



## EXECUTIVE SUMMARY

**Recommendation that the Broward College District Board of Trustees authorize the amendment and annual agreement renewal with Accenture LLP (ITN 19M-006 - Enterprise Resource Planning Implementation Program) for information technology professional services related to the implementation of new Workday features and enhancements to assist in College financial and operational needs utilizing the bid waiver (piggyback) Fiscal Impact: Estimated \$50,000.00 (cumulative \$358,000.00).**

**Presenter(s):** Raj Mettai, Chief Information Officer

### **What is the purpose of this contract and why is it needed?**

The purpose of this contract is to amend the existing contract with Accenture LLP to reflect an increase in the hourly rate from \$240 to \$250 and to include the annual agreement renewal for one year of additional Workday post production support services hours.

The College procures professional services to assist with the implementation of new Workday product features and enhancements related specifically to the Finance/HCM modules. New product features are made available through Workday bi-annual releases and system updates. These services include:

- Assistance with functional design and configuration changes
- Assistance with the development of new integration and/or modification to existing integrations
- Assistance with data conversion mapping and extractions
- Assistance with the development of new reports, dashboards and metrics
- Assistance with security configurations and settings

As of July 15th, 2023, the College had about 43 post-production support hours remaining out of the 200 hours purchased under the current contract. These hours are estimated to be exhausted by August 1st, 2024 as the College continues to work on the State Healthcare System Development project which entails integrating our ERP system with the State's People First System. Thus, we need to purchase an additional 200 post production support services hours estimated at \$50,000 to continue with the ERP integration as well as for configuration changes, modifications, and integrations related specifically to the Finance/HCM modules.

**What procurement process or bid waiver was used and why?** The bid waiver exception used for this contract is piggyback. This is a piggyback of a publicly solicited contract awarded by Florida Gulf Coast University (FGCU) with Sierra-Cedar, Inc, now Accenture, LLP (ITN 19M-006-Enterprise Resource Planning Implementation Program) in accordance with FLDOE Rule 6A-14.0734(2)(c) and College Procedure 6AHx2-6.34 which cites the following exception to the requirement to solicit competitive offers: "Purchases at the unit or contract prices established through competitive solicitations by any unit of government by law or a nonprofit buying cooperatives." By piggybacking this contract, the College is benefiting from the pricing and terms of the contract entered into by Florida Gulf Coast University (FGCU).

**Is this a budgeted expenditure from the budget established at the last June Board of Trustees meeting?**

Yes.

**What fund, cost center and line item(s) were used?** FD100, CC0086, NFR-25-00002, GLC65000.

**Has Broward College used this vendor before for these products or services?** Yes.

**Was the product or service acceptable in the past?** Yes.

**Was there a return on investment anticipated when entering this contract?** Yes.

**Was that return on investment not met, met, or exceeded and how?** Yes, our return on investment was met by continuing operations of the enterprise resource planning (ERP) system.

**Does this directly or indirectly feed one of the Social Enterprise tactics and how?** Not applicable.

**Did the vendor amend Broward College’s legal terms and conditions [to be answered by the Legal Office] if the College’s standard contract was used and was this acceptable to the Legal Office?**

The General Counsel's office has reviewed the agreement and any deviation to the College's standard terms has been deemed acceptable.

**FISCAL IMPACT:**

Description: Approximately \$50,000.00 from BU202, FD100, CC0086, NFR-25-00002. Cumulative total \$358,000.00

<b>08/20/24</b>	<b>CC0086 · ERP Support</b>	<b>(\$50,000.00)</b>
	NFR-25-00002	

**Raj Mettai**  
Raj Mettai, Chief Information Officer

7/29/2024

**Donald Astrab**

Donald Astrab, VP, Academic Operations, Analytics, & Comm






















7/29/2024

APPROVAL PATH: 12404 Accenture LLP Piggyback Amendment-Renewal (FY2024-2025)

 **Workflow**

 Edit View

 Add Work Item

Stage	Reviewer	Description	Due Date	Status	
1	Alina Gonzalez	Review & Approve		 Completed	
2	Raj Mettai	CIO Review		 Completed	
3	Donald Astrab	Chief Operating Officer		 Completed	
4	Natalia Triana-Aristizabal	Contracts Coordinator		 Completed	
5	Zaida Riollano	Procurement Approval 		 Completed	
6	Rabia Azhar	CFO Review		 Completed	
6	Christine Sims	Budget Departmental Review		 Completed	
6	<b>Legal Services Review Group</b>	Review and Approval for Form and		 Completed	
7	Board Clerk	Agenda Preparation		 Completed	
8	District Board of Trustees	Meeting	08/20/24 08:30 AM	 Pending	
9	<b>Electronic Signature(s)</b>	Signatures obtained via DocuSign b		 Pending	
10	Natalia Triana-Aristizabal	Contracts Coordinator		 Pending	

## CHANGE ORDER #01 TO STATEMENT OF WORK #01 Workday Post-Production Support

This Change Order #01 (“Change Order”) effective as of the date last signed by a party (“**Change Order Effective Date**”) amends the Statement of Work, Workday Post-Production Support Services FY2024 effective as of November 7, 2023 (“SOW”) made by and between The District Board of Trustees of Broward College, Florida (“**Client**”) and Accenture LLP (“Accenture”) and is subject to the provisions of the MSA (as that term is defined in the SOW).

All capitalized terms used in this Change Order which are undefined shall have the meanings set forth in the SOW. Except as expressly modified by this Change Order, all other terms of the SOW shall remain unmodified and in full force and effect. In the event of an inconsistency among the MSA, SOW, and this Change Order, this Change Order shall govern. Accenture and Client agree to amend the following sections or provisions of the SOW, as follows:

### 1. CONTACTS

Accenture Contact: Nicole Schultheis **Email:** [nicole.schultheis@accenture.com](mailto:nicole.schultheis@accenture.com)

Client Contact: Raj Mettai **Email:** [rmettai@broward.edu](mailto:rmettai@broward.edu)

### 2. TERM

Accenture Services for this Change Order will commence on the Change Order Effective Date and complete on August 29, 2025.

### 3. BACKGROUND

Client has requested Accenture to continue providing post-production support services for the applicable functionality deployed during the Client’s Workday application implementation.

### 4. SERVICES, SCHEDULE, DELIVERABLES, AND RESOURCES

Services are not impacted by this Change Order.

### 5. FEES & EXPENSES

The Fees and Expenses impacted by this Change Order are as noted below.

Accenture will perform its Services for the Change Order on time and materials basis at the rates set forth herein (Table 1) subject to the pre-purchased hours block. Based on the terms of this Change Order, Accenture estimates Committed Spend for its Services will be \$50,000 plus applicable taxes and pre-approved actual expenses including, but not necessarily limited to, communications charges and supplies. Accenture’s fees will be based upon services actually performed (subject to the Committed Spend) and any actual expenses incurred. All fees and expenses will be paid in USD via electronic ACH or Wire Transfer.

**Table 1: Roles and Rates**

Roles	Hourly Rate
Shared Services Team*	\$250
Industry: Associate Consultant / Report Developer	\$250
Industry: Functional Consultant / Technical Developer	\$270

Industry: Senior Consultant / Senior Technical Developer	\$305
Industry: Solution Architect / Functional Practitioner	\$330
Industry: Senior Solution Architect / Project Manager	\$370
Industry: Technology / Functional Lead	\$400
Industry: Delivery Lead / Subject Matter Expert	\$425

\*Includes all levels of resources including Engagement Manager and dedicated support teams located in US, Canada, Europe and Philippines.

\*\* Rates are valid until August 29, 2025

Below is a summary of the Post-Production Support Hours for 2023-2024, as of July 15, 2024:

Summary Post-Production Support 2023-2024		
	Dollars	Hours
<b>Pre-Paid Budget</b>	\$48,000.00	200
<b>Nov 2023 - Oct 2024</b>	(\$37,680.00)	157
<b>Remaining Value</b>	\$10,320.00	43
*hours remaining based on the Shared Services rate of \$240		

## 6. SIGNATURES

This Change Order may be signed in counterparts, each of which shall be deemed an original.

The Parties expressly agree that electronic signatures may be utilized for execution of this Change Order. The Parties acknowledge and agree that (i) the issuance of an electronic signature shall be valid and enforceable as to the signing Party to the same extent as an inked original signature; and (ii) these documents shall constitute “original” documents when printed from electronic files and records established and maintained by either Party in the normal course of business.

**IN WITNESS WHEREOF**, the parties have caused this Change Order to be executed by their duly authorized representatives as identified below and to be effective as of the Change Order Effective Date written above.

