State of Florida
Office of Insurance Regulation

Invitation to Bid (ITB)
Number: 2526-02 ITB OIR
Examination Services

Procurement Officer:
Rebecca D. Hale
Government Analyst II
Department of Financial Services
Office of Purchasing and Contractual Services
200 E. Gaines Street, Larson Building
Tallahassee, FL 32399-0347
Email: DFSpurchasing@myfloridacfo.com

Failure to file a protest within the time prescribed in section 120.57(3), Florida Statutes, or failure to post the bond or other security required by law within the time allowed for filing a bond shall constitute a waiver of proceedings under chapter 120, Florida Statutes.

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Attachments

Letter	Name	Attachment Sub-components, If Any	**To Be Completed and Returned**	Attached for Reference Only
A	Standard Contract	Contract Signature Page		✓
		Attachment 1, Standard Terms and Conditions		✓
		Attachment 2, Scope of Services Agreement		✓
		Attachment 4, PUR 1000		✓
		Attachment 5, Data Security Requirements		✓
B	Consultant Profile Questionnaire[1]		✓	
D	Rule 69O-138.005, F.A.C.			✓

[1] For the Respondents that have previously submitted a Consultant Profile Questionnaire to the Office, please note that the Consultant Profile Questionnaire utilized in this ITB does include the Price Response. The Price Response is now Attachment C and must be submitted separately.

SECTION 1. INTRODUCTION

1.1 Purpose

The Office of Insurance Regulation (Office), an agency of the state of Florida (State), is issuing this Invitation to Bid (ITB) to establish a contract for the use of examination services. The solicitation will be administered through the MyFloridaMarketPlace Vendor Information Portal (VIP). The submitted Response must comply with the terms and conditions stated in this ITB.

The Office intends to enter into multiple Contracts using Attachment A, Standard Contract, which is hereby incorporated by reference. The Office intends to award each Contract as provided in Section 5, Award, of this solicitation.

1.2 Background

The Office has the statutory duty to examine the affairs, transactions, accounts, records, and assets of each authorized insurer, prepaid limited health service organization or discount plan organization and health maintenance organization. The Office's ability to satisfy this requirement will be enhanced by contracting with multiple qualified examiners capable of performing examinations on behalf of the Office. Section 624.316(2)(e), F.S., allows the Office to conduct insurer examinations by contracting for the services of an independent Certified Public Accountant, an actuary, a reinsurance specialist, an investment specialist, information technology specialist, or any combination of these individuals, as the circumstances of the examination require.

The financial examination standards with which the Office must comply are established by statute and adopted by Rule 69O-138, Florida Administrative Code (F.A.C.). The statutes and rules meet the requirements of the National Association of Insurance Commissioners for accreditation in financial regulation.

For more information regarding the Office's financial examinations, see sections 624.316, 624.3161 and 641.27, F.S., and Rule 69O-138.005, Florida Administrative Code (F.A.C.) which is attached for reference.

1.3 Term

The initial term of the Contract will be one (1) year beginning on the last date of execution of the resulting Contract. The Contract may be renewed for up to three (3) years in accordance with section 287.057(14), F.S. Renewals(s) will be made at the renewal pricing specified in the Contract.

1.4 Definitions

The following definitions apply to this ITB document:

<u>Business Days</u> – Monday through Friday, inclusive, except for State government holidays.

<u>Confidential Information</u> – Any documents, data, or records that are confidential and not subject to disclosure pursuant to chapter 119, Florida Statutes (F.S.), the Florida Constitution, or any other legal authority.

<u>Contract</u> – The agreement that results from this competitive solicitation, if any, between the Office and the Respondent identified as providing the Response that is determined to be the most advantageous to the State.

<u>Contractor</u> – The Respondent that is awarded a Contract pursuant to this solicitation.

Respondent – An entity that submits a Response to this solicitation.

Response – A formal response to this solicitation.

State - The state of Florida.

Vendor Information Portal (VIP) - The State's eProcurement vendor information system at https://vendor.myfloridamarketplace.com.

If more than one contract is awarded, then the use of the terms "Contract," "Contractor," "Response," and "Respondent," includes the plural when applicable.

1.5 Procurement Officer

Pursuant to section 287.057(25), F.S., the Procurement Officer is the sole point of contact for this solicitation.

Procurement Officer is:
Rebecca D. Hale
Government Analyst II
Office of Purchasing and Contractual Services
Department of Financial Services
Email: DFSpurchasing@myfloridacfo.com

PLACE THE SOLICITATION NUMBER IN THE SUBJECT LINE OF ALL EMAILS TO THE PROCUREMENT OFFICER.

Please note that questions will NOT be answered by telephone. All inquiries must be directed to the Procurement Officer in writing. For expediency, the Procurement Officer at their sole discretion may initiate phone calls to Respondents to resolve procedural or administrative issues. As all questions should be submitted in writing, the Office is under no obligation to acknowledge or respond to oral inquiries, and potential Respondents are not entitled to rely upon any clarification or change to this ITB, or answer to any vendor question, except as may be provided in writing by the Office in response to questions submitted pursuant to Section 2.4, Question and Answer Period of the ITB or in an addendum to this ITB.

Respondents to this solicitation or persons acting on their behalf may not contact, between the release of the solicitation and the end of the 72-hour period following the agency posting the notice of intended award, excluding Saturdays, Sundays, and State holidays, any employee or officer of the executive or legislative branch concerning any aspect of this solicitation, except in writing to the procurement officer or as provided in the solicitation documents. **Violation of this provision may be grounds for rejecting a Response.**

Any such contact by any person with a relevant business relationship with a Respondent or an existing or prospective subcontractor to a Respondent is assumed to be contact on behalf of a Respondent unless shown otherwise.

1.6 Special Accommodations

Any person requiring a special accommodation due to a disability should contact the Procurement Officer. Requests for accommodations for meetings must be made at least five (5) Business Days prior to the meeting. A person who is hearing or speech impaired can contact the Procurement Officer by using the Florida Relay Service at (800) 955-8771 (TDD).

1.7 Cooperation with Inspector General

By providing a Response to this solicitation, the Respondent understands its duty, pursuant to section 20.055(5), F.S., to cooperate with the Inspector General in any investigation, audit, inspection, review, or hearing, in the event Respondent is awarded the Contract. The Respondent will comply with this duty and ensure that subcontracts issued under the Contract, if any, impose this requirement, in writing, on its subcontractors.

1.8 Convicted Vendor List

Pursuant to section 287.133(2)(a), F.S., “[a] person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in [section 287.017, F.S.] for CATEGORY TWO for a period of 36 months following the date of being placed on the convicted vendor list.”

1.9 Discriminatory Vendor List

Pursuant to section 287.134(2)(a), F.S., “[a]n entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity.”

1.10 Antitrust Violator Vendor List

Pursuant to section 287.137(2)(a), “[a] person or an affiliate who has been placed on the antitrust violator vendor list following a conviction or being held civilly liable for an antitrust violation may not submit a bid, proposal, or reply for any new contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply for a new contract with a public entity for the construction or repair of a public building or public work; may not submit a bid, proposal, or reply on new leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a new contract with a public entity; and may not transact new business with a public entity.”

1.11 Suspended Vendor List

Pursuant to section 287.1351(2), F.S., [a] vendor that is in default on any contract with an agency or has otherwise repeatedly demonstrated a recent inability to fulfill the terms and conditions of previous state contracts or to adequately perform its duties under those contracts may not submit a bid, proposal, or reply to an agency or enter into or renew a contract to provide any goods or services to an agency after its placement, pursuant to this section, on the suspended vendor list. An agency may not accept a bid, proposal, or reply from, or enter into or renew any contract with, a vendor on the suspended vendor list until such vendor has been removed from the suspended vendor list and returned to the vendor list maintained by the department. . . and the vendor has reimbursed the agency for any reprocurement costs.”

1.12 Scrutinized Companies.

The following paragraph applies regardless of the dollar value of the goods or services provided:

In accordance with the requirements of section 287.135, F.S., the Contractor certifies that it is not participating in a boycott of Israel. At the Office's option, the Contract may be terminated if the Contractor is placed on the Quarterly List of Scrutinized Companies that Boycott Israel (referred to in statute as the "Scrutinized Companies that Boycott Israel List") or becomes engaged in a boycott of Israel.

The State Board of Administration maintains the "Quarterly List of Scrutinized Companies that Boycott Israel" at the following link:

https://www.sbafla.com/governance/global-governance-mandates/.

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SECTION 2. ITB PROCESS

2.1 Overview of the ITB

The ITB is a method of competitively soliciting a commodity or contractual service under chapter 287, F.S. Under this ITB, there will not be a mandatory pre-Response conference. Vendors may submit questions regarding this ITB to the Office during the Question and Answer Period.

Respondents must submit Responses by the deadline listed in Section 2.2, Timeline. The Office will open Responses at a public opening. After the public opening, the Procurement Officer will review Responses in accordance with Section 4.1, Review of Mandatory Responsiveness Requirements. Responses that the Procurement Officer determines are responsive to the ITB will be evaluated for award. After the evaluation is completed, the recommendation of award decision is finalized and posted on the VIP.

This section is only intended to be an overview. Read the solicitation in its entirety for further details. In the event of a conflict between this overview and another section of this ITB document, the other section of the ITB document will control.

2.2 Timeline

The following timeline will be strictly adhered to in all actions relative to this solicitation. The Office reserves the right to adjust this timeline by posting addenda on the VIP. It is the Respondent's responsibility to check VIP on a regular basis for such updates.

Event	**Event Time Eastern Time (ET)**	**Event Date**
ITB posted on the VIP.	N/A	May 7, 2026
Deadline to submit questions to Procurement Officer.	5:00 PM	May 14, 2026
Anticipated date to post answers to Respondents' questions on VIP.	5:00 PM	May 21, 2026
Deadline to submit Responses and all required documents to the Office via email at DFSPurchasing@myfloridacfo.com.	3:00 PM	July 31, 2026
Public Response opening. Department of Financial Services Office of Insurance Regulation 200 E. Gaines Street, Larson Building-Room 101 Tallahassee, FL, 32399 NOTE: The public opening will also be conducted via conference call. To attend the public opening call 888-585-9008 and when prompted use Conference No.: 819-252-704. Attendance at this public opening is not required.	3:15 PM	July 31, 2026
Anticipated date to post Notice of Intent to Award on VIP.	N/A	August 10, 2026
Anticipated Contract start date.	N/A	October 1, 2026

2.3 Pre-Response Conference

The Office will not hold a pre-Response conference.

2.4 Question and Answer Period

Vendors may submit written questions to the Procurement Officer by the deadline listed in Section 2.2, Timeline. Questions may include requests for clarification regarding the terms, conditions, and requirements of the ITB and its attachments, and any processes described in those documents. If terms included in the Standard Contract are impractical or, for legal or operational reasons, impossible, vendors are encouraged to submit questions regarding the Office's acceptance of specified alternative terms.

PLACE THE SOLICITATION NUMBER IN THE SUBJECT LINE OF ALL EMAILS CONTAINING QUESTIONS.

The Office requests that vendors submit questions in the following format:

Question #	Vendor Name	ITB Section	ITB Page #	Question

Questions do not constitute a formal protest of the specifications or of the solicitation.

The Office will provide an answer to all questions that are timely submitted through an addendum that is posted on the VIP. If modifications are made to the ITB document or attachments, the Office will post the changes in an addendum on the VIP.

2.5 Public Opening of Responses

The Office will open the Responses in a public opening at the date, time, and location noted in Section 2.2, Timeline. Please note, the public opening will also be conducted via conference call as stated in Section 2.2, Timeline.

2.6 Addenda to the ITB

The Office reserves the right to make changes to this ITB by posting addenda on the VIP. It is the Respondent's responsibility to check for any posted addenda on the VIP.

2.7 Contract Formation

The Office will enter into a Contract with each Respondent awarded pursuant to Section 5, Award. The Contract will consist of the of the documents listed under Attachment A, Standard Contract, in this ITB document's Attachments Table. Attachment A, Standard Contract, in this ITB document's Attachments Table.

The Respondent shall bring any perceived inconsistencies among any of the provisions of the ITB and its attachments to the attention of the Office prior to the submission of its Response. At any time during the solicitation, the Office may specifically identify and incorporate by reference any additional documents which are to be incorporated into the Contract.

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SECTION 3. RESPONSE INSTRUCTIONS

3.1 Instructions to Respondents

This section contains the General Instructions (PUR 1001) and Special Instructions to Respondents. The PUR 1001 can be accessed at:

https://www.dms.myflorida.com/business_operations/state_purchasing/state_agency_resources/state_purchasing_pur_forms.

The Special Instructions are in the remainder of Section 3 of this ITB document. In accordance with Rule 60A-1.002, F.A.C., in the event any conflict exists between the Special Instructions and General Instructions, the Special Instructions will prevail.

Sections 7, 8, and 13 of the PUR 1001 are inapplicable. Section 3, 5, and 9 of the PUR 1001 are replaced with the following:

Section 3. Electronic Submission of Responses.
Responses shall be submitted in accordance with Section 3.4, How to Submit a Response, of the ITB document.

Section 5. Questions.
Questions shall be submitted in accordance with Section 2.4, Question and Answer Period, of the ITB document.

Section 9. Respondent's Representation and Authorization.
(a) In submitting its Response, the Respondent understands, represents, and acknowledges the following:

- The Respondent is not currently under suspension or debarment by the state of Florida or any other governmental authority.
- The Response is made in good faith and not pursuant to any agreement or discussion with, or inducement from, any firm or person to submit a complementary or other noncompetitive response.
- The prices and amounts have been arrived at independently and without consultation, communication, or agreement with any other Respondent or potential Respondent; neither the prices nor amounts, actual or approximate, have been disclosed (and will not be disclosed prior to the solicitation opening) to any Respondent or potential Respondent.
- The Respondent will conform to the terms and conditions of the Standard Contract without exception, or, where an exception is made by Respondent, will provide an alternative that is equivalent to or exceeds the Office's terms and conditions.
- If an award is made to the Respondent, the Respondent agrees that it intends to be legally bound to the Contract that is formed with the Office.
- The Respondent has made a diligent inquiry of its employees and agents responsible for preparing, approving, or submitting the Response, and has been advised by each of them that he or she has not participated in any communication, consultation, discussion, agreement, collusion, act, or other conduct inconsistent with any of the statements and representations made in the Response.

- The Respondent shall indemnify, defend, and hold harmless the Office and its employees against any cost, damage, or expense which may be incurred or be caused by any error in the Respondent's preparation of its Response.
- All information provided by, and representations made by, the Respondent may be considered material and may be relied upon by the Office in awarding the Contract. Any misstatement may be treated as fraudulent concealment from the Office of the true facts relating to submission of the Response. A misrepresentation shall be punishable under law, including, but not limited to, chapter 817, F.S.

(b) In submitting a Response, the Respondent understands, represents, and acknowledges the following (NOTE: If the Respondent cannot certify to any of following, the Respondent shall submit with its Response a written explanation of why it cannot do so. The Respondent's explanations may result in the Respondent being found to not be a responsible or responsive vendor as defined in sections 287.012(25) and (27), F.S.):

- To the best knowledge of the person signing the Response, the Respondent, its affiliates, subsidiaries, directors, officers, and employees are not currently under investigation by any governmental authority and have not in the last ten (10) years been convicted or found liable for any act prohibited by law in any jurisdiction, involving conspiracy or collusion with respect to bidding on any public contract.
- Respondent currently has no delinquent obligations to the state of Florida, including a claim by the state of Florida for liquidated damages under any other contract.
- The Respondent has fully informed the Office in writing of all convictions of the firm, its affiliates (as defined in section 287.133(1)(a), F.S.), and all directors, officers, and employees of the firm and its affiliates for violation of state or federal antitrust laws with respect to a public contract and for violation of any state or federal law involving fraud, bribery, collusion, conspiracy, or material misrepresentation with respect to a public contract. This includes disclosure of the names of current employees who were convicted of contract crimes while in the employ of another company.
- Neither the Respondent nor any person associated with it in the capacity of owner, partner, director, officer, principal, investigator, project director, manager, auditor, or position involving the administration of federal funds:
    - Has within the preceding three years been convicted of or had a civil judgment rendered against them or is presently indicted for or otherwise criminally or civilly charged for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a federal, state, or local government transaction or public contract; violation of federal or state antitrust statutes; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property; or
    - Has within the three-year period preceding this certification had one or more federal, state, or local government contracts terminated for cause or default.

