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B.1 INTRODUCTION

B.1.1 Conflicts of Interest

B.1.1.1 Actual and Potential Conflicts

Contractor shall promptly disclose any actual or potential conflict of interest that arises during the Contract term.

B.1.2 Construction of Contract Documents

B.1.2.1 Global Drafting Conventions

The terms “include,” “includes,” and “including” are terms of inclusion and enlargement.

When used in this Solicitation and the Contract these terms should be read as if followed by the phrase “without limitation.”

B.1.2.2 Headings

Article and section headings are for reference and convenience only.

B.2 THE SOLICITATION PROCESS

B.2.1 Accuracy and Withdrawal of Response

Respondent certifies that it has examined and fully understands all of the provisions of the Solicitation and is satisfied that they are accurate; that it has carefully checked all numbers and statements made in the Response; that it has satisfied itself with respect to the actual site conditions, and location delivery locations; and other matters which in any way may affect the Contract or the cost thereof. CPA will not be responsible for any errors or omissions in the Response. Responses may be withdrawn in writing at any time prior to the deadline for submission as provided in Part A, Schedule of Events. If CPA in its sole judgment identifies a material error or omission in the Response, CPA will disqualify it in whole or in part. If Respondent shows a self-evident error in the Response, it may request to withdraw the Response.

B.2.2 Disaster Recovery Plan

In accordance with 13 TAC § 6.94(a)(9), Respondent shall provide to CPA its business continuity and disaster recovery plans upon request.

B.2.3 Cost of Submitting Response

CPA will not reimburse Respondent for any cost related to its Response. Respondent is responsible for any expense related to the preparation and submission of its Response.

B.2.4 Public Information Act

CPA is subject to the Public Information Act (PIA), Texas Government Code Chapter 552, as are many Customers. Information submitted to CPA may be subject to release unless an exception to the PIA applies.

Contractor shall make any information created or exchanged with a state governmental entity as defined by Texas Government Code § 2252.907(d) pursuant to the Contract, and not otherwise

excepted from disclosure under the PIA, available in a format that is accessible by the public at no additional charge.

If the Response contains any information that Respondent claims is confidential under the PIA, Respondent shall submit a redacted version of its Response, along with an Appendix listing and describing the redacted information and. Respondent shall mark this document, **“For Public Release: Redacted Version of [Respondent]’s Response, CPA Solicitation [Solicitation Number].”**

B.2.5 Posting of Response

CPA may post the redacted Response on its website.

B.2.6 Irrevocability of Response

The Response is a firm offer, irrevocable for 120 calendar days following the Response Due Date identified in Part A. CPA may extend this period with Respondent’s written agreement.

B.3 CONTRACT TERMS AND CONDITIONS

B.3.1 Amending the Contract

The Parties may only change the Contract through mutual, written agreement, in the form of a contract amendment. Contractor is not entitled to payment for goods or services outside the scope of the Contract. CPA may unilaterally amend the Contract to comply with a change of applicable laws, as described below in B.3.4.

B.3.2 Order of Precedence

The Contract consists of the Notice of Award; this Solicitation, including addenda; and the Response, including clarifications submitted at the request of CPA. In the event of any conflict or contradiction between or among these documents, the Notice of Award, as modified by any Contract Amendments, controls over the Solicitation and the Response. The Solicitation, as modified by any Addenda, controls over the Response.

B.3.3 Binding Effect

The Contract shall inure to the benefit of, be binding upon, and be enforceable against each Party and their respective permitted successors, assigns, transferees, and delegates.

B.3.4 Change in Law

CPA may, in its sole discretion, unilaterally amend the Contract to incorporate any modifications necessary to comply with applicable laws, regulations, requirements, or guidelines.

B.3.5 Terminating the Contract

B.3.5.1 For Convenience

CPA may terminate the Contract at any time, in whole or in part, without cost or penalty, by providing 30 calendar days’ advance written notice, if CPA determines that such termination is in the best interest of the state. If the Contractor requests termination, in whole or in part, it waives the advance notice.