### AGREED AND ACCEPTED

**Accenture LLP:**

**District Board of Trustees  
of Broward College, Florida:**

\_\_\_\_\_  
Print Name:

\_\_\_\_\_  
Print Name:

\_\_\_\_\_  
Signature:

\_\_\_\_\_  
Signature:

\_\_\_\_\_  
Title:

\_\_\_\_\_  
Title:

\_\_\_\_\_  
Date:

\_\_\_\_\_  
Date:



## EXECUTIVE SUMMARY

**Recommendation that the Broward College Board of Trustees authorize the one-year agreement with Accenture LLP for information technology professional services related to the implementation of new Workday features and enhancements to assist in College financial and operational needs through bid waiver exemption (piggyback). Fiscal Impact: Estimated \$48,000.00 (cumulative \$371,000.00).**

**Presenter(s):** Raj Mettai,

**What is the purpose of this contract and why it is needed?** The purpose of this contract is to procure professional services to assist with the implementation of new Workday product features and enhancements related specifically to the Finance/HCM modules. New product features are made available through Workday bi-annual releases and system updates. These services will include:

- Assistance with functional design and configuration changes
- Assistance with the development of new integration and/or modification to existing integrations
- Assistance with data conversion mapping and extractions
- Assistance with the development of new reports, dashboards and metrics
- Assistance with security configurations and settings

**What procurement process or bid waiver was used and why?** The bid waiver exception used for this contract is piggyback. This is a piggyback of a publicly solicited contract awarded by Florida Gulf Coast University with Sierra-Cedar, Inc, now Accenture, LLP (ITN Number: ITN 19M-006-Enterprise Resource Planning Implementation Program) in accordance with Section 6A-14.0734(2)(c) , Florida Administrative Code which cites the following exception to the requirement to solicit competitive offers: "Purchases at the unit or contract prices established through competitive solicitations by any unit of government by law or a nonprofit buying cooperatives." By piggybacking this contract, the College is benefiting from the pricing and terms of the contract entered into by Florida Gulf Coast University.

**Is this a budgeted expenditure from the budget established at the last June Board of Trustees meeting?**  
Yes.

**What fund, cost center and line item(s) were used?** The fund used is FD100. The cost center used is CC0158, NFR-24-000007, and line item is GLC 65000.

**Has Broward College used this vendor before for these products or services?** Yes.

**Was the product or service acceptable in the past?** Yes.

**Was there a return on investment anticipated when entering this contract?** No.

**Was that return on investment not met, met, or exceeded and how?** Yes, our return on investment was met by continuing operations of the enterprise resource planning (ERP) system.

**Does this directly or indirectly feed one of the Social Enterprise tactics and how?** This indirectly feeds the big bet "Guarantee Access to Higher Education; Empower Student Development." While the Broward College Finance and HCM ERP does not have a direct connection with the social enterprise plan, the system allows the College to continue financial and human resource operations.

**Did the vendor amend Broward College's legal terms and conditions [to be answered by the Legal Office] if the College's standard contract was used and was this acceptable to the Legal Office?**

This is the statement of work through a piggybacked state university agreement. The statement of work was determined to be legally sufficient.

**FISCAL IMPACT:**

Description: Estimated fiscal impact is \$48,000.00 (estimated cumulative is \$371,000.00). Cost Center information: BU202, FD100, CC00158, NFR-24-000007.

11/01/23	<b>CC0158 · Information Technology</b>	(\$48,000.00)
	NFR-24-000007	

**Raj Mettai**

Raj Mettai

6/14/2023

**Jeffrey Nasse**

Jeffrey Nasse, Provost and SVP of Academic Affairs

6/14/2023

**HISTORY:**

09/26/23 District Board of Trustees APPROVED

**COMMENTS - Current Meeting:**

Chair Yarbrough called for a motion to authorize the one-year agreement with Accenture LLP for information technology professional services related to the implementation of new Workday features and enhancements to assist in College financial and operational needs through bid waiver exemption (piggyback). Vice Chair Zachariah made the motion with a second by Trustee Agrawal. Vice Chair Zachariah abstained from the vote due to a conflict of interest. The motion passed unanimously.

<b>RESULT:</b>	<b>ADOPTED [UNANIMOUS]</b>
<b>MOVER:</b>	Zachariah Zachariah, Vice Chair
<b>SECONDER:</b>	Akhil Agrawal, Trustee
<b>AYES:</b>	Akhil Agrawal, Alexis Yarbrough, Mario Zanotti, Cindy Kushner
<b>ABSTAIN:</b>	Zachariah Zachariah



## STATEMENT OF WORK #1

## Workday Post Production Support Services FY2024

WHEREAS, Sierra Cedar, Inc. ("SCI") and Florida Gulf Coast Univeristy ("FGCU") entered into a Master Services Agreement ("Agreement") dated May 30, 2019;

WHEREAS, on February 28, 2020, Accenture LLP ("Accenture") acquired SCI's rights and obligations pertaining to the Agreement (the "Transaction"); and

WHEREAS, as a result of the Transaction, SCI's rights and obligations pertaining to the Agreement were assigned to Accenture, LLP effective June 1, 2020.

This Statement of Work ("SOW") is entered into as of the date last signed by a party ("SOW Effective Date") by and between the District Board of Trustees of Broward College, Florida ("Client") and Accenture pursuant to the Master Services Agreement, dated May 30, 2019, between Florida Gulf Coast Univeristy and Accenture ("MSA"). All capitalized terms used in this SOW which are undefined shall have the meanings set forth in the MSA. In the event of an inconsistency between this SOW and the MSA, this SOW shall govern.

## 1 CONTACTS

Accenture Contact:	Nicole Schultheis	Email: <a href="mailto:nicole.schultheis@accenture.com">nicole.schultheis@accenture.com</a>
Client Contact:	Raj Mettai	Email: <a href="mailto:rmettai@broward.edu">rmettai@broward.edu</a>

## 2 TERM

Accenture's Services (as defined below) will commence on the SOW Effective Date and complete on or about October 31, 2024.

## 3 BACKGROUND

Client has requested Accenture to provide certain post production support services for the applicable functionality deployed during the Client's Workday application implementation, as directed by the Client, (the "Project").

## 4 SERVICES

4.1 Accenture will provide resources to perform the following services ("Services") to assist the Client with the Project as outlined below:

- (a) Support for the Workday application functionality deployed as detailed in Exhibit A of this SOW.
- (b) Maintenance of existing configuration, as well as any new configuration, coding or data loading activities in the following areas:
  - Data loading via iLoad - Client is responsible for providing valid data in the correct iLoad format.
  - Updates to existing Integrations (Studio, Enterprise Interface Builder (EIB) and Core Connector)
  - Development and testing of new Integrations
  - Updates to existing or creation of new reports
  - Updates to existing or creation of new Security roles
  - Updates to existing or creation of new Business processes

(c) Workday application troubleshooting





- (d) Support for Workday application bi-annual software update including review of new scope and functionality
- (e) Support for additional functionality loaded to production within the timeframe of this SOW
- (f) Support for answering ad-hoc and how-to questions
- (g) General knowledge transfer; consists of communicating about tasks performed by Accenture related to the Services herein.

4.2 Project Governance: At the Client's request, Accenture will hold meetings monthly which will take place via conference call with Client to:

- Review Project status and any open items that should be discussed and decided by both parties
- Prioritize, plan, and schedule Project tasks for the Accenture team
- Monitor quality of services

Accenture will provide a monthly status report showing the status of any open cases and hours remaining on the contract.

4.3 Support Process: Client will initiate the ticket in Accenture's case management tool. Accenture will assign the ticket to the appropriate Accenture resource based on availability and skill set needed. Accenture will provide an estimate to the Client team for the number of hours it will take to resolve the ticket. Client may then decide to approve the work or close the request. If a ticket is estimated under or equal to five (5) hours or is marked Urgent / Critical, approval is not needed and the ticket will be worked to completion. Accenture shall not exceed the estimated hours without approval from Client. All time spent estimating is considered billable time.

Accenture will respond to each case in accordance with this SOW and will use commercially reasonable efforts to promptly resolve each case. Actual resolution time will depend on the nature of the case and the resolution itself. A resolution may consist of a fix, workaround or other commercially reasonable solution to the issue in Workday.

Accenture will respond via an update on the case management system to requests, which have been entered by Client within the targeted response and severity levels listed in Exhibit B of this SOW. This pertains only to the support provided by the Shared Services Team and not when industry-expert resources are assigned to the work.

4.4 Accenture Roles: Accenture will provide resources to perform the Services in this SOW based on the roles and rates provided in Table 1. In addition, the estimated budget amount includes project management resources, which is estimated to be approximately 15% of the total amount during the Term of the SOW.

4.5 Client Roles: Client will provide at a minimum one (1) point of contact that will act as coordinator for all support efforts. Responsibilities include but are not limited to; logging tickets through the case management system, answering questions, attending weekly status meetings, prioritizing open tickets, coordinating internal resources for follow up on open issues, responding to issues at point of escalation.

4.6 Location: The Services will be performed at Accenture's facilities, and/or remotely.

Unless otherwise agreed to in writing by the parties, the above describes Accenture's complete scope of Services.

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## 5 DELIVERABLES

There are no deliverables associated with this SOW.



## 6 CLIENT RESPONSIBILITIES AND ASSUMPTIONS

In addition to any other responsibilities or assumption described in this SOW, set forth below is a list of the obligations for which Client will be responsible, conditions on Accenture's performance, and assumptions upon which Accenture relies in agreeing to perform the Services described in this SOW on the terms set out herein (collectively "Client's Responsibilities"). If any of Client's Responsibilities are not performed or prove to be incorrect, it may cause changes to the Project schedule, fees and expenses, level of effort required, or otherwise impact Accenture's performance of the Services described in this SOW, and Accenture shall have no liability with respect to its inability to perform the Services resulting therefrom. Client shall grant to Accenture such additional time as is reasonable to provide the Services and/or the relevant Deliverables, as the case maybe, and shall pay to Accenture any additional fees necessary to compensate Accenture for any necessary additional effort or expenses. Any such change in fees shall be subject to the change control procedure.

