

**Appendix B, Sample Contract
TO
OFM STRATEGIC PARTNER COMPETITIVE PROCUREMENT # 16-1900**

**Umbrella Contract Kxxx
between the
State of Washington
Office of Financial Management
and
[Contractor Name]**

Effective Date: _____

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Umbrella Contract **Kxxx**
between the
State of Washington
Office of Financial Management
and
[Contractor Name]

PARTIES

This Umbrella Contract (Contract) is made and entered into by and between the state of Washington, Office of Financial Management, hereinafter referred to as the “OFM” and the below name firm, hereinafter referred to as “Contractor.”

Contractor Name:

Address:

City, State, Zip Code:

Phone:

E-mail:

RECITALS

In accordance with its authority under chapter 39.26 RCW, the state of Washington, acting by and through OFM, issued a Competitive Procurement (CP) dated *[date]*, (Exhibit A) for the purpose of contracting for Services and Technical Tools/Solutions.

[Contractor] submitted a timely Proposal to the OFM’s CP (Exhibit B).

The OFM evaluated all properly submitted Proposals to the above-referenced CP and identified *[Contractor]* as the Apparently Successful Bidder.

The OFM has determined that entering into a Contract with *[Contractor]* will meet OFM’s needs and will be in the state’s best interest.

NOW THEREFORE, OFM awards to *[Contractor]* this Contract, the terms and conditions of which shall govern Contractor’s furnishing to OFM the Services and Technical Tools/Solutions.

IN CONSIDERATION of the mutual promises as hereinafter set forth, the parties agree as follows:

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1. Purpose

The overall intent of this Contract is to engage a Strategic Partner in such a way as to ensure critically important continuity and interoperability between the One Washington individual program segments and the One Washington strategy. This Contract may be used for additional services and contractor owned tools as needed and within the scope of the Competitive Procurement (CP) and overall One Washington program as described in the CP.

Therefore, the purpose of this Contract is to acquire on an as needed basis, systems integration expertise and associated technical tools and solutions (e.g. data conversion methods and tools, etc.) to assist OFM in managing, scoping, implementing and transforming business processes and the implementation of administrative systems.

As needed, OFM will have ongoing access to the Contractor's resources, expertise and experience during the planning, implementation and stabilization phases of the Enterprise Systems as they are transformed.

Notwithstanding the foregoing, Contractor acknowledges, understands and agrees that this Contract is not intended to be exclusive and that OFM reserves the right to engage other contractors for the work required by the One Washington Program. The decision to engage other contractors is within the sole discretion of OFM.

2. Definition of Terms

The following terms as used throughout this Contract shall have the meanings set forth below.

“Acceptance Criteria” means the subset of Specifications against which each Deliverable and Service will be evaluated for Acceptance in accordance with Section titled *Deliverable Review and Acceptance* and the warranties and other requirements described in this Contract, Deliverable Expectation Documents, Change Orders and other Deliverables. The Acceptance Criteria for Services not subsumed in a Deliverable is OFM's satisfaction for the Services.

“Agency” means the same as OFM.

“Business Days” means Monday through Friday, 8:00 a.m. to 5:00 p.m., Pacific Time, except for holidays observed by the state of Washington.

“Competitive Procurement” or “CP” means the solicitation document used to establish this Contract, including all its amendments and modifications, Exhibit A hereto.

“Confidential Information” means information that may be exempt from disclosure to the public or other unauthorized persons under either chapter 42.56 RCW, Public Records Act or other state or federal statutes and regulations.

Confidential Information includes, but is not limited to, any information identifiable to an individual that relates to a natural person's health, finances, education, business, use or receipt of governmental services, names, addresses, telephone numbers, e-mail addresses social security numbers, driver license numbers, financial profiles, credit card numbers, financial identifiers and any other identifying numbers, law enforcement records, OFM source code or object code, or OFM or State security information.

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“Contract” means this document, all schedules and exhibits, Statements of Work, and all amendments hereto.

“Contractor Account Manager” means a representative of Contractor who is assigned as the primary contact person with whom the OFM Business Manager will work with for the duration of this Contract and as further defined in the section titled Contractor Account Manager.

“Contractor Contracting Officer” means *[title of Contractor officer with signature authority]*, or the person to whom signature authority has been delegated in writing.

“Core Business Hours” means a minimum of four (4) Business Days on-site in Olympia, Washington between the hours of 8 am and 5 pm or as negotiated in an SOW.

“Deliverable” means Contractor’s products that result from the Services and that are prepared for OFM (either independently or in concert with OFM or third parties) during the course of Contractor’s performance under this Contract or its related Statements of Work and reports. Deliverable also includes Tools and/or Solutions as defined in this Contract, as well as all designs, structures, and models developed in the course of rendering the Services and incorporated into such products.

“Deliverable Expectation Document (DED)” means a document that describes Acceptance Criteria for each Deliverable and Service subject described/defined in a Statement of Work or this Umbrella Contract.

“Effective Date” means the first date this Contract is in full force and effect. It may be a specific date agreed to by the parties; or, if not so specified, the date of the last signature of a party to this Contract.

“Enterprise System(s)” means a combination of computer hardware and software applications that support cross-organizational business processes, information flows, reporting, and data analytics in a complex organization, e.g., the State of Washington, with cross-organizational capabilities that allow for collaboration and communication across the State through collection of data that is accessible and usable.

“Exhibit A” means the One Washington Strategic Partner Competitive Procurement Number 16-1900 released by OFM for the purpose of procuring Services and Technical Tools/Solutions.

“Exhibit B” means *[Contractor]*’s Final Submission including but not limited *[add appropriate phase 1, phase 2 and other documents]* in response to OFM’s Competitive Procurement Number 16-1900.

“Holdback” means the payment amounts held back by OFM from each Deliverable’s Charges, as described in the Section of this Contract titled *Holdback*.

“Key Staff” means Contractor’s personnel or subcontractor staff whose experience, skills, capabilities or background make them uniquely valuable to One Washington and who are named as Key Staff in this Contract or a Statement of Work.

“Proposal” means Contractor’s response, dated _____ to OFM Competitive Procurement Number 16-1900 and all additional information provided by Contractor during Phase 3 (Bidder Interviews/Presentation) and Phase 4 (Selection of the Apparently Successful Bidder) of the evaluation process.

“OFM” means the state of Washington, Office of Financial Management, any division, section, office, unit or other entity of OFM or any of the officers or other officials lawfully representing OFM.

“OFM Business Manager” means the person designated by OFM to be the primary contact person

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with whom Contractor's Account Manager will work for the duration of this Contract and as further defined in the section of this Contract titled OFM Business Manager.

"OFM Contract Administrator" means the person designated by OFM to administer this Contract on behalf of OFM.

"OFM Contracting Officer" means the Director of OFM, or the person to whom signature authority has been delegated in writing

"One Washington" means a comprehensive business transformation program to modernize aging enterprise administrative systems and processes for the State of Washington.

"Price" means charges, costs, rates, and/or fees charged for the Services and Technical Tools/Solutions under this Contract and shall be paid in United States dollars.

"Preexisting Material" means proprietary products, software, methods, devices or the like delivered by the Contractor to fulfill its obligations under this Contract. Preexisting Material does not originate from this Contract but may be incorporated into or be required to properly support Deliverables under this Contract. Preexisting Material may be owned by the Contractor or a third party that has given permission for its use hereunder.

"Proprietary Information" means information owned by Contractor to which Contractor claims a protectable interest under law. Proprietary Information includes, but is not limited to, information protected by copyright, patent, trademark, or trade secret laws.

"RCW" means the Revised Code of Washington.

"Schedule A: *Services and Price List*" means the attachment to this Contract that identifies the authorized Services and Technical Tools/Solutions and the Prices under this Contract.

"Schedule B: *Statement of Work Template*" means the attachment to this Contract that provides example terms and conditions for a Statement of Work.

"Schedule C: *MWBE Certification*" means the attached certificate(s) indicating Contractor's and/or one or more of Contractor's Subcontractor's status as a minority or women's business enterprise.

"Services" means professional or technical expertise within the scope described in the OFM SPCP attached hereto as Exhibit A and offered by the Contractor to accomplish the objectives of the projects or specific tasks or duties required to accomplish the work described in the SPCP, as further refined in sections of this Contract or a Statement of Work hereto.

"Specifications" means the technical and other specifications set forth in the CP, Exhibit A, and any additional specifications set forth in Contractor's Proposal, Exhibit B and in a Statement of Work.

"State" means the state of Washington, including without limitation OFM and all of the State's other agencies.

"Statement of Work" or "SOW" means a document signed by the parties that articulates the work to be accomplished by Contractor under the terms and conditions of this Contract. Each SOW is attached to and incorporated into this Contract. A template SOW is attached as Schedule B.

"Strategic Partner" means the Contractor. Notwithstanding this naming convention, the Contractor is an independent contractor as set forth in Section 25 *Independent Status of Contractor*.

"Subcontractor" means one not in the employment of Contractor, who is performing all or part of the business activities under this Contract under a separate contract with Contractor. The term

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“Subcontractor” means Subcontractor(s) of any tier.

“Tools and Solutions” means applications, products, accelerators, utilities, scripts, modules, infrastructure services (such as application hosting) provided by the Contractor in order to support Statement of Work outcomes. Allowable Tools and Solutions are those that support Contractor services contemplated by the OFM SPCP attached hereto as Exhibit A.

“Work Product” means deliverables, data and products produced under this Contract including but not limited to discoveries, formulae, ideas, improvements, inventions, methods, models, processes, techniques, findings, conclusions, recommendations, reports, designs, plans, diagrams, drawings, Software, databases, documents, pamphlets, advertisements, books, magazines, surveys, studies, computer programs, films, tapes, and/or sound reproductions, to the extent provided by law.