B.3.5.2 For Cause

If Contractor fails to perform the Contract, or fails to comply with any term or condition of the Contract, CPA may issue written notice of default to Contractor and immediately terminate all or any part of the Contract. Termination is not an exclusive remedy, but supplements any other rights and remedies provided by equity, law, or the Contract.

CPA may exercise any other right, remedy, or privilege which may be available to it under applicable law of the state and any other applicable law or may proceed by appropriate court action to enforce the provisions of the Contract, or to recover damages for the breach of any agreement being derived from the Contract. The exercise of any of the foregoing remedies will not constitute a termination of the Contract unless CPA notifies Contractor in writing.

Contractor will remain liable for all covenants and indemnities under the Contract. Contractor will be liable for all costs and expenses, including court costs, incurred by CPA with respect to the enforcement of any of the remedies listed in the Contract.

B.3.5.3 Loss of Funding

The Contract is subject to termination or cancellation, either in whole or in part, without penalty to CPA or Customers, due to the unavailability of state funds.

B.3.5.4 Community Rehabilitation Program Purchasing Preference

Pursuant to Texas Human Resources Code Chapter 122, state agencies must purchase products and services meeting their specifications offered by a Community Rehabilitation Program (CRP) and approved by the Texas Workforce Commission (TWC). If item awarded under the Contract become available from a CRP, CPA may terminate the Contract or remove items from it.

B.3.5.5 Rights upon Termination or Expiration

If the Contract is terminated or expires, CPA and Customer will own all work products and documentation obtained under the Contract.

B.3.5.6 Survival of Terms and Purchase Orders

Termination or expiration of the Contract will not release Contractor from any Contract provision that is expressly intended to survive, or that by its nature would be intended to survive, including the provisions regarding warranty, confidentiality, indemnification, transition, records, audit, property rights, dispute resolution, and invoice and fees verification. Purchase orders issued during the term of this Contract shall survive cancellation or termination of this Contract.

B.3.6 No Liability Upon Termination

If the Contract is terminated for any reason, the state of Texas, CPA, and Customer are not liable to Contractor for any damages, arising from or related to termination. However, Contractor may be entitled to the remedies provided in Chapter 2260 of the Texas Government Code, including payment for goods and services delivered, or certain costs of performance. Reference Section B.4.6 – Dispute Resolution.

B.3.7 Third-party Beneficiaries

The Contract is made for the benefit of the Parties, Customers, and their respective successors and assigns. No other person shall have any right, interest, or claim or be entitled to any benefits pursuant to or on account of the Contract as a third-party beneficiary or otherwise.

B.4 CONTRACT MANAGEMENT

B.4.1 Contract Managers

B.4.1.1 The CPA Contract Manager

CPA shall designate a Contract Manager with authority to:

- serve as the day-to-day point of contact;
- coordinate quality control reviews;
- coordinate meetings with Contractor;
- investigate complaints;
- receive requests for substitutions or changes in goods or services awarded under the Contract;
- initiate contract amendments; and
- discuss pricing changes.

B.4.1.2 The Contractor's Contract Manager

Contractor shall designate its Contract Manager in Attachment B, Respondent Information. Contractor shall notify Statewide Contract Management whenever it changes its Contract Manager. Contractor shall give its Contract Manager authority to:

- make decisions regarding the deliverables required by the Contract;
- serve as the day-to-day point of contact;
- coordinate quality control reviews;
- coordinate meetings with CPA; and
- investigate complaints.

B.4.2 Notices and Communication

B.4.2.1 Notices

If a notice is required by law to be delivered in a particular way, the Party giving notice shall follow the applicable laws. Otherwise, each Party may deliver any required notice by email, mail, or hand delivery. A notice is effective upon receipt.

B.4.2.2 Change of Address

If either Party changes its address for receipt of written notices, it shall inform the other without delay.

B.4.2.3 CPA Email Address (Preferred method of delivery)

The email address for Statewide Contract Management is spd.cmo@cpa.texas.gov.

