



## CONTRACT FOR SERVICES

<b>Contract No.</b>	
<b>Commodity or Service:</b>	
<b>Contract Period:</b>	
<b>Contract Amount:</b>	

This Contract is entered into by the State of Wisconsin Department of Justice (hereafter DOJ) and [\_\_\_\_\_] (hereafter the Contractor or \_\_\_) and referred to collectively with DOJ as the "Parties".

The Parties acknowledge that they have read the Contract and agree to be bound by their terms and conditions.

Unless waived by DOJ, this Agreement becomes null and void if the time between the earlier dated signature and the later dated signature exceeds sixty (60) days.

IN WITNESS WHEREOF, the Parties, by their duly authorized representatives, execute this Contract with full knowledge of and agreement with its terms and conditions.

**Contractor:**

For: Company legal name

Address: \_\_\_\_\_

\_\_\_\_\_

By: \_\_\_\_\_

(Signature)

Date: \_\_\_\_\_

Name: \_\_\_\_\_

(Print)

Title: \_\_\_\_\_

**State of Wisconsin:**

For: Department of Justice

17 West Main St., PO Box 7857

Madison, WI 53707

By: \_\_\_\_\_

(Signature)

Date: \_\_\_\_\_

Name: Paul W. Connell

(Print)

Title: Deputy Attorney General

## CONTRACT FOR SERVICES

### 1. ENTIRE CONTRACT.

1.1. Entire Contract. This document is the "Master Contract". The Master Contract, together with its Schedules, is the "Contract" constitutes the complete and entire agreement between the Parties. This Contract supersedes all proposals, letters of intent or prior agreements, oral or written, and all other communications and representations between the Parties relating to the subject matter of the Contract. The DOJ reserves the right to reject or cancel agreements based on documents that have been altered.

1.2. Integration of Documents. This Master Contract and all of the Schedules shall be read and harmonized together to the extent possible. In the event of irreconcilable conflict between the terms of the documents, the Master Contract shall control.

1.3. Contract Parts. The Contract consists of the following parts which will serve as the hierarchy of documents in descending order for resolution of conflicts among documents: *(Any of the following are included, as applicable.)*

Final Executed Contract and Official Purchase Order

Schedule \_\_: Payment Schedule

Schedule \_\_: Scope of Work

Schedule \_\_: Non-disclosure Agreement

Schedule \_\_: Request for Bid or Proposal # and title (including all attachments and addenda)

Schedule \_\_: Contractor Original Bid/Proposal Response dated \_\_\_\_

### 2. SCOPE OF WORK AND PRODUCTS.

The Contractor agrees to provide all of the products and services set forth in this Contract and all its attachments. A brief overview of the scope of work and products is as follows:

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3. **CONTRACT TERM.** This Contract shall be effective upon its signing by both parties unless the Parties agree on another effective date, in writing. From the effective date, the Contract shall continue through [\_initial term\_], during which period Contractor shall fully perform this Contract to the satisfaction of the DOJ.

4. **PRICING AND PAYMENT TERMS.** The DOJ agrees to pay the Contractor according to Schedule \_\_, Payment Schedule.

### 5. CHANGE CONTROL.

5.1. The Contractor and DOJ shall utilize a change control process to manage changes during the life of the Contract. The process shall apply to all changes related to:

- Contractual terms, including but not limited to, services that are outside the scope of the project and modification of deadlines or other provisions as to time.
- System changes, including updates, upgrades, patches, and improvements, general and remedial maintenance.

5.2. The party requesting the change to the scope of the Contract shall provide to the other party sufficient information, including, but not limited to, the description of the change, the reason for the change, the cost of the change, specific requirements and expectations, as applicable, to allow the other party to consider the impact of the requested change.