Contract Term

3. Term

3.1. Term of Contract

- a) The initial term of the Contract will commence on **DATE**, 2017, or the date of last signature, whichever is later, and continue through **DATE**, unless terminated sooner as provided herein,
- b) The Contract may be extended via amendment, for up to five (5) additional years in whatever time increments OFM deems appropriate, depending on funding and the nature of the One Washington related work to be performed. No change in terms and conditions will be permitted during these extensions unless specifically agreed to in writing.
- c) The parties acknowledge that the work required to support the One Washington program is a complex undertaking that may require more time than anticipated to complete. This Contract may be extended in up to two (2) year increments as needed to complete the work, at the state’s sole option.
- d) OFM’s decision to offer an extension to this Contract will be based on the performance of the Contractor. Factors may include, but are not limited to, Contractor’s demonstrated, compliance with the terms and conditions of this Contract, compliance with OFM rules and policies, effectiveness of service, responsiveness to OFM service requests or any other measure or assessment OFM determines to be a key factor in its decision-making. OFM shall have no obligation to extend the Contract.

3.2. Term of Statement of Work (SOW). The term of any SOW executed pursuant to this Contract will be set forth in the SOW. The term of any SOW under this Contract may not exceed the term of this Contract. Any SOW may be terminated in accordance with the termination sections of this Contract or as mutually agreed between the parties.

4. Survivorship

All transactions executed and Services and Technical Tools/Solutions provided pursuant to the authority of this Contract will be bound by all of the terms, conditions, prices set forth herein, notwithstanding the expiration of the initial term of this Contract or any extension thereof. Further, the terms, conditions and warranties contained in this Contract that by their sense and context are

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intended to survive the completion of the performance, cancellation or termination of this Contract will so survive. In addition, the terms of the sections titled **Overpayments to Contractor; Ownership/Rights in Data; Access to Contract Related Data; Contractor Commitments, Warranties and Representations; Protection of Confidential Information; Section Headings, Incorporated Documents and Order of Precedence; Publicity; Review of Contractor's Records; Third Party Claims-Patent and Copyright Infringement; Contractor's Proprietary Information; Disputes; and Limitation of Liability; Privacy Requirements; Security Requirements** will survive the termination of this Contract.

Pricing, Invoice and Payment

5. Pricing

- 5.1. The total amount expended under this Contract will not exceed [____] dollars (\$____). In the event additional funding becomes available to accomplish the long term intent and scope of the work under this Contract, OFM may, at its sole discretion, amend this not to exceed amount by executing a written amendment to this Contract.
- 5.2. Contractor agrees to provide the Services, Work Product and Technical Tools and Solutions as requested by OFM from time to time at the Prices set forth in its Proposal to OFM's SPCP. For implementation of SOW 1 and SOW 2, no other or additional Prices may be charged by Contractor.
- 5.3. The parties may negotiate pricing for additional work or tools/solutions within the scope of this Contract and as documented in writing in a Statement of Work signed by both parties.
- 5.4. Day-to-day expenses related to performance under the Contract, including but not limited to, travel, lodging, meals, incidentals will not be reimbursed to Contractor. If Contractor is required by OFM to travel, any such travel must be authorized in writing by the One Washington Program Director and reimbursement will be at rates not to exceed the then-current rules, regulations, and guidelines for State employees published by the Washington State Office of Financial Management set forth in the Washington State Administrative and Accounting Manual (<http://www.ofm.wa.gov/policy/10.htm>) and not to exceed expenses actually incurred. To receive reimbursement, Contractor must provide a detailed breakdown of authorized expenses and receipts for any expenses of \$50 or more.

6. Holdback

In order to ensure satisfactory performance for Deliverables described in specific SOWs executed from time to time with the Strategic Partner under the resultant Contract, OFM will withhold a ten percent (10%) Holdback against each payment due the Strategic Partner for Deliverables.

Further, such Holdback will be carried forward across related SOWs when the outcome of work under separate SOWs is dependent on previous SOWs (for example, designs developed for the purpose of supporting future system integration). Dependencies between SOWs will be clearly articulated by the parties within the linked SOWs. This requirement may be waived at the OFM's sole discretion.

The Holdback will be paid in full upon satisfactory completion of relevant Deliverables, whether in a single SOW or across multiple SOWs with dependent outcomes. In the event that Deliverables are not satisfactorily completed, and upon proper notification and opportunity to cure, to the Strategic

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Partner, the OFM has the right to permanently withhold retainage with no further responsibility or liability to the Strategic Partner.

If funding for following related SOW's do not get approved, OFM will release the holdback within 30 days of learning of such non-funding.

7. Advance Payment Prohibited

No advance payment will be made for Services, Work Product or Technical Tools/Solutions furnished by Contractor pursuant to this Contract.

8. Taxes

OFM will pay sales and use taxes, if any, imposed on the Services and Technical Tools/Solutions acquired hereunder. Contractor must pay all other taxes including, but not limited to, Washington Business and Occupation Tax, other taxes based on Contractor's income or gross receipts, or personal property taxes levied or assessed on Contractor's personal property. OFM, as an agency of Washington State government, is exempt from property tax.

Contractor must complete registration with the Washington State Department of Revenue and will be responsible for payment of all taxes due on payments made under this Contract.

All payments accrued on account of payroll taxes, unemployment contributions, any other taxes, insurance, or other expenses for Contractor or Contractor's staff will be Contractor's sole responsibility.

9. Invoice and Payment

9.1. Contractor will submit properly itemized invoices to [title of person to receive invoices] at [provide appropriate address]. Invoices shall provide and itemize, as applicable:

- a) OFM Contract number *[XXX-XXX-XXX]*;
- b) SOW number *[YY-YY]*;
- c) Contractor name, address, phone number, and Federal Tax Identification Number;
- d) Description of Services and deliverables provided;
- e) Date(s) that Services and deliverables were provided, Contractor's Price for Services or Products;
- f) Net invoice Price for each Service or Products;
- g) Applicable taxes;
- h) Other applicable charges;
- i) Total invoice Price; and
- j) Payment terms including any available prompt payment discounts.

[Include the following if – MWBE Certification is attached.]

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- 9.2. With each invoice Contractor must provide an *Affidavit of Amounts Paid* specifying the amounts paid to each certified MWBE under the Contract, as set forth in the Section titled *Minority and Women's Business Enterprise (MWBE) Participation 27* below.
- 9.3. Incorrect or incomplete invoices will be returned by OFM to Contractor for correction and reissue.
- 9.4. The OFM Contract number [XXX-XXX-XXX] and SOW number [YY-YY] must appear on all correspondence relating to this Contract.
- 9.5. OFM will not honor drafts, nor accept goods on a sight draft basis.
- 9.6. If OFM fails to make timely payment, Contractor may invoice OFM one percent (1%) per month on the amount overdue or a minimum of one dollar (\$1). Payment will not be considered late if payment is deposited electronically in Contractor's bank account or if a check or warrant is postmarked within thirty (30) calendar days of acceptance of the Services, and Technical Tools/Solutions or receipt of Contractor's properly prepared invoice, whichever is later.

10. Disallowed Costs

The Contractor is responsible for any audit exceptions or disallowed costs incurred by its own organization or that of its Subcontractors.

11. Overpayments to Contractor

Contractor must refund to OFM the full amount of any erroneous payment or overpayment under this Contract within thirty (30) days' written notice. If Contractor fails to make timely refund, OFM may charge Contractor one percent (1%) per month on the amount due, until paid in full.

12. Duplicate Payment

OFM will not pay the Contractor, if Contractor has charged or will charge the State of Washington under any other contract or agreement, for the same services or expenses.

13. U.S. Department of Treasury, Office of Foreign Assets Control

OFM complies with U.S. Department of the Treasury, Office of Foreign Assets Control (OFAC) payment rules. OFAC prohibits financial transactions with individuals or organizations, that have been placed on the OFAC Specially Designated Nationals (SDN) and Blocked Persons sanctions list located at <http://www.treas.gov/offices/enforcement/ofac/index.html>. Compliance with OFAC payment rules ensures that the Agency does not conduct business with individuals or organizations that have been determined to be supporters of terrorism and international drug dealing or that pose other dangers to the United States.

Prior to making payment to individuals or organizations, the Agency will download the current OFAC SDN file and compare it to Agency and statewide vendor files. In the event of a positive match, the Agency reserves the right to: (1) make a determination of "reasonability" before taking the positive match to a higher authority, (2) seek assistance from the Washington State Office of the State Treasurer (OST) for advanced assistance in resolving the positive match, (3) comply with an OFAC investigation, if required, and/or (4) if the positive match is substantiated, notify the contractor in writing and terminate the contract according to the Termination for Convenience provision without

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making payment. The Agency will not be liable for any late payment fees or missed discounts that are the result of time required to address the issue of an OFAC match.

Contractor's Responsibilities

14. Scope and Statement(s) of Work

14.1. Scope of Work

As set forth in the OFM CP, Contractor's Proposal thereto and as otherwise required by OFM during the term of this Contract, the Contractor will assist the state in preparing for and, at OFM's request, implementing the transformational business processes and underlying One Washington Enterprise Systems.

The Contractor will provide Services and staff, Technical Tools and/or Solutions and otherwise do all things necessary for or incidental to the performance of work, as set forth in any Statement of Work (SOW) issued under this Contract.

14.2. Statement(s) of Work

Specific Services and or Technical Tools/Solutions to be accomplished or provided by the Contractor will be at OFM's request and will be documented in a written SOW signed by both parties. A Sample Statement of Work is attached hereto as Schedule B, *Statement of Work Template*.

The details of the specific services, project or tasks will be negotiated by OFM and Contractor and memorialized in a SOW. Each SOW will address, at a minimum, the areas set forth in Schedule B, *Statement of Work Template*.

Except when the parties specifically agree to the contrary in a SOW, the terms and conditions of this Contract will have precedence over any terms and conditions in a SOW. Any exception made in an SOW will be solely for that SOW and will not modify the Contract terms and conditions or SOW for any other work.

15. Timeframe for Negotiating SOWs.

The parties acknowledge that time is of the essence in documenting and gaining agreement to the contents of any SOW. Therefore to avoid unnecessary delays, Contractor will have five (5) Business Days to respond to OFM's written request for details required to complete the documentation of any SOW or to request additional time to fully respond. In the event the Contractor needs additional time to respond, OFM may, at its option, extend the timeline. This timeline will apply to new SOW's as well as any necessary modifications to then-current SOWs.

16. Contract and Project Management Requirements

Use of any contract or project management tools, processes, protocols and the like will be the exclusive decision of OFM. The Contractor must follow OFM's requirements in this regard. OFM will allow for feedback and negotiation of content for such tools, processes and protocols, however OFM will have the final authority over the use and content.

