

**CONTRACT
BETWEEN THE STATE OF TENNESSEE,
DEPARTMENT OF GENERAL SERVICES
CENTRAL PROCUREMENT OFFICE
AND
UWORK.COM, INC. DBA COVENDIS TECHNOLOGIES**

This Contract, by and between the State of Tennessee, Department of General Services, Central Procurement Office hereinafter referred to as the ("State"), and Uwork.com, Inc. DBA Covendis Technologies ("Contractor,") is for the provision of Managed Service Provider ("MSP"), as further defined in the "SCOPE." State and Contractor may be referred to individually as a "Party" or collectively as the "Parties" to this Contract.

The Contractor is a: For-Profit Corporation
Contractor Place of Incorporation or Organization: Delaware
Contractor Edison Registration ID #227512

A. SCOPE:

A.1. The Contractor shall provide all goods or services and deliverables as required, described, and detailed below and shall meet all service and delivery timelines as specified by this Contract.

A.2. Definitions. For purposes of this Contract, definitions shall be as follows and as set forth in the Contract:

- a. **Account Manager** – MSP's employee(s) assigned to service the State's account.
- b. **Contingent Worker** - Individual employee of a Sub-vendor selected for assignment by the End User.
- c. **CPO** – Central procurement Office.
- d. **End User** - Either the Tennessee State Agency or an Authorized User, who the Contractor is providing goods or services.
- e. **Managed Service Provider ("MSP")** – The Contractor.
- f. **Maximum Bill Rate** - The total bill rate (inclusive of any MSP Fee) that can be charged for a class title.
- g. **MSP Fee** - The percentage of the bill rate kept by the MSP. This amount is deducted from the rate received from the Sub-vendor.
- h. **Projects-Based/Deliverables Staffing** - Milestone, Independent Contractor (IC/1099) or fixed-bid based project deliverables utilizing Sub-vendors that are not billed on an hourly basis and are governed by a Statement of Work (SOW) document.
- i. **Rate Card** - Refers to the maximum amount that may be billed for each job title. See Attachment 2.
- j. **Subcontractor** - The term Subcontractor shall have the meaning ascribed to it in Section D.7. of this Contract.
- k. **Sub-vendor** - The term Sub-vendor shall mean a member of the MSP's Sub-vendor Network and shall also have the meaning ascribed to it in Section D.7. of this Contract
- l. **Sub-vendor Network** - All the Sub-vendors that the Contractor is responsible for that employ Contingent Workers placed on assignment to End Users.
- m. **State Contract Administrator** - Contractor's main point of contact at the Central Procurement Office.
- n. **SWC** – Statewide Contract.
- o. **Staff Augmentation Program** - The organization, hiring, and managing of the State's Contingent Workers.
- p. **Statement of Work ("SOW")** - A document that defines project-specific requirements, activities, deliverables and timelines, as requested by the End User.
- q. **Strategic Technology Solutions** - State of Tennessee Office of Strategic Technology Solutions.

- r. **Sub-vendor Neutral** - No preference given to any member(s) of the Sub-vendor Network. Open positions are distributed to all members of the Sub-vendor Network.
- s. **Vendor Management System ("VMS")** - Online system the MSP utilizes to perform the requirements described in this Contract.

A.3. Summary of Services.

- a. The purpose of this Contract is to establish a Managed Service Provider ("MSP"). The MSP will manage both the State's Staff Augmentation Program and manage Projects-Based/Deliverables Staffing including, but not limited to:
 - i. Establish and manage a Sub-vendor Network for the Staff Augmentation Program and the Projects-Based/Deliverables Staffing. All Sub-vendor Networks shall be Sub-vendor Neutral. The State is the intended third-party beneficiary between the Contractor and each Sub-vendor and the Contractor's agreement with members of the Sub-vendor Network should identify the State as the intended third-party beneficiary.
 - ii. Manage candidate sourcing while ensuring all rates for the Staff Augmentation Program shall not exceed the established maximum bill Rate Card.
 - iii. Provide ongoing administration of the MSP program.
- b. The Contractor shall provide adequate on-site staffing. This includes, but is not limited to, a manager and additional staff as deemed necessary on-site in downtown Nashville, TN to manage the MSP program. These staff shall develop and manage the Sub-vendor Network, coordinate with hiring managers on open positions, and monitor compliance over the entire MSP program.
- c. The Contractor shall provide a VMS to automate and support the Staff Augmentation Program and provide reporting in accordance with Section A.6.
- d. The VMS shall manage the distribution of job requisitions, submittal of candidates, timekeeping, and reporting to the State. The VMS shall be fully developed by the Effective Date.
- e. The Contractor shall be responsible for all costs and fees associated with prescreening (background, drug, credit, licenses, etc.) checks. Prescreening requirements shall be determined on a case-by-case basis, and the Contractor shall define such requirements in the job posting within the VMS. The Contractor agrees to reimburse the End User for any background checks that the End User is required to perform itself, provided that notice of such required prescreening checks is given to the Contractor when the requisition is provided. It is the sole responsibility of the Contractor to ensure that candidates have passed prescreening requirements prior to placement on assignment with an End User.
- f. The Contractor shall provide a plan to transition all existing projects and Contingent Workers currently providing services to the State to the VMS.
- g. The Contractor shall, on a quarterly basis, convene Contract review meetings as outlined in Section A.5.e. with the State to review the Contractor's performance and service level metrics and report to the State the results of the customer satisfaction surveys as described at A.3.i, with such customer satisfaction metrics data separated by Staff Augmentation Program or the Statement of Work and by Sub-vendor.

- h. The Contractor shall assist the State in quantifying cost savings and identifying ongoing opportunities for additional savings throughout the Term of this Contract.
- i. The Contractor shall establish customer satisfaction survey metrics to be completed on a quarterly basis for each Statement of Work and Sub-vendor by the respective End User; the survey methodology is to be approved by the State in writing.
- j. The Contractor shall provide customer service between the hours of 7:00 am and 5:00 pm CT on weekdays and on an as needed basis during non-standard business hours.
- k. The Contractor shall incur the cost of any network and telecommunications infrastructure to facilitate receipt of any requisitions, time keeping, reporting, etc.
- l. The Contractor and any of its affiliates or subsidiaries shall not provide, in aggregate, more than ten percent (10%) of the Contingent Workers per job category and the Contingent Workers for all Projects-Based/Deliverables Staffing requested during the Term of this Contract. At request from the State, the Contractor must provide a list of its affiliates or subsidiaries as well as inform the State of any changes to this list throughout the life of this Contract. This requirement does not limit the number of Contingent Workers a Sub-vendor can provide; Contingent Workers on payrolling arrangements shall be excluded from the ten percent (10%) prohibition.
- m. The Contractor shall disclose all financial interests with any of its Sub-vendors, and the State reserves the right to include their participation in the Contractor's total participation as described in this Contract Section A.3.I.
- n. Requests by State Agencies for Contingent Workers in the information technology field require prior approval by STS. The Contractor shall return any unapproved request to the requesting Agency for corrective action.
- o. Requests by State Agencies for Projects-Based/Deliverables Staffing in the information technology field require prior approval by STS. The Contractor shall return any unapproved SOW to the requesting Agency for corrective action.
- p. Requests by State Agencies in the Executive Branch to fill an existing preferred service position require prior approval by the Department of Human Resources.

A.4. VMS Requirements

- a. The Contractor shall provide a plan to implement the VMS within two (2) weeks of the contract Effective Date with projected milestones including the go-live date agreed upon by the State and Contractor. The Contractor shall report progress on the implementation and identify and resolve issues during the implementation. The VMS shall be accessible by End Users through the Internet and reside on a secure server with backup and recovery capabilities as specified in E.17.b, Business Continuity Requirements. The VMS vendor is not authorized to host any Federal Tax Information, Centers for Medicare and Medicaid Services Information or Criminal Justice Information Services Information. The Contractor shall host the VMS and associated data; the VMS and associated data cannot be hosted outside the continental United States.
- b. The VMS shall accept requirements from the End User for both Staff Augmentation and Statement of Work requests; provide those requirements to the Sub-vendors; review, rate, and filter the candidates or proposals from the Sub-vendors; send the highest rated

candidates and proposals to the End User; capture timesheet information; and accurately invoice the End User.

- c. The Contractor shall supply a VMS that includes the following processes, components, and attributes:
 - i. Sub-vendor Recruitment and Sub-vendor Performance;
 - ii. Work request (request for services both Staff Augmentation Program and Projects-Based/Deliverables Staffing) distribution in compliance with A.3.a.i.;
 - iii. Candidate submission and approval;
 - iv. Scalability and flexibility to unique End User needs;
 - v. Sub-vendor on-boarding (process by which the Contractor brings Sub-vendors into the VMS system);
 - vi. Timekeeping (time input, approval/rejection, and alterations);
 - vii. Reporting (in accordance with Contract Section A.6.); and,
 - viii. On-line search and query functions.
- d. The Contractor shall provide VMS training for all End Users, Sub-Vendors, and Contingent Workers at no additional cost to the State.
- e. The Contractor shall provide ongoing support and maintenance for the VMS.
- f. The VMS shall store all VMS data for a minimum of five (5) years after date of final payment.

A.5. Quality Assurance

- a. The Contractor shall demonstrate a high level of quality control standards and service to the State.
- b. Request of Contingent Workers: The Contractor shall respond to the End User requests through the VMS with a group of resumes. If the End User is not satisfied and feels that the resumes do not meet the requirements as stated in the requisition, the Contractor shall respond with a new group of resumes.
- c. Evaluate Candidates: The End User has the right to review the quality of the candidates provided by the Contractor, including conducting skills assessments (phone interviews, face to face interviews, capabilities tests, etc.) of the candidates. If the End User determines that the candidate does not meet the skill requirements of the position, the End User has the right to reject the candidate. The End User may require the Contractor to provide another group of resumes from which the End User can choose another candidate.
- d. Candidate Selection: The End User has the right to determine, within the first five (5) weeks of placement that the Contingent Worker does not have the skills or capabilities necessary to complete the job as requested in the original requisition. If the End User determines that the Contingent Worker does not have the skills, the Contractor is required to replace the Contingent Worker immediately. If the End User makes this determination and notifies the

Contractor within five (5) business days of placement, the Contractor shall not bill the End User for any of the Contingent Worker's services.

- e. Quarterly Review and Reporting: The Contractor shall convene a quarterly meeting to review the quality of service provided to the End Users by the Contractor. The State Contract Administrator and any State Agency representatives deemed necessary by the State Contract Administrator must be in attendance. Sub-vendors may also be requested to attend a quarterly review meeting; failure to attend upon request may be grounds for removal from the Sub-vendor Network. It is at this time that the State will score the Contractor on a variety of performance criteria, including, but not limited to, the Service Level Agreements ("SLA") as outlined in Section A.7.

A.6. Reports

- a. The Contractor is required to generate reports on a periodic basis and send these reports to the State along with recommendations for continuous process improvement.
- b. The VMS technology and/or any other similar technology utilized to provide services under this Contract shall provide standardized reports. In order to produce these reports, the VMS technology shall track every step of the requisition process, individual Contingent Workers rates, End User spend, and also have a mechanism to track violation of End User compliance policies including contract compliance and program rules compliance.
- c. The Contractor shall measure and evaluate performance of all Sub-vendors in the Sub-vendor Network on at least a semi-annual basis, with quarterly reporting to be provided as required by Contract Section A.6.e., for the State to determine which Sub-vendors may continue to provide staffing services to the State. The Contractor shall provide a Sub-vendor scorecard, which captures qualitative information such as feedback on Sub-vendor customer service. The scorecard shall combine various data sources for a single consolidated performance report, real-time data availability via standard system reports, and real-time data availability via user-defined ad hoc reports.
- d. The Contractor shall provide standard reports, in a State approved template, including, but not limited to, the following:

Reports	Description
Submittal Report	Report showing number of requests each Sub-vendor submitted a response to, including an interview to submittal ratio for each Sub-vendor
New Contingent Worker Report	Report listing new Contingent Workers and their respective Sub-vendors, including a hire to interview ratio
Sub-vendor Scorecard Report	Reporting showing Sub-vendor participation, including, but not limited to, requests to submittal ratio, interview to submittal ratio, hire to interview ratio, etc. The report shall also contain qualitative information such as feedback on Sub-vendor customer service.
Cumulative Billing Report	Report showing cumulative billing by Sub-vendor, field, and Agency
Diversity Business Usage Report	Report showing percentage of Sub-vendors that are Diversity Businesses that provided Contingent Workers for the report period
Performance Metric Quarterly Report	Quarterly Report showing performance metrics found in Section A.7

Reports	Description
Projects Status Report	Monthly Report showing all on-going Projects-Based/Deliverables Staffing and information including, but not limited to, initial start date, initial end date, current end date, initial fixed price of the project, change orders including updated fixed price of the project, achieved milestones, changes in Account Manager personnel, potential delays, etc. Additionally, Contractor shall provide reports determined necessary in the SOW for each respective Projects-Based/Deliverables Staffing.

- e. Reports are due to the Central Procurement Office in the first week following each quarter of the fiscal year during the Contract term. Reports shall be submitted electronically or by digital appliance in Microsoft Excel format. Additional reports may be requested in writing by the State Contract Administrator with a thirty (30) calendar day written notice to the Contractor. The Contractor shall provide the following reports to the Central Procurement Office:
- i. Usage reports: In addition to a quarterly report of sales being required, reporting of cost savings, net purchases, and percentage diversity (minority-owned, women-owned, disabled veteran-owned, disabled-owned, and small business) of net purchases are required quarterly. Reports should be submitted to the contract administrator for the state in Microsoft Excel file format.
 - ii. Custom Reports: The awarded Contractor also agrees to provide custom/special reports, as requested periodically by the State, at no additional charge to the State. The State's Contract Administrator may request custom reports from time to time. The Contractor shall indicate the flexibility of the reporting system and the ease of changing both format and components tracked.
 - iii. Report Format: Reports shall be provided in electronic format. All electronic reports must be submitted in Microsoft Excel format. Reports must include the ability to sort/summarize by account, job category classification and job code. The awarded Contractor agrees to provide all data requested in a flat file format as designated by the State Contract Administrator.

A.7. Performance Metrics

- a. The Contractor shall meet or exceed the performance metrics listed below.

Performance Metric	MSP Goal	Performance Target	Description	Calculation
Requisition Confirmation Response time	4 business hours	92% or higher	Measures average response time from receipt of request to confirmation of request receipt.	Number of requisitions which received confirmation within 4 hours / total number of requisitions.
Resume Submittal Response time	4 business days	92% or higher	Measures average response time from receipt of request to delivery of first candidate's resume.	Number of requisitions which received first batch of resumes for review within 4 business days / total number of requisitions.
Normal Fill Rate	N/A	92% or higher	Measures Contractor's ability to satisfactorily fulfill requisitions. Indicates how many requisitions are open.	Total number of filled positions at month end / total number of corresponding requisitions in the same time period
Normal Round 1 Fill Rate	N/A	95% or higher	Measures Contractor's ability to satisfactorily fulfill requisitions within first round of resumes submitted to requestor (normal requisitions).	Total number of filled positions resulting from the first round of resumes / total number of requisitions filled.