- 5.3. If the DOJ requests a reduction of work by Contractor, DOJ will describe in writing to the Contractor the reduction and any associated reduction in cost.
  - 5.4. The Contractor may not perform work outside of the scope of the contract without first receiving express written approval from DOJ. To obtain approval, the Contractor shall first submit to the DOJ a proposal with the scope for the new work, a work schedule, and a rate or price adjustment for completion of the additional work. If DOJ approves the proposal, it will issue a new work order for the additional work. Upon receiving the DOJ's written approval, the Contractor shall implement the additional work and shall invoice for additional work consistent with this Contract.
  - 5.5. The Contractor shall not proceed under a change order without DOJ approval. Such extra work shall be authorized in writing only by the DOJ Purchasing Buyer, Department of Finance and Administrative Services. No costs incurred for the performance of extra work will be reimbursed unless and until DOJ approves a change order for it.
  - 5.6. The DOJ will not pay for goods and services provided by the Contractor unless DOJ has first issued a work order for such goods or services.
6. **ASSIGNMENT.** The Contractor may not assign, delegate or subcontract this contract or any right or duty in whole or in part without the written consent of the DOJ. If upon DOJ's written consent, the Contractor assigns any contractual right or duty, in whole or in part the assignee(s) shall assume and agree in writing to perform all relevant obligations expressed under the terms of this Contract and to be bound by the Contract's terms and conditions. Assignment in whole or in part of this Contract does not absolve the Contractor of any liability or obligation expressed and agreed to hereunder.
  7. **SURVIVORSHIP.** All purchase transactions and deliverables executed pursuant to the authority of this Contract shall be subject to all of the terms, conditions, prices and price discounts set forth herein, notwithstanding the expiration of the initial term of this Contract or any extensions thereof. Further, the terms, conditions and warranties contained in this Contract that by their sense and context are intended to survive the completion of the performance, cancellation or termination of this Contract shall so survive.
  8. **PROSECUTION AND PROGRESS.** The Contractor shall furnish all goods and services ("Deliverables") pursuant to orders issued by the DOJ under this Contract. Each order shall be subject to all of the terms and conditions of this Contract, and incorporated into this Contract by this reference
  9. **PERFORMANCE AND COMPLIANCE**
    - 9.1. Services rendered under this Contract shall be performed in a timely, professional and diligent manner by qualified and efficient personnel and in conformity with the strictest quality standards mandated or recommended by all generally recognized organizations establishing quality standards for the type of Services to be rendered hereunder. The Contractor shall observe, abide by, and perform all of its obligations in accordance with all legal requirements and DOJ work rules.
    - 9.2. Without limiting the foregoing, the Contractor shall control the manner and means of rendering the Services in a safe and commercially reasonable manner and in compliance with all applicable codes, regulations and requirements imposed or enforced by any government agencies, including all applicable requirements of the Occupational Safety and Health Administration (OSHA) and all safety codes and procedures mandated or recommended by insurance underwriting organizations and all generally recognized organizations establishing safety standards, including without limitation the National Fire Protection Association. Notwithstanding the foregoing, any stricter standard provided in plans, specifications or other documents incorporated as part of this Contract shall govern.
    - 9.3. The Contractor shall at all times comply with all applicable regulations, licenses and orders relating to or in any way affecting this Agreement and the performance of this Agreement. The Contractor, at its own expense, shall obtain any approval or permit required in the performance

of its obligations.

- 9.4. Neither Contractor nor any of its employees, agents or representatives is an employee, agent or representative of the DOJ.
10. **CONFIDENTIALITY.** Confidentiality requirements are set forth in Attachment \_\_, Non-disclosure Agreement. Contractor will treat all information as highly confidential. Before beginning work under this Contract, the Contractor and all of its personnel who work under this contract must sign a DOJ Non-disclosure Agreement.
11. **SECURITY (when required)**
  - 11.1. All Personnel assigned to work on the DOJ contract must complete the DOJ's Security Awareness Training before beginning work. This training requires approximately 1.5 hours to complete and can be done from a remote location.
  - 11.2. During the performance of any Services under this Contract, Contractor's Personnel may have access to the personnel, premises, computer networks, equipment, and other property, including data files, information, or materials (collectively referred to as "assets") belonging to the DOJ networks. Contractor shall preserve the safety, security, and the integrity of all such assets.
12. **CONTRACTOR PERSONNEL (when required)**
  - 12.1. Identification. The Contractor shall provide to the DOJ a list of the names, dates of birth, and addresses of all Contractor's employees, Contracted Personnel, or Subcontractor's employees (collectively, "Personnel") in connection with the rendering of Services, specifying each such person's connection to the Contractor, the role the person is to take in the performance of the Contract, and other particulars as the DOJ may require. The DOJ reserves the right to refuse any person employed or contracted by the Contractor who, in the sole opinion of the DOJ, would be undesirable, provided said reason is not unlawful.
  - 12.2. Background or Criminal History Investigation. The Contractor shall perform no Services under this Contract until the DOJ has completed a fingerprint based background check of all Personnel who will be providing Services to the DOJ under the Contract. DOJ holds the right to conduct periodic re-checks of Personnel. If any of the identified Personnel are not acceptable to the DOJ in its sole opinion, the Contractor shall supply replacement Personnel, subject to the same background checks.
  - 12.3. Right to Approve Changes of Personnel.
    - 12.3.1. The DOJ shall have the right to determine if any of Contractor's Personnel should be excluded. If the DOJ determines that any of Contractor's Personnel should be excluded, Contractor and the DOJ will discuss the matter. If the parties cannot agree on an alternate resolution, the DOJ may direct the Contractor to exclude the Personnel from work on this Contract.
    - 12.3.2. If the DOJ requires exclusion of any Contractor personnel, Contractor shall replace the excluded personnel within 30 days.
    - 12.3.3. If, on more than one occasion, Contractor permits an employee to work on DOJ's account without identifying that person to DOJ or without following the procedures outlined above, and Contractor fails to implement a corrective action plan approved by the DOJ, the DOJ reserves the right to cancel this Contract and/or impose liquidated damages per sec. 17.
  - 12.4. Changes in Key Personnel.
    - 12.4.1. Contractor shall notify the DOJ at least ten (10) days in advance of any changes to these individuals so that the DOJ can perform a background check on the new Personnel before such Personnel begin work. No new Personnel shall provide Services hereunder until the DOJ informs Contractor that the background check has been completed with satisfactory

results.

12.4.2. Contractor will notify the DOJ at least thirty (30) days in advance of any reductions in staffing levels of these individuals at any local or district office serving Wisconsin.

12.5. Notification of Personnel Removal. The Contractor shall inform DOJ by the close of business on the first business day following the day any Personnel that has access to the DOJ's information systems is terminated from employment.