17. Working With Other OFM Contractors

Contractor acknowledges, understands and agrees that this Contract is not intended to be exclusive and that OFM reserves the right to engage other contractors for the work required by the One

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Washington Program. The decision to engage other contractors is within the sole discretion of OFM. Contractor hereby commits to work with such contractors in good faith to support the success of the One Washington Program initiatives and the goals of Washington State.

18. Change Orders/Requests and Process

Any request to modify a current SOW will be submitted to the Program Director using the Change Request Form (CRF) attached hereto as Exhibit **XX**. No change will be effective unless it is approved in writing by OFM.

The following Change Order Process will apply to all Change Order Requests:

18.1. Contractor Submits Change Request

The Change Request process begins when the Contractor:

- a) Identifies a requirement for change to any aspect of the project (e.g. scope, deliverables, timescales and organization)
- b) Completes a CRF and submits the form to the One Washington Program Manager. The CRF summarizes the change, at a minimum:
 - i. Description
 - ii. Reasons
 - iii. Benefits
 - iv. Hours/Costs
 - v. Impacts to schedule – estimation of work effort, including state staff
 - vi. Any supporting documentation
 - vii. Approvals

18.2. Program Manager Review of Change Request

The One Washington Program Manager will review the CRF and determines whether or not additional information is required to assess the full impact of the change to the project time, scope and cost. The decision will be based on factors, such as (but not limited to):

- a) Feasibility and benefits of the change
- b) Complexity and/or difficulty of the change options requested
- c) Scale of the change solutions proposed.

The One Washington Program Manager will record the CRF details in the Change Log to track the status of the change request and submit the request to the One Washington Program Director.

18.3. Program Director Review and Approval of Change Request

The One Washington Program Manager will provide the Change Request Form and any supporting documentation to the One Washington Program Director for review and recommendation to the

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Deputy Director. The One Washington Program Director will determine the feasibility of this change by examining factors, such as (but not limited to):

- a) Risk to the project in implementing the change
- b) Risk to the project in NOT implementing the change
- c) Impact on the project in implementing the change (time, resources, finance, quality).

After review of the Change Request, the One Washington Program Director may:

- d) Reject the change
- e) Request more information related to the change
- f) Recommend approval of the change to the Deputy Director as requested
- g) Recommend approval of the change to the Deputy Director subject to specified conditions.

The One Washington Program Director will notify the Contractor of the decision.

19. Deliverable Expectation Documents (DED)

At OFM's sole discretion, Deliverable Expectation Documents will be used to provide detailed descriptions of expected Deliverables. DED's will be executed as required in any specific SOW. Acceptance of and payment for any Deliverable will be subject to the Deliverable Review and Acceptance set forth herein.

20. Deliverable Review and Acceptance

Except as otherwise agreed between the parties, OFM will review the Deliverables set forth in any SOW based on the descriptions in such SOW and the Contractor's Proposal (incorporated by reference) and the relevant Deliverable Expectation Document (DED) signed by the parties. Acceptance of Deliverables will be made in writing by the Program Director or designee. OFM will have up to five (5) business days from the time Contractor notifies OFM that a defined Deliverable is complete and delivered to OFM's One Washington Program Director to evaluate the Deliverable and determine if the Deliverable meets its specifications or contains any material nonconformities. If OFM does not notify Contractor in writing of any nonconformity within ten (10) business days of delivery, then the Deliverable will be deemed accepted.

If OFM notifies the Contractor in writing of a defined Deliverable nonconformity, then the Contractor must promptly use its best efforts to correct the Deliverable and submit the corrected Deliverable to OFM. OFM will then have an additional ten (10) business days to verify that the resubmitted Deliverable has been satisfactorily corrected. If after three (3) attempts at Acceptance Contractor fails to correct a Deliverable nonconformity OFM reserves the right to terminate the SOW.

21. Delay Credits

OFM shall be entitled to receive credits in the amounts and pursuant to the terms and conditions set forth in the applicable SOW for each day that Contractor fails to timely achieve a critical milestone due date on the original missed critical milestone due date agreed between the parties ("Delay Credits"). The parties agree that the Delay Credits represent a lower net fee to Contractor for not completing the critical milestone on time, and is not to be construed as a penalty or an exclusive

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remedy. If a critical milestone due date is reset pursuant to a mutually agreed Change Order, such reset due date shall not operate or be construed to automatically waive any Delay Credits unless OFM specifically agrees in writing in connection with such reset due date that OFM waives the applicable Delay Credits.

OFMs acceptance of additional Delay Credits as provided herein shall not be construed or implied to limit or constitute a waiver of any of OFMs rights as provided in this Contract. Contractor shall not be obligated to provide Delay Credits to OFM to the extent Contractor's failure to achieve any critical milestone is caused by OFM or its Third Party's delays or a Force Majeure Event that was not capable of being mitigated.

22. Security

For any Technical Tools/Solutions provided under the resultant Contract, the Bidder will be required to follow the security policies laid out in the state of Washington's WA-Tech Office of the Chief Information Officer's Policy 141 – Securing Information Technology Assets
<https://ocio.wa.gov/policies/141-securing-information-technology-assets>

23. Warranty

Contractor warrants that its Services will be performed in a good and proficient manner. Unless otherwise agreed in writing, Contractor will re-perform any Services not in material compliance with this warranty brought to its attention in writing within one (1) year after those Services are performed and Accepted. If at any time OFM is dissatisfied with the performance of an individual working on an OFM project, OFM will report its dissatisfaction to Contractor in writing and may ask Contractor to replace the individual.

Contractor warrants that its Deliverables will materially conform to their applicable specifications for a period of one (1) year from delivery to and Acceptance by OFM. Contractor will correct any such Deliverable not in compliance with this warranty brought to its attention in writing within one (1) year after delivery to or Acceptance by OFM of such Deliverable.

Additional Warranties may apply to specific Work Product and/or Deliverables, Technical Tools and/or Solutions acquired under specific SOWs and associated DEDs executed between OFM and Contractor. The parties must specify such Warranties in the relevant SOWs and DEDs.

24. Staff Changes

Except in the case of a leave of absence, sickness, death, termination of employment or unpaid or paid leave of absence, Key Staff must not be changed during the term of any SOW from the people who were described in the Contractor's Proposal or as agreed between the parties for SOWs during the term of this Contract without the prior written approval of OFM until completion of their assigned tasks, as described in any SOW or relevant project management documentation such as a work plan. During the term of the Contract, OFM reserves the right to approve or disapprove Contractor's and any Subcontractor's Key Staff assigned to this Agreement, to approve or disapprove any proposed changes in Key Staff, or to require the removal or reassignment of any Contractor or Subcontractor Key Staff found unacceptable by OFM, subject to OFMs compliance with applicable laws and regulations. Contractor must provide OFM with a resume of any member of its Key Staff or a

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Subcontractor's Key Staff assigned to or proposed to be assigned to any aspect of the performance of this Contract prior to commencing any Services.

In the event that proposed Contractor resources are unavailable to deliver the work, Contractor must staff the project with resources with equal or greater skills and capabilities, subject to approval from OFM.

OFM must be notified of any change in Contractor Key Staff as soon as practicable but in no event less than five (5) working days after removal of such staff from their duties in support of this Contract. Contractor must provide resumes and describe the roles and responsibilities of any replacement staff to OFM as soon as practicable but in no event less than five (5) working days prior to the date that such staff begin work under this Contract. OFM reserves the right, in its sole judgement, to approve or reject such replacement staff. OFM's approval of such staff will not be unreasonably withheld.

25. Commencement of Work

Contractor must not perform work under this Contract until it is fully signed by the parties and each party is in receipt of a signed contract. Additionally, Contractor must not perform specific work under a SOW prior to receipt of an SOW signed by both parties.

26. Ownership/Rights in Data

26.1. Ownership of Work Products produced for the State of Washington

OFM and Contractor agree that all data and work products (collectively called "Work Product") produced pursuant to this Contract specifically for OFM and for which no pre-existing material is included, will be considered work made for hire under the U.S. Copyright Act, 17 U.S.C. §101 *et seq*, and will be owned by OFM. Pre-existing material is treated as provided in Section titled *Ownership of Preexisting Material*. Contractor is hereby commissioned to create the Work Product. Work Product includes, but is not limited to discoveries, formulae, ideas, improvements, inventions, methods, models, processes, techniques, findings, conclusions, recommendations, reports, designs, plans, diagrams, drawings, Software, databases, scripts, interfaces, documents, pamphlets, advertisements, books, magazines, surveys, studies, computer programs, films, tapes, and/or sound reproductions, to the extent provided by law. Ownership includes the right to copyright, patent, register and the ability to transfer these rights and all information used to formulate such Work Product.

- a) If for any reason the Work Product would not technically be considered a work made for hire under applicable law, and when the parties recognize and agree that OFM ownership is intended under this Contract, Contractor assigns and transfers to OFM the entire right, title and interest in and to all rights in the Work Product and any registrations and copyright applications relating thereto and any renewals and extensions thereof.
- b) Contractor must execute all documents and perform such other proper acts as OFM may deem necessary to secure for OFM the rights pursuant to this section.
- c) Contractor must not use or in any manner disseminate any Work Product to any third party, or represent in any way Contractor ownership of any Work Product, without the prior written permission of OFM. Contractor must take all reasonable steps necessary to ensure that its agents, employees, or Subcontractors do not copy or disclose,

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transmit or provide any Work Product or any portion thereof, in any form, to any third party.

26.2. Ownership of Preexisting Material

- a) Ownership of material that is delivered by the Contractor under this Contract, but that does not originate from this Contract (“Preexisting Material”), will remain with the Contractor or any third-party owner of such Preexisting Material.
- b) When Preexisting Materials are incorporated into Work Product or required to support the functionality of Deliverables under this Contract, the Contractor must include a nonexclusive, royalty-free, irrevocable license for OFM to publish, translate, reproduce, deliver, perform, display, and dispose of such Preexisting Material, and to authorize others to do so except that such license will be limited to the extent to which Contractor has a right to grant such a license.
- c) Contractor must exert all reasonable effort to advise OFM at the time of delivery of Preexisting Material furnished under this Contract, of all known or potential infringements of publicity, privacy or of intellectual property contained therein and of any portion of such deliverable which was not produced in the performance of this Contract.
- d) Contractor agrees to obtain, at its own expense, express written consent of the copyright holder for the inclusion of Preexisting Material.
- e) Contractor must provide OFM with prompt written notice of each notice or claim of copyright infringement or infringement of other intellectual property right worldwide received by Contractor with respect to any Preexisting Material delivered under this Contract.