Performance Metric	MSP Goal	Performance Target	Description	Calculation
Urgent Flagged Submittal Response Time	2 business days	92% or higher	Measures average response time from receipt of URGENT request to delivery of first candidate's resume.	Number of URGENT requisitions that received first batch of resumes for review within 2 business days / total number of URGENT requisitions.
Urgent Fill Rate	N/A	92% or higher	Measures Contractor's ability to fulfill requisitions. Indicates how many requisitions are open.	Total number of URGENT filled positions at month end / total number of corresponding requisitions in the same time period
Urgent Round 1 Fill Rate	N/A	90% or higher	Measures Contractor's ability to fulfill requisitions within first round of resumes submitted to requestor (URGENT requisitions).	Total number of URGENT filled positions resulting from the first round of resumes / total number of requisitions filled.
Attrition Rate	N/A	8% or lower	Measures Contingent Worker turnover due to unplanned situations that are not caused by the State, not including inadequate performance, death, serious illness, etc.	Number of unplanned turnovers / total number of Contingent Workers.
Performance Removal	N/A	5% or lower	Measures Contingent Worker turnover due to inadequate resource performance.	Number of turnovers (due to inadequate performance) / total number of Contingent Workers.
Offering Opportunity to the Network	N/A	30% or higher	Measure of how many resumes, provided to the State after requisition, are from the Contractor's Sub-vendor Network.	Total number of resumes provided to the State from Sub-vendor resource pools / total number of resumes provided to the State.
Usage of Sub-vendor Network	N/A	90% or higher	Measure of how many Contingent Workers are provided through Sub-vendor(s) not owned or affiliated with the MSP.	Number of Contingent Workers provided through Sub-vendor(s) not owned or affiliated with the MSP selected within period / total number of Contingent Workers selected within period.
Providing three (3) compliant quotes for SOW projects	N/A	90% or higher	Measure of how many times Contractor provides at least three (3) compliant quotes for SOW projects.	Number of SOW projects receiving three (3) compliant quotes or more / total number of SOW projects quoted.

- b. Corrective action meetings shall occur as required by the State to ensure the Contractor shall meet or exceed performance metric targets. The performance metric will be reviewed quarterly by the State Contract Administrator and State Agency representatives deemed necessary to identify any issues requiring immediate attention.
- c. Once a final scorecard, which will include the above performance metrics, has been developed, the State Contract Administrator shall calculate a score for the Contractor's overall performance. If the score is below the minimum threshold, the following actions shall be taken:
 - i. A discussion shall take place between the Contractor and the State Contract Administrator. The Contractor shall be given a warning, and the State and the Contractor shall develop a corrective action plan, which shall require the Contractor to correct any problem areas within one (1) quarter.

- ii. If a second quarterly review occurs with minimal or no improvement in the problem areas, the Contractor shall be placed on probation, and shall have one (1) additional quarter to improve its overall service score.
- iii. The State reserves the right to terminate the Contract in accordance with Contract Sections D.5. and D.6.

A.8. Continuity of Services

- a. The State or another Contractor may continue the services provided pursuant to this Contract.
- b. The Contractor shall, upon the State's written notice:
 - i. Furnish phase-in, phase-out services for up to sixty (60) calendar days after this Contract expires or terminates, and
 - ii. Negotiate in good faith a plan with the State or a successor to determine the nature and extent of phase-in, phase-out services required.
- c. The plan shall be subject to the State's approval. Such plan shall specify a training program and a date for transferring responsibilities for each division of work detailed within the plan. The Contractor shall provide sufficient experienced personnel during the phase-in, phase-out period to ensure that the services detailed within this Contract are maintained at the required level of proficiency.
- d. The Contractor shall allot as many personnel as practicable to remain on the job to assist the State or the successor with ensuring the continuity and consistency of the services required by this Contract. The Contractor shall provide to the State and/or the successor all necessary personnel records and allow the successor to conduct on-site interviews with such Contingent Workers. If selected employees are agreeable to the change, the Contractor shall release them at a mutually agreeable date and negotiate transfer of their earned fringe benefits to the successor.

A.9. Service and Account Management

- a. The Contractor shall maintain an adequate service organization with local sales representation to cover the entire State of Tennessee.
- b. The Contractor shall provide an Account Manager to interact with the State. Such Account Manager shall be familiar with this Contract and the End Users, and be prepared to handle all service issues and billing inquiries promptly. The Account Manager shall assign an account number to each End User and ensure that Contract rates are attached accordingly. The Account Manager shall be available Monday - Friday 7:00 am to 5:00 pm CT.

A.10. Projects-Based/Deliverables Staffing

- a. The Contractor shall provide staffing needs for Projects-Based or Deliverables Staffing not to exceed one million dollars (\$1,000,000.00), as outlined in Section A.11.a.
- b. Through this Contract Projects-Based or Deliverables Staffing, State agencies shall obtain professional services for projects that include tasks such as analysis, planning, design, development, testing, upgrades, maintenance, installation, and integration.

- c. This Contract Projects-Based or Deliverables Staffing shall not be used to procure:
 - i. Staff augmentation services
 - ii. Hardware, including appliances
 - iii. Commercial Off-the-Shelf (COTS) packages
 - iv. Software licenses without accompanying services
 - v. Software maintenance fees, except for purchase with initial software licenses
 - vi. Ongoing Services, such as ongoing maintenance, system administration, hosting services, ongoing network monitoring, or production operation services
 - vii. Standardized Training Courses
 - viii. Services available through other State of Tennessee Statewide Contracts
 - ix. Audit Services
 - x. Legal Services
- d. The procuring End User will provide a SOW that describes the services it is seeking. The Contractor shall manage and provide three or more project quotes from the Sub-vendor Network that meet the requirements stated in the SOW. The SOW process shall be competitive as described in Section A.11. and shall result in the selected Sub-vendor(s) providing the necessary Contingent Workers to complete the requested services.
- e. STS shall pre-approve all State of Tennessee Agency SOWs related to information technology prior to issuance. The Contractor shall return any unapproved information technology Statement of Work to the requesting Agency for corrective action.
- f. This Contract shall not be used for ongoing maintenance; however, SOWs may include knowledge transfer, training, guidance, and mentoring of State agency support staff to enable such staff to provide ongoing support for the applications or systems internally.

A.11. SOW and Project Quote Process for Projects-Based/Deliverables Staffing

- a. At a procuring End User's request, the Contractor shall provide the services to accomplish the requirements detailed in the SOW. This SOW must be created by the State in accordance with Contract Attachment 5, which contains an SOW Template which may be updated from time to time in order to better meet State needs, This Contract is limited to projects that are one million dollars (\$1,000,000.00) or less. The actual monetary cap for a project will be defined in the SOW ("SOW Monetary Cap"). A project may not be divided into multiple SOWs to circumvent the SOW Monetary Cap. A project team may not be augmented with individually hired Contingent Workers to circumvent the SOW Monetary Cap.

- b. In the SOW, the procuring End User will describe the project's requirements and the desired deliverables, in accordance with Contract Attachment 5, required to complete the projects. The Sub-vendor shall provide a detailed project quote for the SOW that describes how the Sub-vendor shall accomplish the project within the anticipated time frame and total cost limitations.
- c. The Contractor shall make sure the project is completed within the anticipated time frame and total cost limitations. The Contractor shall make task assignments and define and manage the Sub-vendor's personnel work schedules with the goal of accomplishing the procuring End User's requirements in a timely fashion. The Contractor agrees to provide additional resources as necessary to accomplish the project within the timeframes stated in the SOW, at no additional cost to the procuring End User.
- d. The procuring End User has the right to request on-site or off-site work as the procuring End User deems necessary. The procuring End User will specify the location where the project work will be performed in the SOW.
- e. Standard State of Tennessee work schedules are based on a Monday through Friday thirty-seven and one-half (37.5) hour workweek, typically comprised of five (5) seven and one-half (7.5) hour workdays, between the hours of 8:00 a.m. CT and 4:30 p.m. CT, excluding State of Tennessee holidays. Much of the on-site work performed under this Contract shall occur during the standard State of Tennessee work schedule. However, at the procuring End User's discretion and with pre-approval, some projects may require tasks to be performed on weekends, State of Tennessee holidays, and/or at off-hours Monday through Friday. The SOW shall denote such non-standard work schedule tasks, where possible.
- f. The Statement of Work shall include, but is not limited to, the following:
 - i. Field (e.g., Medical, IT, Administrative)
 - ii. Description of the project including all requirements that must be met; requirements may include additional Sub-vendor qualifications for specialized projects.
 - iii. Anticipated project start and end dates.
 - iv. Required deliverables.
 - v. Location(s) where project work will be performed, including the use of on-site or off-site (U.S. based only) resources at the procuring State Agency's discretion.
 - vi. Resources such as hardware and software that will be provided by the procuring End User, if applicable.
 - vii. Availability of End User staff (if any) to assist with the project effort.
 - viii. Format and requirements for the project quote, including details for a fixed priced payment methodology (e.g., phased, deliverable, and/or lump-sum to be paid upon completion); a payment methodology will not be based solely on hourly rates; hourly rates may be included only when the potential for change orders to fixed price items exists in the SOW.

- ix. Project quote delivery requirements.
- x. SOW number to facilitate tracking.
- xi. SOW schedule, including the written clarification deadline and project quote deadline.
- xii. SOW Monetary Cap
- xiii. STS pre-approval (information technology projects by State of Tennessee agencies only).
- xiv. Other information deemed necessary by the procuring End User.

g. SOW Schedule

- i. Each SOW shall specify the deadline for the Sub-vendor to provide a project quote. This deadline shall be no less than seven (7) business days, but it may be longer at the procuring End User's discretion. The SOW shall also specify the deadline by which the Sub-vendor may seek written clarifications of the work involved. The procuring End User will provide responses to such clarifications in writing and submit the responses to the Contractor, who shall distribute to all the Sub-vendors in the network.
- ii. For all SOWs, the Contractor shall deliver either a minimum of three project quotes from the Sub-vendor Network, or written justification that the Sub-vendor Network is unable to deliver a project quote. Written justification must state the reason for the non-submission, which may include, but is not limited to, lack of available qualified resources during the anticipated project timeframe. Contractor shall deliver all received project quotes within twenty-four (24) hours of the established SOW deadline.
- iii. The State shall be the sole determinant as to whether the written justification provided for non-submission is sufficient and may request the Contractor to provide additional written justification.
- iv. For information technology projects that involve Confidential State Data, the Contractor shall assure that each Sub-vendor submitting a project quote is, or will become, compliant with applicable requirements of contract section E.17., "Contractor Hosted Services, Confidential Data, Audit, and Other Requirements" prior to beginning work on the project, as applicable. Applicability will be determined by the type of confidential data the SOW specifies (if any).
- v. The Contractor shall prohibit non-compliant Sub-vendors from submitting a project quote.

h. Project quote

The Contractor shall provide project quote(s) received from its network of Sub-vendors, which shall include the following items:

- i. A high-level overview of how the Sub-vendor meets the SOW requirements and is able to provide the services requested in the SOW.

- ii. A project work plan that accomplishes the project within the procuring End User specified timeframe, detailing all tasks to be performed. This work plan shall include a complete Sub-vendor staffing and onboarding plan, showing Sub-vendor personnel certifications along with indications of any and all End User personnel effort required to complete the project. The same personnel may be simultaneously engaged to perform services under multiple project contract SOWs. However, the Contractor is responsible for making sure that the Sub-vendor provides adequate staff in accordance with A.11.
- iii. Any Sub-vendor assumptions on which the project quote is based cannot conflict with or seek to delete the terms and provisions of the Contract. In the event of a conflict, the Contract shall prevail. Note: The Contractor or Sub-vendor shall **not** include their own terms and conditions as a part of the project quote.
- iv. A firm, fixed total price that covers **all** costs, including, but not limited to, manpower, administrative fees, and travel, to accomplish the project. This total price shall be the maximum amount of compensation that can be paid to the Contractor under this SOW; regardless of the resources required, the Contractor may charge the procuring End User no more than this total price to complete the project. The total price and associated cost item(s) must meet the following:
 - 1. The cost item(s) submitted must correspond exactly to the cost item(s) format included in the SOW.
 - 2. The Contractor must enter costs for **all** requested cost item(s). The Contractor must not leave a cost item blank. The Contractor may enter zero in a cost item if the Contractor does not intend to charge the procuring End User for the item.
 - 3. The total price must be **less than** the SOW Monetary Cap.
- v. Other information as required by the SOW.
- i. Evaluation of project quote
 - i. After the project quote deadline, the procuring End User will review the submitted project quotes, comparing each Sub-vendor's project quote to the SOW requirements. The Sub-vendor submitting the lowest-priced project quote and conforming to the SOW requirements will be selected to provide the services.
 - 1. End Users may include factors beyond cost in the evaluation of submitted project quotes only with CPO review and approval of the evaluation criteria. The Sub-vendor submitting the highest overall scoring project quote and conforming to the SOW requirements will be selected to provide the services.
 - ii. The procuring End User may request written clarification of the Sub-vendor's project quote during the review process.
 - iii. The procuring End User will choose the Sub-vendor through the VMS and the Contractor must notify all Sub-vendors who submitted project quotes of this decision.

- iv. A project quote that fails to contain all of the elements set forth in A.11.h. of this Contract may in the discretion of the State be deemed non-compliant. The State may also deem an untimely project quote as non-compliant in the State's sole discretion.
- v. The total price and associated cost item(s) provided in the project quote must meet Contract Section A.11. The procuring End User shall cancel the SOW if no project quotes meeting the SOW requirements are received.

j. Task Order - General Instructions

- i. After the procuring End User has determined the selected Sub-vendor for the SOW, the procuring End User shall develop a Task Order ("TO"). It is the responsibility of the Contractor to ensure that the Sub-vendor accomplishes the project within the appropriate time frame and total cost limitation. No terms and conditions shall be added to the TO. See Contract Attachment 3 Draft Task Order. Prior to the Sub-vendor beginning work on the project, all required signatures must be obtained for the TO, including any signatures of the Contractor, the procuring End User, or appropriate State officials in accordance with applicable Tennessee laws and regulations. The procuring End User will only sign the TO and will not sign any Contractor documents related to the project. A fully executed TO, containing all required signatures, authorizes the Contractor to provide the requested services. The procuring End User shall not be liable to pay the Contractor for any work performed prior to the Contractor's receipt of a fully executed TO.
- ii. The TO shall fix the maximum amount of money to be paid in compensation for the services requested on a particular SOW (the "TO Project Price"). This amount cannot be exceeded without a TO amendment. Such a TO amendment, if deemed necessary by the procuring End User, must be within the scope of the associated SOW. The TO amendment shall increase the maximum potential compensation due the Contractor for the work in question, or possibly extend the SOW Project End Date. The TO amendment shall require the same signatures as the original TO.
- iii. The TO Project Price shall cover **all** costs, including, but not limited to, manpower, administrative costs, and travel, required to complete the services and deliverables in the project as specified. The TO Project Price can only be increased by TO amendment, and the total increase, whether increased by a single TO amendment or multiple TO amendments cannot exceed seven percent (7%) of the original TO Project Price. Regardless of the foregoing, the TO Project Price, whether or not amended, must not exceed one million dollars (\$1,000,000.00). The Contractor is responsible for ensuring that the projects do not exceed one million dollars (\$1,000,000.00). The Contractor is responsible for all costs over one million (\$1,000,000.00) and will not be reimbursed such by the State. At the procuring End User's option, the end date of the project may be extended by TO amendment. See Contract Attachment 3 for a draft of the TO document. Procuring End User signatories shall vary based on the associated SOW. The State reserves the right to modify the format of this document at any time during the term of the Contract.

k. Task Order Termination

- i. The procuring End User may immediately terminate for convenience any or all of the TOs entered into by the procuring End User and the Contractor pursuant to this Contract by giving the Contractor written notice. The Contractor shall be entitled to receive equitable compensation for satisfactory authorized services completed as of the termination date.
- ii. If the Contractor, or Contractor-provided personnel, fail to properly perform their obligations under any TO entered into by the procuring State agencies and the

Contractor pursuant to this Contract, or violate any of the terms of this Contract, the State shall have the right to terminate for cause any or all of the Contractor's TOs, and to withhold payments in excess of equitable compensation for completed services. The State will provide notification of termination for cause in writing. This notice shall: (1) specify in reasonable detail the nature of the breach; (2) provide the Contractor with an opportunity to cure, which must be requested in writing no less than 10 business days from the date of the termination notice; and (3) specify the effective date of termination in the event the Contractor fails to correct the breach. The Contractor must present the State with a written request detailing the efforts it shall take to resolve the problem and the time period for such resolution. The Contractor shall not be relieved of liability to the State for damages sustained by virtue of any breach of this Contract by the Contractor.