- 6.1 Client acknowledges that there may be limitations with the Workday application(s) that do not permit the implementation of certain security measures, such as the ability to mask production data when used in a non-production environment. Notwithstanding such limitations, Client, as the data controller, directs Accenture, as the data processor, to proceed with the Services in relation to the Workday applications(s).
- 6.2 The Accenture resources assigned to this Project may be changed from time to time as needed. Client will be notified in advance of any planned project manager role changes.
- 6.3 No changes will be made to Client's production system without written direction/permission from the Client.
- 6.4 If needed, Client will contract with Workday for one implementation tenant for the duration of this SOW. Final pricing is between Client and Workday and will fall under a separate agreement between the two parties.
- 6.5 Client hereby grants to Accenture a perpetual, worldwide, non-exclusive, irrevocable right and license to use, copy, modify and prepare derivative works of the Accenture work products.
- 6.6 Accenture is not providing any legal, tax or accounting service to Client nor interpretation of any laws or regulations that may be applicable to Client and that may be related to the Services under this SOW. While Accenture personnel working on this Project may, through experience or specialized training or both, be familiar with the general regulatory environment in their capacity as information technology and management consulting professionals, they will perform Services under the direction of Client and its legal counsel regarding the specific legal and regulatory requirements under which Client operates.
- 6.7 Accenture artifacts will be provided to Client in English.
- 6.8 Any work requested outside of normal business hours (8:00AM – 5:00PM CST) must be previously arranged and mutually agreed upon.
- 6.9 Where the scope or a request or the related workflow is dependent on other applications or functionality, such capability shall already exist and shall be available as requested for Accenture's use.
- 6.10 Accenture will conduct unit testing as a result of any new configuration changes before the change is moved to production. Unit testing is a test of the specific configuration or integration coding or data loading described in the Client request. Client will be responsible for any further testing and for User Acceptance Testing (UAT) before any changes are moved to production.
- 6.11 If during support activities Accenture creates a new issue that was not previously present, Accenture will be responsible for the resolution of that issue at no charge. If Accenture identifies a new issue while testing a current case that issue will be reported to Client and the resolution of that issue will be billable.
- 6.12 Updates to the Workday application including, but not limited to, the resolution of coding defects, patching of vulnerabilities, or other items not configurable by Workday certified implementers are considered out of scope for this SOW.



## STATEMENT OF WORK #1: BROWARD COLLEGE PPS FY23-24

- 6.13 Accenture shall provide, as part of the Services, an Industry Standards based Multi-factor authentication (MFA) capability for Accenture, required for authentication to access Workday tenants provided. Details of how the MFA protocol must be implemented and assistance on implementation services are available from Accenture upon request.
- 6.14 Accenture shall not independently validate any information provided to it by the Customer, its agents or third parties and shall be entitled to rely upon the accuracy and completeness of such information.
- 6.15 Client is responsible for the timely coordination of internal and external resources necessary for Accenture to complete the services.
- 6.16 Client is responsible for taking appropriate Workday and relevant vendor training courses. Training courses from Workday, Inc. are not included in the SOW scope.
- 6.17 Client is responsible to perform testing before any changes are moved to production.
- 6.18 Client is responsible for end user training.
- 6.19 Client is responsible for providing the connectivity for passing vendor interface files.
- 6.20 Client is responsible for providing appropriate support services, including access to appropriate documentation and tools, mutually deemed necessary in the performance of Accenture's responsibility under this SOW, including but not limited to LAN, Internet and guest WIFI access, telephone, printing, duplicating services, and facilities access including building security badges.
- 6.21 Client will provide the required technology infrastructure to facilitate training and communications development and deployment efforts, such as adequate network bandwidth (for video), an Intranet and/or Learning Management System from which to deploy and optionally track training compliance.
- 6.22 Client is responsible for approving configuration changes to production environment.
- 6.23 Client IT organization is responsible for workstation compliance to Workday's minimum technical requirements as provided by Workday.
- 6.24 Client is responsible for negotiating and executing a licensing contract with Workday, Inc., which is assumed to be completed before the Project start date. All fees charged by Workday are the responsibility of Client, such as but not limited to training of Client employees and licensing fees.
- 6.25 All documentation required for SOX Compliance, internal audit, and other Client requirements are the responsibility of Client to create and maintain.
- 6.26 Client will commit the necessary resources and management involvement to support the Project and will make all decisions promptly and without delay.
- 6.27 Client will identify resources that will work alongside the Accenture resources assigned to this SOW in order to help facilitate appropriate knowledge transfer.
- 6.28 Client shall provide input, review, and participation during performance of the Services, including, without limitation, requirements gathering, design, working sessions, and day-to-day engagement tasks. Client shall be responsible for the timely participation of those Client employees who participate in the Client Project Team in the activities set forth in this SOW and will provide Accenture Personnel reasonable access to key users and technical personnel within Client's organization as agreed upon by the parties and as it relates to the performance of Services.
- 6.29 Client shall set overall direction for the Project team, make choices on direction, options and priorities, and take ownership for the outcomes.
- 6.30 Client shall be responsible for obtaining, at no cost to Accenture, consents for Accenture's use of any third-party products, including, but not limited to software (including purchase of any licenses), necessary for Accenture to perform its obligations under this SOW.



## STATEMENT OF WORK #1: BROWARD COLLEGE PPS FY23-24

- 6.31 Client shall be responsible for the performance of other contractors or vendors engaged by Client in connection with the Project and ensuring that they cooperate with Accenture.
- 6.32 Any Confidential Information disclosed to third parties contracted by the Client shall be subject to the confidentiality obligations of the Agreement.
- 6.33 Client shall be responsible for determining whether to use or refrain from using any recommendation that may be made by Accenture. Client will be solely responsible for determining whether any Services provided by Accenture (i) meet Client's requirements; (ii) comply with all laws and regulations applicable to Client; and (iii) comply with Client's applicable internal guidelines and any other agreements it has with third parties.
- 6.34 Notwithstanding the foregoing, at no time shall the resource be engaged by Client to perform or be required by Client to perform any tasks or work which is illegal and/or not normally performed within the duties and responsibilities of the resources described in this SOW.

## 7 FEES & EXPENSES

- 7.1 The estimated fees due for the Services under this SOW is \$48,000.00 and the Client agrees to pre-purchase the committed spend amount ("Committed Spend").
- 7.2 Accenture will perform its Services for the SOW on a time and material (for up to 200 hours if performed by shared services team) basis at the rates set forth herein, subject to the Committed Spend. Based on the terms of this SOW, Accenture estimates Committed Spend for its Services will be \$48,000 plus applicable taxes and pre-approved actual expenses including, but not necessarily limited to, travel and lodging expenses, communications charges and supplies. Accenture's fees will be based upon services actually performed (subject to the Committed Spend) and any actual expenses incurred. Table 1 provides the roles and hourly rates for the resources that may perform the Services under this SOW.

Table 1: Roles and Rates

Roles	Hourly Rate
Shared Services Team *	\$240
Industry: Functional Specialist / Reporting Specialist	\$240
Industry: Associate Consultant / Report Developer	\$250
Industry: Functional Consultant / Technical Developer	\$270
Industry: Senior Consultant / Senior Technical Developer	\$305
Subject Matter Advisory Services	
Industry: Architect / Functional Practitioner	\$330
Industry: Project Manager / Senior Architect	\$360
Industry: Delivery Lead / Technology Lead / Subject Matter Expert	\$400

\* Includes all levels of resources including Engagement Manager and dedicated support teams located in US, Canada, Europe and Philippines

- 7.3 The Committed Spend in this SOW is divided into monthly amounts allocated over the Term ("Monthly Allocation").
- 7.4 The Monthly Allocation will be used as the baseline for planning of staffing. With prior written agreement (e.g. email) between the parties, Client may use more than the Monthly Allocation for a given month.
- 7.5 Committed Spend less actual usage ("Available Budget") will be tracked and provided monthly in the project status report. Accenture will notify Client if the Available Budget is less than 20% of the Committed Spend. Services will end once the Committed Spend has been met unless a Change Order to this SOW has been executed by the parties.



## STATEMENT OF WORK #1: BROWARD COLLEGE PPS FY23-24

- 7.6 At the end of the term of the SOW, up to 50% of the Available Budget may be applied as a service credit into a renewed contract. The remaining 50% of the Available Budget is forfeited.
- 7.7 Client will pay Accenture the invoice per the terms of the SOW. All fees and expenses will be paid in USD via electronic ACH or Wire Transfer.
- 7.8 The estimated fees above do not include any expenses including, but not necessarily limited to, travel and lodging expenses, and all taxes, as applicable. All services under this SOW are anticipated to be delivered remotely. If travel is requested under this SOW, Client and Accenture will execute a mutually agreeable change order to document the anticipated travel expenses.

## 8 ADDITIONAL TERMS AND CONDITIONS

- 8.1 Accenture may have access to Client's Personal Data stored within the Workday applications while performing Services. The general responsibilities of the parties with respect to the nature and purpose of such access, security controls and protocols, are subject to the Exhibit C of this SOW – "Data Processing and Security Addendum."
- 8.2 The parties will work together to accommodate any changes or impacts to the Services (or delivery thereof) that are reasonably required to mitigate any impact of, or related to, any global or local health emergency or disease outbreak, including COVID-19 or such similar disease, and shall document the same in an agreed upon change order or amendment to the MSA.
- 8.3 Expiration of Offer – The offer set forth in this SOW and in the MSA, is valid only through November 15, 2023 and in the event this SOW is not executed by such date, the offer is rescinded, and all terms therein are null and void.

