



MEMBER THE TEXAS STATE UNIVERSITY SYSTEM™

INVITATION FOR BID TITLE: Truck Training Simulator NO: IFB-789-191031WTDS

WHEN BIDDING:

Each bid must be placed in a separate sealed envelope and clearly marked "SEALED BID" with the bid opening date, requisition number, and bid title immediately below the return address on the SEALED BID ENVELOPE.

ANY changes or modifications to this bid form may result in disqualification. Return all pages of IFB with bid submission.

BID DUE DATE AND TIME: 11/21/2019, 2:00 p.m. CDT
REQUISITION NO: IFB-789-191031WTDS

BID TITLE: Truck Training Simulator

NIGP CLASS CODE(S): 07235

PURCHASER: Sheryl Snider

MAIL, COURIER or HAND DELIVER BIDS TO:

Lamar Institute of Technology

ATT: Sheryl Snider

Room 215-Beeson Building

855 E Lavaca, Beaumont, TX 77705

NO OTHER BID DELIVERY WILL BE CONSIDERED.

BIDDER AGREES TO COMPLY WITH ALL LIT TERMS AND CONDITIONS included on this and all attached pages.

VENDOR NAME AND ADDRESS:

VENDOR TELEPHONE

VENDOR EMAIL

BID MUST INCLUDE A VENDOR ID - EITHER A TIN OR AN EIN ENTERED BELOW:

VENDOR'S TEXAS IDENTIFICATION NUMBER (TIN)

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THE TIN IS THE PAYEE IDENTIFICATION NUMBER ASSIGNED AND USED BY THE COMPTROLLER OF PUBLIC ACCOUNTS OF TEXAS TO PROCESS PAYMENT FOR GOODS/SERVICES. To set up a TIN please visit

<https://fmxcpa.state.tx.us/fmx/payment/resources/tin.php>

If this number is not known, complete the following:
VENDOR'S FEDERAL EMPLOYERS IDENTIFICATION NUMBER (EIN)

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In an effort to minimize identity theft, every company MUST have an EIN, also known as a Federal Tax Identification Number prior to award of a contract. For information on obtaining your EIN, you may call 800-829-4933 or visit the following web site:

<http://www.irs.gov/businesses/>

By signing this bid, bidder certifies that if a Texas address is shown as the address of the bidder, bidder qualifies as a Texas Bidder as defined in 34 TAC Rule 20.32(68).

BIDDER MUST SIGN BELOW:

FAILURE TO SIGN WILL DISQUALIFY BID.

BIDDER AUTHORIZED SIGNATURE

DATE

Printed Name and Title

GENERAL INFORMATION

1. **BID RESPONSE FROM VENDOR TO INCLUDE:**

- a) Bid Submission with IFB Form, Including Completed Pages 1, 17 and 18
- b) Full Specification Sheets for Proposed Truck Driving Simulator
- c) Full Detail Sheets for Installation, Training, Additional Fees, Additional Warranty, Service Plan and/or Bundle Options
- d) Bidder W-9 Form

2. **POINT OF CONTACT:** The following person is the Point of Contact for this IFB. Bidders shall restrict all contact and direct all questions regarding this IFB, including questions regarding terms and conditions and technical specifications to the Point of Contact person by email only.

Sheryll Snider

spsnider@lit.edu

3. **FREIGHT AND DELIVERY:** Quote freight on board F.O.B. destination, prepaid and allowed. If freight is to be additional, bidder must state freight/delivery charges not to exceed on the bid sheet. If amount line is left blank, bidder indicates that freight will not be charged or is included in the price of the item.

Deliver to:

Lamar Institute of Technology

855 East Lavaca

Beaumont, Texas 77705

4. **SUBMISSION OF BID:** If submitting by mail or courier service, the bidder is cautioned to allow sufficient time for delivery prior to the published deadline to the location specified in this IFB.

It is the Respondent's sole responsibility for preparing, submitting and delivering a bid to the designated location on or before the published bid deadline. LIT has decentralized mail and package delivery. Courier mail or delivery services may not deliver directly to the specified submittal location.

- a) LIT will not consider any response to this solicitation that is not received at the address specified by the deadline, regardless of whether it has been received elsewhere on the LIT campus.
- b) Failure to deliver by the submittal deadline may not be grounds for disputing the procurement solicitation process or any resulting Contract award.
- c) LIT will not acknowledge or receive bids that are delivered by telephone, facsimile (fax), or electronic mail (e-mail).

5. **BIDS:** LIT has the option of rejecting any and or all bids.

6. **SPECIFICATIONS:** Any manufacturer names, trade names, brand names, or catalog numbers used in the specifications are there for the purpose of establishing and describing style, general performance, and quality levels. Such references are not intended to be restrictive, and bids are invited on these and comparable brands or products of any manufacturer.

- a) NOTE: If bidding other than the referenced brand/model, please submit full descriptive literature with bid.
- b) Bidders are cautioned to read carefully the specification(s). Bidders must direct LIT attention to any exceptions to the specification(s); even though your catalog or spec sheet may or may not list specifications for your product.

7. **QUESTIONS AND ADDENDA:** Any clarifications or interpretations of this IFB that materially affect or change this solicitation will be issued by LIT via the Electronic State Business Daily (ESBD) website located at: <http://www.txsmartbuy.com/sp> Please reference the IFB number provided in this solicitation. It is the responsibility of each respondent to check this website frequently for any posted addenda.

Only those LIT replies to inquiries which are made by formal written addenda shall be binding. Oral and other interpretations or clarification will be without legal effect.

8. **AWARD PROCESS:** In accordance with The Texas State University System Rules and Regulations, Chapter III, and the Texas Education Code Section 51.9335, LIT intends to carefully evaluate responses to this IFB to determine which response in total shall constitute the best value to LIT.
- a) LIT may use the best value factors listed below in determining the lowest overall cost for this solicitation, including by not limited to:
 - Delivery Costs
 - Life Cycle Costs
 - Quality and Reliability of the Goods and Services
 - Delivery Terms
 - b) Only those bids that are deemed to be in administrative compliance will be evaluated for responsiveness to State's needs.
 - c) LIT makes no guarantee that an award will be made as a result of this solicitation, and reserves the right to accept or reject any or all offers, waive any formalities or minor technical inconsistencies, or delete and item/requirements from this solicitation or resulting contract when deemed by LIT to be LIT's best interest.
 - d) Representations made within the offer will be binding on responding vendors. LIT will not be bound to act by any previous communication or offer submitted by the firms other than in response to this solicitation.