13. **TIME IS OF THE ESSENCE.** Contractor hereby acknowledges that time is of the essence for performance under this Contract unless otherwise agreed to in writing by the parties.

14. **CANCELLATION AND TERMINATION.**

14.1. The DOJ may terminate the contract in whole or in part without penalty for the following:

- a. By Mutual Agreement. This contract may be terminated by consent of both parties executed in writing.
- b. For Cause. The DOJ may terminate this Contract by providing Contractor with thirty (30) calendar days' written notice of a breach of this Contract. If the Contractor fails to cure the breach within thirty (30) days of notice. The cure period may be extended only by written agreement signed by both Parties.

A breach of the Contract includes, but is not limited to:

- Failure to comply with the sales and use tax certification requirements of Wis. Stat. § 77.66;
- Permitting any Wisconsin tax liability to become delinquent;
- Failure to comply with any non-discrimination or affirmative action requirements of subchapter II, Chapter 111 of the Wisconsin Statutes (Wisconsin's Fair Employment Law);
- Failure to maintain and keep in force all required insurance, permits, and licenses;
- Corporate dissolution, making an assignment for the benefit of creditors, becoming insolvent, or otherwise failing to pay any debt as it becomes due;
- Allowing any final judgment to remain unsatisfied for longer than thirty (30) days, or longer as agreed in writing by the Parties;
- Allowing a lien not to be disputed after a legally-imposed, thirty-day notice;
- Becoming a federally-debarred contractor.

- c. For Lack of Funding or Authority. The DOJ may terminate this Contract if funding from federal, state, or other sources is not obtained and continued at levels sufficient to allow for purchase of services or supplies in the indicated quantities or term; or if federal or state laws or rules are modified or interpreted in such a way that the services are no longer allowable or appropriate for purchase under this Contract or are no longer eligible for the funding proposed for payments authorized by this Contract.
- d. Public Interest. The DOJ is entering into this Contract for the purpose of carrying out the public interest and policy of the DOJ. If this Contract ceases to further the public interest and policy of the State of Wisconsin, the DOJ, in its sole discretion may terminate this Contract by written notice to the Contractor.
- e. For Convenience. The DOJ may terminate this Contract at any time without cause, by providing sixty (60) days written notice to Contractor.

14.2. In the event of a termination for convenience, the DOJ's liability hereunder shall be limited to an amount equal to the sum of the pro rata cost of the services actually performed by the Contractor through the effective date of termination.

14.3. Upon termination of this Contract for any reason or upon Contract expiration, the DOJ shall be entitled to a refund for deliverables or services paid for but not received or rendered. Such refund shall be paid within 30 days of written notice to the contractor of the refund request.

- 14.4. Return of DOJ Data. Upon the termination of this Agreement, Contractor shall, within two (2) business days following the termination of this Agreement, provide DOJ, without charge and without any conditions or contingencies whatsoever (including but not limited to the payment of any fees due to Contractor), with a final extract of the DOJ Data in the format specified by DOJ. Further, Contractor shall certify to DOJ the destruction of any DOJ Data within the possession or control of Contractor but such destruction shall occur only after the DOJ Data has been returned to DOJ. This Section shall survive the termination of this Agreement.
- 14.5. Upon the termination of this Contract for any reason, or upon Contract expiration, each party shall be released from all obligations to the other party arising after the date of termination or expiration, except for those that by their terms survive such termination or expiration.
- 14.6. The rights and remedies of the DOJ provided in this subsection are not exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

15. **INSURANCE RESPONSIBILITY.**

- 15.1 The Contractor shall maintain continuously and require each subcontractor to maintain continuously, at all times during the term of this Contract, at its own expense, minimum insurance coverages and limits of liability as specified below:
  - a. Worker's Compensation insurance, as required under Chapter 102 of the Wisconsin Statutes, for all of the Contractor's employees and Contracted Personnel engaged in the work performed under this Contract;
  - b. Commercial General Liability, bodily injury and property damage insurance against any claim(s) that may occur in carrying out the terms of this Contract, with a minimum coverage of one million dollars (\$1,000,000) liability for bodily injury and property damage including products liability and completed operations; and
  - c. Motor Vehicle Liability insurance for all owned, non-owned and hired vehicles that are used in carrying out the terms of this Contract, with a minimum coverage of one million dollars (\$1,000,000) per occurrence combined single limit for automobile liability and property damage.
  - d. Professional Liability insurance with coverage of not less than \$1,000,000. If such policy is a "claims made" policy, all renewals thereof during the life of the Contract shall include "prior acts coverage" covering at all times all claims made with respect to Contractor's work performed under the Contract. This Professional Liability coverage must be kept in force for a period of six (6) years after the services have been accepted by the DOJ.
- 15.2 The DOJ, its officers, officials, agents and employees shall be included as an additional insured under CGL and Motor Vehicle Liability insurance for primary and non-contributory limits of liability.
- 15.3 The limits of insurance coverage specified herein are minimum limits of insurance coverage only and shall not be deemed to limit the liability of Vendor's insurer except as respects the stated limit of liability of each policy. Where required to be an additional insured, the DOJ shall be so for the full limits of insurance coverage required by Vendor, whether such limits are primary, excess, contingent or otherwise. Any limitations of insurance liability shall have no effect on Vendor's obligation to indemnify the DOJ.
- 15.4 The duty to defend, indemnify, and hold the DOJ harmless under this agreement shall not be limited by the insurance required in this agreement.
- 15.5 Certificate of Insurance, showing up-to-date coverage, shall be on file in the Contracting Agency before the Contract may commence.
- 15.6 Contractor shall provide at least 30 day notice of any cancellation of insurance or material change to the insurance policies or endorsements.
- 15.7 The DOJ reserves the right, in its sole discretion, to require higher or lower insurance limits.

