media containing Confidential Information within seven (7) days of such request.
- T. **VA FOIA:** Nothing contained herein is intended to limit VCU's compliance with the Virginia Freedom of Information Act ("VFOIA"). For clarity, contracts and pricing between VCU and its vendors are not considered to be exempt from VFOIA requests.
- U. **INDEMNIFICATION:** Contractor agrees to indemnify, defend, and hold harmless VCU, the Commonwealth of Virginia, and their officers, employees and agents from any claim, damage, liability, injury, expense or loss, including defense costs and attorneys' fees, arising from Contractor's negligence under this Agreement. Accordingly, VCU shall promptly notify Contractor of any claim or action brought against VCU in connection with this Agreement. Upon such notification, and at the request and direction of VCU and/or the Office of the Attorney General, Contractor will immediately defend any such claim or action pursuant to the provisions and requirements of § 2.2-514 of the Code of Virginia.
- V. **LIMITATION OF LIABILITY:** Contractor shall be liable for the direct damages caused by the negligence of itself, its officers, employees, and agents in connection with this Contract or any goods, services, actions, or omissions relating to this Contract.
- W. **STATUTORY DAMAGES:** VCU is not authorized to waive damages granted or otherwise available by statute.
- X. **SOVEREIGN IMMUNITY:** VCU is an agency of the Commonwealth of Virginia and is afforded the protection of sovereign immunity under Virginia law. Any claims against VCU or the Commonwealth are subject to the requirements established under Virginia law for bringing such claims against VCU or the Commonwealth, including the Virginia Tort Claims Act (Va. Code §§ 8.01-195.1 et seq.) and other applicable statutes relating to claims against the Commonwealth or its

agencies. Notwithstanding any other provision, nothing in this Contract shall be deemed to be or construed as a waiver of VCU's or the Commonwealth's sovereign immunity, or any other applicable requirements under Virginia law for bringing claims against VCU or the Commonwealth. The total cumulative liability of the University, its officers, employees, and agents in connection with this contract or in connection with any goods, services, actions or omissions relating to this contract, shall not under any circumstance exceed payment of the maximum purchase price.

- Y. **FORCE MAJEURE:** Neither Party will be responsible for any losses resulting from delay or failure in performance resulting from any cause beyond either Party's reasonable control, including without limitation, war, strikes or labor disputes, civil disturbances, fires, natural disasters, pandemics, including if VCU, in its sole discretion, must close a campus location or take other restrictive actions due to concerns related to the COVID-19 pandemic or acts of God. If the delay or failure in the performance of the Party claiming Force Majeure continues for thirty (30) days or more, then the Party not claiming Force Majeure may terminate this Agreement by written notice to the other Party without penalty. Any funds paid will be reimbursed pro rata based on Services not provided
- Z. **AUDIT:** The Contractor shall retain all books, records, and other documents relative to this contract for five (5) years after final payment, or until audited by the Commonwealth of Virginia, whichever is sooner. The University, its authorized agents, and/or State auditors shall have full access to and the right to examine any of said materials during said period.
- AA. **AVAILABILITY OF FUNDS:** It is understood and agreed between the parties herein that VCU shall be bound hereunder only to the extent the funds are appropriated, or otherwise made available, from the Virginia General Assembly or other funding source, or which funds may hereafter be provided for the purpose of this Contract.
- BB. **ADDITIONAL GOODS AND SERVICES:** The University may acquire other goods or services that the supplier provides than those specifically solicited. The University reserves the right, subject to mutual contract, for Contractor to provide additional goods and/or services under the same pricing, terms and conditions and to make modifications or enhancements to the existing goods and services. Such additional goods and services may include other products, components, accessories, subsystems, or related services newly introduced during the term of the Contract.
- CC. **REALSOURCE REGISTRATION:** This Contract shall result in a purchase order or purchase orders issued via VCU's source-to-pay platform, RealSource. Contractor shall register in RealSource upon award of contract. For information on registering, visit realsource.vcu.edu. Registration is free, and registered vendors shall have access to purchase order, invoice, and payment information. Contractor is responsible for the security of its RealSource portal account, including restricting access to it, maintaining the confidentiality of login information, and taking any other actions necessary to protect the security of the Contractor's account. VCU will not be responsible for a third party's fraudulent collection of VCU payments due to the Contractor's failure to update or protect its account information. If this is a cooperative procurement, this clause shall apply to orders placed by VCU only.
- DD. **eVA REGISTRATION AND FEES:** Contractor agrees to self-register with the Commonwealth of Virginia's electronic procurement system, eVA (information on eVA can be found at <http://www.eva.virginia.gov>), and agrees to maintain self-registered status for the duration of this Contract. The Commonwealth shall assess eVA transaction fees as specified below for each order resulting from this Contract. The Vendor Transaction Fee is:

1. DSBSD-certified Small Businesses: 1%, capped at \$500 per order.
2. Businesses that are not DSBSD-certified Small Businesses: 1%, capped at \$1,500 per order.

The specified Vendor Transaction Fee will be invoiced by the Commonwealth of Virginia Department of General Services, approximately 30 days after the corresponding purchase order is issued and the invoice is payable 30 days after the invoice date.

Contractor is responsible for the security of its eVA account, including restricting access to it, maintaining the confidentiality of login information, and taking any other actions necessary to protect the security of Contractor's account. VCU will not be responsible for a third party's fraudulent collection of VCU payments due to Contractor's failure to update or protect its account information.

EE. SWAM REPORTING: Contractor will submit a quarterly SWAM business report to the University by the 8th of the month following each calendar quarter, specifically the months of April, July, October, and January. Contractor will submit the quarterly SWAM business reports, based upon the Contractor's proposed commitment to:

VCU SWaM Reporting
E-mail: swamreporting@vcu.edu

The quarterly SWAM business reports will contain the following information:

- a. SWAM firms' name, address and phone number with which Contractor has contracted over the specified quarterly period.
- b. Contact person at the SWAM firm who has knowledge of the specified information.
- c. Type of goods and/or services provided over the specified period of time.
- d. Total amount paid to the SWAM firm as it relates to the University's account.

7. SPECIAL TERMS AND CONDITIONS

- A. ADVERTISING: Contractor shall not state in any of its advertising or product literature that the University, the Commonwealth of Virginia, or any agency or institution of the Commonwealth has purchased or uses its products or services.
- B. TRADEMARKS/LOGOS: The University retains all rights, title and interest to its trademarks, logos and other intellectual property. Contractor shall first submit a request in writing to the VCU Division of University Relations prior to use of any VCU marks, name, or logos.
- C. SPECIAL EDUCATIONAL OR PROMOTIONAL DISCOUNTS: The Contractor shall extend any special educational or promotional sale prices or discounts immediately to University during the term of this Contract. Such notice shall also advise the duration of the specific sale or discount price.
- D. EXTRA CHARGES NOT ALLOWED: The Contract price shall reflect all fees to be incurred for the performance of the Contract, including all applicable freight and installation charges. Any additional fees that arise during the performance of the Contract shall only be paid if approved by the University prior to incurring such fees.

- E. **ADDITIONAL USERS OF CONTRACT:** It is the University's intent to allow for cooperative procurement. Accordingly, any public body, public or private health or educational institution, or any University-related foundation (Additional Users) may access this Agreement if authorized by Selected Firm.

To that end and if agreeable with the Contractor, upon written request from Additional Users the Contractor may allow access to the contract. Although the University desires to provide access on such contract to Additional Users, the Contractor is not required to provide such access. A Contractor's willingness to provide this access to Additional Users, will not be a consideration in awarding this contract. Although the Additional Users have access to any resulting contract, Additional Users are not bound to use the contract and any use of the contract is strictly optional.

If the Additional Users choose to access the contract and the Contractor agrees to such access, the terms and conditions of the contract will be in full force and effect as between the Additional Users and the Contractor. VCU will have no responsibility for the resolution of any contractual disputes, or for payment for services rendered which may arise from an Additional User accessing the contract. The Contractor understands and agrees that it shall not have any recourse against VCU with respect to any claim it may have against another Additional User that accessed this contract.