3.2 Mandatory Responsiveness Requirements

A Respondent whose Response does not meet the mandatory responsiveness requirements listed below will be deemed non-responsive and will not be considered for contract award.

The mandatory responsiveness requirements are as follows:

1. The Response must include a fully completed, Attachment B, Consultant Profile Questionnaire.
2. The Response must include an Attachment C, Price Response.

The Office will not evaluate a Response from a Respondent that does not meet the mandatory responsiveness requirements. A Response that meets the mandatory responsiveness requirements listed above is presumed to conform in all material respects to the solicitation. The Office reserves the right to re-evaluate its responsiveness determination at any time during the solicitation.

3.3 Contents of the response

The Office requests that Responses be organized in sections as provided below.

3.3.1 Volume 1: Response Qualification Documents

The Office requests that the Respondent:

A. Cover Letter

Submit a cover letter on the Respondent's letterhead that contains the following information:

1. The name and principal place of business of the Respondent;
2. The Respondent's Federal Employer Identification Number (FEIN); and
3. The name, title, mailing address, telephone number, and e-mail address of the Respondent's contact person for purposes of the ITB and, if available, an alternate contact person.

B. Responses or Disclosures Required by the PUR 1001.

1. Submit any disclosures required by Section 6 of the PUR 1001.
2. Submit any disclosures required by Section 9 of the PUR 1001, as modified by Section 3.1 of this ITB. If unable to certify to any of the provisions of part (b) of Section 9 of the PUR 1001, as modified by Section 3.1 of this ITB, submit a written explanation of why the Respondent cannot do so. The Respondent's explanations may result in the Office finding the Respondent not to be a responsible or responsive vendor as defined in sections 287.012(25) and (27), F.S. No exceptions to part (a) of Section 9 of the PUR 1001, as modified by Section 3.1 of this ITB document, will be accepted.

3.3.2 Volume 2: Mandatory Requirements

The Respondent shall:

A. Price Response

Submit an Attachment C, Price Response.

B. Consultant Profile Questionnaire

Submit a completed Attachment B, Consultant Profile Questionnaire. The Mandatory Criteria Form is included in the Consultant Profile Questionnaire. On the Mandatory Criteria Form, Respondents must provide a "Yes" Certification Answer for each Certification Question. A Respondent's failure to provide a "Yes" Certification Answer for each Certification Question will result in the Respondent being deemed non-responsive.

3.4 How to Submit a Response

The Office will only accept Responses to this ITB in digital format via email, unless alternative delivery option has been established, as indicated below. The Respondent should submit:

- One (1) original digital version of each volume of the Response.

- One (1) REDACTED digital copy of the Response, if applicable (see Section 3.6, Confidential Response Materials and Redacted Submissions). The Respondent must ensure that all metadata has been removed from the files in the redacted copy.

Responses must be emailed to DFSPurchasing@myfloridacfo.com by the deadline listed in the Timeline in Section 2.2, Timeline. The Respondent must clearly title the Response with the ITB number and Respondent's name. If a Respondent is unable to submit its Response via email due to size limitations, the Respondent must contact the Procurement Officer will provide alternative submission options. **Responses submitted beyond the deadline or to a different location will not be considered.**

3.5 Disclosure of Response Contents

All documentation submitted as a Response to the ITB will become the exclusive property of the Office and will not be returned to the Respondent. Responses received by the Office may be disclosed pursuant to a public records request, subject to any confidentiality claims and the timeframes identified in section 119.071(1)(b), F.S. The Office has the right to use any or all ideas or adaptations of the ideas presented in any Response. Selection or rejection of a Response will not affect this right.

Pursuant to chapter 119, F.S., it is the policy of the State that all state records are open for personal inspection and copying by any person. If the Respondent considers any portion of its Response to contain trade secrets or otherwise Confidential Information, such assertions must be made in writing upon submission of the Response.

3.6 Confidential Response Materials and Redacted Submissions

In addition to the public records requirements of the PUR 1001, section 19, if the Respondent considers any portion of its Response to be Confidential Information or exempt from disclosure under Chapter 119, F.S., or other legal authority (Public Records Law), then the Respondent must simultaneously provide the Office with an unredacted version of the materials and a separate redacted electronic copy of the materials. If providing both a redacted and unredacted copy, the Respondent should mark the unredacted version of the document as "Unredacted Version – Contains Confidential Information" and place such information in an encrypted electronic form or a sealed separate envelope. If the Respondent fails to submit a Redacted Copy of its Response, the Office is authorized to produce the entire unredacted Response submitted to the Office in response to a public records request.

3.6.1 <u>Redacted Submissions</u>

If submitting a redacted version of its Response, the Respondent should mark the redacted electronic copy with the Respondent's name, Office's ITB name and number, and the words "Redacted Copy." The Redacted Copy should only redact those portions of material for which a Respondent can legally support a claim that the information is Confidential Information or exempt from disclosure pursuant to Public Records Law. In the Redacted Copy, the Respondent shall redact and maintain in confidence any materials the Office provides or seeks regarding security of a proposed technology system or information subject to sections 119.011(14), 119.071(1)(f), and 119.071(3), F.S.

In addition, the Respondent must submit a separate index listing the Confidential Information or exempt portions of its Response. The index should briefly describe in writing the grounds for claiming exemption from the Public Records Law, including the specific statutory citation for such exemption.

The Redacted Copy will be used to fulfill public records and other disclosure requests and will be posted on the FACTS website. The Office will follow the procedures identified in the Standard Contract's Attachment 4, General Contract Conditions, Section 10, if the Office receives a further request for Confidential Information or exempt material that has been clearly identified as such in writing by the Respondent.

3.6.2 Respondent's Obligations to Defend its Claims

The Office is not obligated to agree with a Respondent's claim of exemption or Confidential Information. By submitting a Response, the Respondent agrees to defend its claim that each and every portion of its redactions is exempt from inspection and copying under Florida's Public Records Law. By submitting a Response, the Respondent agrees to protect, defend, and indemnify the Office for any and all claims arising from or relating to the Respondent's determination that the redacted portions of its Response are Confidential Information or otherwise not subject to disclosure. The Office may use the counsel of its choosing to defend any such claims, and the Respondent shall promptly pay the Office's invoices for legal services on a monthly basis for all costs and expenses, including legal fees, incurred in defending such claims.

3.7 Withdrawal and Modification of Responses

The Respondent may modify its Response at any time prior to the submittal deadline by submitting a request to the Procurement Officer. A submitted Response may be withdrawn from consideration by the Office if the Respondent submits a signed, written request for withdrawal to the Procurement Officer within seventy-two (72) hours after the deadline for Response submittal.

3.8 Minor Irregularities

The Office reserves the right to accept, reject, or waive any minor irregularity (including deviations, technicalities, or omissions) if the Office determines that doing so will serve the best interest of the State. At its option, the Office may allow a Respondent to correct any minor irregularity, but the Office is under no obligation to do so. The Office may request that a Respondent provide clarifications to correct any minor irregularity.

3.9 Additional Information

At any time during the solicitation process, the Office may request, and the Respondent must provide, supporting information or documentation. Failure to supply supporting information or documentation as required and requested may result in the disqualification or rejection of the Response.

The Office reserves the right to seek information from outside sources regarding the Respondent and the Respondent's offerings, capabilities, references, or performance, if the Office determines that such information is pertinent to the ITB. The Office may consider such information throughout the solicitation process including, but not limited to, when determining whether the award is ultimately in the best interest of the State. This may include, but is not limited to, the Office engaging consultants, subject matter experts, and others to ensure that the Office has a complete understanding of the information provided pursuant to the solicitation.

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SECTION 4. SELECTION METHODOLOGY

4.1 Review of Mandatory Responsiveness Requirements

The Procurement Officer will review each Response to determine whether the Response satisfies the requirements of Section 3.2, Mandatory Responsiveness Requirements. Only those Responses that meet the mandatory responsiveness requirements will be evaluated. A Respondent who submits Response that does not satisfy the requirements of Section 3.2, Mandatory Responsiveness Requirements, will be deemed non-responsive and will not be considered for Contract award.

4.2 Review of Price Response

Pursuant to this ITB, the Procurement Officer will evaluate the Price Response of a responsible and responsive Respondents.

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SECTION 5. AWARD

5.1 Basis of Award

A Contract may be awarded to the responsible and responsive Respondents that meet the criteria as described in Section 4, Selection Methodology. The Office intends to award multiple Respondents but reserves the right to award to one Respondent or to make no award, as determined to be in the best interest of the State.

The Office reserves the right to determine which Responses are responsive and responsible at any time during the solicitation. Respondents whose Responses, past performance, or current status do not reflect the capability, integrity, or reliability to fully and in good faith perform the requirements of the Contract may be rejected as not being responsible vendors as defined in section 287.012, F.S. The Office may request additional information pertaining to the Respondent's ability and qualifications to accomplish all services described in this ITB as deemed necessary during the ITB or after Contract award.

The Office reserves the right to accept or reject any or all Responses, or separable portions of Responses. The award of a Contact does not guarantee a Respondent any business with the Office.

5.2 Award Preferences for Identical Evaluation of Identical Responses

In the event that the ITB results in identical evaluations of Responses, the Office will review the Identical Tie Response Form contained in Attachment B, Consultant Profile Questionnaire. Based on those forms, the Office will give the award to a Respondent if it is a minority-owned (which includes women-owned) or veteran-owned business. If more than one Respondent is entitled to this preference, the preference will be given to the Respondent that is the qualifying business of the smallest net worth, consistent with section 295.187(4)(b), F.S. If the award cannot be decided based on this preference, the Office will apply the criteria identified in subsections (1), (3), (4) of Rule 60A-1.011, F.A.C., in that order of precedence.

5.3 Bid Tabulation

The Office will develop a bid tabulation sheet that will show a comparison between the responsible and responsive Respondents' price points.

5.4 The Insurance Commissioner's Approval

The Insurance Commissioner, or designee, will make the final decision for award after receiving the bid tabulation.

5.5 Agency Decision

The Office will post a Notice of Intent to Award, stating its intent to enter into one (1) more Contracts with the Respondent(s) identified therein on the VIP. If the Office decides to reject all Responses at any time during the solicitation, the Office will post a notice to that effect on the VIP.

5.6 MyFloridaMarketplace (MFMP) Registration

The awarded Respondent must have a current vendor registration in MFMP, at https://vendor.myfloridamarketplace.com/, prior to Contract execution.

The awarded Respondent will be required to pay the required transaction fees as specified in PUR 1000, section 14, unless an exemption has been requested and approved prior to the award of the Contract pursuant to Rule 60A-1.031, F.A.C.

5.7 Execution of Contract

Unless otherwise agreed by the Office, the awarded Respondent must sign the Contract within seven (7) calendar days of receipt of the Contract for execution, unless there is an automatic stay triggered by the filing of a formal protest. If a formal protest is timely filed, the time to sign the Contract will be tolled. The Office reserves the right to withdraw its Notice of Intent to Award if the Contract is not timely signed or if it determines that it is in the best interest of the State to do so. The Office also reserves the right to award to the Respondent ranked second if the Office does not receive a timely signed Contract from the awarded Respondent.

The Contract will be posted on the Florida Accountability Contract Tracking System (FACTS) at https://facts.fldfs.com/, in accordance with section 215.985, F.S., the Transparency Florida Act.

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Office of Insurance Regulation
Contract Signature Page

Contract Title	P.O. No. or Solicitation No., if any	Contract Number
Examination Services	2526-02 ITB OIR	TBD

1. This Contract is entered into between the parties named below, located at the addresses which follow:

The Office of Insurance Regulation, 200 East Gaines Street, Tallahassee, FL 32399 (hereinafter called the "Office")

[Contractor's Name, address] (hereinafter called the "Contractor")

2. Contract to Begin: date last signed below ("Effective Date")	Date of Completion: One (1) year from Effective Date	Renewals: Up to three (3) years
3. Total Price of Contract Term: TBD – based on examination assignments	Total Price of Renewal Term: TBD – based on examination assignments	Total Price of Contract Term Plus Renewal Term: TBD – based on examination assignments

4. Performance Bond, if any: Other Bonds, if any:

5. Reference to Appropriation for Year 1 of the Contract (if the Contract is over $5 million pursuant to section 216.313, F.S.):

6. Office's Contract Manager		Contractor's Contract Manager	
Name:	TBD	Name:	
Address:	200 East Gaines Street, Tallahassee, FL	Address:	
Phone:	850-413-5204 E-mail exams @floir.com	Phone:	

7. The parties agree to comply with the terms and conditions of the following attachments which are hereby incorporated by reference:

Attachment 1: Special Contract Conditions
Attachment 2: Scope of Services Agreement
Attachment 3: Price Response
Attachment 4: PUR 1000

8. The parties agree to comply with the terms and conditions of the following addenda which are hereby incorporated by reference:

Attachment 5: Data Security Requirements

IN WITNESS WHEREOF, this Contract is being executed by the parties and will begin on the Effective Date.

CONTRACTOR

Contractor's Name *(if other than individual, state whether corporation, partnership, etc.)*

By (*Authorized Signature)* Date Signed

Printed Name and Title of Person Signing

Office of Insurance Regulation **OFFICE**

By (*Authorized Signature)* Date Signed

Printed Name and Title of Person Signing

STATE OF FLORIDA
OFFICE OF INSURANCE REGULATION

ATTACHMENT 1
Special Contract Conditions

1. Notices.
All notices referenced in this Contract must be obtained from the Parties' Contract Managers or their designees if designated in writing. Where the term "written notice" is used to specify a notice requirement herein, said notice will be deemed to have been given (i) when personally delivered; (ii) when transmitted via facsimile (with confirmation of receipt) or email (with confirmation of receipt), provided the sender on the same day sends a confirming copy of such notice by a recognized overnight delivery service (charges prepaid); (iii) the day following the day (except if not a Business Day then the next Business Day) on which the same has been delivered prepaid to a recognized overnight delivery service; or (iv) shall be deemed received on the date actually received except where there is a date of the certification of receipt.

2. Renewals.
Section 287.058(1)(g), Florida Statutes (F.S.), is hereby incorporated by reference. If Attachment 2, Statement of Work, indicates that renewals are available, any renewal entered must comply with all applicable requirements of section 287.057(14), F.S., including the limitations on the period of time for which renewals may be permitted. Renewals may only be entered when funding is available and when performance evaluations reflect satisfactory performance by the Contractor. Renewals must be at the price specified in this Contract and must not compensate the Contractor for any costs associated with the renewals.

3. Amendments.
This Contract may be amended only by a written agreement between the parties. All statements indicating that continued use of a product or clicking a box in an electronic application constitutes acceptance of terms and conditions are void. The Office may unilaterally require, by written amendment, changes altering, adding to, or deducting from the Contract specifications, provided that such changes are within the general scope of the Contract. The Office may make an equitable adjustment in the Contract price or delivery date if the change affects the cost or time of performance. Such equitable adjustments require the written consent of the Contractor, which shall not be unreasonably withheld. If unusual quantity requirements arise, the Office may solicit separate bids to satisfy them.

4. Contract Managers.
If different Contract Managers are designated by any Party after execution of this Contract, notice of the name and contact information of the new Contract Manager shall be submitted in writing (by either mail or email) to all other Parties and maintained in the respective Party's Contract records. Designation of a new Contract Manager will not require a written amendment to the Contract.

5. Appropriation.
Pursuant to section 287.0582, F.S., the Office's performance and obligation to pay under this Contract is contingent upon an annual appropriation by the Legislature.

6. Deliverables.
The Contractor agrees to render the services or other units of deliverables, which may be comprised of tasks or activities, as set forth in Attachment 2, Statement of Work. The services or other units of deliverables specified shall be delivered in accordance with the schedule and at the pricing outlined in (when applicable) Attachment 2, Statement of Work; Attachment 3, Price Response; and/or the State Term Contract.

7. Performance Measures.
Satisfactory performance requires the Contractor's compliance with the following: (1) the services will be performed by qualified personnel; (2) the services will be of the kind and quality described in Attachment 2, Statement of Work; (3) the services will be performed in a professional and workmanlike manner in accordance with industry standards and practices; (4) the services offered do not infringe upon the intellectual property rights, or any other proprietary rights, of any third party; and (5) any person or entity, whether an agent or independent contractor, that performs work on the Contract for the Contractor (Contractor Representative) will comply with any security requirements and processes as provided by the Office, or provided by the Office's customer, for work done at the Office or other

locations. The Office reserves the right to investigate or inspect at any time whether the services or qualifications offered by the Contractor meet the Contract requirements. Notwithstanding any provisions to the contrary, written acceptance of a particular deliverable/requirement does not foreclose the Office's remedies if those performance standards that cannot be readily measured at the time of delivery are not met.