### AGREED AND ACCEPTED

Accenture Signature:

DocuSigned by:  
  
2105B0584A024CA...

Name:

Shireen Sackreiter

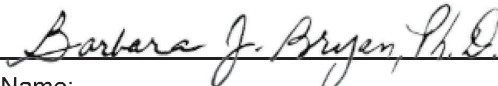
Title:

Managing Director

Date:

November 7, 2023

Client Signature:



Name:

Dr. Barbara J. Bryan

Title:

President

Date:

November 2, 2023



## Exhibit A

## Workday Functionality Deployed as of Contract Date

WORKDAY SOLUTION	FUNCTIONAL AREA	IN USE
FIN	Adaptive Planning	X
FIN	Banking and Settlement	
FIN	Budgets	X
FIN	Business Assets	
FIN	Customer Accounts	
FIN	Endowment	
FIN	Expense Management	X
FIN	Grants Management	X
FIN	Financials	X
FIN	Inventory	
FIN	Procure-to-Pay	X
FIN	Projects	
HCM	Absence	X
HCM	Advanced Compensation	X
HCM	Benchmarking	
HCM	Benefits	X
HCM	Headcount Planning	
HCM	Human Capital Management	X
HCM	Learning	X
HCM	Payroll	X
HCM	Performance Management	
HCM	Recruiting	X
HCM	Time-tracking	X
HCM	Talent Optimization	X
STUDENT	Academic Advising	
STUDENT	Admissions	
STUDENT	Campus Engagement	
STUDENT	Student Financials	
STUDENT	Student Records	
STUDENT	Student Recruiting	
STUDENT	Financial Aid	
CROSS-FUNCTIONAL	Help, Journeys, People Experience, Request Framework	





## Exhibit B

### Targeted Response Levels and Severity Levels

Target Response Time: The acknowledgement time is calculated from the time a ticket is submitted with responsible information for the reviewer to assess the issue to the time that the ticket is put in work in progress. 90% of cases created up to the monthly allocation will be acknowledged within the Targeted Response Time for Incident Management and Enhancements, as follows:

#### SILVER/RETAINER

	Break/Fixes	Enhancements	General Inquiry
Severity 1	2 business hours	16 business hours	4 business hours
Severity 2	4 business hours	16 business hours	8 business hours
Severity 3	16 business hours	16 business hours	16 business hours
Severity 4	16 business hours	16 business hours	16 business hours

The Target Response Levels are only applicable for support provided by Shared Services Team and does not apply to support provided by Higher Education Team industry-expert resources.

Severity Levels: The Severity Levels are detailed below:

Severity	Impact	Example
Severity 1 Mission Critical Impact	Business Critical Work cannot be performed or the system is unavailable	<ul style="list-style-type: none"> <li>Tenant is unavailable for all users</li> <li>Payroll, time tracking, financial close significantly impacted</li> <li>Security exposes confidential information</li> </ul>
Severity 2 High Systems Impact	Normal business transactions are seriously affected and necessary tasks cannot be performed	<ul style="list-style-type: none"> <li>Benefits open enrollment window not opening, merit processing incorrect, financial statements incorrect</li> <li>Payroll incorrect for multiple employees</li> </ul>
Severity 3 Moderate System Impact	Operations are affected but can be continued via workarounds	<ul style="list-style-type: none"> <li>Single paycheck is incorrect</li> <li>Incorrect benefit calculation</li> <li>Supervisory organizations or cost center data incorrect</li> </ul>
Severity 4 Minor System Impact	Do not cause severe difficulties or deliverables	<ul style="list-style-type: none"> <li>Report has incorrect field or calculation</li> <li>Misspelling or grammar in tenant or on reports</li> </ul>





## Exhibit C

### Data Processing and Security Addendum

This Data Processing and Security Addendum ("Addendum") describes the responsibilities of the parties with respect to the processing and security of any Client Personal Data in connection with the Services provided under the SOW. This Addendum is subject to the terms and conditions of the Agreement, and will be deemed part of the SOW. Terms not defined below shall have the meaning set forth in the SOW or Agreement. In the event of a conflict between the Agreement or SOW and this Addendum, this Addendum shall prevail. At the time of signing this Addendum, the Client does not anticipate that it will provide Accenture with access to Client Personal Data that is protected by Data Protection Laws, such as the Family Educational Rights & Privacy Act ("FERPA") or the Florida Information Protection Act. If Client is required to provide Accenture with access to such Client Personal Data to perform Services under the SOW, as a condition to those Services being performed by Accenture, Client may require an amendment to this Addendum to be executed by the parties to address any additional Client confidentiality and data protection concerns.

#### 1. Definitions.

- (a) "Business Contact Information" means the names, mailing addresses, email addresses, and phone numbers regarding the other party's employees, directors, vendors, agents and customers, maintained by a party for its own business purposes as further described in Section 9 below.
- (b) "Client Personal Data" means client-owned or controlled personal data provided by or on behalf of Client to Accenture or an Accenture affiliate or subcontractor for processing under the SOW. Unless prohibited by applicable Data Protection Laws, Client Personal Data shall not include information or data that is anonymized, aggregated, de-identified and/or compiled on a generic basis and which does not name or identify a specific person.
- (c) "Data Protection Laws" means all applicable data protection and privacy Laws that apply to the processing of personal data under the SOW, including, as applicable, the EU General Data Protection Regulation 2016/679 ("GDPR"), the Federal Data Protection Act of 19 June 1992 (Switzerland), the [UK Data Protection Law post-Brexit], and any US state or federal Laws or regulations pertaining to the collection, use, disclosure, security or protection of personal data, or to security breach notification, e.g., the California Consumer Privacy Act of 2018 ("CCPA").
- (d) "Information Security Incident" means a breach of Accenture's security leading to the accidental or unlawful destruction, loss, alteration or unauthorized acquisition, disclosure, misuse or access to unencrypted Client Personal Data transmitted, stored or otherwise processed by Accenture.
- (e) "Subprocessors" means third parties authorized under the terms of this Addendum to have access to and process Client Personal Data in order to provide a portion of the Services.
- (f) The terms "controller," "data subject," "de-identification," "personal data," "process," "processing," "processor," "pseudonymize," "sale," "service provider" and "supervisory authority" as used in this Addendum have the meanings given to any equivalent terms in the applicable Data Protection Laws, as relevant.

#### 2. Roles of the Parties; Compliance with Data Protection Laws.

- (a) Each party will comply with the requirements of the Data Protection Laws as applicable to such party with respect to the processing of the Client Personal Data.
- (b) Client warrants to Accenture that it has all necessary rights to provide the Client Personal Data to Accenture for the processing to be performed in relation to the Services and agrees that Client shall be responsible for obtaining all necessary consents, and providing all necessary notices, as required under the relevant Data Protection Laws in relation to the processing of the Client Personal Data.
- (c) Accenture will process the Client Personal Data only in accordance with Client's documented processing instructions as set forth in the Agreement, including this Addendum and the SOW, unless otherwise required by law.
- (d) If Accenture is acting as a subprocessor in relation to any Client Personal Data (i.e., the data owner/controller is an entity other than Client), Client warrants to Accenture that Client's instructions with respect to the Client Personal Data have been authorized by the applicable data owner/controller, including the appointment of Accenture as a subprocessor.
- (e) Except as otherwise set forth in the applicable SOW, (i) Accenture is a service provider and/or processor with respect to the Client Personal Data; and (ii) Client is an owner / controller or service provider / processor, as applicable, of the Client Personal Data.
- (f) The applicable SOW shall set out (i) the subject matter and duration of the processing; (ii) the nature and purpose of the processing; and (iii) the type of personal data and categories of data subjects involved.