27. Access to Contract Related Data

In compliance with chapter 39.26 RCW, Contractor must provide access to data generated under this Contract to OFM, to the Joint Legislative Audit and Review Committee, and to the State Auditor at no additional cost. This includes access to all information that supports the findings, conclusions, and recommendations of Contractor’s reports, including computer models and methodologies for those models.

28. Site Security

While on OFM’s premises, Contractor, its agents, employees, or Subcontractors must conform in all respects with physical, fire, or other security regulations.

29. Contractor Commitments, Warranties and Representations

Any written commitment by Contractor within the scope of this Contract will be binding upon Contractor. Failure of Contractor to fulfill such a commitment may constitute breach and will render Contractor liable for damages under the terms of this Contract. For purposes of this section, a commitment by Contractor includes: (i) Prices, discounts, and options committed to remain in force over a specified period of time; and (ii) any warranty or representation made by Contractor in its Proposal or contained in any Contractor or manufacturer publications, written materials, schedules, charts, diagrams, tables, descriptions, other written representations, recorded presentations and any

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other communication medium accompanying or referred to in its Proposal or used to effect the sale to OFM.

30. Minority and Women’s Business Enterprise (MWBE) Participation

If applicable, with each invoice for payment and within thirty (30) days of OFM Contract Administrator’s request, Contractor must provide OFM an *Affidavit of Amounts Paid*. The *Affidavit of Amounts Paid* must either state that Contractor still maintains its MWBE certification, or state that its Subcontractor(s) still maintain(s) its/their MWBE certification(s) and specify the amounts paid to each certified MWBE Subcontractor under this Contract. Contractor must maintain records supporting the *Affidavit of Amounts Paid* in accordance with this Contract’s **Review of Contractor’s Records** section.

31. Protection of State’s Confidential Information

To the extent consistent with these laws, the parties must not use or disclose any information concerning the other party, or information that may be classified as Confidential Information, for any purpose not directly connected with the administration of this contract. Each party will exercise commercially reasonable efforts not to disclose any Personal Data to the other party and to restrict the other party’s access to its Personal Data, but if a party is given access to the other party’s Personal Data, the receiving party will protect such Personal Data using a reasonable standard of care. If Contractor requires access to OFM’s Personal Data in connection with the Services for a particular project, the parties will agree in the applicable SOW on the protocols and obligations of each party with respect to the access, use and protection of such Personal Data.

Protection of Contractor’s Proprietary Information is set forth in Section 52 of this Contract.

Contract Administration

32. Legal Notices

32.1. Any notice or demand or other communication required or permitted to be given under this Contract or applicable law will be effective only if it is in writing and signed by the applicable party, properly addressed, and either delivered in person, via e-mail at the e-mail addresses below or by a recognized courier service, or deposited with the United States Postal Service as certified mail, return receipt requested, postage prepaid, to the parties at the addresses provided in this section.

To Contractor at:

[Contractor]

Attn:

[Contractor address]

To OFM at:

State of Washington

[OFM]

Attn: [OFM Contract Administrator]

[OFM address]

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Phone: Phone:
E-mail: E-mail:

- 32.2. Notices will be effective upon receipt or four (4) Business Days after mailing, whichever is earlier. The notice contact information provided herein may be changed by written notice given as provided above.
- 32.3. In the event that a subpoena or other legal process commenced by a third party in any way concerning the Services or Products provided pursuant to this Contract is served upon Contractor or OFM, such party agrees to notify the other party via the most expeditious method possible following receipt of such subpoena or other legal process. Contractor and OFM further agree to cooperate with the other party in any lawful effort by the other party to contest the legal validity of such subpoena or other legal process commenced by a third party.

33. Contractor Account Manager

Contractor must appoint an Account Manager for OFM’s account under this Contract who will provide oversight of Contractor activities conducted hereunder. Contractor’s Account Manager will be the principal point of contact for OFM concerning Contractor’s performance under this Contract. Contractor must notify OFM Contract Administrator and OFM Business Manager, in writing, when there is a new Contractor Account Manager assigned to this Contract. The Contractor Account Manager information is:

Contractor Account Manager:
Address:
Phone: E-mail:

34. OFM Business Manager

OFM appoints *[name]* who will be the OFM Business Manager for this Contract and will provide oversight of the activities conducted hereunder. OFM Business Manager will be the principal contact for Contractor concerning business activities under this Contract. OFM will notify Contractor, in writing, when there is a new OFM Business Manager assigned to this Contract.

OFM Business Manager:
Address:
Phone: E-mail:

35. Section Headings, Incorporated Documents and Order of Precedence

- 35.1. The headings used herein are inserted for convenience only and must not control or affect the meaning or construction of any of the sections.

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- 35.2. Each of the documents listed below is, by this reference, incorporated into this Contract as though fully set forth herein.
- a) Schedules to this Contract,
 - b) Exhibits to this Contract and
 - c) Attachments to this Contract;
 - d) Exhibit A, OFM SPCP dated [date];
 - e) Exhibit B, Contractor's Proposal to the OFM SPCP dated [date];
 - f) Any SOW entered into pursuant to this Contract; and
 - g) All Contractor or manufacturer publications, written materials and schedules, charts, diagrams, tables, descriptions, other written representations and any other supporting materials Contractor made available to OFM and used to effect the award of this Contract and sale of Services or Technical Tools/Solutions hereunder.
- 35.3. In the event of any inconsistency in this Contract, the inconsistency will be resolved in the following order of precedence:
- a) Applicable federal and state statutes, laws, and regulations;
 - b) The terms and conditions of this Contract;
 - c) Schedules to this Contract,
 - d) Exhibits to this Contract and
 - e) Attachments to this Contract;
 - f) Exhibit A, OFM SPCP #16-900 dated [date];
 - g) Any SOW entered into pursuant to this Contract;
 - h) Exhibit B, Contractor's Proposal to the OFM SPCP #16-900 dated [date]; and
 - i) All Contractor or manufacturer publications, written materials and schedules, charts, diagrams, tables, descriptions, other written representations and any other supporting materials Contractor made available to OFM and used to effect the award of this Contract and sale of Services or Products hereunder.

36. Entire Agreement

This Contract sets forth the entire agreement between the parties with respect to the subject matter hereof and except as provided in the section titled **Contractor Commitments, Warranties and Representations**, understandings, agreements, representations, or warranties not contained in this Contract or a written amendment or SOW hereto will not be binding on either party. Except as provided herein, no alteration of any of the terms, conditions, delivery, cost or price, quality, requirements or specifications of this Contract will be effective without the written consent of both parties.

37. Authority for Modifications and Amendments

This contract may be amended by mutual agreement of the parties. Such amendments shall not be binding unless they are in writing and signed by personnel authorized to bind each of the parties.

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No modification, amendment, alteration, addition, or waiver of any section or condition of this Contract or any SOW under this Contract will be effective or binding unless it is in writing and signed by OFM and Contractor Contracting Officers. Only the OFM Contracting Officer has the express, implied, or apparent authority to alter, amend, modify, add, or waive any section or condition of this Contract or SOW on behalf of OFM.

38. Independent Status of Contractor

In the performance of this Contract, the parties will be acting in their individual, corporate or governmental capacities and not as agents, employees, partners, joint venturers, or associates of one another. The parties intend that an independent contractor relationship will be created by this Contract. The employees or agents of one party will not be deemed or construed to be the employees or agents of the other party for any purpose whatsoever. Contractor must not make any claim of right, privilege or benefit which would accrue to an employee under chapter 41.06 RCW or Title 51 RCW.

39. Governing Law

This Contract is governed in all respects by the law and statutes of the state of Washington, without reference to conflict of law principles. The jurisdiction for any action hereunder is exclusively in the Superior Court for the state of Washington and the venue of any action hereunder will be in the Superior Court for Thurston County, Washington.

40. Assurances

OFM and the Contractor agree that all activity conducted pursuant to this contract will be in accordance with all the applicable federal, state and local laws, rules, and regulations.

41. Subcontractors

Neither the Contractor nor any Subcontractor will enter into subcontracts for any of the work contemplated under this contract without obtaining prior written approval of OFM. In no event will the existence of the subcontract operate to release or reduce the liability of the Contractor to OFM for any breach in the performance of the Contractor's duties. This clause does not include contracts of employment between the Contractor and personnel assigned to work under this Contract.

Additionally, the Contractor is responsible for ensuring that all terms, conditions, assurances and certifications set forth in this agreement are carried forward to any subcontracts.

42. Assignment

With the prior written consent of the OFM Contracting Officer, which consent shall be at OFM's sole discretion, Contractor may assign this Contract including the proceeds hereof, provided that such assignment will not operate to relieve Contractor of any of its duties and obligations hereunder, nor will such assignment affect any remedies available to OFM that may arise from any breach of the sections of this Contract, Statements of Work, or warranties made herein including but not limited to, rights of setoff.

OFM may assign this Contract or any SOW in whole or in part to any public agency, commission, board, or the like, within the political boundaries of the state of Washington, provided that such assignment will not operate to relieve OFM of any of its duties and obligations hereunder.

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43. Publicity

The award of this Contract to Contractor is not in any way an endorsement of Contractor or Contractor's Services or Technical Tools/Solutions by OFM and must not be so construed by Contractor in any advertising or other publicity materials.

Contractor agrees to submit to OFM, all advertising, sales promotion, and other publicity materials relating to this Contract and the Services or Technical Tools/Solutions furnished by Contractor hereunder. Contractor further agrees not to publish or use such advertising, sales promotion materials, publicity or the like through print, voice, the World Wide Web, or other communication media in existence or hereinafter developed without the express written consent of OFM *prior* to such use.

