

STATE OF TEXAS
DEPARTMENT OF INFORMATION RESOURCES
CONTRACT FOR PRODUCT, SERVICES, AND RELATED SERVICES
Oracle America, Inc

1 INTRODUCTION

1.1 Parties

This contract for Oracle Branded Products and Related Services (this “Contract”) is entered into between the State of Texas, acting by and through the Department of Information Resources (hereinafter “DIR”) with its principal place of business at 300 West 15th Street, Suite 1300, Austin, Texas 78701, and Oracle America, Inc a Delaware corporation (hereinafter “Successful Respondent”), with its principal place of business at 500 Oracle Parkway Redwood Shores, CA 94065.

1.2 Compliance with Procurement Laws

This Contract is the result of compliance with applicable procurement laws of the State of Texas. DIR issued a solicitation on the Comptroller of Public Accounts’ Electronic State Business Daily, Request for Offer (RFO) DIR-CPO-TMP-584, on 11/30/2023, for Oracle Branded Products and Related Services (the “RFO”). Upon execution of all Contracts, a notice of award for DIR-CPO-TMP-584, shall be posted by DIR on the Electronic State Business Daily.

1.3 Order of Precedence

- A. For any transaction under this Contract, the order of precedence shall be as follows:
1. this Contract;
 2. **Appendix A, Standard Terms and Conditions;**
 3. **Appendix B, Successful Respondent’s Historically Underutilized Businesses Subcontracting Plan;**
 4. **Appendix C, Pricing Index;**

5. The Purchase Order (as defined in Appendix A) entered into with respect to the transaction;
 6. **Appendix D, General Terms – Public Sector;**
 7. **Appendix E, Schedule P – Program;**
 8. **Appendix F, Schedule C – Cloud Services;**
 9. **Appendix G, Schedule H – Hardware;**
 10. **Appendix H, Schedule OSSS – Oracle Open Source Support Services;**
 11. **Exhibit 1, RFO DIR-CPO-TMP-584**, including all Addenda;
 12. **Exhibit 2, Successful Respondent’s Response to RFO DIR-CPO-TMP-584**, including all Addenda; and
 13. **Exhibit 3, Sample Order Form Template.**
- B. Each of the Appendices and Exhibits listed above is hereby incorporated by reference and together with this Contract constitute the entire agreement between DIR and Successful Respondent. Notwithstanding the foregoing, as between Appendix D (Public Sector General Terms) and the relevant Schedule for the products and services being purchased under the Contract (i.e., Appendix E, Schedule P – Program; Appendix F, Schedule C – Cloud Services; Appendix G, Schedule H – Hardware; and Appendix H – Schedule OSSS – Oracle Open Source Support Services) such Schedule shall take precedence over Appendix D (Public Sector General Terms) for such ordered product or service. Furthermore, for Cloud Services, Technical Cloud Services, and Managed Services, the Data Processing Agreement and the Service Specifications applicable to a customer’s order, as described in Appendix F, Schedule C – Cloud Services, shall take precedence (subject, in the case of the Service Specifications, to the provisions of this base Contract).

1.4 Definitions

Capitalized terms used but not defined herein have the meanings given to them in **Appendix A, Standard Terms and Conditions.**

2 TERM OF CONTRACT

The initial term of this Contract shall be up to two (2) years commencing on the date of the last signature hereto (the "Initial Term"), with one (1) optional two-year renewal and one (1) optional one-year renewal (each, a "Renewal Term"). Prior to expiration of the Initial Term and the first Renewal Term, this Contract will renew automatically under the same terms and conditions unless either party provides written notice to the other party at least sixty (60) days in advance of the renewal date stating that the party wishes to discuss amendment or non-renewal.

3 OPTION TO EXTEND

Successful Respondent agrees that DIR may require continued performance under this Contract at the rates specified in this Contract following the expiration of the Initial Term or any Renewal Term. This option may be exercised more than once, but the total extension of performance hereunder shall not exceed ninety (90) calendar days. Such extension of services shall be subject to the requirements of the Contract, with the sole and limited exception that the original date of termination shall be extended pursuant to this provision. DIR may exercise this option upon thirty (30) calendar days written notice to the Successful Respondent.

4 PRODUCT AND SERVICE OFFERINGS

Products and services available under this Contract are limited to the technology categories defined in Request for Offer DIR-CPO-TMP-584 for Oracle Branded Products and Related Services. At DIR's sole discretion, Successful Respondent may amend Appendix C, Pricing Index, to incorporate changes or make additions to its product and service offerings, provided that any changes or additions must be within the scope of the RFO.

5 PRICING

5.1 Pricing Index

Pricing to Customers shall be as set forth in this Section 5 and in **Appendix C, Pricing Index**, and shall include the DIR Administrative Fee (as defined below).

5.2 Customer Discount

- A. The minimum Customer discount for all products and services will be the percentage off List Price (as defined below) or MSRP (as defined below), as applicable, as specified in **Appendix C, Pricing Index**. Successful Respondent shall not establish a List Price or MSRP for a particular solicitation. For purposes of this Section, "List Price" is the price for a product or service published in Successful Respondent's price catalog (or similar document) before any discounts or price allowances are applied. For purposes of this Section, "MSRP," or manufacturer's suggested retail price, is the price list published by the manufacturer or publisher of a product and available to and recognized by the trade.
- B. Customers purchasing products or services under this Contract may negotiate more advantageous pricing or additional discounts with Successful Respondent or Order Fulfiller. Successful Respondent or Order Fulfiller and Customer shall provide the details of such additional discounts to DIR upon request.
- C. If products or cloud services available under this Contract are provided at a lower price to: an eligible Customer who is a Texas governmental entity and who is not purchasing those products or services under this Contract under the same terms and conditions provided for the State for the same products and services under this Contract, then the price of such products and services under this Contract shall be adjusted to that lower price as provided below. This requirement applies to products or services quoted by Successful Respondent for a quantity of one (1) (i.e., a single hardware device, a single Oracle PaaS and IaaS Universal Credit, or a user-based on-premise license or cloud application for a single user), but does not apply to: volume discounts (including discounts based on the concurrent purchase of other products or services, or expansions or renewals of existing services); products or services using an enterprise or other non-user based metric; special pricing purchases (including pilot/proof of concept purchases, service credits or other concessionary discounts); or Related Services. If DIR provides notice to Successful Respondent of a lower price being given to a Customer described above, then, subject to the qualifications set forth in the preceding sentences, the parties agree to amend the Contract to reflect such

lower price. Such amendment will apply retroactively to the date of Successful Respondent's receipt of notice, such that the updated pricing shall apply to any orders placed after that date. This section C shall apply only to products or services ordered directly from Successful Respondent, and shall not apply to any purchase of Successful Respondent products or services through a reseller.

5.3 Changes to Prices

- A. Subject to the requirements of this section, Successful Respondent may change the price of any product or service upon changes to the List Price or MSRP, as applicable. Discount levels shall not be subject to such changes, and will remain consistent with the discount levels specified in this Contract.
- B. Successful Respondent may revise its pricing by publishing a revised pricing list. If DIR, in its sole discretion, finds that the price of a product or service has been increased unreasonably, DIR may request that Successful Respondent reduce the pricing for the product or service to the level published before such revision. Upon such request, Successful Respondent shall either reduce the pricing as requested, or shall remove the product or service from the pricing list for this Contract. Failure to do so will constitute a breach by Successful Respondent.

5.4 Shipping and Handling

Prices to Customers under this Contract shall include all shipping and handling fees except as set forth below. Shipments will be Free On Board (Oracle's shipping terminology for the same is DDP – Delivered Duty Paid) Customer's Destination. No additional fees may be charged to Customers for standard shipping and handling within the United States. If a Customer requests expedited or special delivery, or delivery to locations outside of the United States, Customer will be responsible for any additional charges for expedited or special delivery or delivery to locations outside of the United States. Where relevant, each party to this Contract and each Customer shall comply with all relevant export laws and regulations, including the Export Administration Act and Regulations, to assure that no information is exported, directly or indirectly, in violation of law.

6 DIR ADMINISTRATIVE FEE

- A. Successful Respondent shall pay an administrative fee to DIR based on the dollar value of all sales to Customers pursuant to this Contract (the "DIR Administrative Fee"). The amount of the DIR Administrative Fee shall be seventy-five hundredths of a percent (0.75%) of all sales, net of returns and credits. For example, the administrative fee for sales totaling \$100,000 shall be \$750.
- B. All prices quoted to Customers shall include the DIR Administrative Fee. DIR reserves the right to increase or decrease the DIR Administrative Fee during the term of this Contract, upon written notice to Successful Respondent without amending this Contract. Any increase or decrease in the DIR Administrative Fee shall be incorporated in the price to Customers.

7 INTERNET ACCESS TO CONTRACT AND PRICING INFORMATION

In addition to the requirements listed in **Appendix A, Section 7.2, Internet Access to Contract and Pricing Information**, Successful Respondent shall include the following with its webpage:

- A. A current price list or mechanism to obtain specific contract pricing;
- B. MSRP/list price or DIR Customer price;
- C. Discount percentage (%) off MSRP or List Price;
- D. Warranty policies; and
- E. Return policies.

8 USE OF ORDER FULFILLERS

8.1 Authorization to Use Order Fulfillers

Subject to the conditions in this Section 8, DIR agrees to permit Successful Respondent to utilize designated third parties to resell products, services, and support resources to Customers under this Contract (such designated third parties are hereinafter referred to as "Order Fulfillers").

8.2 Designation of Order Fulfillers

- A. Successful Respondent may designate Order Fulfillers to act as the distributors for products and services available under this Contract. In designating Order Fulfillers, and to the extent required by law, Successful Respondent must be in compliance with all applicable laws and rules regarding the utilization of Historically Underutilized Businesses. DIR and Successful Respondent will agree on the number of Order Fulfillers that are Historically Underutilized Businesses as defined by the CPA.
- B. In addition to the required Subcontracting Plan, Successful Respondent shall provide DIR with the following Order Filler information: Order Filler name, Order Filler business address, Order Filler CPA Identification Number, Order Filler contact person email address and phone number.
- C. DIR reserves the right to require Successful Respondent to rescind any Order Filler participation or request that Successful Respondent name additional Order Fulfillers should DIR determine it is in the best interest of the State.
- D. Successful Respondent shall be responsible for its Order Fulfillers' performance under and compliance with the terms and conditions of this Contract to the extent provided in the Contract and subject to the limitations set forth in the Contract. Successful Respondent shall enter into contracts with Order Fulfillers and use terms and conditions that are consistent with the terms and conditions of this Contract. Order Fulfillers are resellers, and are not subcontractors of Successful Respondent; any order with an Order Filler must be placed directly by Customer with such Order Filler. Customers make the decision as to which Order Filler they will place an order with (or may choose to place an order directly with Successful Respondent). Certain Order Fulfillers may only resell limited products and/or services offered under the Contract.
- E. Successful Respondent may qualify Order Fulfillers and their participation under the Contract provided that: i) any criteria is uniformly applied to all potential Order Fulfillers based upon Successful Respondent's established, neutrally applied criteria, ii) the criteria is not based on a particular procurement, and iii) all Customers are supported under the criteria.

