

STATE OF TEXAS §

COUNTY OF TRAVIS §

<b>Division Number:</b>	110	<b>Program Name:</b>	Permanent School Fund Investments
<b>Org. Code:</b>	701	<b>Legal/Funding Authority:</b>	Texas
<b>Speed Chart:</b>	2A022	Constitution, Article VII	
<b>Payee Name:</b>	Moody's Analytics, Inc.	<b>Payee ID:</b>	1133851829
<b>ISAS Contract #:</b>	2887	<b>PO #:</b>	30044

### TEXAS EDUCATION AGENCY STANDARD CONTRACT

#### ARTICLE I. PARTIES TO CONTRACT

This agreement is entered into by and between the Texas Education Agency ("TEA"), a Texas State Agency, and Moody's Analytics, Inc., 7 World Trade Center, 250 Greenwich Street, New York, NY 10007("Contractor").

#### ARTICLE II. PERIOD OF CONTRACT

TEA shall pay Contractor for the reasonable and approved costs incurred by Contractor in connection with the Contract Project during the period beginning January 1, 2012 and ending December 31, 2014, unless extended or terminated as otherwise provided for in this contract. Upon written mutual agreement of both parties, this contract may be extended for two (2) additional one-year terms to commence on the first day after the original contract period.

#### ARTICLE III. PURPOSES OF CONTRACT

Contractor shall perform all of the functions and duties set described herein and in the appendices to this Contract, which are attached hereto and incorporated by reference.

#### ARTICLE IV. PAYMENT UNDER CONTRACT

Subject to the availability to TEA of funds for the purpose(s) of this contract, TEA shall pay to Contractor by State of Texas warrant(s) an amount not to exceed \$157,797.00 for the performance, satisfactory to the TEA, of Contractor's functions and duties under this Contract during the initial term. Payment to Contractor by TEA will be made only in accordance with the relevant appendices to this Contract, which are attached hereto and incorporated herein by reference.

#### ARTICLE V. GENERAL AND SPECIAL PROVISIONS OF CONTRACT

Attached hereto and incorporated herein by reference are the General Provisions and the Special Provisions indicated below with an "X" beside each:

- Special Provisions A, Program Specific Provisions
- Special Provisions B, Historically Underutilized Business Subcontracting Plan

Contractor is certified as a Historically Underutilized Business as defined in V.T.C.A., TX Government Code, §2161.001 (attach Certification.) If not certified, call the Texas Building and Procurement Commission at (512) 463-5872 or write TBPC (HUB), PO Box 13047, Austin, Texas 78711-3047 to learn about the HUB certification.

Pursuant to Section 2252.901 of the Texas Government Code, Contractor certifies that it is not a former employee of TEA or that Contractor has not been an employee of TEA for twelve (12) months prior to the beginning date of this contract.

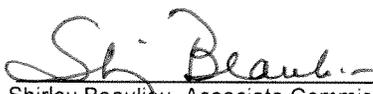
Contractor shall be an independent contractor for matters relating to this Contract. Contractor and its employees are not employees of TEA for any purpose and shall not be entitled to participate in any plan, arrangement, or distribution by TEA pertaining to or in connection with any pension, bonus, or other benefit extended to TEA employees.

ARTICLE VI. ENTIRE CONTRACT

This contract together with the documents including but not limited to Appendices, Attachments, Exhibits, Proposal Responses, mentioned herein and incorporated by reference, contains the entire agreement between the parties relating to the rights granted and the obligations assumed in it. Any oral representations or modifications concerning this contract shall be of no force or effect unless contained in a subsequent amendment executed by both parties.

AGREED and accepted on behalf of Contractor effective beginning on the date of the Contract as specified above and as indicated by signature below of a person authorized to bind Contractor.

Typed name: \_\_\_\_\_ JAN 11 2012 \_\_\_\_\_  
Authorized Signature  
Typed title: \_\_\_\_\_ Michael Richitelli \_\_\_\_\_  
Director / Sales Manager

<b>This section reserved for TEA use.</b> I, an authorized official of the Texas Education Agency, hereby certify that this contract is in compliance with the authorizing program statute and applicable regulations and authorize the services to be performed as written above. AGREED and accepted on behalf of Agency this <u>18<sup>th</sup></u> day of <u>January 2012</u> (month/year) by a person authorized to bind Agency.	
Return three (3) copies with original signature to: Catherine A. Civiletto Deputy Executive Administrator Texas Education Agency Texas Permanent School Fund 400 West 15 <sup>th</sup> Street, Suite 1100 Austin, Texas 78701	 Shirley Beaulieu, Associate Commissioner Finance/ CFO

**APPENDIX 1**

A. The definition of terms in the General Provisions are incorporated herein.

B. Description of Services/Activities:

Contractor offers a non-exclusive and non-transferable license to use the Information described herein for TEA's internal business purposes, and only at the site or premises and within the division, department and/or business unit, and only by the number of individual users (each, a "User") as is listed here and on the Order Form included under Special Provisions A.

**Products and Services Ordered:**

Moody's Global Credit Research Program, including the following: Participation in Moody's teleconferences and briefings, access to Moody's analysts and delivery of Moody's Research Services for the Asset Classes indicated below via the Internet at [www.moody.com](http://www.moody.com)

- CreditView – Corporate – Investment Grade      \$50,400 per year with annual 4.3% price increases

License is limited to access for 5 Users, at the Texas Permanent School Fund Investments Department located at 400 West 15<sup>th</sup> Street, Suite 1100, Austin, TX 78701.

C. **Invoicing cycles** under this contract are defined to align with the TEA fiscal cycle which runs from September 1<sup>st</sup> to August 31<sup>st</sup> of each year. Two invoices are expected to be received each calendar year for services to be paid for in advance.

**Initial Term of Contract:** Beginning January 1, 2012 and Ending December 31, 2014:

First Fiscal Cycle:	January 1, 2012 – August 31, 2012	\$50,400 prorated for 8 months
Second Fiscal Cycle	September 1, 2012 – August 31, 2013	\$50,400 prorated for 4 months and \$50,400 prorated for 8 months plus a 4.3% price increase for the remaining 8 months in the TEA fiscal cycle.
Third Fiscal Cycle	September 1, 2013 – August 31, 2014	Prior Year fee prorated for 4 months and then adjusted January 1, 2014 for a 4.3% price increase for the remaining 8 months in the TEA fiscal cycle.
Fourth Fiscal Cycle	September 1, 2014 – December 31, 2014	Prior Year fee prorated for 4 months

C. No funds shall be used to pay for food costs (i.e., refreshments, banquets, group meals, etc.) unless requested as a specific line item in the contract fee schedule in Appendix 1 by the Contractor and approved (prior to expenditures occurring) by TEA.

D. Payment will be made upon submission of properly prepared and certified invoices which detail the services provided during the invoice period and associated costs. Include the contract number, purchase order number, and the Texas Comptroller of Public Accounts Payee Identification Number (PIN) on all invoices/expenditure reports. The information provided on the invoice must coincide with the fee schedule detailed herein.

E. Payment for goods or services purchased with State-appropriated funds is made by warrant (check) or by electronic Direct Deposit from the State Treasury. Direct Deposit is the preferred method of payment. Any payment owed by an agency must be mailed or transmitted electronically to the vendor no later than 30 days after the later of:

- (1) the day on which the agency received the goods;
- (2) the date the performance of the service under the contract is completed; or
- (3) the day on which the agency received the complete and correct invoice for goods or services.

Additional information and a Direct Deposit Authorization application may be found at: <https://fmx.cpa.state.tx.us/fm/payment/index.php>.