- iii. This section shall not limit the State's right to terminate the Contract for convenience or cause in accordance with Contract Section D.5 and Contract Section D.6.

l. Invoicing and Payment for Services

- i. The services shall be provided and invoiced as described in the SOW and Contract Sections C.3 and C.5. The invoiced amount shall not to exceed the TO Project Price stated in the TO. The payment method to be used in any case shall be described in the SOW and shall always be for completed deliverables.
- ii. A final payment shall be paid upon completion and final approval of the End User. The final payment shall not be less than thirty (30%) percent of the total fixed price.

m. Continuity of Project Personnel

Contractor shall maintain to the extent feasible continuity of Sub-vendor personnel on projects assigned pursuant to a TO. If Sub-vendor personnel must be changed, the Contractor must notify the End User in writing prior to the change.

n. Sub-vendor Personnel Performance and Replacement

- i. The State and/or the procuring End User shall be the sole determinant(s) of the quality of services provided and the project progress achieved by the Contractor's provided Sub-vendor personnel. The Contractor agrees to remove from the project and replace at the Contractor's expense, Sub-vendor personnel, whom the State and/or the procuring End User determines to be incompetent, careless, unsuitable or otherwise objectionable, or whose continued use is deemed contrary to the best interests of the procuring End User or deemed not to make substantial contributions to the project. If the End User makes this determination and notifies the Contractor within five (5) business days of placement, the Contractor shall not bill the End User for any of the unacceptable Contractor or Sub-vendor personnel's services.
- ii. The Contractor shall replace removed Sub-vendor personnel with someone of equal or greater qualifications as the removed personnel, with no increase in the compensation agreed to in the TO.
- iii. The termination of an individual person's assignment may not necessarily result in the termination of the TO.

o. Provision of Hardware, Software, and Facilities

- i. The Contractor shall require each Sub-vendor to supply its Contingent Workers with personal computing devices (desktop, laptop, etc.) and licenses for installed software **unless such hardware and/or software licenses are specifically listed in the**

SOW as being supplied by the End User. The procuring End User shall be the sole determinant with regard to the End User provided hardware and software required for any given project.

- ii. Commensurate with the needs of a given project, the procuring End User will provide Contingent Workers with office and meeting space; access to telephones, printers, and copiers; and connections to the Internet and/or State of Tennessee network. The procuring End User shall be the sole determinant with regard to facilities, supplies, and connections required for any given project.
- iii. The Contractor shall require each Sub-vendor to maintain Operating Systems at current, manufacturer supported versions on all Sub-vendor supplied hardware.

A.12. Contract Account Managers for Projects-Based/Deliverables Staffing

- a. The Contractor shall assign, at its own expense, one or more Account Managers, to service the State's needs for Projects-Based/Deliverables Staffing under this Contract. The Account Manager shall:
 - i. monitor the assignment of tasks to Contingent Workers;
 - ii. track performance and progress of the Contingent Workers toward the completion of the assigned projects and notify the State of any risk of not completing the project within the one million dollar (\$1,000,000.00) SOW Monetary Cap;
 - iii. monitor the quality of services delivered;
 - iv. addresses any personnel issues that arise with regard to their Contingent Workers;
 - v. sign-off on all completed work and invoice the procuring End User in accordance with the deliverables and payment frequency established in the SOW in question; and
 - vi. provide all documentation required by the State to substantiate invoice amounts submitted (see Contract Section C.5).
- b. Periodic Meetings: The Contractor Account Managers shall meet with the State and State Agency representatives as requested to discuss topics including, but not limited to, the following: general project direction, management, and coordination; State of Tennessee technical infrastructure and standards; SOW clarifications; and time keeping and other project progress records. At the State's sole discretion, these meetings shall occur at a State location or via conference call and shall be at no additional cost to the State or the State agencies.

A.13. Projects-Based/Deliverables Staffing in IT

- a. For all Projects-Based/Deliverables Staffing in IT, the Contractor shall require each Sub-vendor to provide all services requested through this Contract within the context of the technical environment described by the *Tennessee Information Resources Architecture*, available under a non-disclosure agreement. STS reserves the right to amend the *Tennessee Information Resources Architecture* throughout the term of the Contract.
- b. The Contractor shall not submit to the State any Sub-vendor project quote that proposes to deviate from State of Tennessee standard products. STS will not change or add State of Tennessee standard products solely on the request of a Sub-vendor or the Contractor.

- c. The State of Tennessee standard for enterprise project and portfolio management is Planview Enterprise. If the Contractor is selected to provide services under a SOW, the Contractor is required to provide the information necessary to support the procuring Agency's use of Planview Enterprise for the management of the scope of work under the SOW, at no additional charge to the procuring Agency. The Contractor is not required to purchase Planview or have working knowledge of the product.
- d. For information technology projects that deliver an Application, the Contractor shall require the Sub-vendor to deliver the Application so that it will run on a current, manufacturer-supported Operating System. The State shall not be required to run an Operating System that is no longer supported by the manufacturer.
- e. For information technology projects that deliver an Application, if the Application requires middleware or database software, the Contractor shall require the Sub-vendor to deliver the Application so that it is fully compatible with current, manufacturer-supported middleware and database software versions. The State shall not be required to run middleware or database software that is no longer supported by the manufacturer.

A.14. Information Security Compliance

- a. The Contractor warrants to the State that Sub-vendor shall comply with information security as follows:
 - i. Sub-vendors shall be familiar with the requirements of the State of Tennessee Enterprise Information Security Policies, as may be updated from time to time, and can be found at the following link: <https://www.tn.gov/finance/strategic-technology-solutions/strategic-technology-solutions/sts-security-policies.html>.
 - ii. Sub-vendors shall have measures in place that ensure that all data records, including computer source and object code, are transported and stored in the United States using FIPS 140-2 validated encryption technologies.
 - iii. Sub-vendors shall implement practices and facilities to meet or exceed the State of Tennessee's information security requirements for access control, authentication, system maintenance, and patching.
 - iv. Sub-vendors shall be compliant with best practices for secure application development as defined in ISO/IEC 27000 or later series and shall provide proof of compliance annually or upon State request.
 - v. The Sub-vendor is not authorized to host any Federal Tax Information, Centers for Medicare and Medicaid Services Information or Criminal Justice Information Services Information
- b. Contractor warrants that it shall cooperate with the State agencies in the course of performance of the Contract so that both parties will be in compliance with State Enterprise Information Security Policies requirements and any other state and federal computer security regulations including cooperation and coordination with State of Tennessee computer security officials and other compliance officers required by its regulations. Contractor shall bear the expense of and require any staff that has access to systems or data that the State of Tennessee designates as sensitive or protected to undergo background checks that are inclusive of both criminal and financial history and shall provide proof of satisfactory results.

- c. The Contractor agrees to require all Sub-vendors to abide by the following:
 - i. Current updated virus software and virus definition files that are enabled to perform real time scans shall be maintained on all Sub-vendor-supplied hardware
 - ii. Sub-vendor shall not install or utilize remote control or file sharing software unless explicitly approved in writing by the State of Tennessee; and
 - iii. Utilize best practice authentication methods to prevent access from unauthorized individuals and entities.
 - iv. Sub-vendor shall not conduct any off-shore development.

A.15. Miscellaneous Policies and Procedures

- a. Neither the State nor the procuring State Agencies are required to provide parking for Sub-vendor personnel.
- b. Contractor and Sub-vendor personnel do not have access to the State of Tennessee health clinic.
- c. Contractor and Sub-vendor personnel may not reserve or operate State of Tennessee vehicles or equipment until deemed appropriate by the End User and until all necessary approvals are received.
- d. Temporary Service:
Any requests by State Agencies in the Executive Branch to fill an existing preferred service position, as defined by Tenn. Code Ann. § 8-30-202, requires the prior written approval by the Department of Human Resources. If approved, the Contingent Workers may provide services for a period not to exceed ninety (90) days, unless otherwise approved by the Commissioner of the Department of Human Resources, or designee.

A.16. Required Certifications

For job requirements or projects that require industry, manufacturer and/or product certifications, the Contingent Worker(s) must hold all required certifications for the term of which Contingent Worker(s) are providing services through this Contract. At any time during the Contract, the State may request the Contractor to provide copies of any required certifications. Loss of required certifications during the term of which Contingent Worker(s) are providing services through this Contract may result in the removal of those specific Contingent Worker(s) or the termination of this Contract.

A.17. Language and Communication Assistance Services Requirements

- a. For all language and communication assistance services, the Contractor and/or any Sub-vendor shall comply with the following requirements:
 - i. At the End User's request and within a reasonable time not to exceed one month from such request, translate a list of English-language technical vocabulary into a target language identified by the End User, creating a standard translation list. In order to ensure consistent use of target language terms, the Contractor and/or Sub-vendor language services staff shall use the target language terms set forth in the standard translation list corresponding to each language.

- ii. Provide a quality assurance process for evaluating the accuracy of translations on a regular basis.
- iii. Manage the schedule of its language services staff in order to provide maximum support for each language during the End User's typical weekday hours of peak language service needs.
- iv. Employ a multifaceted approach to prevent interpreter unavailability. This approach shall involve, at a minimum:
 - 1. The creation and maintenance of a system for accessing back-up language services staff in each language.
 - 2. A robust remote interpretation service capacity that includes video interpretation and telephonic interpretation.
 - 3. The maintenance of adequate support staff to ensure that interpreters and translators are properly trained in the use of remote interpretation technology and communications technology, such as the use of secure email for translation of sensitive documents.
 - 4. A time management system that identifies interpreter and translator scheduling conflicts and anticipates any periods of reduced interpreter/translator availability for a particular language.
 - 5. Give the State and End User at least two weeks' notice for any period during which it is anticipated that language support for a particular language will be unavailable.
- b. The Contractor or qualified Sub-vendor shall provide on-site/in-person interpretation (to include American Sign Language), remote interpretation (via phone or video link) and translation services, herein after referred to as "Language and Communication Assistance Services" and as described below:
 - i. Translation (Document, usually in an electronic format)
 This service involves either the translation of foreign language documents into English or the translation of English documents into a foreign language. It also includes checking computer translated documents. The Contractor or its Sub-vendor usually completes these services from their own place of business. The End User submits documents for translation to the Contractor or its Sub-vendor (often electronically via a secure process), together with a reasonable deadline for the return of the translated document. The Contractor or Sub-vendor then returns the translated document no later than the deadline specified by the End User. In any event the Contractor or Sub-vendor shall return translated document to the End User within seven (7) calendar days unless the original document consists of more than 2,000 words. In some cases it may involve transcribing from a video or audio electronic file. Contractor shall utilize a secure portal to upload and download electronic translations or other secure processes to receive and deliver electronic translations. In the event that the End User urgently needs a particular document translated, the End User may request the Contractor or Sub-vendor expedite the document's translation. In such instances, the Contractor or Sub-vendor shall use best efforts to translate the document and return it to the End User at least 25% more quickly than the standard average processing time.

- ii. Interpretation (Oral – In person)
This service requires working directly with an individual who does not speak English. Oral interpreters may be required at a State office, in public facilities and/or in other locations approved by the End User.
- iii. Interpreters for the Deaf and Hard of Hearing (Sign Language)
This service involves the interpretation of verbal language into a communication mode understandable by individuals who are unable to adequately hear. It also involves the interpretation of Sign Language into verbal language. The Contractor shall be able to provide American Sign Language (ASL), and other forms of sign language that more closely mirror the individual's natural form of communication. For individuals who are blind and deaf, a tactile interpreter will be required.

Sign language interpretive services could involve working directly with a single individual, or providing ASL or other forms of primarily non-oral communication to a large audience for the benefit of the Deaf and Hard of Hearing. Interpreters must speak English, with Spanish optional, to facilitate communication between the Deaf and Hard of Hearing and individuals participating in the State event. Due to the physical demands of sign language, in some cases of extended service, two interpreters shall be required.

- iv. Remote/Electronic/Video
This service describes automated systems (phone/video/electronic device) that allow the End User to access remotely or electronically the language and communication assistance services described above. This method of service provision may require delivery of services for target languages upon demand without making any prior arrangements.
- c. The Contractor's staff used to provide services under this Contract shall have expertise with health care, legal, and social services terminology and, upon the End User's request, shall collaborate with the End User to develop and utilize standardized translations of the End User's program terminology and reference materials.
 - d. The Contractor's language and communication assistance services must be culturally appropriate for the interpretation or translation that is being provided and facilitate communication across both linguistic and cultural divides. Therefore, on an annual basis, Contractor shall provide proof to End User that Contractor's staff has received training and/or continuing education credits on cultural awareness, including sensitivity, competency, diversity, and respect.
 - e. The Contractor shall adhere to the following standards for language services:
 - i. Less than two percent (2%) Translation error rate;
 - ii. Have a ninety-nine percent (99%) On-time interpretation delivery;
 - iii. Have a ninety-eight percent (98%) Translator on-time delivery; and
 - iv. Ninety-eight percent (98%) Right first time quality control.

A.18. Warranty

Contractor represents and warrants that the term of the warranty ("Warranty Period") shall be the greater of the Term of this Contract or any other warranty generally offered by Contractor, its

suppliers, or manufacturers to customers of its goods or services. The goods or services provided under this Contract shall conform to the terms and conditions of this Contract throughout the Warranty Period. Any nonconformance of the goods or services to the terms and conditions of this Contract shall constitute a "Defect" and shall be considered "Defective." If Contractor receives notice of a Defect during the Warranty Period, then Contractor shall correct the Defect, at no additional charge.

Contractor represents and warrants that the State is authorized to possess and use all equipment, materials, software, and deliverables provided under this Contract.

Contractor represents and warrants that all goods or services provided under this Contract shall be provided in a timely and professional manner, by qualified and skilled individuals, and in conformity with standards generally accepted in Contractor's industry.

If Contractor fails to provide the goods or services as warranted, then Contractor will re-provide the goods or services at no additional charge. If Contractor is unable or unwilling to re-provide the goods or services as warranted, then the State shall be entitled to recover the fees paid to Contractor for the Defective goods or services. Any exercise of the State's rights under this Section shall not prejudice the State's rights to seek any other remedies available under this Contract or applicable law.