- F. **SUBCONTRACTS:** No portion of the work shall be subcontracted without prior written consent of the purchasing agency. In the event that the Contractor desires to subcontract some part of the work specified herein, the Contractor shall furnish the University with the names, qualifications and experience of their proposed subcontractors. The Contractor shall, however, remain fully liable and responsible for the work to be done by its subcontractor(s) and shall assure compliance with all requirements of the Contract.
- G. **CRIMINAL BACKGROUND INVESTIGATION:** If Contractor employees and agents will be on the VCU campus, or have access to protected data as defined herein, Contractor must comply with the following: Contractor shall ensure that its employees, full-time or part-time, including newly hired, re-hired, seasonal, and/or temporary, who may have access to VCU confidential or proprietary information, or data about VCU personnel or students, have passed a criminal background check pursuant to the Code of Virginia, § 2.2-1201.1. Criminal background checks shall comply with the standards set forth in VCU's employment policies found at:

<http://www.policy.vcu.edu/sites/default/files/Criminal%20Conviction%20Investigations.pdf>

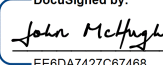
Specifically, Contractor shall ensure an investigation is conducted by a third-party vendor utilizing courthouse records and national databases to obtain records within the past seven (7) years. Convictions related to drugs, violence and/or sexual behavior are generally considered job related due to the nature of the VCU environment and the need to provide reasonable levels of protection for students, patients, employees, visitors, and institutional resources.

- H. **IDENTIFICATION CARDS:** All Contractor employees authorized to work at VCU must obtain a VCU identification card. Information on obtaining a card is available at <http://vcucard.vcu.edu/>. Contractor's employees must wear their VCU identification when they are on VCU property.


- I. **REPRESENTATIONS AND WARRANTIES:** All representations and warranties made by University are made to the best of its knowledge at the time the representation or warranty is made. University will use its best efforts to comply with all conditions and restrictions on its accounts and the services provided hereunder.
- J. **WARRANTY:** All materials and equipment shall be fully guaranteed against defects in material and workmanship for a period of **365** days following date of delivery. Should any defect be noted by the owner, the University will notify the Contractor of such defect or non-conformance. Notification will state either (1) that the Contractor shall replace or correct, or (2) the University does not require replacement or correction, but an equitable adjustment to the contract price will be negotiated. If the Contractor is required to correct or replace, it shall be at no cost to the University and shall be subject to all provisions of this clause to the same extent as materials initially delivered. If the Contractor fails or refuses to replace or correct the deficiency, the University may have the materials corrected or replaced with similar items and charge the Contractor the costs occasioned thereby or obtain an equitable adjustment in the contract price
- K. **DELIVERY AND STORAGE:** It shall be the responsibility of the Contractor to make all arrangements for delivery, unloading, receiving and storing materials in the building during installation. VCU will not assume any responsibility for receiving these shipments. Contractor shall check with VCU and make necessary arrangements for security and storage space in the building during installation.
- L. **INDEPENDENT CONTRACTORS:** The relationship between VCU and Precision created by this Agreement is that of independent contractors. Nothing contained herein shall be construed as constituting any other relationship between VCU and Precision, including that of a legal representative of VCU.
- M. **ENTIRE AGREEMENT:** This Contract constitutes the entire understanding of the parties and supersedes all prior oral or written agreements.

IN WITNESS WHEREOF, the Parties have executed this Contract on the dates designated below.

VIRGINIA COMMONWEALTH UNIVERSITY

By: 
Name: John McHugh
Title: Director or Procurement Services
Date: 8/1/2022

PRECISION INSTALLATIONS INC.

By: 
Name: David Brownson
Title: President
Date: 7-21-22

Precision Installations Inc

P.O. Box 568
Powhatan Va. 23139
Ph: 804-677-7762
Email: PICl@aol.com

Date; 6-22-22

Attn: Cornelius Hunt

Re: RFP147497681

Mr. Hunt,

I have sharpened my pencil and have derived at this new pricing decrease:

Hourly Rate: \$65.00 per hour

Weekend /OT/Holiday Rate: \$97.50 per hour

Emergency/Rush Rate: \$65.00 per hour

Minimum service charge:\$400.00

Sincerely,
David Brownson

Precision Installations Inc

P.O. Box 568
Powhatan Va. 23139
Ph: 804-677-7762
Email: PICl@aol.com

Date; 6-22-22

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