## GENERAL PROVISIONS

- A. As used in these General Provisions:
- *Contract* means TEA's Standard Contract, and all of TEA's attachments, appendices, schedules (including but not limited to the General Provisions and the Special Provisions), amendments and extensions of or to the Standard Contract;
  - *Agency or TEA* means the Texas Education Agency;
  - *Contractor* means the party or parties to this Contract other than TEA, including its or their officers, directors, employees, agents, representatives, consultants and subcontractors, and subcontractors' officers, directors, employees, agents, representatives and consultants;
  - *Project Administrator* means the respective person(s) representing TEA or Contractor, as indicated by the Contract, for the purposes of administering the Contract Project;
  - *Contract Project* means the purpose intended to be achieved through the Contract;
  - *Amendment* means a Contract that is revised in any respect, and includes both the original Contract, and any subsequent amendments or extensions thereto;
- B. **Contingency:** The Contract(s), including any amendments, extensions or subsequent contracts, are executed by TEA contingent upon the availability of appropriated funds by legislative act. Notwithstanding any other provision in this Contract or any other document, this Contract is void upon the insufficiency (in TEA's discretion) or unavailability of appropriated funds. In addition, this Contract may be terminated by TEA at any time for any reason upon notice to Contractor. Expenditures and/or activities for which Contractor may claim reimbursement shall not be accrued or claimed subsequent to receipt of such notice from TEA.
- C. **Indemnification:** Contractor shall hold TEA harmless from and shall indemnify TEA against any and all claims, demands, and causes of action of whatever kind or nature asserted by any third party and occurring or in any way incident to, arising from, or in connection with, any acts of Contractor in performance of the Contract Project.
- D. **Subcontracting:** Contractor shall not assign or subcontract any of its rights or responsibilities under this Contract without prior formal written amendment to this Contract properly executed by both TEA and Contractor.
- E. **Encumbrances/Obligations:** All encumbrances, accounts payable, and expenditures shall occur on or between the beginning and ending dates of this Contract. All goods must have been received and all services rendered during the Contract period in order for Contractor to recover funds due. In no manner shall encumbrances be considered or reflected as accounts payable or as expenditures.
- F. **Records Retention:** Contractor shall maintain its records and accounts in a manner which shall assure a full accounting for all funds received and expended by Contractor in connection with the Contract.
- G. **Sanctions for Failure to Perform or for Noncompliance:** If Contractor, in TEA's sole determination, fails or refuses for any reason to comply with or perform any of its obligations under this Contract, TEA may impose such sanctions as it may deem appropriate. This includes but is not limited to the withholding of payments to Contractor until Contractor complies; the cancellation, termination, or suspension of this Contract in whole or in part; and the seeking of other remedies as may be provided by this Contract or by law. Any cancellation, termination, or suspension of this Contract, if imposed, shall become effective at the close of business on the day of Contractor's receipt of written notice thereof from TEA.
- H. **Contract Cancellation, etc.:** If this Contract is cancelled, terminated, or suspended by TEA prior to its expiration date, the reasonable monetary value of services properly performed by Contractor pursuant to this Contract prior to such cancellation, termination or suspension shall be determined by TEA and paid to Contractor as soon as reasonably possible.
- I. **Refunds Due to TEA:** If TEA determines that TEA is due a refund of money paid to Contractor pursuant to this Contract, Contractor shall pay the money due to TEA within 30 days of Contractor's receipt of written notice that such money is due to TEA. If Contractor fails to make timely payment, TEA may obtain such money from Contractor by any means permitted by law, including but not limited to offset, counterclaim, cancellation, termination, suspension, total withholding, and/or disapproval of all or any subsequent applications for said funds.
- J. **State of Texas Laws:** In the conduct of the Contract Project, Contractor shall be subject to Texas State Board of Education rules pertaining to this Contract and the Contract Project, and to the laws of the State of Texas governing this Contract and the Contract Project. This Contract shall be interpreted according to the laws of the State of Texas except as may be otherwise provided for in this Contract.

- K. **Signature Authority; Final Expression; Superseding Document:** Contractor certifies that the person signing this Contract has been properly delegated this authority. The Contract represents the final and complete expression of the terms of agreement between the parties. The Contract supersedes any previous understandings or negotiations between the parties. Any representations, oral statements, promises or warranties that differ from the Contract shall have no force or effect. The Contract may be modified, amended or extended only by formal written amendment properly executed by both TEA and Contractor.
- L. **Antitrust:** By signing this Contract, Contractor, represents and warrants that neither Contractor nor any firm, corporation, partnership, or institution represented by Contractor, or anyone acting for such firm, corporation or institution has, (1) violated the antitrust laws of the State of Texas under Tex. Bus. & Com. Code, Chapter 15, or the federal antitrust laws; or (2) communicated directly or indirectly the Proposal to any competitor or any other person engaged in such line of business during the procurement process for this Contract.
- M. **Family Code Applicability:** By signing this Contract, Contractor, if other than a state agency, certifies that under Section 231.006, Family Code, that Contractor is not ineligible to receive payment under this Contract and acknowledges that this Contract may be terminated and payment may be withheld if this certification is inaccurate. TEA reserves the right to terminate this Contract if Contractor is found to be ineligible to receive payment. If Contractor is found to be ineligible to receive payment and the Contract is terminated, Contractor is liable to TEA for attorney's fees, the costs necessary to complete the Contract, including the cost of advertising and awarding a second contract, and any other damages or relief provided by law or equity.
- N. **Dispute Resolution:** The dispute resolution process provided for in Chapter 2260 of the Texas Government Code must be used by TEA and Contractor to attempt to resolve all disputes arising under this Contract.
- O. **Interpretation:** In the case of conflicts arising in the interpretation of wording and/or meaning of various sections, parts, Appendices, General Provisions, Exhibits, and Attachments or other documents, the TEA Contract and its General Provisions, Appendices and Special Provisions shall take precedence over all other documents which are a part of this contract.
- P. **Public Information:** The TEA is subject to the provisions of the Texas Public Information Act. If a request for disclosure of this Contract or any information related to the goods or services provided under the Contract or information provided to the TEA under this Contract constituting a record under the Act is received by the TEA, the information must qualify for an exception provided by the Texas Public Information Act in order to be withheld from public disclosure. Contractor authorizes the TEA to submit any information contained in the Contract, provided under the Contract, or otherwise requested to be disclosed, including information Contractor has labeled as confidential proprietary information, to the Office of the Attorney General for a determination as to whether any such information may be excepted from public disclosure under the Act. If the TEA does not have a good faith belief that information may be subject to an exception to disclosure, the TEA is not obligating itself by this Contract to submit the information to the Attorney General. It shall be the responsibility of the Contractor to make any legal argument to the Attorney General or appropriate court of law regarding the exception of the information in question from disclosure. The Contractor waives any claim against and releases from liability the TEA, its officers, employees, agents, and attorneys with respect to disclosure of information provided under or in this Contract or otherwise created, assembled, maintained, or held by the Contractor and determined by the Attorney General or a court of law to be subject to disclosure under the Texas Public Information Act.
- Q. **Venue and Jurisdiction:** Subject to and without waiving any of the Agency's rights, including sovereign immunity, this Contract is governed by and construed under and in accordance with the laws of the State of Texas. Venue for any suit concerning this solicitation and any resulting contract or purchase order shall be in a court of competent jurisdiction in Travis County, Texas.
- R. **Severability:** In the event that any provision of this Contract is later determined to be invalid, void, or unenforceable, the invalid provision will be deemed severable and stricken from the contract as if it had never been incorporated herein. The remaining terms, provisions, covenants, and conditions of this Contract shall remain in full force and effect, and shall in no way be affected, impaired, or invalidated.
- S. **Excluded Parties List System:** The Texas Education Agency is federally mandated to adhere to the directions provided in the President's Executive Order (EO) 13224, Executive Order on Terrorist Financing – Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism and any subsequent changes made to it via cross-referencing respondents/vendors with the Federal General Services Administration's Excluded Parties List System (EPLS, <http://www.epls.gov>), which is inclusive of the United States Treasury's Office of Foreign Assets Control (OFAC) Specially Designated National (SDN) list. Contractor certifies that they are eligible to participate in this transaction and have not been subjected to suspension, debarment, or similar ineligibility determined by any federal, state or local governmental entity and that Contractor is in compliance with the State of Texas statutes and rules relating to procurement and that Respondent is not listed on the federal

government's terrorism watch list as described in Executive Order 13224. Entities ineligible for federal procurement are listed at <http://www.epls.gov>.

