STATE OF TEXAS §
COUNTY OF TRAVIS §

Division Number:	800 - TCDD	**Program Name:**	Partners in Policymaking
Org. Code:	800-001	**Funding Authority:**	RP Executive Order RP 37 Texas Human Resources Code Ch 112
Speed Chart:		RFP 701-16-048	
Payee Name:	Johnson Applied Solutions	**Payee ID:**	14719940513
Contract #:	3572	**PO #:**	37092

Amendment: 2

AMENDMENT TO STANDARD CONTRACT BETWEEN TEXAS COUNCIL FOR DEVELOPMENTAL DISABILITIES AND

Johnson Applied Solutions

It is mutually understood and agreed by and between the undersigned contracting parties of the above numbered contract to amend said Contract effective ***September 1, 2017,*** as follows:

ARTICLE II. PERIOD OF CONTRACT
TEA, on behalf of TCDD, is exercising the option to renew the contract for the period of September 1, 2017, through August 31, 2018, as allowed in the original contract term. This is the first of two renewal options.

ARTICLE III. PURPOSE OF CONTRACT
The Contractor will continue to be responsible for all "Partners in Policymaking" program management duties and functions stated in the original and amended contract. See *Attachment A, Task Activity and Budget* for additional activities for the renewal period.

ARTICLE IV. PAYMENT UNDER CONTRACT
A *Task Activity and Budget*, labeled Attachment A, is attached hereto and incorporated herein to this contract.

Contract Amount	$150,000.00
Amendment Amount	$300,000.00
Revised Contract Total	**$450,000.00**

Updated Contract Terms and Conditions dated August 23, 2017, are herein incorporated. All other terms and conditions of the original contract including, special provisions, appendices and amendments remain the same and are incorporated herein as if specifically written.

It is agreed and accepted by a person authorized to bind Contractor that all Terms and Conditions of this Amendment are effective commencing on the above date.

Theodore Johnson
Johnsons Applied Solutions
CEO, Owner

Theodore J Johnson
Digitally signed by Theodore J Johnson
Date: 2017.09.06 18:54:43 -05'00'
Authorized Signature

THIS SECTION RESERVED FOR TCDD USE.

I, an authorized official of the Texas Council for Developmental Disabilities, 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 TCDD on this 7 day of September 2017 (month/year) by a person authorized to bind TCDD.

Beth Stalvey, Executive Director

Return three (3) copies with original signature to:

Martha Cantu, Director of Operations
Texas Council for Developmental Disabilities
6201 E. Oltorf, Suite 600
Austin, Texas 78741-7509

STATE OF TEXAS §
COUNTY OF TRAVIS §

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Amendment Amount	$300,000.00
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It is agreed and accepted by a person authorized to bind Contractor that all Terms and Conditions of this Amendment are effective commencing on the above date.

Theodore Johnson
Johnsons Applied Solutions
CEO, Owner

Theodore J Johnson
Digitally signed by Theodore J Johnson
Date: 2017.09.06 18:54:43 -05'00'
Authorized Signature

THIS SECTION RESERVED FOR TCDD USE.

I, an authorized official of the Texas Council for Developmental Disabilities, 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 TCDD on this 2 day of September 2017 (month/year) by a person authorized to bind TCDD.

Beth Stalvey, Executive Director

Return three (3) copies with original signature to:

Martha Cantu, Director of Operations
Texas Council for Developmental Disabilities
6201 E. Oltorf, Suite 600
Austin, Texas 78741-7509

Attachment A

TASK ACTIVITY AND BUDGET (FY 2018)

Task/Subtask/Deliverables	Deliverable Type	Due Date	Staff	Budget
TASK 1: CLASS EXECUTION 2017-2018 CLASS - AUGUST 2017 - APRIL 2018				**$ 225,250.00**
Subtask 1.1 Execution Logistics All 8 Classes				**$208,350.00**
A. Participant Travel	Activity/Receipt	Sept 2017 – April 2018	Karen	$65,000.00
B. Hotels and Fees	Activity/Contract	Sept 2017 – April 2018	Karen	$18,360.00
B.1 Shuttle fee from Hotel to TCEA	Activity	Sept 2017 – April 2018	Karen	$2,800.00
C. Meals	Activity/Contract	Sept 2017 – April 2018	Karen	$20,808.00
D. Conference Room	Activity/Contract	Sept 2017 – April 2018	Karen	$14,065.00
E. Class Materials Books and Paper	Activity	Sept 2017 – April 2018	Jan	$8,000.00
F. Respite Care / Child Care	Activity/Contract	Sept 2017 – April 2018	Karen	$12,000.00
G. Class Set-up -badges, water, welcome	Activity	Sept 2017 – April 2018	Karen	$2,100.00
H. Speakers Fees	Activity/Contract	Sept 2017 – April 2018	Karen	$32,217.00
I. General Liability Insurance	Terms	Sept 2017 – April 2018	Karen	$1,000.00
J. Facilitation Fee	Activity	Sept 2017 – April 2018	Karen	$30,000.00
L. Shuttle to Capital Session 6	Activity	February 2018	Karen	$2,000.00
Subtask 1.2 Program Evaluation and Performance Measures 2017-2018				**$16,900.00**
A. Initial Student Survey (Baseline)	Report/Hard Copy	Sept 2017 –	Jan	$2,400.00
B. Student Speaker Evaluation (On-Going Each Class)	Report/Hard Copy	Sept 2017 – April 2018	Jan	$4,000.00
C. Student Application (Homework) Evaluation (CC tied to PP)	Report/Hard Copy	Sept 2017 – April 2018	Jan	$8,500.00
D. Alumni Program	Activity	On-Going	J/K	$2,000.00
TASK 2: COORDINATION AND PROGRAM PRE-PLANNING				**$33,250.00**
Subtask 2.1 Meeting with TCDD				**$8,950.00**
A. Review Proposed Plan, Timelines and Budget	Meeting	May 2018 -Aug 2018	J/K/T	$1,000.00
B. Revise and finalize task, subtask, deliverables, & budget	Hardcopy	May 2018 -Aug 2018	Ted	$3,450.00
C. Update and progress reports (WSR, MSR as needed)	Hardcopy	Sept 2017 – Aug 2018	Ted	$2,000.00
D. Attend TCDD Council Meetings	Meeting	Quarterly	J/K/T	$2,500.00
Subtask 2.2 Pre-Planning Task and Subtask 2018-2019 Session				**$9,000.00**
A. Texas Partners Strategic Plan (Program Expansion Planning)	Activity/Hard Copy	Jan 2017 -	Ted	$3,000.00
B. Finalize classes and propose schedule 2018-2019	Hardcopy	Dec 2017 -	Jan	$1,000.00
C. Research Speaker Database 2018-2019 Session	Activity	Sept - Dec 2017	Jan	$3,000.00
D. Select 2018-2019 Advisory Panel	Activity	Sept - Oct 2017	Ted	$2,000.00
Subtask 2.3 Logistics 2018-2019 Session				**$11,300.00**
A. Identify class location	Activity	Oct 2017 -	Karen	$500.00
B. Make calls to Hotel to obtain quotes	Activity	Nov 2017 -	Karen	$1,000.00
B.1 Shuttles Fees				$4,800.00
C. Make calls to speakers, obtain commitment letters and quotes	Activity	Nov 2017 -	Karen	$3,000.00
D. Secure Meal Contract	Activity/Hard Copy	Dec 2017 -	Karen	$500.00
E. Secure hotels & speakers with contracts	Activity/Hard Copy	Feb 2018 -	Karen	$500.00
F. Secure Step 2 logistics for selection advisory panel review	Activity/Hard Copy	Feb 2018 -	Karen	$1,000.00
Subtask 2.4 Evaluation				**$4,000.00**
A. Six-Month Post-Program Follow-up Evaluation	Report/Hard Copy	Oct 2017 -	Jan	$2,000.00
B. Longitudinal Program Study (10-12 Months)	Report/Hard Copy	Dec 2017 -	Jan	$2,000.00
TASK 3: 2018-2019 OUTREACH - RECRUITMENT & SELECTION				**$38,500.00**
Subtask 3.1 Marketing				**$21,000.00**
A. Web Site Maintenance	Activity	Sept 2017 – Aug 2018	Karen	$8,000.00
B. Social Media Updates	Activity	Sept 2017 – Aug 2018	Karen	$5,000.00
C. Texas Partners Newsletter Updates	Activity	Sept 2017 – Aug 2018	Karen	$3,000.00
D. Updates to Alumni Group Page	Activity	Sept 2017 – Aug 2018	Karen	$1,000.00
E. Communications Intern Part Time	Activity	2017-2018	Karen	$4,000.00
Subtask 3.2 Recruitment				**$7,500.00**
A. Develop Media Campaign Plan	Activity	Jan 2018 -	Karen	$2,000.00
B. Validate Recruiting Criteria	Activity	Jan 2018 -	Karen	$1,500.00
C. Launch Media Blast	Activity	Feb 2018 -	Karen	$2,000.00
D. Compile applications and store in document depository	Activity	Jan - May 2018	Karen	$2,000.00
Subtask 3.3 Selection				**$8,000.00**
A. Develop Selection Review Panel (Advisory Panel and TCDD)	Activity	May 2018 -	Karen	$1,500.00
B. Execute 3 Step Selection Plan	Activity	May 2018 -	Karen	$1,500.00
C. Facilitate Step 2 and Step 3 of selection process	Activity	May 2018 -	Karen	$3,000.00
D. Conduct (Select/Alternate/Next Year) notification process	Activity	June 2018 -	Karen	$2,000.00