16. **INDEMNIFICATION.** The Contractor will indemnify and save harmless the State of Wisconsin and all of its officers, agents and employees from all suits, actions, or claims of any character brought for or on account of any injuries or damages received by any persons or property resulting from the operations of the Contractor, or of any of its subcontractors, in performing work under this agreement.
17. **LIQUIDATED DAMAGES**
- 17.1. The DOJ and the Contractor recognize that time is of the essence and that the DOJ will suffer financial loss due to lack of performance of the terms and conditions of this Agreement and/or if the work is not completed by the completion dates required in the contract documents. Both parties recognize the delays, expense and damages involved in proving a legal proceeding and actual loss suffered by the DOJ if the work is not completed on time. Inasmuch as the amount of damage is extremely difficult to ascertain, the DOJ and the Contractor agree, stipulate and fix as liquidated damages, but not as a penalty, the sum of \_\_\_\_\_ (\$\_\_\_)/ day or \_\_\_% of the total contract amount, whichever is more, per calendar day beyond the delivery date specified. The Contractor hereby waives any defense as to the validity of liquidated damages stated in this agreement on the grounds that such liquidated damages are void as penalties or are not reasonably related to actual damages. Furthermore, the parties agree that the DOJ's entitlement to liquidated damages shall be determined at the time of completion and shall not be subject to the claims provisions, if any, in the contract documents.
- 17.2. Amounts due the DOJ as liquidated damages may be deducted by the DOJ from any money payable to Contractor and any amount outstanding over and above the amounts deducted from invoices will be promptly tendered by check by Contractor to the DOJ.
- 17.3. The DOJ shall notify Contractor in writing of any claim for liquidated damages pursuant to this Section on or before the date when the DOJ deducts such sums from money payable to Contractor.
- 17.4. If annual fees are prepaid by the DOJ, the written notification of any claim for liquidated damages pursuant to this Section shall be sent to the Contractor within 30 days of the Contractor's nonperformance. A check for the liquidated damages shall be tendered to the DOJ within 30 days of the Contractor's receipt of such notice.
- 17.5. Delays in performance due to causes of Force Majeure (which are outside the control of both parties and could not be avoided by exercise of due care) or due to the responsibility of the DOJ or other contractor of the DOJ shall not be included in computing damages.
- 17.6. The Contractor shall be entitled to an adjustment in contract delivery times for delays attributable to delays caused or authorized by the DOJ or other causes beyond the Contractor's control not reasonably foreseeable by the parties at the time of the Contract/Purchase Order execution, and that are without the fault or negligence of the Contractor, including, but not limited to, acts of nature or the public enemy, war or other national emergency making delivery temporarily impossible or illegal, acts or omissions of other suppliers, strikes and labor disputes not brought on by any act or omission of the supplier, fire, flood, epidemics, quarantines, or freight embargoes.
- 17.7. The Contractor shall not be entitled to an adjustment in contract time for delays within the control of the Contractor. Delays attributable to and within the control of a subcontractor or supplier shall be deemed to be delays within the control of the Contractor.
18. **RIGHT TO WITHHOLD AMOUNTS OTHERWISE DUE IF THE CONTRACTOR IS IN BREACH.** If Contractor fails to deliver deliverables or to provide Services which satisfy Contractor's obligations under this Contract, DOJ shall have the right to withhold any and all payments due under this Contract. DOJ may withhold any and all such payments due under this Contract to Contractor without penalty or work stoppage by Contractor, until such failure to perform is cured.
19. **CUMULATIVE RIGHTS TO REMEDIES.** No remedy conferred by any of the specific provisions of this Contract is intended to be exclusive of any other remedy unless otherwise stated herein. Each and every remedy shall be cumulative