- T. **Suspension and Debarment:** Contractor certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal, state or local government entity. If Contractor is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this contract.
- U. **Proprietary or Confidential Information:** Contractor will not disclose any information to which it is privy under this Contract without the prior consent of the agency. Contractor will indemnify and hold harmless the State of Texas, its officers and employees, and TEA, its officers and employees for any claims or damages that arise from the disclosure by Contractor or its contractors of information held by the State of Texas.
- V. **Independent Contractor:** Contractor shall serve as an independent contractor in providing services under this Contract. Contractor's employees are not and shall not be construed as employees or agents of the State of Texas.
- W. **Termination:** This contract shall terminate upon full performance of all requirements contained in this contract, unless otherwise extended or renewed as provided in accordance with the contract terms and conditions.
- i. **Termination for Convenience:** Either Party may terminate this Contract at any time, in whole or in part, without penalty, by providing thirty (30) calendar days advance written notice to the other Party. In the event of such a termination, the Contractor shall, unless otherwise mutually agreed upon in writing, cease all work immediately upon the effective date of termination. TEA shall be liable for reimbursing only those expenses incurred by the Contractor that are permitted under this Contract and were incurred prior to the effective termination date.
- ii. **Termination for Cause/Default:** If the Contractor fails to provide the goods or services contracted for according to the provisions of the Contract, or fails to comply with any of the terms or conditions of the Contract, TEA may, upon written notice of default to the Contractor, immediately terminate all or any part of the Contract. Termination is not an exclusive remedy, but will be in addition to any other rights and remedies provided in equity, by law or under the Contract.
- TEA may exercise any other right, remedy or privilege which may be available to it under applicable law of the state and any other applicable law or may proceed by appropriate court action to enforce the provisions of the Contract, or to recover damages for the breach of any agreement being derived from the Contract. The exercise of any of the foregoing remedies will not constitute a termination of the Contract unless TEA notifies the Contractor in writing prior to the exercise of such remedy.
- The Contractor shall remain liable for all covenants and indemnities under the Contract. The Contractor shall be liable for all costs and expenses, including court costs, incurred by TEA with respect to the enforcement of any of the remedies listed herein.
- iii. **Termination Due to Changes in Law:** If federal or state laws or regulations or other federal or state requirements are amended or judicially interpreted so that either Party cannot reasonably fulfill this Contract and if the Parties cannot agree to an amendment that would enable substantial continuation of the Contract, the Parties shall be discharged from any further obligations under this Contract.
- iv. **Rights upon Termination or Expiration of Contract:** In the event that the Contract is terminated for any reason, or upon its expiration, TEA shall retain ownership of all associated work products and documentation obtained from the Contractor under the Contract.
- v. **Survival of Terms:** Termination of the Contract for any reason shall not release the Contractor from any liability or obligation set forth in the Contract that is expressly stated to survive any such termination or by its nature would be intended to be applicable following any such termination, including the provisions regarding confidentiality, indemnification, transition, records, audit, property rights, dispute resolution, and invoice and fees verification.
- X. **Audit:** Pursuant to Section 2262.003 of the Texas Government Code, Contractor understands and agrees that (1) the state auditor may conduct an audit or investigation of any entity receiving funds from the state directly under the Contract or indirectly through a subcontract under the Contract; (2) acceptance of funds directly under the Contract or indirectly through a subcontract under the Contract acts as acceptance of the authority of the state auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds; and (3) under the direction of the legislative audit committee, an entity that is the subject of an audit or investigation by the state auditor must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit.

- Y. **Force Majeure:** Except as otherwise provided, neither Contractor nor TEA nor any agency of the State of Texas, shall be liable to the other for any delay in, or failure of performance, of a requirement contained in this Contract caused by *force majeure*. The existence of such causes of delay or failure shall extend the period of performance until after the causes of delay or failure have been removed provided the non-performing party exercises all reasonable due diligence to perform. *Force majeure* is defined as acts of God, war, strike, fires, explosions, or other causes that are beyond the reasonable control of either party and that by exercise of due foresight such party could not reasonably have been expected to avoid, and which, by the exercise of all reasonable due diligence, such party is unable to overcome. Each party must inform the other in writing with proof of receipt within three (3) business days of the existence of such *force majeure* or otherwise waive this right as a defense.
- Z. **Abandonment or Default:** If the contractor defaults on the contract, TEA reserves the right to cancel the contract without notice and either re-solicit or re-award the contract to the next best responsive and responsible respondent. The defaulting contractor will not be considered in the re-solicitation and may not be considered in future solicitations for the same type of work, unless the specification or scope of work significantly changed. The period of suspension will be determined by the agency based on the seriousness of the default.
- AA. **Payment** for service(s) described in this Contract is contingent upon satisfactory completion of the service(s). Satisfaction will be determined by TEA's Project Administrator, in his sole discretion but in accordance with reasonable standards and upon advice of his superiors in TEA, if necessary. The Project Administrators of this Contract for TEA and Contractor shall be the following persons or their successors in office:

**TEA**

B. Holland Timmins  
 Executive Administrator and CIO  
 Permanent School Fund  
 Texas Education Agency  
 1701 N. Congress Avenue  
 Austin, Texas 78701  
 512-463-9169  
 FAX 512-463-9432

**CONTRACTOR**

Chris Robertshaw  
 Moody's Analytics, Inc.  
 7 World Trade Center – 250 Greenwich St.  
 New York, NY 10007  
 212-553-7904  
 FAX 212-298-6131  
 Chris.robertshaw@moodys.com

Payment for goods or services purchased with State-appropriated funds is made by warrant (check) or by electronic Direct Deposit from the State Treasury. Direct Deposit is the preferred method of payment. Any payment owed by an agency must be mailed or transmitted electronically to the vendor no later than 30 days after the later of:

- (1) the day on which the agency received the goods;
- (2) the date the performance of the service under the contract is completed; or
- (3) the day on which the agency received the complete and correct invoice for goods or services.

Additional information and a Direct Deposit Authorization application may be found at: <https://fmxcpa.state.tx.us/fm/payment/index.php>.

- BB. **Notices:** All notices, reports, and correspondence required by this Contract shall be in writing and delivered to the following representatives of TEA and Contractor or their successors in office:

**TEA**

B. Holland Timmins  
 Executive Administrator and CIO  
 Permanent School Fund  
  
 Texas Education Agency  
 1701 N. Congress Avenue  
  
 Austin, Texas 78701

**CONTRACTOR**

Moody's Analytics, Inc.  
 7 World Trade Center – 250 Greenwich St.  
 New York, NY 10007  
  
 Attention: General Counsel, Moody's Analytics

## SPECIAL PROVISIONS - A

- A. The Definitions of terms in the General Provisions are incorporated herein.
- B. All amendments to this Contract will be in a manner as prescribed by the Project Administrator of the Agency and will be made on AMENDMENT TO TEXAS EDUCATION AGENCY CONTRACT form supplied by TEA.
- C. Any amendment to this Contract will become effective upon execution by both parties.
- D. The attached set of documents are of a program nature and are incorporated herein by reference and are therefore made a part of this contract:

Moody's Analytics Agreement  
Moody's Analytics Subscription Order Form

Pages 11 through 14  
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These documents, taken together with all sections of the Standard Contract, comprise the entire agreement between the Texas Education Agency ("TEA") and Vendor.

In the event of an irreconcilable conflict between the provisions of the Standard Contract and the Moody's Analytics Agreement, the terms of the Moody's Analytics Agreement will prevail.

- E. The parties have agreed to changes in some of the General Provisions in this Contract. Each of these changes as set forth below shall apply to this Contract notwithstanding anything to the contrary in any other provision in this Contract.
  - 1. Paragraph **B Contingency** is hereby deleted in its entirety and replaced with the following: The Contract(s), including any amendments, extensions or subsequent contracts, are executed by TEA contingent upon the availability of appropriated funds by legislative act. Notwithstanding any other provision in this Contract or any other document, this Contract is void upon the insufficiency (in TEA's discretion) or unavailability of appropriated funds. In addition, this Contract may be terminated by TEA before the last day of the month in which the subscription or any renewal thereof become effective for any reason upon notice to Contractor, in which event Contractor shall refund to TEA the unearned portion, if any, of any consideration theretofore paid by TEA to Contractor pursuant to this Contract. Expenditures and/or activities for which Contractor may claim reimbursement shall not be accrued or claimed subsequent to receipt of such notice from TEA.
  - 2. Paragraph **C Indemnification** is hereby deleted in its entirety and replaced with the following: Contractor shall indemnify, defend and hold TEA harmless from and against any and all losses, liabilities, claims, demands, damages, costs, expenses (including reasonable attorneys' fees) and money judgments ("Damages") incurred by or rendered against TEA pursuant to claims by third parties to the extent arising out of the infringement of any copyright, trade secret or other intellectual property right by the Information (defined in Special Provisions A) as provided to TEA by Contractor and as used by TEA in compliance with the terms of this Contract, provided, however, that TEA, upon receipt of notice of a claim that could result in Contractor indemnifying TEA pursuant to this Section, gives prompt written notice to Contractor of the existence of such claim and permits Contractor to solely conduct the defense of such claim and any settlement negotiations relating thereto. In the event that any Information becomes, or in Contractor's opinion is likely to become, the subject of any such claim, Contractor may, at its option and expense, (i) modify such Information in any manner deemed advisable by Contractor, or (ii) remove such Information from the Information to be provided to TEA, and TEA must promptly cease use of the unmodified or removed Information.
  - 3. Paragraph **G Sanctions for Failure to Perform or for Noncompliance** is hereby deleted in its entirety.
  - 4. Paragraph **P Public Information** is hereby deleted in its entirety and replaced with the following: The TEA is subject to the provisions of the Texas Public Information Act. If a request for disclosure of this Contract or any information related to the goods or services provided under the Contract or information provided to the TEA under this Contract constituting a record under the Act is received by the TEA, the information must qualify for an exception provided by the Texas Public Information Act in order to be withheld from public disclosure. Contractor authorizes the TEA to submit any information contained in the Contract, provided under the Contract, or otherwise requested to be disclosed, including information Contractor has labeled as confidential proprietary information, to the Office of the Attorney General for a determination as to whether any such information may be excepted from public disclosure under the Act. If the TEA does not have a good faith belief that information may be subject to an exception to disclosure, the TEA is not obligating itself by this Contract to submit the information to the Attorney General, provided however that TEA must give Contractor prompt notice prior to disclosing any such information. It shall be the responsibility of the Contractor to make any legal argument to the Attorney General or appropriate court of law regarding the exception of the information in question from

disclosure, provided that TEA gave Contractor prompt notice prior to such disclosure. The Contractor waives any claim against and releases from liability the TEA, its officers, employees, agents, and attorneys with respect to disclosure of information provided under or in this Contract or otherwise created, assembled, maintained, or held by the Contractor and determined by the Attorney General or a court of law to be subject to disclosure under the Texas Public Information Act, provided that TEA gives Contractor prompt notice prior to such disclosure.