GENERAL TERMS AND CONDITIONS

LAMAR INSTITUTE OF TECHNOLOGY GENERAL TERMS AND CONDITIONS:

Lamar Institute of Technology (LIT), in compliance with applicable federal and state laws and regulations, does not discriminate on the basis of race, color, national origin, sex, age, religion, disability, handicap, sexual orientation, gender identity or expression, or status as a veteran in any of its policies or procedures. This includes, but is not limited to, admissions, employment, financial aid and educational services.

- 1. COMPLETE AGREEMENT:** This Attachment, which is hereby incorporated by reference or attachment and made a part of the Contract and/or Purchase Order, along with any other referenced or attached LIT riders, exhibits, terms, conditions and specifications (collectively, the Contract) constitutes the sole agreement between the parties and supersedes all other writings. Nothing herein shall be construed to be an acceptance of any terms of Supplier. If any provision in the Contract and/or Purchase Order conflicts with these Terms and Conditions the provision contained in these Terms and Conditions shall govern and control.
- 2. MODIFICATION:** No modification of the Contract shall be effective without LIT's prior written consent. No course of prior dealings, no usage of the trade and no course of performance shall be used to modify, supplement or explain any terms used in the Contract. LIT will not be bound by any oral statement, verbal agreement, or other representation contrary to the written specifications, terms, and conditions of the Contract.
- 3. CANCELLATION:** LIT shall have the right to cancel all or any part of the Contract if Supplier breaches any of the terms, conditions, or requirements hereof, or if the Supplier closes its business operations, becomes insolvent or is adjudged bankrupt. Such right of cancellation is in addition to, and not in lieu of, any other remedies which LIT may have at law or in equity.
- 4. DEFAULT AND TERMINATION:** LIT may terminate the Contract without cause at any time upon thirty days' advance written notice to Supplier, in which event Supplier will be entitled to payment of an amount that will compensate Supplier for any goods accepted or services satisfactorily performed in accordance with the Contract from the time of the last payment date to the termination date; provided, that, Supplier has delivered or performed all such goods or services to LIT for which payment is made. Notwithstanding any provision in the Contract to the contrary, LIT will not be required to pay or reimburse Supplier for any goods delivered, services performed, or expenses incurred by Supplier after the date of the termination notice.
 - (a) In the event of a material failure by a party to the Contract to perform in accordance with the terms of the Contract (a default), the other party may terminate the Contract upon thirty days' advance written notice of termination setting forth the nature of the material failure. Termination will not be effective if the material failure is, in LIT's sole discretion, fully cured prior to the end of the thirty-day period.
 - (b) If Supplier fails to cure any default within fifteen days of receiving written notice of the default, LIT will be entitled (but not obligated) to cure the default and will have the right to offset against all amounts due to Supplier under the Contract, including but not limited to any and all reasonable expenses incurred in connection with LIT's curative actions.
 - (c) Termination will not relieve Supplier or any of its employees, subcontractors, or agents from liability for any default or breach under the Contract, or any other act or omission of Supplier.
 - (d) If LIT will make pre-payments to Supplier under the Contract, Supplier will within thirty days of termination of the Contract reimburse LIT all fees paid by LIT to Supplier that were (1) not earned by Supplier prior to termination, or (2) for goods or services that LIT did not receive from Supplier prior to termination.
- 5. DELIVERY & SHIPPING:** All packages and packing lists must reference LIT's Purchase Order Number. Failure to do so may result in the shipment being rejected and/or a delay in payment. Time is of the essence and if delivery of conforming goods or performance of services is not completed by the time(s) promised, LIT reserves the right, in addition to its other rights and remedies, to cancel the Contract, to reject non-conforming goods or services in whole or in

part upon notice to Supplier, and/or purchase substitute goods or services elsewhere and charge Supplier with any losses incurred. If a delay in promised delivery is foreseen, Supplier shall give written notice to LIT, and the delivery date may be extended in LIT's sole discretion.

Supplier must keep LIT apprised at all times of the status of delivery and shipping during the Contract. No substitutions or cancellations will be permitted without prior written approval from LIT. Any provisions herein for delivery of goods or performance of services by installments shall not be construed as making the obligation of Supplier severable. All freight, transportation and handling charges must be prepaid by Supplier. Third party freight bills will not be accepted. **C.O.D. shipments will not be accepted.** Freight is to be F.O.B destination, prepaid and allowed.

6. ACCEPTANCE OF PRODUCTS AND SERVICES: All products furnished and all services performed under the Contract shall be to the satisfaction of LIT as determined by its designated Project Manager and in accordance with the specifications, terms, and conditions of the Contract. LIT reserves the right to inspect the products furnished or the services performed, and to determine the quality, acceptability, and fitness of such products or services.

Any work performed under the Contract will be completed to the satisfaction of the designated Project Manager who will, in all cases, determine, in the Project Manager's sole discretion, the amount, quality, acceptability and fitness of the work that is to be paid for under the Contract. The designated Project Manager will decide all questions that may arise regarding the fulfillment of the Contract by Supplier, and the designated Project Manager's determination and decision thereon will be final.

If the work performed by Supplier does not conform to the requirements of the Contract as determined by the designated Project Manager, LIT, at its sole option, may request Supplier to re-perform the work at no additional charge to LIT or may request a deduction from the contract price originally mutually agreed upon between Supplier and LIT.

7. TITLE & RISK OF LOSS: Title and risk of loss of goods shall not pass to LIT until LIT actually receives, approves, and takes possession of the goods at the point or points of delivery.

8. ASSIGNMENT AND SUBCONTRACTS: The Supplier's interest in this Agreement Supplier's duties and obligations under this Agreement, and the fees due to the Supplier under this under this Agreement may not be subcontracted, assigned, delegated, or otherwise transferred to a third party, in whole or in part, and any attempt to do so will (a) not be binding on LIT; (b) be a breach of this Agreement for which for which Supplier will be subject to all remedial actions provided by Applicable Laws, including Chapter 2161, Texas Government Code, And 34 TAC Chapter 20, §§20.101 – 20.108. However, the benefits and burdens of this Agreement are assignable by LIT.

9. INDEPENDENT CONTRACTOR: Supplier shall be an Independent Contractor, and neither the successful Supplier nor any Employee of the Supplier shall be deemed to be an Agent or Employee of LIT. As an Independent Contractor, the Supplier will be solely responsible for determining the means and methods for performing the services described. The Supplier shall observe and abide by all applicable laws and regulations, policies and procedures, including but not limited to, those of LIT relative to conduct on its premises.

10. INSURANCE: The Supplier will carry and will cause its subcontractors to carry, at least the following insurance with companies admitted to do business in the State of Texas and having an AM Best Rating of A-, and in amounts (unless otherwise specified), as LIT may require:

Workers' Compensation Insurance with statutory limits, and Employer's Liability Insurance with limits of not less than:

Statutory Limit - Each Accident	\$500,000
Occurrence - Each Employee	\$500,000
Employers Liability - Policy Limit	\$500,000

- Waiver of Subrogation and 30 Day Notice of Cancellation endorsements are required.