Subtask 3.4 Outreach Program				**$2,000.00**
A. State Legislator Ambassador Program	Activity	Sept 2017 – Aug 2018	Karen	$1,000.00
B. Partners Mentor Program	Activity	Sept 2017 – Aug 2018	Karen	$1,000.00
TASK 4: BEGIN PLANNING FOR (YEAR 3) 2019-2020 SESSION				**$3,000.00**
Subtask 4.1 Year 3 Planning				**$3,000.00**
A. Strategic Expansion Planning	Activity/Hard Copy	Sept 2017 – Aug 2018	Ted	$1,000.00
B. Social Media Updates	Activity	Sept 2017 – Aug 2018	Karen	$1,000.00
C. Begin securing logistics for year 3	Activity	Sept 2017 – Aug 2018	Karen	$1,000.00
			TOTAL FY 2018 AMOUNT	**$300,000.00**

CONTRACT TERMS AND CONDITIONS

A. Definitions as used in these Contract Terms and Conditions:

1. ***Contract*** means the entire document, 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;
2. ***Receiving Agency, Party, Owner or TEA*** means the Texas Education Agency on behalf of the Texas Council for Developmental Disabilities;
3. ***Contractor, Proposer or Respondent*** may be used interchangeably in the competitive solicitation. Proposer and Respondent infer pre-solicitation award status and Contractor infers post-award status;
4. ***Bid package, proposal, or response may be used interchangeably;***
5. ***Contractor or Performing Agency*** means the party or parties to this Contract other than TEA, including its officers, directors, employees, agents, representatives, consultants and subcontractors, and subcontractors' officers, directors, employees, agents, representatives and consultants;
6. ***Project Manager/Administrator*** means the respective person(s) representing TEA or Contractor, as indicated by the Contract, for the purposes of administering the Contract Project;
7. ***Contract Project*** means the purpose intended to be achieved through the Contract;
8. ***Amendment*** means a Contract that is revised in any respect, and includes both the original Contract, and any subsequent amendments or extensions thereto;
9. ***Major Contract*** means any contract over $10 million cumulative over the life of the Contract;
10. ***Works*** means all tangible or intangible material, products, ideas, documents or works of authorship prepared or created by Contractor for or on behalf of TEA at any time after the beginning date of the Contract ("Works" includes but is not limited to computer software, data, information, images, illustrations, designs, graphics, drawings, educational materials, assessment forms, testing materials, logos, trademarks, patentable materials, etc.) this does not include any pre-existing materials of Contractor, or any licensed third party materials provided by Contractor; and,
11. ***Intellectual Property Rights*** means the worldwide intangible legal rights or interests evidenced by or embodied in: (a) any idea, design, concept, method, process, technique, apparatus, invention, discovery, or improvement, including any patents, trade secrets, and know-how; (b) any work of authorship, including any copyrights, moral rights or neighboring rights; (c) any trademark, service mark, trade dress, trade name, or other indicia of source or origin; (d) domain name registrations; and (e) any other similar rights. The Intellectual Property Rights of a party include all worldwide intangible legal rights or interests that the party may have acquired by assignment or license with the right to grant sublicenses;
12. ***TEA Confidential Information*** means information that is confidential under the provisions of the Family Educational Rights and Privacy Act (FERPA), the Texas Public Information Act, or other applicable state or federal laws. Examples of TEA Confidential Information include: (a) personally identifiable student information; (b) social security numbers; (c) driver's license numbers; (d) criminal background checks; (e) e-mail address of a member of the public, unless the individual waives his or her right to e-mail confidentiality by affirmatively consenting to disclose the e-mail address or the individual seeks to contract or has a contract with TEA; (e) certain personnel information concerning a TEA employee including home address, home telephone number, emergency contact information, and family member information (if the employee elects in writing to keep this information confidential), personal medical information, and information reflecting personal financial decisions such as the employee's choice of insurance carrier or choice to contribute money to a 401(k); (f) biometric identifiers such as fingerprints; (g) information about security vulnerabilities in TEA systems; and (h) SAS data sets.

B. **Funding Out Clause**: This Contract is contingent upon the availability of funding. If funds become unavailable through lack of appropriations, legislative or executive budget cuts, amendment of the Appropriations Act, state agency consolidations, or any other disruptions of current appropriations, 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:**

Acts or Omissions

Contractor shall indemnify and hold harmless the State of Texas and TEA, and/or their officers, agents, employees, representatives, contractors, assignees, and/or designees from any and all liability, actions, claims, demands, or suits, and all related costs, attorney fees, and expenses arising out of, or resulting from any acts or omissions of Contractor or its agents, employees, subcontractors, Order Fulfillers, or suppliers of subcontractors in the execution or performance of the Contract and any purchase orders issued under the Contract. The defense shall be coordinated by Contractor with the Office of the Attorney General when Texas state agencies are named defendants in any lawsuit and Contractor may not agree to any settlement without first obtaining the concurrence from the office of the Attorney General. Contractor and TEA agree to furnish timely written notice to each other of any such claim.