A.19. Inspection and Acceptance

The State shall have the right to inspect all goods or services provided by Contractor under this Contract. If, upon inspection, the State determines that the goods or services are Defective, the State shall notify Contractor, and Contractor shall re-deliver the goods or provide the services at no additional cost to the State. If after a period of thirty (30) days following delivery of goods or performance of services the State does not provide a notice of any Defects, the goods or services shall be deemed to have been accepted by the State.

B. TERM OF CONTRACT:

- B.1. This Contract shall be effective on March 1, 2022 ("Effective Date") and extend for a period of thirty-six (36) months after the Effective Date ("Term"). The State shall have no obligation for goods or services provided by the Contractor prior to the Effective Date.
- B.2. Renewal Options. This Contract may be renewed upon satisfactory completion of the Term. The State reserves the right to execute up to two (2) renewal options under the same terms and conditions for a period not to exceed twelve (12) months each by the State, at the State's sole option. In no event, however, shall the maximum Term, including all renewals or extensions, exceed a total of sixty (60) months.
- B.3. Term Extension. The State may extend the Term an additional period of time, not to exceed one hundred-eighty (180) days beyond the expiration date of this Contract, under the same terms and conditions, at the State's sole option. In no event, however, shall the maximum Term, including all renewals or extensions, exceed a total of sixty (60) months.

C. PAYMENT TERMS AND CONDITIONS:

- C.1. Estimated Liability. The total purchases of any goods or services under the Contract are not known. The State estimates the purchases during the Term shall be one hundred ninety million dollars (\$190,000,000) ("Estimated Liability"). This Contract does not grant the Contractor any exclusive rights. The State does not guarantee that it will buy any minimum quantity of goods or services under this Contract. Subject to the terms and conditions of this Contract, the Contractor will only be paid for goods or services provided under this Contract after a purchase order is issued to Contractor by the State or as otherwise specified by this Contract.

- C.2. Price Changes. Prices listed in awarded published catalog, price lists or price schedule shall remain firm for three hundred sixty-five (365) days ("Firm Price Period").
- a. Price Decreases. After the Firm Price Period, prices shall be equitably adjusted to reflect a decrease in Contractor's costs.
 - b. Price Increases. After the Firm Price Period, Contractor may request price increases. The request shall: include copies of the new price lists or catalog that reflect a change in the Contractor's cost; not constitute an increase in profit; and apply to all of the Contractor's customers.
 - c. Approval of Price Changes. The State may at its sole option: (1) grant the Contractor's request; (2) cancel the Contract and award it to the next apparent best evaluated Respondent; (3) cancel the Contract and reissue the solicitation; or (4) deny the Contractor's request. If approved, any price changes of less than ten percent (10%) will become effective upon the State's approval in writing. Price changes exceeding ten percent (10%) shall require a Contract amendment. The Contractor shall honor all purchase orders dated prior to the approved price change. Upon request from the State, the Contractor shall furnish the approved catalog, price schedule or price list as applicable to the State at no charge.
- C.3. Payment Methodology. The Contractor shall be compensated based upon the Maximum Bill Rate payment rates established on Attachment 2, Rate Card. In responding to a request, the Contractor may submit a rate that is less than the Maximum Bill Rate, but cannot exceed the Maximum Bill Rate as outlined in Attachment 2, Rate Card.
- a. The Contractor's compensation shall be contingent upon the satisfactory provision of goods or services as set forth in Section A.
 - b. Shift, On-Call and Holiday Differentials: The overtime rate differential, if any, will be communicated to the Contractor in the job posting or requisition released by Contractor, and shall be billed at a premium of 1.4 times the Hourly Bill Rate. The Contractor shall work with the State to determine which positions are eligible for overtime premium rates. Any other pay or shift premium rates, including but not limited to shift, holiday or weekend premiums, shall be mutually developed and agreed upon by CPO, the State Agency and the Contractor.
 - c. Conversion Costs: If the State determines it is in its best interest to hire or convert the employee of the Contractor or a Sub-vendor to a State employee or to a State designated payroll provider after a 6-month period, Contractor or Sub-vendor will release employee from any non-compete agreements that may be in effect. This will be at no cost to the State, Contractor or employee. If the State determines it would be in the best interest to hire the employee of the Contractor or Sub-vendor, prior to completion of a 6-month period, the State will notify the Contractor or applicable Sub-vendor, who will in turn contact the Contractor or applicable Sub-vendor, of the State's intent to hire the resource. The State and Contractor will follow the schedule of conversion fees found below:

Conversion Fee Table

Non-Professional Positions <i>*"Non-Professional" is defined as those positions earning an annual salary equivalent to less than \$40,000 per year*</i>	Conversion Fee (Not to Exceed)
0-160 hours worked	20% of pay rate
161-320 hours worked	15% of pay rate
321-480 hours worked	10% of pay rate
481 + hours worked	\$0 fee

Professional Positions * <i>Professional is defined as those positions earning an annual salary of \$40,000+ per year*</i>	Conversion Fee (Not to Exceed)
0-320 hours worked	20% of pay rate
321-640 hours worked	15% of pay rate
641-960 hours worked	10% of pay rate
960 + hours worked	\$0 fee

d. Managed Service Provider (MSP) Fee:

This MSP Fee of 0.75 Percent (0.75%) will be fixed for the life of the contract, including any renewal periods, if exercised at the State's sole discretion. The MSP Fee is included in the bill rate paid by the End User. The Contractor will pay the Sub-vendor the bill rate less the MSP Fee.

e. Other Fees:

The MSP shall not charge any other fee to the End User or Sub-vendor. The MSP should not require fees from the Sub-vendors for invoicing, registration, or any other portion of the Sub-vendor's involvement in the MSP.

C.4. Travel Compensation. The Contractor shall not be compensated or reimbursed for travel time, travel expenses, meals, or lodging.

C.5. Invoice Requirements. The Contractor shall invoice the State only for goods delivered and accepted by the State or services satisfactorily provided at the amounts stipulated in Section C.3., above. Contractor shall submit invoices and necessary supporting documentation no later than thirty (30) days after goods or services have been provided to the following address:

State Agency Billing Address

a. Each invoice, on Contractor's letterhead, shall clearly and accurately detail all of the following information (calculations must be extended and totaled correctly):

- (1) Invoice number (assigned by the Contractor);
- (2) Invoice date;
- (3) Contract number (assigned by the State);
- (4) Customer account name: *State Agency & Division Name*;
- (5) Customer account number (assigned by the Contractor to the above-referenced Customer);
- (6) Contractor name;
- (7) Contractor Tennessee Edison registration ID number;
- (8) Contractor contact for invoice questions (name, phone, or email);
- (9) Contractor remittance address;
- (10) Description of delivered goods or services provided and invoiced, including identifying information as applicable;
- (11) Number of delivered or completed units, increments, hours, or days as applicable, of each good or service invoiced;
- (12) Applicable payment methodology (as stipulated in Section C.3.) of each good or service invoiced;
- (13) Amount due for each compensable unit of good or service; and
- (14) Total amount due for the invoice period.

b. Contractor's invoices shall:

- (1) Only include charges for goods delivered or services provided as described in Section A and in accordance with payment terms and conditions set forth in Section C;
- (2) Only be submitted for goods delivered or services completed and shall not include any charge for future goods to be delivered or services to be performed;

- (3) Not include Contractor's taxes, which includes without limitation Contractor's sales and use tax, excise taxes, franchise taxes, real or personal property taxes, or income taxes; and
 - (4) Include shipping or delivery charges only as authorized in this Contract.
- c. The timeframe for payment (or any discounts) begins only when the State is in receipt of an invoice that meets the minimum requirements of this Section C.5.
- C.6. Payment of Invoice. A payment by the State shall not prejudice the State's right to object to or question any payment, invoice, or other matter. A payment by the State shall not be construed as acceptance of goods delivered, any part of the services provided, or as approval of any amount invoiced.
- C.7. Invoice Reductions. The Contractor's invoice shall be subject to reduction for amounts included in any invoice or payment that is determined by the State, on the basis of audits conducted in accordance with the terms of this Contract, to not constitute proper compensation for goods delivered or services provided.
- C.8. Deductions. The State reserves the right to deduct from amounts, which are or shall become due and payable to the Contractor under this or any contract between the Contractor and the State of Tennessee, any amounts that are or shall become due and payable to the State of Tennessee by the Contractor.
- C.9. Prerequisite Documentation. The Contractor shall not invoice the State under this Contract until the State has received the following, properly completed documentation. At the State's option, it may make payments to Contractor by automated clearing house ("ACH") or the State Purchasing Card ("P-Card").
 - a. The Contractor shall complete, sign, and present to the State:
 - (1) An "Authorization Agreement for Automatic Deposit Form" provided by the State. By doing so, the Contractor acknowledges and agrees that, once this form is received by the State, payments to the Contractor, under this or any other contract the Contractor has with the State of Tennessee, may be made by ACH; and
 - (2) An "Authorization to Receive Payments by Purchasing Card Form" provided by the State. By doing so, the Contractor agrees that payments to the Contractor under this Contract may be made using the State P-Card and Contractor will provide level III data reporting information.
 - b. The Contractor shall complete, sign, and return to the State the State-provided W-9 form. The taxpayer identification number on the W-9 form must be the same as the Contractor's Federal Employer Identification Number or Social Security Number referenced in the Contractor's Edison registration information.

D. MANDATORY TERMS AND CONDITIONS:

- D.1. Required Approvals. The State is not bound by this Contract until it is duly approved by the Parties and all appropriate State officials in accordance with applicable Tennessee laws and regulations. Depending upon the specifics of this Contract, this may include approvals by the Commissioner of Finance and Administration, the Commissioner of Human Resources, the Comptroller of the Treasury, and the Chief Procurement Officer. Approvals shall be evidenced by a signature or electronic approval.
- D.2. Communications and Contacts. All instructions, notices, consents, demands, or other communications required or contemplated by this Contract shall be in writing and shall be made by certified, first class mail, return receipt requested and postage prepaid, by overnight courier service with an asset tracking system, or by email or facsimile transmission with recipient

confirmation. All communications, regardless of method of transmission, shall be addressed to the respective Party at the appropriate mailing address, facsimile number, or email address as stated below or any other address provided in writing by a Party.

The State:

Maya Carpenter, Category Specialist
Department of General Services, Central Procurement Office
312 Rosa L Parks Blvd, Nashville, TN 37243
Maya.Carpenter@tn.gov
Telephone # 615-532-7941
FAX # 615-741-0684

The Contractor:

Helen Wu, Senior Business Operations Manager
uWork.com, Inc. dba Covendis Technologies
200 Walker St. SW, Suite B
Atlanta, GA 30313
govsolutions@covendis.com
Telephone # 770-903-9990
FAX # 770-903-9992

All instructions, notices, consents, demands, or other communications shall be considered effective upon receipt or recipient confirmation as may be required.

- D.3. Modification and Amendment. This Contract may be modified only by a written amendment signed by all Parties and approved by all applicable State officials. The State's exercise of a valid Renewal Option or Term Extension does not constitute an amendment so long as there are no other changes to the Contract's terms and conditions.
- D.4. Subject to Funds Availability. The Contract is subject to the appropriation and availability of State or federal funds. In the event that the funds are not appropriated or are otherwise unavailable, the State reserves the right to terminate this Contract upon written notice to the Contractor. The State's exercise of its right to terminate this Contract shall not constitute a breach of Contract by the State. Upon receipt of the written notice, the Contractor shall cease all work associated with the Contract. If the State terminates this Contract due to lack of funds availability, the Contractor shall be entitled to compensation for all conforming goods requested and accepted by the State and for all satisfactory and authorized services completed as of the termination date. Should the State exercise its right to terminate this Contract due to unavailability of funds, the Contractor shall have no right to recover from the State any actual, general, special, incidental, consequential, or any other damages of any description or amount.
- D.5. Termination for Convenience. The State may terminate this Contract for convenience without cause and for any reason. The State shall give the Contractor at least thirty (30) days written notice before the termination date. The Contractor shall be entitled to compensation for all conforming goods delivered and accepted by the State or for satisfactory, authorized services completed as of the termination date. In no event shall the State be liable to the Contractor for compensation for any goods neither requested nor accepted by the State or for any services neither requested by the State nor satisfactorily performed by the Contractor. In no event shall the State's exercise of its right to terminate this Contract for convenience relieve the Contractor of any liability to the State for any damages or claims arising under this Contract.
- D.6. Termination for Cause. If the Contractor fails to properly perform its obligations under this Contract, or if the Contractor materially violates any terms of this Contract ("Breach Condition"), the State shall provide written notice to Contractor specifying the Breach Condition. If within thirty (30) days of notice, the Contractor has not cured the Breach Condition, the State may terminate the Contract and withhold payments in excess of compensation for completed services or provided goods. Notwithstanding the above, the Contractor shall not be relieved of liability to the

State for damages sustained by virtue of any breach of this Contract by the Contractor and the State may seek other remedies allowed at law or in equity for breach of this Contract.

D.7. Assignment, Sub-vendors, and Subcontracting. The Contractor shall not assign this Contract or enter into a subcontract for any of the goods or services provided under this Contract without the prior written approval of the State. Notwithstanding any use of the approved subcontractors, the Contractor shall be the prime Contractor and responsible for compliance with all terms and conditions of this Contract. The State reserves the right to request additional information or impose additional terms and conditions before approving an assignment of this Contract in whole or in part or the use of subcontractors in fulfilling the Contractor's obligations under this Contract. The Contractor shall remain primarily responsible for the goods or services provided by any of its Sub-vendors in compliance with all terms and conditions of this Contract.

D.8. Conflicts of Interest. The Contractor warrants that no part of the Contractor's compensation shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the Contractor in connection with any work contemplated or performed under this Contract.

The Contractor acknowledges, understands, and agrees that this Contract shall be null and void if the Contractor is, or within the past six (6) months has been, an employee of the State of Tennessee or if the Contractor is an entity in which a controlling interest is held by an individual who is, or within the past six (6) months has been, an employee of the State of Tennessee.

D.9. Nondiscrimination. The Contractor hereby agrees, warrants, and assures that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of this Contract or in the employment practices of the Contractor on the grounds of handicap or disability, age, race, creed, color, religion, sex, national origin, or any other classification protected by federal or state law. The Contractor shall, upon request, show proof of nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.

D.10. Equal Opportunity. The Contractor agrees as follows:

a. The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:

- (1) Employment, upgrading, demotion, or transfer, recruitment or recruitment advertising;
- (2) Layoff or termination;
- (3) Rates of pay or other forms of compensation; and
- (4) Selection for training, including apprenticeship.

The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

b. The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

c. If the State approves any subcontract, the subcontract shall include paragraphs (a) and (b) above.

In addition, to the extent applicable the Contractor agrees to comply with 41 C.F. R. § 60-1.4, as that section is amended from time to time during the term.

D.11. Prohibition of Illegal Immigrants. The requirements of Tenn. Code Ann. § 12-3-309 addressing the use of illegal immigrants in the performance of any contract to supply goods or services to the state of Tennessee, shall be a material provision of this Contract, a breach of which shall be grounds for monetary and other penalties, up to and including termination of this Contract.

