1. Contract

Be it known, that effective upon approval by the Office of State Procurement, as evidenced by the Director’s, or designee’s, signature on this document, the [Agency Name] (hereinafter sometimes referred to as "State") and [Contractor Name and Address] (hereinafter sometimes referred to as "Contractor") do hereby enter into this Contract for [RFP Title] under the following terms and conditions.

1. Term of Contract

This Contract shall begin on [Start Date] and shall end on [End Date] unless otherwise terminated in accordance with the Termination provisions of this Contract. At the option of the State of Louisiana and acceptance of the Contractor, this Contract may be extended for [Renewal Options] at the same prices, terms, and conditions. Total Contract time may not exceed [Number, usually 36 or 60] months.

**OSP Staff**: Delete the below paragraph if JLCB is not required.

Prior to the extension of the Contract beyond a 36 month term, prior approval by the Joint Legislative Committee on the Budget (JLCB) or other approval authorized by law shall be obtained. Such written evidence of JLCB approval shall be submitted, along with the Contract Amendment to the Office of State Procurement (OSP) to extend the Contract term beyond the 36 month term.

1. Statement of Work

Contractor hereby agrees to furnish the following services as detailed in the **Statement of Work** Attachment of this Contract.

OSP Staff: Delete the below section if Acceptance of Deliverables is not needed.

1. Acceptance of Deliverables

OSP Staff: Keep wording highlighted in blue if PC contract, delete if CS. Remove highlight before routing for review.

1. Payment Terms

The State shall pay the Contractor a maximum Contract amount of $\_\_\_\_ in accordance with the **Price Schedule** Attachment of this Contract. The Contractor may invoice the Using Agency monthly at the billing address designated by the State. Payments will be made by the State within approximately 30 days after receipt of a properly executed invoice, and approval by the State. Invoices shall include the contract and order number, using department and product purchased. Invoices submitted without the referenced documentation will not be approved for payment until the required information is provided.

Payment will be made only upon approval of [title of the personnel who will approve payments].

* 1. Late Payments

Interest due by the Using Agency for late payments shall be in accordance with La. R.S. 39:1695 at the rates established in La. R.S. 13:4202.

* 1. Prohibition Against Advance Payments

No compensation or payment of any nature shall be made in advance of services actually performed, unless allowed by law or otherwise stated herein.

OSP Staff: Keep below section Collection Fees for DOE projects. Delete for all other Agencies.

* 1. Collection Fees

If Contractor invoices the State, and State pays Contractor, for work not done or for work not done in accordance with this Contract, or if the State for any reason pays Contractor any amount not actually owed by State to Contractor pursuant to this Contract, or if Contractor owes money to the State for any reason whatsoever as a result of this Contract, the State may refer this matter to the Louisiana Attorney General for collection. If the State does refer this matter to the Louisiana Attorney General, Contractor agrees to pay, in addition to the debt owed to the State, the State’s reasonable attorney’s fees, up to a maximum fee of 33 1/3% of Contractor’s debt.

1. Taxes

The Contractor agrees that all applicable taxes are included in the **Price Schedule** Attachment of this Contract. State agencies are exempt from all State and local sales and use taxes.

**OSP Staff**: Keep the below paragraph for PC RFPs. Delete the below paragraph for Complex Services RFPs.

The Contractor acknowledges that: (1) a LDR tax clearance certificate is required for approval of this Contract and (2) Contractor is currently compliant in filing all applicable tax returns and reports, and in the payment of all taxes, interest, penalties, and fees owed to the State. The State reserves the right to withdraw its consent to this Contract without penalty and to proceed with alternate arrangements should the Contractor fail to resolve any identified outstanding tax compliance discrepancies with the LDR within seven business days of such notification.

OSP Staff: Keep below section Reporting Income to State-Funded Retirement Systems for DOE projects. Delete for all other Agencies.

1. Reporting Income to State-Funded Retirement Systems

If the Contractor is receiving benefits from any State-funded retirement system, the Contractor is responsible for fully disclosing to the State, on or before the effective date of this contract, the existence and amount of such benefits and the date(s) of retirement. Failure by the Contractor to so disclose truthfully and accurately will be grounds for placing the Contractor in default. If said failure results in the State being liable to any State-funded retirement system for penalties, interest, or repayment of benefits, the Contractor shall be liable to the State for repayment of such amounts.

1. Veteran-Owned Small Entrepreneurships (Veteran Initiative) and Louisiana Initiative for Small Entrepreneurships (Hudson Initiative) Programs Reporting Requirements

During the term of this Contract and at expiration, the Contractor will be required to report Veteran-Owned and Service-Connected Disabled Veteran-Owned and Hudson Initiative small entrepreneurship subcontractor or distributor participation and the dollar amount of each.

If the Contractor proposed a good faith subcontracting plan, the Using Agency, the Louisiana Department of Economic Development (LED), or the Office of State Procurement (OSP) may audit the Contractor to determine whether the Contractor has complied in good faith with its subcontracting plan. The Contractor must be able to provide supporting documentation (i.e., phone logs, fax transmittals, letter, e-mails) to demonstrate its good faith subcontracting plan was followed. If it is determined at any time by the Using Agency, LED, or the OSP Director that the Contractor did not in fact perform in good faith its subcontracting plan, the Contract award or the existing Contract may be terminated.

1. Termination

The State of Louisiana has the right to terminate this Contract immediately for any of the following reasons: (a) misrepresentation by the Contractor; (b) Contractor’s fraud, collusion, conspiracy or other unlawful means of obtaining any contract with the State of Louisiana; (c) conflict of contract provisions with constitutional or statutory provisions of State or Federal Law; (d) abusive or belligerent conduct by the Contractor towards an employee or agent of the State; (e) Contractor’s intentional violation of the Louisiana Procurement Code (La. R.S. 39:1551 et seq.) and its corresponding regulations; or, (f) any listed reason for debarment under La. R.S. 39:1672.

* 1. Termination for Cause

The State of Louisiana may terminate this Contract for cause based upon the failure of Contractor to comply with the terms and/or conditions of this Contract, or failure to fulfill its performance obligations pursuant to this Contract, provided that the State shall give the Contractor written notice specifying the Contractor’s failure. If within 30 days after receipt of such notice, the Contractor shall not have corrected such failure or, in the case of failure which cannot be corrected in 30 days, begun in good faith to correct such failure and thereafter proceeded diligently to complete such correction, then the State may, at its option, place the Contractor in default and this Contract shall terminate on the date specified in such notice.