B.4.2.4 CPA Address

CPA's address is:

Mailing Address	Hand Delivery Address
Statewide Procurement Division Comptroller of Public Accounts P. O. Box 13528 Austin, Texas 78711-3186	Statewide Procurement Division Comptroller of Public Accounts 111 E. 17 th Street Austin, Texas 78701

B.4.3 Subcontracting

Contractor acknowledges that CPA has no obligations to any of its subcontractors. Contractor shall be solely responsible for ensuring that all subcontracted work complies with the Contract. Contractor shall manage quality, performance, project management, and schedules for subcontractors as needed. Contractor is solely responsible for work under the Contract. Contractor shall pay subcontractors in accordance with the Texas Prompt Payment Act, including interest on late payments. See Government Code, Chapter 2251.

B.4.4 Limitation on Contractor's Authority

Contractor shall have no authority to act for or on behalf of a Customer or the state of Texas except as expressly provided for in the Contract. No such authority is implied. Contractor may not incur debt, obligations, or liability of any kind on behalf of a Customer or the state of Texas.

Contractor may not state or imply that it has authority under the Contract to: (1) make public policy; (2) promulgate, amend, or disregard CPA program policy; or (3) unilaterally communicate or negotiate, on behalf of CPA.

B.4.5 Cooperation

Contractor shall cooperate with CPA and other parties designated by CPA for the administration of the Contract.

B.4.6 Dispute Resolution

B.4.6.1 Informal Meetings

CPA and Contractor agree to meet as needed to implement the Contract and to make a good faith attempt to informally resolve any disputes.

B.4.6.2 Negotiation

Contractor shall submit claims for breach of the Contract to the negotiation process provided in Texas Government Code Chapter 2260, Subchapter B. To initiate the process, Contractor shall submit written notice to the Deputy Comptroller of CPA and the Statewide Procurement Division. Unless the written notice specifically invokes Chapter 2260, Subchapter B, it is ineffective. Negotiation of claims is governed by CPA's rules, in 34 Tex. Admin. Code Chapter 1, Subchapter F.

B.4.6.3 Mediation

The Parties may agree to mediate a dispute before an impartial third party. Contractor will pay all costs of the mediation unless CPA, in its sole discretion, agrees to pay all or part of such costs. See 34 TAC §§1.375-1.380 and Government Code, Chapter 2009.

B.4.6.4 Contested Cases

The contested case process provided in Texas Government Code Chapter 2260, Subchapter C is the exclusive procedure for a contract claim against CPA or a state agency Customer. Compliance with the contested case process is a condition precedent to seeking consent to sue from the Legislature under Texas Civil Practices and Remedies Code Chapter 107. Neither the execution of this Contract by CPA nor any other conduct of CPA will be considered to waive sovereign immunity.

B.4.6.5 Continued Performance

Notwithstanding any other provision of the Contract, unless ordered in writing by CPA, Contractor shall continue performance, and will not be excused from performance, throughout the contractual dispute resolution process.

B.4.6.6 Applicability to Customers

Except as otherwise provided by law or applicable rules, the terms and conditions in this section apply to claims involving Contractor and any other Customer subject to Texas Government Code Chapter 2260, substituting such other Customer for “CPA” when referenced in this section.

B.4.7 Name Changes and Organizational Changes

Contractor shall provide CPA with written notice of all name changes and organizational changes relating to Contractor, including any merger, acquisition, or sale, no later than ten business days after such change. Contractor shall describe the circumstances of the name change or organizational change, state its new name, provide the new Tax Identification Number, and describe how the change will impact its ability to perform the Contract. Contractor shall supply the requested information within five working days of the request. See also Section B.4.8 - Contract Assignment.

B.4.8 Contract Assignment

Contractor shall not assign its rights or delegate the performance of its duties under the Contract without prior written approval from CPA. Contractor must establish to the satisfaction of CPA that its assignee is both eligible to receive state contracts and capable of performing the Contract. Any attempted assignment in violation of this section is void and without effect.

B.4.9 Key Personnel Changes

Contractor shall ensure that any key personnel identified in the Contract are available for the entire Contract term if they remain employed by Contractor. Contractor shall not change key personnel without approval of Statewide Contract Management.