5. Paragraph S **Excluded Parties List System** is hereby deleted in its entirety and replaced with the following : The Texas Education Agency is federally mandated to adhere to the directions provided in the President's Executive Order (EO) 13224, Executive Order on Terrorist Financing – Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism and any subsequent changes made to it via cross-referencing respondents/vendors with the Federal General Services Administration's Excluded Parties List System (EPLS, <http://www.epls.gov>), which is inclusive of the United States Treasury's Office of Foreign Assets Control (OFAC) Specially Designated National (SDN) list. Contractor certifies that they are eligible to participate in this transaction and have not been subjected to suspension, debarment, or similar ineligibility determined by any federal, state or local governmental entity and that Respondent is not listed on the federal government's terrorism watch list as described in Executive Order 13224. Entities ineligible for federal procurement are listed at <http://www.epls.gov>.
6. Paragraph U **Proprietary or Confidential Information** is hereby deleted in its entirety and replaced with the following: Contractor will not disclose any information to which it is privy under this Contract without the prior consent of the agency.
7. Paragraph W **Termination** and its subparts (i) through (v) are hereby deleted in its entirety and replaced with the following: This contract shall terminate upon the end of the term, unless otherwise extended or renewed as provided in accordance with the contract terms and conditions.
  - i. **Termination for Convenience:** Either Party may terminate this Contract before the last day of the month in which the subscription or any renewal thereof become effective, in whole or in part, without penalty, by providing written notice to the other Party. In the event of such a termination, the Contractor shall, unless otherwise mutually agreed upon in writing, cease all work immediately upon the effective date of termination. TEA shall be liable for reimbursing only those expenses incurred by the Contractor that are permitted under this Contract and were incurred prior to the effective termination date, and Contractor shall refund to TEA the unearned portion, if any, of any consideration theretofore paid by TEA to Contractor pursuant to this Contract.
  - ii. **Termination for Cause/Default:** Either party may terminate this Contract upon written notice if the other party breaches any material term or condition of this Contract and fails to remedy the breach within thirty (30) days after being given written notice thereof.
  - iii. **Termination Due to Changes in Law:** If federal or state laws or regulations or other federal or state requirements are amended or judicially interpreted so that either Party cannot reasonably fulfill this Contract and if the Parties cannot agree to an amendment that would enable substantial continuation of the Contract, the Parties shall be discharged from any further obligations under this Contract.
  - iv. **Survival of Terms:** Termination of the Contract for any reason shall not release the Contractor from any liability or obligation set forth in the Contract that is expressly stated to survive any such termination or by its nature would be intended to be applicable following any such termination, including the provisions regarding confidentiality, indemnification, transition, records, audit, property rights, dispute resolution, and invoice and fees verification.
8. Paragraph Y **Force Majeure** is hereby deleted in its entirety and replaced with the following: Except as otherwise provided, neither Contractor nor TEA nor any agency of the State of Texas, shall be liable to the other for any delay in, or failure of performance, of a requirement contained in this Contract caused by *force majeure*. The existence of such causes of delay or failure shall extend the period of performance until after the causes of delay or failure have been removed provided the non-performing party exercises all reasonable due diligence to perform. *Force majeure* is defined as acts of God, war, strike, fires, explosions, or other causes that are beyond the reasonable control of either party and that by exercise of due foresight such party could not reasonably have been expected to avoid, and which, by the exercise of all reasonable due diligence, such party is unable to overcome. When practicable, each party must inform the other in writing with proof of receipt within three (3) business days of the existence of such *force majeure* or otherwise waive this right as a defense.

[Type text]

9. Paragraph AA **Payment** is hereby deleted in its entirety and replaced with the following: The Project Administrators of this Contract for TEA and Contractor shall be the following persons or their successors in office:

**TEA**

B. Holland Timmins  
Executive Administrator and CIO  
Permanent School Fund

Texas Education Agency  
1701 N. Congress Avenue  
Austin, Texas 78701  
512-463-9169  
FAX 512-463-9432

**CONTRACTOR**

Chris Robertshaw  
Moody's Analytics, Inc.  
7 World Trade Center – 250 Greenwich  
St.  
New York, NY 10007  
212-553-7904  
FAX 212-298-6131  
Chris.robertshaw@moodys.com

Payment for goods or services purchased with State-appropriated funds is made by warrant (check) or by electronic Direct Deposit from the State Treasury. Direct Deposit is the preferred method of payment. Any payment owed by an agency must be mailed or transmitted electronically to the vendor no later than 30 days after the day on which the agency received the complete and correct invoice for goods or services.

Additional information and a Direct Deposit Authorization application may be found at: <https://fmx.cpa.state.tx.us/fm/payment/index.php>.

**TERMS OF AGREEMENT:**

1 ALL REPORTS, DOCUMENTATION, WHITE PAPERS, MANUALS, CUSIP NUMBERS AND STANDARD DESCRIPTIONS, PUBLICATIONS, PRODUCTS, SOFTWARE AND/OR SERVICES, AND ALL RESEARCH, ANALYSIS, FORECASTS, RATINGS, OPINIONS, MODELS, METHODOLOGIES AND DATA THEREIN (COLLECTIVELY, "INFORMATION"), FURNISHED BY MOODY'S ANALYTICS, INC. ("MOODY'S") PURSUANT TO THESE TERMS OF AGREEMENT ("AGREEMENT"), AND THE STRUCTURE, ORGANIZATION AND THE SEARCH AND EXTRACTION MECHANISMS OF THE INFORMATION, ARE PROPRIETARY TO MOODY'S AND/OR THIRD PARTIES FROM WHOM MOODY'S LICENSES INFORMATION ("LICENSORS"). THE INFORMATION MAY BE PROTECTED UNDER COPYRIGHT, PATENT, TRADEMARK, TRADE SECRET, DATABASE AND OTHER INTELLECTUAL PROPERTY LAWS OF THE U.S. AND ALL RELEVANT JURISDICTIONS, AND ARE FURNISHED SOLELY FOR SUBSCRIBER'S OWN INTERNAL USE. EXCEPT AS OTHERWISE EXPRESSLY PERMITTED HEREIN OR IN WRITING BY MOODY'S, NO INFORMATION MAY BE COPIED, REPRODUCED, REPACKAGED, RETRANSMITTED, SOLD, TRANSFERRED, REDISTRIBUTED, LEASED, RENTED, SUBLICENSSED, MODIFIED, ADAPTED, OR STORED FOR SUBSEQUENT USE FOR ANY SUCH PURPOSE, IN WHOLE OR IN PART, IN ANY FORM OR MANNER OR BY ANY MEANS WHATSOEVER, BY SUBSCRIBER OR ANY OTHER PERSON OR ENTITY. SUBSCRIBER SHALL TAKE ALL REASONABLE STEPS TO PREVENT UNAUTHORIZED USE, ACCESS, COPYING OR DISCLOSURE OF THE INFORMATION.

2 Subject to the terms and conditions of this Agreement, Moody's hereby grants Subscriber a non-exclusive and non-transferable license to use the Information described in one or more Subscription Order Forms or other ordering documents entered into by the parties and referencing this Agreement (each, an "Order Form") for Subscriber's internal business purposes, and only at the site or premises and within the division, department and/or business unit, and only by the number of individual users (each, a "User") as may be listed on the Order Form. Use of the Information by more than the number of Users, or at any site or premises and/or by any other division, department or business unit is strictly prohibited. Moody's may also provide Subscriber with custom deliverables, training and/or other related services as part of the Information, which shall be described on the relevant Order Form, along with any special terms applying to such deliverables and services. Subscriber Affiliates may also access and use Information under this Agreement provided that either (i) each such Subscriber Affiliate enters into an Order Form with Moody's referencing this Agreement and thereby manifests its intent to be bound by all of the terms and conditions hereof with respect to such Order Form, or (ii) Subscriber enters into an Order Form with Moody's which expressly permits usage by Subscriber Affiliates. In either of the foregoing circumstances, such Subscriber Affiliate shall then be deemed to be a "Subscriber" hereunder for purposes of such Order Form. Subscriber agrees to be responsible and liable for the compliance of each Subscriber Affiliate with the terms and conditions of this Agreement and any breach hereof by a Subscriber Affiliate. As used herein, "Subscriber Affiliate" means any legal entity which, directly or indirectly, either controls, is controlled by, or is under common control with Subscriber, and where "control" is defined by the direct or indirect ownership of stock or other interests entitled to elect a majority of the board of directors or other governing body

of an entity, or the direct or indirect ownership of more than fifty percent (50%) of the equity or profits interest in such entity.