- F. Successful Respondent shall not prohibit any Order Fulfiller from participating in other procurement opportunities offered through DIR.

8.3 Changes in Order Fulfiller

Successful Respondent may add or remove Order Fulfillers throughout the term of this Contract upon written authorization by DIR. In addition, Successful Respondent may remove Order Fulfillers at any time throughout the term of the Contract upon written notice to DIR. Prior to adding or removing Order Fulfillers, Successful Respondent must make a good faith effort to revise its Subcontracting Plan in accordance with the State's Policy on Utilization of Historically Underutilized Businesses. Successful Respondent shall provide DIR with its updated Subcontracting Plan and the Order Fulfillers information listed above.

8.4 Order Fulfiller Pricing to Customer

Order Fulfiller pricing to the Customer shall be in accordance with Section 5.

9 NOTIFICATION

All notices under this Contract shall be sent to a party at the respective address indicated below.

If sent to the State:

Lisa Massock or Successor in Office
Chief Procurement Officer
Department of Information Resources
300 W. 15th St., Suite 1300
Austin, Texas 78701
Phone: (512) 475-4700
Email: lisa.massock@dir.texas.gov

If sent to Successful Respondent:

Dapo Lawal
Oracle America, Inc
1910 Oracle Way

Reston, VA 20190
Phone: (703)364-0676
dapo.lawal@oracle.com

10 SOFTWARE LICENSE, LEASE, AND SERVICE AGREEMENTS

10.1 General Agreement

- A. A Customer's acquisition of Products or Service Offerings under this Contract shall be on the terms set forth herein and in the General Terms (Appendix D to the Contract), the applicable Schedule thereto (Schedules to the General Terms are incorporated as Appendices E through H to the Contract) and the applicable Order Form.
- B. A Customer's compliance with the General Terms and the Schedule(s) and Order Form(s) applicable to their acquisitions under the Contract is the responsibility of the Customer, and DIR shall not be responsible for any Customer's compliance with the foregoing. If DIR purchases Products or Service Offerings for its own use under the Contract, it shall be responsible for its own compliance with the terms and conditions contained the General Terms and the Schedule(s) and Order Form(s) applicable to its purchase.

11 CONFLICTING OR ADDITIONAL TERMS

- A. The terms and conditions of this Contract and a Customer's Purchase Order shall take precedence over any additional conflicting or additional terms in any additional service agreements, statement of work, and any other provisions, terms, conditions, and license agreements, including those which may be affixed to or accompany software upon delivery (sometimes called shrink-wrap or click-wrap agreements), and any linked or supplemental documents (other than those agreed to in an applicable Purchase Order), which may be proposed, issued, or accepted by Successful Respondent and Customer in addition to this Contract and the applicable Purchase Order (such additional agreements, "Additional Agreements"), regardless of when such Additional Agreements are proposed, issued, or accepted by Customer. The terms and conditions of this Contract shall take precedence over any conflicting terms in a Purchase Order (including

without limitation any linked or supplemental documents referenced or incorporated therein) to the extent provided in Section 1.3, Order of Precedence, of the Contract. Notwithstanding the foregoing, it is Customer's responsibility to review any Additional Agreements to determine if Customer accepts such Additional Agreement. If Customer does not accept such Additional Agreement, Customer shall be responsible for negotiating any changes thereto.

- B. Unless otherwise provided in an applicable Purchase Order, any update or amendment to an Additional Agreement shall only apply to Purchase Orders for the associated product or service offering after the effective date of such update or amendment; provided that, if Successful Respondent has responded to a Customer's solicitation or request for pricing, any subsequent update or amendment to an Additional Agreement may only apply to a resulting Purchase Order to the extent provided in any resulting Purchase Order that is executed.
- C. Successful Respondent shall not require any Additional Agreement that: i) diminishes the rights, benefits, or protections of Customer, or that alters the definitions, measurements, or method for determining any authorized rights, benefits, or protections of Customer, under the terms of this Contract and the applicable Purchase Order; or ii) imposes additional costs, burdens, or obligations upon Customer beyond those included in the applicable Purchase Order, or that alters the definitions, measurements, or method for determining any authorized costs, burdens, or obligations upon Customer under this Contract and the applicable Purchase Order.
- D. If Successful Respondent attempts to do anything prohibited by the foregoing, the prohibited documents will be void and inapplicable to this Contract or the Purchase Order between Successful Respondent and Customer, and Successful Respondent will nonetheless be obligated to perform such Purchase Order without regard to the prohibited documents, unless Customer elects instead to terminate such Purchase Order, which in such case may be identified as a termination for cause against Successful Respondent.

12 AUTHORIZED EXCEPTIONS TO APPENDIX A, STANDARD TERMS AND CONDITIONS

1. Section 1, Contract Scope, is hereby replaced in its entirety with the following:

Section 1 Contract Scope

Successful Respondent shall provide the products and/or services specified in the Contract for purchase by Customers. Terms used in this document shall have the meanings set forth below in Section 3, Definitions. Terms used but not defined herein shall have the meaning ascribed to them elsewhere in the Contract and its Appendices as appropriate.

2. Section 3.4, Customer, is hereby replaced in its entirety with the following:

3.4 Customer

- a. Any Texas state agency, unit of local government, institution of higher education as defined in Section 2054.003, Texas Government Code, the Electric Reliability Council of Texas, the Lower Colorado River Authority, a private school, as defined by Section 5.001, Education Code, a private or independent institution of higher education, as defined by Section 61.003, Education Code, a volunteer fire department, as defined by Section 152.001, Tax Code, and those state agencies purchasing from a DIR contract through an Interagency Agreement, as authorized by Chapter 771, Texas Government Code, any local government as authorized through the Interlocal Cooperation Act, Chapter 791, Texas Government Code, a public safety entity, as defined by 47 U.S.C. Section 1401, or a county hospital, public hospital, or hospital district, the state agencies and political subdivisions of other states as authorized by Section 2054.0565, Texas Government Code, and, except for telecommunications services under Chapter 2170, Texas Government Code, assistance organizations as defined in Section 2175.001:

A. A non-profit organization that provides educational, health or human services or assistance to homeless individuals;

B. A nonprofit food bank that solicits, warehouses, and redistributes edible but unmarketable food to an agency that feeds needy families and individuals;

C. Texas Partners of the Americas, a registered agency with the Advisory Committee on Voluntary Foreign Aid, with the approval of the Partners of the Alliance Office of the Agency for International Development;

D. A group, including a faith-based group, that enters into a financial or non-financial agreement with a health or human services agency to provide services to that agency's clients;

E. A local workforce development board created under Section 2308.253, Texas Government Code;

F. A nonprofit organization approved by the Supreme Court of Texas that provides free legal services for low-income households in civil matters;

G. The Texas Boll Weevil Eradication Foundation, Inc., or an entity designated by the commissioner of agriculture as the foundation's successor entity under Section 74.1011, Texas Agriculture Code;

H. A nonprofit computer bank that solicits, stores, refurbishes and redistributes used computer equipment to public school students and their families; and

I. A nonprofit organization that provides affordable housing.

b. For the avoidance of doubt, this list identifies entities that are eligible by law but does not obligate Successful Respondent to make sales to any particular Customer.

3. Section 3.8, Invoice, is hereby replaced in its entirety with the following:

3.8 Invoice

Refers to an instrument submitted by Successful Respondent for payment of products or services.

4. Section 3.9, Purchase Order, is hereby replaced in its entirety with the following:

3.9 Purchase Order

Refers to the agreement, comprised of the Order Form and, if agreed upon and signed by both Successful Respondent and Customer, any Statement of Work or Encumbering Document entered into in connection therewith, for a purchase of products or services under the Contract.

5. Section 3.15, Order Form, is hereby added as follows:

3.15 Order Form

Refers to Successful Respondent's ordering document forms to be used by Customer when placing an order. An Order Form for a specific transaction may include negotiated terms applicable to the transaction and requires the signature of the Customer and (except in the case of an Order Form for technical support renewal on the terms issued by Successful Respondent or the Order Fulfiller) Successful Respondent (for Order Forms placed with Successful Respondent) or the Order Fulfiller (for Order Forms placed with an Order Fulfiller).

6. Section 3.16, Encumbering Document, Is hereby added as follows:

3.16 Encumbering Document

Refers to Customer's fiscal form or format or other document used by Customer to evidence the appropriation of funds for the purchase of products or services from Successful Respondent under the Contract, including but not limited to a formal written purchase order, procurement card, electronic purchase order, or another authorized instrument.

7. Section 4.2, Modification of Contract Terms and/or Amendments, is hereby replaced in its entirety with the following:

4.2 Modification of Contract Terms and/or Amendments

A. The terms and conditions of the Contract shall govern all transactions by Customers under the Contract. The Contract may only be modified or amended upon mutual written agreement of DIR and Successful Respondent.

B. DIR may amend the Contract upon thirty (30) calendar days written notice to Successful Respondent without the need for Successful Respondent's written consent: i) as necessary to satisfy a regulatory requirement imposed upon DIR by a governing body with the appropriate authority; or ii) as necessary to satisfy a procedural change due to DIR system upgrades or additions. Successful Respondent may terminate the Contract, with an effective date of termination to be determined by Successful Respondent, upon written notice to DIR within 60 days of the effective date of such amendment.

C. Customers shall not have the authority to modify the terms of the Contract; however, additional Customer terms and conditions that do not conflict with the Contract or that are more beneficial to the Customer, and are acceptable to Successful Respondent, may be added in a Purchase Order and given effect. No additional term or condition added in a Purchase Order issued by a Customer can conflict with or diminish a term or condition of the Contract that takes precedence over the Purchase Order (as determined by Section 1.3, Order of Precedence, of the Contract). Pre-printed terms and conditions on any Encumbering Document issued by Customer hereunder will have no force and effect.