B.4.10 Media and Marketing Materials

CPA does not endorse any vendor, product, or service. News releases, advertisements, publications, or other communication by the Contractor using any means or media, including social media, mentioning the state of Texas or CPA or a Customer must be approved in writing by the CPA Contract Manager prior to public dissemination. Use of any logos belonging to the state of Texas, CPA, any CPA program, or a Customer is prohibited without prior written approval of the CPA Contract Manager. Contractor may not send unsolicited mail, electronic mail, or facsimile transmissions to Customers

without prior written approval of the CPA Contract Manager, regardless of whether the proposed communication references the Contract.

B.5 FINANCIAL INFORMATION

B.5.1 Appropriations

All obligations of CPA and Customers are subject to the availability of legislative appropriations and, for Customers expending federal funds, to the availability of the federal funds applicable to the Contract. Customers' obligations to make payments under the Contract are contingent upon the continued availability of funds. Customers include public entities whose authority and budgets are set by governing bodies including the Texas Legislature.

B.5.2 Audit Requirements

Pursuant to Texas Government Code § 2262.154, the State Auditor's Office, or successor agency, may conduct an audit or investigation of Contractor or any entity receiving funds from the state directly under the Contract or indirectly through a subcontract under the Contract. The acceptance of funds by Contractor or any other entity or person directly under the Contract or indirectly through a subcontract under the Contract acts as acceptance of the authority of the State Auditor's Office, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds. Under the direction of the legislative audit committee, the Contractor or other entity that is the subject of an audit or investigation shall provide the State Auditor's Office with access to any information the State Auditor's Office considers relevant to the investigation or audit. The Contract may be amended unilaterally by CPA to comply with any rules and procedures of the State Auditor's Office in the implementation and enforcement of Texas Government Code § 2262.154. **Contractor shall include this clause concerning the authority to audit funds received indirectly by subcontractors through Contractor and the requirement to cooperate in any subcontract it awards.**

Customers that order under the Contract using federal or grant funds may impose additional audit requirements that are required by law or regulation. Those additional requirements will be included on the purchase order for that particular order.

B.5.3 Invoicing and Payment Requirements

In order to receive payment, Contractor must submit an invoice to the Customer placing the order, which will be designated in the purchase order as the "Bill To" address. The invoice must include the following:

- (1) Name and address of the Contractor;
- (2) Contractor's Texas Identification Number (TIN);
- (3) Contractor's invoice remittance address;
- (4) The purchase order number authorizing the delivery of goods or services;
- (5) A description of what the Contractor delivered, including, as applicable, the time period, serial number, unit price, quantity, and total price of the products and services;
- (6) If the invoice is for a lease, the payment number (e.g., 1 of 36);
- (7) Bill of lading for freight charges, if applicable; and
- (8) Ship to address or location where services were provided, if applicable.

If an invoice does not meet these requirements, Customer will notify Contractor within 21 calendar days after receipt of the invoice. The notice will contain a description of the defect, impropriety, or disputed amount, and any additional information the Contractor needs to correct the invoice.

B.5.4 Disputed Invoices

A Customer may withhold from its payment up to 110 percent of any disputed amount. If a dispute is resolved in favor of Contractor, Contractor may be entitled to interest pursuant to Texas Government Code § 2251.021. If a dispute is resolved in favor of CPA or Customer, Contractor will submit a corrected invoice.

B.5.5 Time and Manner of Payment

All payments under the Contract, including payments to subcontractors and suppliers, shall be made in accordance with Chapter 2251 of the Texas Government Code and 34 Texas Administrative Code § 20.487. Chapter 2251 of the Texas Government Code shall govern remittance of payment and remedies for late payment and non-payment.

B.5.6 Assignment of Antitrust Claims

Contractor assigns to the state of Texas all of Contractor's rights, title, and interest in and to all claims and causes of action Contractor may have under the antitrust laws of Texas or the United States for overcharges associated with the Contract.

B.5.7 Debts and Delinquencies

To the extent Contractor owes any debt or delinquent taxes to the state of Texas, CPA will apply any payments toward the debt or delinquent taxes until the debt or delinquent taxes are paid in full.

B.5.8 Taxes

Some Customers are exempt from state sales tax and federal excise tax. Contractor may require Customers to furnish tax exemption certificates. Contractor may not require Customers to reimburse it for taxes incurred by Contractor in performing the Contract. Contractor may not invoice for such taxes.