44. Review of Contractor's Records

- 44.1. Contractor and its Subcontractors must maintain books, records, documents and other evidence relating to this Contract, including but not limited to Minority and Women's Business Enterprise participation, protection and use of Confidential Information, and accounting procedures and practices which sufficiently and properly reflect all direct and indirect costs of any nature invoiced in the performance of this Contract. Contractor and its Subcontractors must retain all such records for six (6) years after the expiration or termination of this Contract. Records involving matters in litigation related to this Contract must be kept for either one (1) year following the termination of litigation, including all appeals, or six (6) years from the date of expiration, termination or final payment of this Contract, whichever is later.
- 44.2. At reasonable times, upon ten (10) Business Days' prior written notice to Contractor, and at no additional cost to the State, all such records will be subject to inspection, copying, or audit by personnel so authorized by OFM, the Office of the State Auditor, other State and federal officials so authorized by law, rule, regulation or contract, as applicable. Contractor must provide such books, records, reports, and other compilations of data pursuant to this Contract for purposes that include but are not limited to: (a) monitoring Contractor performance in accordance with state and federal law; (b) conducting performance evaluation of Contractor activities; and (c) conducting audits of Contractor. Contractor must either (a) allow OFM to make and retain copies of those documents useful for documenting the audit activity and results or (b) sequester the original or copies of those documents that OFM identifies for later access by OFM. During the term of this Contract, access to these items will be provided in Thurston County, Washington or electronically upon request by OFM. During the six year period after this Contract term, or one year following litigation, delivery of and access to these items may be provided at the Contractor's premises.
- 44.3. Contractor will be responsible for any audit exceptions or disallowed costs incurred by Contractor or any of its Subcontractors.
- 44.4. Contractor must incorporate this section's records retention and review requirements in its subcontracts.

45. Right of Inspection

Contractor must provide right of access to its facilities to OFM, or any of OFM's officers, or to any other authorized agent or official of the state of Washington or the federal government, at all

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reasonable times, in order to monitor and evaluate performance, compliance, and/or quality assurance under this Contract.

General Provisions

46. Third Party Claims - Patent and Copyright Infringement

- 46.1. Contractor, at its expense, must defend, indemnify, and save OFM harmless from and against any claims against OFM that any Work Product or Technical Tool/Solution supplied hereunder, or OFM's use of the Work Product or Technical Tool/Solution within the terms of this Contract, infringes any patent, copyright, utility model, industrial design, mask work, trade secret, trademark, or other similar proprietary right of a third party worldwide. Contractor must pay all costs of such defense and settlement and any penalties, costs, damages and attorneys' fees awarded by a court or incurred by OFM provided that OFM:
- a) Promptly notifies Contractor in writing of the claim, but OFM's failure to provide timely notice will only relieve Contractor from its indemnification obligations if and to the extent such late notice prejudiced the defense or resulted in increased expense or loss to Contractor; and
 - b) Cooperates with and agrees to use its best efforts to encourage the Office of the Attorney General of Washington to grant Contractor sole control of the defense and all related settlement negotiations; however, if principles of governmental or public law are involved, the State may participate in the defense of any such action, but no costs or expenses will be incurred for the account of the Contractor without the Contractor's written consent.
- 46.2. If such claim has occurred, or in Contractor's opinion is likely to occur, OFM agrees to permit Contractor, at its option and expense, either to procure for OFM the right to continue using the Work Product or Technical Tool/Solution or to replace or modify the same so that they become noninfringing and functionally equivalent. If use of the Work Product or Technical Tool/Solution is enjoined by a court and Contractor determines that none of these alternatives is reasonably available, Contractor, at its risk and expense, will take back the Work Product or Technical Tool/Solution and provide OFM a refund. In the case of Work Product, Contractor must refund to OFM the entire amount OFM paid to Contractor for Contractor's provision of the Work Product. In the case of a Technical Tool/Solution, Contractor must refund to OFM its depreciated value. No termination charges will be payable on such returned Technical Tool/Solution, and OFM will pay only those charges that were payable prior to the date of such return. In the event the Technical Tool/Solution has been installed less than one (1) year, Contractor will refund all costs associated with the initial installation paid by OFM.
- 46.3. Contractor has no liability for any claim of infringement arising solely from:
- a) Contractor's compliance with any designs, specifications or instructions of OFM;
 - b) Modification of the Technical Tool/Solution by OFM or a third party without the prior knowledge and approval of Contractor; or
 - c) Use of the Work Product or Technical Tool/Solution in a way not specified by Contractor;

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unless the claim arose against Contractor's Work Product or Technical Tool/Solution independently of any of these specified actions.

46.4. To the extent that the Contractor or its Subcontractor relies for its performance hereunder upon third party technologies that are licensed or otherwise restricted due to patent or copyright rights, it shall be the responsibility of the Contractor and/or its Subcontractor(s) to ensure that such technologies are properly used. In the event that the Contractor or its Subcontractor(s) receive an infringement claim, the Contractor and/or the Subcontractor must, at its expense, ensure that the Services, Work Product or Technical Tool/Solution contracted for hereunder continue without interruption.

47. Save Harmless

Contractor must defend, indemnify, and save OFM harmless from and against any claims, including reasonable attorneys' fees resulting from such claims, by third parties for any or all injuries to persons or damage to property of such third parties arising from intentional, willful or negligent acts or omissions of Contractor, its officers, employees, or agents, or Subcontractors, their officers, employees, or agents. Contractor's obligation to defend, indemnify and save OFM harmless is not eliminated or reduced by any alleged concurrent OFM negligence.

Contractor waives its immunity under Title 51 RCW to the extent it is required to indemnify, defend and hold harmless State and its agencies, officials, agents or employees.

48. Insurance

Liability and Auto Insurance. Contractor must, at its sole cost and expense, obtain, and, during the term of this Agreement, maintain, in full force and effect, the insurance coverage described in this Section. Contractor must acquire such insurance from an insurance carrier or carriers licensed to conduct business in the State of Washington and having a rating of A-, Class VII or better, in the most recently published edition of Best's Reports. Contractor must include OFM, its boards, agencies, contractors, offices, employees, agents and volunteers as a named insured party in Contractor's insurance policy obtained hereunder. If Contractor fails to buy and maintain the insurance coverage described in this Section titled *Insurance*, OFM may terminate this Agreement under the Section titled *Termination for Cause*. The minimum acceptable limits shall be as indicated below with no deductible except as indicated below:

Commercial General Liability covering the risks of bodily injury (including death), property damage and personal injury, including coverage for contractual liability, with a limit of not less than \$1 million per occurrence/\$2 million general aggregate. The policy must include liability arising out of the parties' performance under this Agreement, including but not limited to premises, operations, independent contractors, products-completed operations, personal injury, advertising injury, and liability assumed under an insured contract. OFM, its elected and appointed officials, agents, and employees of the state, must be named as additional insureds;

Business Automobile Liability (owned, hired, or non-owned) covering the risks of bodily injury (including death) and property damage, including coverage for contractual liability, with a limit of not less than \$1 million per accident;

Employers Liability insurance covering the risks of Contractor's employees' bodily injury by accident or disease with limits of not less than \$1 million per accident for bodily injury by accident and \$1 million per employee for bodily injury by disease;

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Umbrella policy providing excess limits over the primary policies in an amount not less than \$5 million;

Professional liability insurance is required if services delivered pursuant to this agreement, either directly or indirectly, involve or require providing professional services. Such coverage must cover injury or loss resulting from Contractors' rendering or failing to render professional services. Contractor must maintain minimum limits no less than \$1,000,000 per incident, loss, or person, as applicable. If defense costs are paid within the limit of liability, Contractor must maintain limits of \$2,000,000 per incident, loss, or person, as applicable. If the policy contains a general aggregate or policy limit, it must be at least two times the incident, loss or person limit. If professional liability insurance is written on a "claims made" basis, the policy must provide full coverage for prior acts or include a retroactive date that precedes the effective date of this contract. Contractor agrees to disclose the existence and nature of any limiting endorsement that applies to any liability insurance policy purchased in accord with this contract. Contractor is required to buy professional liability insurance for a period of 24 months after completion of this contract. This requirement may be satisfied by the continuous purchase of commercial insurance or an extended reporting period; and

Crime Coverage with a deductible not to exceed \$1 million and coverage of not less than \$35 million in the aggregate, which must at a minimum cover occurrences falling in the following categories: Computer Fraud; Robbery; Safe Burglary; Forgery or Alteration; Money and Securities; Employee Dishonesty and Theft; and Theft, Disappearance and Destruction of Property. Crime Coverage must include coverage for Contractor employees working at OFM locations.

Industrial Insurance Coverage. Prior to performing work under this Agreement, Contractor must provide or purchase industrial insurance coverage for its employees, as may be required of an "employer" as defined in Title 51 RCW, and must maintain full compliance with Title 51 RCW during the course of this Contract. OFM will not be responsible for payment of industrial insurance premiums or for any other claim or benefit for Contractor, or any Subcontractor or employee or agent of Contractor that may arise under the industrial insurance laws during the performance of duties and services under this Contract. However, should Contractor fail to secure insurance coverage or fail to pay premiums on behalf of its employees, OFM may deduct the amount of premiums owing from the amounts payable to Contractor under this Agreement and transmit the same to the responsible State agency. This provision does not waive any of rights of the responsible State agency to collect from the Contractor.

Subcontractors. Contractor must require all Subcontractors to have and provide evidence of insurance coverage with the following limits:

Type of Insurance	Coverage Limits
Workers' Compensation	Statutory
Employer's Liability	\$1,000,000 each occurrence
General Liability (bodily injury and property damage combined)	\$1,000,000 each occurrence/2M aggregate
Automobile Liability	\$1,000,000 each occurrence

In addition to these coverage limits applicable to all Subcontractors, any Subcontractor providing remote processing services for Contractor must provide cyber-liability coverage as follows:

\$5 million coverage for Cyber Extortion, Cyber Terrorism, and Privacy Liability, with a \$2 million

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sub-limit coverage for breach response cost and notification expenses.

Prior to subcontracting Services to any third party Subcontractor not listed in the Proposal, Contractor must obtain OFM' approval for such third party pursuant to the Section of this Contract titled *Subcontractors*, including approval of such third party's insurance coverage which must be included in these Subcontractor insurance requirements upon OFM approval (but only with respect to such approved Subcontractor). Contractor must maintain copies of Certificates of Insurance for each Subcontractor as evidence that each Subcontractor maintains insurance as required by the Agreement. Failure of Subcontractor(s) to comply with insurance requirements does not limit Contractor's liability or responsibility.