D. Customer(s) and Successful Respondent may negotiate and enter into written agreements regarding statements of work, service level agreements, remedies, acceptance criteria, information confidentiality and security requirements, and other terms specific to their Purchase Orders under the Contract.

8. Section 4.4, Assignment, is hereby replaced in its entirety with the following:

4.4 Assignment

A. DIR or Successful Respondent may assign the Contract without prior written approval to: i) a successor in interest (for DIR, another state agency as designated by the Texas Legislature), ii) a subsidiary, parent company or affiliate, or in connection with a merger, consolidation, acquisition, internal restructuring or sale of all or substantially all of the assets of Successful Respondent, or iii) as necessary to satisfy a regulatory requirement imposed upon a party by a governing body with the appropriate authority. Notwithstanding the foregoing, (i) Successful Respondent may not assign its

rights under the Contract if such assignment is prohibited by law, nor may Successful Respondent assign its rights to any entity which is prohibited from contracting with DIR or the State of Texas and (ii) if it is determined by DIR that the assignment requires consent pursuant to Section 2262.056(b) and DIR does not ultimately consent to the assignment, retroactive to the date thereof, the Contract shall be deemed to have been terminated for convenience by DIR effective immediately prior to such assignment.

B. A Customer may assign a Purchase Order issued under the Contract without prior written approval to: i) a successor in interest (another state agency as designated by the Texas Legislature), or ii) as necessary to satisfy a regulatory requirement imposed upon a party by a governing body with the appropriate authority.

C. Except as provided in Section 4.4 above, neither Successful Respondent nor DIR shall assign its rights under the Contract or delegate the performance of its duties under the Contract without prior written approval from the other party. Any attempted assignment in violation of this provision is void and without effect. Except as provided in Section 4.4.B above or the applicable Purchase Order, a Customer may not assign a Purchase Order or give or transfer the Programs, Operating Systems, Integrated Software or Service Offerings or an interest in them to another individual or entity without the prior written consent of Successful Respondent. Such consent will not be unreasonably withheld.

7. Section 4.5, Survival, is hereby replaced in its entirety with the following:

4.5 Survival

All applicable Statements of Work that were entered into between Successful Respondent and a Customer under the terms and conditions of the Contract shall survive the expiration or termination of the Contract. All Purchase Orders issued and accepted by Successful Respondent shall survive expiration or termination of the Contract for the term of the Purchase Order, unless the Customer terminates the Purchase Order sooner in accordance with the termination provisions of the Contract. However, regardless of the term of the Purchase Order, no Purchase Order shall survive the expiration or termination of the Contract for more than three (3) years. In all instances of termination or expiration and no later than five (5) days after termination or

expiration or upon DIR request, Successful Respondent shall provide a list, in accordance with the format requested by DIR (i.e., Excel, Word, etc.), of all surviving Statements of Work and Purchase Orders to the DIR Contract Manager and shall continue to report sales and pay the DIR Administrative Fees for the duration of all such surviving Statements of Work and Purchase Orders. Rights and obligations under the Contract which by their nature should survive, including, but not limited to the DIR Administrative Fee and any and all payment obligations invoiced prior to the termination or expiration hereof, obligations of confidentiality; and indemnification will remain in effect.

9. Section 4.6, Choice of Law, is hereby replaced in its entirety with the following:

4.6 Choice of Law

The Contract shall be governed by and construed in accordance with the laws of the State of Texas, without regard to the conflicts of law provisions. In any litigation where any state agency is a party, and subject to the requirements of Chapter 2260, Texas Government Code, the exclusive venue of any such suit arising under the Contract is fixed in the state courts of Travis County, Texas. If litigation does not involve any state agency, then venue is fixed in the state courts of the Texas county where the Customer is primarily situated or where Customer and Successful Respondent have agreed in the applicable Purchase Order, unless the specific venue is otherwise identified in a statute which directly names or otherwise identifies its applicability to the Customer. If a Texas state court does not have jurisdiction over an action, including claims where a federal court has exclusive or original jurisdiction, the exclusive forum shall be in the U.S. District Court for the Western District of Texas unless otherwise agreed to between Customer and Successful Respondent. Regardless of any provision anywhere in the Contract, no state agency or other Customer in any manner waives any defense or immunity whatsoever.

10. Section 4.9, Data Location, is hereby replaced in its entirety with the following:

4.9 Data Location

Regardless of any other provision of the Contract or its incorporated or referenced documents, all data for State of Texas Customers shall be processed, accessed, viewed, transmitted, and received by the Successful Respondent always and exclusively within the contiguous United States, provided that State of Texas Customers can specifically elect otherwise in a Purchase Order. "Support Data," defined as data collected and maintained by Successful Respondent when a Customer submits requests for support and troubleshooting services, including information about the solutions and other details about the support incident and interaction; configuration support data; performance monitoring data; and security threat data (threat intelligence data, URLs, metadata, netflow data, and origin and nature of malware) necessary to enable provisioning of the services, including security features of the solutions, shall not be subject to this requirement, unless otherwise requested by a Customer. For all Customers outside the State of Texas' jurisdiction, the question of data location shall be at the discretion of such Customers. NOTE: CUSTOMERS SHOULD CONSIDER WHETHER THEY REQUIRE CONTIGUOUS US-ONLY DATA LOCATION AND HANDLING AND MAKE ORACLE AWARE OF THEIR REQUIREMENTS.

11. Section 5, Intellectual Property Matters, is hereby replaced in its entirety with the following:

5 Intellectual Property Matters

The Contract does not contemplate, authorize, or support the development or acquisition of custom software products or custom software development services.

12. Section 6, Subsection A, is hereby replaced in its entirety with the following:

A. Under Texas Government Code Chapter 2054, Subchapter M, and DIR implementing rules, DIR and certain Customers must procure electronic and information resources that comply with current accessibility standards when products or services are available in the commercial marketplace or when products are developed in response to procurement solicitations. The Parties acknowledge and agree that accessibility requirements are subject to modification by relevant legislative bodies.

i) Successful Respondent shall provide Customer with access to available and published information regarding Successful Respondent's products and services to permit Customer to determine whether products and services available pursuant to the Contract and any associated Purchase Order comply with the Customer's accessibility requirements.

ii) The extent to which an Oracle product is, prior to any customizations, capable of providing comparable access to individuals with disabilities consistent with the applicable provisions of the Architectural and Transportation Barriers Compliance Board standards set out in 36 CFR Part 1194 (known as 'Section 508'), effective as of June, 2001, or the Revised version in Appendix A (known as 'Revised Section 508') effective as of January, 2018 and the Web Content Accessibility Guidelines (WCAG) version 2.0 level AA, or the Web Content Accessibility Guidelines (WCAG) version 2.1 level AA as indicated by the dependencies, comments and exceptions (some of which may be significant, if any) noted on the applicable Accessibility Conformance Report (ACR) based on the Voluntary Product Accessibility Templates (VPAT) available at www.oracle.com/accessibility for each product, when they are used in accordance with Oracle's associated documents and other written information, and provided that any assistive technologies and any other products used with them properly interoperate with them. In the event that no ACR is available for a particular Oracle product, please contact the Oracle Accessibility Program Office at accessible_ww@oracle.com. In some cases, the outcome may be that a product is still being evaluated for accessibility, may be scheduled to meet accessibility standards in a future release, or may not be scheduled to meet accessibility standards at all. Oracle Support customers with disabilities may use the online My Oracle Support or call Oracle Support at 1.800.223.1711. Hearing-impaired customers in the U.S. who wish to speak to an Oracle Support representative may use a telecommunications relay service (TRS). Information about the TRS is available at <https://www.fcc.gov/file/15195/download> (PDF), and a list of telephone numbers is available at <http://www.fcc.gov/cgb/dro/trsphonebk.html>. International hearing-impaired customers should use the TRS at +1.605.224.1837. Oracle Support will respond to product accessibility issues according to the current Technical Support Policies. No other terms, conditions, statements or any other such representations regarding or related to accessibility shall apply to the Oracle products

provided under this agreement. Oracle cannot make any commitments about future product directions, including plans to address accessibility or the availability of ACRs. Product direction remains at the sole discretion of Oracle.

13. Section 6.B, Subsection iii, is hereby replaced in its entirety with the following:

iii) Successful Respondent agrees to coordinate all State agency commodity item sales through its existing DIR contract(s), if any, covering such commodity items. Institutions of higher education are exempt from this Section.

14. Section 7.1, Service Sale and Support of the Contract, is hereby replaced in its entirety with the following:

7.1 Service, Sales and Support of the Contract

Successful Respondent shall provide service, sales, and support resources to serve all Customers. It is the responsibility of Successful Respondent to sell, market, and promote products and services available under the Contract. Successful Respondent shall use best efforts to ensure that potential Customers are made aware of the existence of the Contract. All sales to Customers for products and services under the Contract shall be in accordance with the Contract.

15. Section 7.3, Accurate and Timely Contract Information, is hereby replaced in its entirety with the following:

7.3 Accurate and Timely Contract Information

Successful Respondent will use commercially reasonable efforts to ensure that the website information specified in the above paragraph will be accurately and completely posted, maintained, and displayed in an objective and timely manner. Successful Respondent, at its own expense, shall correct any non-conforming or inaccurate information posted at Successful Respondent's website within ten (10) business days after written notification by DIR.

16. Section 7.8, Services Warranty and Return Policies, is hereby replaced in its entirety with the following:

7.8 Services Warranty and Return Policies

Successful Respondent will adhere to Successful Respondent's warranties and return policies contained or referenced in the Schedule applicable to the subject Purchase Order. Such policies for Customers will not be more restrictive or more costly than warranty and return policies generally made available to other similarly situated customers for like products and services.

17. Section 7.11, Trade Show Participation, is hereby replaced in its entirety with the following:

7.11 Trade Show Participation

Successful Respondent may participate in one or more DIR sponsored trade shows each calendar year. Successful Respondent understands and agrees that participation, at Successful Respondent's expense, includes providing a manned booth display or similar presence. DIR will provide four (4) months advance notice of any requested participation. Successful Respondent must display the DIR logo at any such requested trade shows that potential Customers will attend. DIR reserves the right to approve or disapprove of the location or the use of the DIR logo in or on Successful Respondent's booth.