#### 3. Disclosure and Use of Data.

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- (a) When providing or making available Client Personal Data to Accenture, Client shall only disclose or transmit Client Personal Data that is necessary for Accenture to perform the applicable Services.
  - (b) Accenture shall not:
    - (i) sell any Client Personal Data;
    - (ii) retain, use or disclose any Client Personal Data for any purpose other than fulfilling its obligations and performing services in accordance with the Agreement; or
    - (iii) retain, use or disclose the Client Personal Data outside the direct business relationship between Accenture and Client, as set forth in the Agreement, including this Addendum and the SOW, unless otherwise required by law.
  - (c) Following expiration or termination of the provision of Services relating to the processing of Client Personal Data, or at Client's request, Accenture shall (and shall require that its sub-processors) promptly and securely delete (or return to Client) all Client Personal Data (including existing copies), unless otherwise required or permitted by applicable laws. Unless otherwise agreed, Accenture will comply with any Client deletion instruction as soon as reasonably practicable and within a maximum period of 180 days.
  - (d) Client agrees that execution of the SOW by Accenture shall be deemed to constitute any certification that is required under applicable Data Protection Law to the restrictions on sale, retention, use, or disclosure of Client Personal Data herein.
  - (e) Notwithstanding subsection (b) above, in the course of providing the Services, Accenture may anonymize, aggregate, and/or otherwise de-identify Client data ("De-Identified Data") and subsequently use and/or disclose such De-Identified Data for the purpose of research, benchmarking, improving Accenture's offerings generally, or for another business purpose authorized by applicable Data Protection Law provided that Accenture has implemented technical safeguards and business processes designed to prevent the re-identification or inadvertent release of the De-Identified Data.
4. Security Obligations.
- (a) Each party shall implement appropriate technical and organizational security measures to safeguard Client Personal Data from unauthorized processing or accidental loss or damage, as further described in Attachment 1 to this Addendum ("Data Safeguards") and the SOW.
  - (b) Taking into account the ongoing state of technological development, the costs of implementation and the nature, scope, context and purposes of the processing of the Client Personal Data, as well as the likelihood and severity of risk to individuals, Accenture's implementation of and compliance with the security measures set forth in Attachment 1 and the applicable SOW is designed to provide a level of security appropriate to the risk in respect of the processing of the Client Personal Data.
5. Additional Accenture Responsibilities.
- (a) Documentation, Audits and Inspections. Accenture shall make available to Client information reasonably requested by Client to demonstrate Accenture's compliance with its obligations in this Section and submit to audits and inspections by Client (or Client directed third parties) in accordance with a mutually agreed process designed to avoid disruption of the Services and protect the confidential information of Accenture and its other clients. As required by applicable law, Accenture shall inform Client if, in Accenture's opinion, any Client audit instruction infringes upon any applicable Data Protection Law. Client shall be solely responsible for determining whether the Services and Accenture's security measures as set forth in Attachment 1 and the applicable SOW will meet Client's needs, including with respect to any Data Protection Laws.
  - (b) Data Subject and Supervisory Authority Requests. As required by law and taking into account the nature of the Services provided, Accenture shall:
    - (i) provide assistance to Client as reasonably requested with respect to Client's obligations to respond to requests from Client's data subjects as required under applicable Data Protection Laws. Accenture will not independently respond to such requests from Client's data subjects, but will refer them to Client, except where required by applicable Data Protection Law; and
    - (ii) provide assistance to Client as reasonably requested if Client needs to provide information (including details of the Services provided by Accenture) to a competent supervisory authority, to the extent that such information is solely in the possession of Accenture or its Subprocessors.
  - (c) Privacy / Data Protection Impact Assessments. As required by law and taking into account the nature of the Services provided and the information available to Accenture, Accenture shall provide assistance to Client as reasonably requested with respect to Client's obligations to conduct privacy / data protection impact assessments with respect to the processing of Client Personal Data as required under applicable Data Protection Laws.
6. Subprocessors. Client specifically authorizes the engagement of Accenture's affiliates as Subprocessors and generally authorizes the engagement of other third parties as Subprocessors as identified in the applicable SOW. Accenture shall contractually require (including via intra-company agreements with respect to affiliates) any such



Subprocessors to comply with data protection obligations that are at least as restrictive as those Accenture is required to comply with hereunder. Accenture shall remain fully liable for the performance of the Subprocessor. Accenture shall provide Client with written notice of any intended changes to the authorized Subprocessors and Client shall promptly, and in any event within 10 business days, notify Accenture in writing of any reasonable objection to such changes. If Client's objection is based on anything other than the proposed subprocessor's inability to comply with agreed data protection obligations, then any further adjustments shall be at Client's cost. Any disagreements between the parties shall be resolved via the contract dispute resolution procedure.

7. Cross-Border Transfers of Client Personal Data.
  - (a) Transfers of EEA Data. Subject to subsection (c) below, the parties shall rely on the EU Standard Contractual Clauses for the Transfers of Personal Data to Processors Established in Third Countries, dated 5 February 2010 (2010/87/EU) as amended from time to time (the "EU Standard Contractual Clauses") to protect Client Personal Data being transferred from a country within the European Economic Area to a country outside the European Union not recognized by the European Commission as providing an adequate level of protection for personal data. Where the transfer relies on the EU Standard Contractual Clauses, the Client, acting as data exporter, shall execute, or shall procure that the relevant Client entities execute, such EU Standard Contractual Clauses with the relevant Accenture entity or a third-party entity, acting as a data importer.
  - (b) Transfers of non-EEA Data. Subject to subsection (c) below, in the event that Client Personal Data is to be transferred from a country not within the European Economic Area to any other country in connection with the provision of Services under the Agreement, where required by applicable Data Protection Law, the parties shall enter into a data transfer agreement to ensure the Client Personal Data are adequately protected. Client, acting as data exporter, shall execute, or shall procure that the relevant Client entities execute, such Data Transfer Agreement, with the relevant Accenture entity or a third-party entity, acting as a data importer.
  - (c) Accenture BCR-P. If and when Accenture is authorized for Binding Corporate Rules for Processors, the parties shall rely on such Binding Corporate Rules for Processors to cover any cross-border transfer of Client Personal Data to Accenture, provided that Accenture (i) maintains and extends the applicable authorization of its Binding Corporate Rules for Processors for the duration of the applicable SOW; (ii) promptly notifies Client of any subsequent material changes in such authorization; and (iii) downstreams all of its applicable data protection obligations under its Binding Corporate Rules for Processors to Subprocessors by entering into appropriate onward transfer agreements with any such Subprocessors.
8. Information Security Incidents. Accenture shall maintain procedures to detect and respond to Information Security Incidents. If an Information Security Incident occurs which may reasonably compromise the security or privacy of Client Personal Data, Accenture will promptly notify Client without undue delay. Accenture will cooperate with Client in investigating the Information Security Incident and, taking into account the nature of the Services provided and the information available to Accenture, provide assistance to Client as reasonably requested with respect to Client's breach notification obligations under any applicable Data Protection Laws.
9. Use of Business Contact Information. Each party consents to the other party using its Business Contact Information for contract management, payment processing, service offering, and business development purposes related to the Agreement and such other purposes as set out in the using party's global data privacy policy (copies of which shall be made available upon request). For such purposes, and notwithstanding anything else set forth in the Agreement or this Addendum with respect to Client Personal Data in general, each party shall be considered a controller with respect to the other party's Business Contact Information and shall be entitled to transfer such information to any country where such party's global organization operates.
10. Changes in Laws. In the event of (i) any newly enacted Data Protection Law, (ii) any change to an existing Data Protection Law (including generally-accepted interpretations thereof), (iii) any interpretation of a new or existing Data Protection Law by Client, or (iv) any material new or emerging cybersecurity threat, which individually or collectively requires a change in the manner by which Accenture is delivering the Services to Client, the parties shall agree upon how Accenture's delivery of the Services will be impacted and shall make equitable adjustments to the terms of the Agreement and the Services in accordance with the Change Control Procedures.



## Attachment 1 to Exhibit C

### Data Safeguards for Client Data

These data safeguards (“Data Safeguards”) set forth the security framework that Client and Accenture will follow with respect to protecting Client Data in connection with the Agreement. In the event of a conflict between these Data Safeguards and any terms and conditions set forth in the Agreement, the terms and conditions of these Data Safeguards shall prevail.

- I. Security Standards.
  1. General Obligations. Each Party will:
    - maintain and comply with globally applicable standards, policies and procedures intended to protect data within their own respective environments (e.g., systems, networks, facilities) and such standards will govern and control in their respective environments;
    - comply with the other Party’s standards when accessing or operating within the other Party’s environments; and
    - provide timely notice of any changes to such standards that may materially degrade the security of the Services.
  2. Client Standards. Accenture will abide by Client’s policies and standards when accessing or operating within Client’s environments, given that those policies and standards have been provided or made available in writing.
  3. Accenture Standards. Accenture’s applicable security standards are as set out online, accessible here: <https://www.accenture.com/client-data-safeguards>.
- II. Vulnerabilities in Client Systems. Unless otherwise expressly agreed in the Agreement or applicable SOW, and except with respect to vulnerabilities caused by Accenture’s breach of its obligations under the Agreement or applicable SOW, Client is responsible to remediate any vulnerabilities in Client Data or Client systems at Client’s cost. In the event Client fails to remediate a security vulnerability in Client Data or Client systems, Accenture will not be liable for the consequences resulting from such security vulnerability, including a data security breach, except to the extent such security vulnerability resulted from Accenture’s breach of its obligations under the Agreement or applicable SOW.
- III. Remote Work. Accenture personnel may perform the Services or any portion of the Services remotely, provided that performing remotely does not (i) adversely impact Accenture’s ability to perform its obligations under the Agreement; or (ii) require any increase to the Fees. For Services provided on a remote basis, any contractual requirements to provide physical and environmental security controls (e.g., secure bays; security guards; CCTV) at the Accenture service locations will not apply to remote work locations. In addition, where Accenture personnel are required to access Client systems from a remote work location, such access will only occur using devices and access points approved by Client.









**ADDITIONAL REMARKS SCHEDULE**

AGENCY MARSH USA LLC.		NAMED INSURED Accenture LLP Accenture International Ltd., Accenture Federal Services LLC, Accenture PLC Including All Subsidiaries and Affiliates 500 West Madison St. Chicago, IL 60661
POLICY NUMBER		
CARRIER	NAIC CODE	EFFECTIVE DATE:

**ADDITIONAL REMARKS**

**THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,  
FORM NUMBER: 25 FORM TITLE: Certificate of Liability Insurance**

The Crime policy evidenced above is subject to deductibles for specific perils per policy terms and conditions.