- a. The Contractor agrees that the Contractor shall not knowingly utilize the services of an illegal immigrant in the performance of this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant in the performance of this Contract. The Contractor shall reaffirm this attestation, in writing, by submitting to the State a completed and signed copy of the document at Attachment 1, semi-annually during the Term. If the Contractor is a party to more than one contract with the State, the Contractor may submit one attestation that applies to all contracts with the State. All Contractor attestations shall be maintained by the Contractor and made available to State officials upon request.
- b. Prior to the use of any subcontractor in the performance of this Contract, and semi-annually thereafter, during the Term, the Contractor shall obtain and retain a current, written attestation that the subcontractor shall not knowingly utilize the services of an illegal immigrant to perform work under this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant to perform work under this Contract. Attestations obtained from subcontractors shall be maintained by the Contractor and made available to State officials upon request.
- c. The Contractor shall maintain records for all personnel used in the performance of this Contract. Contractor's records shall be subject to review and random inspection at any reasonable time upon reasonable notice by the State.
- d. The Contractor understands and agrees that failure to comply with this section will be subject to the sanctions of Tenn. Code Ann. § 12-3-309 for acts or omissions occurring after its effective date.
- e. For purposes of this Contract, "illegal immigrant" shall be defined as any person who is not: (i) a United States citizen; (ii) a Lawful Permanent Resident; (iii) a person whose physical presence in the United States is authorized; (iv) allowed by the federal Department of Homeland Security and who, under federal immigration laws or regulations, is authorized to be employed in the U.S.; or (v) is otherwise authorized to provide services under the Contract.

D.12. Records. The Contractor shall maintain documentation for all charges under this Contract. The books, records, and documents of the Contractor, for work performed or money received under this Contract, shall be maintained for a period of five (5) full years from the date of the final payment and shall be subject to audit at any reasonable time and upon reasonable notice by the State, the Comptroller of the Treasury, or their duly appointed representatives. The financial statements shall be prepared in accordance with generally accepted accounting principles.

D.13. Monitoring. The Contractor's activities conducted and records maintained pursuant to this Contract shall be subject to monitoring and evaluation by the State, the Comptroller of the Treasury, or their duly appointed representatives.

D.14. Progress Reports. The Contractor shall submit brief, periodic, progress reports to the State as requested.

D.15. Strict Performance. Failure by any Party to this Contract to require, in any one or more cases, the strict performance of any of the terms, covenants, conditions, or provisions of this Contract shall not be construed as a waiver or relinquishment of any term, covenant, condition, or

provision. No term or condition of this Contract shall be held to be waived, modified, or deleted except by a written amendment signed by the Parties.

- D.16. Independent Contractor. The Parties shall not act as employees, partners, joint venturers, or associates of one another. The Parties are independent contracting entities. Nothing in this Contract shall be construed to create an employer/employee relationship or to allow either Party to exercise control or direction over the manner or method by which the other transacts its business affairs or provides its usual services. The employees or agents of one Party are not employees or agents of the other Party.
- D.17. Patient Protection and Affordable Care Act. The Contractor agrees that it will be responsible for compliance with the Patient Protection and Affordable Care Act ("PPACA") with respect to itself and its employees, including any obligation to report health insurance coverage, provide health insurance coverage, or pay any financial assessment, tax, or penalty for not providing health insurance. The Contractor shall indemnify the State and hold it harmless from any costs to the State arising from Contractor's failure to fulfill its PPACA responsibilities for itself or its employees.
- D.18. Limitation of State's Liability. The State shall have no liability except as specifically provided in this Contract. In no event will the State be liable to the Contractor or any other party for any lost revenues, lost profits, loss of business, decrease in the value of any securities or cash position, time, goodwill, or any indirect, special, incidental, punitive, exemplary or consequential damages of any nature, whether based on warranty, contract, statute, regulation, tort (including but not limited to negligence), or any other legal theory that may arise under this Contract or otherwise. Notwithstanding anything else herein, the State's total liability under this Contract (including without limitation any exhibits, schedules, amendments or other attachments to the Contract) or otherwise shall under no circumstances exceed the Estimated Liability. This limitation of liability is cumulative and not per incident.
- D.19. Limitation of Contractor's Liability. In accordance with Tenn. Code Ann. § 12-3-701, the Contractor's liability for all claims arising under this Contract shall be limited to an amount equal to two (2) times the Estimated Liability amount detailed in Section C.1. and as may be amended, PROVIDED THAT in no event shall this Section limit the liability of the Contractor for: (i) intellectual property or any Contractor indemnity obligations for infringement for third-party intellectual property rights; (ii) any claims covered by any specific provision in the Contract providing for liquidated damages; or (iii) any claims for intentional torts, criminal acts, fraudulent conduct, or acts or omissions that result in personal injuries or death.
- D.20. Hold Harmless. The Contractor agrees to indemnify and hold harmless the State of Tennessee as well as its officers, agents, and employees from and against any and all claims, liabilities, losses, and causes of action which may arise, accrue, or result to any person, firm, corporation, or other entity which may be injured or damaged as a result of acts, omissions, or negligence on the part of the Contractor, its employees, or any person acting for or on its or their behalf relating to this Contract. The Contractor further agrees it shall be liable for the reasonable cost of attorneys' fees, court costs, expert witness fees, and other litigation expenses for the State to enforce the terms of this Contract.
- In the event of any suit or claim, the Parties shall give each other immediate notice and provide all necessary assistance to respond. The failure of the State to give notice shall only relieve the Contractor of its obligations under this Section to the extent that the Contractor can demonstrate actual prejudice arising from the failure to give notice. This Section shall not grant the Contractor, through its attorneys, the right to represent the State in any legal matter, as the right to represent the State is governed by Tenn. Code Ann. § 8-6-106.
- D.21. HIPAA Compliance. The State and Contractor shall comply with obligations under the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), Health Information Technology for Economic and Clinical Health ("HITECH") Act and any other relevant laws and regulations

regarding privacy (collectively the “Privacy Rules”). The obligations set forth in this Section shall survive the termination of this Contract.

- a. Contractor warrants to the State that it is familiar with the requirements of the Privacy Rules, and will comply with all applicable requirements in the course of this Contract.
 - b. Contractor warrants that it will cooperate with the State, including cooperation and coordination with State privacy officials and other compliance officers required by the Privacy Rules, in the course of performance of the Contract so that both parties will be in compliance with the Privacy Rules.
 - c. The State and the Contractor will sign documents, including but not limited to business associate agreements, as required by the Privacy Rules and that are reasonably necessary to keep the State and Contractor in compliance with the Privacy Rules. This provision shall not apply if information received or delivered by the parties under this Contract is NOT “protected health information” as defined by the Privacy Rules, or if the Privacy Rules permit the parties to receive or deliver the information without entering into a business associate agreement or signing another document.
 - d. The Contractor will indemnify the State and hold it harmless for any violation by the Contractor or its subcontractors of the Privacy Rules. This includes the costs of responding to a breach of protected health information, the costs of responding to a government enforcement action related to the breach, and any fines, penalties, or damages paid by the State because of the violation.
- D.22. Tennessee Consolidated Retirement System. Subject to statutory exceptions contained in Tenn. Code Ann. §§ 8-36-801, *et seq.*, the law governing the Tennessee Consolidated Retirement System (“TCRS”), provides that if a retired member of TCRS, or of any superseded system administered by TCRS, or of any local retirement fund established under Tenn. Code Ann. §§ 8-35-101, *et seq.*, accepts State employment, the member’s retirement allowance is suspended during the period of the employment. Accordingly and notwithstanding any provision of this Contract to the contrary, the Contractor agrees that if it is later determined that the true nature of the working relationship between the Contractor and the State under this Contract is that of “employee/employer” and not that of an independent contractor, the Contractor, if a retired member of TCRS, may be required to repay to TCRS the amount of retirement benefits the Contractor received from TCRS during the Term.
- D.23. Tennessee Department of Revenue Registration. The Contractor shall comply with all applicable registration requirements contained in Tenn. Code Ann. §§ 67-6-601 – 608. Compliance with applicable registration requirements is a material requirement of this Contract.
- D.24. Debarment and Suspension. The Contractor certifies, to the best of its knowledge and belief, that it, its current and future principals, its current and future subcontractors and their principals:
- a. are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal or state department or agency;
 - b. have not within a three (3) year period preceding this Contract been convicted of, or had a civil judgment rendered against them from commission of fraud, or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or grant under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property;
 - c. are not presently indicted or otherwise criminally or civilly charged by a government entity (federal, state, or local) with commission of any of the offenses detailed in section b. of this certification; and

- d. have not within a three (3) year period preceding this Contract had one or more public transactions (federal, state, or local) terminated for cause or default.

The Contractor shall provide immediate written notice to the State if at any time it learns that there was an earlier failure to disclose information or that due to changed circumstances, its principals or the principals of its subcontractors are excluded, disqualified, or presently fall under any of the prohibitions of sections a-d.

- D.25. Force Majeure. "Force Majeure Event" means fire, flood, earthquake, elements of nature or acts of God, wars, riots, civil disorders, rebellions or revolutions, acts of terrorism or any other similar cause beyond the reasonable control of the Party except to the extent that the non-performing Party is at fault in failing to prevent or causing the default or delay, and provided that the default or delay cannot reasonably be circumvented by the non-performing Party through the use of alternate sources, workaround plans or other means. A strike, lockout or labor dispute shall not excuse either Party from its obligations under this Contract. Except as set forth in this Section, any failure or delay by a Party in the performance of its obligations under this Contract arising from a Force Majeure Event is not a default under this Contract or grounds for termination. The non-performing Party will be excused from performing those obligations directly affected by the Force Majeure Event, and only for as long as the Force Majeure Event continues, provided that the Party continues to use diligent, good faith efforts to resume performance without delay. The occurrence of a Force Majeure Event affecting Contractor's representatives, suppliers, subcontractors, customers or business apart from this Contract is not a Force Majeure Event under this Contract. Contractor will promptly notify the State of any delay caused by a Force Majeure Event (to be confirmed in a written notice to the State within one (1) day of the inception of the delay) that a Force Majeure Event has occurred, and will describe in reasonable detail the nature of the Force Majeure Event. If any Force Majeure Event results in a delay in Contractor's performance longer than forty-eight (48) hours, the State may, upon notice to Contractor: (a) cease payment of the fees for the affected obligations until Contractor resumes performance of the affected obligations; or (b) immediately terminate this Contract or any purchase order, in whole or in part, without further payment except for fees then due and payable. Contractor will not increase its charges under this Contract or charge the State any fees other than those provided for in this Contract as the result of a Force Majeure Event.
- D.26. State and Federal Compliance. The Contractor shall comply with all State and federal laws and regulations applicable to Contractor in the Contractor's performance of this Contract.
- D.27. Governing Law. This Contract shall be governed by and construed in accordance with the laws of the State of Tennessee, without regard to its conflict or choice of law rules. The Tennessee Claims Commission or the state or federal courts in Tennessee shall be the venue for all claims, disputes, or disagreements arising under this Contract. The Contractor acknowledges and agrees that any rights, claims, or remedies against the State of Tennessee or its employees arising under this Contract shall be subject to and limited to those rights and remedies available under Tenn. Code Ann. §§ 9-8-101 - 408.
- D.28. Entire Agreement. This Contract is complete and contains the entire understanding between the Parties relating to its subject matter, including all the terms and conditions of the Parties' agreement. This Contract supersedes any and all prior understandings, representations, negotiations, and agreements between the Parties, whether written or oral.
- D.29. Severability. If any terms and conditions of this Contract are held to be invalid or unenforceable as a matter of law, the other terms and conditions of this Contract shall not be affected and shall remain in full force and effect. The terms and conditions of this Contract are severable.
- D.30. Headings. Section headings of this Contract are for reference purposes only and shall not be construed as part of this Contract.
- D.31. Incorporation of Additional Documents. Each of the following documents is included as a part of this Contract by reference. In the event of a discrepancy or ambiguity regarding the Contractor's

duties, responsibilities, and performance under this Contract, these items shall govern in order of precedence below:

- a. any amendment to this Contract, with the latter in time controlling over any earlier amendments;
- b. this Contract with any attachments or exhibits (excluding the items listed at subsections c. through f., below), which includes Attachments 1-4;
- c. any clarifications of or addenda to the Contractor's proposal seeking this Contract;
- d. the State solicitation, as may be amended, requesting responses in competition for this Contract;
- e. any technical specifications provided to proposers during the procurement process to award this Contract; and
- f. the Contractor's response seeking this Contract.

D.32. Iran Divestment Act. The requirements of Tenn. Code Ann. § 12-12-101, *et seq.*, addressing contracting with persons as defined at Tenn. Code Ann. §12-12-103(5) that engage in investment activities in Iran, shall be a material provision of this Contract. The Contractor certifies, under penalty of perjury, that to the best of its knowledge and belief that it is not on the list created pursuant to Tenn. Code Ann. § 12-12-106.

D.33. Insurance. Contractor shall maintain insurance coverage as specified in this Section. The State reserves the right to amend or require additional insurance coverage, coverage amounts, and endorsements required under this Contract. Contractor's failure to maintain or submit evidence of insurance coverage, as required, is a material breach of this Contract. If Contractor loses insurance coverage, fails to renew coverage, or for any reason becomes uninsured during the Term, Contractor shall immediately notify the State. All insurance companies providing coverage must be: (a) acceptable to the State; (b) authorized by the Tennessee Department of Commerce and Insurance ("TDCI"); and (c) rated A- / VII or better by A.M. Best. All coverage must be on a primary basis and noncontributory with any other insurance or self-insurance carried by the State. Contractor agrees to name the State as an additional insured on any insurance policy with the exception of workers' compensation (employer liability) and professional liability (errors and omissions) insurance. All policies must contain an endorsement for a waiver of subrogation in favor of the State. Any deductible or self insured retention ("SIR") over fifty thousand dollars (\$50,000) must be approved by the State. The deductible or SIR and any premiums are the Contractor's sole responsibility. The Contractor agrees that the insurance requirements specified in this Section do not reduce any liability the Contractor has assumed under this Contract including any indemnification or hold harmless requirements.

To achieve the required coverage amounts, a combination of an otherwise deficient specific policy and an umbrella policy with an aggregate meeting or exceeding the required coverage amounts is acceptable. For example: If the required policy limit under this Contract is for two million dollars (\$2,000,000) in coverage, acceptable coverage would include a specific policy covering one million dollars (\$1,000,000) combined with an umbrella policy for an additional one million dollars (\$1,000,000). If the deficient underlying policy is for a coverage area without aggregate limits (generally Automobile Liability and Employers' Liability Accident), Contractor shall provide a copy of the umbrella insurance policy documents to ensure that no aggregate limit applies to the umbrella policy for that coverage area. In the event that an umbrella policy is being provided to achieve any required coverage amounts, the umbrella policy shall be accompanied by an endorsement at least as broad as the Insurance Services Office, Inc. (also known as "ISO") "Noncontributory—Other Insurance Condition" endorsement or shall be written on a policy form that addresses both the primary and noncontributory basis of the umbrella policy if the State is otherwise named as an additional insured.