Premiums. Premiums on all insurance policies must be paid by Contractor or its Subcontractors. Such insurance policies provided for OFM pursuant to this Section must expressly provide therein that OFM be named as additional insured, and that it must not be revoked by the insurer until 30 days' Notice of intended revocation thereof must have first been given to OFM by Contractor.

Cancellation. Contractor's insurance policies must not be canceled or non-renewed in scope of coverage without provision for equivalent substitute insurance and such cancellation or nonrenewal must not take place or be reduced in scope of coverage until forty-five (45) days' written Notice has been given to OFM, attention OFM Project Director, and Contractor has replacement insurance policy(ies) in place that satisfy the requirements set forth in this Section titled *Insurance*. Contractor's insurance policies must not be reduced in scope without OFM's prior written consent.

Insurance Documents. Contractor must furnish to OFM copies of certificates of all required insurance within 30 days of the Effective Date, and copies of renewal certificates of all required insurance within 30 days after the renewal date. These certificates of insurance must expressly indicate compliance with each and every insurance requirement specified in this Section. Failure to provide these documents must be grounds for immediate termination or suspension of this Agreement by OFM for material breach under Section xx.

Increased Coverage. OFM is to be notified by Contractor immediately if any aggregate insurance limit is exceeded. In such event, additional coverage must be purchased to meet requirements.

Subrogation. Except for instances of gross negligence or willful misconduct by OFM, Contractor agrees to waive all rights of subrogation against OFM, its boards, agencies, departments, officers, employees, agents, and volunteers for losses arising from services performed by Contractor under this Agreement.

Cross-Liability. All insurance provided by Contractor must be primary as to any other insurance or self-insurance programs afforded to or maintained by the State and must include a severability of interests (cross-liability) provision. This provision means all insurance policies must include coverage for cross liability and contain a "Separation of Insureds" provision.

Employees and Volunteers. Insurance required of Contractor under the Agreement must include coverage for the acts and omissions of Contractor's employees and volunteers.

General. By requiring insurance, the State and OFM do not represent that the coverage and limits specified will be adequate to protect Contractor. Such coverage and limits must not be construed to relieve Contractor from liability in excess of the required coverage and limits and must not limit Contractor's liability under the indemnities and reimbursements granted to the State and OFM in this Agreement. All insurance provided in compliance with this Agreement must be primary as to any other insurance or self-insurance programs afforded to or maintained by the State.

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Additional Insurance Coverage. The Contractor may be required by OFM to provide additional or other insurance commensurate with Services, Tools and Solutions provided by Contractor during the term of this Contract, the full details of which is not currently known. OFM will advise Contractor of such requirement at the time such additional Services, Tools and Solutions are requested.

49. Licensing, Accreditation and Registration

Contractor must comply with all applicable local, state, and federal licensing, accreditation and registration requirements and standards necessary in the performance of this Contract. (See, for example, chapter 19.02 RCW for state licensing requirements and definitions.)

Nondiscrimination During the performance of this Contract, Contractor must comply with all federal and applicable state nondiscrimination laws, including but not limited to: Title VII of the Civil Rights Act, 42 U.S.C. §12101 *et seq.*; the Americans with Disabilities Act (ADA); and Title 49.60 RCW, Washington Law Against Discrimination. In the event of Contractor's noncompliance or refusal to comply with any nondiscrimination law, regulation or policy, this Contract may be rescinded, canceled, or terminated in whole or in part under the Section titled *Termination for Default*, and Contractor may be declared ineligible for further contracts with OFM.

50. Annual Independent Relationship Review

OFM will contract with an independent consultant to conduct an annual independent review of the contractual relationship between OFM and the Contractor. The purpose of this review is to assess and facilitate a strong, healthy relationship between the parties. Contractor agrees to fully participate in this review process including, but not limited to, participation in meetings and interviews as requested. The annual independent relationship review will, at a minimum, assess both OFM and the Contractor on the qualities below:

- 1) **Communication** - Clear and open channels of communication across all levels between One Washington and the Strategic Partner
- 2) **Shared vision and goals** - Alignment between both parties as to what we are trying to accomplish.
- 3) **Team player** - Working cooperatively, reliably and professionally to achieve the goals and objectives.
- 4) **Execution** - Delivering agreed upon results

The assessment will be documented in a report and delivered to the OFM Deputy Director with a copy to the relevant One Washington Steering Committee(s).

51. Severability

The provisions of this contract are intended to be severable. If any term or condition of this Contract or the application thereof is held illegal or invalid, for any reason whatsoever, such illegality or invalidity will not affect the validity of the remainder of the other terms, conditions, or applications that can be given effect without the invalid term, condition, or application; to this end the terms and conditions of this Contract are declared severable. If any provision of this contract violates any statute or rule of law of the state of Washington, it is considered modified to conform to that statute or rule of law.

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52. Waiver

Waiver of any default or breach of any term or condition of this Contract is not a waiver of any prior or subsequent default or breach. No term or condition of this Contract is waived, modified, or deleted except by a written instrument signed by the parties.

53. Treatment of Assets

- 53.1. Title to all property furnished by OFM will remain with OFM. Title to all property furnished by Contractor, for which Contractor is entitled to reimbursement, other than rental payments, under this Contract, will pass to and vest in OFM pursuant to the Ownership/Rights in Data section. As used in this section, if the “property” is Contractor’s proprietary, copyrighted, patented, or trademarked works, only the applicable license, not title, is passed to and vested in OFM. Title to all property furnished by the Contractor, the cost for which the Contractor is entitled to be reimbursed as a direct item of cost under this contract, will pass to and vest in the OFM upon delivery of such property by the Contractors.
- 53.2. Title to other property, the cost of which is reimbursable to the Contractors under this contract, will pass to and vest in the OFM upon (i) issuance for use of such property in the performance of this contract, or (ii) commencement of use of such property in the performance of this contract, or (iii) reimbursement of the cost thereof by the OFM in whole or in part, whichever first occurs.
- 53.3. Any OFM property furnished to Contractor must, unless otherwise provided herein or approved by OFM, be used only for the performance of this Contract.
- 53.4. Contractor is responsible for any loss of or damage to OFM’s property that results from Contractor’s negligence or that results from Contractor’s failure to maintain and administer that property in accordance with sound management practices.
- 53.5. Upon loss or destruction of, or damage to any OFM property, Contractor must notify OFM thereof and must take all reasonable steps to protect that property from further damage.
- 53.6. Contractor must surrender to OFM all OFM property prior to completion, termination, or cancellation of this Contract.
- 53.7. All reference to Contractor under this section also includes Contractor’s employees, agents, or Subcontractors.

54. Protection of Contractor’s Proprietary Information

Contractor acknowledges that OFM is subject to chapter 42.56 RCW, *Public Records Act* and that this Contract will be a public record as defined in chapter 42.56 RCW, *Public Records Act*. Any specific information that is claimed by Contractor to be Proprietary Information must be clearly identified as such by Contractor. To the extent consistent with chapter 42.56 RCW, *Public Records Act* OFM will maintain the confidentiality of all such information marked Proprietary Information. If a public disclosure request is made to view Contractor’s Proprietary Information, OFM will notify Contractor of the request and of the date that such records will be released to the requester unless Contractor obtains a court order from a court of competent jurisdiction enjoining that disclosure. If Contractor fails to obtain the court order enjoining disclosure, OFM will release the requested information on the date specified.

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Disputes and Remedies

55. Disputes

- 55.1. Good Faith Efforts. Except for the right of either party to apply to a court of competent jurisdiction for a temporary restraining order or other provisional remedy to preserve the status quo or prevent irreparable harm, the parties agree to attempt in good faith to promptly resolve any dispute, controversy or claim arising out of or relating to this Contract, including but not limited to payment disputes, through negotiations between senior management of the parties. If the dispute cannot be resolved within fourteen (14) days of initiating such negotiations, either party may initiate this dispute resolution process.
- 55.2. The initiating party must provide a written description of the dispute to the responding party. The responding party must respond in writing within five (5) Business Days. The initiating party will have five (5) Business Days to review the response. If after this review a resolution cannot be reached, both parties will have five (5) Business Days to negotiate in good faith to resolve the dispute.
- a) If the dispute cannot be resolved after five (5) Business Days, a Dispute Resolution Panel may be requested in writing by either party who must also identify the first panel member. Within five (5) Business Days of receipt of the request, the other party will designate a panel member. Those two panel members will appoint a third individual to the Dispute Resolution Panel within the next five (5) Business Days.
 - b) The Dispute Resolution Panel will review the written descriptions of the dispute, gather additional information as needed, and render a decision on the dispute in the shortest practical time.
 - c) Each party will bear the cost for its panel member and share equally the cost of the third panel member.
- 55.3. Except as provided in Section 54.1 above, neither party will commence litigation against the other before the Dispute Resolution Panel has issued its decision on the matter in dispute.
- 55.4. OFM and Contractor agree that, the existence of a dispute notwithstanding, they will continue without delay to carry out all their respective responsibilities under this Contract that are not affected by the dispute.
- 55.5. If the subject of the dispute is the amount due and payable by OFM for Services, Work Product or Technical Tools/Solutions being provided by Contractor, Contractor shall continue providing Services, Work Product or Technical Tools/Solutions pending resolution of the dispute provided OFM pays Contractor the amount OFM, in good faith, believes is due and payable, and places in escrow the difference between such amount and the amount Contractor, in good faith, believes is due and payable.

56. Attorneys' Fees and Costs

- 56.1. If any litigation is brought to enforce any term, condition, or section of this Contract, or as a result of this Contract in any way, each party will be responsible for its own attorneys' fees together with expenses and costs incurred with such litigation, including necessary fees,

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costs, and expenses for services rendered at both trial and appellate levels, as well as subsequent to judgment in obtaining execution thereof.

- 56.2. In the event that the parties engage in mediation or any other alternative dispute resolution forum to resolve a dispute in lieu of litigation, both parties shall share equally in the cost of the alternative dispute resolution method, including cost of mediator or arbitrator. In addition, each party will be responsible for its own attorneys' fees incurred as a result of the alternative dispute resolution method.