8. Acceptance of Deliverables.

a. Acceptance Process. All deliverables must be received and accepted in writing by the Office's Contract Manager before payment, unless advanced payment or partial payment has been authorized in accordance with section 215.422, F.S. The Office will have fifteen (15) calendar days to inspect and approve the deliverables after receipt.

b. Rejection of Deliverables. The Office reserves the right to reject deliverables outlined in Attachment 2, Statement of Work, as incomplete, inadequate, or unacceptable due in whole or in part to the Contractor's lack of satisfactory performance under the terms of this Contract. If the Office's Contract Manager does not accept a deliverable within fifteen (15) calendar days, the deliverable will be deemed rejected. Failure to fulfill the appropriate technical requirements or complete all tasks, duties, or activities as identified in Attachment 2, Statement of Work, will result in rejection of the deliverable and the associated invoice. The Office, at its option, may allow additional time within which the Contractor may remedy the objections noted by the Office before the Office issues a notice of default. If the Office's Contract Manager allows additional time for the Contractor to correct a rejected deliverable, the Contractor shall work diligently to correct all deficiencies in the deliverable that remain outstanding within a reasonable time or, if a time certain is specified, within the additional time allotted. All work done to correct a rejected deliverable will be done at the Contractor's expense.

c. Status Reports. If status reports are required as part of the Contract, the Contractor shall timely submit status reports showing each task, activity, and deliverable worked on; attesting to the level of services provided; listing the hours spent on each task, activity, or deliverable; and listing any upcoming tasks, activities, or deliverables.

d. Completion Criteria and Date. The Contract will be considered complete once all deliverables under the Contract have been provided and accepted. The final date for completion of the Contract must not exceed the Contract duration, including any executed renewals or extensions, or, where applicable, the expiration date of any purchase orders made from the Contract.

9. Financial Consequences for Nonperformance.

In addition to any specific financial consequences that might be stated in Attachment 2, Statement of Work, the Office will withhold payment when the Contractor has failed to perform or comply with any provision of this Contract. These consequences for nonperformance are not to be considered penalties.

10. Dispute Resolution.

The following provision replaces Section 8.a., Dispute Resolution, of Attachment 4, PUR 1000, General Contract Conditions:

The Contractor is obligated to address any cost-related issues with the Office for which the Contractor believes the State of Florida (State) is liable and address all costs of every type to which the Contractor is entitled from the occurrence of the claimed event. The Contractor cannot seek a claim under this Contract for an increase in payment. Any claim, counterclaim, or dispute between the Office and the Contractor relating to this Contract will be resolved as set forth herein.

a. Jurisdiction. Jurisdiction for any damages arising under the terms of the Contract will be in the courts of the State, and venue will be in the Second Judicial Circuit in and for Leon County. Except as otherwise provided by law, the parties agree to be responsible for their own attorney's fees incurred in connection with disputes arising under the terms of this Contract.

b. Initial Resolution Process. For all claims, the party with the dispute shall submit an affidavit to the other party that is executed by that party's Contract Manager, or designee, certifying that:
   i. The claim is made in good faith;
   ii. The claim accurately reflects the adjustments for performance; and
   iii. The supporting data provided with such an affidavit are current and complete to the Contract Manager's, or designee's, best knowledge and belief.

   The party receiving notice of the dispute must respond to the disputing party, in writing, proposing a resolution to the dispute.

c. Informal Resolution Process. If the parties are unable to resolve any dispute through the initial resolution process, the parties shall meet with the Commissioner of Insurance Regulation, or designee, for the purpose of attempting to resolve such dispute without the need for formal legal proceedings, as follows:
   i. The representatives of the Contractor and the Office shall meet as often as the parties reasonably deem necessary to gather and furnish to each other all information with respect to the matter at issue which the parties believe to be appropriate and germane in connection with its resolution. The representatives shall discuss the problem and negotiate in good faith to resolve the dispute without the necessity of any formal

proceeding.

ii. During the course of negotiations, all reasonable requests made by one party to another for non-privileged information reasonably related to this Contract will be honored in order that each of the parties may be fully advised of the other's position.

iii. The specific format for the discussions will be left to the discretion of the designated Office's and Contractor's representatives but may include the preparation of agreed upon statements of fact or written statements of position.

iv. Following the completion of this process, the Commissioner of Insurance Regulation, or designee, will issue a written opinion regarding the issue(s) in dispute. The opinion regarding the dispute will be considered the Office's final action.

d. Continued Performance. Each party agrees to continue performing its obligations under this Contract while a dispute is being resolved except to the extent the issue in dispute precludes performance (dispute with the Office over compensation will not be deemed to preclude performance) and without limiting any party's right to terminate this Contract for convenience or default.

11. JURY WAIVER.

The following provision replaces Section 8.d., Jury Waiver, of Attachment 4, PUR 1000, General Contract Conditions:

THE PARTIES, ON BEHALF OF THEMSELVES AND ASSIGNS, HEREBY KNOWINGLY, VOLUNTARILY, INTENTIONALLY, AND IRREVOCABLY WAIVE ALL RIGHTS TO TRIAL BY JURY FOR ANY ACTION, APPEAL, CLAIM, OR PROCEEDING, WHETHER IN LAW OR IN EQUITY, WHICH IN ANY WAY ARISES OUT OF OR RELATES TO THE CONTRACT OR ITS SUBJECT MATTER.

12. Payment.

The following provision replaces Section 7, Payment, of Attachment 4, PUR 1000, General Contract Conditions:

a. Payment Process. Subject to the terms and conditions established in Attachment 2, Statement of Work, the pricing per deliverable established by the Attachment 3, Price Response, or Attachment 2, Statement of Work, and the billing procedures established by the Office, the Office agrees to pay the Contractor for services rendered in accordance with section 215.422, F.S. To obtain the applicable interest rate, please refer to https://myfloridacfo.com/division/aa/vendors.

b. Vendor Rights. A Vendor Ombudsman has been established within the Office. The duties of this individual include acting as an advocate for Contractors who may be experiencing problems in obtaining timely payment(s) from a state agency. The Vendor Ombudsman may be reached at (850) 413-5516 or Vendors may call the State Comptroller's Hotline at 1-800-848-3792.

c. Taxes. The Office is exempted from payment of State sales and use taxes and Federal Excise Tax. The Contractor, however, will not be exempted from paying State sales and use taxes to the appropriate governmental agencies or for payment by the Contractor to suppliers for taxes on materials used to fulfill its contractual obligations with the Office. The Contractor shall not use the Office's exemption number in securing such materials. The Contractor shall be responsible and liable for the payment of all its FICA/Social Security and other taxes resulting from this Contract. The Contractor shall provide the Office its taxpayer identification number upon request.

d. Invoice Detail. All charges for services rendered or for reimbursement of expenses authorized by the Office pursuant to Attachment 2, Statement of Work, shall be submitted to the Office in sufficient detail for a proper pre-audit and post-audit to be performed.

e. Interim Payments. Interim payments may be made by the Office at its discretion under extenuating circumstances if the completion of services and other units of deliverables to date have first been accepted in writing by the Office's Contract Manager.

f. Annual Appropriations. Pursuant to section 287.0582, F.S., the Office's performance and obligation to pay under this Contract is contingent upon an annual appropriation by the Legislature.

g. Overpayments. The Contractor shall return any overpayments, including those due to unearned funds or funds disallowed pursuant to the terms of the Contract that were disbursed to the Contractor by the Office. The Contractor shall return any overpayment within forty (40) calendar days after the earlier of: (1) discovery by the Contractor (including discovery by its independent auditor, if any), or (2) notification by the Office of the overpayment.

h. Leases and Installment Purchases. In accordance with section 287.063, F.S., if the Contract provides for a lease or installment-purchase agreement in excess of the Category Two amount established by section 287.017, F.S., then the Office's obligations under the Contract are contingent upon approval of the Contract by the

Chief Financial Officer, as defined in section 17.001, F.S.

i. Travel. Pursuant to section 287.058(1)(b), F.S., if travel is authorized under the Contract, the Contractor shall submit such in accordance with section 112.061, F.S., except that the Office may establish rates lower than the maximum provided in section 112.061, F.S.

j. Retention of Payments. The Office may, in addition to other remedies available to it at law or equity and upon written notice to the Contractor, retain such monies from amounts due to the Contractor as may be necessary to satisfy any claim for payment, including under the indemnification clause, payment for financial consequences, and payment for damages and the like asserted by or against the Office. The Office reserves the right to set off any liability or other obligation of the Contractor or its affiliates to the State against any payments due to the Contractor under any contract with the State. The exercise of these rights will not be a breach of the Contract, nor will they in any way entitle the Contractor to a claim against the Office or State, including for damages.

13. Purchase Orders.

a. Definition. "Purchase order" means the form or format a Office uses to make a purchase under the Contract (e.g., a formal written purchase order, electronic purchase order, procurement card, contract, or other authorized means).

b. Terms. In contracts where commodities or services are ordered by the Office via purchase order, Contractor shall not deliver or furnish products until the Office transmits a purchase order. All purchase orders shall bear the Contract or solicitation number, shall be placed by the Office directly with the Contractor, and shall be deemed to incorporate by reference the Contract and solicitation terms and conditions. Any discrepancy between the Contract terms and the terms stated on the Contractor's order form, confirmation, or acknowledgement shall be resolved in favor of terms most favorable to the Office. A purchase order for services within the ambit of section 287.058(1) of the Florida Statutes shall be deemed to incorporate by reference the requirements of subparagraphs (a) through (f) thereof. Offices shall designate a contract manager and a contract administrator as required by subsections 287.057(15) and (16) of the Florida Statutes.

c. Timeliness. Purchase orders issued pursuant to a state term or agency contract must be received by the Contractor no later than close of business on the last day of the contract's term to be considered timely. The Contractor is obliged to fill those orders in accordance with the contract's terms and conditions. Purchase orders received by the contractor after close of business on the last day of the state term or agency contract's term shall be considered void.

d. One-time deliveries. Purchase orders for a one-time delivery of commodities or performance of contractual services shall be valid through the performance by the Contractor, and all terms and conditions of the state term or agency contract shall apply to the single delivery/performance, and shall survive the termination of the Contract.

e. Extended deliveries. Contractors are required to accept purchase orders specifying delivery schedules exceeding the contracted schedule even when such extended delivery will occur after expiration of the state term or agency contract. For example, if a state term contract calls for delivery 30 days after receipt of order (ARO), and an order specifies delivery will occur both in excess of 30 days ARO and after expiration of the state term contract, the Contractor will accept the order. However, if the Contractor expressly and in writing notifies the ordering office within ten (10) calendar days of receipt of the purchase order that Contractor will not accept the extended delivery terms beyond the expiration of the state term contract, then the purchase order will either be amended in writing by the ordering entity within ten (10) calendar days of receipt of the contractor's notice to reflect the state term contract delivery schedule, or it shall be considered withdrawn.

f. Recurring deliveries. The duration of purchase orders for recurring deliveries of commodities or performance of services shall not exceed the expiration of the state term or agency contract by more than twelve months. However, if an extended pricing plan offered in the state term or agency contract is selected by the ordering entity, the contract terms on pricing plans and renewals shall govern the maximum duration of purchase orders reflecting such pricing plans and renewals.

g. Survival. Timely purchase orders shall be valid through their specified term and performance by the Contractor, and all terms and conditions of the state term or agency contract shall apply to the recurring delivery/performance as provided herein and shall survive the termination of the Contract.

h. Renewal. Ordering offices shall not renew a purchase order issued pursuant to a state term or agency contract if the underlying contract expires prior to the effective date of the renewal.

14. Termination.

a. Contractor Obligations upon Notice of Termination. After receipt of a notice of termination or partial termination, and except as otherwise directed by the Office, the Contractor shall stop performing services on the date, and to the extent specified, in the notice. The Contractor shall accept no further work or new services related to the affected deliverables, and shall, as soon as practicable, but in no event longer than thirty (30) calendar days after termination, terminate any orders and subcontracts related to the terminated deliverables and settle all outstanding liabilities and all claims arising out of such termination of orders and/or subcontracts, with the approval or ratification of the Office to the extent required, which approval or ratification shall be final for the purpose of this section. The Contractor shall submit to the Office within ninety (90) calendar days of termination a request for payment of completed services. Requests submitted later than ninety (90) calendar days after termination will not be honored and will be returned unpaid. The Contractor shall professionally service to conclusion, in accordance with the requirements of the Contract, all services for which the Office has paid prior to the termination date of this Contract. Should the Contractor fail to perform all services under the Contract, the Contractor shall be liable to the Office for any fees or expenses that the Office may incur in securing a substitute provider to assume completion of those services.

b. Contractor Obligations after Termination. If at any time the Contract is canceled, terminated, or expires, and a contract is subsequently executed with a provider other than the Contractor, the Contractor has the affirmative obligation to assist in the smooth transition of Contract services to the subsequent contractor in accordance with Exit Transition requirements in Section 27 below, and Attachment 2, Statement of Work, if expressed therein.

c. Verification of Insurance. Upon execution of the Contract, the Contractor shall provide to the Office written verification of the existence and amount for each type of applicable insurance coverage. Upon receipt of written request from the Office, the Contractor shall furnish to the Office proof of applicable insurance coverage by standard form certificates of insurance.

d. Failure to Maintain Coverage. If the Contractor fails to maintain the required insurance coverage for any reason, the Contractor shall immediately notify the Office of such noncompliance and shall obtain coverage conforming to the requirements herein. The Contractor shall provide proof of such required coverage within fifteen (15) business days of not maintaining the required insurance coverage.

15. Notice of Default.

If the Contractor defaults in the performance of any covenant or obligation contained in the Contract, including, without limitation, any of the events of default listed below, the Office shall provide notice to the Contractor and an opportunity to cure that is reasonable under the circumstances. This notice will state the nature of the failure to perform and provide a time certain for correcting the failure. The notice will also provide that the Office may terminate the Contract effective as of the date of receipt of the default notice unless the Contractor cures the default within the specified cure period.

16. Events of Default.

Provided such failure is not the fault of the Office or outside the reasonable control of the Contractor, the following non-exclusive list of events, acts, or omissions, constitutes events of default:

a. The commitment of any material breach of this Contract by the Contractor, including failure to timely deliver a deliverable, discontinuance of the performance of the work, failure to resume work that has been discontinued within a reasonable time after notice to do so, abandonment of the Contract, or failure to perform the level of services required for a deliverable;
b. Failure to maintain adequate progress, thus endangering performance of the Contract;
c. Failure to honor any term of the Contract;
d. Failure to abide by any statutory, regulatory, or licensing requirement, including an entry of an order revoking the certificate of authority granted to the Contractor by the State or other licensing authority;
e. Failure to pay any and all entities, individuals, and the like furnishing labor or materials, or failure to make payment to any other entities as required herein in connection with the Contract;
f. Employment of an unauthorized alien in the performance of the work, in violation of section 274A of the Immigration and Nationality Act, 8 U.S.C. section 1324a;
g. One or more of the following circumstances, uncorrected for more than thirty (30) calendar days (unless the Contractor, including its receiver or trustee in bankruptcy, within the specified thirty (30) day period provides to the Office adequate assurances, reasonably acceptable to the Office, of its continuing ability and willingness to fulfill its obligations under the Contract):
    i. Entry of an order for relief under Title 11 of the United States Code;
    ii. To the extent permitted by State law, the making by the Contractor of a general assignment for the benefit of creditors;
    iii. The appointment of a general receiver or trustee in bankruptcy of the Contractor's business or property; or
    iv. An action by the Contractor under any state insolvency or similar law for the purpose of its bankruptcy, reorganization, or liquidation;
h. The commitment of an intentional material misrepresentation or omission in any materials provided to the Office;

and
i. Failure to or maintain the insurance required by this Contract.

17. Indemnification.

The following provision supplements Section 8.f., Indemnification, of Attachment 4, PUR 1000, General Contract Conditions:

No provision in this Contract shall be construed to: 1) require the Office to hold harmless or indemnify the Contractor; 2) require the Office to insure or assume liability for the Contractor's negligence or the negligence of Contractor Representatives; 3) waive the Office's sovereign immunity under the laws of the State; or 4) otherwise impose liability on the Office for which it would not otherwise be responsible. Any provision, implication, or suggestion to the contrary is null and void.