Commercial General Liability

General Liability	\$2,000,000
Products Completed Operations Aggregate	\$1,000,000
Each Occurrence	\$1,000,000

- Additional Insured, Waiver of Subrogation and 30 Day Notice of Cancellation endorsements are required.

Commercial Automobile Liability Insurance covering all owned, non-owned, leased, or hired automobiles, with limits of not less than \$1,000,000 Combined Single Limit Bodily Injury and Property Damage.

- Additional Insured, Waiver of Subrogation and thirty day Notice of Cancellation endorsements are required.

Additional Insurance Requirements:

- Additional insured endorsements providing Ongoing and Completed Operations.
- Primary and Non-Contributory endorsement required on General Liability.
- Additional Insured and Waiver of Subrogation endorsements must be in favor of: Lamar Institute of Technology, Member of The Texas State University System, their agents, servants, employees, officers, heirs, assigns, successors in interest & representatives in connection with the work.

Coverage Period

- Commercial General Liability Insurance will be kept in force until receipt of Final Payment by LIT to Contractor; and
- Worker Compensation Insurance and Employer Liability Insurance will be kept in force until the work has been fully performed and accepted by LIT in writing;
- If required, Errors and Omissions Insurance will be kept in force an additional two years after the work has been fully performed and accepted by LIT in writing.

11. INDEMNIFICATION: Supplier shall and does hereby agree to indemnify, protect, defend with counsel approved by LIT and hold harmless LIT and the Texas State University System, and their respective affiliated enterprises, regents, officers, directors, attorneys, employees, representatives and agents (collectively indemnitees) from and against all damages, losses, liens, causes of action, suits, judgments, expenses (including reasonable attorney fees), and other claims of any nature, kind, or description, including reasonable attorney's fees incurred in investigating, defending, or settling any of the foregoing (collectively claims) by any person or entity, arising out of, caused by, or resulting from supplier's performance under or breach of this contract and which are caused in whole or in part by any negligent act, negligent omission, or willful misconduct of supplier, anyone directly or indirectly employed by supplier, or anyone for whose acts supplier may be liable. The provisions of this section shall not be construed to eliminate or reduce any other indemnification or right which any indemnitee has by law. All parties will be entitled to be represented by counsel at their own expense.

In addition, Supplier shall and does hereby agree to indemnify, protect, defend with counsel approved by LIT, and hold harmless indemnitees from and against all claims arising from infringement or alleged infringement of any patent, copyright, trademark or other proprietary interest arising by or out of the performance of services or the provision of goods by supplier pursuant to the contract, or the use by supplier or by indemnitees at the direction of supplier of any article or material; provided that, upon becoming aware of a suit or threat of suit for such infringement, LIT shall promptly notify supplier, and supplier shall be given full opportunity to negotiate a settlement. In the event of litigation, LIT agrees to reasonably cooperate with supplier. All parties will be entitled to be represented by counsel at their own expense.

The indemnities provisions contained herein shall survive the termination of the Contract for any reason whatsoever.

12. NON-DISCLOSURE: Unless required by law or consented to in writing by LIT, no disclosure, description, or other communication of any sort shall be made by Supplier to any third party regarding LIT's purchase of goods or services hereunder, or of the details and characteristics thereof. Anything furnished to Supplier by LIT pursuant to the Contract,

including without limitation, samples, drawings, patterns and materials shall remain the property of LIT, shall be held at Supplier's risk, and shall be returned upon completion of the work. No disclosure or reproduction thereof in any form shall be made without LIT's prior written consent.

- 13. FORCE MAJEURE:** Neither the Supplier nor LIT, shall be liable to the other for any delay in, or failure of performance, of a requirement contained in the Contract caused by Force Majeure. The existence of such causes of delay or failure shall extend the period of performance until after the causes of delay or failure have been removed, provided the non-performing party exercises all reasonable due diligence to perform.

Force Majeure is defined as acts of God, war, strike, fires, explosions, or other causes that are beyond the reasonable control of either party and that by exercise of due foresight such party could not reasonably have been expected to avoid, and which, by the exercise of all reasonable due diligence, such party is unable to overcome. Each party must inform the other in writing with proof of receipt within three business days of the existence of such Force Majeure or otherwise waive this right as a defense.

- 14. GOVERNING LAW AND VENUE:** Jefferson County, Texas, shall be the proper place of venue for suit on or in respect of the Contract. The Contract and all of the rights and obligations of the parties hereto and all of the terms and conditions hereof shall be construed, interpreted and applied in accordance with and governed by and enforced under the laws of the State of Texas.

- 15. COMPLIANCE WITH LAW:** Supplier is aware of, is fully informed about, and in full compliance with its obligations under existing applicable federal, state and local laws and regulations, codes, ordinances and orders and with those of any other body or authority having jurisdiction ("Applicable Laws"), including Title VI of the Civil Rights Act of 1964, as amended (42 USC 2000(D)), Executive Order 11246, as amended (41 CFR 60-1 and 60-2), the Vietnam Era Veterans Readjustment Act of 1974, as amended (41 CFR 60250), the Rehabilitation Act of 1973, as amended (41 CFR 60- 741), the Age Discrimination Act of 1975 (42 USC 6101 et seq.), Non- segregated Facilities (41 CFR 60-1), Omnibus Budget Reconciliation Provision, Section 952, the Fair Labor Standards Act of 1938, Sections 6, 7, and 12, as amended, the Immigration Reform and Control Act of 1986, and Utilization of Small Business Concerns and Small Business Concerns Owned and Controlled by Socially and Economically Disadvantaged Individuals (PL 96-507), the Americans with Disabilities Act of 1990 (42 USC 12101 et seq.), the Civil Rights Act of 1991, *Occupational Safety and Health Act of 1970*, as amended (PL 91-596), *Immigration and Nationality Act* (8 *United States Code* 1324a) and all other applicable laws. Supplier represents and warrants that neither it nor any firm, corporation or institution represented by it, nor anyone acting on its behalf, (1) has violated the antitrust laws of the State of Texas, Chapter 15, *Texas Business and Commerce Code*, or federal antitrust laws, or (2) has communicated directly or indirectly the content of Contractor's response to LIT's procurement solicitation to any competitor or any other person engaged in a similar line of business during the procurement process for this Agreement.

