

# PROFESSIONAL SERVICES CONTRACT

## Contract #%%CONTRACT\_ID%%

This Contract ("Contract"), entered into by and between %%AGENCY\_NAME%% (the "State") and %%VENDOR\_NAME%% (the "Contractor"), is executed pursuant to the terms and conditions set forth herein. In consideration of those mutual undertakings and covenants, the parties agree as follows:

### 1. Duties of Contractor.

A. The Contractor shall provide the services relative to this Contract set forth in **Exhibit A**, attached hereto and incorporated herein by reference (collectively, the "Services").

B. Time is of the essence in connection with the performance of the Services.

**2. Consideration.** The Contractor will be paid at the rate of \_\_\_\_\_ for performing the duties set forth above. Total remuneration under this Contract shall not exceed \$%%CONTRACT\_MAX\_AMT%%.

**3. Term.** This Contract shall be effective for a period of \_\_\_\_\_. It shall commence on %%CONTRACT\_START\_DATE%% (the "Effective Date") and shall remain in effect through %%CONTRACT\_END\_DATE%% (collectively, the "Term").

**4. Access to Records.** The Contractor and its subcontractors, if any, shall maintain all books, documents, papers, accounting records, and other evidence pertaining to all costs incurred under this Contract. They shall make such materials available at their respective offices at all reasonable times during this Contract, and for three (3) years from the date of final payment under this Contract, for inspection by the State or its authorized designees. Copies shall be furnished at no cost to the State if requested.

### 5. Assignment; Successors.

A. The Contractor binds its successors and assignees to all the terms and conditions of this Contract. The Contractor may assign its right to receive payments to such third parties as the Contractor may desire without the prior written consent of the State, provided that the Contractor gives written notice (including evidence of such assignment) to the State thirty (30) days in advance of any payment so assigned. The assignment shall cover all unpaid amounts under this Contract and shall not be made to more than one party.

B. The Contractor shall not assign or subcontract the whole or any part of this Contract without the State's prior written consent. Additionally, the Contractor shall provide prompt written notice to the State of any change in the Contractor's legal name or legal status so that the changes may be documented and payments to the successor entity may be made.

**6. Assignment of Antitrust Claims.** As part of the consideration for the award of this Contract, the Contractor assigns to the State all right, title and interest in and to any claims the Contractor now has, or may acquire, under state or federal antitrust laws relating to the products or services which are the subject of this Contract.

**7. Audits.** The Contractor acknowledges that it may be required to submit to an audit of funds paid through this Contract. Any such audit shall be conducted in accordance with IC § 5-11-1, *et seq.*, and audit guidelines specified by the State.

The State considers the Contractor to be a "Contractor" under 2 C.F.R. 200.331 for purposes of this Contract. However, if it is determined that the Contractor is a "subrecipient" and if required by

applicable provisions of 2 C.F.R. 200 (Uniform Administrative Requirements, Cost Principles, and Audit Requirements), Contractor shall arrange for a financial and compliance audit, which complies with 2 C.F.R. 200.500 *et seq.*

**8. Authority to Bind Contractor.** The signatory for the Contractor represents that he/she has been duly authorized to execute this Contract on behalf of the Contractor and has obtained all necessary or applicable approvals to make this Contract fully binding upon the Contractor when his/her signature is affixed, and accepted by the State.

**9. Changes in Work.** The Contractor shall not commence any additional work or change the scope of the work until authorized in writing by the State. The Contractor shall make no claim for additional compensation in the absence of a prior written approval and amendment executed by all signatories hereto. This Contract may only be amended, supplemented or modified by a written document executed in the same manner as this Contract.

**10. Compliance with Laws.**

A. The Contractor shall comply with all applicable federal, state, and local laws, rules, regulations, and ordinances, and all provisions required thereby to be included herein are hereby incorporated by reference. The enactment or modification of any applicable state or federal statute or the promulgation of rules or regulations thereunder after execution of this Contract shall be reviewed by the State and the Contractor to determine whether the provisions of this Contract require formal modification.

B. The Contractor and its agents shall abide by all ethical requirements that apply to persons who have a business relationship with the State as set forth in IC § 4-2-6, *et seq.*, IC § 4-2-7, *et seq.* and the regulations promulgated thereunder. **If the Contractor has knowledge, or would have acquired knowledge with reasonable inquiry, that a state officer, employee, or special state appointee, as those terms are defined in IC § 4-2-6-1, has a financial interest in the Contract, the Contractor shall ensure compliance with the disclosure requirements in IC § 4-2-6-10.5 prior to the execution of this Contract.** If the Contractor is not familiar with these ethical requirements, the Contractor should refer any questions to the Indiana State Ethics Commission, or visit the Inspector General's website at <http://www.in.gov/ig/>. If the Contractor or its agents violate any applicable ethical standards, the State may, in its sole discretion, terminate this Contract immediately upon notice to the Contractor. In addition, the Contractor may be subject to penalties under IC §§ 4-2-6, 4-2-7, 35-44.1-1-4, and under any other applicable laws.

C. The Contractor certifies by entering into this Contract that neither it nor its principal(s) is presently in arrears in payment of taxes, permit fees or other statutory, regulatory or judicially required payments to the State of Indiana. The Contractor agrees that any payments currently due to the State of Indiana may be withheld from payments due to the Contractor. Additionally, further work or payments may be withheld, delayed, or denied and/or this Contract suspended until the Contractor is current in its payments and has submitted proof of such payment to the State.

D. The Contractor warrants that it has no current, pending or outstanding criminal, civil, or enforcement actions initiated by the State, and agrees that it will immediately notify the State of any such actions. During the term of such actions, the Contractor agrees that the State may delay, withhold, or deny work under any supplement, amendment, change order or other contractual device issued pursuant to this Contract.

E. Pursuant to IC § 5-22-3-1, the State and the Contractor shall act in good faith in connection with the performance or administration of or any negotiations undertaken in accordance with or with respect to this Contract.

F. The Contractor warrants that the Contractor and its subcontractors, if any, shall obtain and maintain all required permits, licenses, registrations, and approvals, and shall comply with all

health, safety, and environmental statutes, rules, or regulations in the performance of work activities for the State. Failure to do so may be deemed a material breach of this Contract and grounds for immediate termination and denial of further work with the State.

G. The Contractor affirms that, if it is an entity described in IC Title 23, it is properly registered and owes no outstanding reports to the Indiana Secretary of State.

H. As required by IC § 5-22-3-7:

- (1) The Contractor and any principals of the Contractor certify that:
  - (A) the Contractor, except for de minimis and nonsystematic violations, has not violated the terms of:
    - (i) IC §24-4.7 [Telephone Solicitation Of Consumers];
    - (ii) IC §24-5-12 [Telephone Solicitations]; or
    - (iii) IC §24-5-14 [Regulation of Automatic Dialing Machines];in the previous three hundred sixty-five (365) days, even if IC § 24-4.7 is preempted by federal law; and
  - (B) the Contractor will not violate the terms of IC § 24-4.7 for the duration of the Contract, even if IC §24-4.7 is preempted by federal law.
- (2) The Contractor and any principals of the Contractor certify that an affiliate or principal of the Contractor and any agent acting on behalf of the Contractor or on behalf of an affiliate or principal of the Contractor, except for de minimis and nonsystematic violations,
  - (A) has not violated the terms of IC § 24-4.7 in the previous three hundred sixty-five (365) days, even if IC §24-4.7 is preempted by federal law; and
  - (B) will not violate the terms of IC § 24-4.7 for the duration of the Contract, even if IC §24-4.7 is preempted by federal law.