18. Section 7.14, DIR Cost Avoidance, is hereby replaced in its entirety with the following:

7.14 DIR Cost Avoidance

As part of the performance measures reported to state leadership, DIR must provide the cost avoidance the State has achieved through the Contract. Upon reasonable request by DIR, Successful Respondent shall provide DIR with a detailed report of a representative sample of products or services sold under the Contract. The report shall contain part number, product or service description, list price, price to Customer under the Contract, and to the extent it exists, pricing from three alternative

sources under which DIR Customers can procure the products or services, which may include any other Successful Respondent contracts with NASPO, GSA, TCPN, or TIP.

19. Section 8.1, Purchase Orders, is hereby replaced in its entirety with the following:

8.1 Purchase Orders

All Purchase Orders will be placed directly with Successful Respondent or Order Fulfiller. Accurate Purchase Orders shall be effective and binding upon Successful Respondent when accepted by Successful Respondent.

20. Section 8.2, Invoices, is hereby replaced in its entirety with the following:

8.2 invoices

A. Invoices shall be submitted directly to Customer and shall be issued in compliance with Chapter 2251, Texas Government Code. All payments for products and/or services purchased under the Contract and any provision of acceptance of such services shall be made by the Customer. For Customers that are not subject to Chapter 2251, Texas Government Code, Customer and Successful Respondent or Order Fulfiller, as applicable, will agree to acceptable terms.

B. Invoices must be timely and accurate. Each invoice must match Customer's Purchase Order and include any written changes that may apply, as it relates to services, prices, and quantities. Invoices must include the Customer's Purchase Order number or other pertinent information for verification of receipt of the products and services by the Customer.

C. The DIR Administrative Fee shall not be broken out as a separate line item when pricing or invoice is provided to Customer.

21. Section 8.4, Tax-Exempt, is hereby replaced in its entirety with the following:

8.4 Tax-Exempt

In accordance with 151.309, Texas Tax Code, Customers that are governmental entities are exempt from the assessment of State sales, use and excise taxes. Further, certain Customers are exempt from Federal Excise Taxes in accordance with 26 United States Code Sections 4253(i) and (j). Customers shall provide evidence of tax-exempt status to Successful Respondent upon request.

22. Section 8.5, Travel Expense Reimbursement, is hereby replaced in its entirety with the following:

8.5 Travel Expense Reimbursement

Pricing for services provided under the Contract are exclusive of any travel expenses that may be incurred in the performance of those services. Travel expense reimbursement may include personal vehicle mileage or commercial coach transportation, hotel accommodations, parking and meals; provided, however, the amount of reimbursement by Customers shall not exceed the amounts authorized for state employees as adopted by each Customer; and provided, further, that all reimbursement rates shall not exceed the maximum rates established for state employees under the current State Travel Management Program (<https://comptroller.texas.gov/purchasing/programs/travel-management/>). Travel time may not be included as part of the amounts payable by Customer for any services rendered under the Contract. The DIR Administrative Fee is not applicable to travel expense reimbursement. Anticipated travel expenses must be pre-approved in writing by Customer, and inclusion of travel expenses in a Purchase Order will serve as approval of such expenses, subject to any conditions on reimbursement included in such Purchase Order. Customer reserves the right not to pay travel expenses which are not pre-approved in writing by the Customer.

23. Section 9.2.2, Detailed Monthly Reports, is hereby replaced in its entirety with the following:

9.2.2 Detailed Monthly Report

A. Using the Vendor Sales Report (VSR) portal, Successful Respondent shall provide DIR with a monthly report in the format required by DIR detailing sales activity under the Contract for the previous calendar month period. This includes months in which there are no sales. Reports may be submitted between the first (1st) and the fifteenth (15th) of each month and are due no later than the fifteenth (15th) calendar day of the month following the month of the sale. If the 15th calendar day falls on a weekend or state or federal holiday, the report shall be due on the next business day. Per transaction, the monthly report shall include, at a minimum: the detailed sales for the period, Customer name, invoice date, invoice number, description, quantity, MSRP or List Price (if available), unit price, extended price, Customer Purchase Order number, contact name, Customer's complete billing address, the estimated DIR Administrative Fee for the reporting period, subcontractor name, EPEAT designation (if applicable), configuration (if applicable), contract discount percentage, actual discount percentage, negotiated contract price (if fixed price is offered instead of discount off of MSRP), and other information as required by DIR. Each report must contain all information listed above per transaction or the report will be rejected and returned to Successful Respondent for correction in accordance with this Section.

B. Successful Respondent shall report in a manner required by DIR which is subject to change dependent upon DIR's business needs. Failure to do so may result in Contract termination.

24. Section 9.3, Records and Audits, is hereby replaced in its entirety with the following:

9.3 Records and Audits

A. Acceptance of funds under the Contract by Successful Respondent and/or Order Fulfiller acts as acceptance of the authority of the State Auditor's Office, or any successor agency, to conduct an audit or investigation in connection with those funds. Successful Respondent further agrees to cooperate fully with the State Auditor's Office or its successor in the conduct of the audit or investigation, including providing all records requested. Successful Respondent shall ensure that this clause concerning the authority to audit funds received indirectly by subcontractors through Successful Respondent or directly by Order Fulfillers and the requirement to cooperate is included

in any subcontract or Order Fulfiller contract it awards pertaining to the Contract. Under the direction of the Legislative Audit Committee, a vendor that is the subject of an audit or investigation by the State Auditor's Office must provide the State Auditor's Office with access to any information the State Auditor's Office considers relevant to the investigation or audit.

B. Successful Respondent and Order Fulfillers shall maintain adequate records to establish compliance with the Contract until the later of a period of seven (7) years after termination of the Contract or until full, final and unappealable resolution of all Compliance Check or litigation issues that arise under the Contract, whichever is later. Such records shall include per transaction: Order Fulfiller name if applicable, Customer name, invoice date, invoice number, description, quantity, MSRP or List Price, unit price, extended price, Customer Purchase Order number, contact name, Customer's complete billing address, the calculations supporting each administrative fee owed DIR under the Contract, Historically Underutilized Businesses Subcontracting reports, and such other documentation as DIR may request.

C. Successful Respondent shall grant access to all paper and electronic records, books, documents, accounting procedures, practices, customer contracts, agreements, purchase orders and statements of work entered into for purchases under this Contract, and any other items relevant to the performance of the Contract to the DIR Internal Audit department or DIR Contract Management staff, including the Compliance Checks designated by the DIR Internal Audit department, DIR Contract Management staff, the State Auditor's Office, and of the United States, and such other persons or entities designated by DIR for the purposes of inspecting, Compliance Checking, and/or copying such books and records.

D. Successful Respondent shall provide copies and printouts requested by DIR without charge. DIR shall use best efforts to provide Successful Respondent ten (10) business days' notice prior to inspecting, Compliance Checking, and/or copying Successful Respondent's records. Successful Respondent's records, whether paper or electronic, shall be made available during regular office hours. Successful Respondent personnel familiar with Successful Respondent's books and records shall be available to the DIR Internal Audit department, or DIR Contract Management staff and designees as needed. If Successful Respondent is found to be responsible for inaccurate reports, DIR

may invoice for the reasonable costs of the audit, which Successful Respondent must pay within thirty (30) calendar days of receipt.

E. For procuring State Agencies whose payments are processed by the CPA, the volume of payments made to Order Fulfillers through the CPA and the administrative fee based thereon shall be presumed correct unless Successful Respondent can demonstrate to DIR's satisfaction that Successful Respondent's calculation of DIR's administrative fee is correct.

25. Section 10.1.1, Indemnification, is hereby replaced in its entirety with the following.

10.1 Indemnification

10.1.1 Indemnities by Successful Respondent for Cloud Services:

For all Cloud Services purchases governed by Oracle Schedule C, the following indemnification obligations apply:

A. Successful Respondent shall indemnify DIR, the State of Texas, and Customers, AND/OR THEIR OFFICERS, DIRECTORS, AGENTS, EMPLOYEES, REPRESENTATIVES, CONTRACTORS, SUCCESSORS, ASSIGNEES AND/OR DESIGNEES (I.E., PARTIES DESIGNATED AS AN INDEMNIFIED PARTY IN THE APPLICABLE PURCHASE ORDER OR OTHER WRITTEN AGREEMENT SIGNED BY ORACLE AND THE CUSTOMER) FROM ANY AND ALL THIRD-PARTY ACTIONS, CLAIMS, DEMANDS, OR SUITS, AND ALL RELATED LIABILITIES, COSTS, ATTORNEY FEES, AND EXPENSES AWARDED BY A COURT TO THE THIRD PARTY OR INCLUDED IN A SETTLEMENT AGREED TO BY SUCCESSFUL RESPONDENT (such agreement shall not be unreasonably withheld) arising out of, resulting from, or related to:

- (i) any and all third party claims alleging infringement of United States patents, copyrights, trade and service marks, and any other intellectual or intangible property rights (an "Infringement") by products or services furnished in or in connection with the performance of the Contract and any Purchase Orders issued under the Contract, subject to and in accordance with Section 10.1.3;
- (ii) any and all third party claims arising from any unauthorized access to

DIR data, Customer data, confidential information of DIR or Customer, or any other protected or regulated data, if the unauthorized access was caused by a material breach of Successful Respondent's security practices incorporated into the applicable Purchase Order (including a material breach resulting from actions of its Third-Party Providers or subcontractors);

- (iii) any claim related to tax liability, unemployment insurance or workers' compensation, or expectations of benefits, by Successful Respondent's employees, representatives, agents, or subcontractors arising out of performance of the Contract and any Purchase Orders issued under the Contract.

B. SUCCESSFUL RESPONDENT AND THE CUSTOMER AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER AND TO DIR OF ANY SUCH CLAIM.

- C. This Section is not intended to and shall not be construed to require Successful Respondent to indemnify or hold harmless the State, DIR, or Customers for any claims or liabilities resulting from the negligent acts or omissions of DIR, Customers, or their employees.