3 Subscriber agrees, on behalf of itself and each User that it permits to use any of the Information, that (a) the ratings, estimates, forecasts, and/or other opinions contained in the Information are, and will be construed solely as, statements of opinion and not statements of fact, investment advice or recommendations to purchase, hold or sell any securities, (b) each rating, estimate, forecast, or other opinion will be weighed solely as one factor in any investment decision, (c) it will accordingly make its own evaluation of each security, and of each issuer and guarantor of, and each provider of credit support for, each security that it may consider purchasing, holding or selling. Subscriber further agrees that Moody's is not acting as a financial adviser and no Information (whether in oral or written form) or statements supplied by Moody's or any of its employees, representatives or agents shall constitute a representation or a warranty.

4 The Information is obtained by Moody's from sources believed by it to be accurate and reliable. Because of the possibility of human and mechanical error as well as other factors, however, THE INFORMATION IS PROVIDED "AS IS" WITHOUT WARRANTY OF ANY KIND, AND MOODY'S AND ITS LICENSORS MAKE NO REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, TO SUBSCRIBER, USER OR ANY OTHER PERSON OR ENTITY AS TO THE ACCURACY, TIMELINESS, COMPLETENESS, MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE OF THE INFORMATION. Under no circumstance shall Moody's, its Licensors, or any of Moody's affiliated companies, directors, officers, employees or agents ("Moody's Affiliates") have any liability to Subscriber, User, or any other person or entity for any loss, damage or other injury in whole or in part caused by, resulting from or relating to, any error (negligent or otherwise), or any other circumstance or contingency within or outside the control of Moody's or any of Moody's Affiliates or Licensors, in connection with the procurement, collection, compilation, analysis, interpretation, communication, publication or delivery of any of the Information, even if Moody's shall have been advised in advance of the possibility of such damages, in either case caused by, resulting from or relating to the use of, or inability to use, any of the Information. Notwithstanding the foregoing, Subscriber expressly agrees that the following limitation of remedies is an essential part of the consideration bargained for under this Agreement: Moody's entire liability and Subscriber's exclusive remedy for any errors or omissions in the Information is for Moody's to provide Subscriber, if possible using commercially reasonable efforts, with corrected Information.

5 MOODY'S, MOODY'S AFFILIATES AND LICENSORS SHALL NOT BE LIABLE TO SUBSCRIBER FOR ANY INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES (INCLUDING BUT NOT LIMITED TO LOSS OF BUSINESS, REVENUE, PROFITS, USE, DATA OR OTHER ECONOMIC ADVANTAGE), HOWEVER IT ARISES, WHETHER IN AN ACTION OF CONTRACT, NEGLIGENCE, TORT OR OTHER ACTION, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, EVEN IF ADVISED OF THE POSSIBILITY THEREOF. IN NO EVENT SHALL MOODY'S OR MOODY'S AFFILIATES AGGREGATE LIABILITY ARISING FROM THIS AGREEMENT, REGARDLESS OF THE CAUSE OF THE LOSS OR INJURY AND REGARDLESS OF THE LEGAL RIGHT CLAIMED TO HAVE BEEN VIOLATED, EXCEED THE

AGGREGATE FEES AND CHARGES PAID BY SUBSCRIBER TO MOODY'S UNDER THE RELEVANT ORDER FORM DURING THE TWELVE MONTH PERIOD IMMEDIATELY PRECEDING THE DATE ON WHICH THE RELEVANT CLAIM ACCRUED. SUBSCRIBER AGREES THAT IT WILL UNDER NO CIRCUMSTANCES BRING AN ACTION OR SUIT, FILE ANY CLAIM, OR INITIATE ANY PROCEEDING, AGAINST MOODY'S OR MOODY'S AFFILIATES FOR AN AMOUNT GREATER THAN SUCH SUM. NO LICENSOR SHALL BE LIABLE DIRECTLY OR INDIRECTLY TO SUBSCRIBER FOR ANY CLAIMS, LOSSES, OR LIABILITY WHATSOEVER RELATING IN ANY WAY TO THE INFORMATION.

6 Subscriber shall pay to Moody's the fees as are set forth in Appendix 1 of the TEA Standard Contract, which fees shall be payable in advance within 30 days after the receipt of an invoice, or upon such other payment schedule specified in Appendix 1. Annual fee increases of 4.3% per annum have been included in Appendix 1. Moody's may increase the fees for any subscription service upon contract renewal after the initial term of three years by providing written notice to Subscriber at least 60 days prior to the effective date of such increase, provided that Subscriber may terminate the applicable subscription at any time during such 60 day period by providing Moody's with written notice of termination. In addition to any and all rights provided by this Agreement, or otherwise at law or in equity, Moody's may suspend all services hereunder as long as such amount remains unpaid. All fees are exclusive of taxes, if any. Subscriber shall be responsible for any federal, state, local, value-added, withholding or similar taxes, if applicable, that are or may be imposed on any transaction hereunder (excluding any taxes based on Moody's net income). Subscriber hereby informs Moody's that it is a tax-exempt entity.

7 Subscriber agrees that the Information may contain third party materials provided by Licensors, and in this respect Moody's relies upon the Licensors in providing such Information to Subscriber. Accordingly, Moody's duty to deliver such Information is subject in all respects to the timely supply of the relevant materials by such Licensors. Subscriber agrees that availability of such third party materials shall cease automatically, without liability on the part of Moody's or the Licensors, upon termination of Moody's access to the materials for any reason. Moody's may from time to time and in its sole discretion add to or change any of its Licensors for any reason. If any such change or termination of third party materials would materially affect the functionality or operation of the Information in Subscriber's reasonable judgment, Subscriber may terminate the license to such Information upon notice to Moody's and shall be entitled to a refund of any fees prepaid to Moody's for the affected Information in respect of the period after termination. Subscriber agrees that the third party materials: (i) shall only be used for Subscriber's internal use in connection with its use of the Information, and (ii) shall not be used to create a data file, or develop, verify, correct or complete any other database (including, without limitation, a security master database). Subscriber shall also comply with any additional terms or restrictions regarding use of the third party materials which the relevant Licensor and/or Moody's may otherwise specify from time to time, including any notification posted within the relevant service.

Certain Information provided to Subscriber may contain CUSIP data. Subscriber agrees and acknowledges that the CUSIP Database and the information contained therein is and shall remain valuable intellectual property owned by, or licensed to,

Standard & Poor's CUSIP Service Bureau ("CSB") and the American Bankers Association ("ABA"), and that no proprietary rights are being transferred to Subscriber in such materials or in any of the information contained therein. Any use by Subscriber outside of the clearing and settlement of transactions requires a license from CSB, along with an associated fee based on usage. Subscriber agrees that misappropriation or misuse of such materials will cause serious damage to CSB and ABA, and that in such event money damages may not constitute sufficient compensation to CSB and ABA; consequently, Subscriber agrees that in the event of any misappropriation or misuse, CSB and ABA shall have the right to obtain injunctive relief in addition to any other legal or financial remedies to which CSB and ABA may be entitled. Subscriber agrees that Subscriber shall not publish or distribute in any medium the CUSIP Database or any information contained therein or summaries or subsets thereof to any person or entity except in connection with the normal clearing and settlement of security transactions. Subscriber further agrees that the use of CUSIP numbers and descriptions is not intended to create or maintain, and does not serve the purpose of the creation or maintenance of, a master file or database of CUSIP descriptions or numbers for itself or any third party recipient of such service and is not intended to create and does not serve in any way as a substitute for the CUSIP MASTER TAPE, PRINT, DB, INTERNET, ELECTRONIC, CD-ROM Services and/or any other future services developed by the CSB. NEITHER CSB, ABA NOR ANY OF THEIR AFFILIATES MAKE ANY WARRANTIES, EXPRESS OR IMPLIED, AS TO THE ACCURACY, ADEQUACY OR COMPLETENESS OF ANY OF THE INFORMATION CONTAINED IN THE CUSIP DATABASE. ALL SUCH MATERIALS ARE PROVIDED TO SUBSCRIBER ON AN "AS IS" BASIS, WITHOUT ANY WARRANTIES AS TO MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR USE NOR WITH RESPECT TO THE RESULTS WHICH MAY BE OBTAINED FROM THE USE OF SUCH MATERIALS. NEITHER CSB, ABA NOR THEIR AFFILIATES SHALL HAVE ANY RESPONSIBILITY OR LIABILITY FOR ANY ERRORS OR OMISSIONS NOR SHALL THEY BE LIABLE FOR ANY DAMAGES, WHETHER DIRECT OR INDIRECT, SPECIAL OR CONSEQUENTIAL, EVEN IF THEY HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT SHALL THE LIABILITY OF CSB, ABA OR ANY OF THEIR AFFILIATES PURSUANT TO ANY CAUSE OF ACTION, WHETHER IN CONTRACT, TORT, OR OTHERWISE, EXCEED THE FEE PAID BY SUBSCRIBER FOR ACCESS TO SUCH MATERIALS IN THE MONTH IN WHICH SUCH CAUSE OF ACTION IS ALLEGED TO HAVE ARISEN. FURTHERMORE, CSB AND ABA SHALL HAVE NO RESPONSIBILITY OR LIABILITY FOR DELAYS OR FAILURES DUE TO CIRCUMSTANCES BEYOND THEIR CONTROL.