20. **NON-WAIVER.** No failure of a party to exercise any of its rights under this Contract, or its delay in enforcing any right, or its waiver of its rights on any occasion, shall constitute a waiver of such rights on any other occasion. No course of dealing by either party in exercising any of its rights shall constitute a waiver thereof. No waiver of any provision of this Contract shall be effective unless it is in writing and signed by the party against whom the waiver is sought to be enforced.
21. **SEVERABILITY.** If any provision of this Contract is found by a court of competent jurisdiction to be invalid or unenforceable, the remainder of the Contract shall remain valid and in full force and effect. The invalid provision shall be replaced by a valid provision that approximates as closely as possible, the intent and purpose of the invalidated provision.
22. **NONDISCRIMINATION / AFFIRMATIVE ACTION.**
- 22.1. In connection with the performance of work under this Contract, the Contractor agrees not to discriminate against any employee or applicant for employment because of age, race, religion, color, handicap, sex, physical condition, developmental disability as defined in s. 51.01(5), Wis. Stats., sexual orientation as defined in s. 111.32(13m), Wis. Stats., or national origin. This provision shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Except with respect to sexual orientation, the Contractor further agrees to take affirmative action to ensure equal employment opportunities.
- 22.2. The Contractor agrees to post in conspicuous places, available for employees and applicants for employment, a notice to be provided by the contracting state agency that sets forth the provisions of the State of Wisconsin's nondiscrimination law.
- 22.3. Contracts estimated to be over twenty-five thousand dollars (\$25,000) require the submission of a written affirmative action plan by the Contractor. An exemption occurs from this requirement if the Contractor has a workforce of less than twenty-five (25) employees. Within fifteen (15) working days after the Contract is awarded, the Contractor must submit the plan to the contracting DOJ for approval. Instructions on preparing the plan and technical assistance regarding this clause are available from the DOJ.
- 22.4. Failure to comply with the conditions of this clause may result in the Contractor's being declared an "ineligible" Contractor, termination of the contract, or withholding of payment.
23. **APPLICABLE LAW.** This Contract shall be governed by the laws of the State of Wisconsin. Venue for any action brought under this Contract shall lie in Madison, Dane County, Wisconsin.
24. **REPRESENTATIONS AND WARRANTIES RELATED TO INTELLECTUAL PROPERTY.** Contractor represents and warrants to DOJ that neither Contractor, in connection with performing the services in performance of this Contract, nor the completed product delivered by Contractor, will infringe any patent, copyright, trademark, trade secret or other proprietary right of any person. Contractor further represents and warrants to DOJ that it will not use any trade secrets or confidential or proprietary information owned by any third party in performing the services related to this Contract or in delivery of the completed product unless Contractor has the authority to license, use or provide those trade secrets or confidential or proprietary information to DOJ. Contractor further represents and warrants to DOJ that neither Contractor nor any other company or individual performing services pursuant to this Contract is under any obligation to assign or give any work done under this Contract to any third party.
25. **RECORDKEEPING AND RECORD RETENTION.**
- 25.1. The Contractor shall establish and maintain adequate records of all expenditures incurred under the Contract. All records must be kept in accordance with generally accepted accounting



procedures. All of Contractor's procedures must be in accordance with federal law DOJ requirements, and applicable local ordinances.

- 25.2. The DOJ shall have the right to audit, review, examine, copy, and transcribe all of Contractor's pertinent records or documents relating to any contract resulting from this bid/proposal. The Contractor will retain all documents related to the contract for not less than three (3) years after final payment is made.

26. **OWNERSHIP OF INFORMATION, DOCUMENTS AND DATA**

26.1 Any and all data, information or documents collected by or furnished to Contractor by or on behalf of the DOJ shall remain the sole and exclusive property of DOJ (the "DOJ Data"). The DOJ represents and warrants that the DOJ is the owner of the DOJ Data or otherwise has the express right to provide the DOJ Data to Contractor in connection with Contractor's provision of services hereunder.

26.2 Except for the licensed System Software and its related documentation, all of the work product, including, but not limited to reports, documents, data and other materials including computer-aided designs or electronically stored data or information (the "Documents") produced by the Contractor in connection with the professional services provided under this Contract shall remain the sole property of the DOJ. The copyright to the Documents shall be owned by DOJ, whether as author (as a Work Made for Hire), or by assignment from Contractor to DOJ. The parties expressly agree that the Documents shall be considered a Work Made for Hire as defined by Title 17, United States Code, Section 101(2) and Contractor hereby assigns to DOJ all rights and interests Contractor may have in the work(s) it prepares under this Contract, including any right to derivative use of the work(s).

27. **PROMOTIONAL ADVERTISING / NEWS RELEASES.** Reference to or use of the State, or the DOJ, any of its, agencies or other subunits, or any DOJ official or employee for commercial promotion is prohibited. News releases pertaining to this procurement shall not be made without prior approval of the DOJ. Release of broadcast e-mails pertaining to this procurement shall not be made without prior written authorization of the contracting agency. The Contractor shall not publish, circulate or disclose any articles, reports or other writing concerning the subject matter of the professional services provided hereunder without the prior written approval of the DOJ.

28. **ANTITRUST ASSIGNMENT.** By entering into this Contract, the Contractor conveys, sells, assigns and transfers to the DOJ all rights, title and interest in and to all causes of action, claims and demands of whatever nature it may now have or hereafter acquire under the antitrust laws of the United States and the State, relating specifically to that proportionate amount of the particular Deliverables or Services purchased or acquired by the State under this Contract.

29. **LABOR STANDARDS.** The Contractor guarantees that any items provided to the DOJ hereunder were manufactured or produced in accordance with applicable state and federal labor laws.

30. **EMPLOYMENT.** The Contractor will not engage the services of any person or persons now employed by the State of Wisconsin, including any department, commission or board thereof, to provide services relating to this agreement without the written consent of the employing agency of such person or persons and of the DOJ.

31. **INDEPENDENT CAPACITY OF CONTRACTOR**

31.1. The Contractor, its officers, agents, and employees, in the performance of this agreement shall act in the capacity of an independent Contractor and not as an officer, employee, or agent of the DOJ. The Contractor agrees to take such steps as may be necessary to ensure that each subcontractor of the Contractor will be deemed to be an independent Contractor and will not be considered or permitted to be an agent, servant, joint venture, or partner of the DOJ.