The Contractor may exercise any rights available to it under Louisiana law to terminate for cause upon the failure of the State to comply with the terms and conditions of this Contract, provided that the Contractor shall file a claim with the Chief Procurement Officer under La. R.S. 39:1671 -1673.

* 1. Termination for Convenience

The State of Louisiana may terminate this Contract for convenience at any time (1) by giving 30 days written notice to the Contractor of such termination; or (2) by negotiating with the Contractor an effective date. The State shall pay the Contractor for, if applicable: (a) deliverables in progress; (b) the percentage that has been completed satisfactorily; and, (c) for transaction-based services up to the date of termination, to the extent work has been performed satisfactorily.

* 1. Termination for Non-Appropriation of Funds

The continuation of this Contract is contingent upon the appropriation of funds to fulfill the requirements of this Contract by the legislature. If the legislature fails to appropriate sufficient monies to provide for the continuation of this Contract or if such appropriation is reduced by the veto of the Governor or by any means provided in the appropriations act or Title 39 of the Louisiana Revised Statutes of 1950 to prevent the total appropriation for the year from exceeding revenues for that year, or for any other lawful purpose, and the effect of such reduction is to provide insufficient monies for the continuation of this Contract, this Contract shall terminate on the date of the beginning of the first fiscal year for which funds are not appropriated.

**OSP Staff**: Keep the below paragraph for PC RFPs. Delete the below paragraph for Complex Services RFPs.

When funds are not appropriated or otherwise made available to support continuation of performance in the following fiscal year of a multiyear contract for professional or consulting services, the Contract for the remaining term shall be cancelled and the Contractor shall be reimbursed in accordance with the terms of the Contract for the reasonable value of any nonrecurring costs incurred but not amortized in the price of services delivered pursuant to the Contract. The cost of cancellation may be paid from appropriations made specifically for the payment of such cancellation costs or from unobligated funds of the using agency.

With respect to all multiyear contracts for professional services and consulting services pursuant to this Subsection, there shall be no provisions for a penalty to the state for cancellation or early payment of the Contract.

1. Contract Modifications

No amendment or modification of the terms of this Contract shall be valid unless made in writing, signed by the parties and approved as required by law. No oral understanding or agreement not incorporated in this Contract is binding on any of the parties.

Changes to this Contract include any change in a) compensation; b) beginning/ending date of this Contract; c) scope of work; and/or d) Contractor change through the assignment of contract process. Any such changes, once approved, will result in the issuance of an amendment to this Contract.

1. Ownership of Work Product

All data, files, documentation, records, worksheets, or any other related materials obtained, prepared, or developed by the Contractor under this Contract are the property of the State. If applicable, all software and customizations developed under this Contract are the property of the State. Contractor, at its expense, shall deliver this property to the State at the termination or expiration of this Contract, unless otherwise required by this Contract. Delivery of this property shall be in a form specified by the State.

OSP Staff: Keep the two paragraphs below for DOE projects. Delete for all other Agencies.

Any work undertaken by Contractor pursuant to this Contract shall be work made for hire, and Contractor hereby transfers and assigns to the State any and all intellectual property rights, including but not limited to, copyright to any data, files, worksheets, records, reports, documents, products or other material created, prepared or developed by Contractor in connection with the performance of this Contract. No records, reports, document, products or other materials created or developed under this Contract can be distributed for free or for profit without the explicit written approval of the State Superintendent of Education.

If this Contract is 8(g) funded, all provisions of this ownership clause apply except that upon termination or at the completion of 8(g) funding for a project/program, the State Board of Elementary and Secondary Education (SBESE) may approve a Contractor’s request to retain equipment purchased with 8(g) funds based on the Contractor’s assurance that the equipment will be used for educational enhancement.

1. Record Ownership

All records, reports, documents and other material delivered or transmitted to the Contractor by the State shall remain the property of the State. The Contractor, at its expense, shall return this property to the State at the termination or expiration of this Contract, unless otherwise required by this Contract. Delivery of this property shall be in a form specified by the State.

OSP Staff: Keep the paragraph below for DOE projects. Delete for all other Agencies.

If this Contract is 8(g) funded, all provisions of this ownership clause apply except that upon termination or at the completion of 8(g) funding for a project/program, the State Board of Elementary and Secondary Education (SBESE) may approve a Contractor’s request to retain equipment purchased with 8(g) funds based on the Contractor’s assurance that the equipment will be used for educational enhancement.

1. Use of State Property

Any property of the State furnished to the Contractor shall, unless otherwise provided herein, or approved by the State and/or Using Agency, be used only for the performance of this Contract.

The Contractor shall be responsible for any loss or damage to property of the State and/or Using Agency which results from willful misconduct or lack of good faith on the part of the Contractor or which results from the failure on the part of the Contractor to maintain and administer that property in accordance with sound management practices, to ensure that the property will be returned to the State and/or Using Agency in like condition, except for normal wear and tear, to that in which it was furnished to the Contractor. Upon the happening of loss, or destruction of, or damage to property of the State, the Contractor shall notify the State thereof and shall take all reasonable steps to protect that property from further damage.

The Contractor shall surrender to the State and/or Using Agency all property of the State and/or Using Agency prior to completion, termination, or cancellation of this Contract, unless otherwise specified herein. All reference to the Contractor under this section shall include any of its employees, agents, or subcontractors.

1. State Project Manager

State shall appoint a Project Manager for this Contract who will provide oversight of the activities conducted hereunder. Notwithstanding the Contractor’s responsibility for management during the performance of this Contract, the assigned Project Manager shall be the principal point of contact on behalf of the State and will be the principal point of contact for the Contractor concerning the Contractor’s performance under this Contract.

1. Waiver

Waiver of any breach of any term or condition of this Contract shall not be deemed a waiver of any prior or subsequent breach. No term or condition of this Contract shall be held to be waived, modified or deleted except by the written consent of both parties.

1. Warranties

The Contractor warrants that all services shall be performed in good faith, with diligence and care, by experienced and qualified personnel in a professional, workmanlike manner, and according to its current description (including any completion criteria) contained in the scope of work.