Infringements

1. Contractor shall indemnify and hold harmless the State of Texas and the TEA, and/or their employees, agents, representatives, contractors, assignees, and/or designees from any and all third party claims involving infringement of United States patents, copyrights, trade and service marks, and any other intellectual or intangible property rights in connection with the performances or actions of Contractor pursuant to this Contract. Contractor and TEA agree to furnish timely written notice to each other of any such claim. Contractor shall be liable to pay all costs of defense including attorneys' fees. The defense shall be coordinated by Contractor with the Office of the Attorney General when Texas state agencies are named defendants in any lawsuit and Contractor may not agree to any settlement without first obtaining the concurrence from the office of the Attorney General.

2. Contractor shall have no liability under this section if the alleged infringement is caused in whole or in part by: (i) use of the product or service for a purpose or in a manner for which the product or service was not designed, (ii) any modification made to the product without Contractor's written approval, (iii) any modifications made to the product by Contractor pursuant to TEA's specific instructions, (iv) any intellectual property right owned by or licensed to TEA, or (v) any use of the product or service by TEA that is not in conformity with the terms of any applicable license agreement.
3. If Contractor becomes aware of an actual or potential claim, or TEA provides Contractor with notice of an actual or potential claim, Contractor may (or in the case of an injunction against TEA, shall), at Contractor's sole option and expense; (i) procure for the TEA the right to continue to use the affected portion of the product or service, or (ii) modify or replace the affected portion of the product or service with functionally equivalent or superior product or service so that TEA's use is non-infringing.

CONTRACTOR AGREES AND ACKNOWLEDGES THAT DURING THE EXISTENCE OF THIS CONTRACT, CONTRACTOR SHALL BE ENTIRELY RESPONSIBLE FOR THE LIABILITY AND PAYMENT OF CONTRACTOR'S AND CONTRACTOR 'S EMPLOYEES' TAXES OF WHATEVER KIND, ARISING OUT OF THE PERFORMANCES IN THIS CONTRACT. CONTRACTOR AGREES TO COMPLY WITH ALL STATE AND FEDERAL LAWS APPLICABLE TO ANY SUCH PERSONS, INCLUDING LAWS REGARDING WAGES, TAXES, INSURANCE, AND WORKERS' COMPENSATION. TEA AND/OR THE STATE SHALL NOT BE LIABLE TO CONTRACTOR, ITS EMPLOYEES, AGENTS, OR OTHERS FOR THE PAYMENT OF TAXES OR THE PROVISION OF UNEMPLOYMENT INSURANCE AND/OR WORKERS' COMPENSATION OR ANY BENEFIT AVAILABLE TO A STATE EMPLOYEE OR EMPLOYEE OF ANOTHER GOVERNMENTAL ENTITY CUSTOMER.

CONTRACTOR AGREES TO INDEMNIFY AND HOLD HARMLESS TEA, THE STATE OF TEXAS AND/OR THEIR EMPLOYEES, AGENTS, REPRESENTATIVES, CONTRACTORS, AND/OR ASSIGNEES FROM ANY AND ALL LIABILITY, ACTIONS, CLAIMS, DEMANDS, OR SUITS, AND ALL RELATED COSTS, ATTORNEYS' FEES, AND EXPENSES, RELATING TO TAX LIABILITY, UNEMPLOYMENT INSURANCE AND/OR WORKERS' COMPENSATION IN ITS PERFORMANCE UNDER THIS CONTRACT. CONTRACTOR SHALL BE LIABLE TO PAY ALL COSTS OF DEFENSE INCLUDING ATTORNEYS' FEES. THE DEFENSE SHALL BE COORDINATED BY CONTRACTOR WITH THE OFFICE OF THE ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND CONTRACTOR MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE ATTORNEY GENERAL. CONTRACTOR AND TEA AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM.

D. **Assignments, Transfers, Subcontracting and Substitutions**: Contractor shall not assign, transfer, subcontract or substitute any of its rights or responsibilities under this Contract without prior formal written amendment to this Contract properly executed by both TEA and Contractor. TEA reserves the right to request changes in personnel assigned to the project. The TEA Project Manager must pre-approve any changes in key personnel throughout the contract term. Any changes to the HUB Subcontracting Plan (HSP) must be approved by TEA HUB Coordinator before staffing changes are initiated. Substitutions are not permitted without written approval of TEA Project Manager. The awarded Contractor will be responsible for maintaining business records documenting compliance with HUB Program requirements. Contractor shall submit a Progress Assessment Report (PAR) monthly documenting all subcontractor payments made in the preceding month. Submission of the PAR is a condition for payment. The selected Contractor shall also report all 2nd and 3rd Tier subcontracting in the monthly PAR. PAR's are due no later than the 10th day of the following month. The PAR is required to be submitted monthly, even if no activity occurred for the month. Reports shall be submitted electronically to the HUBOffice@tea.texas.gov. In addition to the PAR, Contractor shall also create and maintain a monitoring report to document that it is diligently monitoring and enforcing subcontractor compliance with the Contract. When requested by TEA, Contractor shall furnish TEA with satisfactory proof of its compliance with this provision.

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. **Contractor's Proposal**: Contractor's proposal that was furnished to TEA in response to the competitive solicitation (Request for Proposal) is incorporated in this Contract by reference. The provisions of this Contract shall prevail, however, in all cases of conflict arising from the terms of Contractor's proposal whether such proposal is a written part of this Contract or is attached as a separate document.

G. **Requirements, Terms, Conditions, and Assurances**: The terms, conditions, and assurances, which are stated in the competitive solicitation (Request for Proposal), in response to which Contractor submitted a proposal, are incorporated herein by reference for all purposes, although the current General Provisions shall prevail in the event of conflict.

H. **Records Retention and the Right to Audit:** 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 Project. These records and accounts shall be retained by Contractor and made available for programmatic or financial audit by TEA and by others authorized by law or regulation to make such an audit for a period of not less than 7 years from the date of completion of the Contract Project or the date of the receipt by TEA of Contractor's final claim for payment or final expenditure report in connection with this Contract, whichever is later. If an audit has been announced, the records shall be retained until such audit has been completed.

Pursuant to Section 2262.154 of the Texas Government Code, the state auditor may conduct an audit or investigation of Contractor or any other entity or person receiving funds from the state directly under this Contract or indirectly through a subcontract under this Contract. The acceptance of funds by Contractor or any other entity or person directly under this Contract or indirectly through a subcontract under this 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. Under the direction of the legislative audit committee, Contractor or other 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. Contractor will ensure that this clause concerning

the authority to audit funds received indirectly by subcontractors through Contractor and the requirement to cooperate is included in any subcontract it awards.

Contractor further agrees that acceptance of funds under this Contract acts as acceptance for TEA to conduct an audit or investigation in connection with those funds. Contractor, subcontractors, and any entities receiving funds through this Contract shall cooperate fully with TEA in the conduct of the audit or investigation, including providing all records pertaining to this Contract that are requested.