- 16. LAMAR INSTITUTE OF TECHNOLOGY PREMISES RULES:** If the Contract requires Supplier's presence on LIT's premises or in LIT's facilities, Supplier agrees to cause its employees, representatives, agents, or subcontractors to become aware of, fully informed about, and in full compliance with all applicable LIT rules and policies, including without limitation those relative to personal health, security, environmental quality, safety, fire prevention, noise, smoking, use of tobacco, access restrictions, traffic, and parking. LIT policies may be viewed at <https://www.lit.edu>

- 17. ASSIGNMENT OF OVERCHARGE CLAIMS:** Supplier hereby assigns to LIT any and all claims for overcharges associated with the Contract arising under the antitrust laws of the United States, 15 USC 1, or arising under the antitrust laws of the State of Texas, Texas Business and Commerce Code Chapter 15.

- 18. AUTHORIZED TO CONDUCT BUSINESS IN TEXAS AND EXECUTE AGREEMENTS:** If Supplier is a corporation or a limited liability company, Supplier warrants, represents, covenants, and agrees that it is duly organized, validly existing and in good standing under the laws of the state of its incorporation or organization and is duly authorized and in good standing to conduct business in the State of Texas, that it has all necessary power and has received all necessary approvals to execute and deliver the Contract, and the individual executing the Contract on behalf of Supplier

has been duly authorized to act for and bind Supplier.

- 19. PAYMENT OF DEBT OR DELINQUENCY TO THE STATE:** Pursuant to Texas Government Code Sections 2107.008 and 2252.903, Supplier agrees that any payments owing to Supplier under the Contract may be applied directly to any debt or delinquency that Supplier owes the State of Texas or any agency of the State of Texas, regardless of when it arises, until such debt or delinquency is paid in full.
- 20. NO INDUCEMENT FOR CONTRACT AWARD:** Supplier affirms that it has not given or offered to give, nor does Supplier intend to give at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor or service to a public servant in connection with the Contract.
- 21. TAX CERTIFICATION:** If Supplier is a taxable entity as defined by Texas Tax Code Chapter 171, then Supplier certifies that it is not currently delinquent in the payment of any Franchise Taxes due under Chapter 171, or that Supplier is exempt from the payment of those taxes, or that Supplier is an out-of-state taxable entity that is not subject to those taxes, whichever is applicable. A false certification will be deemed a material breach of contract and, at LIT's sole option, may result in termination of the Contract.
- 22. ANTITRUST CERTIFICATION:** Supplier certifies that neither Supplier nor any firm, corporation, partnership or institution represented by Supplier, or anyone acting for such firm, corporation or institution, has violated the antitrust laws of the State of Texas, Texas Business and Commerce Code Chapter 15, or the antitrust laws of the United States, 15 USC 1, nor communicated directly or indirectly the proposal made to any competitor or any other person engaged in such line of business.
- 23. TEXAS FAMILY CODE CHILD SUPPORT CERTIFICATION:** Pursuant to Texas Family Code Section 231.006 relating to child support, Supplier certifies that it is not ineligible to receive the award of or payments under the Contract and acknowledges that the Contract may be terminated and payment may be withheld if this certification is inaccurate.
- 24. DISCLOSURE OF OWNERSHIP INTEREST OR RELATIONSHIP:** Supplier certifies that (i) no relationship, whether by blood, marriage, business association, capital funding agreement or by any other such kinship or connection exists between the owner of any Supplier that is a sole proprietorship, the officers or directors of any Supplier that is a corporation, the partners of any Supplier that is a partnership, the joint venturers of any Supplier that is a joint venture, or the members or managers of any Supplier that is a limited liability company, on one hand, and an employee of any institution of The Texas State University System on the other hand, other than the relationships which have been previously disclosed to LIT in writing, and (ii) Supplier has not been an employee of any institution of The Texas State University System within the immediate twelve months prior to the submittal deadline, if applicable.
- 25. CERTAIN BIDS AND CONTRACTS PROHIBITED:** Supplier represents that it is in compliance with Texas Government Code Section 2155.004, and that no compensation has been received for its participation in the preparation of the requirements or specifications for this Contract. In addition, Supplier certifies that an award of a contract to it will not violate Texas Government Code Section 2155.006, prohibiting LIT from entering into a contract that involves financial participation by a person who, during the previous five years, has been convicted of violating federal law or assessed a penalty in a federal civil or administrative enforcement action in connection with a contract awarded by the federal government for relief, recovery, or reconstruction efforts as a result of Hurricane Rita, Hurricane Katrina, Hurricane Ike, or any other disaster occurring after September 24, 2005. Pursuant to Texas Government Code Sections 2155.004 and 2155.006, Supplier certifies that it is not ineligible to receive the award of or payments under the Contract and acknowledges that the Contract may be terminated and payment withheld if these certifications are inaccurate.

Pursuant to Section 2270.002 of the Texas Government Code, Supplier certifies that either (i) it meets an exemption criteria under Section 2270.002; or (ii) it does not boycott Israel and will not boycott Israel during the term of the contract resulting from this solicitation. Respondent shall state any facts that make it exempt from the boycott certification in its Response.

Supplier certifies that it is not currently engaged in, and agrees that during the term of this contract will not engage in business with Iran, Sudan, or a foreign terrorist organization. Contractor acknowledges this Agreement may be terminated and payment withheld if this certification is inaccurate.