No Surreptitious Code Warranty. The Contractor warrants that the Contractor will make all commercially reasonable efforts not to include any Unauthorized Code in the software provided hereunder. "Unauthorized Code" means any virus, Trojan horse, worm or other software routine or component designed to permit unauthorized access to disable, erase, or otherwise harm software, equipment, or data, or to perform any other such actions. Excluded from this prohibition are identified and State-authorized features designed for purposes of maintenance or technical support.

The Contractor further warrants that it has the right to provide and or license its product to the State and that it will operate in accordance with this Contract. In the event of a material failure of the Contractor’s product to function and operate, and/or failure by the Contractor to perform its obligations, in accordance with the terms and conditions of this Contract that results in the termination of this Contract for cause by the State, the State will not be obligated to compensate the Contractor of any costs incurred by the Contractor.

Extent of Warranty: THESE WARRANTIES REPLACE ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

1. Duty to Defend

Upon notice of any claim, demand, suit, or cause of action against the State, alleged to arise out of or be related to this Contract, the Contractor shall investigate, handle, respond to, provide defense for, and defend at its sole expense, even if the claim, demand, suit, or cause of action is groundless, false, or fraudulent. The State may, but is not required to, consult with or assist the Contractor, but this assistance shall not affect the Contractor’s obligations, duties, and responsibilities under this section. The Contractor shall obtain the State’s written consent before entering into any settlement or dismissal.

1. Liability and Indemnification
   1. Contractor Liability

The Contractor shall be liable without limitation to the State for any and all injury, death, damage, loss, destruction, damages, costs, fines, penalties, judgments, forfeitures, assessments, expenses (including attorney fees), obligations, and other liabilities of every name and description, which may occur or in any way arise out of any act or omission of the Contractor, its owners, agents, employees, partners or subcontractors.

* 1. Force Majeure

It is understood and agreed that neither party can foresee the exigencies beyond the control of each party which arise by reason of an Act of God or force majeure; therefore, neither party shall be liable for any delay or failure in performance beyond its control resulting from an Act of God or force majeure. The State shall determine whether a delay or failure results from an Act of God or force majeure based on its review of all facts and circumstances. The parties shall use reasonable efforts, including but not limited to, use of continuation of operations plans (COOP), business continuity plans, and disaster recovery plans, to eliminate or minimize the effect of such events upon the performance of their respective duties under this Contract.

* 1. Indemnification

The Contractor shall fully indemnify and hold harmless the State, without limitation, for any and all injury, death, damage, loss, destruction, damages, costs, fines, penalties, judgments, forfeitures, assessments, expenses (including attorney fees), obligations, and other liabilities of every name and description, which may occur or in any way arise out of any act or omission of the Contractor, its owners, agents, employees, partners or subcontractors. The Contractor shall not indemnify for the portion of any loss or damage arising from the State’s act or failure to act.

* 1. Intellectual Property Indemnification

The Contractor shall fully indemnify and hold harmless the State, without limitation, from and against damages, costs, fines, penalties, judgments, forfeitures, assessments, expenses (including attorney fees), obligations, and other liabilities in any action for infringement of any intellectual property right, including but not limited to, trademark, trade-secret, copyright, and patent rights.

When a dispute or claim arises relative to a real or anticipated infringement, the Contractor, at its sole expense, shall submit information and documentation, including formal patent attorney opinions, as required by the State.

If the use of the product, material, service, or any component thereof is enjoined for any reason or if the Contractor believes that it may be enjoined, the Contractor, while ensuring appropriate migration and implementation, data integrity, and minimal delays of performance, shall at its sole expense and in the following order of precedence: (i) obtain for the State the right to continue using such product, material, service, or component thereof; (ii) modify the product, material, service, or component thereof so that it becomes a non-infringing product, material, or service of at least equal quality and performance; (iii) replace the product, material, service, or component thereof so that it becomes a non-infringing product, material, or service of at least equal quality and performance; or, (iv) provide the State monetary compensation for all payments made under this Contract related to the infringing product, material, service, or component, plus for all costs incurred to procure and implement a non-infringing product, material, or service of at least equal quality and performance. Until this obligation has been satisfied, the Contractor remains in default.

The Contractor shall not be obligated to indemnify that portion of a claim or dispute based upon the State’s unauthorized: i) modification or alteration of the product, material or service; ii) use of the product, material or service in combination with other products not furnished by the Contractor; or, iii) use of the product, material or service in other than the specified operating conditions and environment.

* 1. Limitations of Liability

For all claims against the Contractor not governed by any other provision of this Section, regardless of the basis on which the claim is made, the Contractor's liability for direct damages shall be limited to two times the maximum dollar amount of this Contract.

The Contractor shall not be liable for incidental, indirect, special, or consequential damages, unless otherwise specifically enumerated herein, or in a resulting task order or purchase order mutually agreed upon between the parties. In no circumstance shall the State be liable for incidental, indirect, special, or consequential damages; lost profits; lost revenue; or lost institutional operating savings.

* 1. Other Remedies

If the Contractor fails to perform in accordance with the terms and conditions of this Contract, or if any lien or claim for damages, penalties, costs and the like is asserted by or against the State, then, upon notice to the Contractor, the State may pursue all remedies available to it at law or equity, including retaining monies from amounts due the Contractor and proceeding against any surety of the Contractor.

1. Insurance

The Contractor shall purchase and maintain for the duration of this Contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Contractor, its agents, representatives, employees or subcontractors.

The Contractor shall furnish the State with certificates of insurance effecting coverage(s) required by this Contract in accordance with the **Insurance Requirements for Contractors** Attachment of this Contract. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates are to be received and approved by the State before work commences. The State reserves the right to require complete certified copies of all required policies, at any time. The Contractor shall maintain the insurance as specified shown in the **Insurance Requirements for Contractors** Attachment of this Contract for the full term of this Contract. Failure to comply shall be grounds for termination of this Contract.

**OSP Staff**: Delete the below section if Performance Bond is not needed.

1. Performance Bond

The Contractor shall provide a Performance Bond (Surety Bond) in the amount of $[Dollar Amount] to insure the successful performance under the terms and conditions of this Contract. The performance bond shall be written by a surety or insurance company currently on the U.S. Department of the Treasury Financial Management Services list of approved bonding companies which is published annually in the Federal Register, or by a Louisiana domiciled insurance company with at least an A-rating in the latest printing of the A.M. Best’s Key Rating Guide to write individual bonds up to 10 percent of policyholder’s surplus as shown in the A.M. Best’s Key Rating Guide or by an insurance company that is either domiciled in Louisiana or owned by Louisiana residents and is licensed to write surety bonds.