I. **Intellectual Property Ownership:** Contractor agrees that all Works are, upon creation, works made for hire and the sole property of TEA. If the Works are, under applicable law, not considered works made for hire, Contractor hereby assigns to TEA all worldwide ownership of all rights, including the Intellectual Property Rights, in the Works, without the necessity of any further consideration, and TEA can obtain and hold in its own name all such rights to the Works. Contractor agrees to maintain written agreements with all officers, directors, employees, agents, representatives and subcontractors engaged by Contractor for the Contract Project, granting Contractor rights sufficient to support the performance and grant of rights to TEA by Contractor. Copies of such agreements shall be provided to TEA promptly upon request.

Contractor warrants that (i) it has the authority to grant the rights herein granted, (ii) it has not assigned or transferred any right, title, or interest to the Works or Intellectual Property Rights that would conflict with its obligations under the Contract, and Contractor will not enter into any such agreements, and (iii) the Works will be original and will not infringe any intellectual property rights of any other person or entity. These warranties will survive the termination of the Contract. If any preexisting rights are embodied in the Works, or grants to TEA the irrevocable, perpetual, non-exclusive, worldwide, royalty-free right and license to (a) use, execute, reproduce, display, perform, distribute copies of, and prepare derivative works based upon such preexisting rights and any derivative works thereof and (b) authorize others to do any or all of the foregoing. Contractor agrees to notify TEA on delivery of the Works if they include any such preexisting rights. On request, Contractor will provide TEA with documentation indicating a third party's written approval for Contractor to use any preexisting rights that may be embodied or reflected in the Works.

Contractor agrees, at Contractors expense, to indemnify, hold harmless and defend TEA and the State from claims involving infringement of third parties' licenses, trademarks, copyrights or patents.

J. **Time Delays; Suspension; Sanctions for Failure to Perform; Noncompliance:** Time is of the essence. Contractor's timely performance is essential to this Contract.

Suspension

If this Contract is suspended by TEA prior to its expiration date, the reasonable monetary value of services properly performed by Contractor pursuant to this Contract prior to suspension shall be determined by TEA and paid to Contractor as soon as reasonably possible. TEA shall not be required to pay any standby hourly rates during a suspension of Work, if TEA suspends performance of the Work because the Work is defective, or Contractor fails to supply sufficiently skilled workers or suitable materials or equipment, or fails to provide required insurance coverage, or fails to furnish or perform the Work in such a way that the completed Work will conform to this Contract.

Sanctions

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.

K. **Information Security Requirements; Proprietary; FERPA; Confidential Information:**

Access to TEA Confidential Information

Contractor represents and warrants that it will take all necessary and appropriate action within its abilities to safeguard TEA Confidential Information and to protect it from unauthorized disclosure. If Contractor discloses any TEA Confidential Information to a subcontractor or agent, Contractor will require the subcontractor or agent to comply with the same restrictions and obligations as are imposed on Contractor. Whenever communications with Contractor necessitate the release of TEA Confidential Information, additional TEA Confidential forms will need to be signed by each individual who will require access to or may be exposed to that information. Contractor shall access TEA's systems or TEA Confidential Information only for the purposes for which it is authorized. TEA reserves the right to review Contractor's security policy to ensure that any data that is on Contractor's servers is secure. Contractor shall cooperate fully by making resources, personnel, and systems access available to TEA and TEA's authorized representative(s).

Contractor shall ensure that any TEA Confidential Information in the custody of Contractor is properly sanitized or destroyed when the information is no longer required to be retained by TEA or Contractor in accordance with this contract. Electronic media used for storing any TEA Confidential Information must be sanitized by clearing, purging or destroying in accordance with such standards established by the National Institute of Standards and Technology and the Center for Internet Security. These standards are also required if Contractor is collecting, maintaining, or analyzing data gathered, collected, or provided under this Contract. Contractor must maintain a record documenting the removal and completion of all sanitization procedures with the following information:

1. Date and time of sanitization/destruction;
2. Description of the item(s) and serial number(s) if applicable;
3. Inventory number(s); and
4. Procedures and tools used for sanitization/destruction.

No later than 60 days from Contract expiration or termination or as otherwise specified in this Contract, Contractor must complete the sanitization and destruction of the data and provide to TEA documentation that the sanitization has been completed. The documents must be certified by an authorized agent of the company.

FERPA

Contractor, its employees and subcontractor's, agree that in executing tasks on behalf of the TEA, they will not use any student-identifying information in any way that violates the provisions of FERPA, and will destroy or return all student-identifying information within 60 days of project completion. Contractor also agrees not to disclose any information to which it is privy under this Contract without the prior consent of the agency.

Access to Internal TEA Network and Systems

As a condition of gaining remote access to any internal TEA network and systems, Contractor must comply with TEA's policies and procedures. TEA's remote access request procedures will require Contractor to submit TEA Applicable Access Request forms for TEA's review and approval. Remote access technologies provided by Contractor must be approved by TEA's Information Security Officer. TEA, in its sole discretion, may deny network or system access to any individual that does not complete the required forms. Contractor must secure its own connected systems in a manner consistent with TEA's requirements. TEA reserves the right to audit the security measures in effect on Contractor's connected systems without prior warning. TEA also reserves the right to immediately terminate network and system connections not meeting such requirements.

Disclosure of Security Breach

Contractor shall provide notice to TEA's Project Manager and TEA's Information Security Officer as soon as possible following Contractor's discovery or reasonable belief that there has been unauthorized use, exposure, access, disclosure, compromise, modification, or loss of sensitive or TEA Confidential Information ("Security Incident"). Within 24 hours of the discovery or reasonable belief of a Security Incident, Contractor shall provide a written report to TEA's Information Security Officer detailing the circumstances of the incident which includes at a minimum:

1. Description of the nature of the Security Incident;
2. The type of TEA information involved;
3. Who may have obtained the information;
4. What steps Contractor has taken or will take to investigate the Security Incident;
5. What steps Contractor has taken or will take to mitigate any negative effect of the Security Incident; and
6. A point of contact for additional information.

Each day thereafter until the investigation is complete, Contractor shall provide TEA's Information Security Officer with a written report regarding the status of the investigation and the following additional information as it becomes available:

1. Who is known or suspected to have gained unauthorized access to TEA information;
2. Whether there is any knowledge if TEA information has been abused or compromised;
3. What additional steps Contractor has taken or will take to investigate the Security Incident;
4. What steps Contractor has taken or will take to mitigate any negative effect of the Security Incident; and
5. What corrective action Contractor has taken or will take to prevent future similar unauthorized use or disclosure.

Contractor shall confer with TEA's Chief Information Security Officer regarding the proper course of the investigation and risk mitigation. TEA reserves the right to conduct an independent investigation of any Security Incident, and should TEA choose to do so, Contractor shall cooperate fully by making resources, personnel, and systems access available to TEA and TEA's authorized representative(s). Subject to review and approval of TEA's Information Security Officer, Contractor, at its own cost, shall provide notice that satisfies the requirements of applicable law to individuals whose personal, confidential, or privileged data were compromised or likely compromised as a result of the Security Incident. If TEA, in its sole discretion, elects to send its own separate notice, then all costs associated with preparing and providing notice shall be reimbursed to TEA by Contractor. If Contractor does not reimburse such costs within 30 days of TEA's written request, then TEA shall have the right to collect such costs.