I. i. The Company warrants that the Company, and (if applicable) any of its holding companies, affiliates, or subsidiaries, is not:

- (1) listed in Section 889 of the 2019 National Defense Authorization Act;
- (2) listed in Section 1260H of the 2021 National Defense Authorization Act;
- (3) owned by the government of a country, or controlled by any governing or regulatory body located in a country, on the United States Department of Commerce's foreign adversaries list under 15 C.F.R. 791.4; or
- (4) included on or controlled by an entity on the Specially Designated Nationals list maintained by the United States Department of the Treasury's Office of Foreign Asset Control.

ii. In accordance with Executive Order 25-64, if the State determines that the Contractor has been added to any list or designation set forth in clauses (1) through (4) in subparagraph I.i above, after entering this Contract, the State shall investigate the reasons the Contractor was added to any such list or designation. Depending upon the outcome of such investigation, the State may be required to terminate this Contract and/or dispose of any of the goods or cease the use of any of the goods or services procured under this Contract. In addition, the State shall not be required to pay for any goods or services tendered or provided under this Contract to the Contractor on or after the date the Contractor is added to any such list or designation.

**11. Condition of Payment.** All services provided by the Contractor under this Contract must be performed to the State's reasonable satisfaction, as determined at the discretion of the undersigned State representative and in accordance with all applicable federal, state, local laws, ordinances, rules and regulations. The State shall not be required to pay for work found to be

unsatisfactory, inconsistent with this Contract or performed in violation of any federal, state or local statute, ordinance, rule or regulation.

**12. Confidentiality of State Information.** The Contractor understands and agrees that data, materials, and information disclosed to the Contractor may contain confidential and protected information. The Contractor covenants that data, material, and information gathered, based upon or disclosed to the Contractor for the purpose of this Contract will not be disclosed to or discussed with third parties without the prior written consent of the State.

The parties acknowledge that the services to be performed by Contractor for the State under this Contract may require or allow access to data, materials, and information containing Social Security numbers maintained by the State in its computer system or other records. In addition to the covenant made above in this section and pursuant to 10 IAC 5-3-1(4), the Contractor and the State agree to comply with the provisions of IC § 4-1-10 and IC § 4-1-11. If any Social Security number(s) is/are disclosed by Contractor, Contractor agrees to pay the cost of the notice of disclosure of a breach of the security of the system in addition to any other claims and expenses for which it is liable under the terms of this contract.

**13. Continuity of Services.**

A. The Contractor recognizes that the service(s) to be performed under this Contract are vital to the State and must be continued without interruption and that, upon Contract expiration, a successor, either the State or another contractor, may continue them. The Contractor agrees to:

1. Furnish phase-in training; and
2. Exercise its best efforts and cooperation to effect an orderly and efficient transition to a successor.

B. The Contractor shall, upon the State's written notice:

1. Furnish phase-in, phase-out services for up to sixty (60) days after this Contract expires; and
2. Negotiate in good faith a plan with a successor to determine the nature and extent of phase-in, phase-out services required. The plan shall specify a training program and a date for transferring responsibilities for each division of work described in the plan, and shall be subject to the State's approval. The Contractor shall provide sufficient experienced personnel during the phase-in, phase-out period to ensure that the services called for by this Contract are maintained at the required level of proficiency.

C. The Contractor shall allow as many personnel as practicable to remain on the job to help the successor maintain the continuity and consistency of the services required by this Contract. The Contractor also shall disclose necessary personnel records and allow the successor to conduct on-site interviews with these employees. If selected employees are agreeable to the change, the Contractor shall release them at a mutually agreeable date and negotiate transfer of their earned fringe benefits to the successor.

D. The Contractor shall be reimbursed for all reasonable phase-in, phase-out costs (i.e., costs incurred within the agreed period after contract expiration that result from phase-in, phase-out operations).

**14. Debarment and Suspension.**

A. The Contractor certifies by entering into this Contract that neither it nor its principals nor any of its subcontractors are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from entering into this Contract by any federal agency or by any department, agency or political subdivision of the State of Indiana. The term "principal" for purposes of this Contract means an officer, director, owner, partner, key employee or other person with primary management or supervisory responsibilities, or a person who has a critical influence on or substantive control over the operations of the Contractor.

B. The Contractor certifies that it has verified the state and federal suspension and debarment status for all subcontractors receiving funds under this Contract and shall be solely responsible for any recoupment, penalties or costs that might arise from use of a suspended or debarred subcontractor. The Contractor shall immediately notify the State if any subcontractor becomes debarred or suspended, and shall, at the State's request, take all steps required by the State to terminate its contractual relationship with the subcontractor for work to be performed under this Contract.

**15. Default by State.** If the State, sixty (60) days after receipt of written notice, fails to correct or cure any material breach of this Contract, the Contractor may cancel and terminate this Contract and institute measures to collect monies due up to and including the date of termination.

**16. Disputes.**

A. In the event that any dispute arises with respect to this Contract, the Contractor and the State agree to act immediately to resolve such disputes. Time is of the essence in the resolution of disputes.

B. If a valid dispute exists as to the Contractor's liability or guilt in any action initiated by the State or its agencies, and the State decides to delay, withhold, or deny work to the Contractor, the Contractor may request that it be allowed to continue, or receive work, without delay. In any event, the Contractor agrees that, notwithstanding the existence of a dispute, it will continue without delay to carry out all of its responsibilities under this Contract that are not affected by the dispute. Should the Contractor fail to continue to perform its responsibilities regarding all non-disputed work, without delay, any additional costs incurred by the State or the Contractor as a result of such failure to proceed shall be borne by the Contractor, and the Contractor shall make no claim against the State for such costs. Any payments that the State may delay, withhold, deny, or apply under this subparagraph shall not be subject to penalty or interest, except as permitted by IC § 5-17-5.

C. If the parties are unable to resolve a contract dispute between them after good faith attempts to do so, a dissatisfied party shall submit the dispute to the Commissioner of the Indiana Department of Administration (the "IDOA") for resolution, except as otherwise provided in the Funding Cancellation and Termination for Convenience paragraphs. The dissatisfied party shall give written notice to the Commissioner of the IDOA (the "Commissioner") and the other party. The notice shall include: (1) a description of the disputed issues, (2) the efforts made to resolve the dispute, and (3) a proposed resolution. The Commissioner shall promptly issue a notice setting out documents and materials to be submitted to the Commissioner in order to resolve the dispute. The notice may also afford the parties the opportunity to make presentations and enter into further negotiations. Within thirty (30) business days of the conclusion of the final presentations, the Commissioner shall issue a written decision and furnish it to both parties. The Commissioner's decision shall be the final and conclusive administrative decision, unless either party serves on the Commissioner and the other party, within ten (10) business days after receipt of the Commissioner's decision, a written request for reconsideration and modification of the written decision. If the Commissioner does not modify the written decision within thirty (30) business days, either party may take such other action helpful to resolving the dispute, including submitting the dispute to an Indiana court of competent jurisdiction. If the parties accept the Commissioner's decision, it may be memorialized as a written amendment to this Contract, if appropriate.