18. Record Retention.

The following provision supplements Section 10.a., General Record Management and Retention, of Attachment 4, PUR 1000, General Contract Conditions:

The Contractor shall adhere to established information destruction standards such as those established by the National Institute of Standards and Technology Special Publication 800-88, "Guidelines for Media Sanitization" (2014). *See* http://nvlpubs.nist.gov/nistpubs/SpecialPublications/NIST.SP.800-88r1.pdf.

19. Intellectual Property.

a. In accordance with State law, the Contractor shall not assert any rights to: 1) intellectual property created or otherwise developed specifically for the Office under this Contract or any prior agreement between the parties (which includes any deliverables); 2) intellectual property furnished by the Office; and 3) any data collected or created for the Office. The Contractor shall perfect the transfer of any such property or data to the Office upon completion, termination, or cancellation of the Contract and prior to payment of the final invoice. Any data provided must be in a format designated by the Office.
b. If the Office or the State has authority to assert a right in any of the property or data, the Contractor shall assist, if necessary, in the assertion of such right.
c. Proceeds derived from the sale, licensing, marketing, or other authorization related to any such Office-controlled intellectual property rights shall belong to the Office, unless otherwise specified by applicable State law.
d. Notwithstanding the foregoing, and unless otherwise specified in Attachment 2, Statement of Work, the Contractor's intellectual property rights that preexist this Contract will remain with the Contractor.
e. If the Contractor fails to provide, or no longer can provide, a deliverable or service under the Contract that contains or otherwise utilizes intellectual property controlled by the Contractor, the Contractor shall grant the Office a royalty-free, paid-up, nonexclusive, perpetual license to use, modify, reproduce, distribute, publish, or release to others such Contractor-controlled intellectual property solely for use in connection with the deliverables or services under the Contract.

20. Ownership of Property.

Title to all property furnished by the Office under this Contract and deliverables provided to the Office shall remain property of the Office and/or become property of the Office upon receipt and acceptance. The Contractor shall perfect any transfer of the property to the Office upon completion, termination, or cancellation of the Contract prior to payment of the final invoice.

21. Nonexclusive Contract.

This Contract is not an exclusive license to provide the services described in the solicitation or the resulting Contract. The Office may, without limitation and without recourse by the Contractor, contract with other vendors to provide the same or similar services.

22. Statutory Notices.

Pursuant to sections 287.133, 287.134, 287.1346, and 287.137, F.S., the following restrictions are placed on the ability of persons or entities placed on the convicted vendor list, the discriminatory vendor list, the forced labor vendor list, or the antitrust violator vendor list:

a. Convicted Vendor List. A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit a bid, proposal, or reply on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in section 287.017, F.S., for CATEGORY TWO for a period of thirty-six (36) months following the date of being placed on the convicted vendor list.
b. Discriminatory Vendor List. An entity or affiliate that has been placed on the discriminatory vendor list may not

submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit a bid, proposal, or reply on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity.

c. Forced Labor Vendor List. An entity or affiliate placed on the forced labor vendor list may not submit a bid, proposal, or reply on a contract to provide any commodities to an agency; may not be award a contract or perform work as a contractor, supplier, subcontractor, or consultant with an agency for the provision of commodities; and may not transact business for the provision fo commodities with any agency for a period of 365 days after the date the company was placed on the forced labor vendor list unless the entity or affiliate is removed from the list. At the Office's option, the Contract may be terminated if the entity or affiliate is placed on the forced labor vendor list.

d. Antitrust Violator Vendor List. A person or an affiliate who has been placed on the antitrust violator vendor list following a conviction or being held civilly liable for an antitrust violation may not submit a bid, proposal, or reply for any new contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply for a new contract with a public entity for the construction or repair of a public building or public work; may not submit a bid, proposal, or reply on new leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a new contract with a public entity; and may not transact new business with a public entity.

The Contractor shall notify the Office if it or any of its suppliers, subcontractors, or consultants have been placed on the convicted vendor list, the discriminatory vendor list, the forced labor vendor list, or the antitrust violator vendor list during the life of the Contract.

23. Compliance with Federal, State, and Local Laws.

a. Choice of Law. This Contract will be governed by and construed in accordance with the laws of the State.

b. Rehabilitation Act. If applicable to the supplies and services the Contractor provides to the Office, the Contractor shall ensure the electronic and information technology accessibility requirements of the Rehabilitation Act Amendments, 29 U.S.C. section 794, are met and provide a website where the compliance information on such supplies and services is available. The Electronic and Information Technology standard can be found at: http://www.section508.gov/.

c. Scrutinized Companies.

The following paragraph applies regardless of the dollar value of the goods or services provided:

In accordance with the requirements of section 287.135, F.S., the Contractor certifies that it is not participating in a boycott of Israel. At the Office's option, the Contract may be terminated if the Contractor is placed on the Quarterly List of Scrutinized Companies that Boycott Israel (referred to in statute as the "Scrutinized Companies that Boycott Israel List") or becomes engaged in a boycott of Israel.

The State Board of Administration maintains the "Quarterly List of Scrutinized Companies that Boycott Israel" at the following link:
https://www.sbafla.com/governance/global-governance-mandates/

The following paragraph applies only when the goods or services to be provided are $1 million or more:

In accordance with the requirements of section 287.135, F.S., the Contractor certifies that it is not on the Scrutinized List of Prohibited Companies (referred to in statute as the "Scrutinized Companies with Activities in Sudan List" and the "Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List") and, to the extent not preempted by Federal law, that it has not been engaged in business operations in Cuba or Syria. At the Office's option, the Contract may be terminated if such certification (or the certification regarding a boycott of Israel) is false, if the Contractor is placed on the Scrutinized List of Prohibited Companies, or, to the extent not preempted by Federal law, if the Contractor engages in business operations in Cuba or Syria.

The State Board of Administration maintains the "Scrutinized List of Prohibited Companies" under the quarterly reports section at the following link:
https://www.sbafla.com/reporting/

d. Foreign Country of Concern Attestation**.** If the contractor has access to any individual's personal identifying information, the Contractor shall complete the Foreign Country of Concern Attestation Form on Form PUR 1355.

e. Vendor's Social, Political, or Ideological Interests. Pursuant to section 287.05701, F.S., the Office may not request documentation of or consider a vendor's social, political, or ideological interests when determining if the vendor is a responsible vendor. The Office may not give preference to a vendor based on the vendor's social, political, or ideological interests.

f. Disclosure Requirements. The Contractor shall comply with any applicable disclosure requirements in section

286.101, F.S. Pursuant to section 286.101(7), F.S.: "In addition to any fine assessed under [section 286.101(7)(a)], a final order determining a third or subsequent violation by an entity other than a state agency or political subdivision shall automatically disqualify the entity from eligibility for any grant or contract funded by a state agency or any political subdivision until such ineligibility is lifted by the Administration Commission for good cause."

24. Employment Eligibility Verification.

The following provision replaces Section 5.e.iii., E-Verify, of Attachment 4, PUR 1000, General Contract Conditions:

a. The Contractor and its subcontractors shall register with and use the E-Verify system as defined in section 448.095, F.S., to verify the work authorization status of all newly hired employees. The Contractor agrees to provide to the Office proof of the Contractor's enrollment in the E-Verify System within five (5) days of the Office's request for such proof.
b. The Contractor shall obtain an affidavit from each subcontractor as defined in section 448.095, F.S., that states that the subcontractor does not employ, contract with, or subcontract with an unauthorized alien, as defined by section 448.095, F.S. The Contractor shall maintain a copy of any such affidavits for the duration of the Contract and shall make such records available to the Office upon request.
c. The Contractor shall be responsible for the retention of any records relating to employment eligibility verification. Those records are exempt from the inspection and copying requirements of chapter 119, F.S.
d. The Contractor shall comply with the requirements for contractors set forth in section 448.095(2), F.S.
e. Pursuant to section 448.095(5)(c)1., F.S., if the Contractor has a good faith belief that any subcontractor has knowingly violated section 448.09(1), F.S., the Contractor shall terminate the subcontract.
f. Pursuant to section 448.095(5)(c)1., F.S., if the Office has a good faith belief that the Contractor has knowingly violated section 448.09(1), F.S., the Office shall terminate the Contract.
g. Pursuant to section 448.095(5)(c)2., F.S., if the Office has a good faith belief that a subcontractor knowingly violated section 448.095, F.S., but the Contractor has otherwise complied with that section, the Office will notify the Contractor and order the contractor to immediately terminate the contract with the subcontractor.
h. If the Office terminates the Contract pursuant to section 448.095(5)(c), F.S., the Contractor shall reimburse the Office for any additional costs the Office incurs as a result of terminating the Contract.

25. Data.

a. <u>Data Centers.</u> Except as otherwise provided in Attachment 5, Data Security Requirements, the Contractor shall only use data centers located in the United States when processing and storing Non-Open Data under this Contract. For purposes of this paragraph, "Non-Open Data" means any data that is in the possession or under the control of the State or the Contractor that is confidential information exempt from public disclosure pursuant to chapter 119, F.S.; personal information enumerated in section 501.171(1)(g), F.S.; and/or any data that is restricted from public disclosure based on federal or state laws and regulations, including, but not limited to, those related to privacy, confidentiality, security, personal health, business or trade secret information, and exemptions from state public records laws. Non-Open Data also includes data that any state agency, the Department of Legal Affairs, the Department of Financial Services, or the Department of Agriculture and Consumer Services is statutorily authorized to assess a fee for its distribution.
b. <u>Requirements of Section 501.171, F.S.</u> If the Office shares data that is covered by section 501.171, F.S., with the Contractor in the process of fulfilling this Contract, the Contractor is responsible for fulfilling the requirements placed on the Office by section 501.171, F.S., at the Contractor's expense, if the Contractor is responsible for a breach of this data. Notwithstanding any limitations on liability addressed in the Contract, if the Contractor fails to fulfill the requirements placed on the Office by section 501.171, F.S., the Contractor shall reimburse the Office for all costs incurred in fulfilling such requirements.

26. Subcontracting.

The following provision supplements Section 5.d.i. Subcontracting, of Attachment 4, PUR 1000, General Contract Conditions:

a. <u>Consent.</u> Unless otherwise specified in Attachment 2, Statement of Work, all services contracted for are to be performed solely by the Contractor and may not be subcontracted or assigned without the prior written consent of the Office.
b. <u>Replacement.</u> The Office may, for cause, require the replacement of any Contractor Representative. For cause, includes, but is not limited to, technical or training qualifications, quality of work, change in security status, or non-compliance with an applicable Office policy or other requirement.
c. <u>Access.</u> The Office may, for cause, deny access to the Office's secure information or any facility by any Contractor Representative.
d. <u>Continuing Obligation.</u> The Office's actions under paragraphs b. or c. shall not relieve the Contractor of its

obligation to perform all work in compliance with the Contract.

e. Meetings. The Office will not deny Contractor Representatives access to meetings within the Office's facilities, unless the basis of the Office's denial is safety or security considerations.

27. Guarantee of Parent Corporation.

If the Contractor is a subsidiary of another corporation or other business entity, the Contractor asserts that its parent corporation will guarantee all the obligations of the Contractor for purposes of fulfilling the obligations of the Contract. If the Contractor is sold during the period the Contract is in effect, the Contractor agrees that it will be a requirement of sale that the new parent company guarantees all the obligations of the Contractor.

28. Survival.

The following provision replaces Section 3.b.vi, Survivability, of Attachment 4, PUR 1000, General Contract Conditions:

> The Contract and any promises, covenants, and representations made herein are binding upon the parties hereto and all respective heirs, assigns, and successors in interest. The respective obligations of the parties, which by their nature would continue beyond the termination or expiration of this Contract, including without limitation, the obligations regarding confidentiality, proprietary interests, post-termination reimbursements, Exit Transition Services, records retention, and public records, will survive termination, cancellation, or expiration of this Contract.

29. Exit Transition Services.

If not otherwise addressed in Attachment 2, Statement of Work, the Contractor has the affirmative obligation to provide to the Office, or its designee, all reasonable services necessary for the transfer of knowledge regarding the services and deliverables provided under the Contract (Exit Transition Services) to facilitate the orderly transfer of such services to the Office or its designee. If Exit Transition Services are necessary, such services may continue for up to six (6) months after termination, expiration, or cancellation of the Contract, at no cost to the Office.

30. Third Parties.

The Office shall not be deemed to assume any liability for the acts, omissions to act, or negligence of the Contractor or Contractor Representatives, nor shall the Contractor disclaim its own negligence to the Office or any third party. This Contract does not and is not intended to confer any rights or remedies upon any person other than the parties. If the Office consents to a subcontract, the Contractor will specifically disclose that this Contract does not create any third-party rights. Further, no third parties shall rely upon any of the rights and obligations created under this Contract.

31. Employment of State Employees.

During the term of this Contract, the Contractor shall not knowingly employ or subcontract with any person (including any nongovernmental entity in which such person has any employment or other material interest as defined in section 112.312(15), F.S.), in connection with this Contract, who has participated in the performance or procurement of this Contract except as provided in section 112.3185, F.S.

32. Antitrust Assignment.

The Contractor and the State of Florida recognize that in actual economic practice, overcharges resulting from antitrust violations are in fact usually borne by the State of Florida. Therefore, the contractor hereby assigns to the State of Florida any and all claims for such overcharges as to goods, materials or services purchased in connection with the Contract.

33. Safety Standards.

All manufactured items and fabricated assemblies subject to operation under pressure, operation by connection to an electric source, or operation involving connection to a manufactured, natural, or LP gas source shall be constructed and approved in a manner acceptable to the appropriate State inspector. Acceptability customarily requires, at a minimum, identification marking of the appropriate safety standard organization, where such approvals of listings have been established for the type of device offered and furnished, for example: the American Society of Mechanical Engineers for pressure vessels; the Underwriters Laboratories and/or National Electrical Manufacturers' Association for electrically operated assemblies; and the American Gas Association for gas-operated assemblies. In addition, all items furnished shall meet all applicable requirements of the Occupational Safety and Health Act and state and federal requirements relating to clean air and water pollution.

ATTACHEMENT 2
2526-02 ITB OIR

OFFICE OF INSURANCE REGULATION
Scope of Services Agreement for
Financial Examination Services (General Examination & Actuarial & I.T.)

THIS IS A SAMPLE SCOPE OF SERVICES AGREEMENT FOR THE PURPOSES OF THIS ITB. THIS AGREEMENT DETAILS THE STATEMENT OF WORK AND THE CONTRACTOR RESPONSIBILITIES. PLEASE DO NOT FILL IN ANY BLANKS OR EXECUTE THIS DOCUMENT AT THIS TIME.

ANY CONTRACTOR THAT IS SUBSEQUENTLY SELECTED TO COMPLETE A FINANCIAL EXAMINATION ON BEHALF OF THE FLORIDA OFFICE OF INSURANCE REGULATION, WILL BE REQUIRED TO EXECUTE A SCOPE OF SERVICES AGREEMENT, PRIOR TO STARTING AN EXAMINATION.

Contractor: Contract No: Agreement No: FACTS ID# Company: Contract Manager: OIR Exam Manager:

1. Introduction.

The Contractor identified above, is hereby authorized to perform the services described in this Scope of Services Agreement (Agreement). The specific terms in this Agreement shall be read together with general terms outlined in the Standard Terms and Conditions, Attachment 1. Where in conflict, the terms of this Agreement shall apply.

2. Statement of Work.

The Office has called for a financial examination pursuant to section 624.316, Florida Statutes, as of period ended December 31, 20xx and subsequent events affecting the company identified above. The Contractor shall provide assistance to the Office in conducting the Financial Condition Examination as defined in sections 624.316, 641.27 and 636.039, Florida Statutes, of the company identified above (the "Company") to the extent and in the manner directed by the Office in this Agreement. The Contractor shall use the Risk-Focused Surveillance Approach to conduct the evaluation in accordance with the National Association of Insurance Commissioners (NAIC) Financial Condition Examiners Handbook, the NAIC Accounting Practices and Procedures Manual and Rule Chapter 69O-138, Florida Administrative Code, all other applicable NAIC guidance, **American Academy of Actuaries,** and Florida Statutes. The service to be provided is not an audit in accordance with generally accepted auditing standards.

3. Duration.

The estimated start date for the examination is 00/00/0000. The estimated completion date for this exam is 00/00/0000. The completion date may be extended by written agreement, including email, between the parties. The Contractor shall remain available to the Office for a period of one year following the completion of the services under this Agreement to provide additional services related to the examination, as determined necessary by the Office.