10.1.2 Indemnities by Successful Respondent for All Other Offerings:

For all other products and services sold through this Contract, the following indemnification obligations apply:

- A. Successful Respondent shall indemnify DIR, the State of Texas, and Customers, AND/OR THEIR OFFICERS, DIRECTORS, AGENTS, EMPLOYEES, REPRESENTATIVES, CONTRACTORS, SUCCESSORS, ASSIGNEES, AND/OR DESIGNEES (I.E., PARTIES DESIGNATED AS AN INDEMNIFIED PARTY IN THE APPLICABLE PURCHASE ORDER OR OTHER WRITTEN AGREEMENT SIGNED BY ORACLE AND THE CUSTOMER) FROM ANY AND ALL THIRD-PARTY ACTIONS, CLAIMS, DEMANDS OR SUITS, AND ALL RELATED LIABILITIES, COSTS, ATTORNEY FEES, AND EXPENSES AWARDED BY A COURT TO THE THIRD PARTY OR INCLUDED IN A SETTLEMENT AGREED TO BY

SUCCESSFUL RESPONDENT arising out of, resulting from, or related to:

- (i) any acts or omissions of Successful Respondent, its employees, or Third Party Providers in or in connection with the execution or performance of the Contract and any Purchase Orders issued under the Contract;
 - (ii) any and all third party claims alleging infringement of United States patents, copyrights, trade and service marks, and any other intellectual or intangible property rights (an "Infringement") by products or services furnished in or in connection with the performance of the Contract and any Purchase Orders issued under the Contract, subject to and in accordance with Section 10.1.3;
 - (iii) any and all third party claims arising from any unauthorized access to DIR data, Customer data, confidential information of DIR or Customer, or any other protected or regulated data, if the unauthorized access was caused by a material breach of Successful Respondent's security practices incorporated into the applicable Purchase Order (including a material breach resulting from actions of its Third-Party Providers or subcontractors); and
 - (iv) any claim related to tax liability, unemployment insurance or workers' compensation, or expectations of benefits by Successful Respondent's employees, representatives, agents, or subcontractors arising out of performance of the Contract and any Purchase Orders issued under the Contract.
- B. SUCCESSFUL RESPONDENT AND THE CUSTOMER AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER AND TO DIR OF ANY SUCH CLAIM.
- C. This Section is not intended to and shall not be construed to require Successful Respondent to indemnify or hold harmless the State, DIR, or Customers for any claims or liabilities resulting from the negligent acts or omissions of DIR, Customers, or their employees.

10.1.3 Infringement

- A. Successful Respondent shall defend and indemnify DIR, the State of Texas, and

Customers, AND/OR THEIR OFFICERS, DIRECTORS, AGENTS, EMPLOYEES, REPRESENTATIVES, CONTRACTORS, SUCCESSORS, ASSIGNEES AND/OR DESIGNEES (I.E., PARTIES DESIGNATED AS AN INDEMNIFIED PARTY IN THE APPLICABLE PURCHASE ORDER OR OTHER WRITTEN AGREEMENT SIGNED BY ORACLE AND THE CUSTOMER) FROM ANY AND ALL THIRD PARTY CLAIMS OF INFRINGEMENT DESCRIBED IN SECTIONS 10.1.1(A)(i) AND 10.1.2(A)(ii); SUCCESSFUL RESPONDENT SHALL BE LIABLE TO PAY ALL COSTS OF ITS DEFENSE AND ALL RELATED LIABILITIES, COSTS, ATTORNEYS FEES, AND EXPENSES AWARDED BY A COURT TO THE THIRD PARTY OR INCLUDED IN A SETTLEMENT AGREED TO BY SUCCESSFUL RESPONDENT. THE DEFENSE SHALL BE COORDINATED BY SUCCESSFUL RESPONDENT WITH THE OFFICE OF THE ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND SUCCESSFUL RESPONDENT MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING CONCURRENCE FROM THE OFFICE OF THE ATTORNEY GENERAL.

- B. If Successful Respondent becomes aware of an actual or potential claim of an Infringement, or Customer provides Successful Respondent with notice of an actual or potential claim of an Infringement, Successful Respondent may (or in the case of an injunction against Customer, shall), at Successful Respondent's sole expense: (i) procure for Customer the right to continue to use the affected portion of the product or service, or (ii) modify or replace the affected portion of the product or service with functionally equivalent or superior product or service so that Customer's use is non-infringing or (iii) if these options are not commercially reasonable, end the license for, and require the return of, the affected portion of the product or service and refund any unused, prepaid fees the Customer may have paid for it. If such return materially affects Successful Respondent's ability to meet its obligations under the relevant Purchase Order, then Successful Respondent may at its option terminate the Purchase Order upon thirty days' prior written notice.
- C. Successful Respondent shall have no liability under Section 10.1.1(A)(i), 10.1.2(A)(ii) and this Section 10.1.3 to the extent the alleged infringement is caused by: (i) use of the product or service in combination with any software,

data, hardware, material, or service not provided by Successful Respondent under the Contract; (ii) use of the product or service outside of the scope of use identified in the applicable user or program documentation services specifications; (iii) any modification made to the product without Successful Respondent's written approval; (iv) any modification made to the product by the Successful Respondent pursuant to Customer's specific instructions; (v) any use of the product or service by Customer that is not in conformity with the terms of any applicable license agreement; or (vi) if the Customer uses a version of product or service which has been superseded via a patch, update, upgrade, fix or similar method or process made available to the customer and the Customer fails to use such newer version of the product or service after the Customer has been notified in writing of the new version. For the avoidance of doubt, the foregoing sentence does not limit Respondent's liability for any claim of infringement (or any portion of a claim of infringement) where any of the circumstances listed as items (i) through (vi) above are present, but are not the cause of the alleged infringement.

- D. Successful Respondent will transfer to Customer any third party intellectual property infringement indemnification for non-Oracle Branded products, software, and services delivered under the Contract and transferable to Customer.
- E. For the avoidance of doubt, Section 10.1.1(A)(i), Section 10.1.2(A)(ii), and this Section 10.1.3. do not apply to infringement claims with respect to Covered Programs (as defined in Appendix H - Schedule OSSS – Oracle Open Source Support Services).
- F. THIS SECTION 10.1.3 PROVIDES CUSTOMER'S EXCLUSIVE REMEDY FOR ANY INFRINGEMENT CLAIMS OR DAMAGES DESCRIBED IN Sections 10.1.1(A)(i) or 10.1.2(A)(ii) (EXCEPT WITH RESPECT TO COVERED PROGRAMS AS PROVIDED IN APPENDIX H).
- G. The parties hereby clarify that with respect to Cloud Services, Successful Respondent will not indemnify Customer to the extent that an infringement claim is based on Third Party Content (as defined in Appendix F (Schedule C –

Cloud Services)) or any material from a third party portal or other external source that is accessible to Customer within or from the Services (e.g., a social media post from a third party blog or forum, a third party Web page accessed via a hyperlink, etc.). Successful Respondent will not indemnify Customer for infringement caused by such Customer's actions against any third party if the Cloud Services as delivered to such Customer and used in accordance with the terms of this Contract would not otherwise infringe any third party intellectual property rights. With respect to Cloud Services, the infringement indemnification does not include Separately Licensed Third Party Technology (as defined in Appendix D (General Terms – Public Sector)). Solely with respect to Separately Licensed Third Party Technology that is part of or is required to use the Cloud Services and that is used (a) in unmodified form, (b) as part of or as required to use the Cloud Services, and (c) in accordance with the usage grant for the relevant Cloud Services and all other terms and conditions of this Contract, Successful Respondent will indemnify Customer for infringement claims for Separately Licensed Third Party Technology to the same extent as Successful Respondent is required to provide infringement indemnification under the terms of this Contract. Solely with respect to Hardware Devices (as defined in Section 12 of Appendix F – Schedule C of the Contract) if Successful Respondent believes or it is determined that the Hardware device may have violated a third party's intellectual property rights, Successful respondent may choose to either replace or modify the Hardware Device (or portion thereof) to be non-infringing (while substantively preserving its utility or functionality or obtain a right to allow for continued use, or if these alternatives are not commercially reasonable, may remove the applicable Hardware Device (or portion thereof) and refund the net book value for the Hardware Device.

26. Section 10.2, Property Damage, is hereby replaced in its entirety with the following:

10.2 Property Damage

IN THE EVENT OF LOSS, DAMAGE, OR DESTRUCTION OF ANY TANGIBLE OR REAL PROPERTY OF CUSTOMER OR THE STATE DUE TO THE NEGLIGENCE,

MISCONDUCT, WRONGFUL ACT OR OMISSION ON THE PART OF SUCCESSFUL RESPONDENT'S EMPLOYEES, AGENTS, REPRESENTATIVES, OR SUBCONTRACTORS WHILE PROVIDING ON-SITE SERVICES UNDER THE CONTRACT, SUCCESSFUL RESPONDENT SHALL PAY FOR COST OF EITHER REPAIR, RECONSTRUCTION, OR REPLACEMENT OF SUCH PROPERTY. ANY UNDISPUTED COST SHALL BE DUE AND PAYABLE BY SUCCESSFUL RESPONDENT WITHIN NINETY (90) CALENDAR DAYS AFTER THE RECEIPT BY SUCCESSFUL RESPONDENT OF WRITTEN NOTICE OF CUSTOMER'S DETERMINATION OF THE AMOUNT DUE.

27. Section 10.4, Successful Respondent Certifications, is hereby replaced in its entirety with the following:

10.4 Successful Respondent Certifications.

A. Successful Respondent represents and warrants that, in accordance with Section 2155.005, Texas Government Code, neither Successful Respondent nor the firm, corporation, partnership, or institution represented by Successful Respondent, or anyone acting for such a firm, corporation or institution has (1) violated any provision of the Texas Free Enterprise and Antitrust Act of 1983, Chapter 15 of the Texas Business and Commerce Code, or the federal antitrust laws, or (2) communicated directly or indirectly the contents of this Response to any competitor or any other person engaged in the same line of business as Successful Respondent.