No surety or insurance company shall write a performance bond which is in excess of the amount indicated as approved by the U.S. Department of the Treasury Financial Management Service list or by a Louisiana domiciled insurance company with an A-rating by A.M. Best up to a limit of 10 percent of policyholders’ surplus as shown by A.M. Best; companies authorized by this Paragraph who are not on the treasury list shall not write a performance bond when the penalty exceeds 15 percent of its capital and surplus, such capital and surplus being the amount by which the company’s assets exceed its liabilities as reflected by the most recent financial statements filed by the company with the Department of Insurance.

In addition, any performance bond furnished shall be written by a surety or insurance company that is currently licensed to do business in the State of Louisiana.

The Contractor shall maintain the performance bond for the full term of this Contract. Failure to comply shall be grounds for termination of this Contract.

**OSP Staff**: Delete the below section if Fidelity Bond is not needed.

1. Fidelity Bond

The Contractor shall be required to provide a Fidelity Bond in the amount of $[Dollar Amount] to protect the State from loss resulting from acts of crime or fraud perpetrated either by the Contractor, its agents or subcontractors or against the Contractor, its agents or subcontractors. The [Agency Name] shall be the named beneficiary. A blanket Crime insurance policy with a minimum limit of $[Dollar Amount] per occurrence for Employee Theft and endorsed to include the State of Louisiana as a named insured is acceptable in lieu of the Fidelity Bond.

The Fidelity Bond furnished shall be written by a surety or insurance company that is currently licensed to do business in the State of Louisiana. The Contractor shall maintain the Fidelity Bond for the full term of this Contract. Failure to comply shall be grounds for termination of this Contract.

1. Licenses and Permits

The Contractor shall secure and maintain all licenses and permits, and pay inspection fees required to do the work required to complete this Contract, if applicable.

1. Severability

If any term or condition of this Contract or the application thereof is held invalid, such invalidity shall not affect other terms, conditions or applications which can be given effect without the invalid term, condition or application; to this end the terms and conditions of this Contract are declared severable.

1. Subcontractors

The Contractor may, with prior written permission from the State and/or Using Agency, enter into subcontracts with third parties for the performance of any part of the Contractor’s duties and obligations. In no event shall the existence of a subcontract operate to release or reduce the liability of the Contractor to the State and/or Using Agency for any breach in the performance of the Contractor's duties. The Contractor will be the single point of contact for all subcontractor work.

1. Substitution of Personnel

If, during the term of this Contract, the Contractor or subcontractor cannot provide the personnel as proposed and requests a substitution, that substitution shall meet or exceed the requirements stated herein. A detailed resume of qualifications and justification is to be submitted to the State for approval prior to any personnel substitution. In the event that any Contractor personnel become unavailable due to resignation, illness, or other factors, excluding assignment to project outside this Contract, outside of the Contractor's reasonable control, as the case may be, the Contractor shall be responsible for providing an equally qualified replacement in time to avoid delays in completing tasks. It shall be acknowledged by the Contractor that every reasonable attempt shall be made to assign the personnel listed in the Contractor’s proposal.

The State shall reserve the right to require removal and replacement of any contract personnel whose performance it considers unacceptable.

1. Assignability

The Contractor may assign its interest in the proceeds of this Contract to a bank, trust company, or other financial institution. Within 10 calendar days of the assignment, the Contractor shall provide notice of the assignment to the State and the Office of State Procurement. The State will continue to pay the Contractor and will not be obligated to direct payments to the assignee until the State has processed the assignment.

Except as stated in the preceding paragraph, the Contractor shall only transfer an interest in this Contract by assignment, novation, or otherwise, with prior written consent of the State. The State’s written consent of the transfer shall not diminish the State’s rights or the Contractor’s responsibilities and obligations.

1. Code of Ethics

The Contractor acknowledges that Chapter 15 of Title 42 of the Louisiana Revised Statutes (La. R.S. 42:1101 et. seq., Code of Governmental Ethics) applies to the Contracting Party in the performance of services called for in this Contract. The Contractor agrees to immediately notify the State if potential violations of the Code of Governmental Ethics arise at any time during the term of this Contract.

1. Confidentiality

All financial, statistical, personal, technical and other data and information relating to the State's operation which are designated confidential by the State and made available to the Contractor in order to carry out this Contract, or which become available to the Contractor in carrying out this Contract, shall be protected by the Contractor from unauthorized use and disclosure through the observance of the same or more effective procedural requirements as are applicable to the State. The identification of all such confidential data and information as well as the State's procedural requirements for protection of such data and information from unauthorized use and disclosure shall be provided by the State in writing to the Contractor. If the methods and procedures employed by the Contractor for the protection of the Contractor's data and information are deemed by the State to be adequate for the protection of the State's confidential information, such methods and procedures may be used, with the written consent of the State, to carry out the intent of this paragraph. The Contractor shall not be required under the provisions of this paragraph to keep confidential any data or information which is or becomes publicly available, is already rightfully in the Contractor's possession, is independently developed by the Contractor outside the scope of this Contract, or is rightfully obtained from third parties.

Under no circumstance shall the Contractor discuss and/or release information to the media concerning this project without prior express written approval of [Agency Name].

OSP Staff: Keep the paragraph below for DOE projects. Delete for all other Agencies.

The foregoing notwithstanding, this Contract is entered into by Contractor and the Department in accordance with the provisions of La. R.S. 17:3914, the Family Educational Rights and Privacy Act, 20 U.S.C. Section 1231(g), et seq., (FERPA) and the Individuals with Disabilities Education Act, 20 U.S.C. Section 1400, et seq., (IDEA). Contractor hereby acknowledges that all documents which include personally identifiable information contained in or derived from a student’s education records are deemed confidential pursuant to La. R.S. 17:3914, FERPA and IDEA. Contractor agrees not to re-disclose any such personally identifiable information without the prior written consent of the student’s parent or the student, in the case of students who have reached the age of majority, or unless re-disclosure is otherwise authorized by law. Contractor agrees to return all documents deemed confidential pursuant to La. R.S. 17:3914, FERPA and/or IDEA to the Department at the conclusion of this Contract.