Certain Information contains loan and CDS pricing and index data supplied by Markit Group Limited (such data, the "Markit Data"). Subscriber agrees that it shall not use the Markit Data to develop, create or directly price any index (e.g., any composite financial index) or to create or use in relation to the Information any data that competes with or services the same or a similar function as the Markit Data. Subscriber may not at any time use the Markit Data to develop, support or create any database or product that competes directly with the any product offered by Markit Group Limited (or any functional substitute thereof).

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Third Party Distributor, the receipt and use of the Information shall be governed by the terms and conditions of this Agreement and any additional terms set forth on the Order Form. Subscriber's right to continue to receive the Information provided by Moody's through such Third Party Distributor shall be terminated by Moody's in the event that, for any reason, Subscriber terminates its agreement with such Third Party Distributor or such Third Party Distributor ceases the distribution of the Information. In such case, Moody's will continue to offer Subscriber access to the Information during the term of the applicable subscription through its direct distribution methods. Moody's assumes no responsibility, and shall not have any liability, for communication delays or interruptions in the delivery of the Information via a Third Party Distributor's service.

8 The term of this Agreement shall begin on the Effective Date shown above. The term of each Order Form commences as of the effective date set forth in the Order Form and shall continue for an initial term of one year or such other term as specified in the Order Form ("Initial Term"). Upon written mutual agreement of both parties, this agreement may be extended for two (2) additional one-year terms to commence on the first day after the initial term. Such written agreement will take the form of a TEA Standard Contract Amendment, which shall include the terms of this Agreement. At the termination or expiration of an Order Form for any reason, and except as provided on such Order Form, Subscriber shall promptly purge all Information provided under such Order Form that has been stored in its computer systems, databases, or any data storage facilities owned or under its control (except that Subscriber shall have the right to maintain indefinitely print or electronic copies of its presentations containing limited excerpts of Information made in conformity with the restrictions described in Section 11 of this Agreement). Moody's may terminate this Agreement and/or any Order Forms hereunder in the event of any legal or regulatory change that, in Moody's judgment, imposes new and additional cost or liability risk upon Moody's and/or Moody's Affiliates (in which case Subscriber shall be entitled to a refund of any fees prepaid to Moody's for the affected Information in respect of the period after termination). Either party may terminate this Agreement upon written notice to the other party if no Order Forms are then outstanding and in effect hereunder. Upon expiration or termination of this Agreement for any reason, all provisions but Sections 2, 11 and 13 shall survive.

9 This Agreement shall be governed by, and construed in accordance with, the laws of the State of Texas, without regard to otherwise applicable principles of conflicts of law. The parties hereto agree that the dispute resolution process provided for in Chapter 2260 of the Texas Government Code must be used by Subscriber and Moody's to attempt to resolve all disputes arising under this Contract. This Agreement, all Order Forms attached hereto or referencing this Agreement, and the TEA Standard Contract contain the entire and only agreement between the parties relating to the subject matter hereof, and supersede all prior or collateral representations, warranties, promises or conditions, if any, in connection therewith. No amendment to, or waiver of, any term of this Agreement shall be binding upon either party hereto unless reduced to writing in the form of a TEA Standard Contract Amendment, and signed by an authorized officer of both parties. For the avoidance of doubt, this Agreement shall not be modified by the terms of a purchase order or other document issued by Subscriber relating to the Information or purporting to modify the terms hereof.

10 Moody's Investors Service, Inc. ("MIS") hereby discloses that most issuers of debt securities (including corporate and municipal bonds, debentures, notes and commercial paper) and preferred stock rated by MIS have, prior to assignment of any rating, agreed to pay to MIS for the appraisal and rating services rendered by it fees ranging from \$1,500 to \$2,400,000. Moody's Corporation (MCO) and its wholly-owned credit rating agency subsidiary MIS also maintain policies and procedures to address the independence of MIS's ratings and rating processes. Information regarding certain affiliations that may exist between directors of MCO and rated entities, and between entities who hold ratings from MIS and have also publicly reported to the SEC an ownership interest in MCO of more than 5%, is posted annually on Moody's website at [www.moodys.com](http://www.moodys.com) under the heading "Shareholder Relations -- Corporate Governance -- Director and Shareholder Affiliation Policy." Although certain of the products licensed hereunder are designed to predict what an MIS rating would be based on certain assumptions, financial and portfolio data and/or other variable inputs, the output from such products may or may not reflect a MIS rating actually assigned to such security or issuer, whether or not any of the assumptions or other data are correct, or the ultimate events related thereto differ materially from the factors used as inputs to such products. Nothing in this Agreement will compel MIS to assign, as a result of any products or Information offered hereunder, a particular rating or any revision thereof to the Subscriber or any securities, debt or other instruments. Subscriber understands that MIS may at any time refuse to issue any rating, or, if already issued, revise or withdraw such rating. Subscriber further agrees not to represent, imply or otherwise suggest that any output from such products constitutes or affects an MIS rating, rating action, or opinion.

11 Subscriber may, as part of and in the ordinary course of its business, redistribute (orally, in writing or by electronic means) to its clients and in its own business applications, reports, presentations, graphs and other publications limited excerpts of data contained in the Information without Moody's prior written consent, *provided, however*, that (i) the Information utilized is only supportive and incidental in nature to the substance of such presentations, reports and exhibits, (ii) Subscriber agrees that Subscriber will assume full liability for any such redistribution of the Information, (iii) Subscriber may not redistribute Information supplied by a Licensor absent the separate written consent of such Licensor; and (iv) Subscriber agrees not to use the limited right to redistribute the Information granted hereunder either (a) on a recurrent basis; (b) to develop for sale and/or distribution or otherwise a product that competes with any Moody's product, or in the case of CUSIP Numbers and Standard Descriptions a product that substitutes for CUSIP Master Tape, Print, Electronic and/or CD-ROM Services; or (c) in connection with a prospectus or other offering document. Subscriber shall give appropriate credit to Moody's or the appropriate Licensor (where permitted) for the limited excerpts of Information.

12 Subscriber is prohibited from using Moody's name or any Moody's product name designation, logo, trade name, trademark, service name or service mark in any manner, whatsoever, other than to identify an MIS rating, or in connection with permitted limited excerpts as set forth in Section 11 above.

13 Subscriber recognizes that Moody's is subject to U.S. laws and regulations which require that Moody's comply with certain economic and trade sanctions, and other applicable laws. Accordingly, Subscriber warrants that it is not owned or controlled by, nor does it own or control, a person or entity that is

(i) on the list of Specially Designated Nationals and Blocked Persons maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury or any list of known or suspected terrorists, terrorist organizations or other prohibited persons published by any jurisdiction in which the Subscriber is doing business, or (ii) subject to economic or trade sanctions imposed by the United States Government, which restrict U.S. companies from engaging in financial transactions with such entity for any reason, including but not limited to being resident or headquartered in or a governmental entity of a country subject to such sanctions (currently Burma, Cuba, Iran, and Sudan) or a Designated National under the U.S. Cuban Assets Control Regulations. Subscriber further warrants that it is neither resident in nor headquartered in a country to which the export or re-export of goods or technologies that are subject to the U.S. Export Administration Regulations are generally embargoed (currently North Korea and Syria) nor is it owned or controlled by a governmental entity of such country. Additionally, Subscriber warrants that no Moody's products or services will be supplied to or used for the benefit of persons or entities resident in any of the aforementioned sanctioned or embargoed countries or any governmental entity thereof. Subscriber agrees that it will notify Moody's if these circumstances change. For purposes of this provision, references to "ownership" are defined to mean any ownership interest, direct or indirect, of 50 percent or more, and references to "control" are defined to mean the right or ability to, directly or indirectly, dictate the decisions, actions, and/or policies of an entity or its management by any means.