The Crime policy evidenced above is subject to deductibles for specific perils per policy terms and conditions.

Accenture clients or any other party are included as joint loss payees as regards the Crime insurance as required by the terms of a written agreement. The Crime policy evidenced above is subject to deductibles for specific perils per policy terms and conditions.



## Master Services Agreement

This Master Services Agreement ("**Agreement**") between Sierra-Cedar, Inc., a Delaware corporation with its principal offices at 1255 Alderman Drive, Alpharetta, Georgia 30005 ("**Consultant**") and **Florida Gulf Coast University, Board of Trustees** a university with principal offices at **10501 FGCU Boulevard South, Fort Myers, FL 33965** ("**Client**") is effective as of the date on which it has been signed by both Parties. Collectively Consultant and Client shall be known individually as a "Party" and collectively as the "Parties".

The Parties agree as follows:

### MASTER TERMS AND CONDITIONS

#### 1. **Services Provided by Consultant**

Consultant shall provide Client with information technology consulting services ("**Services**") as specified in one or more Statement(s) of Work executed by the Parties (each, a "SOW"). Each SOW is a separate and independent contractual obligation from any other SOW. Together, these Master Terms and Conditions and the SOW(s) comprise this Agreement. Each SOW shall, as applicable, specify the type of Services to be performed, any specific tasks to be performed by each Party, location and approximate start and end dates of each assigned Consultant, any applicable deliverables and associated due dates, reporting requirements, documentation requirements, and any relevant acceptance and testing procedures and criteria. The Services may include the presentation of options and advice, but Consultant will not make any decisions on behalf of Client in connection with such options and advice.

#### 2. **Fees, Expenses, & Payment**

For all Services performed pursuant to a SOW or other request for Services that references this Agreement, Client shall: (i) pay Consultant at the rates explicitly set forth in each SOW or, if not explicitly set forth in such SOW then according to the then current Consultant standard hourly rates; and (ii) to the extent provided in a SOW, reimburse Consultant for all reasonable travel and living expenses incurred pursuant to the provision of such Services in accordance with Section 112.061, Florida Statutes. Client will process payments in accordance with Client's Prompt Payment Regulation. Disputed payments shall be handled in accordance with Client's Prompt Payment Regulation. Unless otherwise provided in a SOW, invoices shall issue on a twice monthly basis. Remittance shall be made to the address designated on the invoice or to the following lockbox address:

Sierra-Cedar, Inc.  
PO Box 402521  
Atlanta, GA 30384-2521





Client has represented that it is exempt from sales and use taxes on Consultant's services. In the event that Client loses such tax-exempt status, it shall promptly notify Consultant and be responsible for any sales and use taxes on Consultant's services from which it is no longer exempt. Any payment not drawn on a U.S. or Canadian bank must be made by wire transfer.

### 3. **Staffing**

**3.1 Coordination of Resources.** Consultant will work with Client to assess and meet staffing and resource needs for provision of the Services. If Client notifies Consultant that it is dissatisfied with the services of any person supplied by Consultant, Consultant shall try in good faith to promptly resolve any concerns. If Client continues to be dissatisfied with such person, Consultant will remove that person from the situation and will make commercially reasonable measures to assign a different person to Client's work within no later than 10 business days after request. Consultant shall have the right to remove or replace an assigned individual with a similarly skilled individual in the event such removal or replacement is required due to promotion, leave of absence, illness, or the like. Notwithstanding, Client may not require the replacement of key Consultant personnel assigned to a fixed-fee or similar engagement (and identified in the SOW as key personnel) except for issues related to performance or inappropriate behavior.

### **3.2 Non-Solicitation.**

The Parties acknowledge that their ability to meet their obligations hereunder is dependent on each Party having its skilled and trained employees available as anticipated during the term of the Agreement. In recognition of that need, the Parties agree that during the term of this Agreement and for a period of one year thereafter, neither Party shall solicit for employment or hire, directly or through a staffing or placement agency, or otherwise retain an employee or contractor of the other Party who has been directly involved with the receipt or provision of Services. However, this restriction shall not prohibit either party from accepting interest from, interviewing, offering employment to, or hiring or otherwise retaining any such employee or contractor: (1) as a result of general solicitation or advertising to the public, including, but not limited to, employment ads placed in newspapers of general circulation, or internet job sites; (2) as a result of interest or solicitation initiated by the employee or contractor; or (3) following termination of the employee or contractor by the Party by whom the employee or contractor is, at the time of execution of this Agreement, employed or engaged. For purposes of this Agreement, "Affiliate" of a Party means any entity which is owned or controlled, in whole or in part, by the Party or any entity which owns or controls, in whole or in part, a Party.



### 3.3 Compensatory Fee.

The parties acknowledge that temporary living reimbursements to Consultant personnel may be deemed compensatory under federal, state, and local tax laws if a consultant's assignment in a particular location will exceed or has exceeded one year. Where reasonably possible, Consultant will plan with Client to limit the duration of a consultant's assignment in a particular location to less than one year. Consultant will provide Client sixty days (60) advance notice of any Consultant personnel who may trigger this provision. Consultant will use all reasonable effort to avoid this situation through appropriate scheduling without negatively affecting the Client. If Client's requirements are such that it becomes necessary for a consultant's services in a particular location to continue for a year or more, Consultant and Client will negotiate an addendum to this Agreement reflecting such requirements and associated fees.

#### **4. Obligations of Consultant**

Consultant shall perform its obligations as set forth in the applicable SOW. All subcontractors hired by Consultant to perform Consultant obligations pursuant to a SOW shall be bound to perform such obligations as if such obligations were being performed by Consultant and Consultant shall be liable for the actions of such subcontractors while performing Services pursuant to this Agreement as if such actions were the actions of Consultant. Consultant may subcontract to an Affiliate. In addition, Consultant shall:

- (a) designate and provide for each SOW one Consultant point of contact who shall be responsible for answering and resolving Client's questions and issues relating to the project(s) described therein;
- (b) provide sufficient, qualified, knowledgeable personnel capable of performing Consultant's obligations as set forth in the applicable SOW; and
- (c) conduct appropriate background checks on all persons assigned to a project that involves access to Client data or Client employees or students, to include an employment history check, a statewide criminal history background check through local law enforcement agencies or through the Florida Department of Law Enforcement, and a check of the National Sex Offenders Public Website (collectively, a Level 1 check), and, in addition, for more sensitive positions, a check against national fingerprint-based systems (a Level 2 check).

#### **5. Obligations of Client**

Client shall fulfill the following obligations, in addition to Client obligations set forth in the applicable SOW (collectively "Client Obligations"):

- (a) designate and provide for each SOW one Client point of contact who shall be responsible for answering and resolving Consultant's questions and issues relating to the project(s) described therein; and



- (b) provide sufficient, qualified, knowledgeable personnel capable of: (i) performing Client Obligations; (ii) participating in the project and assisting Consultant's consultant resources in reviewing Work Product; and (iii) facilitating searches for information and requirements;
- (c) provide Consultant with reasonable access to Client's facilities during Client's normal business hours and otherwise as reasonably requested by Consultant in order to facilitate Consultant's performance of the Services;
- (d) provide Consultant with such reasonable working space, equipment, office support (including but not limited to internet access of the same speed and quality as is provided to Client's employees, photocopying equipment, and the like), and sufficient space for Consultants to conduct efficient analytical work and hold meetings with Client personnel and/or other Consultant personnel; and reasonably cooperate with Consultant as may be set forth in the applicable SOW to facilitate Consultant's performance of the Services;
- (e) license or subscribe to and provide all of the software that will be required to render Services other than standard productivity software resident on Consultant devices and any software Consultant specifically agrees to provide in a SOW.

**6. SOW Change Order Process**

If Consultant is performing services on an hourly basis and Client wishes to add services or extend the engagement, Client may so request in writing to Consultant, which may be via e-mail. If Consultant is not able to accommodate the request, it will so notify Client.

If either Party desires to change the Services to be provided pursuant to a SOW as to which payment for which is not on an hourly basis, the following process shall be followed:

- (a) Consultant will prepare a Change Order for Client's review documenting the change, including relevant information such as additional resources required, revised end-dates, and additional fees, if applicable;
- (b) When Consultant and Client have agreed on the contents of the Change Order, both parties shall so indicate, either by signing the Change Order or transmitting approval of the Change Order via fax, email, or other electronic means.
- (c) Once a Change Order has been agreed to in such manner by the Parties, it shall constitute an amendment to, and shall be deemed part of, the terms and conditions of the applicable SOW.

**7. Ownership and Proprietary Rights**

- 7.1 Ownership of Pre-existing Technology. Client acknowledges and agrees that Consultant is the sole and exclusive owner of all rights, including but not limited to all patent rights, copyrights, trade secrets, trademarks, and other proprietary rights in the systems, programs, templates, methodologies, tools, accelerators, specifications, user documentation, training materials, and other materials used by Consultant in the course of its provision of Services which were created prior





to or independently of the performance of the Services, plus any modifications or enhancements thereto and derivative works based thereon (collectively "Consultant's Technology"). Client acquires no rights in Consultant's Technology. Client shall not copy, transfer, sell, give, loan, distribute, assign, display, or otherwise make Consultant's Technology available to third parties.