57. Non-Exclusive Remedies

The remedies provided for in this Contract shall not be exclusive but are in addition to all other remedies available under law.

58. Failure to Perform

If Contractor fails to perform any substantial obligation under this Contract, OFM must give Contractor written notice of such Failure to Perform. If after thirty (30) calendar days from the date of the written notice Contractor still has not performed, then OFM may withhold all monies due and payable to Contractor, without penalty to OFM, until such Failure to Perform is cured or otherwise resolved.

59. Limitation of Liability

The parties agree that neither Contractor nor OFM will be liable to each other, regardless of the form of action, for consequential, incidental, indirect, or special damages except a claim related to bodily injury or death, property damage or a claim or demand based on data breach, patent, copyright, or other intellectual property right infringement, in which case liability is set forth elsewhere in this Contract. This Section titled *Limitation of Liability* does not modify any sections regarding liquidated damages, if any, or any other conditions as are elsewhere agreed to herein between the parties. The damages specified in the sections titled **Termination for Default** and **Review of Contractor's Records** are not consequential, incidental, indirect, or special damages as that term is used in this section.

60. Force Majeure

Neither Contractor nor OFM will be liable for damages arising from causes beyond the reasonable control and without the fault or negligence of either Contractor or OFM. Such causes may include, but are not restricted to, acts of God or of the public enemy, acts of a governmental body other than OFM acting in either its sovereign or contractual capacity, war, explosions, fires, floods, earthquakes, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather; but in every case the delays must be beyond the reasonable control and without fault or negligence of Contractor, OFM, or their respective Subcontractors.

If delays are caused by a Subcontractor without its fault or negligence, Contractor shall not be liable for damages for such delays, unless the Services to be performed were obtainable on comparable terms from other sources in sufficient time to permit Contractor to meet its required performance schedule.

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61. Debarment Certification

Schedule D, *Certification Regarding Debarment, Suspension Or Ineligibility And Voluntary Exclusion—Primary And Lower Tier Covered Transactions (Certification)* to this Contract must be fully signed by an authorized representative of the Contractor prior to beginning work hereunder.

Contract Termination

62. Termination for Default

- 62.1. If either OFM or Contractor violates any material term or condition of this Contract or fails to fulfill in a timely and proper manner its obligations under this Contract, then the aggrieved party will give the other party written notice of such failure or violation. The responsible party will correct the violation or failure within thirty (30) calendar days or as otherwise mutually agreed in writing. If the failure or violation is not corrected, this Contract may be terminated immediately by written notice from the aggrieved party to the other party. OFM reserves the right to suspend all or part of the Contract, withhold further payments, or prohibit Contractor from incurring additional obligations of funds during investigation of any alleged Contractor compliance breach and pending corrective action by Contractor or a decision by OFM to terminate the Contract. In the event that the Termination for Default is for Systems Integration Services, the Contractor will be liable for two times direct damages suffered by the State. Such damages shall not be exclusive and the State may pursue any other remedies applicable to such Termination for Default.
- 62.2. In the event of termination of this Contract by OFM, OFM will have the right to procure the Services, Work Product or Technical Tools/Solutions that are the subject of this Contract on the open market and Contractor will be liable for all damages, including, but not limited to: (i) the cost difference between the original Contract price for the Services, Work Product or Technical Tools/Solutions and the replacement costs of such Services, Work Product or Technical Tools/Solutions acquired from another Contractor; (ii) if applicable, all administrative costs directly related to the replacement of this Contract, such as costs of competitive bidding, mailing, advertising, applicable fees, charges or penalties, staff time costs; and, (iii) any other costs to OFM resulting from Contractor's breach. OFM has the right to deduct from any monies due to Contractor, or that thereafter become due, an amount for damages that Contractor will owe OFM for Contractor's default.
- 62.3. If the Failure to Perform is without the defaulting party's control, fault, or negligence, the termination will be deemed to be a **Termination for Convenience**.

63. Termination for Convenience

When, at the sole discretion of OFM, it is in the best interest of the State, OFM Contracting Officer may terminate this Contract, including all Statement(s) of Work, in whole or in part, by ten (10) Business Days written notice to Contractor. OFM may, in its sole judgement, provide more time in its written notice when it is in the best interest of the state to do so. If this Contract is so terminated, OFM is liable only for payments required by the terms of this Contract or any SOW for Services received and accepted by OFM prior to the effective date of termination.

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64. Termination for Withdrawal of Authority

In the event that OFM's authority to perform any of its duties is withdrawn, reduced, or limited in any way after the commencement of this Contract and prior to normal completion, OFM may terminate this Contract by seven (7) Calendar Days written notice to Contractor. OFM may, in its sole judgement, provide more time in its written notice when it is in the best interest of the state to do so. No penalty will accrue to OFM in the event this section is exercised. This section will not be construed to permit OFM to terminate this Contract in order to acquire similar Services, Work Product or Technical Tools/Solutions from a third party.

65. Funding Withdrawn, Reduced or Limited

If the funds OFM relied upon to establish this Contract or any SOW are withdrawn or reduced, or limited, or if additional or modified conditions are placed on such funding, after the effective date of this Contract but prior to the normal completion of this Contract, OFM, at its discretion, may:

- a) Terminate this Contract pursuant to Section **Error! Reference source not found., Termination for Non-Allocation of Funds;**
- b) Renegotiate the Contract under the revised funding conditions; or
- c) Suspend Contractor's performance under the Contract by written notice to Contractor. OFM will use this option only when OFM determines that there is reasonable likelihood that the funding insufficiency may be resolved in a timeframe that would allow Contractor's performance to be resumed prior to the normal completion date of this Contract.
 - i During the period of suspension of performance, each party will inform the other of any conditions that may reasonably affect the potential for resumption of performance.
 - ii When OFM determines that the funding insufficiency is resolved, it will give Contractor written notice to resume performance. Upon the receipt of this notice, Contractor will provide written notice to OFM informing OFM whether it can resume performance and, if so, the date of resumption. For purposes of this subsection, "written notice" may include email.
 - iii If the Contractor's proposed resumption date is not acceptable to OFM and an acceptable date cannot be negotiated, OFM may terminate the Contract, in whole or in part, by giving written notice to Contractor. The parties agree that the Contract or specified portion thereof, will be terminated retroactive to the date of the notice of suspension. OFM will be liable only for payments required by the terms of this Contract or any SOW for Services or Deliverables received and accepted by OFM prior to the retroactive date of termination.

66. Termination for Non-Allocation of Funds

If funds are not allocated to OFM to continue this Contract in any future period, OFM may terminate this Contract by seven (7) calendar days written notice to Contractor or work with Contractor to arrive at a mutually acceptable resolution of the situation. OFM may, in its sole judgement, provide more time in its written notice when it is in the best interest of the state to do so. OFM will not be

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obligated to pay any further charges for Services. OFM agrees to notify Contractor in writing of such non-allocation at the earliest possible time. No penalty will accrue to OFM in the event this section is exercised. This section will not be construed to permit OFM to terminate this Contract in order to acquire similar Services from a third party.

67. Termination for Conflict of Interest

OFM may, in its sole discretion, by written notice to the Contractor terminate this contract if it is found after due notice and examination by OFM that there is a violation of the Ethics in Public Service Act, Chapter 42.52 RCW; or any similar statute involving the Contractor in the procurement of, or performance under this contract.

In the event this contract is terminated as provided above, OFM may pursue the same remedies against the Contractor as it could pursue in the event of a breach of the contract by the Contractor. The rights and remedies of the OFM provided for in this clause are not exclusive and are in addition to any other rights and remedies provided by law. The facts upon which OFM makes any determination under this clause may be reviewed as provided in the "Disputes" clause of this contract.

68. Contract Expiration or Termination Procedure

- 68.1. In addition to the procedures set forth below, if OFM terminates this Contract, Contractor must follow any procedures OFM specifies in OFM's notice of termination.
- 68.2. Upon expiration or termination of this Contract, regardless of the reason, the Contractor and its Subcontractor(s) must assist OFM, to effect an orderly transition to a new contractor and/or subcontractor as required by OFM.
- 68.3. OFM, in addition to any other rights provided in this Contract, may require Contractor to deliver to OFM any property or Work Product or Technical Tools/Solutions specifically produced or acquired for the performance of such part of this Contract as has not been terminated. The section titled **Treatment of Assets** will apply in such property transfer.
- 68.4. Unless otherwise provided herein, OFM will pay to Contractor the agreed-upon price, if separately stated, for the Services, Work Product and/or Technical Tools/Solutions received and Accepted by OFM, provided that in no event shall OFM pay to Contractor an amount greater than Contractor would have been entitled to if this Contract had not been terminated. Failure to agree with such determination will be a dispute within the meaning of the **Disputes** section of this Contract. OFM may withhold from any amounts due Contractor such sum as OFM determines to be necessary to protect OFM from potential loss or liability.
- 68.5. Contractor must pay amounts due OFM as the result of termination, if any, within thirty (30) calendar days of notice of amounts due. If Contractor fails to make timely payment, OFM may charge interest on the amounts due at one percent (1%) per month until paid in full. The rights and remedies of OFM provided in this section are not exclusive and are in addition to any other rights and remedies provided by law or under this Contract.
- 68.6. After receipt of a notice of termination, and except as otherwise directed by OFM, the Contractor must:
 - a) Stop work under the contract on the date, and to the extent specified, in the notice;
 - b) Place no further orders or subcontracts for materials, services, or facilities except as

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may be necessary for completion of such portion of the work under the contract that is not terminated;

- c) Assign to OFM, in the manner, at the times, and to the extent directed by OFM, all of the rights, title, and interest of the Contractor under the orders and subcontracts so terminated, in which case OFM has the right, at its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts;
- d) Settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of OFM to the extent OFM may require, which approval or ratification will be final for all the purposes of this clause;
- e) Transfer title to OFM and deliver in the manner, at the times, and to the extent directed by OFM any property which, if the contract had been completed, would have been required to be furnished to OFM;
- f) Complete performance of such part of the work not terminated by OFM; and
- g) Take such action as may be necessary, or as OFM may direct, for the protection and preservation of the property related to this contract, which is in the possession of the Contractor and in which OFM has or may acquire an interest.