4. Contractor Responsibilities.

The Contractor shall provide the following work-papers as requested and needed pursuant to this specific examination. The Deliverables are as follows:

a. **General Examination Deliverables**. The Contractor shall, at the direction of the Office prepare work papers, which shall be the property of the Office, to support all work performed and conclusions reached by the Contractor in connection with the examination, to the extent and in the format and manner directed by the Office. The Contractor shall make said work papers available to the Office on demand and deliver the work papers to the Office within five (5) working days following the conclusion of the examination field work or the cancellation of this Agreement. The Contractor shall modify any draft report on the examination prepared by it in the manner and to the extent directed by the Office. The Contractor shall provide the following work-papers as requested and needed pursuant to this specific examination:

1. **Exam Report** – A written communication to the Commissioner of the Florida Office of Insurance Regulation, that is intended to be final in nature and meets the guidelines and definitions of the most recent Financial Condition Examiners Handbook (FCEH). Reports are considered final once they are issued on a thirty-day transmittal letter or are otherwise complete as can be reasonably expected by the Office.
2. **Draft Management Letter** – A confidential written communication to the Board of Directors and Senior Management of the Company. This document includes significant results and observations that the Office has determined are more appropriate in a confidential management letter or does not rise to the level needing to be disclosed in a report. This letter shall follow the guidance found in the most recent FCEH.
3. **Summary Review Memorandum** – A document that is prepared in accordance with the instructions found in Exhibit AA of the FCEH, the guidance set forth by the Office, and in the format specified by the Office. This document at a minimum shall summarize by branded risk classifications, the examination findings, prospective solvency concerns, responses to analyst concerns, subsequent events and any other pertinent information that needs to be communicated to the Office.
4. **Management Representation Letter** – A document prepared in accordance with the latest FCEH from the company examined acknowledging the representations made and information provided during the examination.

b. **Actuarial Deliverables:**

1. The actuarial specialist shall, at the discretion of the Office and in coordination with the Examiner-in-Charge, participate as needed in the risk focused exam as it is defined in the latest FCEH. This includes, but is not limited to, identifying risks, completing relevant matrices, and preparing supporting workpapers. All of these should be done in TeamMate as needed and dictated by the risk focused approach. These workpapers should be of sufficient detail that a different actuarial specialist, with a similar background, could exam the workpapers in TeamMate and arrive at a similar conclusion.
2. **Actuarial Closing Memo -** A summary of the Actuarial work and services that were performed during the financial examination. Also includes, if needed, any recommendations that the examination firm and/or actuary recommends for the company.

c. **I.T. Deliverables**

1. <u>I.T. Review Standard Summary Memorandum</u>

A document prepared in accordance with the latest FCEH by the IT examiner that communicates his/her review of the IT control environment, work performed, findings, and conclusion on the effectiveness of the IT general controls and assistance to be provided on remaining areas within the financial examination.

2. <u>I.T. Review Work Program</u>

This document shows the work performed in evaluating the IT control environment. It includes risk statements, the identification of controls, and it documents test procedures. It provides enough detail that a different person with a similar background could look work documented and arrive at a similar conclusion.

d. <u>Status Reports</u>. The Contractor shall submit to the Office a status report of work completed and estimated time to complete all remaining work required. The status report shall be provided on the 15^{th} and the last day of each month during the period in which the examination is being conducted.

e. <u>Equipment</u>. The Contractor shall provide all computers and other equipment needed to perform the services required by this Agreement. The services under this Agreement will, in part, be conducted at the premises of the Company.

f. <u>Communication between Parties.</u> The Contractor shall report directly to Office representatives regarding the performance of services. Communication between the Company and the Contractor shall be limited to the solicitation of information by the Contractor from the Company regarding the examination. The Contractor shall not issue any work product, records, computations, schedules, or draft or final report to the Company, unless authorized in advance by the Office.

g. <u>Statutory Requirements</u>. The Contractor shall immediately communicate in writing to the Office any instances of non-compliance by the Company or any affiliate thereof with applicable provisions of Florida Statutes or Florida Administrative Code along with any documents or other proof of such violations. The Contractor shall not be responsible for the fraud or other illegal acts committed by the Company but shall promptly bring to the Office's attention any evidence discovered by the Contractor that fraud or other illegal acts may have occurred.

h. Post-Examination Availability. The Contractor shall remain available to the Office on a fee-for-service basis, at the same hourly rates as contained below, for a period of one year following completion of the services under this Agreement, to provide additional services, regarding the examination, to the Office, as determined necessary by the Office.

i. Performance Measures: The Contractor shall provide the deliverables that meets the criteria outlined in section a above. The services as described in this Agreement should be completed by the estimated date provided.

Prior to performing any additional work not included in this Agreement, the Contractor shall submit a request in writing to the OIR Exam Manager/ OIR Exam Supervisor to be submitted to management for approval. The following information will be required:

1. Specific details as to why the request is being made;
2. Break down of hours by type of position or function: Positions are Examination Manager, Examiner-in-Charge, Participating Examiner, Head Actuary, Participating Actuary, Cyber Security/IT Forensics Specialist, Head IT Specialist, Participating IT Specialist, Investment Specialist, Reinsurance Specialist, Administrative Supervision, or Blended Rate
3. Total number of hours and Total amount of request.

j. Ownership and Use of Documents. All work product, reports, work papers, records, files, documents, schedules, computations, and correspondence created by or in the possession or control of the Contractor in the course of performing work under this Agreement, whether in physical or electronic format, shall be the exclusive property of the Office. Upon termination of the Contract, all records in the possession of the Contractor must be transferred to the Office at no cost. All records stored electronically must be provided to the Office in a format compatible with the Office's information technology systems. Notwithstanding the foregoing, Contractor may retain, in confidence, copies of its working papers in accordance with its professional obligations.

k. Confidentiality. Except as required by law, the Contractor shall not divulge to third parties any confidential information obtained by the Contractor or its agents, subcontractors, officers, or employees in the course of performing work under this Agreement, including but not limited to security procedures, business operations information, or commercial proprietary information in the possession of the Office or Company being examined. Confidentiality requirements shall survive this Agreement.

l. Public Records Requirements. Workpapers and other information obtained during the course of an examination or investigation are confidential and exempt from Florida's Public Records Law while the examination or investigation is active as described in section 624.319, Florida Statutes.

Notwithstanding the foregoing, all records, workpapers, e-mails, or other information related to the performance of service shall be maintained by the Contractor in the same manner as would be required by the Office and as required by Addendum A: Office of Insurance Regulation Public Records Requirements.

The Contractor shall not be required to disclose any proprietary, trade secret, or information protected by law pursuant to section 119.07, Florida Statutes. If the Contractor receives a public records request or a subpoena for confidential or trade secret information, the Contractor shall furnish copies of the request and of any records in its possession that are responsive to the request to the Office. The Office will either defend the request or produce any public records or subpoenaed records to the requesting party.

In the event that a judge in a court of competent jurisdiction orders the Contractor to produce records in its possession directly to a court or other party, the Contractor shall comply with the order and shall furnish a copy of any records produced to the Office.

5. Office Responsibilities.

a. The Office will provide, in writing, all instances where deliverables are not in acceptable form. All deliverables that are not accepted will be subject to the Financial Consequences included in Section 7.

b. The Office will review status reports within a reasonable time frame.

6. Payment Provisions.

a. Compensation. This is a fixed rate contract. The compensation of this Agreement shall be in accordance with the following hourly rates:

	$000.00
	$000.00
	$000.00
	$000.00

The total fees/hours of the Contract shall not exceed $000000000 fees/ 00000 hours, unless so authorized in writing by the Office. Within five (5) days of any determination by the Contractor that its examination fees are likely to exceed seventy-five percent (75%) of said amount, the Contractor shall in writing so notify the Office. The Office with proper justification in writing may authorize an increase in fees.

b. Invoices. The Contractor shall contemporaneously record all time worked and make those records available to the Office as requested. The Contractor shall submit the corresponding status report(s) to the Office on the 15th and the last day of the month. The Contractor may submit bi-weekly invoices or one monthly invoice accordingly. Invoices shall be submitted in detail sufficient for a proper preaudit and post-audit thereof. The Office reserves the right to disapprove any fee that it deems to be excessive or unrelated to the services required under this Agreement. The Contractor shall not invoice or attempt to collect from the Company any fees related to the services performed except as provided in this Agreement.

The invoice will not be considered for payment until it has been received, reviewed, and approved by the Office's Contract Manager. **Ten percent (10%) will be withheld from each invoice submitted for payment, this percentage will be paid on submission, review and approval of deliverables by the Office.**

c. Travel. The Contractor shall not be reimbursed for travel expenses incurred in connection with this Agreement unless prior authorization is granted in writing by the Office. If authorized by the Office, requests for travel expense reimbursement shall be submitted in accordance with section 112.061, Florida Statutes.

d. Post-Exam Rates. Compensation for post-exam services, as described in paragraph 3. above, shall be on a fee-for-services basis at the same hourly rates as contained above.

7. Enforcement.

Financial Consequences for Nonperformance. The Office shall withhold 10% from each invoice submitted for payment. Nonperformance shall result in the forfeiture of the 10% holdback.

8. Additional Contract Terms.

a. Conflict of Interest. The Contractor affirms that to the best of its knowledge, there exists no actual or potential conflict between the Contractor's, Subcontractors, other employed professionals, family, business, or financial interest and the services provided under this contract. In the event of a change in either the private interest or services under this Contract, any questions regarding a possible conflict of interest that may arise as a result of this change shall be disclosed in writing to the Office as soon as the Contractor becomes aware of the conflict.

b. Limit on other engagements. The Contractor shall not accept any other engagement relating to the Company during the term of this Agreement, or for twelve (12) months thereafter, unless the Office consents in writing to the waiver or modification of this restriction. This prohibition includes but is not limited to any parent or subsidiary corporation of the Company.

c. Independent Contractor. The Contractor shall perform the services required under this Contract as an independent contractor and not as an employee of the Office, the State of Florida, or the Company. The Contractor is responsible for the management or supervision of only its owners, employees, and representatives, and is not responsible for supervision of employees of the Company.

d. Use of other Professionals and Subcontractors. Subject to the approval of the Office, the Contractor may contract for or employ, at its expense, such professionals, as the Contractor deems necessary for the completion of the services described in this Agreement. The Contractor may hire the services of subcontractors with the Office's prior written approval. The Contractor is as responsible for the performance of the professionals and subcontractors as it would be if it had rendered these services itself. Nothing in this Agreement shall create any contractual relationship between the Office or Company and the professionals or subcontractors employed by the Contractor under the terms and conditions of this Agreement. The Contractor is solely responsible for payment of any professionals or subcontractors.

e. Termination. This Agreement and any addendum may be cancelled at any time by either party upon written or electronically conveyed notification to the other party. If this Agreement or any addendum is cancelled in accordance with this paragraph, the Contractor shall be entitled to fees for services performed prior to said cancellation.

f. Indemnification. The Office's liability for any claim arising from this Contract is limited to compensatory damages in an amount no greater than the sum of the unpaid balance of compensation due for goods or services rendered pursuant to and in compliance with the terms of the Contract. Such liability is further limited to a cap of $100,000.

   In no event will Contractor be liable to the Office for any consequential, incidental, indirect, punitive or special damages (including loss of revenues, profits, data, business or good will) in connection with the performance of the services or otherwise under this Agreement, whether or not liability is based on breach of contract, tort, strict liability, breach of warranty, failure of essential purpose or otherwise, and even if Contractor is advised of the likelihood of such damages.

9. Authority of Contract.

This Contract represents the entire and integrated agreement between the parties and supersedes all prior negotiations, representations, or agreements, either written or oral. This Contract and any addendum may be amended only by a written instrument signed by the Office and the Contractor.

IN WITNESS WHEREOF, the parties have executed this Agreement.

Contractor: ______________________	Florida Office of Insurance Regulation
By: ____________________________	By: __________________________
Printed Name: ____________________	Printed Name: _________________
Title: ___________________________	Title: Director
Date: ___________________________	Date: ________________________

General Contract Conditions

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1. Definitions. Capitalized terms used herein are defined as follows:

(a) "Attachments" means the attachments, addenda, schedules, exhibits, and other documents, however so titled, attached hereto or incorporated by reference herein.

(b) "Business Days" means Monday through Friday, inclusive, excluding State holidays specified in section 110.117, Florida Statutes ("F.S").

(c) "Contract" means the legally enforceable agreement between the Customer and Contractor to which this PUR 1000 form is attached, including all Attachments thereto. This term encompasses both written agreements and purchase orders, as each is defined in Rule 60A-1.001, Florida Administrative Code ("F.A.C.").

(d) "Contractor" means the person or entity that is a party to the Contract and is providing Products to the Customer.

(e) "Customer" means the agency, as defined in section 287.012, F.S., that is a party to the Contract. For purchases off a term contract, as defined in section 287.012, F.S., this term also includes the eligible user, as defined in Rule 60A-1.001, F.A.C, that is a party to the Contract.

(f) "Product" means any deliverable under the Contract, which may include commodities and contractual services, as each is defined in section 287.012, F.S. "Product" does not include, and no State funding under the Contract is being provided for, promoting, advocating for, or providing training or education on "Diversity, Equity, and Inclusion" ("DEI"). DEI is any program, activity, or policy that classifies individuals on the basis of race, color, sex, national origin, gender identity, or sexual orientation and promotes differential or preferential treatment of individuals on the basis of such classification, or promotes the position that a group or an individual's action is inherently, unconsciously, or implicitly biased on the basis of such classification.

(g) “State” means the State of Florida.

2. Contract Formation and Amendment.

a. Formation. If the Contract is a written agreement as defined in Rule 60A-1.001, F.A.C., the Contract is effective upon the date last signed by all parties, unless a different date is specified herein. If the Contract is a purchase order as defined in Rule 60A-1.001, F.A.C., the Contract is effective upon the date of issuance by the Customer to the Contractor, and the Contractor’s performance under the purchase order is deemed to be acceptance of the terms thereof.

b. Amendment. The Contract contains all the terms and conditions agreed upon by the parties and will govern all transactions between the parties. The Contract may only be amended upon mutual written agreement signed by both parties, or upon the Customer’s issuance of a change order to a purchase order, as defined in Rule 60A-1.001, F.A.C., deemed to be accepted by the Contractor upon the continued performance thereof. No oral agreements or representations will be valid or binding upon either party. The Contractor may not unilaterally modify the terms of the Contract by affixing additional terms to the Product upon delivery (e.g., attachment or inclusion of standard preprinted forms, service agreements, end user agreements, product literature, “shrink wrap” terms accompanying or affixed to a product, whether written or electronic) or by incorporating such terms onto the Contractor’s order or fiscal forms or other documents forwarded by the Contractor for payment. The Customer's acceptance of the Product or processing of documentation on forms furnished by the Contractor for approval or payment will not constitute acceptance of the proposed modification to the Contract terms and conditions.

The parties may, by amendment, modify the Contract to alter, add to, or deduct from the Contract specifications, provided that such changes are within the general scope of the Contract. The parties may make an equitable adjustment in the Contract price or delivery date if the change affects the cost or time of performance. The parties may also make an equitable adjustment in price if pricing or availability of supply is affected by extreme and unforeseen volatility in the marketplace, that is, by circumstances that satisfy all the following criteria: (1) the volatility is due to causes wholly beyond the Contractor’s control, (2) the volatility affects the marketplace or industry, not just the particular Term Contract source of supply, (3) the effect on pricing or availability of supply is substantial, and (4) the volatility so affects the Contractor that continued performance of the Contract would result in a substantial loss.

If the Contract is a purchase off a term contract, as defined in section 287.012, F.S., the purchase is limited to Products offered under the Term Contract, and no additional Products may be provided under a purchase off the Term Contract.

3. Contract Construction and Administration.

a. Construction. Unless the context requires otherwise, (i) the words "include," "includes," and "including" are deemed to be followed by the words "without limitation;" (ii) the word "or" is not exclusive; and (iii) the words "herein," "hereof," "hereby," "hereto," and "hereunder" refer to the Contract as a whole, inclusive of all Attachments. Unless the context requires otherwise, references herein to (i) sections or Attachments mean the sections of, or Attachments to, the Contract; (ii) an agreement, instrument, or other document means such agreement, instrument, or other document as amended, supplemented, and modified from time to time to the extent permitted by the provisions thereof; and (iii) a statute, rule, or other law or regulation means such statute, rule, or other law or regulation as amended from time to time and includes any successor legislation thereto and any regulations promulgated thereunder. Unless the context requires otherwise, whenever the singular is used in the Contract, the same will include the plural, and whenever the plural is used herein, the same will include the singular, where appropriate. All references to "$" or "dollars" means the United States Dollar, the official and lawful currency of the United States of America.