D. The State may withhold payments on disputed items pending resolution of the dispute. The unintentional nonpayment by the State to the Contractor of one or more invoices not in dispute in accordance with the terms of this Contract will not be cause for the Contractor to terminate this Contract, and the Contractor may bring suit to collect these amounts without following the disputes procedure contained herein.

E. With the written approval of the Commissioner, the parties may agree to forego the process described in subparagraph C, relating to submission of the dispute to the Commissioner.

F. This paragraph shall not be construed to abrogate provisions of IC § 4-6-2-11 in situations where dispute resolution efforts lead to a compromise of claims in favor of the State, as described in that statute. In particular releases or settlement agreements involving releases of legal claims or potential legal claims of the State should be processed consistent with IC § 4-6-2-11, which requires approval of the Governor and Attorney General.

**17. Drug-Free Workplace Certification.** As required by Executive Order No. 90-5 dated April 12, 1990, issued by the Governor of Indiana, the Contractor hereby covenants and agrees to make a good faith effort to provide and maintain a drug-free workplace. The Contractor will give written notice to the State within ten (10) days after receiving actual notice that the Contractor, or an employee of the Contractor in the State of Indiana, has been convicted of a criminal drug violation occurring in the workplace. False certification or violation of this certification may result in sanctions including, but not limited to, suspension of contract payments, termination of this Contract and/or debarment of contracting opportunities with the State for up to three (3) years.

In addition to the provisions of the above paragraph, if the total amount set forth in this Contract is in excess of \$25,000.00, the Contractor certifies and agrees that it will provide a drug-free workplace by:

- A. Publishing and providing to all of its employees a statement notifying them that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the Contractor's workplace, and specifying the actions that will be taken against employees for violations of such prohibition;
- B. Establishing a drug-free awareness program to inform its employees of: (1) the dangers of drug abuse in the workplace; (2) the Contractor's policy of maintaining a drug-free workplace; (3) any available drug counseling, rehabilitation and employee assistance programs; and (4) the penalties that may be imposed upon an employee for drug abuse violations occurring in the workplace;
- C. Notifying all employees in the statement required by subparagraph (A) above that as a condition of continued employment, the employee will: (1) abide by the terms of the statement; and (2) notify the Contractor of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction;
- D. Notifying the State in writing within ten (10) days after receiving notice from an employee under subdivision (C)(2) above, or otherwise receiving actual notice of such conviction;
- E. Within thirty (30) days after receiving notice under subdivision (C)(2) above of a conviction, imposing the following sanctions or remedial measures on any employee who is convicted of drug abuse violations occurring in the workplace: (1) taking appropriate personnel action against the employee, up to and including termination; or (2) requiring such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state or local health, law enforcement, or other appropriate agency; and
- F. Making a good faith effort to maintain a drug-free workplace through the implementation of subparagraphs (A) through (E) above.

**18. Employment Eligibility Verification.** As a condition precedent to entering this contract, and as required by IC § 22-5-1.7 and Executive Order 25-29, the Contractor swears or affirms under the penalties of perjury that the Contractor has not knowingly employed, and will not knowingly employ, an unauthorized alien. The Contractor further affirms that:

A. The Contractor has enrolled in, and verified the work eligibility status of all his/her/its employees through, the E-Verify program as defined in IC § 22-5-1.7-3. The Contractor is not required to participate should the E-Verify program cease to exist. Additionally, the Contractor is not required to participate if the Contractor is self-employed and does not employ any employees.

B. The Contractor has not knowingly employed or contracted with, and shall not knowingly employ or contract with, an unauthorized alien. The Contractor has not retained, and shall not retain, an employee, and has not contracted and shall not contract with a person, that the Contractor subsequently learned or learns is an unauthorized alien.

C. The Contractor has required and shall require his/her/its subcontractors, who perform work under this Contract, to certify to the Contractor that the subcontractor does not knowingly employ or contract with an unauthorized alien and that the subcontractor has enrolled and is participating in the E-Verify program. The Contractor agrees to maintain this certification throughout the duration of the term of a contract with a subcontractor and to provide any and all such certifications to the State promptly upon request.

The State may terminate this agreement for default if the Contractor fails to cure a breach of this provision no later than thirty (30) days after being notified by the State.

**19. Employment Option.** If the State determines that it would be in the State's best interest to hire an employee of the Contractor, the Contractor will release the selected employee from any non-competition agreements that may be in effect. This release will be at no cost to the State or the employee.

**20. Force Majeure.** In the event that either party is unable to perform any of its obligations under this Contract or to enjoy any of its benefits because of natural disaster or decrees of governmental bodies not the fault of the affected party (hereinafter referred to as a "Force Majeure Event"), the party who has been so affected shall immediately or as soon as is reasonably possible under the circumstances give notice to the other party and shall do everything possible to resume performance. Upon receipt of such notice, all obligations under this Contract shall be immediately suspended. If the period of nonperformance exceeds thirty (30) days from the receipt of notice of the Force Majeure Event, the party whose ability to perform has not been so affected may, by giving written notice, terminate this Contract.

**21. Funding Cancellation.**

A. As required by Financial Management Circular 3.3 and IC § 5-22-17-5, when the Director of the State Budget Agency makes a written determination that funds are not appropriated or otherwise available to support continuation of performance of this Contract, this Contract shall be canceled. A determination by the Director of the State Budget Agency that funds are not appropriated or otherwise available to support continuation of performance shall be final and conclusive. The date of such written determination shall be the effective date of cancellation.

[ ]. If the funds specified in this Contract for paying the Contractor come solely from sources other than State funds and the State Budget Agency or **[insert title of chief officer of the state agency entering into this Contract]** makes a written determination that there are no longer any available funds from such sources to support continuation of performance of this Contract, this Contract shall be canceled. A determination by the State Budget Agency or such officer of the State that such funds are not otherwise available to support continuation of performance shall be final and conclusive. The date of such written determination shall be the effective date of cancellation.

[ ]. The Contractor shall be compensated for completed supplies properly delivered, if any, and Services properly rendered prior to the effective date of cancellation. The State will not be liable for supplies delivered or Services performed after the effective date of cancellation. The Contractor and the State shall agree on the amount of payment for such supplies delivered and accepted. The State may withhold from these amounts any sum the State determines to be necessary to protect the State against loss because of outstanding liens or claims of former lien holders. Failure to agree on any item in this subparagraph constitutes a dispute under the Disputes paragraph. With the exception of any item in this subparagraph on which the Contractor and the State fail to agree, no other item in this paragraph shall constitute a dispute under the Disputes paragraph.