B. Successful Respondent hereby certifies, represents, and warrants, on behalf of Successful Respondent that:

i) it has not given, offered to give, and do not intend to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the Contract;

ii) it is not currently delinquent in the payment of any franchise tax owed the State and is not ineligible to receive payment under Section 231.006, Texas Family Code, and acknowledge the Contract may be terminated and payment withheld if this certification is inaccurate;

iii) neither it, nor any of its employees acting for it, has violated the antitrust laws of the United States or the State, nor communicated directly or indirectly to any competitor or any other person engaged in such line of business for the purpose of obtaining an unfair price advantage;

iv) it has not received payment from DIR or any of its employees for participating in the preparation of the Contract;

v) under Section 2155.004, Texas Government Code, the individual or business entity named in the Contract is not ineligible to receive the Contract and acknowledges that the Contract may be terminated and payment withheld if this certification is inaccurate;

vi) to the best of its knowledge and belief, there are no suits or proceedings pending or threatened against or affecting Successful Respondent, which if determined adversely to Successful Respondent, will have a material adverse effect on the ability to fulfill its obligations under the Contract;

vii) Successful Respondent and its principals are not suspended or debarred from doing business with the federal government as listed in the System for Award Management(SAM) maintained by the General Services Administration, nor is Successful Respondent subject to any Federal Executive Orders issued banning certain entities or countries.

viii) as of the Effective Date, it is not listed in any of the Divestment Statute Lists published on the Texas State Comptroller's website(<https://comptroller.texas.gov/purchasing/publications/divestment.php>);

ix) in the performance of the Contract, Successful Respondent shall purchase products and materials produced in the State of Texas when available at the price and time comparable to products and materials produced outside the state, to the extent that such is required under Section 2155.4441, Texas Government Code;

x) Reserved;

xi) to the extent Successful Respondent owes any debt including, but not limited to, delinquent taxes, delinquent student loans, and child support owed to the State of Texas, any payments or other amounts Successful Respondent is

otherwise owed under the Contract may be applied toward any debt Successful Respondent owes the State of Texas until the debt is paid in full;

xii) it is in compliance Section 669.003, Texas Government Code, relating to contracting with executive head of a state agency;

xiii) the provision of goods and services or other performance under the Contract will not constitute an actual or potential conflict of interest and certify that Successful Respondent will not reasonably create the appearance of impropriety, and, if these facts change during the course of the Contract, certify Successful Respondent shall disclose the actual or potential conflict of interest and any circumstances that create the appearance of impropriety;

xiv) under Section 2155.006 and Section 2261.053, Texas Government Code, it is not ineligible to receive the Contract and acknowledges that the Contract may be terminated and payment withheld if this certification is inaccurate;

xv) it has complied with the Section 556.0055, Texas Government Code, restriction on lobbying expenditures. In addition, Successful Respondent acknowledges the applicability of Section 2155.444 and Section 2155.4441, Texas Government Code, in fulfilling the terms of the Contract;

xvi) Customer's payment and their receipt of appropriated or other funds under this Agreement are not prohibited by Section 556.005 or Section 556.008, Texas Government Code;

xvii) in accordance with Section 2271.002, Texas Government Code, by signature hereon, Successful Respondent does not boycott Israel and will not boycott Israel during the term of the Contract;

xviii) in accordance with Section 2155.0061, Texas Government Code, the individual or business entity named in the Contract is not ineligible to receive the Contract and acknowledges that the Contract may be terminated and payment withheld if this certification is inaccurate;

xix) in accordance with Section 2252.152, Texas Government Code, it is not identified on a list prepared and maintained under Section 2270.0201 (previously 806.051) or Section 2252.153, Texas Government Code;

xx) if Successful Respondent is required to make a verification pursuant to Section 2276.002, Texas Government Code, Successful Respondent verifies that it does not boycott energy companies and will not boycott energy companies during the term of the Contract;

xxi) if Successful Respondent is required to make a verification pursuant to Section 2274.002, Texas Government Code, Successful Respondent verifies that it (A) does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association and (B) will not discriminate during the term of the contract against a firearm entity or firearm trade association;

xxii) under Section 161.0085, Texas Health and Safety Code, Successful Respondent is not ineligible to receive the Contract;

xxiii) if Successful Respondent is required to make a certification pursuant to Section 2275.0102, Texas Government Code, (A) Successful Respondent, including a wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of Successful Respondent, is not owned by or the majority of stock or other ownership interest of Respondent is not held or controlled by individuals who are citizens of China, Iran, North Korea, Russia, or a country designated by the Governor as a threat to critical infrastructure;(B)Successful Respondent, including a wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of Successful Respondent, is not owned by or the majority of stock or other ownership interest of Successful Respondent is not held or controlled by a company or other entity, including a governmental entity, that is owned or controlled by citizens of or is directly controlled by the government of China, Iran, North Korea, Russia, or a country designated by the Governor as a threat to critical infrastructure; and (C) Successful Respondent, including a wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of Successful Respondent, is not headquartered in China, Iran, North Korea, Russia, or a country designated by the Governor as a threat to critical infrastructure;

xxiv) If the services to be provided under a Purchase Order include cloud computing services, Successful Respondent shall comply with the applicable requirements of the Texas Risk and Authorization Management Program ("TX-RAMP"), as provided by 1 TAC §§ 202.27 and 202.77, and the TX-RAMP Program Manual

("Program Manual"), to the extent applicable to maintenance of any level of TXRAMP Certification required pursuant to the terms of such Purchase Order. To the extent required by the foregoing, Successful Respondent shall maintain program compliance and certification throughout the term of such Purchase Order, including providing all quarterly and ongoing documentation required by the Program Manual and any other continuous monitoring documentation or artifacts required by the Customer issuing such Purchase Order. Upon request from DIR or the Customer issuing such Purchase Order, Successful Respondent shall provide all documents and information necessary to demonstrate Successful Respondent's compliance with TX-RAMP;

xxv) neither it, nor its holding companies or subsidiaries, is:

- (a) Listed in Section 889 of the 2019 National Defense Authorization Act;
- (b) Listed in Section 1260H of the 2021 National Defense Authorization Act; or
- (c) Owned by the government of a country on the U.S. Department of Commerce's foreign adversaries list under 15 C.F.R. Section 791.4; or
- (d) Controlled by any governing or regulatory body located in a country on the U.S. Department of Commerce's foreign adversaries list under 15 C.F.R. Section 791.4.; and

xxvi) all information provided by Successful Respondent in or pursuant to the requirements of the Contract is current and accurate as of the date provided.

C. During the term of the Contract, Successful Respondent shall promptly disclose to DIR all changes that occur to the foregoing certifications, representations, and warranties. Successful Respondent covenants to fully cooperate in the development and execution of resulting documentation necessary to maintain an accurate record of the certifications, representations, and warranties and any changes thereto.

D. In addition, Successful Respondent understands and agrees that if Successful Respondent responds to certain Customer pricing requests, then, in order to contract with the Customer, Successful Respondent may be required to comply with

additional terms and conditions or certifications that an individual customer may require due to state and federal law (e.g., privacy and security requirements).

28. Section 10.5, Ability to Conduct Business in Texas, is hereby replaced in its entirety with the following:

10.5 Ability to Conduct Business in Texas

Successful Respondent is authorized and validly existing under the laws of its state of organization and shall be authorized to do business in the State of Texas in accordance with Texas Business Organization Code, Title 1, Chapter 9. Upon request by DIR, Successful Respondent shall provide a certificate of fact or good standing, or similar applicable document, evidencing Successful Respondent's authorization to do business in the State of Texas and the validity of Successful Respondent's existence under the laws of its state of organization.

29. Section 10.6, Equal Opportunity Compliance, is hereby replaced in its entirety with the following:

10.6 Equal Opportunity Compliance

Successful Respondent agrees to abide by all applicable laws, regulations, and executive orders pertaining to equal employment opportunity, including federal laws, and the laws of the State of Texas, and the state in which its primary place of business is located. In accordance with such laws, regulations, and executive orders, Successful Respondent agrees that no person in the United States shall, on the grounds of race, color, religion, national origin, sex, age, veteran status or handicap, be excluded from employment with or participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity performed by Successful Respondent under the Contract. If Successful Respondent is found to be not in compliance with these requirements during the term of the Contract, Successful Respondent agrees to take appropriate steps to correct these deficiencies. Upon reasonable request, Successful Respondent will furnish information regarding its nondiscriminatory hiring and promotion policies, as well as necessary specific

information on the composition of its principals and staff, including the identification of minorities and women in management or other positions with discretionary or decision-making authority.

30. Section 10.7, Use of Subcontractors, is hereby replaced in its entirety with the following:

10.7 Use of Subcontractors

If Successful Respondent uses any subcontractors in the performance of the Contract, Successful Respondent must make a good faith effort in the submission of its HUB Subcontracting Plan (HSP) in accordance with the State's Policy on Utilization of Historically Underutilized Businesses (HUB). A revised HSP approved by DIR's HUB Office shall be required before Successful Respondent can engage additional subcontractors in the performance of the Contract. A revised HSP approved by DIR's HUB Office shall be required upon removal of subcontractors currently engaged in the performance of the Contract. Successful Respondent shall remain solely responsible for the performance of its obligations under the Contract.

31. Section 10.8, Responsibility for Actions, is hereby replaced in its entirety with the following:

10.8 Responsibility for Actions

A. Successful Respondent is solely responsible for its actions and those of its agents, employees, or subcontractors, and agrees that neither Successful Respondent nor any of the foregoing has any authority to act or speak on behalf of DIR or the State.

B. Successful Respondent shall report to the DIR Contract Manager promptly any change to the information contained in Section 10.4, Successful Respondent Certifications, of this Appendix A to the Contract. Successful Respondent covenants to fully cooperate with DIR to update and amend the Contract to accurately disclose employment of current or former State employees and their relatives and/or the status of conflicts of interest. If the preceding is prevented by law, Successful

Respondent must provide the fact of the change, the nature of the change, and the citation to the law preventing further disclosure to DIR.

32. Section 10.10, Security of Premises, Equipment, Data and Personnel, is hereby replaced in its entirety with the following:

10.10 Security of Premises, Equipment, Data and Personnel

A. Successful Respondent or Third-Party Providers may, from time to time when performing on-site services during the performance of the Contract, have access to the personnel, premises, equipment, and other property, including data, information, files, and materials belonging to a Customer. In performing such on-site services, Successful Respondent and Third-Party Providers shall preserve the safety, security, and the integrity of such personnel, premises, equipment, and other property, including data, information, files, and materials belonging to Customer, in accordance with the reasonable instruction of Customer which will be provided to Successful Respondent in advance in writing to the extent practicable and for information, in accordance with all obligations concerning protection of information included in the applicable Purchase Order. If Successful Respondent or Third-Party Provider fails to comply with Customer's security requirements (provided that the Customer provides the security requirements to Successful Respondent in advance as provided above in this Section), then Customer may immediately terminate the Purchase Order.

B. If a Purchase Order is subject to Section 2054.138, Texas Government Code, Successful Respondent shall meet the security controls required by the terms of such Purchase Order and shall periodically provide to the Customer the evidence specified therein that Successful Respondent meets such required security controls.

33. Section 10.11, Background and/or Criminal History Investigation, is hereby replaced in its entirety with the following:

10.11 Background and/or Criminal History Investigation

Prior to commencement of any services, background and/or criminal history investigation of Successful Respondent's employees and Third-Party Providers who will

be providing services to the Customer under the Contract may be performed by the Customer or the Customer may require that Successful Respondent conduct such background checks. Should any employee or Third-Party Provider of Successful Respondent who will be providing services to the Customer under the Contract not be acceptable to the Customer as a result of the background and/or criminal history check, then Customer may immediately terminate its Purchase Order and related Service Agreement or request replacement of the employee or Third-Party Provider in question. In the event that Customer conducts or requires Successful Respondent to conduct a background check, the terms of such background check will be outlined in the applicable Purchase Order.