- 26. OCCUPATIONAL SAFETY AND HEALTH COMPLIANCE:** Supplier represents and warrants that all products and services offered to LIT under this Contract meet or exceed the safety standards established and promulgated under the Federal Occupational Safety and Health Law (Public Law 91-596) and the Texas Hazard Communication Act (Texas Health and Safety Code Chapter 502), and all related regulations in effect or proposed as of the date of this Contract.
- 27. EQUAL EMPLOYMENT/EQUAL OPPORTUNITY:** Pursuant to Applicable Laws, Supplier represents and warrants that it is an equal opportunity employer and does not discriminate on the basis of race, color, religion, national origin, age, mental or physical disability, sexual orientation or gender identity.
- 28. EXCLUSION FROM GOVERNMENT CONTRACTING:** Neither Supplier nor its Principals are suspended, debarred, proposed for debarment, declared ineligible, or voluntarily excluded from the award of contracts from the State of Texas or United States (U.S.) federal government procurement or non- procurement programs, or are listed in the System for Award Management (SAM) from Federal Procurement or Non- procurement Programs (<https://www.sam.gov/portal/public/SAM>) issued by the U.S. Government. “Principals” means officers, directors, owners, partners, and persons having primary management or supervisory responsibilities within a business entity (e.g., general manager, plant manager, head of a subsidiary, division or business segment, and similar positions). Supplier will provide immediate written notification to LIT if, at any time prior to award, Supplier learns that this certification was erroneous when submitted or has become erroneous by reason of changed circumstances. This certification is a material representation of fact upon which reliance will be placed when LIT issues this Contract. If it is later determined that Supplier knowingly rendered an erroneous certification, in addition to the other remedies available to LIT, LIT may terminate this Contract for default by Supplier.
- 29. PREFERENCE TO TEXAS PRODUCTS AND SERVICES:** Supplier covenants and agrees that, as required by Texas Government Code Section 2155.4441, in performing its duties and obligations under the Contract, Supplier shall purchase products and materials produced in Texas when such products and materials are available at a price and delivery time comparable to products and materials produced outside of Texas.
- 30. TEXAS HAZARD COMMUNICATION ACT:** Supplier is familiar and in full compliance with the Texas Hazard Communication Act (Texas Health and Safety Code Chapter 502), and will provide either (i) a Material Safety Data Sheet (“MSDS”) for each product Supplier, its employees, agents or subcontractors brings on LIT’s premises, or (ii) a statement of exemption if the product is not covered by the Texas Hazard Communication Act.
- 31. BEST VALUE PRICING:** The price to be paid by LIT will be that contained in Supplier's quote, bid or proposal, which Supplier warrants to be no higher than Supplier's current prices on orders by others for goods or services of the kind covered by the Contract for similar quantities to similar customers under similar conditions. In the event Supplier breaches this warranty, the prices will be reduced to Supplier's current prices on orders by others or, in the alternative, LIT may cancel this Contract at its sole option without liability to Supplier.
- 32. PUBLIC INFORMATION.** All information, documentation, and other materials submitted in response to this Solicitation are considered non-confidential and/or non-proprietary and are subject to public disclosure under the Texas Public Information Act (*Texas Government Code*, Chapter 552.001, et seq.) after the Solicitation is completed. The College strictly complies with all statutes, court decisions, and opinions of the Texas Attorney General with respect to disclosure of Proposal information.
- 33. LOSS OF FUNDING:** Performance by LIT under the Contract may be dependent upon the appropriation and allotment of funds by the Texas State Legislature (Legislature) and/or allocation of funds by the Board of Regents of The Texas State University System (Board). If the Legislature fails to appropriate or allot the necessary funds, or if the Board fails to allocate the necessary funds, then LIT will issue written notice to Supplier and LIT may terminate the

Contract without further duty or obligation hereunder. Supplier acknowledges that appropriation, allotment, and allocation of funds are beyond the control of LIT.

- 34. ACCESS TO DOCUMENTS:** To the extent applicable to the Contract, in accordance with Section 1861(v)(I)(i) of the Social Security Act (42 U.S.C. 1395x) as amended, and the provisions of 42 CFR Section 420.300 et seq., Supplier will allow, during and for a period of not less than four years after the expiration or termination of the Contract, access to (i) the Contract and Supplier's books, documents, and records, and (ii) contracts between Supplier and its subcontractors or related organizations, including books, documents and records relating to same, by the Comptroller General of the United States, the U.S. Department of Health and Human Services, Federal Emergency Management Agency (FEMA), and their duly authorized representatives.
- 35. LAMAR INSTITUTE OF TECHNOLOGY'S RIGHT TO AUDIT:** At any time during the term of the Contract and for a period of four years thereafter, LIT or a duly authorized audit representative of LIT, The Texas State University System, or the State of Texas, at its expense and at reasonable times, reserves the right to audit Supplier's records and books relevant to all services provided under the Contract. In the event such an audit by LIT reveals any errors/overpayments by LIT, Supplier shall refund LIT the full amount of such overpayments within thirty days of such audit findings, or LIT, at its sole option, may deduct such overpayments from any amounts LIT is required to pay Supplier under this or any Contract.
- 36. STATE AUDITOR'S OFFICE:** Supplier understands that acceptance of funds under the Contract constitutes acceptance of the authority of the Texas State Auditor's Office, or any successor agency (collectively, Auditor), to conduct an audit or investigation in connection with those funds pursuant to Texas Education Code Sections 51.9335(c). Supplier agrees to cooperate with the Auditor in the conduct of the audit or investigation, including without limitation providing all records requested. Supplier will include this provision in all contracts with permitted subcontractors.
- 37. NON-WAIVER OF DEFAULTS:** Any failure of LIT to enforce or require the strict keeping and performance of any of the terms and conditions of the Contract, or to exercise a right hereunder, shall not constitute a waiver of such terms, conditions, or rights, and shall not affect or impair the same, or the right of LAMAR INSTITUTE OF TECHNOLOGY at any time to avail itself of the same.
- 38. SEVERABILITY:** In the event that any provision of the Contract, or the application thereof to any person or circumstance, is determined to be invalid, unlawful, or unenforceable to any extent, the remainder of the Contract, and the application of such provision to persons or circumstances other than those to which it is determined to be unlawful, invalid, or unenforceable to any extent, shall continue to be valid and may be enforced to the fullest extent permitted by law.
- 39. NOTICES:** Except as otherwise provided by this Section, all notices, consents, approvals, demands, requests or other communications provided for or permitted to be given under any of the provisions of the Contract will be in writing and will be sent via certified mail, hand delivery, overnight courier, or email as provided below, and notice will be deemed given (i) if delivered by certified mail, when deposited, postage prepaid, in the United States mail, or (ii) if delivered by hand, overnight courier, or email when received, to:
- Lamar Institute of Technology:
Attention: Purchasing and Contract Office
P.O. Box 10043 Beaumont, TX 77710
purchasing@lit.edu
- 40. WARRANTIES:** In addition to all warranties established by law, Supplier hereby warrants and agrees that:
- (a) All goods and services covered by the Contract shall conform to the specifications, drawings, samples or other descriptions set forth herein or otherwise furnished or adopted by LIT, and shall be merchantable, fit for the purpose intended, of best quality and workmanship, and free from all defects. LIT shall have the right of inspection and approval, and may, at Supplier's expense, reject and return non-conforming goods or require re-performance of services which are not in compliance with the requirements of the Contract.

Defects shall not be deemed waived by LIT's failure to notify Supplier upon receipt of goods or completion of services, or by payment of invoice.

- (b) All articles and/or services provided pursuant to the Contract shall meet or exceed the Safety Standards established and promulgated under the Federal Occupational Safety and Health Administration (Public Law 91-596) and its regulations in effect or proposed as of the date of the Contract.
- (c) All goods delivered pursuant to the Contract shall conform to standards established for such goods in accordance with any applicable federal, state or local laws and regulations, unless otherwise indicated herein.
- (d) The use or sale of any goods delivered hereunder, or any part thereof, except goods produced to LIT's drawings or specifications, does not infringe any patent, trademark, service mark, copyright, or other third party intellectual property right.