31.2. The Contractor shall not take any action, or make any omission, that may imply, or cause others reasonably to infer that the Contractor is acting as the DOJ's agent in any matter or in any way

not expressly authorized by this Contract.

32. **CONFLICT OF INTEREST.**

- 32.1 Private and non-profit corporations are bound by ss. 180.0831, 180.1911(1), and 181.0831 Wis. Stats., regarding conflicts of interests by directors in the conduct of DOJ contracts.
- 32.2 Contractor certifies that no relationship exists between the Contractor and the DOJ that interferes with fair competition or is a conflict of interest, and no relationship exists between the Contractor and another person or organization that constitutes a conflict of interest with respect to a DOJ contract.
- 32.3 If a DOJ public official (s. 19.42, Wis. Stats.), a member of a DOJ public official’s immediate family, or any organization in which a DOJ public official or a member of the official’s immediate family owns or controls a ten percent (10%) interest, is a party to this agreement, and if this agreement involves payment of more than three thousand dollars (\$3,000) within a twelve (12) month period, this Contract is voidable by the DOJ unless appropriate disclosure is made according to s. 19.45(6), Wis. Stats., before signing the Contract. Disclosure must be made to the DOJ of Wisconsin Ethics Board, 44 East Mifflin Street, Suite 601, Madison, Wisconsin 53703 (Telephone 608-266-8123).

33. **TAXES.**

- 33.1 The State of Wisconsin and its agencies are exempt from payment of all federal tax and Wisconsin state and local taxes on its purchases except Wisconsin excise taxes as described below.
- 33.2 The State of Wisconsin, including all its agencies, is required to pay the Wisconsin excise or occupation tax on its purchase of beer, liquor, wine, cigarettes, tobacco products, motor vehicle fuel and general aviation fuel. However, it is exempt from payment of Wisconsin sales or use tax on its purchases. The State of Wisconsin may be subject to other states’ taxes on its purchases in that state depending on the laws of that state. Contractors performing construction activities are required to pay state use tax on the cost of materials.

34. **CONTRACTOR TAX DELINQUENCY.** Vendors who have a delinquent Wisconsin tax liability may have their payments offset by the State of Wisconsin.

35. **FORCE MAJEURE.** Neither party shall be in default by reason of any failure in performance of this Agreement in accordance with reasonable control and without fault or negligence on their part. Such causes may include, but are not restricted to, acts of nature or the public enemy, acts of the government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes and unusually severe weather, but in every case the failure to perform such must be beyond the reasonable control and without the fault or negligence of the party.

36. **NOTICES.** All notices to be given under the terms of this Contract shall be in writing and signed by the person serving the notice and shall be sent or delivered to the parties listed below:

For **[Contractor]** \_\_\_\_\_  
 Name \_\_\_\_\_  
 Title \_\_\_\_\_  
 Address \_\_\_\_\_  
 \_\_\_\_\_

FOR WI Department of Justice  
 Name Michelle Gauger  
 Title Bureau Director  
 Address 17 West Main St, PO Box 7857  
 Madison, WI 53707-7857

**SCHEDULE X****PAYMENT SCHEDULE****Contract between the Wisconsin Department of Justice and \_\_\_\_\_****I. ACCEPTANCE OF DELIVERABLES**

Contract deliverables include, but are not limited to, the documents and reports required by the Contract documents. Any deliverables will be submitted, reviewed, and accepted according to the following procedure:

- A. **General.** All completed work and deliverables shall be accepted if it has been performed in accordance with, but not limited to the following: all requirements in the Request for Bid/Proposal, any requirements included in the Contract documents and commonly accepted industry standards.
- B. **Submittal and Review.** Upon the DOJ's receipt of deliverables, the DOJ will review the deliverables. If the deliverables are not fully accepted by the DOJ, the DOJ will notify Contractor, within ten business days, that either: (a) the deliverables are accepted, but noted deficiencies must be corrected; or (b) the deliverables are rejected. If the DOJ finds material deficiencies, it may: (i) reject the deliverables without performing any further inspections; (ii) demand performance at no additional cost; or (iii) terminate this Contract.

Within 10 business days from the date of Contractor's receipt of notification of acceptance with deficiencies or rejection of any deliverables, Contractor must cure, at no additional cost, the deficiency and deliver unequivocally acceptable deliverables to the DOJ. If acceptance with deficiencies or rejection of a deliverable impacts the content or delivery of another non-completed deliverable, the parties' respective Program Managers must determine an agreed to number of days for re-submission that minimizes the overall impact to the Contract.

The parties agree to repeat this process as required until all such identified deficiencies are corrected or the DOJ determines that a cure of all breaches or defaults has occurred.. The payment by the DOJ for each activity is contingent upon correction of all such deficiencies and acceptance of such corrections by the DOJ.

However, nothing herein affects, alters, or relieves Contractor of its obligations to correct deficiencies in accordance with the time response standards set forth in this Contract.

If Contractor is unable or refuses to correct any deficiency within the time response standards set forth in this Contract, the DOJ may cancel the order in whole or in part. The DOJ, or a third party identified by the DOJ, may provide the deliverables and the DOJ may recover the difference between the cost to cure and the Contract price, plus an additional 10% administrative fee.