**22. Governing Law.** This Contract shall be governed, construed, and enforced in accordance with the laws of the State of Indiana, without regard to its conflict of laws rules. Suit, if any, must be brought in the State of Indiana.

**23. HIPAA Compliance.** If this Contract involves services, activities or products subject to the Health Insurance Portability and Accountability Act of 1996 (HIPAA), the Contractor covenants that it will appropriately safeguard Protected Health Information (defined in 45 CFR 160.103), and agrees that it is subject to, and shall comply with, the provisions of 45 CFR 164 Subpart E regarding use and disclosure of Protected Health Information.

**24. Indemnification.** The Contractor agrees to indemnify, defend, and hold harmless the State, its agents, officials, and employees from all third party claims and suits including court costs, attorney's fees, and other expenses caused by any act or omission of the Contractor and/or its subcontractors, if any, in the performance of this Contract. The State will not provide indemnification to the Contractor.

**25. Independent Contractor; Workers' Compensation Insurance.** The Contractor is performing as an independent entity under this Contract. No part of this Contract shall be construed to represent the creation of an employment, agency, partnership or joint venture agreement between the parties. Neither party will assume liability for any injury (including death) to any persons, or damage to any property, arising out of the acts or omissions of the agents, employees or subcontractors of the other party. The Contractor shall provide all necessary unemployment and workers' compensation insurance for the Contractor's employees, and Contractor shall provide the State with a Certificate of Insurance evidencing such coverage prior to starting work under this Contract.

**26. Indiana Veteran Owned Small Business Enterprise Compliance.** Award of this Contract was based, in part, on the Indiana Veteran Owned Small Business Enterprise ("IVOSB") participation plan, as detailed in the IVOSB Subcontractor Commitment Form, commonly referred to as "Attachment A-1" in the procurement documentation and incorporated by reference herein. Therefore, any changes to this information during the Contract term must be approved by IDOA's Division of Supplier Diversity and may require an amendment. It is the State's expectation that the Contractor will meet the subcontractor commitments during the Contract term. The following certified IVOSB subcontractor(s) will be participating in this Contract:

IVOSB	PHONE	COMPANY NAME and Contact's email	SCOPE OF PRODUCTS and/or SERVICES	UTILIZATION DATES	PERCENT

A copy of each subcontractor agreement must be submitted to the Division of Supplier Diversity within thirty (30) days of the effective date of this Contract. The subcontractor agreements may be uploaded into Pay Audit (Indiana's subcontractor payment auditing system), emailed to



[IndianaVeteransPreference@idoa.IN.gov](mailto:IndianaVeteransPreference@idoa.IN.gov), or mailed to IDOA, 402 W. Washington Street, Room W-462, Indianapolis, IN 46204. Failure to provide a copy of any subcontractor agreement may be deemed a violation of the rules governing IVOSB procurement and may result in sanctions allowable under 25 IAC 9-5-2. Requests for changes must be submitted to [IndianaVeteransPreference@idoa.IN.gov](mailto:IndianaVeteransPreference@idoa.IN.gov) for review and approval before changing the participation plan submitted in connection with this Contract.

The Contractor shall report payments made to certified IVOSB subcontractors under this Contract on a monthly basis using Pay Audit. The Contractor shall notify subcontractors that they must confirm payments received from the Contractor in Pay Audit. The Pay Audit system can be accessed on the IDOA webpage at: [www.in.gov/idoa/mwbe/payaudit.htm](http://www.in.gov/idoa/mwbe/payaudit.htm). The Contractor may also be required to report IVOSB certified subcontractor payments directly to the Division of Supplier Diversity, as reasonably requested and in the format required by the Division of Supplier Diversity.

The Contractor's failure to comply with the provisions in this clause may be considered a material breach of the Contract.

**27. Information Technology Enterprise Architecture Requirements.** If this Contract involves information technology-related products or services, the Contractor agrees that all such products or services are compatible with any of the technology standards found at <https://www.in.gov/iot/policies-procedures-and-standards/> that are applicable, including the assistive technology standard. The State may terminate this Contract for default if the terms of this paragraph are breached.

**28. Insurance.**

A. The Contractor and its subcontractors (if any) shall secure and keep in force during the term of this Contract the following insurance coverages (if applicable) covering the Contractor for any and all claims of any nature which may in any manner arise out of or result from Contractor's performance under this Contract:

1. Commercial general liability, including contractual coverage, and products or completed operations coverage (if applicable), with minimum liability limits not less than \$700,000 per person and \$5,000,000 per occurrence unless additional coverage is required by the State. The State is to be named as an additional insured on a primary, non-contributory basis for any liability arising directly or indirectly under or in connection with this Contract.
2. Automobile liability for owned, non-owned and hired autos with minimum liability limits not less than \$700,000 per person and \$5,000,000 per occurrence. The State is to be named as an additional insured on a primary, non-contributory basis.
3. Errors and Omissions liability with minimum liability limits of \$1,000,000 per claim and in the aggregate. Coverage for the benefit of the State shall continue for a period of two (2) years after the date of service provided under this Contract.
4. Fiduciary liability if the Contractor is responsible for the management and oversight of various employee benefit plans and programs such as pensions, profit-sharing and savings, among others with limits no less than \$700,000 per cause of action and \$5,000,000 in the aggregate.
5. Valuable Papers coverage, if applicable, with an Inland Marine Policy Insurance with limits sufficient to pay for the re-creation and reconstruction of such records.
6. Surety or Fidelity Bond(s) if required by statute or by the agency.

7. Cyber Liability addressing risks associated with electronic transmissions, the internet, networks and informational assets, and having limits of no less than \$700,000 per occurrence and \$5,000,000 in the aggregate.

The Contractor shall provide proof of such insurance coverage by tendering to the undersigned State representative a certificate of insurance prior to the commencement of this Contract and proof of workers' compensation coverage meeting all statutory requirements of IC § 22-3-2. In addition, proof of an "all states endorsement" covering claims occurring outside the State is required if any of the services provided under this Contract involve work outside of Indiana.

B. The Contractor's insurance coverage must meet the following additional requirements:

1. The insurer must have a certificate of authority or other appropriate authorization to operate in the state in which the policy was issued.
2. Any deductible or self-insured retention amount or other similar obligation under the insurance policies shall be the sole obligation of the Contractor.
3. The State will be defended, indemnified and held harmless to the full extent of any coverage actually secured by the Contractor in excess of the minimum requirements set forth above. The duty to indemnify the State under this Contract shall not be limited by the insurance required in this Contract.
4. The insurance required in this Contract, through a policy or endorsement(s), shall include a provision that the policy and endorsements may not be canceled or modified without thirty (30) days' prior written notice to the undersigned State agency.
5. The Contractor waives and agrees to require their insurer to waive their rights of subrogation against the State of Indiana.

C. Failure to provide insurance as required in this Contract may be deemed a material breach of contract entitling the State to immediately terminate this Contract. The Contractor shall furnish a certificate of insurance and all endorsements to the State before the commencement of this Contract.