The Contract will be construed without regard to any presumption or rule requiring construction or interpretation against the party drafting an instrument or causing any instrument to be drafted. The Attachments referred to herein will be construed with, and as an integral part of, the Contract to the same extent as if they were set forth verbatim herein.

b. Administration.

i. Execution in Counterparts. If the Contract is a written agreement as defined in Rule 60A-1.001, F.A.C., it may be executed in counterparts, each of which will be an original and all of which will constitute but one and the same instrument.

ii. Warranty of Authority. Each person signing the Contract warrants that he or she is duly authorized to do so and to bind the respective party to the Contract. If the Contract is a purchase order, as defined in Rule 60A-1.001, F.A.C., the Contractor warrants that the individual established to receive the purchase order is authorized to do so and to bind the Contractor to the terms of the Contract.

iii. Notices. Where the term “written notice” is used to specify a notice requirement herein, said notice will be deemed to have been given (i) when personally delivered; (ii) when transmitted via facsimile (with confirmation of receipt) or email (with confirmation of receipt); (iii) the day immediately following the day (except if not a Business Day then the next Business Day) on which the notice or communication has been provided prepaid by the sender to a recognized overnight delivery service; or (iv) on the date actually received except where there is a date of the certification of receipt.

Unless otherwise specified, each party shall deliver all notices to the other party’s Contract Manager. Either party may notify the other by email of a change to a designated contact providing the contact information for the newly designated contact, and such notice is sufficient to effectuate this change without requiring a written amendment to the Contract or the issuance of a change order.

iv. Severability. If a court deems any non-material provision of the Contract void or unenforceable, all other provisions will remain in full force and effect. Upon a determination that any material provision is void or unenforceable, the parties shall negotiate in good faith to modify this Contract to give effect to the original intent of the parties as closely as possible in order that the transactions contemplated hereby are consummated as originally contemplated to the greatest extent possible.

v. Waiver. The delay or failure by the Customer to exercise or enforce any of its rights under the Contract will not constitute or be deemed a waiver of the Customer’s right thereafter to enforce those rights, nor will any single or partial exercise of any such right preclude any other or further exercise thereof or the exercise of any other right.

vi. Survivability. The Contract and any promises, covenants, and representations made herein are binding upon the parties hereto and all respective heirs, assigns, and successors in interest. The respective obligations of the parties, which by their nature would continue beyond the termination or expiration of the Contract, including without limitation, the obligations regarding overpayments, confidentiality, indemnity, proprietary interests, and public records, will survive termination or expiration of the Contract.

vii. Third Party Beneficiaries. The parties acknowledge and agree that the Contract is for the benefit of the parties hereto and any permitted assignee. The Contract is not intended to confer any legal rights or benefits on any other party.

4. Contract Term, Suspension, and Termination.

a. <u>Term</u>. The initial term of the Contract will be as indicated in the Contract. The Customer, in its sole discretion, may renew the Contract, in whole or in part, for a period that may not exceed three (3) years or the initial term of the Contract, whichever is longer, by providing written notice to the Contractor. If the Contract was awarded pursuant to a competitive solicitation, as defined in section 287.012, F.S., the pricing for the renewal period will be as set forth in the Contractor's response to the competitive solicitation. No costs may be charged for the renewal, and the renewal is contingent upon satisfactory performance evaluations and subject to availability of funds. Exceptional purchase contracts pursuant to sections 287.057(3)(a) and (c), F.S., may not be renewed.

b. <u>Suspension of Work</u>. The Customer may, in its sole discretion, suspend any or all activities under the Contract, at any time, when in the best interests of the Customer to do so. The Customer shall provide the Contractor written notice outlining the particulars of the suspension. Examples of the reason for suspension include budgetary constraints, declaration of emergency, or other such circumstances. After receiving a suspension notice, the Contractor shall comply with the notice and shall cease performance to the extent required by the notice. Within ninety (90) calendar days of the suspension, or any longer period agreed to by the Contractor, the Customer shall either (i) issue a notice authorizing the resumption of performance, at which time the Contractor shall resume activity; or (ii) terminate the Contract. Suspension of work will not entitle the Contractor to any compensation for services not performed or commodities not delivered during the suspension period nor for any additional compensation.

c. <u>Termination</u>.

i. Termination for Convenience. The Customer, by written notice to the Contractor thirty (30) calendar days in advance, may terminate the Contract in whole or in part when the Customer determines in its sole discretion that it is in the Customer's interest to do so. The Contractor shall not furnish any Product after it receives the notice of termination, except as necessary to complete the continued portion of the Contract, if any. The Contractor will not be entitled to recover any cancellation charges or lost profits.

ii. Termination for Cause. The Customer may terminate the Contract if the Contractor fails to (i) deliver the Product within the time specified in the Contract or any extension agreed to by the Customer, (ii) maintain adequate progress, thus endangering the performance of the Contract, (iii) honor any term of the Contract, or (iv) abide by any statutory, regulatory, or licensing requirement. The Customer may, at its sole discretion, (i) immediately terminate the Contract, (ii) notify the Contractor of the deficiency with a Contract requirement and require that the deficiency be corrected within a specified time, otherwise the Contract will terminate at the end of such time, or (iii) take other action deemed appropriate by the Customer. The Contractor shall continue to work on any work not terminated.

Except for defaults of subcontractors at any tier, the Contractor will not be liable for any excess costs if the failure to perform the Contract arises from events completely beyond the control, and without the fault or negligence, of the Contractor. If the failure to perform is caused by the default of a subcontractor at any tier, and if the cause of the default is completely beyond the control of both the Contractor and the subcontractor, and without the fault or negligence of either, the Contractor will not be liable for any excess costs for failure to perform, unless the subcontracted Products were obtainable from other sources in sufficient time for the Contractor to meet the required delivery schedule. If, after termination, it is determined that the Contractor was not in default, or that the default was excusable, the rights and obligations of the parties will be the same as if the termination had been issued for the convenience of the Customer. The rights and remedies of the Customer in this clause are in addition to any other rights and remedies provided by law or under the Contract. The Customer shall notify the Department of Management Services of any vendor that has met the grounds for placement of the vendor on the Department of Management Services' Suspended Vendor List, as required in section 287.1351, F.S.

iii. Termination for Non-Compliance with E-Verify. Pursuant to section 448.095(5)(c)1., F.S., the Customer shall terminate the Contract if it has a good faith belief that the Contractor has knowingly violated section 448.09(1), F.S. Pursuant to section 448.095(5)(c)2., F.S., if the Customer has a good faith belief that a subcontractor knowingly violated section 448.09(1), F.S., the Customer shall promptly notify the Contractor and order the Contractor to immediately terminate the contract with the subcontractor.

iv. Termination Related to Statutory Certifications. At the Customer's option, the Contract may be terminated if the Contractor is placed on any of the lists referenced in the attached PUR 7801, Vendor Certification Form, or would otherwise be prohibited from entering into or renewing the Contract based on the statutory provisions referenced therein.

v. Termination for Refusing Access to Public Records. In accordance with section 287.058(1)(c), F.S., the Customer may unilaterally terminate the Contract if the Contractor refuses to allow public access to all documents, papers, letters, or other material made or received by the Contractor in conjunction with the Contract, unless the records are exempt from Article I, Section 24(a) of the Florida Constitution and section 119.07(1), F.S.

vi. Termination for Non-Appropriation. In accordance with section 287.0582, F.S., the Customer may terminate the Contract if, in the Customer's determination, no annual appropriation is provided for the Contract, or the Products provided hereunder, by the Legislature.

5. Performance.

a. Warranty of Ability to Perform. Upon the effective date of the Contract, and each year on the anniversary date of the Contract, the Contractor shall submit to the Customer a completed PUR 7801, Vendor Certification Form. This requirement will not apply to purchases off a term contract, as defined in section 287.012, F.S., unless specifically requested in the Contract by the Customer.

Additionally, the Contractor shall promptly notify the Customer in writing if its ability to perform is compromised in any manner during the term of the Contract (including potential inability to renew the Contract due to section 287.138 or 908.111, F.S.) or if it or its suppliers, subcontractors, or consultants under the Contract are placed on the Suspended Vendor, Convicted Vendor, Discriminatory Vendor, or Antitrust Violator Vendor Lists. The Contractor shall use commercially reasonable efforts to avoid or minimize any delays in performance and shall inform the Customer of the steps the Contractor is taking or will take to do so, and the projected actual completion (or delivery) time. If the Contractor believes a delay in performance by the Customer has caused or will cause the Contractor to be unable to perform its obligations on time, the Contractor shall promptly so notify the Customer and use commercially reasonable efforts to perform its obligations on time notwithstanding the Customer's delay.

b. Further Assurances. The parties shall, with reasonable diligence, do all things and provide all reasonable assurances as may be necessary to complete the requirements of the Contact, and each party shall provide such further documents or instruments requested by the other party as may be reasonably necessary or desirable to give effect to the Contract and to carry out its provisions. The Customer is entitled at all times, upon request, to be advised as to the status of work being done by the Contractor and the details thereof.

c. Assignment. The Contractor shall not sell, assign, or transfer any of its rights, duties, or obligations under the Contract without the prior written consent of the Customer. However, the Contractor may waive its right to receive payment and assign the same upon written notice to the Customer. In the event of any assignment, the Contractor remains secondarily liable for the performance of the Contract, unless the Customer expressly waives such secondary liability in writing. The Customer may assign the Contract with prior written notice to the Contractor of its intent to do so.

d. Employees, Subcontractors, and Agents.

i. Subcontracting. The Contractor is solely responsible for ensuring that any subcontractor(s) utilized perform in accordance with the Contract, and the Contractor acknowledges that it will not be released of its contractual obligations to the Customer because of any subcontract. The use of the term "subcontractor" may refer to affiliates, resellers, dealers, distributors, partners, teammates, and all other third parties utilized by the Contractor at any tier under the Contract.

The Contractor shall use only those subcontractors approved by the Customer in writing. Subcontractors named in the Contract will be deemed to be approved by the Customer. For subcontractors proposed after the effective date of the Contract, the Contractor shall submit a written request to the Customer's Contract Manager specifying (i) the name of the proposed subcontractor; (ii) the services to be performed by the subcontractor; (iii) the time of performance; (iv) the Contractor's proposed method of subcontractor performance monitoring; (v) certification of subcontractor's compliance with all legal and contractual requirements related to performance (e.g., licensing, background screening, insurance etc.); (vi) a copy of the subcontract, if requested by the Customer; and (vii) indication of whether the subcontractor is an Office of Supplier Diversity registered Florida-based woman-, veteran-, or minority-owned small businesses. The Customer has the final approval authority of all proposed subcontractors. The Contractor's use of a subcontractor not approved by the Customer will be considered a material breach of the Contract.

ii. Qualifications and Access. All Contractor employees, subcontractors, or agents performing work under the Contract must be properly trained technicians who meet or exceed any specified training qualifications. Upon request, the Contractor shall furnish a copy of technical certification or other proof of qualification. All Contractor employees, subcontractors, or agents performing work under the Contract shall comply with all Contract terms and controlling laws and regulations relevant to the work being performed. The Customer may either conduct, and the Contractor shall cooperate in, or require the Contractor to conduct, a security background check or otherwise assess any employee, subcontractor, or agent furnished by the Contractor. The Customer may refuse access to, or require replacement of, any employee, subcontractor, or agent for cause, including, but not limited to, technical or training qualifications, quality of work, change in security status, or non-compliance with the Customer's security or other requirements. The Customer may reject and bar from any facility for cause any of the Contractor's employees, subcontractors, or agents.

iii. E-Verify. The Contractor shall comply with section 448.095, F.S., including the obligation to register with and use the U.S. Department of Homeland Security's (DHS) E-Verify system to verify the work authorization status of all new employees of the Contractor.

iv. Independent Contractor. The Contractor and its employees, agents, representatives, and subcontractors are not employees or agents of the Customer or State and are not entitled to any benefits of Customer or State employees. The parties shall take all actions necessary to ensure that Contractor's employees, subcontractors, and other agents are not construed as such. Such actions include ensuring that Contractor's employees, subcontractors, and other agents receive benefits and necessary insurance (health, workers' compensations, and unemployment) from an employer other than the Customer or State. Neither the Customer nor the State will be bound by any acts or conduct of the Contractor or its employees, subcontractors, or agents. The Contractor shall include this provision in all of its subcontracts under the Contract.

e. Transportation and Delivery. Unless otherwise specified, prices listed in the Contract for commodities include all charges for packing, handling, freight, distribution, and inside delivery. Transportation must be FOB Destination to any point within thirty (30) calendar days after the Customer places an order. The Contractor, within five (5) Business Days after receiving an order, shall notify the Customer of any potential delivery delays. Evidence of inability to timely deliver or intentional delays will be considered a material breach of the Contract.

f. Packaging. Tangible Products must be securely and properly packed for shipment, storage, and stocking in appropriate, clearly labeled, shipping containers and according to accepted commercial practice, without extra charge for packing materials, cases, or other types of containers. All containers and packaging will become and remain the Customer's property.

g. Installation. Where installation is required under the Contract, the Contractor shall be responsible for placing and installing the Product in the required locations at no additional charge, unless otherwise specified in the Contract. The Contractor's authorized Product and price list must clearly and separately identify any additional installation charges. All materials used in the installation must be of good quality and free of defects that would diminish the Product's appearance or render it structurally or operationally unsound. Installation includes the furnishing of any equipment, rigging, and materials required to install or replace the Product in the proper location. The Contractor shall protect the site from damage and shall repair damages or injury caused during installation, unless caused by the Customer. If any alteration, dismantling, excavation, etc., is required to achieve installation, the Contractor shall promptly restore the structure or site to its original condition. The Contractor shall perform installation work to cause the least inconvenience and interference with the Customer's use of the site and with proper consideration of others on site. Upon completion of the installation, the location and surrounding area of work must be left clean and in a neat and unobstructed condition, with everything in satisfactory repair and order.

h. Risk of Loss. Until acceptance, the risk of loss or damage will remain with the Contractor. The Contractor shall file, process, and collect all damage claims. To assist the Contractor with damage claims, the Customer shall (i) record any evidence of visible damage on all copies of the delivering carrier's Bill of Lading; (ii) report damages to the carrier and the Contractor; and (iii) provide the Contractor with a copy of the carrier's Bill of Lading and damage inspection report. If the Customer rejects a Product, the Contractor shall remove it from the premises within ten (10) Business Days after notification of rejection. Upon rejection notification, the risk of loss of a rejected or non-conforming Product will remain with the Contractor. Rejected Product not removed by the Contractor within ten (10) Business Days will be deemed abandoned by the Contractor, and the Customer will have the right to dispose of it as its own property. The Contractor shall reimburse the Customer for costs and expenses incurred in storing or effecting removal or disposition of a rejected Product.

i. Literature. Upon request, the Contractor shall furnish literature reasonably related to the

Product offered, including user manuals, price schedules, catalogs, and descriptive brochures.

j. Product Version. The Contract will be deemed to reference a manufacturer's most recently released model or version of the Product at the time of the order unless the Customer specifically requests in writing an earlier model or version and the Contractor is willing to provide such model or version.

k. Real Property. Pursuant to section 287.05805, F.S., any State funds provided for the purchase of or improvements to real property are contingent upon the Contractor granting to the State a security interest in the property at least to the amount of State funds provided for at least five (5) years from the date of purchase or the completion of the improvements or as further required by law.

l. Prison Rehabilitative Industries and Diversified Enterprises, Inc. (PRIDE). In accordance with section 946.515(6), F.S., if the Contractor is a private contract vendor and if a product or service required for the performance of the Contract is certified by or is available from PRIDE and has been approved in accordance with section 946.515(2), F.S., the following statement applies:

IT IS EXPRESSLY UNDERSTOOD AND AGREED THAT ANY ARTICLES WHICH ARE THE SUBJECT OF, OR REQUIRED TO CARRY OUT, THIS CONTRACT SHALL BE PURCHASED FROM THE CORPORATION IDENTIFIED UNDER CHAPTER 946, F.S., IN THE SAME MANNER AND UNDER THE SAME PROCEDURES SET FORTH IN SECTION 946.515(2) AND (4), F.S.; AND FOR PURPOSES OF THIS CONTRACT THE PERSON, FIRM OR OTHER BUSINESS ENTITY CARRYING OUT THE PROVISIONS OF THIS CONTRACT SHALL BE DEEMED TO BE SUBSTITUTED FOR THIS AGENCY INSOFAR AS DEALINGS WITH SUCH CORPORATION ARE CONCERNED.