41. PUBLICITY: Supplier agrees that it shall not publicize the Contract or disclose, confirm or deny any details thereof to third parties or use any photographs or video recordings of LIT's employees or use LIT's name in connection with any sales promotion or publicity event without the prior express written approval of LIT.

42. PRODUCT RECALL: Supplier shall, immediately upon discovery, advise LIT of any or all required replacement or modifications to equipment or component part(s) thereof or withdrawal of a product by reason of safety hazard or recall. Any verbal notification must be confirmed in writing within twenty-four hours of such verbal notification. Formal notices must be submitted to the following address:

Lamar Institute of Technology
P.O. Box 10043
Beaumont, TX 77710
Attention: Purchasing Office
Telephone: 409-839-2021
Email: purchasing@lit.edu

43. ALTERNATIVE DISPUTE RESOLUTION: If a dispute, or controversy, or claim arises out of or relates to this Contract, the parties will make a good faith attempt to resolve the issues. If the dispute cannot be settled by the parties, the parties agree to follow the dispute resolution process in Chapter 2260 of the Texas Government Code.

44. ACCESS BY INDIVIDUALS WITH DISABILITIES: Supplier shall comply with all applicable requirements and provisions of the Americans with Disabilities Act (ADA).

Supplier represents and warrants that the electronic and information resources and all associated information, documentation, and support (collectively, the EIRs) that it provides to LIT under the Contract comply with the applicable requirements set forth in Title 1, Chapter 213 of the Texas Administrative Code and Title 1, Chapter 206, Rules §206.50 and §206.70 of the Texas Administrative Code authorized by Chapter 2054, Subchapter M of the Texas Government Code, United States Rehabilitation Act of 1973 and its amendments, Section 508; and World Wide Web Consortium (W3C), Web Accessibility Initiative (WAI), Web Content Accessibility Guidelines (WCAG) 1.0 and 2.0AA. All submissions must include all Voluntary Product Accessibility Templates (VPAT), Information Technology Industry Council (ITIC) and General Services Administration (GSA) that describes compliance with Section 508. In the event that Supplier fails or is unable to do so, then LIT may terminate the Contract and the Supplier will refund to LIT all amounts LIT has paid under the Contract within thirty-days after the termination date.

45. ETHICS MATTERS; NO FINANCIAL INTEREST: Supplier and its employees, agents, representatives and subcontractors have read and understand LIT's Conflicts of Interest Policy. Neither Supplier nor its employees, agents, representatives or subcontractors will assist or cause LIT employees to violate LIT's Conflicts of Interest Policy, provisions described by LIT's Standards of Conduct Guide, or applicable state ethics laws or rules. Supplier represents and warrants that no member of the Board has a direct or indirect financial interest in the transaction that is the subject

of the Contract.

46. UNDOCUMENTED WORKERS: Supplier understands the federal Immigration and Nationality Act (8 U.S.C. §1324a) (Immigration Act) makes it unlawful for an employer to hire or continue employment of undocumented workers. The United States Immigration and Customs Enforcement Service has established the Form I-9 Employment Eligibility Verification Form ("I-9 Form") as the document to be used for employment eligibility verification (8 CFR Part 274a). Among other things, Supplier is required to: (i) have all employees complete and sign an I-9 Form certifying that they are eligible for employment; (ii) examine verification documents required by the I-9 Form to be presented by the employee and ensure the documents appear to be genuine and related to the individual; (iii) record information about the documents on the I-9 Form and complete the certification portion of the I-9 Form; and (iv) retain the I-9 Form as required by law. It is illegal to discriminate against any individual (other than a citizen of another country who is not authorized to work in the United States) in hiring, discharging, or recruiting because of that individual's national origin or citizenship status. If Supplier employs unauthorized workers during performance of the Contract in violation of the Immigration Act then, in addition to other remedies or penalties prescribed by law, LIT may terminate the Contract immediately without further liability. Supplier represents and warrants that it is in compliance with and agrees that it will remain in compliance with the provisions of the Immigration Act.

47. COMPLIANCE WITH LAMAR INSTITUTE OF TECHNOLOGY SYSTEM INFORMATION

RESOURCES USE AND SECURITY POLICY: Supplier agrees to adhere to all state and federal laws and The LIT Board of Regents' Rules and policies pertaining to the protection of LIT's Information Resources and privacy of Sensitive Data, as those terms are defined in UTS165. Further, Supplier represents and warrants that it will: Hold all Sensitive Data in the strictest confidence; Not release any Sensitive Data concerning a LIT student unless Supplier obtains LIT's prior written approval and performs such a release in full compliance with all applicable privacy laws, including Family Educational Rights and Privacy Act (FERPA); Not otherwise use or disclose Sensitive Data except as required or permitted by law; Safeguard Sensitive Data according to all commercially reasonable administrative, physical, and technical standards (e.g., such standards established by the National Institute of Standards and Technology or the Center for Internet Security); Continually monitor its operations and take any action necessary to ensure Sensitive Data is safeguarded; and Comply with LIT Vendor Access Requirements. Supplier must provide written notice to LIT within one business day of Supplier's discovery of any unauthorized use or disclosure of Sensitive Data, and Supplier shall provide all information requested by LIT or the Texas State University System concerning such unauthorized use or disclosure. Pursuant to Title 1 Texas Administrative Code Section 202.75 (7) and to ensure compliance with UTS165 and state laws and regulations related to the use and security of Information Resources, LIT, at its sole cost and expense, shall have the right to audit Supplier's systems to ensure that Information Resources and Sensitive Data are adequately protected.

48. CONFIDENTIALITY AND SAFEGUARDING OF LIT RECORDS; PRESS RELEASES: Under the Contract, Supplier may (i) create (ii) receive from or on behalf of LIT or (iii) have access to records or record systems (LIT records). LIT Records may contain social security numbers, credit card numbers or data protected or made confidential or sensitive by Applicable Laws, including the Gramm-Leach-Bliley Act (Public Law No: 106-102) and the Family Educational Rights and Privacy Act, 20 U.S.C. §1232g (FERPA). If LIT Records are subject to FERPA, (1) LIT designates Supplier as a LIT official with a legitimate educational interest in LIT Records, and (2) Supplier acknowledges that its improper disclosure or re-disclosure of personally identifiable information from LIT Records will result in Supplier's exclusion from eligibility to contract with LIT for at least five (5) years. Supplier represents, warrants, and agrees that it will: (1) hold LIT Records in strict confidence and will not use or disclose LIT Records except as (a) permitted or required by this Agreement, (b) required by Applicable Laws, or (c) otherwise authorized by LIT in writing; (2) safeguard LIT Records according to reasonable administrative, physical and technical standards (such as standards established by (i) the National Institute of Standards and Technology and (ii) the Center for Internet Security, as well as the Payment Card Industry Data Security Standards) that are no less rigorous than the standards by which Contractor protects its own confidential information; (3) continually monitor its operations and take any action necessary to assume that LIT Records are safeguarded and the confidentiality of LIT Records is maintained in accordance with all Applicable Laws, including FERPA and the Gramm-Leach Bliley Act, and the terms of this Agreement; and (4) comply with LIT's rules, policies, and procedures regarding access to and use of LIT's computer systems. At the request of LIT, Supplier agrees to provide LIT with a written summary of the

procedures Contractor uses to safeguard and maintain the confidentiality of LIT Records.