34. Section 10.12, Limitation of Liability, is hereby replaced in its entirety with the following:

10.12 Limitation of Liability

A. FOR ANY CLAIM OR CAUSE OF ACTION ARISING UNDER OR RELATED TO THE CONTRACT OR ANY PURCHASE ORDER, TO THE EXTENT NOT PROHIBITED BY THE CONSTITUTION AND THE LAWS OF THE STATE, NONE OF THE PARTIES THERETO (NOR IN THE CASE OF SUCCESSFUL RESPONDENT, ITS AFFILIATES), SHALL BE LIABLE TO THE OTHER FOR ANY INDIRECT, INCIDENTAL, PUNITIVE, SPECIAL, OR CONSEQUENTIAL DAMAGES, EVEN IF IT IS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, OR ANY LOSS OF PROFITS, REVENUE, DATA OR DATA USE.

B. Successful Respondent and a Customer may include in a Purchase Order a term limiting Successful Respondent's liability for damages in any claim or cause of action arising under or related to such Purchase Order; provided that any such term may not limit Successful Respondent's liability in a manner less favorable to the Customer than the applicable provisions of Sections C through F below.

C. EXCEPT AS SET FORTH IN SECTIONS D, E AND F BELOW, FOR ANY CLAIM OR CAUSE OF ACTION ARISING UNDER OR RELATED TO THE CONTRACT OR ANY PURCHASE ORDER, SUCCESSFUL RESPONDENT'S MAXIMUM LIABILITY FOR DAMAGES OF ANY KIND, WHETHER IN CONTRACT OR TORT, OR OTHERWISE

- TO THE CUSTOMER, SHALL BE LIMITED TO THE TOTAL AMOUNT OF FEES CUSTOMER PAID TO SUCCESSFUL RESPONDENT UNDER THE SCHEDULE GIVING RISE TO THE LIABILITY, AND IF SUCH DAMAGES RESULT FROM CUSTOMER'S USE OF PROGRAMS, HARDWARE OR SERVICES, SUCH LIABILITY SHALL BE LIMITED TO THE FEES PAID AND PAYABLE BY SUCH CUSTOMER UNDER THE PURCHASE ORDER FOR THE DEFICIENT PROGRAM, HARDWARE OR SERVICE GIVING RISE TO THE LIABILITY.
- TO DIR (OTHER THAN ITS CAPACITY AS A CUSTOMER) SHALL BE LIMITED TO TWO MILLION DOLLARS (\$2,000,000).

D. NOTWITHSTANDING SECTION 10.12.C, FOR ANY CLAIM OR CAUSE OF ACTION ARISING UNDER OR RELATED TO ANY PURCHASE ORDER GOVERNED BY SCHEDULE C, THE MAXIMUM LIABILITY OF SUCCESSFUL RESPONDENT AND ITS AFFILIATES FOR DAMAGES OF ANY KIND, WHETHER IN CONTRACT OR TORT, OR OTHERWISE, SHALL BE LIMITED TO (i) TWO (2) TIMES THE FEES PAID AND PAYABLE BY CUSTOMER UNDER THE APPLICABLE PURCHASE ORDER FOR THE SERVICE GIVING RISE TO THE LIABILITY DURING THE TWELVE MONTH PERIOD IMMEDIATELY PRECEDING THE DATE OF THE EVENT GIVING RISE TO THE LIABILITY, IF AT LEAST TWELVE MONTHS OF THE SERVICES PERIOD UNDER THE APPLICABLE PURCHASE ORDER HAVE ELAPSED AS OF SUCH DATE, OR (ii) TWENTY-FOUR (24) TIMES THE AVERAGE MONTHLY FEES PAID OR PAYABLE BY CUSTOMER UNDER THE APPLICABLE PURCHASE ORDER FOR THE SERVICE GIVING RISE TO THE LIABILITY THROUGH THE DATE OF THE EVENT GIVING RISE TO THE LIABILITY, IF LESS THAN 12 MONTHS OF THE SERVICES PERIOD UNDER THE PURCHASE ORDER HAVE ELAPSED AS OF SUCH DATE.

E. NOTWITHSTANDING SECTION 10.12.D ABOVE, FOR ANY CLAIM OR CAUSE OF ACTION ARISING OUT OF ANY BREACH OF SUCCESSFUL RESPONDENT'S CONTRACTUAL OBLIGATIONS UNDER THIS CONTRACT OR THE APPLICABLE PURCHASE ORDER THAT DIRECTLY RESULTS IN THE DISCLOSURE OR EXPOSURE OF DATA OR INFORMATION THAT IS PROVIDED TO OR OBTAINED BY SUCCESSFUL RESPONDENT IN CONNECTION WITH A PURCHASE ORDER FOR CLOUD SERVICES, INCLUDING CUSTOMER DATA, CONFIDENTIAL INFORMATION OF CUSTOMER, ANY PERSONAL IDENTIFYING INFORMATION, OR ANY OTHER PROTECTED OR REGULATED DATA BY

SUCCESSFUL RESPONDENT, ITS EMPLOYEES, REPRESENTATIVES, AGENTS, OR SUBCONTRACTORS IN OR IN CONNECTION WITH THE EXECUTION OR PERFORMANCE OF SUCH PURCHASE ORDER, THE LIABILITY OF SUCCESSFUL RESPONDENT FOR DAMAGES OF ANY KIND UNDER THE APPLICABLE PURCHASE ORDER SHALL BE LIMITED TO (i) THREE (3) TIMES THE TOTAL AMOUNTS PAID AND PAYABLE TO SUCCESSFUL RESPONDENT FOR THE CLOUD SERVICES GIVING RISE TO SUCH CLAIM UNDER THE PURCHASE ORDER THAT IS SUBJECT OF THE CLAIM IN THE TWELVE-MONTH PERIOD IMMEDIATELY PRECEDING THE DATE OF THE EVENT GIVING RISE TO SUCH CLAIM, IF AT LEAST TWELVE MONTHS OF THE SERVICES PERIOD UNDER THE APPLICABLE PURCHASE ORDER HAVE ELAPSED AS OF SUCH DATE, OR (ii) THIRTY-SIX (36) TIMES THE AVERAGE MONTHLY FEES PAID OR PAYABLE BY CUSTOMER UNDER THE APPLICABLE PURCHASE ORDER FOR THE SERVICE GIVING RISE TO THE LIABILITY THROUGH THE DATE OF THE EVENT GIVING RISE TO THE LIABILITY, IF LESS THAN 12 MONTHS OF THE SERVICES PERIOD UNDER THE PURCHASE ORDER HAVE ELAPSED AS OF SUCH DATE. FOR THIS SUBSECTION E ONLY, THE PARTIES AGREE THAT THESE ITEMS WILL BE CLASSIFIED AS DIRECT DAMAGES: (i) CUSTOMER'S REASONABLE COSTS FOR LEGALLY REQUIRED BREACH NOTIFICATION TO INDIVIDUALS WHOSE PERSONAL INFORMATION WAS MISAPPROPRIATED, (ii) CUSTOMER'S REASONABLE COSTS FOR TWENTY-FOUR (24) MONTHS OF CREDIT MONITORING FOR SUCH INDIVIDUALS, (iii) ANY FINES OR PENALTIES THAT CUSTOMER MUST PAY TO GOVERNMENT ENTITIES AS A RESULT OF SUCCESSFUL RESPONDENT'S BREACH OF ITS SECURITY PRACTICES INCORPORATED INTO CUSTOMER'S ORDER, AND (iv) REASONABLE COSTS TO OPERATE A CALL CENTER TO RESPOND TO QUESTIONS FROM THE IMPACTED INDIVIDUALS FOR A PERIOD OF TWELVE (12) MONTHS FOLLOWING THE DATE SUCH INDIVIDUALS ARE NOTIFIED OF THE MISAPPROPRIATION.

F. Notwithstanding the foregoing or anything to the contrary herein, any limitation of Successful Respondent's liability contained herein or in a Purchase Order shall not apply to Successful Respondent's indemnification obligations with respect to infringement claims under Section 10.1.1(A)(i) or 10.1.2(A)(ii), or penalties lawfully assessed against Successful Respondent by a regulator for violation of State or Federal law.

35. Section 10.15, Required Insurance Coverage, is hereby replaced in its entirety with the following:

10.15, Required Insurance Coverage

A. As a condition of the Contract, Successful Respondent shall provide the listed insurance coverage within five (5) business days of execution of the Contract if Successful Respondent is awarded services which require that Successful Respondent's employees perform work at any Customer premises or use vehicles to conduct work on behalf of Customers. In addition, when engaged by a Customer to provide services on Customer premises, Successful Respondent shall, at its own expense, secure and maintain the insurance coverage specified herein, and shall provide proof of such insurance coverage to such Customer within five (5) business days following the execution of the Purchase Order. Successful Respondent may not begin performance under the Contract and/or a Purchase Order until such proof of insurance coverage is provided to, and approved by, DIR and the Customer.

B. If Successful Respondent's services under the Contract will not require Successful Respondent to perform work on Customer premises, or to use vehicles (whether owned or otherwise) to conduct work on behalf of Customers, Successful Respondent may certify to the foregoing facts, and agree to provide notice and the required insurance if the foregoing facts change. The certification and agreement must be provided by executing the Certification of Off-Premise Customer Services in the form provided by DIR, which shall serve to meet the insurance requirements.

C. All required insurance must be issued by companies that have an A-rating or better and a minimum Financial Size Category Class of VII from AM Best, and are licensed in the State of Texas and authorized to provide the corresponding coverage. The Customer and DIR will be named as additional insureds on all required coverage. Required coverage must remain in effect through the term of the Contract and each Purchase Order issued to Successful Respondent thereunder. The minimum acceptable insurance provisions are as follows:

36. Section 10.17, Immigration, is hereby replaced in its entirety with the following:

10.17 Immigration

A. Successful Respondent shall comply with all requirements related to federal immigration laws and regulations, to include but not be limited to, the Immigration and Reform Act of 1986, the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 ("IIRIRA") and the Immigration Act of 1990 (8 U.S.C.1101, et seq.) regarding employment verification and retention of verification forms for any individual(s) who will perform any labor or services under the Contract.