L. **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.

M. **Capital Outlay:** If Contractor purchases capital outlay (furniture and/or equipment) to accomplish the Contract Project, title will remain with Contractor for the period of the Contract. TEA reserves the right to transfer capital outlay items for contract noncompliance during the contract period or as needed after the ending date of the Contract. This provision applies to any and all furniture and/or equipment regardless of unit price and how the item is classified in Contractor's accounting record. This provision is applicable when federal funds are utilized for the Contract.

N. **TEA Property (terms):** In the event of loss, damage or destruction of any property owned by or loaned by TEA while in the custody or control of Contractor, Contractor shall indemnify TEA and pay to TEA the full value of or the full cost of repair or replacement of such property, whichever is the greater, within 30 days of Contractor's receipt of written notice of TEA's determination of the amount due. This applies whether the property is developed or purchased by Contractor pursuant to this Contract or is provided by TEA to Contractor for use in the Contract Project. 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 or counterclaim against any money otherwise due to Contractor by TEA.

O. **Governing Law, Venue, and Jurisdiction:** Subject to and without waiving any of TEA'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

the solicitation, this Contract, and any resulting contract or purchase order shall be in a court of competent jurisdiction in Travis County, Texas.

P. **Point of Contact and Escalation:** All notices, reports and correspondence required by this Contract shall be in writing and delivered to the Project Manager listed below or their successors in office. Within 30 days of execution of a contract, the respective Parties will designate the next level of personnel within each organization to address conflicts or ambiguity that cannot be resolved at the Project Manager level.

TEA	CONTRACTOR
Martha Cantu	**Jeff Willis**
Texas Council for Developmental Disabilities	MIS Sciences Corporation
6201 E. Oltorf, Suite 600	2550 N Hollywood Way, Suite 404
Austin, Texas 78741-7509	Burbank, California 91505-5046
512-437-5432	818-847-0213

Q. **Federal Rules, Laws, and Regulations That Apply to all Federal Programs:** Contractor shall be subject to and shall abide by all federal laws, rules, and regulations, pertaining to the Contract Project, including, but not limited to:

(1) Americans With Disabilities Act, P.L. 101-336, 42 U.S.C. sec. 12101, and the regulations effectuating its provisions contained in 28 CFR Parts 35 and 36, 29 CFR Part 1630, and 47 CFR Parts 0 and 64;

(2) Title VI of the Civil Rights Act of 1964, as amended (prohibition of discrimination by race, color, or national origin), and the regulations effectuating its provisions contained in 34 CFR Part 100;

(3) Title IX of the Education Amendments 1972, as amended (prohibition of sex discrimination in educational institutions) and the regulations effectuating its provisions contained in 34 CFR Part 106, if Contractor is an educational institution;

(4) Section 504 of the Rehabilitation Act of 1973, as amended (nondiscrimination on the basis of handicapping condition), and the regulations effectuating its provisions contained in 34 CFR Parts 104 and 105;

(5) The Age Discrimination Act of 1975, as amended (prohibition of discrimination on basis of age), and the implementing regulations contained in 34 CFR, Part 110;

(6) Family Educational Rights and Privacy Act of 1975, as amended, and the implementing regulations contained in 34 CFR, Part 99, if Contractor is an educational institution;

(7) Section 509 of H.R. 5233 as incorporated by reference in P.L. 99-500 and P.L. 99-591 (prohibition against the use of federal grant funds to influence legislation pending before Congress);

(8) P.L. 103-227, Title X, Miscellaneous Provisions of the GOALS 2000: Educate America Act; P.L. 103-382, Title XIV, General Provisions of the Elementary and Secondary Education Act, as amended; and

(9) General Education Provisions Act, as amended.

R. **Forms, Assurances, and Reports:** Contractor shall timely make and file with the proper authorities all forms, assurances and reports required by federal laws and regulations. TEA shall be responsible for reporting to the proper authorities any failure by Contractor to comply with the foregoing laws and regulations coming to TEA's attention, and may deny payment or recover payments made by TEA to Contractor in the event of Contractor's failure so to comply. Contractor who is indebted or owes delinquent taxes to the state will have any payments under the Contract applied toward the debt or delinquent taxes owed the state until the account is paid in full, regardless of when the debt or delinquency was incurred. This provision does not apply if the warrant or transfer results in payments being made in whole or in part with money paid to the state by the Federal Government. Pursuant to 34 TAC §201.14 - 18 and Texas Government Code, Chapter 2161, Contractors shall maintain business records documenting compliance with the HUB subcontracting plan (HSP) and shall submit a compliance report to TEA monthly, in the format required by TEA. The compliance report submission shall be required as a condition for payment. If Contractor subcontracts any part of the Contract in a manner that is not consistent with its HSP, the selected respondent must submit a revised HSP before subcontracting any of the work under the Contract. If Contractor subcontracts any of the work without prior authorization and without complying with this section, Contractor is deemed to have breached the Contract and is subject to any remedial actions provided by Government Code, Chapter 2161, and other applicable state law.

S. **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.

T. **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 Texas Business and Commerce 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.

U. **Family Code Applicability**: By signing this Contract, Contractor, if other than a state party, certifies that under Section 231.006, Family Code, that Contractor is not ineligible to receive specified grant, loan, or 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.

V. **Dispute Resolution:** The dispute resolution process provided for in the Texas Government Code, Chapter 2260 must be used by TEA and Contractor to attempt to resolve all disputes arising under this Contract. The parties may agree to mediation of their dispute at any time. However, if all issues in dispute are not completely resolved through direct negotiations between the parties within 180 days after TEA receives Contractor's notice of claim, then the parties must submit the dispute to mediation before a mutually acceptable mediator in Travis County, Texas. The mediation must be completed on or before 270 days after TEA receives Contractor's notice of claim. Completion of the mediation is a condition precedent to the filing of a contested case hearing under Chapter 2260. TEA's participation in mediation or any other dispute resolution process shall not waive any of TEA's contractual or legal rights and remedies, including but not limited to sovereign immunity.

W. **Interpretation:** In the case of conflicts arising in the interpretation of wording and/or meaning of various sections, parts, Appendices, General Provisions, Special Provisions, Exhibits, and Attachments or other documents, TEA Contract and its General Provisions, Appendices and Special Provisions shall take precedence over all other documents which are a part of this Contract.

X. **Compliance with Laws:** Contractor shall comply with all federal, state, and local laws, statutes, ordinances, rules and regulations, and the orders and decrees of any court or administrative bodies or tribunals in any matter affecting Contractor's performance, including if applicable, workers' compensation laws, minimum and maximum salary and wage statutes and regulations, prompt payment and licensing laws and regulations. For the entire duration of the Contract, Contractor shall maintain all required licenses, certifications, permits, and any other documentation necessary to perform this Contract. When required or requested by TEA, Contractor shall furnish TEA with satisfactory proof of its compliance with this provision.

Y. **Public Information:** 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 TEA under this Contract constituting a record under the Act is received by TEA, the information must qualify for an exception provided by the Act in order to be withheld from public disclosure. Contractor authorizes 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 exempt from public disclosure under the Act. If TEA does not have a good faith belief that information may be subject to an exception to disclosure, TEA is not obligating itself by this Contract to submit the information to the Attorney General. It shall be the responsibility of 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. Contractor waives any claim against and releases from liability 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 Contractor and determined by the Attorney General or a court of law to be subject to disclosure under the Act.