- C. **Electronically Submitted Information.** Where applicable, the DOJ shall be provided all documents in electronic format, as well as hard-copy. Electronic media prepared by the Contractor for use by the DOJ will be compatible with the DOJ's comparable desktop application (e.g., spreadsheets, word processing documents). Conversion of files, if necessary, will be the Contractor's responsibility. Conversely, as required, Contractor must accept and be able to process electronic documents and files created by the DOJ's current desktop applications.

**II. PAYMENT SCHEDULE AND COMPENSATION**

- A. In consideration of the services required by this contract, the DOJ hereby agrees to pay to Contractor a not-to-exceed fee of \$\_\_\_\_\_.
- B. The DOJ has identified certain Deliverables or Tasks as payment tasks. Payment Deliverables are those which represent the completion or delivery of services or major milestones of the project/Agreement. Payment Deliverables or Tasks are as follows:

Description of Deliverable	Cost	Completion Schedule
Deliverable 1:		
Deliverable 2:		
Deliverable 3:		
Deliverable 4:		
Deliverable 5:		
TOTAL		

- C. Payment will be made only upon approval of \_\_\_\_\_ or an authorized designee.

**D. Payment Schedule.**

- 1. This Payment Schedule will serve as the basis for monthly progress payments and will be incorporated into an invoice acceptable to the DOJ’s Project Manager (PM). Progress payments on account of the unit price work or hourly rates will be based on the number of units completed and accepted.
- 2. Invoices submitted by the Contractor hereunder shall itemize categories, tasks and subtasks of expenses actually incurred, including professional fees, travel and other direct costs.

Invoices. Invoices must provide and itemize for each task, and include, as applicable:

- a. Purchase Order number and/or Contract No.
  - b. Contractor name, address, phone number, and Federal Tax Identification Number
  - c. Date(s) of deliverable and/or date(s) of service and/or hours per task/subtask
  - d. Description of deliverables completed by task and by sub-task
  - e. Price for each item
  - f. Net invoice price for each item
  - g. Other applicable charges
- 3. The Contractor shall be compensated upon completion, review, acceptance and approval by the DOJ of each deliverable, less the identified retainage.
  - 4. Retainage. If applicable and as directed by the DOJ, the Contractor shall hold back, as a retainage, an amount equal to twenty percent (20%) of all amounts invoiced by Contractor for Deliverables or Tasks until the submittal of the accepted final deliverable for each task. The amounts held back shall be paid by the DOJ after the DOJ has granted Final System Acceptance.
  - 5. Payments are predicated upon successful completion and acceptance by the DOJ of the described Deliverables or Tasks as provided in the Acceptance of Deliverables in this Payment Schedule.
  - 6. Payment shall be made by the DOJ to the Contractor upon receipt of periodic itemized invoices or as stated in the Payment Schedule, and submitted in triplicate to the following address: Department of Justice, Post Office Box 7857, Madison, WI 53707-7857.

7. The DOJ normally will pay properly submitted vendor invoices within thirty (30) days of receipt providing goods and/or services have been delivered, installed (if required), and accepted as specified. Invoices presented for payment must be submitted in accordance with instructions contained on the purchase order including reference to purchase order number and submittal to the correct address for processing.
8. The Contractor's final invoice for professional services rendered hereunder shall be submitted to the DOJ not later than sixty (60) days following the termination of the Contract.
9. A good faith dispute creates an exception to this prompt payment agreement. The DOJ has the right to withhold payment of any disputed amounts until the parties agree as to the validity of the disputed amount. The DOJ will notify Contractor of any dispute within a reasonable time. Payment by the DOJ will not constitute a waiver of any rights as to Contractor's continuing obligations, including claims for deficiencies or substandard contract activities.
10. The Contractor's acceptance of final payment by the DOJ constitutes a waiver of all claims by Contractor against the DOJ for payment under this Contract, other than those claims previously filed in writing on a timely basis and still disputed.
11. No interest on retained funds shall accrue to the Contractor.
12. Refund of Credits. The Contractor agrees to pay the DOJ within 60 days, any credits resulting from the order which the DOJ determines cannot be applied to future invoices.
13. If the DOJ expands the scope of work to include additional tasks, the additional work outside the stated specific deliverables shall be compensated in progress payments on a monthly basis for allowable work hours completed by the Contractor and accepted by the DOJ.
14. Travel Expenses. All travel expenses shall be itemized and shall be billed according to accrued actual expenses, not to exceed the total cost identified for travel. Reimbursable travel expenses shall be limited to costs for transportation, meals and lodging. To the extent possible, costs for transportation and lodging should follow the State of Wisconsin travel policy and guidelines ([Pocket Travel Guide](#)). Payment for air travel shall be for tourist class. The costs for meals must follow the State of Wisconsin travel policy and guidelines ([Pocket Travel Guide](#)). TUSA will exercise all reasonable efforts to minimize travel related costs.
15. No Advance Payments. No compensation or payment of any nature will be made in advance of services actually performed and/or supplies furnished.

**SCHEDULE X****STATE OF WISCONSIN  
NON-DISCLOSURE AGREEMENT**

This Non-Disclosure Agreement (Agreement) is made between the State of Wisconsin Department of Justice (DOJ) and \_\_\_\_\_. (Contractor). This agreement shall be effective when the Master Contract has been signed by all parties. The consideration for this contract is the mutual promises contained herein.