B.5.9 No Debt Against the State

The Contract does not create any debt by or on behalf of the state of Texas.

B.5.10 Refunds for Overpayment

If a Customer overpays the Contractor, Contractor shall refund that amount. Customer may offset and deduct the amount of the overpayment from any amount owing. Contractor will refund any overpayment within 30 calendar days of receipt of the notice of the overpayment.

B.5.11 Travel

Contractor shall bear the cost of any travel required to perform the Contract.

B.6 CONFIDENTIALITY AND SECURITY

Contractor shall maintain and protect any information it receives, compiles, or creates as a result of the Contract in accordance with any federal, state, or local laws and regulations that apply. Contractor shall establish a method to secure the confidentiality of records and other information relating to Customers in accordance with applicable federal and state laws, rules, and regulations.

The obligations of Contractor under this section will survive the Contract. Contractor shall include these requirements in all subcontracts.

B.7 TERMS AND CONDITIONS

B.7.1 Records Retention

Contractor agrees to (1) preserve all contracting information related to the Contract as provided by the records retention requirements applicable to the Customer for the duration of the Contract, (2) promptly provide to the Customer any contracting information related to the Contract that is in the custody or possession of the Contractor on request of the Customer, and (3) on termination or expiration of the Contract, either provide at no cost to the Customer all contracting information related to the Contract that is in the custody or possession of the Contractor or preserve the contracting information related to the Contract as provided by the records retention requirements applicable to the Customer. The requirements of Subchapter J, Chapter 552, Government Code, may apply to the Contract and the Contractor agrees that the Contract can be terminated if the Contractor knowingly or intentionally fails to comply with a requirement of that subchapter.

B.7.2 Independent Contractor

Contractor and Contractor's employees, representatives, agents, subcontractors, suppliers, and third-party service providers shall serve as independent contractors in providing the services under the Contract. Contractor shall have no claim against CPA for vacation pay, sick leave, retirement benefits, social security, worker's compensation, health or disability benefits, unemployment insurance benefits, or employee benefits of any kind. Neither Contractor nor Customer is an agent of the other and neither may make any commitments on the other party's behalf. The Contract shall not create any joint venture, partnership, agency, or employment relationship between Contractor and CPA.

B.7.3 Indemnification and Liability

Acts or Omissions

Contractor shall indemnify and hold harmless the state of Texas, CPA, and Customers, AND/OR THEIR OFFICERS, AGENTS, EMPLOYEES, REPRESENTATIVES, CONTRACTORS, ASSIGNEES, AND/OR DESIGNEES FROM ANY AND ALL LIABILITY, ACTIONS, CLAIMS, DEMANDS, OR SUITS, AND ALL RELATED COSTS, ATTORNEY FEES, AND EXPENSES arising out of, or resulting from any acts or omissions of the Contractor or its agents, employees, subcontractors, order fulfillers, or suppliers of subcontractors in the execution or performance of the Contract and any Purchase Orders issued under the Contract. THE DEFENSE SHALL BE COORDINATED BY CONTRACTOR WITH THE OFFICE OF THE ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND CONTRACTOR MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE

OFFICE OF THE ATTORNEY GENERAL. CONTRACTOR AND THE CUSTOMER AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM.

Infringements

a) Contractor shall indemnify and hold harmless the state of Texas, CPA, and Customers, AND/OR THEIR EMPLOYEES, AGENTS, REPRESENTATIVES, CONTRACTORS, ASSIGNEES, AND/OR DESIGNEES from any and all third party claims involving infringement of United States patents, copyrights, trade and service marks, and any other intellectual or intangible property rights in connection with the PERFORMANCES OR ACTIONS OF CONTRACTOR PURSUANT TO THE CONTRACT. CONTRACTOR AND THE CUSTOMER AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM. CONTRACTOR SHALL BE LIABLE TO PAY ALL COSTS OF DEFENSE INCLUDING ATTORNEYS' FEES. THE DEFENSE SHALL BE COORDINATED BY CONTRACTOR WITH THE OFFICE OF THE ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND CONTRACTOR MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE ATTORNEY GENERAL.