Under Section 2252.907 of the Texas Government Code, a contract between a state governmental entity and a non-governmental contractor involving the exchange or creation of public information, as defined by the Texas Government Code Section 552.002, must require the non-governmental contractor to make any information created or exchanged with the state pursuant to this Contract, and not otherwise excepted from disclosure under the Texas Public Information Act, available in a format that is accessible by the public at no additional charge to the state. TEA Project Manager will provide the specific format by which Contractor is required to make the information accessible by the public.

Z. **Gratuities:** By signing this Contract, Contractor represents and warrants that Contractor has not given, offer to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the submitted response.

AA. **Protests:** Any actual or prospective Bidder, Respondent, or Contractor who is aggrieved in connection with the solicitation, evaluation, or award of this or any other contract by TEA may submit a formal protest to the Director of TEA's Contracts, Purchasing and Agency Services (PCAS) Division. This protest procedure shall be the exclusive method by which anyone may make a challenge to any aspect of TEA's contracting process. TEA will not be required to consider the merits of any protest unless the written protest is submitted within 10 working days after such aggrieved person knows, or reasonably should have known, of the occurrence of the action which is protested. The protest document must meet with all requirements in applicable law and rules (Title 19 of the Texas Administrative Code, §30.22 and §30.2002).

If the protest procedure results in a final determination by TEA that a violation of law has occurred in its contracting process in a case in which a contract has been awarded, then TEA may declare the Contract void at inception. In that event, the party who had been awarded the Contract shall have no rights under the Contract and no remedies under the law against TEA

BB. **Liability for and Payment of Taxes:** Contractor represents and warrants that it shall pay all taxes or similar amounts resulting from this Contract, including, but not limited to, any federal, state, or local income, sales or excise taxes of Contractor or its employees. TEA shall not be liable for any taxes resulting from this Contract.

CC. **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.

DD. **Conformance:** Contractor warrants that all goods and services furnished shall conform in all respects to the terms of this Contract, including any drawings, specifications or standards incorporated herein, and any defects in materials, workmanship, and free from

such defects in design. In addition, Contractor warrants that goods and services are suitable for and will perform in accordance with the purposes for which they are intended.

EE. Felony Criminal Convictions: Contractor represents and warrants that Contractor has not and Contractor's employees assigned to TEA projects have not been convicted of a felony criminal offense, or that, if such a conviction has occurred, Contractor has fully advised TEA as to the facts and circumstances surrounding the conviction.

FF. Assignment of Contract: This Contract may not be assigned, sold, or transferred without the express written consent of TEA Purchasing, Contracts, and TEA Services (PCAS) Division. An attempted assignment after Contract award without TEA approval will constitute a material breach of Contract.

GG. Buy Texas: In accordance with Government Code, Section 2155.444, the State of Texas requires that during the performance of a Contract for services, Contractor shall purchase products and materials produced in the State of Texas when available at a price and time comparable to products and materials produced outside the state. This provision does not apply if Contractor receives any federal funds under this Contract.

HH. Excluded Parties List System: TEA and Contractor must adhere to the directions provided in the President's Executive Order (EO) 13224, Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism, which may be viewed at http://www.whitehouse.gov/briefing-room/presidential-actions/executive-orders. That Executive Order prohibits any transaction or dealing by United States persons, including but not limited to the making or receiving of any contribution of funds, goods, or services to or for the benefit of those persons listed in the General Services Administration's Excluded Parties List System (EPLS) which may be viewed on the System for Award Management (SAM) site at http://www.sam.gov.

II. Suspension and Debarment: Contractor certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntary excluded from participation in this transaction by any federal, state or local government entity and that Contractor is in compliance with the State of Texas statutes and rules relating to procurement. If Contractor is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this Contract.

JJ. Electronic and Information Resources Accessibility Standards: State agencies shall procure products which comply with the State of Texas Accessibility requirements for Electronic Information Resources specified in 1 TAC Chapter 213 when such products are available in the commercial marketplace or when such products are developed in response to a procurement solicitation.

Section 508 of the US Rehabilitation Act of 1973 has been revised and adopted. Therefore, all current and potential contractors are hereby notified of the requirements. The current technical requirements for accessibility contained within this regulation form the basis for our Texas TAC rules on EIR Accessibility.

This refresh of 508 uses the WCAG 2.0 AA Accessibility Guidelines (also ISO/IEC standard 40500) as the new technical standard that federal agencies are required to meet when procuring products and services. The Texas Department of Information Resources is modifying the TAC rules to align with it.

Given this change, all Texas agencies and institutions of higher education must begin using or specifying WCAG 2.0 AA guidelines for the design of new websites or web applications. The rationale is twofold:

1. It is technically difficult and expensive to bring these websites/applications to WCAG 2.0 AA later.
2. WG 2.0 AA is a superior, more flexible standard and is in use all over the world. If a website is compliant with WCAG 2.0 AA, it will, by default comply with our current TAC rules on EIR Accessibility.

Web development Contractors should already be familiar with designing to this standard, and their ability to meet these standards should be a strong consideration in the selection process.

The free online resources listed below are available to assist developers and content producers in transitioning to these guidelines.

WCAG 2.0 at a glance
IBM Developer Guidelines Web Checklist
Webaim.org Accessibility Checklist

All websites must follow Federal 508 accessibility requirements and Web Content Accessibility Guidelines (WCAG) 2.0 AA standards and be tested for accessibility before acceptance by TEA. For sites developed outside of TEA, the vendor must contract with a third party with expertise and a proven track record in accessibility testing. This company must evaluate the site and produce a report that verifies the site is compliant to (WCAG) 2.0 AA.

The awarded Contractor must employ real users with disabilities for manual testing. Contractor must provide a report that will include the results of auto-testing, screen-by-screen assessments, pass/fail status for each of the identified compliance standards to be met and recommendations for how to repair the screens/pages that do not meet the standards. Remediation recommendations shall be provided to the code level. The report should include documentation of the experience of real users with disabilities and may recommend techniques for improving the usable accessibility of the application. Contractor shall validate, by title, if all accessibility requirements have been met.

KK. Collusion: Contractor certifies and represents that Contractor has not colluded with, nor received any assistance from, any person who was paid by TEA to prepare specifications or a solicitation on which a Contractor's bid or proposal is based and will not allow any person who prepared the respective specifications or solicitation to participate financially in any contract award.

LL. Social Security Numbers Withheld: TEA will not provide Social Security Numbers (SSNs) to any Contractor under this Contract unless specifically specified as part of the project requirements. An authorized officer of the company must certify that ALL records have either been properly destroyed or returned to TEA in order to close out the Contract.

MM. Nondisclosure; Press Releases: All information gathered, produced, derived, obtained, analyzed, controlled or Accessed by Contractor in connection with a contract resulting from a solicitation("Confidential Information") shall be and remain Confidential Information and shall not be released or disclosed by Contractor without the prior written consent of TEA, which consent must specifically identify the Confidential Information to be disclosed by Contractor and the nature of the disclosure for which consent is sought. Contractor, its employees and subcontractors, agree that in executing tasks on behalf of TEA.