1. Contract Controversies

Any claim or controversy arising out of this Contract shall be resolved by the provisions of Louisiana Revised Statute 39:1671-1673, as applicable.

1. Right to Audit

The State Legislative auditor, federal auditors and internal auditors of the [Agency Name], Division of Administration, or others so designated by the DOA, shall have the option to audit all accounts directly pertaining to this Contract for a period of five years from the date of final payment or as required by applicable State and Federal Law. The Contractor and subcontractor shall maintain such books and records for this five-year period and cooperate fully with the authorized auditing agency. Records shall be made available during normal working hours for this purpose.

1. Data/Record Retention

The Contractor and subcontractor shall retain all their books, their records, and their other documents relevant to this Contract and the funds expended hereunder for five years after final payment or, if Federal funds are used, as required by applicable Federal law, whichever is longer.

1. Sanitization of State Data/Records in Contractor’s Custody

The Contractor shall sanitize all State data and records in compliance with NIST SP 800-88 Rev 1, and any future revisions thereto, unless a specific alternative is approved in writing by the Louisiana DOA OTS Information Security Team. The Contractor shall provide quarterly a Certificate of Sanitization to the Using Agency’s contract monitor.

1. Contractor’s Certification of No Federal Suspension or Debarment

The Contractor has a continuing obligation to disclose any suspensions or debarment by any government entity, including but not limited to General Services Administration (GSA). Failure to disclose may constitute grounds for suspension and/or termination of this Contract and debarment from future Contracts.

1. Contractor’s Cooperation

The Contractor has the duty to fully cooperate with the State and provide any and all requested information, documentation, etc. to the State when requested. This applies even if this Contract is terminated and/or a lawsuit is filed. Specifically, the Contractor shall not limit or impede the State’s right to audit or shall not withhold State owned documents.

1. Security

The Contractor’s personnel shall comply with all security regulations in effect at the State’s premises and externally for materials and property belonging to the State or to the project. Where special security precautions are warranted (e.g., correctional facilities), the State shall provide such procedures to the Contractor, accordingly.

The Contractor shall comply with the Office of Technology Services’ Information Security Policy at <https://www.doa.la.gov/doa/ots/about-us/infosec/>.

The Contractor is responsible for promptly reporting to the State any known breach of physical or information security.

* 1. Cybersecurity Training

In accordance with La. R.S. 42:1267(B)(3) and the State of Louisiana’s Information Security Policy, if the Contractor, any of its employees, agents, or subcontractors will have access to State government information technology assets, the Contractor’s employees, agents, or subcontractors with such access must complete cybersecurity training annually, and the Contractor must present evidence of such compliance annually and upon request. The Contractor may use the cybersecurity training course offered by the Louisiana Department of State Civil Service without additional cost.

For purposes of this Section, “access to State government information technology assets” means the possession of credentials, equipment, or authorization to access the internal workings of State information technology systems or networks. Examples would include but not be limited to State-issued laptops, VPN credentials to access the State network, badging to access the State’s telecommunications closets or systems, or permissions to maintain or modify IT systems used by the State. Final determination of scope inclusions or exclusions relative to access to State government information technology assets will be made by the Office of Technology Services.

**OSP Staff**: Delete the below section if the project is not a key internal control. Edit the section as needed to align with the Outsourcing of Key Internal Controls language in Part 2: Technical Proposal, Subpart\_: Outsourcing of Key Internal Controls.

1. Independent Assurances

The State of Louisiana/[Agency Name] will require the Contractor and/or subcontractors, if performing a key internal control, to provide some form of assurances that internal controls over the process being administered by the Contractor for the user agency is operating properly. The assurances provided by the Contractor may be in the form of SOC I and/or type II reports resulting from independent SSAE 18 engagement of internal controls, quality assurance reports or other financial and performance audits from outside companies to assure both the financial viability of the (outsourced) program and the operational viability, including the policies and procedures placed into operation. If an SSAE 18 review is required, the audit firm will conduct tests of the Contractor’s activities and render an independent opinion on the operating effectiveness of the controls and procedures.

Other forms of assurances may be required by the Using Agency. The Contractor may be required to provide a quality control plan, such as third party Quality Assurance (QA), Independent Verification and Validation (IV & V), or other internal project/program reviews or audits.

These audits and/or assurances will require the Contractor to provide any assistance, records access, information system access, staff access, and space access to the party selected to perform the indicated audit. If a SSAE 18 review or audit is required of the Contractor, the audit firm will submit to the Using Agency and/or Contractor a final report on controls placed in operations for the project and include a detailed description of the audit firm’s tests of the operating effectiveness of controls.

The Contractor shall supply the Using Agency with an exact copy of the report within 30 calendar days of completion. When required by the Using Agency, such audits may be performed annually during the term of this Contract. The Contractor shall agree to implement recommendations as suggested by the audits within three months of report issuance at no cost to the Using Agency. The cost of the SSAE 18 engagement is to be borne by the Contractor and it was included in the cost proposed in response to the RFP.

1. Commencement of Work

No work shall be performed by the Contractor and the State shall not be bound until such time as this Contract is fully executed between the State and the Contractor and all required approvals are obtained.

1. Compliance with Civil Rights Laws

The Contractor agrees to abide by the requirements of the following as applicable: Title VI and Title VII of the Civil Rights Act of 1964, as amended by the Equal Employment Opportunity Act of 1972, Federal Executive Order 11246 as amended, the Federal Rehabilitation Act of 1973 as amended, the Vietnam Era Veteran’s Readjustment Assistance Act of 1974, Title IX of the Education Amendments of 1972, the Age Discrimination Act of 1975, the Fair Housing Act of 1968 as amended, and the Contractor agrees to abide by the requirements of the Americans with Disabilities Act of 1990.

The Contractor agrees not to discriminate in its employment practices, and will render services under this Contract without regard to race, color, religion, sex, sexual orientation, national origin, veteran status, political affiliation, disability or age in any matter relating to employment. Any act of discrimination committed by the Contractor, or failure to comply with these statutory obligations when applicable shall be grounds for termination of this Contract.