- (a) Notice of Impermissible Use. If an impermissible use or disclosure of any LIT Records occurs, Supplier will provide written notice to LIT within one business day after Supplier's discovery of that use or disclosure. Supplier will promptly provide LIT with all information requested by LIT regarding the impermissible use or disclosure.
- (b) Return of LIT Records. Supplier agrees that within thirty days after the expiration or termination of the Contract, for any reason, all LIT Records created or received from or on behalf of LIT will be (i) returned to LIT, with no copies retained by Supplier; or (ii) if return is not feasible, destroyed. Twenty days before destruction of any LIT Records, Supplier will provide LIT with written notice of Supplier's intent to destroy LIT Records. Within five days after destruction, Supplier will confirm to LIT in writing the destruction of LIT Records.
- (c) Disclosure. If Supplier discloses any LIT Records to a subcontractor or agent, Supplier will require the subcontractor or agent to comply with the same restrictions and obligations as are imposed on Supplier by this Section.
- (d) Press Releases. Except when defined as part of the Scope of Work, Supplier will not make any press releases, public statements, or advertisement referring to the Contract or the engagement of Supplier as an independent contractor of LIT in connection with the Contract, or release any information relative to the Contract for publication, advertisement or any other purpose without the prior written approval of LIT.
- (e) Termination. In addition to any other termination rights set forth in the Contract and any other rights at law or equity, if LIT reasonably determines that Supplier has breached any of the restrictions or obligations set forth in this Section, LIT may immediately terminate the Contract without notice or opportunity to cure.
- (f) Duration. The restrictions and obligations under this Section will survive expiration or termination of the Contract for any reason.
- (g) Notice of Impermissible Use. If an impermissible use or disclosure of any LIT Records occurs, Supplier will provide written notice to LIT within one business day after Supplier's discovery of that use or disclosure. Supplier will promptly provide LIT with all information requested by LIT regarding the impermissible use or disclosure.
- (h) Return of LIT Records. Supplier agrees that within thirty days after the expiration or termination of the Contract, for any reason, all LIT Records created or received from or on behalf of LIT will be (i) returned to LIT, with no copies retained by Supplier; or (ii) if return is not feasible, destroyed. Twenty days before destruction of any LIT Records, Supplier will provide LIT with written notice of Supplier's intent to destroy LIT Records. Within five days after destruction, Supplier will confirm to LIT in writing the destruction of LIT Records.
- (i) Disclosure. If Supplier discloses any LIT Records to a subcontractor or agent, Supplier will require the subcontractor or agent to comply with the same restrictions and obligations as are imposed on Supplier by this Section.
- (j) Press Releases. Except when defined as part of the Scope of Work, Supplier will not make any press releases, public statements, or advertisement referring to the Contract or the engagement of Supplier as an independent contractor of LIT in connection with the Contract, or release any information relative to the Contract for publication, advertisement or any other purpose without the prior written approval of LIT.
- (k) Termination. In addition to any other termination rights set forth in the Contract and any other rights at law or equity, if LIT reasonably determines that Supplier has breached any of the restrictions or obligations set forth in this Section, LIT may immediately terminate the Contract without notice or opportunity to cure.

- (l) **Duration.** The restrictions and obligations under this Section will survive expiration or termination of the Contract for any reason.

49. RIGHT TO PROTECT INFORMATION RESOURCE SECURITY: LIT reserves the right to change or modify without consent any information resource, including but not limited to operating systems, hardware, and/or network configuration, in order to protect LIT's Information Resources against any security vulnerabilities and unauthorized access or abuse. Further, if Supplier will provide maintenance under the Contract, Supplier warrants that upon routine maintenance and/or notification by LIT of security vulnerability that such maintenance shall include the installation of operating system and/or application patches and upgrades that will protect LIT's Information Resources against any security vulnerabilities and unauthorized access or abuse.

50. WARRANTY AGAINST SPYWARE, MALWARE, AND COLLECTION OF PRIVATE INFORMATION: Supplier warrants that products purchased by LIT do not contain spyware or malware, and that the products do not collect and/or distribute information that could be considered private without LIT's and the actual users' express consent.

51. REMOTE NETWORK ACCESS FOR MAINTENANCE OR REPAIRS: If Supplier will provide maintenance or repair services under the Contract, access to LIT's information resources for remote maintenance or repairs by Supplier or other authorized vendors shall be limited to use of approved network connectivity access methods such as Virtual Private Network or third party remote dial-up access. Access requests to LIT's Information Services Department on behalf of Supplier or other authorized vendors shall be the responsibility of the information resource owner.

52. IMPLEMENTATION AND/OR MAINTENANCE OF INFORMATION SYSTEMS: To the extent applicable to the services Supplier will provide under the Contract, any implementation and/or maintenance of information systems shall be performed in accordance with LIT's Information Resources policies and practice standards as defined by Texas Administrative Code.

53. SOFTWARE INDEMNIFICATION: If Supplier will provide any software under the Contract, Supplier warrants that it has the full right to grant this entire license to LIT. At Supplier's expense, Supplier shall hold harmless, indemnify, and defend LIT against any claim that any software or documentation provided to LIT by Supplier infringes a patent, copyright, trade secret or other proprietary right of a third party in the United States and shall pay all costs, damages, and attorney's fees that a court finally awards as a result of such claim or that are paid in settlement of such claim. To qualify for such defense and payment, LIT will: (i) give Supplier prompt written notice of such claim; and (ii) subject to the statutory duty of the Texas Attorney General, allow Supplier to control, and will fully cooperate with Supplier in, the defense against such claim and all related negotiations. In the event such claims are raised against both LIT and Supplier, LIT may, at its option and expense, retain its own counsel to act as co-counsel in such defense and related negotiations. Supplier's obligation under this Section is conditioned upon LIT's agreement that, if the operation of any software provided by Supplier becomes or is likely to become, the subject of such claim, LIT shall permit Supplier, at Supplier's option and expense, to either procure the right for LIT to continue to use the software or replace or modify the software so that it becomes non-infringing and such replacement software or modifications meet or exceed the functionality of the original software. In the event Supplier is unwilling or unable to procure the right to use the software or replace or modify it as described above, Supplier shall refund to LIT any license fees and, if applicable, professional services or installation fees paid to Supplier by LIT relating to such software.