B. Pursuant to Chapter 673, Texas Government Code, Successful Respondent shall, as a condition of the Contract, also comply with (or, in the case of subcontractors' employees, require its subcontractors to comply with) the United States Department of Homeland Security's E-Verify system to determine the eligibility of:

i) all persons 1) to whom the E-Verify system applies, and 2) who are hired by Successful Respondent during the term of the Contract to perform duties within Texas; and

ii) all subcontractors' employees 1) to whom the E-Verify system applies, and 2) who are hired by the subcontractor during the term of the Contract and assigned by the subcontractor to perform work pursuant to the Contract.

C. Successful Respondent shall require its subcontractors to comply with the requirements of this Section and Successful Respondent is responsible for the compliance of its subcontractors. Nothing herein is intended to exclude compliance by Successful Respondent and its subcontractors with all other relevant federal immigration statutes and regulations promulgated pursuant thereto.

37. Section 10.19, Product and/or Services Substitutions, is hereby replaced in its entirety with the following:

10.19 Products and/or Services Substitutions

Substitutions are not permitted without the prior written consent of DIR or Customer, which may be provided by Customer in advance in the applicable Purchase Order.

38. Section 10.21, Deceptive Trade Practices; Unfair Business Practices is hereby replaced in its entirety with the following:

20.21 Deceptive Trade Practices; Unfair Business Practices

A. Successful Respondent represents and warrants that as of the date of this Contract and to the best of its knowledge, neither Successful Respondent nor any of its subcontractors under this Contract has been (i) found liable in any administrative hearing, litigation or other proceeding of Deceptive Trade Practices violations as defined under Chapter 17, Texas Business & Commerce Code, or (ii) has outstanding allegations of any Deceptive Trade Practice pending in any administrative hearing, litigation or other proceeding.

B. Successful Respondent certifies that as of the effective date of this Contract and to the best of its knowledge it has no officers who have served as officers of other entities who (i) have been found liable in any administrative hearing, litigation or other proceeding of Deceptive Trade Practices violations or (ii) have outstanding allegations of any Deceptive Trade Practice pending in any administrative hearing, litigation or other proceeding.

39. Section 10.25, Cybersecurity Training, is hereby replaced in its entirety with the following:

10.25 Cybersecurity Training

In accordance with Section 2054.5192, Texas Government Code, for any contract with a state agency or institution of higher education, if Successful Respondent, or a subcontractor, officer, or employee of Successful Respondent, will have access to a state computer system or database, then Successful Respondent shall ensure that such officer, employee, or subcontractor shall complete a cybersecurity training program certified under Section 2054.519, Texas Government Code, as selected by Customer state agency or institution of higher education. The cybersecurity training program must be completed by such officer, employee, or subcontractor during the term of the Contract and during any renewal period. Successful Respondent shall verify to the Customer state agency or institution of higher education completion of the program by each such officer, employee, or subcontractor.

For any Purchase Order where a state agency or institution of higher education will provide access to a state computing system or database, the Customer shall specify that such access will be provided and identify its selected cybersecurity training program and any specific requirements for verification in the Purchase Order.

40. Section 11.1, Enforcement of Contract and Dispute Resolution, is hereby replaced in its entirety with the following:

11.1 Enforcement of Contract and Dispute Resolution

A. Successful Respondent and DIR agree to the following: (i) a party's failure to require strict performance of any provision of the Contract shall not waive or diminish that party's right thereafter to demand strict compliance with that or any other provision, (ii) for disputes not resolved in the normal course of business, the dispute resolution process provided for in Chapter 2260, Texas Government Code, shall be used, (iii) except as provided in Sec. 2251.051 Texas Government Code, Successful Respondent shall continue performance while the dispute is being resolved, and (iv) actions or proceedings arising from the Contract shall be heard in the venue specified in Section 4.6 hereof.

B. Disputes arising between a Customer and Successful Respondent pertaining to claims under this Contract or a Purchase Order (i) shall be handled in accordance with the dispute resolution process provided for in Chapter 2260, Texas Government Code, for customers and disputes to which it applies or (ii) shall be handled in accordance with a dispute resolution process, if any, required by applicable law for the subject claim or set forth in the Purchase Order. DIR shall not be a party to any such dispute unless DIR, Customer, and Successful Respondent agree in writing.

41. Section 11.2.3, Termination for Convenience, is hereby replaced in its entirety as follows:

11.2.3 Termination for Convenience

DIR or Successful Respondent may terminate the Contract, in whole or in part, by giving the other party thirty (30) calendar days' written notice.

A Customer may terminate a Purchase Order for services by giving the other party thirty (30) calendar days' written notice.

If a Customer terminates a Purchase Order for services pursuant to this provision, the Customer shall pay for the amounts that have accrued for the products ordered and services received prior to the termination of such Purchase Order.

For products and services listed in the Appendix C "Table C-2: Cloud Services" category, Successful Respondent and Customer may, but are not required to, agree in the Purchase Order to allow Successful Respondent to recover a pro rata share Successful Respondent's costs expended for provisioning plus up to three months of fees for related services in the event of termination for convenience.

These provisioning costs and related services fees must be clearly, prominently, and separately stated in the Purchase Order. If the provisioning costs and related services fees are not clearly, prominently, and separately stated in the Purchase Order, they are not recoverable in the event of termination for convenience.

Such provisioning costs shall be applied as a pro rata percentage of the remaining term of the purchase order immediately prior to customer termination for convenience. By way of example, if the Purchase Order is terminated for convenience at one year of a four year term, Successful Respondent may recover 75% of the provisioning costs stated in the Purchase Order plus three months of related services fees. If the Purchase Order is terminated for convenience at year three of a four year term, Successful respondent may recover 25% of the provisioning costs stated in the Purchase Order plus three months of related services fees.

42. Section 11.2.4.2, Purchase Order, is hereby replaced in its entirety with the following:

11.2.4.2 Purchase Order

Customer or Successful Respondent or Order Fulfiller may terminate a Purchase Order upon the occurrence of a material breach of any term or condition: (i) of the Contract, or (ii) included in the Purchase Order, upon the following preconditions: first, the parties must comply with the requirements of Chapter 2260, Texas Government Code, in an attempt to resolve a dispute; second, after complying with Chapter 2260,

Texas Government Code, and the dispute remains unresolved, then the non-defaulting party shall give the defaulting party thirty (30) calendar days from receipt of notice to cure said default. If the defaulting party fails to cure said default within the timeframe allowed, the non-defaulting party may, at its option and in addition to any other remedies it may have available, cancel and terminate the Purchase Order. Customer may immediately suspend or terminate a Purchase Order without advance notice in the event Successful Respondent fails to substantially comply with any applicable and material term of the Purchase Order or the Contract relating to confidentiality, privacy, security requirements, environmental, or safety laws or regulations, or with any applicable and material confidentiality, privacy, security requirements, environmental, or safety laws or regulations, if such non-compliance relates to or may relate to Successful Respondent's provision of goods or services to the Customer under the Purchase Order.

43. Section 11.2.5, Immediate Termination or Suspension, is hereby replaced in its entirety with the following:

11.2.5 Immediate Termination or Suspension

DIR may immediately suspend or terminate the Contract without advance notice if DIR receives notice or knowledge of potentially criminal violations by Successful Respondent (whether or not such potential violations directly impact the provision of goods or services under the Contract). DIR or Customer will use reasonable efforts to provide notice (to the extent allowed by law) to Successful Respondent within five (5) business days after the suspension or termination. Successful Respondent may provide a response and request an opportunity to present its position. DIR or Customer will review Successful Respondent's presentation but is under no obligation to provide formal response.

44. Section 11.2.7, Successful Respondent Rights Under Termination, is hereby replaced in its entirety with the following:

11.2.7 Successful Respondent Rights Under Termination

In the event a Purchase Order is terminated by Successful Respondent or Order Fulfiller pursuant to Section 11.2.4.2 above, a Customer shall pay all amounts which have accrued prior to such termination, as well as all sums remaining unpaid for Cloud Services ordered and for hardware, programs, or other services ordered and received under the Purchase Order. In the event a Purchase Order otherwise expires or is terminated, a Customer shall pay all amounts due for products or services ordered prior to the effective expiration or termination date and ultimately received.

45. Section 11.3, Force Majeure, is hereby replaced in its entirety as follows:

11.3 Force Majeure

DIR, Customer, or Successful Respondent may be excused from performance under the Contract or a Purchase Order for any period when performance is prevented as the result of an act of God, strike, war, civil disturbance, epidemic, court order or other event outside the reasonable control of the obligated party (each such event, an "Event of Force Majeure"), provided that the party experiencing such Event of Force Majeure has prudently and promptly acted to take any and all reasonable steps that are within the party's control to ensure performance and to shorten the duration or impact of the Event of Force Majeure. The party suffering an Event of Force Majeure shall provide notice of the event to the other parties when commercially reasonable. Subject to this Section, such non-performance shall not be deemed a default or a ground for termination. However, either Customer or Successful Respondent may terminate a Purchase Order if it is determined by such party that Successful Respondent will not be able to deliver services in a timely manner. This section does not excuse any party's obligation to take reasonable steps to follow its normal disaster recovery procedures or the Customer's obligation to pay for programs and hardware delivered or services provided.

46. Section 12, Non-Solicitation of State Employees, is hereby replaced in its entirety with the following:

12 Non-Solicitation of State Employees

No employee of Successful Respondent directly involved in execution or performance of the Contract shall solicit, directly or indirectly, any employee of DIR directly involved in execution or performance of the Contract for a period of ninety (90) calendar days following the expiration or termination of the Contract. Further, no employee of Successful Respondent directly involved in execution or performance of a Purchase Order shall solicit, directly or indirectly, any employee of a Customer who is directly involved in execution or performance of the Purchase Order for a period of ninety (90) calendar days following the expiration or termination of such Purchase Order. The foregoing non-solicitation requirements do not apply to general solicitations Successful Respondent may publish that are not targeted at DIR or Customer employees.

47. Section 13, Warranty, is hereby replaced in its entirety with the following:

13 Reserved

(Remainder of this page intentionally left blank.)

This Contract is executed to be effective as of the date of last signature.

Oracle America, Inc

Authorized By: Signature on file

Name: Michael Estrada

Title: Director, Customer Deal Desk, NAMER

4/2/2025 | 8:38 AM PDT
Date: _____

The State of Texas, acting by and through the Department of Information Resources

Authorized By: Signature on file

Name: Lisa Massock

Title: Chief Procurement Officer

4/4/2025 | 9:09 AM CDT
Date: _____

Office of General Counsel: Initials on file

4/4/2025 | 8:55 AM CDT
Date: _____