The above clause is not applicable to subcontractors unless otherwise required by law. Additional information about PRIDE and the products it offers is available at http://www.pride-enterprises.org.

m. Products Available from the Blind or Other Handicapped (RESPECT). In accordance with section 413.036(3), F.S., if the Contractor is a private contract vendor and if a product or service required for the performance of the Contract is on the procurement list established pursuant to section 413.035(2), F.S., the following statement applies:

IT IS EXPRESSLY UNDERSTOOD AND AGREED THAT ANY ARTICLES THAT ARE THE SUBJECT OF, OR REQUIRED TO CARRY OUT, THIS CONTRACT SHALL BE PURCHASED FROM A NONPROFIT AGENCY FOR THE BLIND OR FOR THE SEVERELY HANDICAPPED THAT IS QUALIFIED PURSUANT TO CHAPTER 413, F.S.; IN THE SAME MANNER AND UNDER THE SAME PROCEDURES SET FORTH IN SECTION 413.036(1) AND (2), F.S.; AND FOR PURPOSES OF THIS CONTRACT, THE PERSON, FIRM OR OTHER BUSINESS ENTITY CARRYING OUT THE PROVISIONS OF THIS CONTRACT SHALL BE DEEMED TO BE SUBSTITUTED FOR THE STATE AGENCY INSOFAR AS

DEALINGS WITH SUCH QUALIFIED NONPROFIT AGENCY ARE CONCERNED.

Additional information about the designated nonprofit agency and the products it offers is available at http://www.respectofflorida.org.

n. Force Majeure, Notice of Delay, and No Damages for Delay. The Contractor will not be responsible for delay resulting from its failure to perform if neither the fault nor the negligence of the Contractor or its employees, subcontractors, or agents contributed to the delay and the delay is due directly to acts of God, wars, acts of public enemies, strikes, fires, floods, or other similar cause wholly beyond the Contractor's control, or for any of the foregoing that affect suppliers if no alternate source of supply is available to the Contractor.

In case of any delay the Contractor believes is excusable, the Contractor shall notify the Customer in writing of the delay or potential delay and describe the cause of the delay either (i) within ten (10) calendar days after the cause that creates or will create the delay first arose, if the Contractor could reasonably foresee that a delay could occur as a result; or (ii) if a delay is not reasonably foreseeable, within five (5) calendar days after the date the Contractor first had reason to believe that a delay could result. THE FOREGOING WILL CONSTITUTE THE CONTRACTOR'S SOLE REMEDY OR EXCUSE WITH RESPECT TO ANY DELAY except if such delay is caused by the fraud, bad faith, or active interference of the Customer. Providing notice in strict accordance with this paragraph is a condition precedent to such remedy, and a rebuttable presumption of prejudice will exist based on Contractor's untimely notice. The Contractor shall not assert any claim for damages related to such delay. The Contractor will not be entitled to an increase in the Contract price or payment of any kind from the Customer for direct, indirect, consequential, impact, or other costs, expenses, or damages, including costs of acceleration or inefficiency, arising because of delay, disruption, interference, or hindrance from any cause whatsoever.

If performance is suspended or delayed, in whole or in part, due to any of the causes described in this subsection 5.n., the Customer may unilaterally (and with no recourse on the part of the Contractor) identify and use an alternate source to complete any work under the Contract as the Customer deems necessary, in its sole discretion. After the causes have ceased to exist, the Contractor shall perform at no increased cost, unless the Customer determines, in its sole discretion, that the delay will significantly impair the value of the Contract to the Customer or State, in which case the Customer may (i) accept allocated performance or deliveries from the Contractor, provided that the Contractor grants preferential treatment to the Customer with respect to Products subjected to allocation; or (ii) terminate the Contract in whole or in part.

o. Exclusivity. The Contract is not an exclusive license to provide the Products described in the Contract. The Customer may, without limitation and without recourse by the Contractor, contract with other vendors to provide the same or similar Products.

6. Inspection.

a. Inspection at Contractor's Site. The Customer reserves the right to inspect, at any reasonable time with prior notice, the equipment, product, plant or other facilities of the Contractor to assess conformity with Contract requirements and to determine whether they are adequate and suitable for proper and effective Contract performance.

b. Statutory Inspection Rights. If services are to be provided pursuant to the Contract, in accordance with section 216.1366, F.S., the Customer is authorized to inspect the: (i) financial records, papers, and documents of the Contractor that are directly related to the performance of the Contract or the expenditure of State funds; and (ii) programmatic records, papers, and documents of the Contractor which the Customer determines are necessary to monitor the performance of the Contract or to ensure that the terms of the Contract are being met. The Contractor shall provide such records, papers, and documents requested by the Customer within ten (10) Business Days after the request is made.

   Further, for any Contract for services with a nonprofit organization as defined in section 215.97(2)(m), F.S., the Contractor must provide documentation that indicates the amount of state funds:

   1. Allocated to be used during the full term of the contract for remuneration to any member of the board of directors or an officer of the contractor; and
   2. Allocated under each payment by the public agency to be used for remuneration of any member of the board of directors or an officer of the contractor.

   The documentation must indicate the amounts and recipients of the remuneration.

c. Inspection Compliance. The Contractor understands its and its subcontractors' (if any) duty, pursuant to section 20.055(5), F.S., to cooperate with the Inspector General in any investigation, audit, inspection, review, or hearing. Upon request of the Customer's Inspector General, or other authorized State official, the Contractor shall provide any information the State official deems relevant to the Contractor's integrity or responsibility.

   Such information may include the Contractor's business or financial records, documents, or files of any type or form that refer to or relate to the Contract. The Contractor agrees to reimburse the State for the reasonable costs of investigation incurred by the Inspector General or other authorized State official for investigations of the Contractor's compliance with the terms of the Contract or any other agreement between the Contractor and the State which results in the suspension or debarment of the Contractor. Such costs will include investigators' salaries, including overtime; travel and lodging expenses; and expert witness and documentary fees. The Contractor will not be responsible for any costs of investigations that do not result in the Contractor's suspension or debarment.

7. Payment.

a. Annual Appropriations. Pursuant to section 287.0582, F.S., the State of Florida's performance and obligation to pay under this Contract is contingent upon an annual appropriation by the Legislature.

b. Invoicing and Payment. The Contractor shall include the Contract number and vendor identification information on all invoices. The Customer may require any other information from the Contractor that it deems necessary to verify any charges shown on the invoice, including detail sufficient for a proper preaudit or post-audit for such bills pursuant to section 287.058(1)(a), F.S.

The Customer shall make payments in accordance with section 215.422, F.S., which governs time limits for payment of invoices. The Contractor shall make payments to any subcontractors and suppliers in accordance with section 287.0585, F.S., if applicable. Invoices that must be returned to a Contractor due to preparation errors will delay payment. The Customer is responsible for all payments under the Contract.

The Department of Financial Services has established a Vendor Ombudsman for vendors having trouble obtaining timely payment from State agencies. The Vendor Ombudsman can be reached at (850) 413-5516.

c. Overpayments. The Contractor shall return any overpayments, including those due to unearned funds or funds disallowed pursuant to the terms of the Contract that were disbursed to the Contractor by the Customer. The Contractor shall return any overpayment within forty (40) calendar days after the earlier of: (1) discovery by the Contractor (including discovery by its independent auditor, if any), or (2) notification by the Customer of the overpayment.

d. Transaction Fee. The State, through the Department of Management Services, has instituted MyFloridaMarketPlace, a statewide eProcurement system pursuant to section 287.057(24), F.S. All payments issued by agencies to registered vendors for purchases of commodities or contractual services under Chapter 287, F.S., shall be assessed a transaction fee of one percent (1.0%) of the total amount of the payments received from the State or eligible users, as prescribed by Rule 60A-1.031, F.A.C., or as may otherwise be established by law. Vendors shall pay the Transaction Fee and are subject to automatic deduction of the transaction fee, when automatic deduction becomes available. Vendors shall submit any monthly reports required pursuant to Rule 60A-1.031, F.A.C. All such reports and payments are subject to audit. The Customer will have grounds for declaring the vendor in default if the vendor fails to comply with the payment of the transaction fee or reporting of payments, which may subject the vendor to being suspended from business with the State.

e. Taxes. The Customer, as a governmental entity of the State, does not pay Federal excise or sales taxes on direct purchases of tangible personal property. The Customer will not pay for any personal property taxes levied on the Contractor or any taxes levied on employees' wages. The Customer will explicitly note any exceptions to this paragraph in the Contract.

f. Leases and Installment Purchases. In accordance with section 287.063, F.S., if the Contract provides for a lease or installment-purchase agreement in excess of the Category Two amount established by section 287.017, F.S., then the Customer's obligations under the Contract are contingent upon approval of the Contract by the Chief Financial Officer, as defined in section 17.001, F.S.

g. Travel. Pursuant to section 287.058(1)(b), F.S., if travel is authorized under the Contract, the Contractor shall submit such in accordance with section 112.061, F.S., except that the Customer may establish rates lower than the maximum provided in section 112.061, F.S.

h. Retention of Payments. The Customer may, in addition to other remedies available to it at law or equity and upon written notice to the Contractor, retain such monies from amounts due to the Contractor as may be necessary to satisfy any claim for payment, including under the indemnification clause, payment for financial consequences, and payment for damages and the like asserted by or against the Customer. The Customer reserves the right to set off any liability or other obligation of the Contractor or its affiliates to the State against any payments due to the Contractor under any contract with the State. The exercise of these rights will not be a breach of the Contract, nor will they in any way entitle the Contractor to a claim against the Customer or State, including for damages.

8. Disputes and Liabilities.

a. Dispute Resolution. Should any disputes arise concerning the Contract, the parties shall act immediately to resolve any such disputes. Time is of the essence in the resolution.

i. Dispute Resolution Process.

(a) Contract Manager Review. The parties shall resolve disputes through the submission of their dispute to the Customer's Contract Manager, who shall reduce a decision to writing and furnish a copy to each party within ten (10) Business Days from the date that the Customer's Contract Manager receives the dispute. The Customer's Contract Manager's decision shall be final unless a party provides the other party with written notice of the party's disagreement with the decision within ten (10) Business Days from the date of the Customer's Contract Manager's decision. If a party disagrees with the Customer's Contract Manager's decision, the party may proceed to subsection (b) below.

(b) Meeting between the Principals. If either party disagrees with the Customer's Contract Manager's decision, such disagreeing party shall notify the other party of the disagreement within ten (10) Business Days. The parties shall then schedule a meeting between each party's principal (for the Customer, the Customer head or designee; for the Contractor, the Chief Executive Officer or designee) on a mutually agreed upon date, no later than ten (10) Business Days after the provision of the notice. The principals shall attempt to mutually resolve the disagreement at such meeting. If the meeting between the principals fails to resolve the disagreement, the parties shall proceed to subsection (c) below.

(c) Mediation. Prior to initiating any litigation, the parties, upon mutual agreement, may mediate such dispute. If such mediation is not completed within 100 calendar days from receipt of the Customer's Contract Manager's decision, then either party may commence litigation.

If the dispute is not resolved through the full process in subsections (a) - (c) above (or (a) – (b), if mediation is not agreed to), either party may pursue any available legal or equitable remedies.

ii. Contractor's Obligation to Perform While Disputes are Pending. The Contractor shall proceed diligently with performance under the Contract pending the final resolution of any dispute or request for relief, claim, appeal, or action arising under the Contract and shall comply with directions to perform from the Customer. Should the Contractor not perform while a dispute is pending, including by not performing disputed work, such nonperformance by the Contractor may be deemed to be an unexcused breach of the Contract which is separate and apart from any other dispute.

b. Governing Law and Venue. The Contract will be governed by, and construed in accordance with, the laws of the State. Jurisdiction and venue for suit arising under the terms of the Contract will exclusively be in the appropriate State court located in Leon County, Florida. Except as otherwise provided by law, the parties agree to be responsible for their own attorney's fees and costs incurred in connection with disputes arising under the Contract terms.

c. Remedies Cumulative. No remedy herein conferred upon or reserved to either party is intended to be exclusive of any other remedy or remedies, and each and every such remedy will be cumulative and in addition to every other remedy given hereunder or now or hereafter existing at law or in equity.

d. JURY WAIVER. THE PARTIES, ON BEHALF OF THEMSELVES AND ASSIGNS, WAIVE ALL RIGHTS TO TRIAL BY JURY FOR ANY ACTION, APPEAL, CLAIM, OR PROCEEDING, WHETHER IN LAW OR IN EQUITY, WHICH IN ANY WAY ARISES OUT OF OR RELATES TO THE CONTRACT OR ITS SUBJECT MATTER.

e. Insurance Requirements.

i. Coverages.

(a) In General. During the Contract term, the Contractor shall, at its sole expense, provide commercial insurance of such a type and with such terms and limits as may be reasonably associated with the Contract.

(b) Workers' Compensation Insurance. The Contractor shall maintain Workers' Compensation insurance as required by State law; to the extent that any work required by the Contract will be performed outside of the State, the Contractor shall maintain Workers' Compensation Insurance as required by that jurisdiction. If work is being performed by the Contractor under the Contract and any class of employees performing the work is not protected under Workers' Compensation statutes, the Contractor shall provide adequate insurance, satisfactory to the Customer, for the protection of employees not otherwise protected.

ii. Terms.

(a) In General. Providing and maintaining adequate insurance coverage is a material obligation of the Contractor. Upon request, the Contractor shall provide the Customer with certificate(s) of insurance. The limits of coverage under each policy maintained by the Contractor will not be interpreted as limiting the Contractor's liability and obligations under the Contract. All insurance policies must be through insurers authorized or eligible to write policies in the State or through a self-insurance program established and operating under the laws of the State. The Contractor shall notify the Customer sixty (60) calendar days before any policy is canceled or terminated. All insurance policies must also provide that the insurer notifies the Customer if the policy is cancelled.

(b) No Loss Deductible Clause. The Customer will be exempt from, and in no way liable for, any sums of money that may represent a deductible in any insurance policy. The Contractor shall be solely responsible for payment of such deductible.

(c) Duration. The insurance policies identified above must be "per occurrence" and maintained throughout the Contract term.

(d) Subcontractor's Insurance. The Contractor shall ensure that its subcontractors maintain the levels of insurance as required in this section.

f. Indemnification. For any and all third-party claims, actions, demands, liabilities, and expenses of any kind which are caused by, related to, growing out of or happening in connection with the Contract (including any determination arising out of or related to the Contract that the Contractor or its employees, agents, subcontractors, assignees, or delegates are not independent contractors in relation to the Customer or State), the Contractor shall be fully liable for the actions of its employees, subcontractors, and agents and shall fully indemnify, defend, and hold harmless the Customer and the State (including each of their current and former officers, agents, and employees) for any and all loss, damage, injury, costs, reasonable expenses, or other casualty to person or property. Without limiting this indemnification requirement, the Customer may provide the Contractor (i) written notice of any action or threatened action, (ii) the opportunity to take over and settle or defend any such action at the Contractor's sole expense, and (iii) assistance in defending the action at the Contractor's sole expense. The above indemnity requirement does not apply to that portion of any loss or damages proximately caused by the negligent act or omission of the Customer or the State. Nothing herein is intended to act as a waiver of the Customer's or State's sovereign immunity or to be deemed consent by the Customer or State or its subdivisions to suit by third parties.

If any Product is the subject of an infringement suit, or in the Contractor's opinion is likely to become the subject of such a suit, the Contractor may at its sole expense procure for the Customer the right to continue using the Product or to modify it to become non-infringing. If the Contractor is not reasonably able to modify or otherwise secure the Customer the right to continue using the Product, the Contractor shall remove the Product and refund the Customer the amounts paid in excess of a reasonable rental for past use. The Customer will not be liable for any royalties.

g. Limitation of Liability. For all claims against the Contractor under the Contract, and regardless of the basis on which the claim is made, the Contractor's aggregate liability for direct damages under the Contract will be limited to the greater of $200,000 or the dollar value of the Contract (which is the higher of the total estimated value of the Contract or two times the charges for Products rendered by the Contractor under the Contract if no estimated value is determinable). This limitation will not apply to any claim arising under an indemnity provision of the Contract or any provision of the Contract relating to insurance required to be provided by the Contractor.

Unless otherwise specifically enumerated in the Contract, no party will be liable to the other for special, indirect, punitive, or consequential damages, including lost data or records (unless the Contract requires the Contractor to back-up data or records), even if the party has been advised that such damages are possible. No party will be liable for lost profits, lost revenue, or lost institutional operating savings.