7.2 Ownership of Tangible Work Product. The work product created by Consultant for delivery to Client pursuant to this Agreement ("Deliverables") shall mutually belong to Client and Consultant and may be used by each Party for its business purposes.

7.3 Ownership of Data Processing Know-how. Client recognizes that Consultant's business depends substantially upon the accumulation of learning, knowledge, data, techniques, tools, processes, and generic materials that it utilizes and develops in its client engagements. Accordingly, to the extent material that is used in, enhanced, or developed in the course of providing Services hereunder is of a general abstract character, or may be generically re-used, and does not contain Confidential Information of Client, then Consultant will own such material including, without limitation: methodologies; delivery strategies, approaches and practices; generic software tools, routines, and components; generic content, research and background materials; training materials; application building blocks; templates; analytical models; project tools; development tools; inventions; solutions and descriptions thereof; ideas; and know-how (collectively "Know-how"). To the extent such Know-how is contained or reflected in the Deliverables, Consultant hereby grants Client a fully paid up, perpetual license to use such Know-how only for its internal business. Client will not sublicense, give, or sell Know-How to any third party, and will not use or exploit the Know-How to compete with the information technology consulting business of Consultant.

## 8. Confidentiality

The Parties acknowledge and agree that in the course of performing under this Agreement, each will disclose to the other trade secrets and other confidential information relating to each Party's business, including Consultant's Technology and Know-how. Any such information which is designated in writing as confidential will be deemed "Confidential Information". Each Party agrees to store and use the other Party's disclosed Confidential Information only to the extent necessary to perform the Services. Each Party agrees not to disclose the Confidential Information of the other to any third party and to treat it with the same degree of care as it would its own confidential information. Each Party further agrees not to disclose the Confidential Information of the other to any employees other than those with a need to have access to it, and to instruct those employees of the need to maintain the confidentiality of the Confidential Information. The Parties acknowledge and agree that failure to abide by these confidentiality obligations would constitute a material breach hereof, and may irreparably harm the non-breaching Party, and that the aggrieved Party shall be free, in addition to other relief, to seek



injunctive relief to cure or prevent any such breach, without need of posting a bond. Confidential Information will not include information that: (i) is or becomes publicly available through no wrongful act of the receiving Party; (ii) was lawfully obtained by the receiving Party from a third party who had no obligation to maintain the Confidential Information as confidential; (iii) was previously known to the receiving Party without any obligation to keep it confidential; (iv) was independently developed by the receiving Party without the use of or reliance upon the Confidential Information of the disclosing Party or (v) is a public record pursuant to Florida law. Should either Party receive a subpoena covering Confidential Information, it will, unless prohibited by law, promptly notify the other Party to give the other Party an opportunity to seek relief, should it wish to do so. Client will not disclose to Consultant or provide access to information which is covered by data security laws except to the extent necessary to perform the Services. Client will comply with this Confidentiality term in accordance with Florida Public Records laws.

#### **9. Warranty and Warranty Exclusions**

Consultant warrants that: (a) it will perform the Services in a professional and workmanlike manner in accordance with industry standards; (b) it has the authority to enter into this Agreement; (c) it will perform the Services in a manner that complies with all applicable laws and regulations. Client agrees that all development work performed under this Agreement using third-party proprietary development and integration tools shall be subject to the limitations, if any, of Client's license agreements with such third-party software vendors. CONSULTANT DISCLAIMS AND EXCLUDES ALL OTHER EXPRESS AND IMPLIED WARRANTIES CONCERNING ITS SERVICES, INCLUDING BUT NOT LIMITED TO THE WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, WHETHER ARISING UNDER STATUTORY OR COMMON LAW. CONSULTANT MAKES NO WARRANTIES OF ANY SORT RELATIVE TO THIRD PARTY SOFTWARE.

#### **10. Sole Remedy and Limitation of Liability**

CLIENT'S SOLE REMEDY HEREUNDER SHALL BE RETURN OF FEES PAID TO CONSULTANT FOR ANY SERVICE WHICH CLIENT DEMONSTRATES TO BE IN BREACH HEREOF OR OTHERWISE ACTIONABLE BY CLIENT. IN NO EVENT SHALL CONSULTANT BE LIABLE FOR CONSEQUENTIAL, INDIRECT, EXEMPLARY, PUNITIVE, OR INCIDENTAL DAMAGES, INCLUDING, WITHOUT LIMITATION, LOST DATA, LOST PROFITS, OR COST OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, HOWEVER ARISING, EVEN IF IT HAS BEEN ADVISED OF A POSSIBILITY OF SUCH DAMAGES. IN NO EVENT SHALL CONSULTANT'S AGGREGATE LIABILITY HEREUNDER EXCEED THE TOTAL AMOUNT PAID BY CLIENT PURSUANT TO THE SOW IN EFFECT WHEN THE ACTION GIVING RISE TO THE LIABILITY AROSE, WHETHER ARISING OUT OF CONTRACT, WARRANTY, STRICT LIABILITY, NEGLIGENCE, ANY OTHER TORT, INCLUDING INTENTIONAL TORTS, ATTORNEY'S FEE AWARDS, OR ANY OTHER CAUSE OF ACTION. CLIENT ACKNOWLEDGES THAT IT IS WAIVING ANY RIGHT TO RECOVERY UNDER ANY



STATE'S UNFAIR COMPETITION/UNFAIR AND DECEPTIVE ACTS OR PRACTICES STATUTE (OR SIMILARLY NAMED STATUTES) TO THE EXTENT SUCH RECOVERY (INCLUDING ANY ATTORNEY'S FEE AWARD) EXCEEDS AMOUNTS PAID BY CLIENT TO CONSULTANT PURSUANT TO THE SOW IN EFFECT WHEN THE ACTION GIVING RISE TO THE LIABILITY AROSE.

**11. Trademarks/Service Marks**

Neither Party has any rights in any trademark or service mark of the other Party and neither shall use such marks without written consent. Consultant may include Client's name and logo on a client list. Consultant will not identify Client as a reference or use Client's name or logo for other purposes without Client consent.

**12. Termination**

Unless otherwise explicitly agreed by the Parties in the applicable SOW, Client may terminate this Agreement or any SOW with 10 days prior written notice by giving the other Party written notice of termination; provided that: (i) all fees due under this Agreement and all SOWs for Services performed through the date of termination shall be paid by Client upon the effective date of such termination; (ii) Client shall not be due any refund or credit other than for previously issued credits or refunds for unused prepaid services; and (iii) in the event that this Agreement is terminated, all SOWs thereto shall be terminated simultaneously with this Agreement. Either Party may terminate for material breach, but if a Party elects to do so, it will provide a 30 day period for cure. Consultant may terminate or suspend performance upon Client's breach of contract, including breach arising from non-payment, Client's failure to timely comply with its obligations under any SOW, or Client's failure to accept properly performed services within 10 business days by signing Acceptance Certificates required pursuant to any SOW. Notwithstanding, neither party may unilaterally terminate this Agreement while work is ongoing on a fixed-fee or similar SOW other than for a material breach which remains uncured for more than 30 days following written notice by the other party. In the event of termination, Client shall compensate Consultant pursuant to the terms of the Agreement for all accepted work performed through the termination date. Consultant shall be equitably compensated for any work which has been performed prior to notification of termination but has not yet been accepted.

Consultant may terminate this Agreement with 10 days prior written notice if there is no active SOW pending hereunder.

Client agrees to provide Consultant with a minimum of ten business days advance notice of an unscheduled SOW suspension, termination or staffing reduction. In the event Client provides less than 10 business days notice, Consultant reserves the right to invoice Client for sixteen hours of consulting services per individual consultant released. In the event of suspension, termination, or staffing reduction, Client shall also be responsible for all non-





refundable advance purchase airline tickets scheduled within 10 business days prior to notification of the suspension, termination, or staffing reduction.

### 13. Dispute Resolution

Except for actions for injunctive relief, the Parties will attempt to resolve any disputes that arise out of or in connection with this Agreement through good faith negotiation. If a dispute arises, the Client Project Manager and the Consultant Account Executive shall first try to resolve it. If the dispute is not resolved within 10 business days, either Party may escalate the dispute by contacting, in the case of Consultant, Brian Fees, Executive Vice President/Corporate Officer (telephone 888-745-3545 or [Brian.Fees@Sierra-Cedar.com](mailto:Brian.Fees@Sierra-Cedar.com)) or in the case of Client, Maryan Egan, Director Procurement Services (telephone (239) 590-1134 or [megan@fgcu.edu](mailto:megan@fgcu.edu)). These parties shall attempt to resolve the dispute by agreement.

If the dispute has not been resolved within seven days after either Party escalates the process, either Party may initiate non-binding mediation by sending notice in writing to the other Party identifying the issues in dispute and requesting that they be resolved through mediation and proposing a neutral mediator. The Party receiving the request for mediation shall have three business days after receipt of the request to accept or reject the mediation request and to respond to the initiating Party's suggestion of a mediator.

If the request for mediation is rejected or the dispute has not been resolved within 30 business days following the date of the request for mediation or such other date as is agreed upon by the Parties, either party may move forward to resolve the dispute in the courts of Lee County, Florida.