Contractor shall provide the State a certificate of insurance ("COI") evidencing the coverages and amounts specified in this Section. The COI must be on a form approved by the TDCI (standard ACORD form preferred). The COI must list each insurer's National Association of Insurance Commissioners (NAIC) number and be signed by an authorized representative of the insurer. The COI must list the State of Tennessee – CPO Risk Manager, 312 Rosa L. Parks Ave., 3rd floor Central Procurement Office, Nashville, TN 37243 as the certificate holder. Contractor shall

provide the COI ten (10) business days prior to the Effective Date and again thirty (30) calendar days before renewal or replacement of coverage. Contractor shall provide the State evidence that all subcontractors maintain the required insurance or that subcontractors are included under the Contractor's policy. At any time, the State may require Contractor to provide a valid COI. The Parties agree that failure to provide evidence of insurance coverage as required is a material breach of this Contract. If Contractor self-insures, then a COI will not be required to prove coverage. Instead Contractor shall provide a certificate of self-insurance or a letter, on Contractor's letterhead, detailing its coverage, policy amounts, and proof of funds to reasonably cover such expenses. The State reserves the right to require complete copies of all required insurance policies, including endorsements required by these specifications, at any time.

The State agrees that it shall give written notice to the Contractor as soon as practicable after the State becomes aware of any claim asserted or made against the State, but in no event later than thirty (30) calendar days after the State becomes aware of such claim. The failure of the State to give notice shall only relieve the Contractor of its obligations under this Section to the extent that the Contractor can demonstrate actual prejudice arising from the failure to give notice. This Section shall not grant the Contractor or its insurer, through its attorneys, the right to represent the State in any legal matter, as the right to represent the State is governed by Tenn. Code Ann. § 8-6-106.

The insurance obligations under this Contract shall be: (1)—all the insurance coverage and policy limits carried by the Contractor; or (2)—the minimum insurance coverage requirements and policy limits shown in this Contract; whichever is greater. Any insurance proceeds in excess of or broader than the minimum required coverage and minimum required policy limits, which are applicable to a given loss, shall be available to the State. No representation is made that the minimum insurance requirements of the Contract are sufficient to cover the obligations of the Contractor arising under this Contract. The Contractor shall obtain and maintain, at a minimum, the following insurance coverages and policy limits.

a. Commercial General Liability ("CGL") Insurance

- 1) The Contractor shall maintain CGL, which shall be written on an ISO Form CG 00 01 occurrence form (or a substitute form providing equivalent coverage) and shall cover liability arising from property damage, premises and operations products and completed operations, bodily injury, personal and advertising injury, and liability assumed under an insured contract (including the tort liability of another assumed in a business contract).

The Contractor shall maintain single limits not less than one million dollars (\$1,000,000) per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this policy or location of occurrence or the general aggregate limit shall be twice the required occurrence limit.

b. Workers' Compensation and Employer Liability Insurance

- 1) For Contractors statutorily required to carry workers' compensation and employer liability insurance, the Contractor shall maintain:
 - i. Workers' compensation in an amount not less than one million dollars (\$1,000,000) including employer liability of one million dollars (\$1,000,000) per accident for bodily injury by accident, one million dollars (\$1,000,000) policy limit by disease, and one million dollars (\$1,000,000) per employee for bodily injury by disease.

- 2) If the Contractor certifies that it is exempt from the requirements of Tenn. Code Ann. §§ 50-6-101 – 103, then the Contractor shall furnish written proof of such exemption for one or more of the following reasons:

- i. The Contractor employs fewer than five (5) employees;
- ii. The Contractor is a sole proprietor;
- iii. The Contractor is in the construction business or trades with no employees;
- iv. The Contractor is in the coal mining industry with no employees;
- v. The Contractor is a state or local government; or
- vi. The Contractor self-insures its workers' compensation and is in compliance with the TDCI rules and Tenn. Code Ann. § 50-6-405.

c. Automobile Liability Insurance

- 1) The Contractor shall maintain automobile liability insurance which shall cover liability arising out of any automobile (including owned, leased, hired, and non-owned automobiles).
- 2) The Contractor shall maintain bodily injury/property damage with a limit not less than one million dollars (\$1,000,000) per occurrence or combined single limit.

d. Professional Liability Insurance

- 1) Professional liability insurance shall be written on an occurrence basis or on a claims-made basis. If this coverage is written on a claims-made basis, then:
 - 1) The retroactive date must be shown, and must be on or before the earlier of the Effective Date of the Contract or the beginning of Contract work or provision of goods and services;
 - 2) Insurance must be maintained and evidence of insurance must be provided for at least five (5) full years from the date of the final Contract payment; and
 - 3) If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a retroactive date on or prior to the Contract Effective Date, the Contractor must purchase "extended reporting" or "tail coverage" for a minimum of five (5) full years from the date of the final Contract payment.
- 2) Any professional liability insurance policy shall have a limit not less than one million dollars (\$1,000,000) per claim and two million dollars (\$2,000,000) in the aggregate; and
- 3) If the Contract involves the provision of services by medical professionals, a policy limit not less than three million (\$3,000,000) per claim and three million dollars (\$3,000,000) in the aggregate for medical malpractice insurance.

e. Technology Professional Liability (Errors & Omissions)/Cyber Liability Insurance

- 1) The Contractor shall maintain technology professional liability (errors & omissions)/cyber liability insurance appropriate to the Contractor's profession in

an amount not less than ten million dollars (\$10,000,000) per occurrence or claim and ten million dollars (\$10,000,000) annual aggregate, covering all acts, claims, errors, omissions, negligence, infringement of intellectual property (including copyright, patent and trade secret); network security and privacy risks, including but not limited to unauthorized access, failure of security, information theft, damage to destruction of or alteration of electronic information, breach of privacy perils, wrongful disclosure and release of private information, collection, or other negligence in the handling of confidential information, and including coverage for related regulatory fines, defenses, and penalties.

- 2) Such coverage shall include data breach response expenses, in an amount not less than ten million dollars (\$10,000,000) and payable whether incurred by the State or Contractor, including but not limited to consumer notification, whether or not required by law, computer forensic investigations, public relations and crisis management firm fees, credit file or identity monitoring or remediation services and expenses in the performance of services for the State or on behalf of the State hereunder.

f. Crime Insurance

- 1) The Contractor shall maintain crime insurance, which shall be written on a "loss sustained form" or "loss discovered form" providing coverage for third party fidelity, including cyber theft and extortion. The policy must allow for reporting of circumstances or incidents that may give rise to future claims, include an extended reporting period of no less than two (2) years with respect to events which occurred but were not reported during the term of the policy, and not contain a condition requiring an arrest or conviction.
- 2) Any crime insurance policy shall have a limit not less than one million dollars (\$1,000,000) per claim and one million dollars (\$1,000,000) in the aggregate. Any crime insurance policy shall contain a Social Engineering Fraud Endorsement with a limit of not less than two hundred and fifty thousand dollars (\$250,000). This insurance may be written on a claims-made basis, but in the event that coverage is cancelled or non-renewed, the Contractor shall purchase an extended reporting or "tail coverage" of at least two (2) years after the Term.

D.34. Major Procurement Contract Sales and Use Tax. Pursuant to Tenn. Code Ann. § 4-39-102 and to the extent applicable, the Contractor and the Contractor's subcontractors shall remit sales and use taxes on the sales of goods or services that are made by the Contractor or the Contractor's subcontractors and that are subject to tax.

D.35. Confidentiality of Records. Strict standards of confidentiality of records and information shall be maintained in accordance with applicable state and federal law. All material and information, regardless of form, medium or method of communication, provided to the Contractor by the State or acquired by the Contractor on behalf of the State that is regarded as confidential under state or federal law shall be regarded as "Confidential Information." Nothing in this Section shall permit Contractor to disclose any Confidential Information, regardless of whether it has been disclosed or made available to the Contractor due to intentional or negligent actions or inactions of agents of the State or third parties. Confidential Information shall not be disclosed except as required or permitted under state or federal law. Contractor shall take all necessary steps to safeguard the confidentiality of such material or information in conformance with applicable state and federal law.

The obligations set forth in this Section shall survive the termination of this Contract.

E. SPECIAL TERMS AND CONDITIONS:

- E.1. Conflicting Terms and Conditions. Should any of these special terms and conditions conflict with any other terms and conditions of this Contract, the special terms and conditions shall be subordinate to the Contract's other terms and conditions.
- E.2. Additional lines, items, or options. At its sole discretion, the State may make written requests to the Contractor to add lines, items, or options that are needed and within the Scope but were not included in the original Contract. Such lines, items, or options will be added to the Contract through a Memorandum of Understanding ("MOU"), not an amendment.
- a. After the Contractor receives a written request to add lines, items, or options, the Contractor shall have ten (10) business days to respond with a written proposal. The Contractor's written proposal shall include:
 - 1) The effect, if any, of adding the lines, items, or options on the other goods or services required under the Contract;
 - 2) Any pricing related to the new lines, items, or options;
 - 3) The expected effective date for the availability of the new lines, items, or options; and
 - 4) Any additional information requested by the State.
 - b. The State may negotiate the terms of the Contractor's proposal by requesting revisions to the proposal.
 - c. To indicate acceptance of a proposal, the State will sign it. The signed proposal shall constitute a MOU between the Parties, and the lines, items, or options shall be incorporated into the Contract as if set forth verbatim.
 - d. Only after a MOU has been executed shall the Contractor perform or deliver the new lines, items, or options.
- E.3. Intellectual Property Indemnity. The Contractor agrees to indemnify and hold harmless the State of Tennessee as well as its officers, agents, and employees from and against any and all claims or suits which may be brought against the State concerning or arising out of any claim of an alleged patent, copyright, trade secret or other intellectual property infringement. In any such claim or action brought against the State, the Contractor shall satisfy and indemnify the State for the amount of any settlement or final judgment, and the Contractor shall be responsible for all legal or other fees or expenses incurred by the State arising from any such claim. The State shall give the Contractor notice of any such claim or suit, however, the failure of the State to give such notice shall only relieve Contractor of its obligations under this Section to the extent Contractor can demonstrate actual prejudice arising from the State's failure to give notice. This Section shall not grant the Contractor, through its attorneys, the right to represent the State of Tennessee in any legal matter, as provided in Tenn. Code Ann. § 8-6-106.
- E.4. Software License Warranty. Contractor grants a license to the State to use all software provided under this Contract in the course of the State's business and purposes.
- E.5. Software Support and Maintenance Warranty. Contractor shall provide to the State all software upgrades, modifications, bug fixes, or other improvements in its software that it makes generally available to its customers.
- E.6. Extraneous Terms and Conditions. Contractor shall fill all orders submitted by the State under this Contract. No purchase order, invoice, or other documents associated with any sales, orders, or supply of any good or service under this Contract shall contain any terms or conditions other than as set forth in the Contract. Any such extraneous terms and conditions shall be void, invalid and unenforceable against the State. Any refusal by Contractor to supply any goods or services under this Contract conditioned upon the State submitting to any extraneous terms and conditions shall be a material breach of the Contract and constitute an act of bad faith by Contractor.
- E.7. State Furnished Property. The Contractor shall be responsible for the correct use, maintenance, and protection of all articles of nonexpendable, tangible personal property furnished by the State

for the Contractor's use under this Contract. Upon termination of this Contract, all property furnished by the State shall be returned to the State in the same condition as when received, less ordinary wear and tear. Should the property be destroyed, lost, or stolen, the Contractor shall be responsible to the State for the fair market value of the property at the time of loss.

- E.8. Prohibited Advertising or Marketing. The Contractor shall not suggest or imply in advertising or marketing materials that Contractor's goods or services are endorsed by the State. The restrictions on Contractor advertising or marketing materials under this Section shall survive the termination of this Contract.
- E.9. Environmental Tobacco Smoke. Pursuant to the provisions of the federal "Pro-Children Act of 1994" and the Tennessee "Children's Act for Clean Indoor Air of 1995," the Contractor shall prohibit smoking of tobacco products within any indoor premises in which services are provided pursuant to this Contract to individuals under the age of eighteen (18) years. The Contractor shall post "no smoking" signs in appropriate, permanent sites within such premises. This prohibition shall be applicable during all hours, not just the hours in which children are present. Violators of the prohibition may be subject to civil penalties and fines. This prohibition shall apply to and be made part of any subcontract related to this Contract.
- E.10. Prison Rape Elimination Act (PREA). The Contractor must comply with the Prison Rape Elimination Act (PREA) of 2003 (Federal law 42 U.S.C. 15601 et. seq.), with all applicable Federal PREA standards, and with all State policies and standards related to PREA for preventing, detecting, monitoring, investigating, and eradicating any form of sexual abuse within facilities/programs/offices owned, operated, or contracted.
- E.11. Lobbying. The Contractor certifies, to the best of its knowledge and belief, that:
- a. No federally appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any person for influencing or attempting to influence an officer or employee of an agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
 - b. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with any contract, grant, loan, or cooperative agreement, the Contractor shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
 - c. The Contractor shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into and is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. § 1352.

- E.12. Contractor Commitment to Diversity. The Contractor shall comply with and make reasonable business efforts to exceed the commitment to diversity represented by the Contractor's Response to RFP 32110-18104 (Attachment 4) and resulting in this Contract.

The Contractor shall assist the State in monitoring the Contractor's performance of this commitment by providing, as requested, a monthly report of participation in the performance of this Contract by small business enterprises and businesses owned by minorities, women, service-disabled veterans, and persons with disabilities. Such reports shall be provided to the State of

Tennessee Governor's Office of Diversity Business Enterprise in the TN Diversity Software available online at:

<https://tn.diversitysoftware.com/FrontEnd/StartCertification.asp?TN=tn&XID=9810>.

- E.13. Unencumbered Personnel. The Contractor shall not restrict its employees, agents, subcontractors or principals who perform services for the State under this Contract from performing the same or similar services for the State after the termination of this Contract, either as a State employee, an independent contractor, or an employee, agent, subcontractor or principal of another contractor with the State.
- E.14. Personally Identifiable Information. While performing its obligations under this Contract, Contractor may have access to Personally Identifiable Information held by the State ("PII"). For the purposes of this Contract, "PII" includes "Nonpublic Personal Information" as that term is defined in Title V of the Gramm-Leach-Bliley Act of 1999 or any successor federal statute, and the rules and regulations thereunder, all as may be amended or supplemented from time to time ("GLBA") and personally identifiable information and other data protected under any other applicable laws, rule or regulation of any jurisdiction relating to disclosure or use of personal information ("Privacy Laws"). Contractor agrees it shall not do or omit to do anything which would cause the State to be in breach of any Privacy Laws. Contractor shall, and shall cause its employees, agents and representatives to: (i) keep PII confidential and may use and disclose PII only as necessary to carry out those specific aspects of the purpose for which the PII was disclosed to Contractor and in accordance with this Contract, GLBA and Privacy Laws; and (ii) implement and maintain appropriate technical and organizational measures regarding information security to: (A) ensure the security and confidentiality of PII; (B) protect against any threats or hazards to the security or integrity of PII; and (C) prevent unauthorized access to or use of PII. Contractor shall immediately notify State: (1) of any disclosure or use of any PII by Contractor or any of its employees, agents and representatives in breach of this Contract; and (2) of any disclosure of any PII to Contractor or its employees, agents and representatives where the purpose of such disclosure is not known to Contractor or its employees, agents and representatives. The State reserves the right to review Contractor's policies and procedures used to maintain the security and confidentiality of PII and Contractor shall, and cause its employees, agents and representatives to, comply with all reasonable requests or directions from the State to enable the State to verify or ensure that Contractor is in full compliance with its obligations under this Contract in relation to PII. Upon termination or expiration of the Contract or at the State's direction at any time in its sole discretion, whichever is earlier, Contractor shall immediately return to the State any and all PII which it has received under this Contract and shall destroy all records of such PII.