For damages other than those excluded in the preceding paragraph, the Customer's liability is limited to: 1) if the damage is the Customer's failure to pay amounts due to the Contractor for Products received and accepted by the Customer pursuant to the Contract, then only the amount due for such Products and any interest owed under section 215.422, F.S.; or 2) in the event the damage is not related to the Customer's failure to comply with the payment provisions of the Contract, to the maximum of the limited waiver of sovereign immunity provided for in section 768.28, F.S.

9. Compliance with Laws.

a. In General. The Contractor shall comply with all laws, rules, codes, ordinances, and licensing requirements that are applicable to the conduct of its business and that are applicable to the Contract, including those of federal, state, and local agencies having jurisdiction and authority, and shall ensure that any and all subcontractors utilized do the same. The Contractor represents and warrants that no part of the funding under the Contract will be used in violation of any state or federal law, including, but not limited to, 8 U.S.C. § 1324 or 8 U.S.C. § 1325, or to aid or abet another in violating state or federal law. The Customer may terminate the Contract at any time if the Contractor violates, or aids or abets another in violating, any state or federal law.

   If the requirements of the Contract conflict with any governing law, codes, or regulations, the Contractor shall notify the Customer in writing, and the parties shall amend the Contract to comply with the applicable code or regulation. Similarly, if the Contractor believes that any governmental restrictions have been imposed that require alteration of the material, quality, workmanship or performance of the Products, the Contractor shall immediately notify the Customer in writing, indicating the specific restriction. The Customer reserves the right and the complete discretion to accept any such alteration or to terminate the Contract at no further expense to the Customer.

b. Lobbying and Integrity. The Contractor shall not use funds provided under the Contract in a manner that violates the provisions of sections 11.062 and 216.347, F.S. Pursuant to section 287.058(6), F.S., the Contract does not prohibit the Contractor from lobbying the executive or legislative branch concerning the scope of services, performance, term, or compensation regarding the Contract during the Contract's term. In addition to any 6/7/21applicable statutory restrictions, the Contractor shall not, in connection with this or any other agreement with the State, directly or indirectly (i) offer, confer, or agree to confer any pecuniary benefit on anyone as consideration for any State officer or employee's decision, opinion, recommendation, vote, other exercises of discretion, or violation of a known legal duty; or (ii) offer, give, or agree to give to anyone any gratuity for the benefit of, or at the direction or request of, any State officer or employee. For purposes of clause (ii), "gratuity" means any payment in the form of cash, travel, entertainment, gifts, meals, lodging, loans, subscriptions, advances, deposits of money, services, employment, or contracts of any kind.

c. Accessibility Requirements. If the Products to be provided include an information technology system that is accessed by the public or State employees, the Contractor shall comply with section 508 of the Rehabilitation Act of 1973, as amended and 29 U.S.C. s. 794(d), including the regulations set forth under 36 C.F.R. part 1194. Section 282.601(1), F.S., states that "state government shall, when developing, competitively procuring, maintaining, or using electronic information or information technology acquired on or after July 1, 2006, ensure that State employees with disabilities have access to and are provided with information and data comparable to the access and use by State employees who are not individuals with disabilities."

10. Public Records.

a. General Record Management and Retention. The Contractor shall retain sufficient records to substantiate claims for payment under the Contract and shall retain all other records that were made in relation to the Contract for the longer of five (5) years after the expiration of the Contract or the period required by the General Records Schedules maintained by the Florida Department of State available at: https://dos.fl.gov/library-archives/records-management/general-records-schedules/.

b. Identification and Protection of Confidential Information. Article 1, section 24, of the Florida Constitution, guarantees every person access to public records, and section 119.011, F.S., provides a broad definition of "public record." As such, records submitted to the Customer (or any other State agency) are public records and are subject to disclosure unless exempt from disclosure by law. If the Contractor considers any portion of a record it provides to the Customer (or any other State agency) to be trade secret or otherwise confidential or exempt from disclosure under Florida or federal law ("Confidential Information"), the Contractor shall mark as "confidential" each page of a document or specific portion of a document containing Confidential Information and simultaneously provide the Customer (or other State agency) with a separate, redacted copy of the record. The Contractor shall state the basis of the exemption that the Contractor contends is applicable to each portion of the record redacted, including the specific statutory citation for such exemption. The Contractor shall only redact portions of records that it claims contains Confidential Information. If the Contractor fails to mark a record it claims contains Confidential Information as "confidential," or fails to submit a redacted copy in accordance with this section of a record it claims contains Confidential Information, the Customer (or other State agency) shall have no liability for release of such record. The foregoing will apply to every instance in which the Contractor fails to both mark a record "confidential" and redact it in accordance with this section, regardless of whether the Contractor may have properly marked and redacted the same or similar Confidential Information in another instance or record submitted to the Customer (or any other State agency).

In the event of a public records request, to which records the Contractor marked as "confidential" are responsive to the request, the Customer shall provide the Contractor-redacted copy to the requestor. If the Contractor has marked a record as "confidential" but failed to provide a Contractor-redacted copy to the Customer, the Customer may notify the Contractor of the request and the Contractor may have up to ten (10) Business Days from the date of the notice to provide a Contractor-redacted copy, or else the Customer may release the unredacted record to the requestor without liability. If the Customer provides a Contractor- redacted copy of the documents and the requestor asserts a right to the Contractor-redacted Confidential Information, the Customer shall promptly notify the Contractor such an assertion has been made. The notice will provide that if the Contractor seeks to protect the Contractor-redacted Confidential Information from release it must, within thirty (30) days after the date of the notice and at its own expense, file a cause of action seeking a declaratory judgment that the information in question is exempt from section 119.07(1), F.S., or other applicable law and an order prohibiting the Customer from publicly disclosing the information. The Contractor shall provide written notice to the Customer of any cause of action filed. If the Contractor fails to file a cause of action within thirty (30) days the Customer may release the unredacted copy of the record to the requestor without liability.

If the Customer is requested or compelled in any legal proceeding to disclose documents that are marked as “confidential” (whether by oral questions, interrogatories, requests for information or documents, subpoena, or similar process), unless otherwise prohibited by law, the Customer shall give the Contractor prompt written notice of the demand or request prior to disclosing any Confidential Information to allow the Contractor to seek a protective order or other appropriate relief at the Contractor’s sole discretion and expense. If the Contractor fails to take appropriate and timely action to protect the Confidential Information contained within documents it has marked as “confidential” or fails to provide a redacted copy that may be disclosed, the Customer may provide the unredacted records in response to the demand without liability.

The Contractor shall protect, defend, and indemnify the Customer for all claims, costs, fines, settlement fees, and attorneys’ fees, at both the trial and appellate levels, arising from or relating to the Contractor’s determination that its records contain Confidential Information. In the event of a third-party claim brought against the Customer for failure to release the Contractor’s redacted Confidential Information, the Contractor shall assume, at its sole expense, the defense or settlement of such claim, including attorney’s fees and costs at both the trial and appellate levels. If the Contractor fails to continuously undertake the defense or settlement of such claim or if the Contractor and Customer mutually agree that the Customer is best suited to undertake the defense or settlement, the Customer will have the right, but not the obligation, to undertake the defense or settlement of such claim, at its discretion. The Contractor shall be bound by any defense or settlement the Customer may make as to such claim, and the Contractor agrees to reimburse the Customer for the expense, including reasonable attorney’s fees and costs at both the trial and appellate levels associated with any defense or settlement that the Customer may undertake to defend Contractor’s Confidential Information. The Customer will also be entitled to join the Contractor in any third-party claim for the purpose of enforcing any right of indemnity under this section.

If at any point the Customer is reasonably advised by its counsel that disclosure of the Confidential Information is required by law, including but not limited to Florida’s public records laws, the Customer may disclose such Confidential Information without liability hereunder.

c. Public Records Requirements Pursuant to Section 119.0701, F.S. Solely for the purpose of this section, the Customer’s Contract Manager is the agency custodian of public records. If, under the Contract, the Contractor is providing services and is acting on behalf of the public agency, as provided in section 119.0701, F.S., the Contractor shall:

i. Keep and maintain public records required by the Customer to perform the service.

ii. Upon request from the Customer’s custodian of public records, provide the Customer with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, F.S., or as otherwise provided by law.

iii. Ensure that public records that are exempt or confidential and exempt from public records disclosure are not disclosed except as authorized by law for the duration of the contract term and following the completion of the Contract if the Contractor does not transfer the records to the Customer.

iv. Upon completion of the Contract, transfer, at no cost, to the Customer all public records in possession of the Contractor or keep and maintain public records required by the Customer to perform the service. If the Contractor transfers all public records to the Customer upon completion of the contract, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of the Contract, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the Customer, upon request from the Customer's custodian of public records, in a format that is compatible with the information technology systems of the Customer.

v. IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, F.S., TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT THE TELEPHONE NUMBER, EMAIL ADDRESS, AND MAILING ADDRESS PROVIDED FOR THE CONTRACT MANAGER.

d. Advertising. Unless legally obligated, the Contractor shall not publicly disseminate any information concerning the Contract without prior written approval from the Customer, including mentioning the Contract in a press release or other promotional material, identifying the Customer or the State as a reference, or otherwise linking the Contractor's name and either a description of the Contract or the name of the Customer or the State in any material published, either in print or electronically, to any entity that is not a party to Contract, except potential or actual entities eligible to make purchases pursuant to section 12, below, or authorized distributors, dealers, resellers, or service representatives.

11. **Security and Confidentiality.** The Contractor shall not divulge to third parties any confidential information obtained by the Contractor or its employees, subcontractors, or agents in the course of performing Contract work, including security procedures, business operations information, or commercial proprietary information in the possession of the Customer or State. The Contractor will not be required to keep confidential information or material that is publicly available through no fault of the Contractor, material that the Contractor developed independently without relying on the Customer's or State's confidential information, or material that is otherwise obtainable under State law as a public record. To ensure confidentiality, the Contractor shall take appropriate steps as to its employees, subcontractors, and agents.

12. **Cooperative Purchasing.** Pursuant to their own governing laws, and subject to the

Contractor’s agreement, other entities may be permitted to make purchases at the terms and conditions contained herein. Such purchases are independent of this Contract, and the Customer will not be a party to any transaction between the Contractor and any other purchaser.

State agencies wishing to make purchases off this Contract must follow the provisions of sections 287.042 and 287.057(3)(b), F.S., which may require prior approval of the Department of Management Services.

STATE OF FLORIDA
OFFICE OF INSURANCE REGULATION

ATTACHMENT 5
Data Security Requirements

1. **Definitions.** For the purposes of Attachment 5, Data Security Requirements, the following terms are defined as set forth below:

   a. Business Days – Monday through Friday, inclusive, except for holidays identified in section 110.117, Florida Statutes (F.S.), or emergencies identified by the Office's Contract Manager.
   b. Calendar Days – All days, including weekends and holidays.
   c. Cloud Computing – A service, solution, or option as defined in 60GG-4.001, Florida Administrative Code (F.A.C.).
   d. Cloud Service Provider – Person, organization, or entity responsible for making a cloud computing service, solution, or option available to a consumer.
   e. Contractor – The entity selected to provide goods or services to the Office and its employees, officers, subcontractors, agents, representatives, distributors, and resellers.
   f. Data-at-Rest – Stationary electronic or digital Open Data and Non-Open Data stored in any digital form or medium.
   g. Office – The Office of Insurance Regulation.
   h. Breach – A confirmed event that compromises the confidentiality, integrity, or availability of information or data.
   i. Non-Open Data – Any data that is in the possession or under the control of the State or the Contractor that is confidential information exempt from public disclosure pursuant to Chapter 119, Florida Statutes, (F.S.) (Public Records); personal information enumerated in section 501.171(1)(g), F.S. (Consumer Protection); and/or any data that is restricted from public disclosure based on federal or state laws and regulations, including, but not limited to, those related to privacy, confidentiality, security, personal health, business or trade secret information, and exemptions from state public records laws. Non-Open Data also includes data that any state agency, the Department of Legal Affairs, the Department of Financial Services, or the Department of Agriculture and Consumer Services is statutorily authorized to assess a fee for its distribution.
   j. Open Data – Any and all data meeting the definition of "Open data" in section 282.0041, F.S. (Communications and Data Processing).
   k. State – The State of Florida.

2. Data Security.

a. The Contractor shall meet or exceed the National Institute of Standards and Technology (NIST) Framework for Improving Critical Infrastructure Cybersecurity, Version 1.1, as detailed in Rule Chapter 60GG-2, F.A.C.

b. The Contractor shall comply with section 501.171, F.S. (Consumer Protection), to protect and secure Non-Open Data.

c. If a breach of Non-Open Data occurs, the Contractor shall provide notice to the Office as expeditiously as practicable, but no later than thirty (30) Calendar Days after the determination of the breach or reason to believe a breach occurred. Notice must be provided to the Department of Financial Services' Security Operations, Office of Information Technology, via email to DFS-SecurityOpsAlerts@myfloridacfo.com and via telephone at (850) 413-2231.

d. If the Contractor is a Cloud Service Provider, the Contractor shall engage a certified public accounting firm on an annual basis, at no cost to the Office, to perform a Statement on Standards for Attestation Engagements SSAE 18 SOC 2 Type II audit in accordance with the professional standards established by the American Institute of Certified Public Accountants (AICPA) for all systems used to comply with data security obligations under this Contract. The Contractor shall ensure the Office's Contract Manager's receipt of the annual audit report in Adobe Acrobat PDF (.pdf) format, within ten (10) Business Days of the Contractor's receipt of the report from the auditor. The Office's expectation is that all audits conducted will find the Contractor in full compliance with all data security standards. If an auditor notes any exceptions or deficiencies the Contractor shall provide its audit response and identify any correctable items to the Office.

3. Disclosure Restrictions.

The Contractor shall not divulge to any third party any Non-Open Data obtained by the Contractor in the course of performing its contracted work unless required by law or legal process, and only after notice to the Office. The Contractor will not be required to keep confidential any information that is publicly available through no fault of the Contractor, material that the Contractor developed independently without relying on the State's Non-Open Data, or information that is otherwise obtainable under State law as a public record.

4. Data Access and Storage.

a. No Data-at-Rest will be stored outside of the continental United States of America regardless of method or medium, except as required by law or approved in writing by the Chief Financial Officer (CFO) or the CFO's designee, pursuant to 60GG-4.002, F.A.C.

b. Access to Non-Open Data will only be available to personnel with a legitimate business need who are approved and authorized by the Office.

c. Remote access to data other than Open Data from outside of the continental United States is prohibited unless approved in writing by the CFO or the CFO's designee, pursuant to 60GG-4.002, F.A.C.

d. Requests for remote access shall be submitted to the Office's Contract Manager. With approval from the Office, third parties may be granted time-limited remote access to IT resources as necessary for the fulfillment of related responsibilities. Remote connections are subject to detailed monitoring via two-way log reviews and the use of other tools. When remote access is no longer needed, the Contractor shall notify the Office's Contract Manager, and access shall be promptly removed when no longer appropriate.

e. If required by the Office, the Office will escort any remote support access and maintain visibility of the Contractor actions during remote support sessions.

5. Data Encryption and Protection.

The Contractor shall encrypt all data transmissions (e.g., "data-in-transit") containing Non-Open Data using industry-accepted methods and best practices, pursuant to 60GG-2.003, F.A.C.

6. Breach and Liability.

The Contractor agrees to protect, indemnify, defend, and hold harmless the Office from and against any and all costs, claims, demands, damages, losses, and liabilities arising from or in any way related to the Contractor's breach of this Attachment 5 or the negligent acts or omissions of the Contractor related to this Attachment 5.

7. Separate Security Requirements.

Any Criminal Justice Information Services-specific (CJIS) and/or Health Information Portability and Accountability Act-specific (HIPAA) security requirements are attached in a separate attachment, if applicable.

8. Ownership of Non-Open Data.

Non-Open Data shall be made available to the Office upon its request, in the form and format reasonably requested by the Office. Title to all Non-Open Data will remain property of the Office and/or become property of the Office upon receipt and acceptance. The Contractor shall not possess or assert any lien or other right against or to any Non-Open Data in any circumstances.

9. Cooperation with the State and Third Parties.

The Contractor agrees to cooperate with the following entities: the State, the State's other contractors, the State's agents including properly authorized governmental entities, the State's authorized third parties such as technology staff under contract with the State, and other properly authorized individuals who directly or indirectly access Non-Open Data on behalf of any of the entities listed in this section. The Contractor shall also provide reasonable access to the Contractor's Contract personnel, systems, and facilities to these same entities, when reasonably requested by the Office. The Contractor agrees to impose these same requirements on all subcontractors providing services under this Contract.