b) Contractor shall have no liability under this section if the alleged infringement is caused in whole or in part by: (i) use of the product or service for a purpose or in a manner for which the product or service was not designed, (ii) any modification made to the product without Contractor's written approval, (iii) any modifications made to the product by the Contractor pursuant to Customer's specific instructions, (iv) any intellectual property right owned by or licensed to Customer, or (v) any use of the product or service by Customer that is not in conformity with the terms of any applicable license agreement.

c) If Contractor becomes aware of an actual or potential claim, or Customer provides Contractor with notice of an actual or potential claim, Contractor may (or in the case of an injunction against Customer, shall), at Contractor's sole option and expense; (i) procure for the 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.

Taxes/Workers' Compensation/Unemployment Insurance – Including Indemnity

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

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

B.7.4 Contractor Liability for Damage to Government Property

In the event of loss, destruction or damage to any Customer property by the Contractor or its employees, agents, subcontractors, or suppliers, the Contractor shall reimburse the Customer for the full cost of repair, reconstruction, or replacement of the property within ten calendar days after receipt of a notice of the amount due and description of damages. Contractor shall notify the CPA Contract Manager in writing of any such damage within one calendar day.

B.7.5 Force Majeure

Force majeure is defined as an act of war, order of legal authority, act of God, or other unavoidable cause not attributable to the fault or negligence of CPA, Customer, or Contractor. CPA, any Customer, and Contractor will not be responsible for delay of performance caused by force majeure. Upon timely notice by the non-performing party, the time for performance shall be extended for a reasonable period after the causes of delay or failure have been removed provided the non-performing party undertakes all reasonable efforts to perform. A notice is timely if submitted in writing within five calendar days of the start of the force majeure event. The non-performing party shall provide evidence of impossibility of timely performance.

B.7.6 Miscellaneous Terms and Conditions

B.7.6.1 Permits, Certifications, and Licenses

Contractor represents and warrants that it has determined what licenses, certifications and permits are required to perform the Contract and has acquired all applicable licenses, certifications, and permits. Contractor shall, at its own expense, obtain all permits or licenses required by city, county, state, or federal rules, regulations, law, or codes that pertain to the Contract.

B.7.6.2 Cybersecurity Training

When applicable, Contractor shall verify to Customer the completion of any cybersecurity training required under Section 2054.5192 of the Texas Government Code during the term of the Contract and during any renewal period.

B.7.6.3 Electrical Items

Contractor shall not deliver any electrical items to CPA or a Customer unless they meet all applicable OSHA standards and regulations, and bear the appropriate listing from Underwriters

Laboratory (UL), Factory Mutual Resource Corporation (FMRC), National Electrical Manufacturers Association (NEMA), or other appropriate regulating body.

B.7.7 Non-Waiver of Rights

Failure of a Party to require performance by another Party under the Contract will not affect the right of such Party to require performance in the future. No delay, failure, or waiver of either Party's exercise or partial exercise of any right or remedy under the Contract operates to limit, impair, preclude, cancel, waive, or otherwise affect such right or remedy. A waiver by a Party of any breach of any term of the Contract will not be construed as a waiver of any continuing or succeeding breach.

B.7.8 Sovereign Immunity

Nothing in the Contract shall be construed as a waiver of the sovereign immunity of the state of Texas, CPA, or Customers. The Contract does not constitute or shall not be construed as a waiver of any of the privileges, rights, defenses, remedies, or immunities available to the state of Texas, CPA, or Customers. The failure to enforce, or any delay in the enforcement, of any privileges, rights, defenses, remedies, or immunities available to the state of Texas, CPA, or Customers under the Contract or under applicable law does not constitute a waiver of such privileges, rights, defenses, remedies, or immunities and shall not be considered as a basis for estoppel. CPA does not waive any privileges, rights, defenses, or immunities available to CPA by entering into the Contract or by its conduct prior to or subsequent to entering into the Contract.

B.7.9 Use of State Property

Contractor shall not use state property for any purpose other than performing the Contract. State property includes office space, identification badges, information technology equipment, software, and networks of CPA or a Customer. Contractor may not use any computing device to access CPA or the Customer's networks while outside the continental United States.