### 14. Indemnification

The Parties agree that to the extent permitted by law each will indemnify the other Party and its officers, directors, employees, and contractors from Losses resulting from any third-party claim for personal injury, damage to tangible property, or intellectual property infringement, to the extent such Losses arise from the negligence or intentional wrongdoing of the indemnifying Party. "Losses" are amounts the indemnified Party becomes legally obligated to pay pursuant to a final judgment or agreed upon settlement agreed to in advance by the indemnifying Party. Indemnification hereunder does not include a duty to defend. Neither Party will indemnify the other Party for its own negligence or intentional wrongdoing. Neither Party will have the right to be indemnified unless it gives the indemnifying Party prompt notice of any potentially indemnifiable third-party claim. Client's indemnification obligations will be limited to statutory maximums as set forth in Chapter 768.28 of the Florida Statutes.

Client acknowledges that Consultant makes no representations regarding and accepts no indemnification obligation with regard to any third party commercially available software. With regard to intellectual property infringement, Consultant shall have no





liability to indemnify for any claim based on: (a) use of Consultant Deliverables outside the scope of this Agreement and/or a SOW; (b) the combination, operation, or use of the Deliverables furnished under this Agreement and/or a SOW with software, hardware, or other materials not furnished by Consultant or reasonably anticipated by the applicable SOW if such infringement would have been avoided by the use of the Deliverables without such software, hardware, or other materials; (c) any modification of the Deliverables not made by or authorized in writing by Consultant; (d) any intellectual property infringement of which Client is aware and does not disclose to Consultant; and (e) any intellectual property infringement caused by Client or anyone under Client's direction or control.

**15. General**

15.1 Notices. Any notices required hereunder shall be deemed received upon delivery by overnight courier with proof of delivery to the following addresses:

**If to Consultant:**

**Sierra-Cedar, Inc.**

Attn. General Counsel  
1255 Alderman Drive  
Alpharetta, GA 30005  
With a copy to: CFO

**If to Client:**

**Florida Gulf Coast University,  
Board of Trustees**

Attn: Maryan Egan  
10501 FGCU Blvd. South  
Ft. Myers, FL 33965

15.2 Venue: Choice of Law. Any litigation brought related to this Agreement shall be brought in the State of Florida. This Agreement shall be governed by and construed according to the internal laws of the State of Florida. Any action for injunctive relief hereunder shall be brought in the federal or state courts in Lee County, Florida.

15.3 Relationship of Parties. This is an agreement for professional services. The parties hereto are independent of one another and both agree that no agency, employment, franchise, or other relationship exists between the parties. Neither party shall have the authority to bind the other with respect to third parties or in any other manner.

15.4 Severability. If any provision of this Agreement is held to be unenforceable or invalid, in whole or in part, then all of the remaining provisions shall nevertheless continue in full force and effect.

15.5 No Assignment. Neither party may assign this Agreement or the rights granted hereunder without the prior written consent of the other, except that a party may assign this Agreement to any successor to the business of the party by merger,



consolidation, or sale of assets or to any corporation controlling, controlled by, or under common control with the party and Consultant may assign its right to receive payment hereunder.

- 15.6 **Payment by Credit Card or Bank Issued Purchasing Card.** Sierra-Cedar does not accept payment by credit card or bank issued purchasing card.
- 15.7 **Client Use of Third Party Vendors.** If Client requests Consultant to submit information such as time records or invoices to a third-party agency such as a vendor manager or payment manager, all costs associated with Consultant's use of the third-party agency shall be borne by Client. Consultant shall have no obligation to provide such third-party agency with confidential or personal information nor shall Consultant's submission of information to the third-party agency relieve Client of any obligations hereunder.
- 15.8 **No Third-Party Beneficiaries.** This Agreement is made and entered into for the sole benefit of the parties hereto. Both parties acknowledge and agree that none of the rights or obligations granted or undertaken herein shall inure to the benefit of any third parties.
- 15.9 **Insurance.** Consultant agrees that it shall maintain at least the following minimum levels of insurance and, upon Client's request, shall cause a Certificate of Insurance to be issued and mailed to the Client.

Type of Insurance:	Policy Limits:
General Liability	\$1,000,000 each occurrence and \$2,000,000 aggregate
Automobile Liability	\$1,000,000 combined single limit
Excess Liability Insurance	\$7,000,000 each occurrence and aggregate
Workers Compensation and Employer's Liability	State minimum for each state where work is performed
Errors and Omissions	Not less than \$5,000,000

Mailing Address for Certificate of Insurance:
Board of Trustees of Florida Gulf Coast University
Maryan Egan
10501 FGCU Blvd South
Ft. Myers, FL 33965

- 15.10 **Force Majeure.** Either Party shall be excused from performance hereunder for any period such Party is prevented from performing any services pursuant hereto in whole or in part as a result of any act of God, war, earthquake, fire, flood,



storm, civil disobedience, court order, labor dispute, or other cause beyond such Party's reasonable control. Such non-performance shall not constitute grounds for termination or default.

- 15.11 Entire Agreement. This Agreement shall constitute the entire Agreement between the Parties and supersedes all prior agreements and/or representations between the Parties relating to the subject matter hereof. The Parties acknowledge and agree that they have not relied upon any representations not set forth herein in entering into this Agreement. Both Parties have had the opportunity to have this Agreement reviewed by competent counsel. Any change or amendment to this Agreement must be in writing and signed by both Parties in order to be effective. No omission or delay by Consultant or Client to enforce any right or remedy under this Agreement shall be a waiver of such right or remedy. No terms, provisions, or conditions of any purchase order will have any effect on the obligations of the Parties under or otherwise modify or be incorporated into this Agreement.
- 15.12 No Conflict. Consultant and Client each represent and warrant that execution and performance of this Agreement does not and will not violate, conflict with, or constitute a default under any contract, commitment, arrangement, understanding, agreement, or restriction, or any adjudication, order, injunction, or finding of any kind by any court or agency to which Consultant or Client respectively is bound.
- 15.13 Electronic documents. The Parties agree to treat facsimile or electronic copies of documents as binding on the Parties in the same manner and to the same degree as original versions of the same documents.
- 15.14 Change in Document. By signing and delivering this Agreement and/or any schedule, exhibit, amendment, or addendum, each Party will be deemed to represent to the other that the signing Party has not made any changes to such document from the draft(s) most recently provided to the other Party by the signing Party, or vice versa, unless the signing Party has expressly called such changes to the other Party's attention in writing (e.g., by "redlining" the document or by a comment in a memo or email).
- 15.15 Excused Performance. Consultant's nonperformance of its obligations as to any specific Deliverable or other obligation under this Agreement shall be excused to the extent such nonperformance is due to: (a) the acts or omissions of Client or any third party authorized to act on Client's behalf which hinder or delay Consultant's ability to perform its obligations under this Agreement; or (b) unanticipated substantive changes to applicable laws and regulations that interrupt, delay, or fundamentally alter the scope of the engagement.
- 15.16 No Waiver of Sovereign Immunity. Client is a public body corporate of the State of Florida and is protected by sovereign immunity. Nothing contained herein expressly nor impliedly waives Client's sovereign immunity protection, except as may be otherwise stated in Florida statutes which may change from time to time.





- 15.17 Non-Discrimination. The Parties shall not discriminate against any employee or participant in the performance of the duties, responsibilities and obligations under this Agreement because of race, age, religion, color, gender, national origin, marital status, disability, sexual orientation or veteran status.
- 15.18 Public Records. Consultant shall allow public access to all documents, papers, letters or other material subject to the provisions of Chapter 119, Florida Statutes, and made or received by Consultant in conjunction with the Agreement. Refusal by Consultant to allow such public access shall be grounds for cancellation of the Agreement by Client. If the Agreement is for services and Consultant is acting on behalf of Client, Consultant further agrees to: (i) keep and maintain public records required by Client to perform the service, (ii) upon request from Client's custodian of public records, provide Client with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law, (iii) ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Agreement term and following completion of the Agreement if Consultant does not transfer the records to Client, and (iv) upon completion of the Agreement, transfer, at no cost, to Client all public records in possession of Consultant or keep and maintain public records required by the public agency to perform the service. If Consultant transfers all public records to Client upon completion of the Agreement, Consultant shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If Consultant keeps and maintains public records upon completion of the Agreement, Consultant shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the University, upon request from Client's custodian of public records, in a format that is compatible with the information technology systems of Client.

**IF CONSULTANT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO CONSULTANT'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT [Megan@FGCU.edu](mailto:Megan@FGCU.edu) or 239-590-1134.**

- 15.19 Survival. All sections of this Agreement which by their nature would be expected to survive termination or expiration will do so. This includes but is not limited to sections 2, 3.2, 7, 8, 9, 10, 14, and 15.17.



IN WITNESS WHEREOF, the Parties acknowledge that they have each read the terms hereof and that in signing below, they agree to all of said terms.

**Sierra-Cedar, Inc.**

**Florida Gulf Coast University, Board of Trustees**

**By:** DocuSigned by: Christopher J. Ahern

**By:** Steve Z. Macaron

**Name:** 0B301956AD94473... Christopher J. Ahern

**Name:** Steve Z. Macaron

**Title:** General Manager, Higher Education

**Title:** V.P.

**Date:** 5/30/2019

**Date:** 5/30

APPROVED FOR  
Form and Legality  
David Greenbaum  
**David Greenbaum**  
**Associate General Counsel**  
**Florida Gulf Coast University**  
**Board of Trustees**  
5/30/19