The parties agree:

1. **Purpose.** This confidentiality agreement applies to the Contractor, any employee or agent of the Contractor, as well as all subcontractors, their employees, and agents. The purpose of this agreement is to protect the confidentiality of all information viewed or exchanged in relation to this contract and the work performed in accordance with the contract.
2. **Definition.** "Confidential Information" means any of the following:
  - a. Any disclosure that any Wisconsin employee or agent makes to Contractor in any communication, regardless of form;
  - b. all information that is restricted or prohibited from disclosure by state or federal law; or
  - c. Personally Identifiable Information.
3. **Exclusive Permitted Use of Confidential Information.** Contractor may use Confidential Information only to carry out its obligations under the Master Contract, including all Exhibits to the contract, and may not use it for any other purpose.
4. **Dissemination of Information.** Contractor will further disseminate Confidential Information only to its employees, agents, and/or subcontractors, all of whom shall be bound to signed disclosure restrictions no less protective than those provided in this Agreement.
5. **Duration of Duty.** Contractor shall be bound to its non-disclosure obligations in perpetuity.
6. **Notification.** The Contractor shall notify the DOJ immediately if a Confidential Information breach is detected. In addition, the Contractor shall notify the DOJ immediately upon discovery of an information security incident affecting the staff or IT equipment supporting the DOJ account that leverages attack vectors such as: external/removable media; denial of service; web or email impersonation; or improper usage, loss, or theft of equipment.
7. **Compelled Disclosure.** Contractor may disclose Confidential Information to the extent that such Confidential Information:
  - a. is required to be disclosed pursuant to Wisconsin law, including public records provisions, or
  - b. if Contractor is legally compelled under applicable law, regulation, or by a competent governmental, administrative or regulatory authority, or in a proceeding before a court, arbitrator or administrative agency to disclose any Confidential Information, Contractor will promptly notify Wisconsin of such legal compulsion, and will delay disclosure, if and to the extent permitted or practicable, until Wisconsin has had a reasonable opportunity to seek a protective order or other appropriate remedy. If Wisconsin does not seek or receive a protective order or other remedy, Contractor will disclose only that Confidential Information of Wisconsin which its counsel advises is legally required to be disclosed. Contractor's counsel shall consult with Wisconsin in determining what disclosures are required.
  - c. is disclosed with the prior written consent of the disclosing party.
8. **Information Ownership.** Confidential Information remains Wisconsin's property.

- 9. **Information Retention.** When Contractor no longer needs, and is no longer required to retain, Confidential Information, Contractor will promptly return or destroy by confidence-protective means, all material containing Confidential Information and, if requested, will provide written assurance that no copies, notes or other material containing Confidential Information remains in Contractor’s possession. The provisions of this paragraph are subordinate to, and do not supersede, any applicable provision of Wisconsin law, Wisconsin document retention requirements, or DOJ document retention requirements. Notwithstanding the foregoing, the Contractor will not be obligated to return or destroy Confidential Information that is contained on a computer system backup for 6 months.
- 10. **Conflicting Laws.** No provision of this document shall require Wisconsin to perform any act, permit any act, or acquiesce in any act that conflicts with, or is prohibited by, any legal duty of Wisconsin.
- 11. **Injunctive Relief.** Contractor acknowledges and agrees that the Confidential Information is a valuable, special, and unique asset of Wisconsin and that the unauthorized use, disclosure, or loss of Confidential Information may cause immediate and irreparable injury to the State individuals whose information is disclosed and, which injury will not be compensable by money damages and for which there is not an adequate remedy available at law. Therefore, Wisconsin shall be entitled to seek an injunction from a court of competent jurisdiction or other equitable relief for the purpose of ending or preventing any existing or anticipated breach of this Agreement, in addition to its other remedies at law.
- 12. **Modification Only in Writing.** All additions or modifications to this Agreement must be in writing and signed by an authorized representative of each party.
- 13. **No Waiver by Forbearance.** No failure or delay in exercising any right under this Agreement will operate as a waiver of any term or condition hereunder.
- 14. **Severability.** If any of the provisions of this Agreement are held by a court or other tribunal of competent jurisdiction to be illegal, invalid or unenforceable, such provisions may be limited or eliminated only to the minimum extent necessary so that this Agreement otherwise remains in full force and effect.
- 15. **Notice.** Notice required by this agreement shall be delivered to the other party as specified here:

For	<u>          [Contractor]          </u>	FOR	WI Department of Justice
Name	_____	Name	Michelle Gauger
Title	_____	Title	Bureau Director
Address	_____	Address	17 West Main St, PO Box 7857
	_____		Madison, WI 53707-7857

- 16. **Entire Agreement.** This Agreement constitutes the entire agreement between the parties concerning its subject matter.

**In witness whereof, DOJ and Contractor have executed this Agreement:**

**Contractor:**

For: \_\_\_\_\_

By: \_\_\_\_\_  
(Signature)

Date: \_\_\_\_\_

Name: \_\_\_\_\_  
(Print)

Title: \_\_\_\_\_

**State of Wisconsin:**

For: Wisconsin Department of Justice

By: \_\_\_\_\_  
(Signature)

Date: \_\_\_\_\_

Name: Paul W. Connell

Title: Deputy Attorney General