## **29. Key Person(s).**

A. If both parties have designated that certain individual(s) are essential to the services offered, the parties agree that should such individual(s) leave their employment during the term of this Contract for whatever reason, the State shall have the right to terminate this Contract upon thirty (30) days' prior written notice.

B. In the event that the Contractor is an individual, that individual shall be considered a key person and, as such, essential to this Contract. Substitution of another for the Contractor shall not be permitted without express written consent of the State.

Nothing in sections A and B, above shall be construed to prevent the Contractor from using the services of others to perform tasks ancillary to those tasks which directly require the expertise of the key person. Examples of such ancillary tasks include secretarial, clerical, and common labor duties. The Contractor shall, at all times, remain responsible for the performance of all necessary tasks, whether performed by a key person or others.

Key person(s) to this Contract is/are %%KEY\_PERSON\_1%%.

**30. Licensing Standards.** The Contractor, its employees and subcontractors shall comply with all applicable licensing standards, certification standards, accrediting standards and any other

laws, rules, or regulations governing services to be provided by the Contractor pursuant to this Contract. The State will not pay the Contractor for any services performed when the Contractor, its employees or subcontractors are not in compliance with such applicable standards, laws, rules, or regulations. If any license, certification or accreditation expires or is revoked, or any disciplinary action is taken against an applicable license, certification, or accreditation, the Contractor shall notify the State immediately and the State, at its option, may immediately terminate this Contract.

**31. Merger & Modification.** This Contract constitutes the entire agreement between the parties. No understandings, agreements, or representations, oral or written, not specified within this Contract will be valid provisions of this Contract. This Contract may not be modified, supplemented, or amended, except by written agreement signed by all necessary parties.

**32. Minority and Women's Business Enterprises Compliance.**

Award of this Contract was based, in part, on the Minority and/or Women's Business Enterprise ("MBE" and/or "WBE") participation plan as detailed in the Minority and Women's Business Enterprises Subcontractor Commitment Form, commonly referred to as "Attachment A" in the procurement documentation and incorporated by reference herein. Therefore, any changes to this information during the Contract term must be approved by Division of Supplier Diversity and may require an amendment. It is the State's expectation that the Contractor will meet the subcontractor commitments during the Contract term.

The following Division of Supplier Diversity certified MBE and/or WBE subcontractors will be participating in this Contract:

MBE/ WBE	PHONE	COMPANY NAME and Contact's email	SCOPE OF PRODUCTS and/or SERVICES	UTILIZATION DATES	PERCENT

A copy of each subcontractor agreement must be submitted to the Division of Supplier Diversity within thirty (30) days of the effective date of this Contract. The subcontractor agreements may be uploaded into Pay Audit (Indiana's subcontractor payment auditing system), emailed to [MWBECompliance@idoa.IN.gov](mailto:MWBECompliance@idoa.IN.gov), or mailed to Division of Supplier Diversity, 402 W. Washington Street, Room W-462, Indianapolis IN 46204. Failure to provide a copy of any subcontractor agreement may be deemed a violation of the rules governing MBE/WBE procurement and may result in sanctions allowable under 25 IAC 5-7-8. Requests for changes must be submitted to [MWBECompliance@idoa.IN.gov](mailto:MWBECompliance@idoa.IN.gov) for review and approval before changing the participation plan submitted in connection with this Contract.

The Contractor shall report payments made to Division of Supplier Diversity certified subcontractors under this Contract on a monthly basis using Pay Audit. The Contractor shall notify subcontractors that they must confirm payments received from the Contractor in Pay Audit. The Pay Audit system can be accessed on the IDOA webpage at: [www.in.gov/idoa/mwbe/payaudit.htm](http://www.in.gov/idoa/mwbe/payaudit.htm). The Contractor may also be required to report Division of Supplier Diversity certified subcontractor payments directly to the Division, as reasonably requested and in the format required by the Division of Supplier Diversity.

The Contractor's failure to comply with the provisions in this clause may be considered a material breach of the Contract.

**33. Nondiscrimination.** Pursuant to the Indiana Civil Rights Law, specifically IC § 22-9-1-10, and in keeping with the purposes of the federal Civil Rights Act of 1964, the Age Discrimination in Employment Act, and the Americans with Disabilities Act:

A. The Contractor covenants that it shall not discriminate against any employee or applicant for employment relating to this Contract with respect to the hire, tenure, terms, conditions or privileges of employment or any matter directly or indirectly related to employment, because of the employee's or applicant's race, color, national origin, religion, sex, age, disability, ancestry, status as a veteran, or any other characteristic protected by federal, state, or local law ("Protected Characteristics"). The Contractor certifies compliance with applicable federal laws, regulations, and executive orders prohibiting discrimination based on the Protected Characteristics in the provision of services. Breach of this subparagraph may be regarded as a material breach of this Contract, including for purposes of Indiana Code § 5-11-5.5-2, but nothing in this paragraph shall be construed to imply or establish an employment relationship between the State and any applicant or employee of the Contractor or any subcontractor.

B. Contractor covenants that it does not and shall not operate any programs or engage in any practices promoting Diversity, Equity, and Inclusion (DEI), or other similar goals, that violate Indiana or Federal Civil Rights Laws by treating a person differently on the basis of race or sex, such as by considering race or sex when making recruitment, hiring, disciplinary, promotion, or employment decisions; requiring employees to participate in training or educational programs that employ racial or sex stereotypes; or attempting to achieve racial or sex balancing in the Contractor's workforce. The Parties agree that a breach of this subparagraph is a material breach of this Contract, including for purposes of Indiana Code § 5-11-5.5-2, but nothing in this paragraph shall be construed to imply or establish an employment relationship between the State and any applicant or employee of the Contractor or any subcontractor.

#### **34. Notice to Parties.**

A. i. Whenever any notice, statement, request, consent or other communication is required under this Contract (each, a "Notice"), it shall be effective only if it is in writing and: (a) personally delivered; or (b) sent by: (I) email; (II) first class U.S. mail service; or (III) a nationally recognized overnight delivery service, with delivery confirmed and costs of delivery being prepaid; to the following addresses, or to such other address or addresses as shall be furnished in writing by any party to the other party.

ii. Notices to the State shall be sent to:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
E-mail: \_\_\_\_\_

iii. Notices to the Contractor shall be sent to:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
E-mail: \_\_\_\_\_

iv. Unless the sending party has actual knowledge that a Notice was not received by the intended recipient, a Notice shall be deemed to have been given as of the date (a) when personally delivered; (b) when sent in the case of an email properly addressed; (c) three (3) days after the date deposited with the United States mail properly addressed; or (d) the next day when delivered during business hours to an overnight delivery service, properly addressed and prior to such delivery service's cut off time for next day delivery. The parties acknowledge that Notices delivered by facsimile shall not be effective.

B. As required by IC § 4-13-2-14.8, payments to the Contractor shall be made via electronic funds transfer in accordance with instructions filed by the Contractor with the Indiana State Comptroller.