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, except when defined as part of the Work under this Contract.

Contractor will not make any press releases, public statements, or advertisement referring to the Project or the engagement of Contractor in connection with the Project, or release any information relative to the Project for publication, advertisement or any other purpose without the prior written approval of TEA.

NN. 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.

OO. Contractor Performance: TEA is required to submit Contractor Performance reports under Texas Government Code, §2262.055, and 34 Texas Administrative Code (TAC), §20.509 and §20.115. Govt. Code §2155.089 requires agencies to report contractor performance for purchases over $25,000. Agencies are also encouraged to report contractor performance on purchases under $25,000 and associated with contracts and purchase orders issued throughout the life of a contract or purchase order, not just at its conclusion. The Comptroller's Vendor Performance Tracking System (VPTS) provides the state procurement community with a comprehensive tool for evaluating vendor performance to reduce risk in the contract awarding process. Historic reports submitted prior to February 10th, 2017 were graded on a satisfactory or unsatisfactory scale. The score will be displayed as "Legacy Satisfactory" or "Legacy Unsatisfactory." The Contractor must have a score of "Legacy Satisfactory" or, for scores submitted after February 10, 2017, a Contractor must reflect a letter grade of 'A'

TEA may conduct reference checks with other entities regarding past performance of Respondent or its subcontractors. In addition to evaluating performance through the VPTS, TEA may examine other sources of contractor performance, including, but not limited to, notices of termination, cure notices, assessments of liquidated damages, litigation, audit reports, and non-renewals of contracts. Such sources of contractor performance may include any governmental entity, whether an agency or political subdivision of the State of Texas, another state, or the Federal government. Further, TEA may initiate such examinations of contractor performance based upon media reports. Any such investigations shall be at the sole discretion of TEA, and any negative findings, as determined by TEA, may result in a non-award to Respondent. The VPTS is located on Comptroller's website at: https://www.comptroller.texas.gov/purchasing/programs/vendor-performance-tracking/

PP. 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.

1. **Termination for Convenience:** TEA may terminate this Contract at any time, in whole or in part, without penalty, by providing 15 calendar days advance written notice to Contractor. In the event of such a termination, 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 Contractor that are permitted, properly performed under this Contract and were incurred prior to the effective termination date.

2. **Termination for Cause/Default:** If 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 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 Contractor in writing prior to the exercise of such remedy.

   Contractor shall remain liable for all covenants and indemnities under the Contract. 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.

3. **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.

4. **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 Contractor under the Contract.

5. **Survival of Terms:** Termination of the Contract for any reason shall not release 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, invoice and fees verification.

6. **Contract Transition:** In the event a subsequent competitive solicitation is awarded to a New Contractor, the Outgoing Contractor shall hand-over to the New Contractor all "Works" including but not limited to the following: data, materials, database access, intellectual property, source code, training materials, access to websites, asset transfer, and maintenance of service commitments. The purpose of transition planning is to ensure a seamless and continuous service when changing from one contract to another. The Outgoing Contractor will begin shipping, transmitting or providing access to all appropriate materials and data to the New Contractor within 10 days of announcement of award at the New Contractor's expense for data processing and production, packing and shipping. The Outgoing Contractor will be responsible for providing the services identified in the Contract until all records have been completely transferred to the New Contractor. The Outgoing Contractor is responsible for performing due diligence to ensure that all the transition activities are identified and completed during the contract transition.

   The Outgoing Contractor shall submit to TEA requested reports and data. TEA will not release the final invoice until all materials are returned to TEA or their designee. TEA Project Manager shall approve the Transition Plan prior to its implementation. The Transition Plan must minimize the impacts on continuity of operations and maintain communication with TEA Project Manager and the New Contractor.

QQ. Amendments: All amendments to this Contract will be in a manner as prescribed by TEA Contracting Process and are, subject to Paragraph B of the General Provisions and will be made on AMENDMENT TO TEA STANDARD CONTRACT form. All amendments will be initiated by TEA PCAS staff. An amendment to this Contract will become effective on the date of signature of TEA or the effective date shown on the amendment document whichever is first. All amendments must be signed by both parties.

If the initial major contract (defined as expected value of $10 million or more) solicitation document submitted to the CPA Contract Advisory Team (CAT) changes substantially, agencies are required to resubmit their solicitation documents(s) for CAT review. Changes in the major contract solicitation are considered substantial when: 1) the solicitation change caused the estimated value for the original term of the Contract, not including renewal periods, to increase by 20% or more; 2) or there are significant revisions, deletions and/or additions to the specifications, statement of work (SOW), set(s) of deliverables, performance measures, payment methodology, etc.

1. The Contractor is permitted to re-budget among direct cost categories within tasks (less than 25%) in the approved budget to meet unanticipated requirements and to make limited changes to the approved budget without the issuance of a written Amendment as long as the total budget amount does not change. However, a revised budget document must be preapproved by the TEA Project Manager before the making the changes. Once approved, the documents must be submitted to the Contracts office for incorporation into the Contract file. Failure to submit the budget documents will result in invoices being rejected or payment delayed.

2. Written amendments are required for the following contract changes:
   a. Any revision which would result in the need for additional funding;
   b. Revisions or additions to the scope of work, deliverables, or objectives of the Contract (regardless of whether there is an associated budget revision requiring prior approval). Increases of 20% or more for major contracts must be approved by the Texas Comptroller;
   c. A request to extend the period of the Contract;
   d. Any reduction of funds or reduction in the scope of work;
   e. Whenever a line item within a class/object code is added;
   f. An increase in the quantity of capital outlay item(s) requested; and
   g. An increase or decrease in the number of positions charged to Contract.

RR. Payment: Payment for goods or services purchased with state-appropriated funds will be issued by electronic direct deposit from the State Treasury. Direct deposit is the preferred method of payment. Additional information and a Direct Deposit Authorization application may be found at: https://fmx.cpa.state.tx.us/fm/payment/index.php Invoices must be submitted to TEAAccountsPayable@tea.texas.gov and TEA Project Manager. Any payment owed by TEA must be transmitted electronically to Contractor no later than 30 days after the later of:

1. Day on which TEA received the goods;
2. Date the performance of the service under the Contract is completed; or
3. Day on which TEA received the complete and correct invoice for goods or services.