"Moody's Analytics Australia Pty Ltd [ABN 94 105 136 972] ("MA Australia"), having its registered office at Level 10, 1 O'Connell St., Sydney, NSW 2000 Australia, is the holder of Australian Financial Services License No. 383569 ("AFSL") issued pursuant to the Corporations Act of 2001 (Australia). The products and services provided to Subscriber under this Agreement that consist of financial product advice will be arranged by MA Australia under its AFSL and provided by Moody's to Subscriber. Moody's and MA Australia have entered into an arrangement under which MA Australia has assumed responsibility for any acts or omissions by Moody's in relation to any financial product advice provided hereunder by Moody's.

Subscriber hereby represents and warrants that it is a "Wholesale Client" (as defined in Section 761G of the Corporations Act of 2001 (Australia)), and Moody's provision of the Information to Subscriber is expressly conditioned upon the continuing accuracy of such representation and warranty throughout the term of the Agreement. In addition, Subscriber acknowledges that the Information is not intended for use by and shall not be distributed to any person in Australia other than a Wholesale Client, and, without prejudice to any other restrictions on distribution set forth herein, Subscriber covenants and agrees that it will not distribute any Information, including but not limited to any MIS Ratings, Estimated Default Frequency data and/or related research to a person in Australia other than a Wholesale Client."

14 This Agreement, or any other duty, obligation, interest or right hereunder, may not be assigned by Subscriber without the prior written consent of Moody's. Any assignment in violation of the foregoing prohibition shall be null and void. Moody's may delegate some or all of its responsibilities to third parties provided it remains primarily responsible for the completion of its obligations. This Agreement shall be binding upon the parties hereto and their respective successors and permitted assigns. The Licensors shall be third party beneficiaries of the provisions of Section 4, 5 and 7. The provisions of this Agreement are severable. If any provision shall be determined to be void or unenforceable, this Agreement and the validity and enforceability of all remaining provisions of this Agreement shall not be affected. This Agreement may be signed in counterparts and only original signatures will be acceptable. For information on how Moody's processes and protects personal data, please see the Privacy Policy available at [www.moody's.com](http://www.moody's.com).

15 The receipt and use of the Information in certain jurisdictions is subject to additional legal and regulatory requirements as set out below in this section ("Regulatory Terms"). The Regulatory Terms may be amended by Moody's upon thirty (30) days notice to Subscriber as a result of any new or amended legal, regulatory or other requirements which, in Moody's sole discretion, affect the receipt and use of the Information. If any such change has a material adverse effect on Subscriber's use of the Information, Subscriber may terminate the relevant Order Form(s) at any time during such thirty (30) day notice period by providing written notice to Moody's, in which case Subscriber shall be entitled to a refund of any applicable fees prepaid to Moody's in respect of the period after termination.

Australia. The following Regulatory Terms shall govern the receipt or use of the Information in Australia:



7 World Trade Center  
250 Greenwich Street  
New York, NY 10007  
212-553-4184

Attn: Tiffany Penna/Chris Robertshaw

**SUBSCRIPTION ORDER FORM**

The undersigned subscriber ("Subscriber") hereby requests **Moody's Analytics, Inc.** ("Moody's") to furnish to Subscriber, the publications, services, data, software and other products as are indicated below and, in consideration thereof, agrees to pay to Moody's the corresponding fees set forth below.

**Products and Services Ordered:**

**Moody's Global Credit Research Program, including the following: Participation in Moody's teleconferences and briefings, access to Moody's analysts and delivery of Moody's Research Services for the Asset Classes indicated below via the Internet at www.moodys.com**

- CreditView – Corporate – Investment Grade \$50,400

*License is limited to access for 5 Users, at the department and premises specified below. Each User is assigned a specific password to access and use the products and/or services described above (the "Information", as further defined in the Terms of Agreement). The Information and associated password(s) may only be used on behalf of the Subscriber.*

<b>Effective Date:</b> January 1, 2012	<b>Initial Term:</b> Three Years, includes 4.3% annual price increase
<b>Renewals:</b>	Two one year renewals, on written agreement of the parties
<b>TOTAL</b>	
US \$50,400	

By executing this Subscription Order Form, Subscriber and Moody's each agree to, and confirm their intent to be bound by, all the terms hereof, including the Terms of Agreement entered into between Moody's and Subscriber dated effective January 1, 2012, which shall be incorporated herein and shall govern the provision of all Information hereunder.



## SPECIAL PROVISIONS - B Texas Education Agency HUB Subcontracting Plan (HSP)

In accordance with TGC § 2161.252, and 1 Texas Administrative Code, Part 5, Chapter 111, Subchapter B, Rule §111.14, the Texas Education Agency (TEA) has determined that subcontracting opportunities are probable under this contract. Therefore, all Respondents are required to complete and submit the HSP with their response (bid, proposal, offer or other applicable expression of interest). The following instructions correspond to the HSP which may be completed online or printed. The online form displays gray boxes that are accessed by hitting the TAB key. Type the requested information in the gray boxes, which contain character limits, and hit the TAB key to move to the next gray box.

### Section 1 – Respondent and Solicitation Information, page 1

- a. Enter the Company name (up to 45 characters), the Federal Employee Identification Number (up to 15 characters), a company point of contact (up to 55 characters) and the company telephone number (i.e. XXX-XXX-XXXX).
- b. Check the corresponding box.
- c. Enter the TEA solicitation number (up to 60 characters, dashes may be included).

### Section 2 – Subcontracting Opportunities, page 1

TEA has identified probable subcontracting opportunities by NIGP Class and Item codes. However, TEA acknowledges there may be additional subcontracting opportunities. Check the corresponding box. In the spaces provided, enter any additional portions of work, not identified by TEA, that you will be subcontracting (up to 55 characters). If you need additional space, use the TEA HSP Section 2 – Subcontracting Opportunities continuation page which may be accessed at <http://www.tea.state.tx.us/tea/hub/index.html>.

### Section 3 – Respondent Subcontracting Opportunities, page 2

This page must be completed for each portion of work that you will be subcontracting. You may photocopy page 2 or download additional pages at <http://www.tea.state.tx.us/tea/hub/index.html>. Enter the corresponding subcontracting opportunity line number (up to three characters) along with the subcontracting opportunity description i.e. printing, freight (up to 85 characters).

### Section 4 – Mentor-Protégé Program, page 2

Check the corresponding box.

### Section 5 – Professional Services Contracts Only, page 2

Check the corresponding box.

*Professional Services means services: (A) within the scope of the practice, as defined by state law of accounting; architecture; landscape architecture; land surveying; medicine; optometry; professional engineering; real estate appraising; or professional nursing; or (B) provided in connection with the professional employment or practice of a person who is licensed or registered as a certified public accountant; an architect; a landscape architect; a land surveyor; a physician, including a surgeon; an optometrist; a professional engineer; a state certified or state licensed real estate appraiser; or a registered nurse.*

### Section 6 – Notification of Subcontracting Opportunity, page 2

For each subcontracting opportunity listed in Section 2, you must notify three or more HUBs that provide the type of work required for each subcontracting opportunity. Provide notice to minority or women trade organization or development centers to assist in identifying HUBs. Written notifications should include the scope of work, location to review specifications, bonding and insurance requirements, required qualifications and a contact person. You shall provide HUBs no less than five working days from their receipt of notice to respond prior to the submission of your response to TEA.

### Section 7 – HUB Firms Contacted For Subcontracted Opportunity, page 2

In the table provided list the HUBs you notified regarding the subcontracting opportunity you will not be providing with your own resources; Company name (up to 50 characters), FEI# (up to 15 characters), Notice Date (M/D/YYYY), and check the corresponding box.

### Section 8 – Subcontractor Selection, page 2-3

In the table provided list the subcontractor(s) you selected to perform the subcontracting opportunity; Company name (up to 50 characters), FEI# (up to 15 characters), Expected % of Contract (XX.X %), Approximate Dollar Amount (XXX.XX) and check the corresponding box. If you selected a non HUB, provide justification of your selection process (up to 125 characters per line).

### Section 9 – Self-Performance Justification and Section 10 – Affirmation, page 3

These Sections must be completed if you stated in Section 2, that you will not be subcontracting any portion of the contract. Use the provided space (up to 125 characters per line) to explain how you intend to complete the entire contract with your own employees, materials, supplies and equipment.



## SPECIAL PROVISIONS - B Texas Education Agency HUB Subcontracting Plan (HSP)

In accordance with Texas Government Code § 2161.252, Texas Education Agency (TEA) has determined that subcontracting opportunities are probable under this contract. Therefore, respondents including State of Texas certified Historically Underutilized Businesses (HUBs) must complete and submit a State of Texas HUB Subcontracting Plan (HSP) with their solicitation response.