**35. Order of Precedence; Incorporation by Reference.** Any inconsistency or ambiguity in this Contract shall be resolved by giving precedence in the following order: (1) this Contract, (2) attachments prepared by the State, (3) RFP #\_\_\_\_\_, (4) Contractor's response to RFP #\_\_\_\_\_, and (5) attachments prepared by the Contractor. All attachments, and all documents referred to in this paragraph, are hereby incorporated fully by reference.

**36. Ownership of Documents and Materials.**

A. All documents, records, programs, applications, data, algorithms, film, tape, articles, memoranda, and other materials (the "Materials") not developed or licensed by the Contractor prior to execution of this Contract, but specifically developed under this Contract shall be considered "work for hire" and the Contractor hereby transfers and assigns any ownership claims to the State so that all Materials will be the property of the State. If ownership interest in the Materials cannot be assigned to the State, the Contractor grants the State a non-exclusive, non-cancelable, perpetual, worldwide royalty-free license to use the Materials and to use, modify, copy and create derivative works of the Materials.

B. Use of the Materials, other than related to contract performance by the Contractor, without the prior written consent of the State, is prohibited. During the performance of this Contract, the Contractor shall be responsible for any loss of or damage to the Materials developed for or supplied by the State and used to develop or assist in the services provided while the Materials are in the possession of the Contractor. Any loss or damage thereto shall be restored at the Contractor's expense. The Contractor shall provide the State full, immediate, and unrestricted access to the Materials and to Contractor's work product during the term of this Contract.

**37. Payments.**

A. All payments shall be made thirty five (35) days in arrears in conformance with State fiscal policies and procedures and, as required by IC §4-13-2-14.8, the direct deposit by electronic funds transfer to the financial institution designated by the Contractor in writing unless a specific waiver has been obtained from the Indiana State Comptroller. No payments will be made in advance of receipt of the goods or services that are the subject of this Contract except as permitted by IC § 4-13-2-20.

B. If the Contractor is being paid in advance for the maintenance of equipment, software or a service as a subscription, then pursuant to IC § 4-13-2-20(b)(14), the Contractor agrees that if it fails to fully provide or perform under this Contract, upon receipt of written notice from the State, it shall promptly refund the consideration paid, pro-rated through the date of non-performance.

**38. Penalties/Interest/Attorney's Fees.** The State does not agree to pay any penalties, liquidated damages, interest or attorney's fees, except as permitted by Indiana law, in part, IC § 5-17-5, IC § 34-54-8, IC § 34-13-1 and IC § 34-52-2. Notwithstanding the provisions contained in IC § 5-17-5, any liability resulting from the State's failure to make prompt payment shall be based solely on the amount of funding originating from the State and shall not be based on funding from federal or other sources.

**39. Progress Reports.** The Contractor shall submit progress reports to the State upon request. The report shall be oral, unless the State, upon receipt of the oral report, should deem it necessary to have it in written form. The progress reports shall serve the purpose of assuring the State that work is progressing in line with the schedule, and that completion can be reasonably assured on the scheduled date.

**40. Public Record.** The Contractor acknowledges that the State will not treat this Contract as containing confidential information, and the State will post this Contract on the transparency

portal as required by Executive Order 05-07 and IC § 5-14-3.5-2. Use by the public of the information contained in this Contract shall not be considered an act of the State.

**41. Renewal Option.** This Contract may be renewed under the same terms and conditions, subject to the approval of the Commissioner of the Department of Administration and the State Budget Director in compliance with IC § 5-22-17-4. The term of the renewed contract may not be longer than the term of the original Contract.

**42. Severability.** The invalidity of any section, subsection, clause or provision of this Contract shall not affect the validity of the remaining sections, subsections, clauses or provisions of this Contract.

**43. Substantial Performance.** This Contract shall be deemed to be substantially performed only when fully performed according to its terms and conditions and any written amendments or supplements.

**44. Taxes.** The State is exempt from most state and local taxes and many federal taxes. The State will not be responsible for any taxes levied on the Contractor as a result of this Contract.

**45. Termination for Convenience.**

A. This Contract may be terminated, in whole or in part, by the State, which shall include and is not limited to the IDOA and the State Budget Agency whenever, for any reason, the State determines that such termination is in its best interest. Termination of the delivery of supplies, if any, or the rendering of Services shall be effected by delivery to the Contractor of a termination notice at least thirty (30) days prior to the effective date of termination, specifying the extent to which the delivery of such supplies and the performance of such Services under such termination becomes effective. In connection with the delivery of such termination notice, the State shall send a copy thereof to the Commissioner.

B. The Contractor shall be compensated for supplies properly delivered, if any, and Services properly rendered prior to the effective date of termination. The State will not be liable for supplies delivered or Services performed after the effective date of termination. The Contractor and the State shall agree on the amount of payment for such supplies delivered and accepted and for the protection and preservation of the property. The State may withhold from these amounts any sum the State determines to be necessary to protect the State against loss because of outstanding liens or claims of former lien holders. The Contractor shall be compensated for supplies properly delivered and Services provided in accordance with this Contract, but in no case shall the total payment made to the Contractor exceed the original contract price or shall any price increase be allowed on individual line items, if any such supplies or Services were canceled only in part prior to the original termination date. Failure to agree on any item in this subparagraph constitutes a dispute under the Disputes paragraph.

C. For the purposes of this paragraph, the parties stipulate and agree that the IDOA shall also be deemed to be a party to this Contract with authority to terminate the same for convenience, when such termination is determined by the Commissioner to be in the best interests of the State. With the exception of any item in subparagraph B, no other item in this paragraph shall constitute a dispute under the Disputes paragraph.

D. The rights and remedies of the State in this paragraph are in addition to any other rights and remedies provided by law or equity or under this Contract.

**46. Termination for Default.**

A. With the provision of thirty (30) days' notice to the Contractor, the State may terminate this Contract in whole or in part, if the Contractor fails to:

1. correct or cure any breach of this Contract; the time to correct or cure the breach may be extended beyond thirty (30) days, if the State determines progress is being made and the extension is agreed to by the parties;
2. deliver the supplies, if any, or perform the Services within the time specified in this Contract or any extension thereof;
3. make progress so as to endanger performance of this Contract; or
4. perform any of the other provisions of this Contract.

In connection with the delivery of such notice, the State shall send a copy thereof to the Commissioner.

B. If the State terminates this Contract, in whole or in part, it may acquire, under the terms and in the manner the State considers appropriate, supplies, if any, or services similar to those terminated, and the Contractor will be liable to the State for any excess costs for those supplies or services. However, the Contractor shall continue the work not terminated.

C. The State shall pay the contract price for supplies properly delivered, if any, and Services accepted. The Contractor and the State shall agree on the amount of payment for supplies delivered and accepted and for the protection and preservation of the property. The State may withhold from these amounts any sum the State determines to be necessary to protect the State against loss because of outstanding liens or claims of former lien holders. The Contractor shall be compensated for supplies properly delivered and Services herein provided, but in no case shall the total payment made to the Contractor exceed the original contract price or shall any price increase be allowed on individual line items, if any such supplies or Services were canceled only in part prior to the original termination date.