Payment for service(s) described in this Contract is contingent upon satisfactory completion of the deliverables or services. TEA project manager may also utilize a Deliverables and Services Review and Acceptance Process written procedures. When the formal procedures are to be utilized, the TEA project manager will provide to the selected Contractor a copy of the Handbook. Contractor must submit final deliverables to TEA for review and approval prior to invoicing. These include test items developed under the Contract. "Final" deliverable means a deliverable that, in the belief and testimony of Contractor, is in final completed form and in compliance with all required specifications as defined by project documentation and this Contract. TEA will review each deliverable, including test items, submitted by Contractor for quality and alignment to the deliverable definition agreed to under the "Deliverables and Services Definition Process". TEA will have 15 working days to approve a deliverable or request revisions to the deliverable. TEA must review and approve any deliverable before it may be invoiced by Contractor. If TEA finds a submitted deliverable to be substandard or not in compliance with the deliverable definition agreed to under the "Deliverables and Services Definition Process" provided by the TEA Program Manager, located in the Service Level Agreement or the Contract Monitoring Tool. Contractor will have 10 working days to provide a Corrective Action Plan and address the quality or other compliance requirement and resubmit the deliverable. Additional costs incurred by Contractor that result from repeated submissions and revising of substandard deliverables will be borne solely by Contractor and not charged against the Contract or to TEA. This process will apply

to all deliverables and requirements of the Contract, including test items developed. This does not preclude an arrangement that allows Contractor to bill against a deliverable as progress is made toward completing that deliverable, so long as documentation of such progress in a form and nature satisfactory to TEA is provided and is approved by TEA. It is up to Contractor to request incremental billing based on progress towards a deliverable, and such a request must be approved by TEA prior to submission of any invoice by Contractor. TEA reserves the right to reject and not provide payment for deliverables found to be substandard or not in compliance with the deliverable definition agreed to under the "Deliverables and Services Definition Process", including test items developed under the Contract. Contractor is strongly encouraged to collaborate with TEA on draft versions of any deliverables or services and request review(s) of such draft versions before submitting a final version.

Retainage: TEA may withhold 5% or less of each payment as retainage for certain projects. Retainage fees must be stated in the competitive solicitation and documented in the Contract. The fees may not be arbitrarily imposed after execution of the Contract. The release of retainage shall be requested in the final invoice.

Unless otherwise stated, payment under this Contract will be made upon performance of services based upon submission of an expenditure report/invoice, properly prepared and certified, outlining expenditures by cost category. Include the Contract number, purchase order number, and the Texas Comptroller of Public Accounts Texas Identification Number (TIN) on all invoices/expenditure reports. The cost categories provided in the expenditure report/invoice must coincide with the cost categories detailed in the approved budget. A list of tasks/activities performed during the invoice period must accompany the expenditure report/invoice. The final expenditure report/invoice is due within 45 days after the end of the Contract. Payment on the final expenditure report is contingent upon receipt of all reports/products required by this Contract.

An encumbrance, accounts payable, and expenditure, as with all other contract accounting terms, will be as defined in the *Financial Accounting and Reporting Module of TEA Financial Accountability System Resource Guide*. All goods must have been received and all services rendered by the ending date of this Contract in order for Contractor to include these costs as either expenditures or as accounts payable and, thereby, recover funds due. In no manner shall encumbrances be considered or reflected as accounts payable or as expenditures.

Contractor who is indebted or owes delinquent taxes to the state will have any payments under the Contract applied toward the debt or delinquent taxes owed the state until the amount is paid in full, regardless of when the debt or delinquency was incurred. TEA shall determine whether a payment law prohibits the Comptroller from issuing a warrant or initiating an electronic funds transfer to a person before TEA enters into a written contract with that person.

Contractor may verify its account status by accessing the Texas Comptroller's website at
https://fmx.cpa.state.tx.us/fm/pubs/purchase/restricted/index.php?section=indebted&page=persons_indebted

SS. **Prohibition of text messaging and emailing while driving during official federal grant business:** Federal grant recipients and their grant personnel are prohibited from texting messaging while driving a government owned vehicle or while driving their own privately owned vehicle during official grant business, or from using government supplied electronic equipment to text message or email while driving. Recipients must comply with these conditions under Executive Order 13513, "Federal Leadership On Reducing Text Messaging While Driving," effective October 1, 2009.

TT. **Insurance:** Contractor represents and warrants that it will, within five business days of being requested by TEA, provide TEA with current certificates of insurance or other proof acceptable to TEA of the following insurance coverage:

Workers Compensation & Employers Liability: Contractor must maintain Workers' Compensation insurance coverage in accordance with statutory limits.

Workers Compensation: Statutory Limits
Employers Liability: Each Accident $1,000,000
Disease- Each Employee $1,000,000
Disease-Policy Limit $1,000,000

This state of Texas website (Coverage starts with 406 of the Labor code) addresses what Texas requires may be found at: http://www.tdi.texas.gov/wc/act/index.html

Commercial General Liability: Occurrence based:
Bodily Injury and Property Damage
Each occurrence limit: $1,000,000;
Aggregate limit: $2,000,000;
Medical Expense each person: $5,000;
Personal Injury and Advertising Liability: $1,000,000;
Products /Completed Operations Aggregate Limit: $2,000,000; and
Damage to Premises Rented to You: $50,000

Contractor represents and warrants that all of the above coverage is with companies licensed in the state of Texas, with "A" rating from A.M. Best, and authorized to provide the corresponding coverage. Contractor also represents and warrants that all policies contain endorsements prohibiting cancellation except upon at least 30 days prior written notice to TEA. Contractor represents and warrants that it shall maintain the above insurance coverage during the term of this Contract, and shall provide TEA with an executed copy of the policies immediately upon request.

UU. **Force Majeure:** Neither Contractor nor TEA shall be liable to the other for any delay in, or failure of performance, of any requirement included in any contract resulting from this RFP 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, fires, explosions, hurricanes, floods, failure of transportation, or other causes that are beyond the reasonable control of either party and that by exercise of due foresight such party could not reasonably have been expected to avoid, and which, by the exercise of all reasonable due diligence, such party is unable to overcome. Each party must inform the other in writing, with proof of receipt, within three business days of the existence of such force majeure, or otherwise waive this right as a defense.

VV. **Drug Free Workplace Policy:** Contractor shall comply with the applicable provisions of the Drug-Free Work Place Act of 1988 (Public Law 100-690, Title V, Subtitle D; 41 U.S.C. 701 ET SEQ.) and maintain a drug-free work environment; and the final rule, government-wide requirements for drug-free work place (grants), issued by the Office of Management and Budget and the Department of Defense (32 CFR Part 280, Subpart F) to implement the provisions of the Drug-Free Work Place Act of 1988 is incorporated by reference and Contractor shall comply with the relevant provisions thereof, including any amendments to the final rule that may hereafter be issued.

WW. **Abandonment or Default:** If 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 Proposer. 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 TEA based on the seriousness of the default.

XX. **Applicable Law and Conforming Amendments:** Contractor must comply with all laws, regulations, requirements and guidelines applicable to a Contractor providing services to the State of Texas as these laws, regulations, requirements and guidelines currently exist and as they are amended throughout the term of this Contract. TEA reserves the right, in its sole discretion, to unilaterally amend this Contract throughout its term to incorporate any modifications necessary for TEA or Contractor's compliance with all applicable State and federal laws, and regulations

YY. **Change in Law:** Any alterations, additions, or deletions to the terms of this Contract which are required by changes in federal or state law or regulations are automatically incorporated into this Contract without written amendment hereto, and shall become effective on the date designated by such law or by regulation.

ZZ. **Boycott Israel:** Performing Party represents and warrants that, pursuant to Section 2270.002 of the Texas Government Code, Performing Party does not boycott Israel and will not boycott Israel during the term of the contract.

The Texas Government Code and Family Code sites referenced in this document may be viewed at:
http://www.statutes.legis.state.tx.us/

The Texas Administrative Code site referenced in this document may be viewed at:
http://texreg.sos.state.tx.us/public/readtac$ext.viewtac