The Contractor shall report to the State any instances of unauthorized access to or potential disclosure of PII in the custody or control of Contractor ("Unauthorized Disclosure") that come to the Contractor's attention. Any such report shall be made by the Contractor within twenty-four (24) hours after the Unauthorized Disclosure has come to the attention of the Contractor. Contractor shall take all necessary measures to halt any further Unauthorized Disclosures. The Contractor, at the sole discretion of the State, shall provide no cost credit monitoring services for individuals whose PII was affected by the Unauthorized Disclosure. The Contractor shall bear the cost of notification to all individuals affected by the Unauthorized Disclosure, including individual letters and public notice. The remedies set forth in this Section are not exclusive and are in addition to any claims or remedies available to this State under this Contract or otherwise available at law. The obligations set forth in this Section shall survive the termination of this Contract.

- E.15. Federal Funding Accountability and Transparency Act (FFATA). This Contract requires the Contractor to provide supplies or services that are funded in whole or in part by federal funds that are subject to FFATA. The Contractor is responsible for ensuring that all applicable requirements, including but not limited to those set forth herein, of FFATA are met and that the Contractor provides information to the State as required.

The Contractor shall comply with the following:

a. Reporting of Total Compensation of the Contractor's Executives.

- (1) The Contractor shall report the names and total compensation of each of its five most highly compensated executives for the Contractor's preceding completed fiscal year, if in the Contractor's preceding fiscal year it received:
- i. 80 percent or more of the Contractor's annual gross revenues from federal procurement contracts and federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and
 - ii. \$25,000,000 or more in annual gross revenues from federal procurement contracts (and subcontracts), and federal financial assistance subject to the Transparency Act (and subawards); and
 - iii. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Securities and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>).

As defined in 2 C.F.R. § 170.315, "Executive" means officers, managing partners, or any other employees in management positions.

- (2) Total compensation means the cash and noncash dollar value earned by the executive during the Contractor's preceding fiscal year and includes the following (for more information see 17 C.F.R. § 229.402(c)(2)):
- i. Salary and bonus.
 - ii. Awards of stock, stock options, and stock appreciation rights. Use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2004) (FAS 123R), Shared Based Payments.
 - iii. Earnings for services under non-equity incentive plans. This does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives, and are available generally to all salaried employees.
 - iv. Change in pension value. This is the change in present value of defined benefit and actuarial pension plans.
 - v. Above-market earnings on deferred compensation which is not tax qualified.
 - vi. Other compensation, if the aggregate value of all such other compensation (e.g. severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the executive exceeds \$10,000.

- b. The Contractor must report executive total compensation described above to the State by the end of the month during which this Contract is awarded.
- c. If this Contract is amended to extend the Term, the Contractor must submit an executive total compensation report to the State by the end of the month in which the term extension becomes effective.
- d. The Contractor will obtain a Data Universal Numbering System (DUNS) number and maintain its DUNS number for the term of this Contract. More information about obtaining a DUNS Number can be found at: <http://fedgov.dnb.com/webform/>

The Contractor's failure to comply with the above requirements is a material breach of this Contract for which the State may terminate this Contract for cause. The State will not be obligated to pay any outstanding invoice received from the Contractor unless and until the Contractor is in full compliance with the above requirements.

- E.16. Statewide Contract. This Contract establishes a source or sources of supply for all Tennessee State Agencies. "Tennessee State Agency" refers to the various departments, institutions, boards, commissions, and agencies of the executive branch of government of the State of Tennessee with exceptions as addressed in Tenn. Comp. R. & Regs. 0690-03-01-.01. The Contractor shall provide all goods or services and deliverables as required by this Contract to all Tennessee State Agencies. The Contractor shall make this Contract available to the following entities, who are authorized to and who may purchase off of this Statewide Contract ("Authorized Users"):
- a. all Tennessee State governmental entities (this includes the legislative branch; judicial branch; and, commissions and boards of the State outside of the executive branch of government);
 - b. Tennessee local governmental agencies;
 - c. members of the University of Tennessee or Tennessee Board of Regents systems;
 - d. any private nonprofit institution of higher education chartered in Tennessee; and,
 - e. any corporation which is exempted from taxation under 26 U.S.C. Section 501(c) (3), as amended, and which contracts with the Department of Mental Health and Substance Abuse to provide services to the public (Tenn. Code Ann. § 33-2-1001).

These Authorized Users may utilize this Contract by purchasing directly from the Contractor according to their own procurement policies and procedures. The State is not responsible or liable for the transactions between the Contractor and Authorized Users.

E.17. Contractor Hosted Services Confidential Data, Audit, and Other Requirements

- a. "Confidential State Data" is defined as data deemed confidential by State or Federal statute or regulation. The Contractor shall protect Confidential State Data as follows:
 - (1) The Contractor shall ensure that all Confidential State Data is housed in the continental United States, inclusive of backup data.
 - (2) The Contractor shall encrypt Confidential State Data at rest and in transit using the current version of Federal Information Processing Standard ("FIPS") 140-2 validated encryption technologies.
 - (3) The Contractor and the Contractor's processing environment containing Confidential State Data shall either (1) be in accordance with at least one of the following security standards: (i) International Standards Organization ("ISO") 27001; (ii) Federal Risk and Authorization Management Program ("FedRAMP"); or (2) be subject to an annual engagement by a CPA firm in accordance with the standards of the American Institute of Certified Public Accountants ("AICPA") for a System and Organization Controls for service organizations ("SOC") Type II audit. The State shall approve the SOC audit control objectives. The Contractor shall provide proof of current ISO certification or FedRAMP authorization for the Contractor and Subcontractor(s), or provide the State with the Contractor's and Subcontractor's annual SOC Type II audit report within 30 days from when the CPA firm provides the audit report to the Contractor or Subcontractor. The Contractor shall submit corrective action plans to the State for any issues included in the audit report within 30 days after the CPA firm provides the audit report to the Contractor or Subcontractor.

If the scope of the most recent SOC audit report does not include all of the current State fiscal year, upon request from the State, the Contractor must provide to the State a letter from the Contractor or Subcontractor stating whether

the Contractor or Subcontractor made any material changes to their control environment since the prior audit and, if so, whether the changes, in the opinion of the Contractor or Subcontractor, would negatively affect the auditor's opinion in the most recent audit report.

No additional funding shall be allocated for these certifications, authorizations, or audits as these are included in the Maximum Liability of this Contract.

- (4) The Contractor must annually perform Penetration Tests and Vulnerability Assessments against its Processing Environment. "Processing Environment" shall mean the combination of software and hardware on which the Application runs. "Application" shall mean the computer code that supports and accomplishes the State's requirements as set forth in this Contract. "Penetration Tests" shall be in the form of attacks on the Contractor's computer system, with the purpose of discovering security weaknesses which have the potential to gain access to the Processing Environment's features and data. The "Vulnerability Assessment" shall be designed and executed to define, identify, and classify the security holes (vulnerabilities) in the Processing Environment. The Contractor shall allow the State, at its option, to perform Penetration Tests and Vulnerability Assessments on the Processing Environment.
- (5) Upon State request, the Contractor shall provide a copy of all Confidential State Data it holds. The Contractor shall provide such data on media and in a format determined by the State
- (6) Upon termination of this Contract and in consultation with the State, the Contractor shall destroy all Confidential State Data it holds (including any copies such as backups) in accordance with the current version of National Institute of Standards and Technology ("NIST") Special Publication 800-88. The Contractor shall provide a written confirmation of destruction to the State within ten (10) business days after destruction.

b. Minimum Requirements

- (1) The Contractor and all data centers used by the Contractor to host State data, including those of all Subcontractors, must comply with the State's Enterprise Information Security Policies as amended periodically. The State's Enterprise Information Security Policies document is found at the following URL: <https://www.tn.gov/finance/strategic-technology-solutions/strategic-technology-solutions/sts-security-policies.html>.
- (2) The Contractor agrees to maintain the Application so that it will run on a current, manufacturer-supported Operating System. "Operating System" shall mean the software that supports a computer's basic functions, such as scheduling tasks, executing applications, and controlling peripherals.
- (3) If the Application requires middleware or database software, Contractor shall maintain middleware and database software versions that are at all times fully compatible with current versions of the Operating System and Application to ensure that security vulnerabilities are not introduced.

c. Comptroller Audit Requirements

Upon reasonable notice and at any reasonable time, the Contractor and Subcontractor(s) agree to allow the State, the Comptroller of the Treasury, or their duly appointed representatives to perform information technology control audits of the Contractor and all Subcontractors used by the Contractor. Contractor will maintain and cause its Subcontractors to maintain a complete audit trail of all transactions and activities in connection with this Contract. Contractor will provide to the State, the

Comptroller of the Treasury, or their duly appointed representatives access to Contractor and Subcontractor(s) personnel for the purpose of performing the information technology control audit.

The information technology control audit may include a review of general controls and application controls. General controls are the policies and procedures that apply to all or a large segment of the Contractor's or Subcontractor's information systems and applications and include controls over security management, access controls, configuration management, segregation of duties, and contingency planning. Application controls are directly related to the application and help ensure that transactions are complete, accurate, valid, confidential, and available. The audit shall include the Contractor's and Subcontractor's compliance with the State's Enterprise Information Security Policies and all applicable requirements, laws, regulations or policies.

The audit may include interviews with technical and management personnel, physical inspection of controls, and review of paper or electronic documentation.

For any audit issues identified, the Contractor and Subcontractor(s) shall provide a corrective action plan to the State within 30 days from the Contractor or Subcontractor receiving the audit report.

Each party shall bear its own expenses incurred while conducting the information technology controls audit.

- d. Business Continuity Requirements. The Contractor shall maintain set(s) of documents, instructions, and procedures which enable the Contractor to respond to accidents, disasters, emergencies, or threats without any stoppage or hindrance in its key operations ("Business Continuity Requirements"). Business Continuity Requirements shall include:
 - (1) "Disaster Recovery Capabilities" refer to the actions the Contractor takes to meet the Recovery Point and Recovery Time Objectives defined below. Disaster Recovery Capabilities shall meet the following objectives:
 - i. Recovery Point Objective ("RPO"). The RPO is defined as the maximum targeted period in which data might be lost from an IT service due to a major incident: 24 hours
 - ii. Recovery Time Objective ("RTO"). The RTO is defined as the targeted duration of time and a service level within which a business process must be restored after a disaster (or disruption) in order to avoid unacceptable consequences associated with a break in business continuity: 24 hours
 - (2) The Contractor and the Subcontractor(s) shall perform at least one Disaster Recovery Test every three hundred sixty-five (365) days. A "Disaster Recovery Test" shall mean the process of verifying the success of the restoration procedures that are executed after a critical IT failure or disruption occurs. The Disaster Recovery Test shall use actual State Data Sets that mirror production data, and success shall be defined as the Contractor verifying that the Contractor can meet the State's RPO and RTO requirements. A "Data Set" is defined as a collection of related sets of information that is composed of separate elements but can be manipulated as a unit by a computer. The Contractor shall provide written confirmation to the State after each Disaster Recovery Test that its Disaster Recovery Capabilities meet the RPO and RTO requirements.
- E.18. Survival. The terms, provisions, representations, and warranties contained in Sections D.12. and A.4.f. of this Contract shall survive the completion of performance, termination or expiration of this Contract.

- E.19. Family Educational Rights and Privacy Act & Tennessee Data Accessibility, Transparency and Accountability Act. The Contractor shall comply with the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. 1232(g)) and its accompanying regulations (34 C.F.R. § 99) ("FERPA"). The Contractor warrants that the Contractor is familiar with FERPA requirements and that it will comply with these requirements in the performance of its duties under this Contract. The Contractor agrees to cooperate with the State, as required by FERPA, in the performance of its duties under this Contract. The Contractor agrees to maintain the confidentiality of all education records and student information. The Contractor shall only use such records and information for the exclusive purpose of performing its duties under this Contract. The obligations set forth in this Section shall survive the termination of this Contract.

The Contractor shall also comply with Tenn. Code Ann. § 49-1-701, *et seq.*, known as the "Data Accessibility, Transparency and Accountability Act," and any accompanying administrative rules or regulations (collectively "DATAA"). The Contractor agrees to maintain the confidentiality of all records containing student and de-identified data, as this term is defined in DATAA, in any databases, to which the State has granted the Contractor access, and to only use such data for the exclusive purpose of performing its duties under this Contract.

Any instances of unauthorized disclosure of data containing personally identifiable information in violation of FERPA or DATAA that come to the attention of the Contractor shall be reported to the State within twenty-four (24) hours. Contractor shall indemnify and hold harmless State, its employees, agents and representatives, from and against any and all claims, liabilities, losses, or causes of action that may arise, accrue, or result to any person or entity that is injured or damaged as a result of Contractor's failure to comply with this section.

- E.20 Public Accountability. If the Contractor is subject to Tenn. Code Ann. §§ 8-4-401, *et seq.*, or if this Contract involves the provision of services to citizens by the Contractor on behalf of the State, the Contractor agrees to establish a system through which recipients of services may present grievances about Contractor's operation of the service program. The Contractor shall also display in a prominent place, located near the passageway through which the public enters in order to receive contract-supported services, a sign at least eleven inches (11") in height and seventeen inches (17") in width stating the following:

NOTICE: THIS AGENCY IS A RECIPIENT OF TAXPAYER FUNDING. IF YOU OBSERVE AN AGENCY DIRECTOR OR EMPLOYEE ENGAGING IN ANY ACTIVITY THAT YOU CONSIDER TO BE ILLEGAL, IMPROPER, OR WASTEFUL, PLEASE CALL THE STATE COMPTROLLER'S TOLL-FREE HOTLINE: 1-800-232-5454

The sign shall be of the form prescribed by the Comptroller of the Treasury. The contracting state agency shall request copies of the sign from the Comptroller of the Treasury and provide signs to contractors.

- E.21. Clean Air Act and Federal Water Pollution Control Act. As a condition for receipt of federal awards, the Contractor agrees to comply with the Clean Air Act, 42 U.S.C. § 7401 *et seq.* and the Federal Water Pollution Control Act, 33 U.S.C § 1251 *et seq.*, as those sections are amended from time to time during the term. Violations must be reported to the Federal awarding agency and the Region 4 Office of the Environmental Protection Agency.
- E.22. Procurement of Recovered Materials.
- a. In the Performance of this contract, the Contractor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired competitively within a timeframe providing for compliance with the contract performance schedule; meeting contract performance requirements; or at a reasonable price.

- b. Information about this requirement, along with the list of EPA-designated items, is available at EPA's Comprehensive
 - c. Procurement Guidelines website, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.
 - d. The Contractor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.
- E.23. Access to Records.
- a. The Contractor agrees to provide the State, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to this contract for purposes of making audits, examinations, excerpts, and transcriptions.
 - b. The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
 - c. The Contractor agrees to provide the FEMA Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed under the contract.
 - d. In Compliance with the Disaster Recovery Act of 2018, the State and the Contractor acknowledge and agree that no language in this contract is intended to prohibit the audits or internal reviews by the FEMA Administrator or the Comptroller General of the United States.
- E.24. Use of DHS Logo. The contractor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.
- E.25. Compliance with Federal Law, Regulations, and Executive Orders. This is an acknowledgement that FEMA financial assistance will be used to fund all or a portion of the contract. The contractor will comply with all applicable Federal law, regulations, executive orders, FEMA policies, procedures, and directives.
- E.26. No Obligation by Federal Government. The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from the Contract.
- E.27. Compliance with The False Claims Act. The Contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the Contractor's actions pertaining to this contract.
- E.28. Equal Employment Opportunity. During the performance of this Contract, the Contractor agrees as follows:
- a. The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.
 - b. The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

- c. The Contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.
- d. The Contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- e. The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- f. The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- g. In the event of the Contractor's non-compliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- h. The Contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: Provided, That if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor

debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

E.29. Compliance with Contract Work Hours and Safety Standards Act.