D. The rights and remedies of the State in this paragraph are in addition to any other rights and remedies provided by law or equity or under this Contract.

**47. Travel.** No expenses for travel will be reimbursed unless specifically authorized by this Contract. Permitted expenses will be reimbursed at the rate paid by the State and in accordance with the *Indiana Department of Administration Travel Policy and Procedures* in effect at the time the expenditure is made. Out-of-state travel requests must be reviewed by the State for availability of funds and for conformance with *Travel Policy* guidelines.

**48. Waiver of Rights.** No right conferred on either party under this Contract shall be deemed waived, and no breach of this Contract excused, unless such waiver is in writing and signed by the party claimed to have waived such right. Neither the State's review, approval or acceptance of, nor payment for, the services required under this Contract shall be construed to operate as a waiver of any rights under this Contract or of any cause of action arising out of the performance of this Contract, and the Contractor shall be and remain liable to the State in accordance with applicable law for all damages to the State caused by the Contractor's negligent performance of any of the services furnished under this Contract.

**49. Warranty.** The Contractor warrants and guarantees that the Services provided pursuant to this Contract shall conform in all material respects with the specifications set forth in paragraph 1.A of this Contract, and will be: (A) free of any claim of infringement, misappropriation, unfair competition, or violation of any third party intellectual property right; (B) created and delivered in accordance with applicable laws and industry standards and practices; and (C) fully tested in accordance with the State's quality assurance testing process, if applicable. This warranty will extend for a period of one year from the date of the completion of Services. All work not conforming to this Contract and related specifications may be considered defective. The

warranties and guarantees provided in this paragraph and elsewhere in this Contract, if any, shall be in addition to and not in limitation of any other warranty or guarantee or remedy provided in this Contract or otherwise prescribed by law. In addition to the State's quality assurance testing process, if applicable, the Contractor, with representatives of the State, shall, at the discretion of the State, review the work completed nine (9) months after the date of the completion of Services to determine any work not in compliance with the Contract. The Contractor shall correct such non-complying work prior to the expiration of the one-year warranty.

**50. Work Standards.** The Contractor shall execute its responsibilities by following and applying at all times the highest professional and technical guidelines and standards. If the State becomes dissatisfied with the work product of or the working relationship with those individuals assigned to work on this Contract, the State may request in writing the replacement of any or all such individuals, and the Contractor shall grant such request.

**51. State Boilerplate Affirmation Clause.** I swear or affirm under the penalties of perjury that I have not altered, modified, changed or deleted the State's standard contract clauses (as contained in the most current *State of Indiana SCM Template*) in any way except as follows:

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**[Commencing on July 1, 2026, a form of the following paragraphs is to be added to every contract that is entered into, renewed or amended after June 30, 2026, but only if the contract or the initial contract related thereto has a maximum amount of \$500,000 or more.]**

**52. Compliance with Independent Verification and Validation Oversight.** In the event the State determines that any independent verification and validation ("IV&V") oversight is required by the State during the term of this Contract, the Contractor shall comply with any such oversight during the term of this Contract, pursuant to which an independent third-party review may be conducted by a reviewer selected by the State, for the purpose of verifying that the Contractor has performed its obligations in compliance with the terms of this Contract. In the absence of any such IV&V oversight, the Contractor shall comply with any other appropriate methods or means for verification and validation required by the State during the term of this Contract for the purpose of verifying and validating that the Contractor has performed its obligations in compliance with the terms of this Contract. The Contractor shall provide all information and documentation requested during the State's IV&V oversight or verification and validation efforts related to this Contract and in connection with any IV&V oversight or verification and validation efforts related to an initiative of which this Contract is a part.

**53. Liquidated Damages.**

**[Use subparagraphs A through D below if there is only a single completion deadline, which is the end of the Term of the Contract, upon which Liquidated Damages commence accruing.]**

A. The Contractor understands and agrees that if the Contractor fails to complete the Services (the "Completion of Services") by the end of the Term (the "Completion Deadline"), the State will suffer damages, which cannot be quantified as of the Effective Date. Therefore, the Contractor and the State have agreed to stipulate the amounts payable by the Contractor in the event of its failure to achieve the Completion of Services by the Completion Deadline. In the event that this Contract is amended as a result of the extension of the Term pursuant to the terms of this Contract, the Completion Deadline shall automatically be extended, as well, unless, in such amendment of this Contract, it is specifically provided that the date of the Completion Deadline shall not be extended or shall be on a date thereafter, but before the date of the end of the new Term therein. Such liability shall apply even though: (i) a cure period remains available to the Contractor; or (ii) a cure occurs.



B. The amounts of such liquidated damages are \$\_\_\_\_\_ for each day after the Completion Deadline until the earlier of the date the Completion of Services is achieved or the date of termination of this Contract (collectively, the "Liquidated Damages").

C. The Contractor acknowledges that the Liquidated Damages are reasonable to compensate the State for the losses it will incur by reason of a delay in the Completion of Services by the Completion Deadline. Such losses include loss of use, enjoyment and benefit of the Services, injury to the credibility and reputation of the State with the general public and/or additional costs in administering this Contract (including legal, accounting and other administrative costs) (collectively, the "Losses"). The Contractor further acknowledges that the Losses are incapable of accurate measurement because of, among other things, the unavailability of a substitute for the Services after the Completion Deadline.

D. As of the Effective Date, the amounts of Liquidated Damages represent good faith estimates and evaluations by the parties as to the actual potential Losses that the State would suffer as a result of a delay in the Completion of Services by the Completion Deadline, and do not constitute a penalty. The parties have agreed to the Liquidated Damages in order to fix and limit the Contractor's costs and to avoid later disputes over what the amounts of Losses are properly chargeable to the Contractor. Such sums are reasonable in light of the anticipated or actual harm caused by a delay in the Completion of Services by the Completion Deadline, the difficulties of the proof of loss and the inconvenience or infeasibility of otherwise obtaining an adequate remedy.

**[Use subparagraphs A through D below if there are two or more completion deadlines, including the end of the Term of the Contract, upon which separate Liquidated Damages commence accruing.]**

A. The Contractor understands and agrees that if the Contractor fails to complete the Services by a deadline specified in **Exhibit A**, which is prior to the end of the Term and which **Exhibit A** specifies that this paragraph shall apply, or by the end of the Term (each, a "Completion Deadline"), the State will suffer damages, which cannot be quantified as of the Effective Date. Therefore, the Contractor and the State have agreed to stipulate the amounts payable by the Contractor in the event of its failure to achieve the completion of such Services by the corresponding Completion Deadline. Such liability shall apply even though: (i) a cure period remains available to the Contractor; or (ii) a cure occurs.

B. The amounts of such liquidated damages are \$\_\_\_\_\_ for each day after any Completion Deadline prior to the end of the Term and \$\_\_\_\_\_ for each day after the Completion Deadline at the end of the Term until the earlier of the date the completion of the corresponding Services is achieved or the date of termination of this Contract (collectively, the "Liquidated Damages").

