

ATTACHMENT A

UTAH COMMUNICATIONS AUTHORITY'S STANDARD TERMS AND CONDITIONS FOR GOODS AND SERVICES

1. **DEFINITIONS:** The following terms shall have the meanings set forth below:
 - a) **"Access to Secure State Facilities, Data, and Technology"** means Contractor will (A) enter upon secure premises controlled, held, leased, or occupied by the Utah Communications Authority; (B) maintain, develop, or have access to any deployed hardware, software, firmware, or any other technology, that is in use by the Utah Communication Authority; or (C) have access to or receive any UCA Data or Confidential Information during the course of performing this Contract.
 - b) **"Authorized Persons"** means the Contractor's employees, officers, partners, Subcontractors or other agents of Contractor who need to access State Data to enable the Contractor to perform its responsibilities under this Contract.
 - c) **"Confidential Information"** means information that is deemed as confidential under applicable state and federal laws, including personal information. The UCA reserves the right to identify, during and after this Contract, additional reasonable types of categories of information that must be kept confidential under federal and state laws.
 - d) **"Contract"** means the Contract Signature Page(s), including all referenced attachments and documents incorporated by reference. The term "Contract" shall include any purchase orders that result from this Contract.
 - e) **"Contract Signature Page(s)"** means the Utah Communications Authority cover page(s) that UCA and Contractor signed.
 - f) **"Data Breach"** means the unauthorized access by a non-authorized person(s) which results in unauthorized acquisition of State Data and compromises the security, confidentiality, or integrity of State Data. It is within UCA's sole discretion to determine whether the unauthorized access is a Security Incident or a Data Breach.
 - g) **"Non-Public Data"** means data, other than personal data, that is not subject to distribution to the public as public information. It is deemed to be sensitive and confidential by the Utah Communications Authority and the federal government because it contains information that is exempt by state, federal and local statutes, ordinances, or administrative rules from access by the general public as public information.
 - h) **"Personal Data"** means data that includes information relating to a person that identifies the person by a person's first name or first initial and last name and has any of the following personally identifiable information (PII): government-issued identification numbers (e.g., Social Security, driver's license, passport); financial account information; including account number, credit or debit card numbers; or protected health information (PHI) relating to a person.
 - i) **"Protected Health Information"** (PHI) means individually identifiable health information transmitted by electronic media, maintained in electronic media, or transmitted or maintained in any other form or medium. PHI excludes education records covered by the Family Educational Rights and Privacy Act (FERPA), as amended, 20 U.S.C. 1232g, records described at 20 U.S.C. 1232g(a)(4)(B)(iv) and employment records held by a covered entity in its role as employer.
 - j) **"Procurement Item"** means a supply, a service, and/or technology that Contractor is required to deliver to the UCA under this Contract.
 - k) **"Provider"** means the individual or entity delivering the Procurement Item identified in this Contract. The term "Provider" shall include Contractor's agents, officers, employees, and partners.
 - l) **"Response"** means the Contractor's bid, proposals, quote, or any other document used by the Contractor to respond to the UCA's Solicitation.
 - m) **"Security Incident"** means the potentially unauthorized access by non-authorized persons to UCA Data that Contractor believes could reasonably result in the use, disclosure or theft of UCA Data within the possession or control of the Contractor. A Security Incident may or may not turn into a Data Breach. It is within UCA

- n) s sole discretion to determine whether the unauthorized access is a Security Incident or a Data Breach.
 - o) **“Solicitation”** means an invitation for bids, request for proposals, notice of a sole source procurement, request for statement of qualifications, request for information, or any document used to obtain bids, proposals, pricing, qualifications, or information for the purpose of entering into this Contract.
 - p) **“Subcontractors”** means a person under contract with a contractor or another subcontractor to provide services or labor for design or construction, including a trade contractor or specialty contractor.
 - q) **“UCA”** means the Utah Communications Authority.
2. **GOVERNING LAW AND VENUE:** This Contract shall be governed by the laws, rules, and regulations of the State of Utah. Any action or proceeding arising from this Contract shall be brought in a court of competent jurisdiction in the State of Utah. Venue shall be in Salt Lake City, in the Third Judicial District Court for Salt Lake County.
3. **LAWS AND REGULATIONS:** At all times during this Contract, Contractor and all Procurement Items delivered and/or performed under this Contract will comply with all applicable federal and state constitutions, laws, rules, codes, orders, and regulations, including applicable licensure and certification requirements. If this Contract is funded by federal funds, either in whole or in part, then any federal regulation related to the federal funding, including CFR Appendix II to Part 200, will supersede this Attachment A.
4. **RECORDS ADMINISTRATION:** Contractor shall maintain or supervise the maintenance of all records necessary to properly account for Contractor’s performance and the payments made by the UCA to Contractor under this Contract. These records shall be retained by Contractor for at least six (6) years after final payment, or until all audits initiated within the six (6) years have been completed, whichever is later. Contractor agrees to allow, at no additional cost, the State of Utah, federal auditors, UCA staff, or their designees, access to all such records during normal business hours and to allow interviews of any employees or others who might reasonably have information related to such records. Further, Contractor agrees to include a similar right of the State to audit records and interview staff in any subcontract related to performance of this Contract.
5. **PERMITS:** If necessary, Contractor shall procure and pay for all permits, licenses, and approvals necessary for the execution of this Contract.
6. **CERTIFY REGISTRATION AND USE OF EMPLOYMENT “STATUS VERIFICATION SYSTEM”:** The Status Verification System, also referred to as “E-verify”, only applies to contracts issued through a Request for Proposal process, to sole sources that are included within a Request for Proposal, and when Contractor employs any personnel in Utah.
- a. Contractor certifies as to its own entity, under penalty of perjury, that Contractor has registered and is participating in the Status Verification System to verify the work eligibility status of Contractor’s new employees that are employed in the State of Utah in accordance with applicable immigration laws.
 - b. Contractor shall require that each of its Subcontractors certify by affidavit, as to their own entity, under penalty of perjury, that each Subcontractor has registered and is participating in the Status Verification System to verify the work eligibility status of Subcontractor’s new employees that are employed in the State of Utah in accordance with applicable immigration laws.
 - c. Contractor’s failure to comply with this section will be considered a material breach of this Contract.
7. **CONFLICT OF INTEREST:** Contractor represents that none of its officers or employees are officers or employees of the UCA or the State of Utah, unless disclosure has been made to the UCA.
8. **INDEPENDENT CONTRACTOR:** Contractor and Subcontractors, in the performance of this Contract, shall act in an independent capacity and not as officers or employees or agents of the UCA or the State