- a. Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
- b. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (b)(1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (b)(1) of this section, in the sum of \$27 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (b)(1) of this section.
- c. Withholding for unpaid wages and liquidated damages. The Federal awarding agency shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (b)(2) of this section.
- d. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (b)(1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (b)(1) through (4) of this section.

E.30. Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment. If applicable and as required by 2 CFR 200.216, Contractor is prohibited from obligating or expending loan or grant funds to procure or obtain; extend or renew a contract to procure or obtain; or enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as a critical technology as part of any system. As described in Public Law 115-232, Section 889, "covered telecommunications equipment" is as follows:

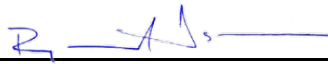
- a. Telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).

- b. For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).
- c. Telecommunications or video surveillance services provided by such entities or using such equipment.
- e. Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.


E.31. Domestic Preference for Procurements. As appropriate, and to the extent consistent with law, the Grantee should, to the greatest extent practicable, provide a preference for the purchase, acquisition, or use of goods, products or materials produced in the United States. This includes, but is not limited to iron, aluminum, steel, cement, and other manufactured products. For purposes of this clause: (1) "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States; (2) "Manufactured products" means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

IN WITNESS WHEREOF,

UWORK.COM, INC. DBA COVENDIS TECHNOLOGIES:

	2/16/2022
_____ CONTRACTOR SIGNATURE	_____ DATE
Raymond Tsao, President & CEO	
_____ PRINTED NAME AND TITLE OF CONTRACTOR SIGNATORY (above)	

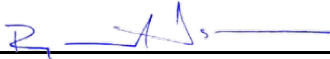
DEPARTMENT OF GENERAL SERVICES, CENTRAL PROCUREMENT OFFICE:

	2/22/22
_____ Michael F. Perry, Chief Procurement Officer	_____ DATE

ATTESTATION RE PERSONNEL USED IN CONTRACT PERFORMANCE

SUBJECT CONTRACT NUMBER:	SWC 387
CONTRACTOR LEGAL ENTITY NAME:	uWork.com, Inc. dba Covendis
EDISON VENDOR IDENTIFICATION NUMBER:	227512

The Contractor, identified above, does hereby attest, certify, warrant, and assure that the Contractor shall not knowingly utilize the services of an illegal immigrant in the performance of this Contract and shall not knowingly utilize the services of any Subcontractor or Sub-vendor who will utilize the services of an illegal immigrant in the performance of this Contract.


CONTRACTOR SIGNATURE

NOTICE: This attestation MUST be signed by an individual empowered to contractually bind the Contractor. Attach evidence documenting the individual's authority to contractually bind the Contractor, unless the signatory is the Contractor's chief executive or president.

Raymond Tsao, President & CEO

PRINTED NAME AND TITLE OF SIGNATORY

2/16/2022

DATE OF ATTESTATION

ATTACHMENT 3
DRAFT TASK ORDER (TO)

TO # [INSERT SOW TRACKING #]

TASK ORDER
BETWEEN THE
STATE OF TENNESSEE
Department of [INSERT AGENCY NAME]
and
[INSERT CONTRACTOR NAME]

This Task Order (TO), by and between the State of Tennessee, [INSERT AGENCY NAME], hereinafter referred to as the "State" and [INSERT CONTRACTOR NAME], hereinafter referred to as the "Contractor" is as follows:

The Contractor understands and agrees that this TO is governed by the provisions of Edison Contract Number [INSERT CONTRACTOR EDISON CONTRACT NUMBER], hereinafter referred to as the "Master Contract". In the provision of services pursuant to this TO, the Contractor will conform to TO and Master Contract provisions in their entirety. In the event of a conflict between the TO and the Master Contract, the Master Contract controls.

This TO shall be effective for the period commencing on [INSERT START DATE], and ending on [INSERT END DATE], unless amended.

In no event shall the maximum liability of the State under this TO exceed [INSERT DOLLAR AMOUNT]. For the services provided pursuant to this TO, this amount shall constitute the TO Project Price and the entire potential compensation due the Contractor for the services and all of the Contractor's obligations hereunder regardless of the difficulty, travel, administrative fees, or materials/equipment required. The Contractor shall be compensated as specified in the associated Statement of Work at the fixed-prices and/or hourly rate(s) bid in the Contractor's project quote and transcribed here:

Service Description	Amount (per compensable increment)
DELIVERABLE	\$Number
JOB TITLE	\$Number per hour
Use & Repeat Rows Above as Necessary	

Payments to the Contractor pursuant to this TO will be made in accordance with Master Contract Section C. Invoices shall be submitted to:

[INSERT AGENCY NAME AND BILLING ADDRESS FROM THE SOW]

The State may, at any time and for any reason, terminate this TO in accordance with Master Contract Section A.11.k.

This TO may be modified only by a written TO amendment in accordance with Master Contract Section A.11.j.

IN WITNESS WHEREOF,

CONTRACTOR LEGAL ENTITY NAME:

NAME & TITLE

DATE

STATE AGENCY NAME:

STATE AGENCY DESIGNATED SIGNATORY NAME & TITLE

DATE

**[ADD OTHER STATE AGENCY SIGNATORIES IN ACCORDANCE WITH APPLICABLE
TENNESSEE LAWS AND REGULATIONS]**



ATTACHMENT 4

**CONTRACTOR COMMITMENT TO
DIVERSITY**

February 16, 2022

Maya Carpenter
State of Tennessee
Department of General Services
312 Rosa L. Parks Ave
Nashville, TN 37243

Dear Ms. Carpenter,

uWork.com, Inc. dba Covendis is committed to achieving or surpassing a goal of sixty percent (60%) participation with; applicable certified diversity business enterprise with the State of Tennessee under Contract# SWC 387. Diversity businesses are defined as those that are:

1. Owned and controlled by a person or persons with disabilities, of ethnic minority, or female gender, or service-disabled veterans, or are which are small businesses as defined by the State of Tennessee's Governor's Office of Diversity Business Enterprise (Go-DBE); and
2. Certified as a diversity business enterprise by the State of Tennessee Governor's Office of Diversity Business Enterprise.

We accept that our commitment to diversity participation advances the State's efforts to expand opportunity of diversity businesses to do business with the State as contractors and sub-contractors.

Further, we commit to:

1. Using applicable reporting tools that allow the state to track and report purchases from business owned by minority, women, service-disabled veterans, persons with disabilities and Tennessee small businesses.
2. Reporting monthly to the Go-DBE office the dollars paid directly to a business enterprise owned by a minority, woman, persons with disabilities, service-disabled veteran owned and small businesses accomplished under Contract # SWC 387.

uWork.com, Inc. dba Covendis is committed to working with the Governor's Office of Diversity Business Enterprise to report and assist the State Agency to accomplish these goals.

Regards,

A handwritten signature in blue ink, appearing to read 'R. Tsao', followed by a horizontal line.

Raymond Tsao
President & CEO
Covendis

ATTACHMENT 5
STATEMENT OF WORK (SOW) REQUEST TEMPLATE

**SWC #387 Managed Service Provider for
Contingent Workforce Services**
[Insert Requesting State Agency name]
Statement of Work



For

[Insert Project Title]

[Date]

1.0 STATEMENT OF WORK

1.1 Project Title

This work is being performed under Statewide Contract Number 387 for *[insert a brief description of the project]*.

This Statement of Work (SOW) incorporates by reference the terms and conditions, specifications, and other contract documents of Statewide Contract Number 387. In case of any conflict between this SOW and the Contract, the Contract shall prevail. The evaluation criteria for this request is lowest cost response to meet all requirements outlined in this SOW request, as outlined in Section 5.

Note that if attempting to include evaluation criteria beyond cost, the sentence before this needs to be changed to say Section 11 instead of Section 5. Also note that if attempting to include evaluation criteria beyond cost, the procuring agency must obtain CPO approval prior to issuing this SOW request.

1.2 Background

- Describe the history of your project and the prior events that brought you to this SOW*

1.3 Reference to other applicable documents

- List any pertinent documents or supporting materials pertaining to the SOW*

NOTE: This template is largely written towards SOW Requests in the IT field. If the SOW Request is not IT-related some of the below sections may not be applicable and may need to be modified accordingly.

2.0 SOW Schedule

Specify the deadline for the Sub-vendor to provide a Project Quote. This deadline will be no less than ten (10) business days, but it may be longer at the procuring State agency's discretion. The SOW will also specify the deadline by which the Sub-vendor may seek written clarifications of the work involved. The procuring State agency will provide responses to such clarifications in writing to the Sub-vendor.

	EVENT	TIME	DATE
1	Statement Of Work Issued	<i>Time</i>	<i>Month Day, Year</i>
2	Written "Questions and Clarifications" Deadline	<i>Time</i>	<i>Month Day, Year</i>
3	State Response to Written "Questions and Clarifications"	<i>Time</i>	<i>Month Day, Year</i>
4	Project Quote Submittal Deadline	<i>Time</i>	<i>Month Day, Year</i>
5	Project Quotes Opened and Evaluated	<i>Time</i>	<i>Month Day, Year</i>
6	Sub-vendors notified of Project Award	<i>Time</i>	<i>Month Day, Year</i>
7	Task Order sent to winning Sub-vendor	<i>Time</i>	<i>Month Day, Year</i>
8	Task Order Sub-vendor Signature Deadline	<i>Time</i>	<i>Month Day, Year</i>

9	Task Order Procuring Agency Signature Deadline	<i>Time</i>	<i>Month Day, Year</i>
10	Fully Executed Task Order	<i>Time</i>	<i>Month Day, Year</i>

3.0 Agency Staffing and Roles

3.1 Staffing

Project Manager – Agency

The Agency's Project Manager is:

Name:

Address:

City:

State & Zip

Phone:

Cell:

Fax:

Email:

Insert contact information for any additional relevant staff.

3.2 Agency Staff and Roles

- Who within the agency will have decision-making authority, including approval of changes, report, documentation and deliverables?*
- State agency staff (if any) to assist with the project effort*
- Individuals key to the project and detail their roles and responsibilities*

4.0 Project Requirements and Deliverables

4.1 Requirements

Describe:

- Tasks to be performed and any additional qualifications for specialized projects*
- Any known non-standard work schedule tasks*
- Location(s) where project work is required to be performed or may be performed, including the use of onsite, offsite, and offshore resources at the procuring State agency's discretion*
- Include tasks that do not result in specific deliverables (i.e. project management)*

4.2 Agency Tasks and Responsibilities

- Include tasks to be performed by the agency*
- Precise definition of all resources the agency will provide such as hardware, software, data services, and facilities*

4.3 Deliverables

Describe:

- *Items that will be developed or provided from the performance of the tasks (i.e. products, service, plans, status reports, documentation)*
- *Dates for delivery if such date must be mandated*
- *Testing Program Plan*

4.4 Exclusions

Describe:

- *Tasks which are not part of the scope of this project*

Note that if the SOW Request is an IT-related project, the subvendors responding to the request will need to confirm in writing their compliance with Contract Section E.17.

5.0 Cost Criteria

5.1 Payment Methodology

**Please note:*

-Red denotes fields that need to be completed by user agency before project is sent out.

-Green denotes fields that need to be completed by vendor.

-Add additional phases as necessary

-Percent payment of phases Total for "Phased Payment" should add up to 100%

Payment Types	Goods or Services Description	Amount (per compensable increment)
Type 1	<i>Milestone/Phase (include % of project total to be paid upon completion)</i>	<i>\$ XXX</i>
Type 2	<i>Deliverable</i>	<i>\$ XXX</i>
Supplemental	<i>Job Activity/Title</i>	<i>\$ XXX (Rate Per hour/ day/ etc.)</i>

Repeat and/or remove rows above if necessary. Hourly rates should only be included when the potential for change orders to fixed price items exists in this SOW. See Appendix A for sample tables.

5.2 SOW Monetary Cap

The Sub-vendor's Project Quote total cost shall **not** exceed [_____] dollars (\$____) [*specify SOW monetary cap*] for the performance of all activities necessary for or incidental to the performance of work as set forth in this SOW.

5.3 MSP Fee

The Sub-vendor's milestone payments will be the agreed upon amount less the 0.75% MSP Fee.

6.1 Completion Criteria

- *The focus of this section is to define the process for submitting, approving and rejecting tasks and deliverables(including testing dates and scenarios)*

6.2 Final Acceptance

- *Describe in detail the precise definition of the conditions and criteria that will be applied to determine that the contract has been successfully completed*

7.0 Estimated Timeline and Period of Performance

Project must begin no later than [Month, Year] and be completed by [Month, Year].

8.0 Project Management (if applicable)

Describe what will be required as far as project management, which reports will be required, how often these reports will be required, and what must be submitted to the State procuring agency.

9.0 State Policies and Standards

All Sub-vendors should review and reference Contract Section A for more information regarding processes such as submission and evaluation of projects procured under this contract.

State Policies and Standards can be found on the state Web site at:

<http://tn.gov/generalservices/>

<https://www.tn.gov/generalservices/procurement.html>

Insert any other relevant links to the latest versions of the policies and standards. For example, if the project is IT-related include the following link: <https://www.tn.gov/finance/strategic-technology-solutions/strategic-technology-solutions/sts-security-policies.html>

10.0 Key Assumptions

Any issue or ambiguity related to the scope that the proposer has must be resolved before the Task Order stemming from this project is signed.

Identify any additional agency or sub-vendor assumptions

11.0 Evaluation Criteria

Only include this section if attempting to include evaluation criteria beyond cost. Note the use of this type of evaluation must be done in accordance with Contract Section A.11.i.i.1.

If additional sections are required for your specific project, please leave the above section numbering as it is and add your new sections here as 12.0, 13.0 etc.

Example 1: Phased Payment

Milestone/Phase	Percent of Project to be paid upon completion	Amount (\$)
<i>Installation of Software in Test Environment</i>	25%	\$ XXX
<i>Configuration of Software in Test Environment</i>	25%	\$ XXX
<i>Installation of Software in Production</i>	25%	\$ XXX
<i>Configuration of Software in Production</i>	25%	\$ XXX

Example 2: Lump Sum Payment Upon Completion

Deliverable	Amount (\$)
<i>Custom Report for Application</i>	\$ XXX

Example 3: Deliverables with Labor

Deliverable	Amount (\$)
<i>Switch</i>	\$ XXX
<i>Router</i>	\$ XXX
<i>Software</i>	\$ XXX
<i>Hourly rate for Installation</i>	\$ XXX

Notes:

- Red denotes fields that need to be completed by agency before project is sent out.
- Green denotes fields that need to be completed by vendor.
- Add additional phases as necessary
- Percent payment of phases Total for "Phased Payment" should add up to 100%