54. WARRANTY AGAINST SELF DISABLING CODES: If Supplier will provide any software under the Contract, Supplier warrants that any software it provides shall not be subject to any time-based, activity- based, or event-based self-disabling codes once Supplier has received payment.

55. SOFTWARE ACCEPTANCE: If Supplier will provide any software under the Contract, upon installation of any

software by Supplier, Supplier shall demonstrate to LIT the operation of the software in LIT's test and live environments as performing in accordance with the provided documentation and specifications.

- (a) Acceptance of software shall occur after thirty consecutive calendar days of Stable operation following First Productive Use. At LIT's option, the running of the thirty calendar day period may be halted from time to time for non-Urgent Issue(s), and shall be restarted to day zero for Urgent Issue(s), as defined herein. Upon successful completion of the thirty calendar day period, LIT shall notify Supplier in writing of LIT's acceptance of the software, which notice shall not be unreasonably withheld.
- (b) "First Productive Use" shall mean seventy-two hours of continuous operation after the date on which the software is first used with LIT's live data to perform the intended function of the software. First Productive Use shall be restricted to the live production system and will not include the test systems.
- (c) "Stable" shall mean computer jobs, tasks, transactions or procedures consistently performing in accordance with the provided documentation and specifications ending in a normal mode and not ending abnormally.
- (d) "Urgent Issue" shall mean any issue which results in a loss of major system functionality, a loss of data recovery, or incorrect data as determined by LIT in its sole discretion.

56. EXTERNAL TERMS: If Supplier will provide any software under the Contract, the terms and conditions of the Contract completely supplant, replace, and override all other terms and conditions concerning Supplier's license of software to LIT and/or Supplier's provision of any other goods or services to LIT under the Contract (External Terms). External Terms will have no effect, regardless of whether LIT or any person or entity expresses assent or agreement to such External Terms. External Terms include any shrink-wrap, click wrap, browse wrap, electronic terms and conditions of use displayed via the Internet, or other similar terms and conditions displayed in any form that must be agreed to by LIT or any other person or entity in order to access or use the software or any other goods or services provided by Supplier under the Contract.

57. HOSTED SERVICES (CLOUD SERVICES): If Supplier will provide any services and/or products to LIT related to the information and/or content owned by Lamar University that will not reside on LIT-owned servers or systems, Supplier shall complete a Hosted Services Checklist (Checklist). Moreover, Supplier shall consult with both LIT's Information Services Department and LIT's Chief Information Security Officer related to the services or products provided to LIT.

58. DISCRIMINATION PROHIBITED: Lamar Institute of Technology and supplier will abide by the requirements of 41 CFR 60-1.4(A), 60-300.5(A) and 60-741.5(A) (collectively, the regulations). The regulations (i) prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and (ii) prohibit discrimination against all individuals based on their race, color, religion, sex or national origin. Moreover, the regulations require that LIT and supplier take affirmative action to employ and advance in employment, individuals without regard to race, color, religion, sex, national origin, protected veteran status or disability.

59. NONDISCRIMINATION: In their execution of this agreement, all contractors, subcontractors, their respective employees, and others acting by or through them shall comply with all federal and state policies and laws prohibiting discrimination, harassment, and sexual misconduct. Any breach of this covenant may result in termination of this agreement.

60. LIMITATIONS: The parties are aware there are constitutional and statutory limitations on the authority of LIT (a State agency) to enter into certain terms and conditions that may be part of this agreement, including terms and conditions relating to liens on LIT property; disclaimers and limitations of warranties; disclaimers and limitations of liability for damages; waivers, disclaimers and limitations of legal rights, remedies, requirements and processes; limitations of periods to bring legal action; granting control of litigation or settlement to another party; liability for

acts or omissions of third parties; payment of attorneys' fees; dispute resolution; indemnities; and confidentiality, and terms and conditions related to limitations will not be binding on LIT except to the extent authorized by the laws and constitution of the State of Texas.

61. APPLICABLE TEXAS LAWS APPLY. In accordance with Texas Education Code, Section 51.9335 (h), any Contract for the acquisition of goods and services to which an institution of higher education is a party, any provision required by applicable law to be included in the Agreement or Contract is considered to be a part of the executed Agreement or Contract without regard to:

- (a) Whether the provision appears on the face of the Agreement or Contract; or
- (b) Whether the Agreement or Contract includes any provision to the contrary.

62. SOVEREIGN IMMUNITY. Nothing in this Agreement or any attachments hereto shall be construed as a waiver of the constitutional, statutory, or common-law rights, privileges, immunities or defenses of the parties.

BID PRICE SHEET

LIT is requesting bids from qualified vendors to provide one (1) truck driving simulator for use in the Workforce Training Program.

ITEM NO.	DESCRIPTION: This specification covers the minimum requirements the Truck Training Simulator	QUANTITY	UNIT PRICE	EXTENSION
1.	Truck Driving Simulator Attach Specification Sheets for Proposed Simulator Trainer Minimum Specifications: Truck Driving Simulator Open Air Style Cab Design Stationary Steel Frame Step Up Handles Seatbelt Air Ride Seat and Controls Instrument Clusters Software	1 Each		
2.	Installation Attach Detail Sheet to Include Breakdown of Fee Including Space and Power Requirements	1 Each		
3.	Training Attach Detail Sheet to Include Breakdown of Fees, Including Hourly Fees, Trainer Categories, and Travel Expense	1 Each		
4.	Freight and Delivery Fee if Applicable Not to Exceed	1 Each		
5.	Additional Fees if Applicable – List/Attach Details of Additional Fees	1 Each		
6.	TOTAL BID			

1.A.	Alternate No. One: Additional Warranty – Attach Detail Sheet for Additional Warranty	1 Each		
1.B.	Alternate No. Two: Service Plan – Attach Detail Sheet for Service Plan	1 Each		
1.C.	Alternate No. Three: Bundle Options - Attach detail Sheet for Bundle Options and Price Breaks for Packaging Multiple Items and/or Services			

BIDDER REFERENCE SHEET

Bidder to complete and submit this Reference Sheet with their bid.
Attach additional sheets as needed. LIT reserves the right to contact these references.

Bidder shall submit, along with contact name and telephone number, at least three
Current higher education or businesses customers.

Current Higher Education or Business Reference Name	Contact Name and Title	Contact Telephone Number