1. Anti-Kickback Clause

The Contractor hereby agrees to adhere to the mandate dictated by the Copeland "Anti-Kickback" Act which provides that each Contractor or subgrantee shall be prohibited from inducing, by any means, any person employed in the completion of work, to give up any part of the compensation to which he is otherwise entitled.

1. Clean Air Act

The Contractor hereby agrees to adhere to the provisions which require compliance with all applicable standards, orders or requirements issued under Section 306 of the Clean Air Act which prohibits the use under non-exempt Federal contracts, grants or loans of facilities included on the Environmental Protection Agency (EPA) list of Violating Facilities.

1. Energy Policy and Conservation Act

The Contractor hereby recognizes the mandatory standards and policies relating to energy efficiency which are contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act (P.L. 94-163).

1. Clean Water Act

The Contractor hereby agrees to adhere to the provisions which require compliance with all applicable standards, orders, or requirements issued under Section 508 of the Clean Water Act which prohibits the use under non-exempt Federal contracts, grants or loans of facilities included on the Environmental Protection Agency (EPA) List of Violating Facilities.

1. Anti-Lobbying and Debarment Act

The Contractor will be expected to comply with Federal statutes required in the Anti-Lobbying Act and the Debarment Act.

1. Prohibition of Discriminatory Boycotts of Israel

In accordance with La. R.S. 39:1602.1, for any contracts with a value of $100,000 or more and for any Contractor with five or more employees, the Contractor certifies that it is not engaging in a boycott of Israel and it will, for the duration of its contractual obligations, refrain from a boycott of Israel.

The State reserves the right to terminate this Contract if the Contractor, or any Subcontractor, engages in a boycott of Israel during the term of this Contract.

1. Prohibition of Companies That Discriminate Against Firearm and Ammunition Industries

In accordance with La. R.S. 39:1602.2, the following applies to any competitive sealed bids, competitive sealed proposals, or contract(s) with a value of $100,000 or more involving a for-profit company with at least fifty full-time employees:

Unless otherwise exempted by law, by submitting a response to this solicitation or entering into this contract, the Bidder, Proposer or Contractor certifies the following:

1. The company does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association based solely on the entity’s or association’s status as a firearm entity or firearm trade association;
2. The company will not discriminate against a firearm entity or firearm trade association during the term of the contract based solely on the entity’s or association’s status as a firearm entity or firearm trade association.

The State reserves the right to reject the response of the Bidder, Proposer or Contractor if this certification is subsequently determined to be false, and to terminate any contract awarded based on such a false response or if the certification is no longer true.

1. Prohibited Use of Funds

The Contractor agrees not to use contract proceeds to urge any elector to vote for or against any candidate or proposition on an election ballot nor shall such funds be used to lobby for or against any proposition or matter having the effect of law being considered by the Louisiana Legislature or any local governing authority. This provision shall not prevent the normal dissemination of factual information relative to a proposition on any election ballot or a proposition or matter having the effect of law being considered by the Louisiana Legislature or any local governing authority.

1. E-Verify

The Contractor shall comply with the provisions of La. R.S. 23:995 and federal law pertaining to E-Verify in the performance of services under this Contract.

**OSP Staff**: Delete the following three sections (Cooperative Purchase, Administrative Fee or Rebate, and Usage Reports) if this is NOT for a statewide contract.

1. Cooperative Purchase

This Contract has been designated as a cooperative purchasing opportunity. As described below, Political Subdivisions of the State, Quasi State Agencies, External Procurement Units, and Agencies of the United States Government are to be authorized (potential) users of this Contract.

* Political Subdivisions of the State include, but are not limited to, parish governments, municipal governments, school districts, human service districts, local governments and public utilities.
* Quasi State Agencies include, but are not limited to, non-profit or for-profit organizations created by the State of Louisiana or any political subdivision or agency thereof, or any special district or authority, or unit of local government, to perform a public purpose.
* External Procurement Units include, but are not limited to, buying organizations not located in the State of Louisiana, which, if located in the State, would qualify as a public procurement unit.

The current list of approved cooperating purchasing entities (including political subdivisions, quasi state agencies and external procurement units) is maintained and regularly updated on the OSP website at: <https://www.doa.la.gov/doa/osp/agency-resources/> and may be used as a reference.

The Contractor may prospectively choose to partially or entirely ‘opt-out’ of accommodating cooperative purchasing for this Contract by sending formal written notification of same to the Office of State Procurement. This notification should clearly specify which individual type(s) of cooperative purchasing entities the Contractor is choosing to not allow to participate in contract cooperative purchasing. Any purchase orders received by the contract-holder from cooperative purchasing entities prior to the contract-holder’s opt-out notification to OSP must be honored.

1. Administrative Fees

The Contractor shall pay a 1% administrative fees payable to the State of Louisiana, Office of State Procurement (OSP). The administrative fees shall be submitted quarterly and shall be based on the total net (gross sales minus returns, credits and deductions) sales made to entities located in the State of Louisiana under this Contract. Initiation and submission of the administrative fees to OSP is the responsibility of the Contractor without prompting or notification by the State Procurement Analyst (SPA). If these administrative fees are not submitted in a timely manner, OSP shall have the right to terminate this Contract.

The check is to be made payable to: Louisiana DOA- Office of State Procurement. The check is to be mailed to the Office of State Procurement, Attn: OSP Receivables Specialist, 1201 North 3rd Street, Suite 2-160, Baton Rouge, LA 70802. The calculation of the administrative fees shall begin immediately upon execution of this Contract and payment shall be made in accordance with the following schedule:

**Quarter Payment Period Payment Due Date**

First Quarter July 1 through September 30 October 31

Second Quarter October 1 through December 31 January 31

Third Quarter January 1 through March 31 April 30

Fourth Quarter April 1 through June 30 July 31

**NOTE: The CONTRACTOR SHALL INDICATE STATE CONTRACT NUMBER [Contract Number] ON THE REMITTANCE. WHEN SUBMITTING ONE REMITTANCE FOR MORE THAN ONE CONTRACT, THE CONTRACTOR SHALL INDICATE ALL STATE CONTRACT NUMBERS AND THE AMOUNT FOR EACH.**

1. Usage Reports

The Contractor shall submit detailed contract usage reports quarterly to the State Procurement Analyst (SPA) for this Contract in accordance with the below schedule. Initiation and submission of the quarterly reports to the SPA is the responsibility of the Contractor without prompting or notification by the SPA. If these reports are not submitted in a timely manner, the Office of State Procurement (OSP) shall have the right to terminate this Contract.