B.7.10 Severability

If any provision of the Contract is construed to be illegal or invalid, such construction will not affect the legality or validity of any of its other provisions. The illegal or invalid provision will be deemed severable and stricken from the Contract, and all other provisions will continue in full force and effect.

B.7.11 Governing Law and Venue

The Contract shall be governed by and construed in accordance with the laws of the state of Texas, without regard to any conflicts of law provisions that would apply the laws of another jurisdiction. The venue for any suit arising under the Contract is fixed in any court of competent jurisdiction of Travis County, Texas, unless the specific venue is identified in a statute which applies to CPA or the Customer.

B.7.12 Compliance with Laws; Dealing with Public Servants

Contractor shall comply with applicable laws at all times, including (i) Texas Penal Code § 36.02, which prohibits bribery; (ii) Texas Penal Code § 36.09, which prohibits the offering or conferring of benefits to public servants; and (iii) Texas Government Code § 2155.003, which prohibits CPA employees from having an interest in a contract for a purchase of goods or services by a state agency, or accepting from a contractor anything of value or a promise of any future reward or compensation.

B.7.13 Intellectual Property Rights

“The Work” consists of all work papers, work products, materials, approaches, designs, specifications, systems, software, programs, source code, documentation methodologies, concepts, intellectual property or other property developed, produced or generated in connection with the services provided under the Contract. The Parties agree that the Work is made for hire. Contractor and its employees will have no rights in or ownership of the Work. Contractor acknowledges and agrees that the Work (and all rights therein) belongs exclusively to the Customer.

If for any reason the Work would not be considered a work for hire under applicable law, Contractor does hereby sell, assign, and transfer to Customer, its successors and assigns, the entire right, title and interest in and to (i) the copyright in the Work and any registrations and copyright applications relating thereto and any renewals and extensions thereof; (ii) works based upon, derived from, or incorporating the Work; (iii) all income, royalties, damages, claims and payments now or hereafter due or payable with respect thereto; (iv) all causes of action, either in law or in equity for past, present, or future infringement based on the copyrights; and (v) all rights corresponding to the foregoing.

Contractor shall take all steps Customer deems necessary to secure for Customer or its designee the rights herein assigned. If Contractor has any rights in and to the Work that cannot be assigned to Customer, Contractor hereby grants to Customer an exclusive, worldwide, royalty-free, irrevocable, and perpetual license to directly and indirectly reproduce, distribute, modify, create derivative works of, publicly perform and publicly display, such rights to make, have made, use, sell and offer for sale any products developed by practicing such rights, and to otherwise use such rights, with the right to sublicense such rights through multiple levels of sublicenses. No later than the first calendar day after the termination or expiration of the Contract or upon Customer’s request, Contractor shall deliver to Customer all completed or partially completed Work. Contractor may not make or retain any copies of the Work without the prior written consent of Customer.

B.7.14 Vendor Performance

CPA or state agency Customers may review the Contractor’s performance. These reviews may be posted on the Vendor Performance Tracking System.

B.7.15 Debarment

CPA may bar a vendor from participating in state contracts for poor performance, misconduct, and other reasons identified by law. Debarment is a cause for termination of the Contract.

B.7.16 Electronic and Information Resources Accessibility Standards

Contractor shall not provide any electronic or information resources under the Contract that do not comply with the requirements of 1 Texas Administrative Code Chapter 213 regarding Accessibility Standards for State Agencies.

B.7.17 Requests for Information

B.7.17.1 Request Regarding Contract Information

If Contractor receives a request for information about this Contract from any third party, including a request to participate in an interview, Contractor shall immediately forward the request to the CPA Contract Manager. Except as described below, Contractor will not

release any information about the Contract without the express written authorization of the CPA. Contractor may release the amount of the Contract and any information required to comply with laws or rules.

B.7.17.2 Request Regarding Purchase Order Information

If Contractor receives a request for information about a purchase order, or work done under a purchase order, including a request to participate in an interview, Contractor shall immediately forward the request to the Customer that issued the purchase order. Except as described below, Contractor will not release any information about a purchase order under the Contract without the express written authorization of the Customer. Contractor may release the amount of the purchase order and any information required to comply with laws or rules.