C. The Contractor acknowledges that the Liquidated Damages are reasonable to compensate the State for the losses it will incur by reason of a delay in the completion of Services by a corresponding Completion Deadline. Such losses include loss of use, enjoyment and benefit of the Services, injury to the credibility and reputation of the State with the general public and/or additional costs in administering this Contract (including legal, accounting and other administrative costs) (collectively, the "Losses"). The Contractor further acknowledges that the Losses are incapable of accurate measurement because of, among other things, the unavailability of a substitute for the corresponding Services after a Completion Deadline.

D. As of the Effective Date, the amounts of Liquidated Damages represent good faith estimates and evaluations by the parties as to the actual potential Losses that the State would suffer as a result of a delay in the completion of Services by a corresponding Completion Deadline, and do not constitute a penalty. The parties have agreed to the Liquidated Damages in order to fix and limit the Contractor's costs and to avoid later disputes over what the amounts of Losses are

properly chargeable to the Contractor. Such sums are reasonable in light of the anticipated or actual harm caused by a delay in the completion of Services by the corresponding Completion Deadline, the difficulties of the proof of loss and the inconvenience or infeasibility of otherwise obtaining an adequate remedy.

**[Regardless of which option above is chosen, subparagraphs E through G below shall be included in the remainder of the paragraph.]**

E. Liquidated Damages are not intended to, and do not, liquidate the Contractor's liability under the Indemnification paragraph, even though third-party claims against the State may arise out of the same event, breach or failure that gives rise to the Liquidated Damages.

F. The Contractor shall pay any Liquidated Damages owing under this paragraph within 10 days after the Contractor's receipt of the State's invoice or demand therefor, subject to the right to dispute under the Disputes paragraph. The State shall have the right to deduct and offset any unpaid Liquidated Damages from any amounts owed by the State to the Contractor. The State shall have the right to draw on any surety or fidelity bond provided by the Contractor pursuant to this Contract to satisfy any Liquidated Damages not paid when due. Permitting or requiring the Contractor to continue and finish the Services or any part thereof after the Completion Deadline shall not act as a waiver of the right to receive Liquidated Damages hereunder or any rights or remedies otherwise available to the State.

G. The State's right to, and imposition of Liquidated Damages are in addition, and without prejudice, to any other rights and remedies available to the State under this Contract, at law or in equity respecting the breach, failure to perform or other default of the Contractor, except for the recovery of Losses that the Liquidated Damages are intended to compensate. The Contractor further acknowledges and agrees that Liquidated Damages may be owing even though no default has occurred under this Contract.

**54. Remedies for Overages.** The Contractor acknowledges that an important factor in inducing the State to enter into this Contract is the amount to be paid to the Contractor pursuant to the Consideration paragraph (the "Contracted Amount"). If, on or before the termination of this Contract, the Contractor requests the State to pay more than the Contracted Amount, as such amount may be hereafter amended (each, an "Overage"), the State may exercise any one or more of the following remedies:

- (A) amend this Contract for the purpose of increasing the Contracted Amount by an amount equal to or less than the Overage; or
- (B) reject the request and refuse to amend this Contract, thereby keeping the Contracted Amount the same.

### Non-Collusion and Acceptance

The undersigned attests, subject to the penalties for perjury, that the undersigned is the Contractor, or that the undersigned is the properly authorized representative, agent, member or officer of the Contractor. Further, to the undersigned's knowledge, neither the undersigned nor any other member, employee, representative, agent or officer of the Contractor, directly or indirectly, has entered into or been offered any sum of money or other consideration for the execution of this Contract other than that which appears upon the face hereof. **Furthermore, if the undersigned has knowledge that a state officer, employee, or special state appointee, as those terms are defined in IC § 4-2-6-1, has a financial interest in the Contract, the Contractor attests to compliance with the disclosure requirements in IC § 4-2-6-10.5.**

### Agreement to Use Electronic Signatures

I agree, and it is my intent, to sign this Contract by accessing State of Indiana Supplier Portal using the secure password assigned to me and by electronically submitting this Contract to the State of Indiana. I understand that my signing and submitting this Contract in this fashion is the legal equivalent of having placed my handwritten signature on the submitted Contract and this affirmation. I understand and agree that by electronically signing and submitting this Contract in this fashion I am affirming to the truth of the information contained therein. I understand that this Contract will not become binding on the State until it has been approved by the Department of Administration, the State Budget Agency, and the Office of the Attorney General, which approvals will be posted on the Active Contracts Database: <https://secure.in.gov/apps/idoa/contractsearch/>

**In Witness Whereof**, the Contractor and the State have, through their duly authorized representatives, entered into this Contract. The parties, having read and understood the foregoing terms of this Contract, do by their respective signatures dated below agree to the terms thereof.

%%VENDOR\_NAME%%

%%AGENCY\_NAME%%

By:

By:

Title:

Title:

Date:

Date:

**\*\*\* Rule IOT\_YES\_NO (Is it an IOT Contract?) \*\*\***

**\*\*\* Rule COLLUSION\_NOIOT (Is it an IOT Contract?) \*\*\***

**EXHIBIT A**

**STATEMENT OF WORK**

**I. EXECUTIVE SUMMARY**

**II. BACKGROUND AND CURRENT STATE**

**III. SCOPE OF WORK**

- a. OBJECTIVES OF ENGAGEMENT**
- b. DELIVERABLES AND DEADLINES**
- c. PAYMENT MILESTONES**

**IV. PROJECT MANAGEMENT**

- a. PROJECT MANAGEMENT PLAN**
- b. KEY PERSONS**
- c. OTHER PROJECT STAFF**
- d. DOCUMENT MANAGEMENT**
- e. STATUS UPDATES AND REPORTING**

**V. INDEPENDENT VALIDATIONS AND VERIFICATION**

If the State decides to add Independent Verification & Validation (IV&V) services as part of this Contract, the Contractor will copy the Indiana Department of Administration (IDOA) -- IV&V Team member(s) on all project related communications (emails, meeting invites, collaboration tools, etc.) and will grant access to all documents and deliverables throughout the term of the Contract. If IDOA elects to deploy IV&V services in connection with this engagement, the IV&V Team will review and assess all deliverables to determine compliance with the State's requirements set forth in the Contract including the Statement of Work. For contracts entered into, renewed, or amended after June 30, 2026, the IV&V Team shall serve as an approving authority, and no payment shall be issued to the Vendor unless and until IV&V has provided such approval.

**VI. COMPLIANCE REQUIREMENTS**

**VII. KEY PERFORMANCE INDICATORS**

The State will use Key Performance Indicators (KPIs) to measure performance and outcomes of the Contract. The specific KPIs and their targets will be defined and agreed upon by the State and the Contractor during the initial phases of the requirements under the Contract. At a minimum, on time delivery at quality standards of the scope provided within the budget set forth in the Contract will each be measured. Additionally, the State will collect a modified Net Promoter Score from customers to this Contract in its discretion. Low ratings on the modified Net Promoter Score or failure to meet any other KPIs may be deemed, at the discretion of the State, to constitute default under the Contract.

**VIII. END OF CONTRACT TRANSITION AND TURNOVER**