The specific usage report content, scope, and format requirements are available on the OSP website under Purchasing/Vendor Resources/Vendor Forms:

<https://www.doa.la.gov/doa/osp/vendor-resources/>.

In addition, the person’s name who compiled the report and their contact information shall be provided. OSP reserves the right to request copies of any purchase orders issued against this Contract.

The usage reports shall be submitted utilizing this format or an equivalent format that has been pre-approved by OSP.

Schedule for submittal of usage reports:

**Quarter Reporting Period Due Date**

First Quarter July 1 through September 30 October 31

Second Quarter October 1 through December 31 January 31

Third Quarter January 1 through March 31 April 30

Fourth Quarter April 1 through June 30 July 31

1. Headings

Descriptive headings in this Contract are for convenience only and shall not affect the construction of this Contract or meaning of contractual language.

1. Governing Law

This Contract shall be interpreted under Louisiana Law, including but not limited to La. R.S. 39:1551-1736 (Louisiana Procurement Code) and La. R.S. 39:196-200 (Information Technology Procurement Code), if applicable; purchasing rules and regulations; executive orders; terms and conditions; and specifications listed in the RFP and this Contract. Venue of any action brought, after exhaustion of administrative remedies, with regard to all activities associated with this Contract shall be in the Nineteenth Judicial District Court, Parish of East Baton Rouge, State of Louisiana.

1. Complete Contract

This is the complete Contract between the parties with respect to the subject matter and all prior discussions and negotiations are merged into this Contract. This Contract is entered into with neither party relying on any statement or representation made by the other party not embodied in this Contract and there are no other agreements or understanding changing or modifying the terms. This Contract shall become effective upon final statutory approval.

1. Order of Precedence

The Request for Proposals (RFP) [RFP Number], dated [RFP Posted Date], addenda thereto, and the Contractor's Proposal dated [Proposal Signed Date], are attached hereto and, incorporated into this Contract as though fully set forth herein. In the event of an inconsistency between this Contract, the RFP and addenda thereto, and/or the Contractor's Proposal, unless otherwise provided herein, the inconsistency shall be resolved by giving precedence first to this Contract, then to the RFP and addenda thereto, and finally, the Contractor's Proposal.

IN WITNESS WHEREOF, the parties have executed this Contract.

[Contractor Name] SIGNATURE: [State Agency] SIGNATURE:

By: By:

Name: Name:

Title: Title:

Date: Date:

Office of State Procurement Approval:

By:

Title:

Date:

**Insurance Requirements for Contractors Attachment**

The Contractor shall purchase and maintain for the duration of this Contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Contractor, its agents, representatives, employees or subcontractors.

**A. MINIMUM SCOPE AND LIMITS OF INSURANCE**

**OSP Staff**: Coverage listed below as mandatory cannot be removed. Delete the word mandatory prior to publication.

1. **Workers Compensation** Mandatory

Workers Compensation insurance shall be in compliance with the Workers Compensation law of the State of the Contractor’s headquarters. Employers Liability is included with a minimum limit of $1,000,000 per accident/per disease/per employee. If work is to be performed over water and involves maritime exposure, applicable LHWCA, Jones Act, or other maritime law coverage shall be included. A.M. Best's insurance company rating requirement may be waived for workers compensation coverage only.

1. **Commercial General Liability** Mandatory

**OSP Staff:** Increase the minimum limit per occurrence for information technology. $5,000,000 is recommended for high cost projects. Consult with ORM to determine appropriate amounts for IT.

Commercial General Liability insurance, including Personal and Advertising Injury Liability and Products and Completed Operations, shall have a minimum limit per occurrence of $1,000,000 and a minimum general annual aggregate of $2,000,000. The Insurance Services Office (ISO) Commercial General Liability occurrence coverage form CG 00 01 (current form approved for use in Louisiana), or equivalent, is to be used in the policy. Claims-made form is unacceptable.

1. **Automobile Liability** Mandatory unless Contractor will not be using a vehicle in the performance of the contract. Consult with ORM prior to removal.

Automobile Liability Insurance shall have a minimum combined single limit per accident of $1,000,000. ISO form number CA 00 01 (current form approved for use in Louisiana), or equivalent, is to be used in the policy. This insurance shall include third-party bodily injury and property damage liability for owned, hired and non‑owned automobiles.

1. **Professional Liability (Errors and Omissions)**

**OSP Staff:** Include this clause for services where errors made by the Contractor in performing the work can cause harm or damage. It should be included in most consulting contracts and all IT consulting contracts. Limit should be $1,000,000 for low cost (less than $1,000,000) or limited scope projects; $3,000,000 for high cost (more than $1,000,000) project

Professional Liability (Error & Omissions) insurance, which covers the professional errors, acts, or omissions of the Contractor, shall have a minimum limit of $[dollar amount]. Claims-made coverage is acceptable. The date of the inception of the policy must be no later than the first date of the anticipated work under this Contract. It shall provide coverage for the duration of this Contract and shall have an expiration date no earlier than 30 days after the anticipated completion of this Contract. The policy shall provide an extended reporting period of not less than 24 months, with full reinstatement of limits, from the expiration date of the policy.

1. **Professional Liability (Errors and Omissions)** Medical Malpractice

**OSP Staff:** Include this clause if the Contractor is providing work done by direct medical providers, such as Doctors, Nurses, etc.

Professional Liability (Error & Omissions) insurance, which covers the professional errors, acts, or omissions of the Contractor, shall have a minimum limit of $1,000,000. Claims-made coverage is acceptable. Coverage through the Patients’ Compensation Fund (PCF) is also acceptable. The date of the inception of the policy must be no later than the first date of the anticipated work under this Contract. It shall provide coverage for the duration of this Contract and shall have an expiration date no earlier than 30 days after the anticipated completion of this Contract. The policy shall provide an extended reporting period of not less than 36 months from the expiration date of the policy, if the policy is not renewed.