69. Covenant Against Contingent Fees

- 69.1. Contractor warrants that no person or selling agency has been employed or retained to solicit or secure this Contract upon any agreement or understanding for a commission, percentage, brokerage, or contingent fee, *except* bona fide employees or a bona fide established commercial or selling agency of Contractor.
- 69.2. In the event Contractor breaches this section, OFM has the right to either annul this Contract without liability to OFM, or, in OFM's discretion, deduct from payments due to Contractor, or otherwise recover from Contractor, the full amount of such commission, percentage, brokerage, or contingent fee.

Contract Execution

70. Authority to Bind

The signatories to this Contract represent that they have the authority to bind their respective organizations to this Contract. This Contract may be altered, amended, or waived only by a written amendment executed by both parties.

71. Counterparts

This Contract may be executed in counterparts or in duplicate originals. Each counterpart or each duplicate is deemed an original copy of this Contract signed by each party, for all purposes.

In Witness Whereof, the parties hereto, having read this Contract in its entirety, including all attachments, do agree in each and every particular and have thus set their hands hereunto.

Approved

Approved

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or other legal entity, that:

(a) Certifies, under penalty of perjury, that it is owned and operated independently from all other businesses and has either:

(I) Fifty or fewer employees; or

(II) A gross revenue of less than seven million dollars annually as reported on its federal income tax return or its return filed with the department of revenue over the previous three consecutive years; or

(b) Is certified with the office of women and minority business enterprises under chapter 39.19 RCW

Mini Business means any business entity, including a sole proprietorship, corporation, partnership, or other legal entity, that:

(a) Is owned and operated independently from all other businesses; and

(b) has a gross revenue of less than three million dollars, but one million dollars or more annually as reported on its federal tax return or on its return filed with the department of revenue.

Micro business means any business entity, including a sole proprietorship, corporation, partnership, or other legal entity, that:

(a) Is owned and operated independently from all other businesses; and

(b) has a gross revenue of less than one million dollars annually as reported on its federal tax return or on its return filed with the department of revenue.

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Schedule A
Services and Price List

as of *[date]*

for

Contract Number *[XXX-XXX-XXX]*

with

[Contractor]

[Contractor] is authorized to provide the Services identified in this Schedule A at the Prices set forth in this Schedule A under this Contract.

[Final Cost Sheet to be added here.]

Schedule B

Statement of Work Template

The details of the specific services, project or tasks should be negotiated by the State and Contractor and memorialized in an SOW. All SOWs must reference the Contract number and address the following areas:

- *Project or Task Objectives*
- Scope and Description of Work, including Deliverables*
- Timeline and Period of Performance*
- Contractor Staff, Identification of Key Staff Roles and Responsibilities*
- Contractor Staffing Locations*
- Contractor Staffing Hours*
- Tools and Solutions*
- *Compensation and Payment*
- *Retainage/ Withholding amounts*
- *State Staff, Roles and Responsibilities*
- *Deliverable Acceptance*
- *Change Order Process*
- Warranties*
- Service Level Agreements*
- Delay Credits*
- *Additional Insurance Requirements*
- Additional Terms and Conditions Specific to this SOW*
- Signature Block*

Note: in the case where the parties agree that a specific term or condition of a SOW should prevail over a standard contract provision, the parties must be specific that the identified term has precedence over the conflicting term in the Contract.

Sample Statement of Work [YY-YY]
to
Contract Number [XXX-XXX-XXX]
for
One Washington Strategic Partner

This Statement of Work (SOW) is made and entered by and between [the State of Washington] (“State”), and *[Contractor Name]* (“Contractor”), for *[describe acquisition or purpose of SOW]*. This SOW incorporates by reference the terms and conditions of Contract Number *[XXX-XXX-XXX]* in effect between the State and Contractor. In case of any conflict between this SOW and the Contract, the Contract will prevail, unless specifically stated otherwise herein. The State and Contractor agree as follows:

1. Project or Task Objectives

[Describe in detail the project or task objectives.]

2. Scope of Work and Deliverables

Contractor must provide Services and staff, and otherwise do all things necessary for or incidental to the performance of work, as set forth below:

[Describe in detail what work Contractor will perform. Identify all tasks, work elements and objectives of the SOW, and timelines for completion of the major elements of the project.]

Contractor will produce all Deliverables described in this SOW. Each Deliverable described in this SOW, must be approved and accepted in writing by OFM’s One Washington Program Director, pursuant to the acceptance process set forth in the Contract section titled *Deliverable Review and Acceptance* and as may be otherwise agreed and documented in this SOW. Should any Deliverables vary due to scope changes, this section may be updated through a mutually agreed written amendment to this Statement of Work.

3. Deliverable Review and Acceptance

OFM will review the Deliverables based on the descriptions above and as set forth in the Contract section titled *Deliverable Review and Acceptance*.

[If appropriate, add any additional or alternate elements of Deliverable review and approval for this SOW].

4. Timeline and Period of Performance

Subject to filing or approval requirements, if any, the period of performance for this project will start on *[start date]* and the work tasks are estimated to continue through *[end date]*. The State has the right to extend or terminate this SOW at its sole discretion.

5. Contractor must not perform any work under this SOW before receiving a copy of the SOW signed by both parties. Contractor Staff, Identification of Key Staff Roles and Responsibilities

[Identify Contractor staff who will be involved, naming individuals key to the project, and describe in detail their roles and responsibilities. List Key Staff first.]

Key Staff working on this SOW are: *[list all Contractor staff with title and work location, who will be assigned to work on this SOW]*

6. Contractor Staff Locations

[Identify work location of each Contractor staff identified under “Contractor Staff, Roles and Responsibilities.]

7. Contractor Staffing Hours

[If some staff will be on-site at different times, identify those staff and specify the times and locations agreed between the parties.]

Unless otherwise negotiated and agreed between the parties, Contractor Staff working under this SOW will be onsite during Core Business Hours.

8. Tools and Solutions

[Identify Contractor provided Tools or Solutions that will used to complete project tasks or achieve project objectives. Provide the tools/solution names, provider, description, benefits or value to the project and pricing information.]

9. Compensation and Payment

[Populate pricing templates with deliverables, staffing and tools/solutions to provide clarity as to what the Statement of Work will purchase and how the pricing was developed. Proposed compensation and payment must be accompanied with underlying information/calculations. The specific information will be agreed upon for each Statement of Work]

The State shall pay Contractor an amount not to exceed [_____] dollars (\$___) *[specify maximum dollar amount]* for the performance of all activities necessary for or incidental to the performance of work as set forth in this SOW. Contractor’s compensation for services rendered shall be based on Contractor’s Prices as set forth in the SOW Deliverable Pricing Table provided below. Resource rates include all expenses associated with the resources including: travel, pricing for specialized skills, pricing for onsite or offsite resources, etc. The State will not reimburse or pay for any expense or item not detailed in the pricing tables below.

10. Retainage/Withholding

[OFM reserves the right at its sole discretion to hold back up to ten percent (10%) on any SOW for performance. Such hold back requirement will be written into specific SOW’s as OFM determines is necessary.]

11. Statement of Work Pricing Tables

[Provide detailed pricing for staffing, tools/solutions, deliverables, level of effort table, etc.]

Deliverable Pricing Table

Deliverable	Description	Delivery Date	Not to Exceed Price
[Deliverable Title]	[Deliverable Description]	[mm/dd/yyyy]	[\$xx,xxx]

TOTAL				[\$xx,xxx]

To provide level of effort and pricing visibility, the Contractor will provide the calculations used to develop deliverable pricing. For staffing and tools/solution pricing information, the Contractor will populate the tables below:

Pricing Details: Staffing

[example only modify as necessary in addition to the total dollars above we also want to see level of effort, staffing plans, work plans, etc.as appropriate to the work/deliverables]

#	Role	Deliverable	Activity/Activities	Hours	Rate	Total
1	[Staff Role Title]	[Provide deliverable name where costs are allocated]	[Description of activities to be completed by resource]	[x,xxx]	[\$xxx]	[\$xx,xxx]
2	...	...	...	...	...	...
3	...	...	...	...	...	...
TOTAL						[\$xx,xxx]

Pricing Details: Tools/Solutions

#	Tool/Solution	Description	Deliverable	Upfront Costs	Recurring Costs
1	[Name of Tool/Solution]	[Description of Tool/Solution, project benefits and pricing structure]	[Provide deliverable name where costs are allocated]	[\$xx,xxx]	[\$xx,xxx]
2	...	...	...	...	...
3	...	...	...	...	...
TOTALs				[\$xx,xxx]	[\$xx,xxx]

12. State Staff, Roles and Responsibilities

[Identify State staff who will be involved and describe their roles and responsibilities.]

13. Additional Deliverable Acceptance Requirements

[The Deliverable Acceptance process will conform to the process set forth in Contract Number [XXX-XXX-XXX]. Provide Deliverable Acceptance information within this section.]

14. Change Order Process

[The standard Change Order Process is included in the Contract. Update the language as needed for an individual Statement of Work.]

15. Warranties

[Include additional warranty language beyond what is already included in the contract. For example, warranty language for a Contractor provided tool.]

16. Service Level Agreements

[Include Service Level Agreement language. Language should include, at a minimum::

- *Applicable services, systems, tools, products or solutions*
- *Period of agreement*
- *Service level targets/expectations*
- *Service Level monitoring/reporting*
- *Service Level Support and Escalation*
 - *Hours of operation,*
 - *Response time,*
 - *Priority levels,*
 - *Etc.*
 - *Contractor roles and responsibilities*
 - *State roles and responsibilities]*

17. Delay Credits

[document applicable delay credits]

18. Additional Insurance Requirements

[State additional Insurance Requirements not found in the Contract, if any.]

19. Additional Terms and Conditions Specific to this SOW

[State additional terms and conditions specific to this SOW not found in the Contract, if any.]

In Witness Whereof, the parties hereto, having read this SOW [YY-YY] to Contract Number [XXX-XXX-XXX] in its entirety, do agree thereto in each and every particular.

Approved

[State]

Signature

Print or Type Name

Title *Date*

Approved

[Contractor]

Signature

Print or Type Name

Title *Date*

Schedule C
MWBE Certification
(if applicable)