**NOTE: Responses that do not include a completed HSP shall be rejected pursuant to TGC § 2161.252 (b)**

The HUB Program promotes equal business opportunities for economically disadvantaged persons to contract with the State of Texas in accordance with the goals specified in the State of Texas Disparity Study. The HUB goals defined in 1 TAC §111.13, are: **11.9% - for Heavy Construction other than building contracts, 26.1% - for all Building Construction, including general contractors and operative builders contracts, 57.2% - for all Special Trade Construction contracts, 20% - for Professional Services contracts, 33% - for all Other Service contracts and 12.6% - for Commodities contracts.**

**-- Agency Special Instructions/Additional Requirements --**

**SECTION 1 – RESPONDENT AND SOLICITATION INFORMATION**

- a. Respondent (Company) Name: Moody's Analytics, Inc. State of Texas VID #: N.A.  
 Point of Contact: Chris Robertshaw Phone #: 212-553-7904
- b. Is your Company a State of Texas certified HUB? - Yes - No
- c. Solicitation #: \_\_\_\_\_

**SECTION 2 – SUBCONTRACTING OPPORTUNITIES**

TEA has identified probable subcontracting opportunities by NIGP Class and Item codes in the table below. However, TEA acknowledges there may be additional subcontracting opportunities. After having divided the contract work into reasonable lots or portions to the extent consistent with prudent industry practices, the respondent must identify what portion(s) of work, including goods or services, will be subcontracted.

Note: In accordance with 1 TAC §111.12, a "Subcontractor" means a person who contracts with a vendor to work, to supply commodities, or contribute toward completing work for a governmental entity.

Check the appropriate box regarding the subcontracting opportunity(s):

- Yes, I will be subcontracting portion(s) of the contract.  
 (If Yes, in the spaces provided below, list any additional portions of work, not identified by TEA, that you will be subcontracting\*, and go to SECTION 3)
- No, I will not be subcontracting any portion of the contract, and will be fulfilling the entire contract with my own resources. (If No, complete SECTION 9 and 10)

Line Item # - Subcontracting Opportunity Description	Line Item # - Subcontracting Opportunity Description
(1)-	(6)-
(2)-	(7)-
(3)-	(8)-
(4)-	(9)-
(5)-	(10)-

\*To list additional subcontracting opportunities, a continuation page is available at <http://www.tea.state.tx.us/tea/hub/index.html>

Enter your company's name: \_\_\_\_\_ Solicitation #: \_\_\_\_\_

**IMPORTANT: You must complete a copy of this page for each portion of the contract that you will be subcontracting. You may photocopy this page or download copies at <http://www.tea.state.tx.us/tea/hub/index.html>.**

**SECTION 3 – RESPONDENT SUBCONTRACTING OPPORTUNITIES**

Enter the line item number and description for the portion of work listed in SECTION 2, which you will be subcontracting.

Line Item # \_\_\_\_\_ Description: \_\_\_\_\_

**SECTION 4 – MENTOR-PROTÉGÉ PROGRAM**

If respondent is participating as a Mentor in a State of Texas Mentor-Protégé Program, submitting their Protégé (Protégé must be a State of Texas certified HUB) as a subcontractor to perform the portion of work (subcontracting opportunity) listed in SECTION 3, constitutes a Good Faith Effort towards that specific portion of work.

Will you be subcontracting the portion of work listed in SECTION 3 to your Protégé?

- Yes, (If Yes, complete SECTION 8 and 10)  - No/Not Applicable (If No or Not Applicable, go to SECTION 5)

**SECTION 5 – PROFESSIONAL SERVICES CONTRACTS ONLY**

This section applies to Professional Services Contracts only. All other contracts go to SECTION 6.

Does your HSP contain subcontracting of 20% or more with HUB(s)?

- Yes (If Yes, complete SECTION 8 and 10)  - No/Not Applicable (If No or Not Applicable, go to SECTION 6)

*In accordance with TGC §2254.002, "Professional Services" means services: (A) within the scope of the practice, as defined by state law of accounting; architecture; landscape architecture; land surveying; medicine; optometry; professional engineering; real estate appraising; or professional nursing; or (B) provided in connection with the professional employment or practice of a person who is licensed or registered as a certified public accountant; an architect; a landscape architect; a land surveyor; a physician, including a surgeon; an optometrist; a professional engineer; a state certified or state licensed real estate appraiser; or a registered nurse.*

**SECTION 6 – NOTIFICATION OF SUBCONTRACTING OPPORTUNITY**

Complying with a, b and c of this section constitutes a Good Faith Effort towards the portion of work listed in SECTION 3. After performing the requirements of this section, complete SECTION 7, 8 and 10.

- a. Provide written notification of the subcontracting opportunity listed in SECTION 3 to **three (3)** or more HUBs. Use the State of Texas' Centralized Master Bidders List (CMBL), found at <http://www2.cpa.state.tx.us/cmbl/cmblhub.html> and its HUB Directory, found at <http://www.window.state.tx.us/procurement/cmbl/hubonly.html> to identify available HUBs.
- b. Provide written notification of the subcontracting opportunity listed in SECTION 3 to a minority or women trade organization or development center to assist in identifying potential HUBs by disseminating the subcontracting opportunity to their members/participants. A list of trade organizations and development centers may be accessed at <http://www.window.state.tx.us/procurement/prog/hub/mwb-links-1/>.
- c. Written notifications should include the scope of work, information regarding the location to review plans and specifications, bonding and insurance requirements, required qualifications and identify a contact person. Unless TEA has specified a different time period, you must allow the HUBs no less than **five (5) working days** from their receipt of notice to respond **and** provide notice of your subcontracting opportunity to a minority or women trade organization or development center no less than **five (5) working days** prior to the submission of your response to TEA.

**SECTION 7 – HUB FIRMS CONTACTED FOR SUBCONTRACTING OPPORTUNITY**

List three (3) State of Texas certified HUBs you notified regarding the portion of work (subcontracting opportunity) listed in SECTION 3. Specify the vendor ID number, date you provided notice and if you received a response.

Company Name	VID #	Notice Date	Was Response Received
_____	_____	_____	<input type="checkbox"/> - Yes <input type="checkbox"/> - No
_____	_____	_____	<input type="checkbox"/> - Yes <input type="checkbox"/> - No
_____	_____	_____	<input type="checkbox"/> - Yes <input type="checkbox"/> - No

**SECTION 8 – SUBCONTRACTOR SELECTION**

List the subcontractor(s) you selected to perform the portion of work (subcontracting opportunity) listed in SECTION 3. Also, specify the percentage of work to be subcontracted, the approximate dollar value of the work to be subcontracted and indicate if the company is a Texas certified HUB.

Company Name	VID #	Expected % of Contract	Approximate Dollar Amount	Texas Certified HUB
_____	_____	_____	_____	<input type="checkbox"/> - Yes <input type="checkbox"/> - No*
_____	_____	_____	_____	<input type="checkbox"/> - Yes <input type="checkbox"/> - No*

Enter your company's \_\_\_\_\_ Solicitation #: \_\_\_\_\_

**SECTION 8 (CON'T) – SUBCONTRACTOR SELECTION**

\*If the subcontractor(s) you selected is a non HUB, provide written justification of your selection process below:


**SECTION 9 – SELF PERFORMANCE JUSTIFICATION**

(If you responded “No” to SECTION 2, you must complete SECTION 9 and 10)

Provide justification, in the space provided below, on how you intend to complete the entire contract using your own employees, materials, supplies and equipment. Attach any supporting documentation.

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**SECTION 10 – AFFIRMATION**

As evidenced by my signature below, I affirm that I am an authorized representative of the respondent, listed in SECTION 1, and that the information and supporting documentation submitted with the HSP are true and correct. Respondent understands and agrees that, if awarded any portion of the solicitation:

- The respondent must submit monthly compliance reports (Prime Contractor Progress Assessment Report (PAR) to the TEA HUB Coordinator, verifying their compliance with the HSP, including the use/expenditures they have made to subcontractors. (The PAR is available at <http://www.tea.state.tx.us/index2.aspx?id=7038>)
- The respondent must seek approval from TEA prior to making any modifications to their HSP. If the HSP is modified without TEA's prior approval, respondent may be subject to debarment pursuant to TGC § 2161.253(d).
- The respondent must, upon request, allow TEA to perform on-site reviews of the company's headquarters and/or work-site where services are to be performed and must provide documents regarding staff and other resources.

<b>Signature</b>	<b>Printed Name</b>	<b>Title</b>	<b>Date</b>	

JAN 11 2012

Michael Richtel,  
Director / Sales Manager

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