1. **Cyber Liability**

**OSP Staff:** Include this clause if the Contractor will house State information or records on a Contractor controlled network. If the Contractor will access fewer than 1 million records, coverage of $1,000,000 per claim is recommended; if the Contractor will access between 1 million and 5 million records, coverage in the amount of $5,000,000 per claim is recommended; and if the Contractor will access more than 5 million records, minimum coverage of $10,000,000 per claim is recommended. Otherwise, remove this clause.

Cyber liability insurance, including first-party costs, due to an electronic breach that compromises the State’s confidential data shall have a minimum limit per occurrence of $[dollar amount]. Claims-made coverage is acceptable. The date of the inception of the policy must be no later than the first date of the anticipated work under this Contract. It shall provide coverage for the duration of this Contract and shall have an expiration date no earlier than 30 days after the anticipated completion of this Contract. The policy shall provide an extended reporting period of not less than 36 months from the expiration date of the policy, if the policy is not renewed.

1. **Pollution**

**OSP Staff:** Include this clause if the Contractor is utilizing, remediating, or hauling hazardous materials or substances. For pick up or disposal of medical waste OR for a contract with limited scope, low cost removal services, a minimum of $1,000,000 may be adequate. For a large scope contract, ultra-hazardous activities, and/or outdoor exposure / clean-up / removal services, a minimum of $5,000,000 should be required. Otherwise, remove this clause

Project Specific Pollution Liability insurance, including gradual release as well as sudden and accidental, shall have a minimum limit of not less than $[dollar amount]. A claims-made policy form is acceptable. A policy period inception date of no later than the first day of anticipated work under this Contract and an expiration date of no earlier than 30 days after anticipated completion of all work under this Contract shall be provided. There shall be an extended reporting period of at least 36 months from the expiration date of the policy if policy is not renewed. The policy shall not be cancelled for any reason, except non-payment of premium.

**B. DEDUCTIBLES AND SELF‑INSURED RETENTIONS**

Any deductibles or self-insured retentions must be declared to and accepted by the Agency. The Contractor shall be responsible for all deductibles and self-insured retentions.

**C. OTHER INSURANCE PROVISIONS**

The policies are to contain, or be endorsed to contain, the following provisions:

1. Commercial General Liability and Automobile Liability Coverages

1. The Agency, its officers, agents, employees and volunteers shall be named as an additional insured as regards negligence by the Contractor. ISO Forms CG 20 10 (for ongoing work) AND CG 20 37 (for completed work) (current forms approved for use in Louisiana), or equivalents, are to be used when applicable. The coverage shall contain no special limitations on the scope of protection afforded to the Agency.
2. The Contractor’s insurance shall be primary as respects the Agency, its officers, agents, employees and volunteers for any and all losses that occur under this Contract. Any insurance or self-insurance maintained by the Agency shall be excess and non-contributory of the Contractor’s insurance.

2. Workers Compensation and Employers Liability Coverage

To the fullest extent allowed by law, the insurer shall agree to waive all rights of subrogation against the Agency, its officers, agents, employees and volunteers for losses arising from work performed by the Contractor for the Agency.

3. All Coverages

1. All policies must be endorsed to require 30 days written notice of cancellation to the Agency. Ten-day written notice of cancellation is acceptable for non-payment of premium. Notifications shall comply with the standard cancellation provisions in the Contractor’s policy. In addition, the Contractor is required to notify Agency of policy cancellations or reductions in limits.
2. The acceptance of the completed work, payment, failure of the Agency to require proof of compliance, or Agency’s acceptance of a non-compliant certificate of insurance shall release the Contractor from the obligations of the insurance requirements or indemnification agreement.
3. The insurance companies issuing the policies shall have no recourse against the Agency for payment of premiums or for assessments under any form of the policies.
4. Any failure of the Contractor to comply with reporting provisions of the policy shall not affect coverage provided to the Agency, its officers, agents, employees and volunteers.

**D. ACCEPTABILITY OF INSURERS**

1. All required insurance shall be provided by a company or companies lawfully authorized to do business in the jurisdiction in which the Project is located. Insurance shall be placed with insurers with an A.M. Best's rating of **A-:VI or higher**. This rating requirement may be waived for workers compensation coverage only.
2. If at any time an insurer issuing any such policy does not meet the minimum A.M. Best rating, the Contractor shall obtain a policy with an insurer that meets the A.M. Best rating and shall submit another Certificate of Insurance within 30 days.

**E. VERIFICATION OF COVERAGE**

1. The Contractor shall furnish the Agency with Certificates of Insurance reflecting proof of required coverage. The Certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The Certificates are to be received and approved by the Agency before work commences and upon any Contract renewal or insurance policy renewal thereafter.
2. The Certificate Holder shall be listed as follows:

State of Louisiana

1201 N 3rd St, Baton Rouge, LA 70802

Contract #:

1. In addition to the Certificates, the Contractor shall submit the declarations page and the cancellation provision for each insurance policy. The Agency reserves the right to request complete certified copies of all required insurance policies at any time.
2. Upon failure of the Contractor to furnish, deliver and maintain required insurance, this Contract, at the election of the Agency, may be suspended, discontinued or terminated. Failure of the Contractor to purchase and/or maintain any required insurance shall not relieve the Contractor from any liability or indemnification under this Contract.

**F. SUBCONTRACTORS**

Contractor shall include all subcontractors as insureds under its policies OR shall be responsible for verifying and maintaining the Certificates provided by each subcontractor. Subcontractors shall be subject to all of the requirements stated herein. The Agency reserves the right to request copies of subcontractor’s Certificates at any time.

**G. WORKERS COMPENSATION INDEMNITY**

In the event the Contractor is not required to provide or elects not to provide workers compensation coverage, the parties hereby agree that the Contractor, its owners, agents and employees will have no cause of action against, and will not assert a claim against, the State of Louisiana, its departments, agencies, agents and employees as an employer, whether pursuant to the Louisiana Workers Compensation Act or otherwise, under any circumstance.  The parties also hereby agree that the State of Louisiana, its departments, agencies, agents and employees shall in no circumstance be, or considered as, the employer or statutory employer of the Contractor, its owners, agents and employees. The parties further agree that the Contractor is a wholly independent contractor and is exclusively responsible for its employees, owners, and agents. The Contractor hereby agrees to protect, defend, indemnify and hold the State of Louisiana, its departments, agencies, agents and employees harmless from any such assertion or claim that may arise from the performance of this Contract.