of Utah.

9. **CONTRACTOR RESPONSIBILITY:** Contractor is solely responsible for fulfilling the contract, with responsibility for all Procurement Items delivered and/or performed as stated in this Contract. Contractor shall be the sole point of contact regarding all contractual matters. Contractor must incorporate Contractor's responsibilities under this Contract into every subcontract with its Subcontractors that will provide the Procurement Item(s) to the UCA under this Contract. Moreover, Contractor is responsible for its Subcontractors compliance under this Contract.
10. **INDEMNITY:** Contractor shall be fully liable for the actions of its agents, employees, officers, partners, and Subcontractors, and shall fully indemnify, defend, and save harmless the UCA and the State of Utah from all claims, losses, suits, actions, damages, and costs of every name and description arising out of Contractor's performance of this Contract caused by any intentional or negligent act or omission of Contractor or Subcontractors or their respective its agents, employees, officers, partners, independent contractors or subcontractors. Furthermore, the Contractor shall not indemnify for that portion of any claim, loss, or damage arising hereunder due to the sole fault of the UCA.
11. **EMPLOYMENT PRACTICES:** Contractor agrees to abide by any other laws, regulations, or orders that prohibit discrimination of any kind by any of Contractor's employees.
12. **AMENDMENTS:** This Contract may only be amended by the mutual written agreement of the parties, which amendment will be attached to this Contract. Automatic renewals will not apply to this Contract, even if identified elsewhere in this Contract.
13. **DEBARMENT:** Contractor certifies that it is not presently nor has ever been debarred, suspended, proposed for debarment, or declared ineligible by any governmental department or agency, whether international, national, state, or local. Contractor must notify the UCA within thirty (30) days if debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in any contract by any governmental entity during this Contract.
14. **TERMINATION:** This Contract may be terminated, with cause by either party, in advance of the specified expiration date, upon written notice given by the other party. The party in violation will be given ten (10) days after written notification to correct and cease the violations, after which this Contract may be terminated for cause immediately and subject to the remedies below. This Contract may also be terminated without cause (for convenience), in advance of the specified expiration date, by UCA, upon thirty (30) days written termination notice being given to the Contractor. The UCA and the Contractor may terminate this Contract, in whole or in part, at any time, by mutual agreement in writing.

On termination of this Contract, all accounts and payments will be processed according to the financial arrangements set forth herein for approved and conforming Procurement Items received prior to date of termination. In no event shall the UCA be liable to the Contractor for compensation for any Good neither requested nor accepted by the UCA. In no event shall the UCA's exercise of its right to terminate this Contract for convenience relieve the Contractor of any liability to the UCA for any damages or claims arising under this Contract.

15. **NONAPPROPRIATION OF FUNDS, REDUCTION OF FUNDS, OR CHANGES IN LAW:** Upon thirty (30) days written notice delivered to the Contractor, this Contract may be terminated in whole or in part at the sole discretion of the UCA, if the UCA reasonably determines that: (i) a change in Federal or State legislation or applicable laws materially affects the ability of either party to perform under the terms of this Contract; or (ii) that a change in available funds affects the UCA's ability to pay under this Contract. A change of available funds as used in this paragraph includes, but is not limited to a change in Federal or State funding, whether as a result of a legislative act or by order of the President or the Governor.

If a written notice is delivered under this section, the UCA will reimburse Contractor for the Procurement Item(s) properly ordered and/or Services properly performed until the effective date of said notice. The UCA will not be liable for any performance, commitments, penalties, or liquidated damages that accrue

after the effective date of said written notice.

16. **SALES TAX EXEMPTION:** The Procurement Item(s) under this Contract will be paid for from the UCA's funds and used in the exercise of UCA's essential functions as a State of Utah entity. Upon request, the UCA will provide Contractor with its sales tax exemption number. It is Contractor's responsibility to request the UCA's sales tax exemption number. It also is Contractor's sole responsibility to ascertain whether any tax deduction or benefits apply to any aspect of this Contract.
17. **Network Availability:** The procurement item being purchased by UCA is for the purpose the public safety radio network that UCA operates as part of its statutory responsibility, as such, Contractor must provide the procurement item that meets the following service availability:

- a. **Service Availability Commitment:** The Provider shall use commercially reasonable efforts to ensure that the Network Service is available 99.999% of the time during each calendar month ("Availability Commitment"), excluding Scheduled Maintenance and Force Majeure Events.

This Availability Commitment equates to a maximum allowable aggregate downtime of approximately 5 minutes and 15 seconds per calendar year.

Availability shall be measured at the demarcation point mutually agreed upon by the Parties.

- b. **Scheduled Maintenance:** The Provider may perform routine or emergency maintenance ("Scheduled Maintenance") during off-peak hours, provided that the Provider gives the Customer no less than seventy-two (72) hours' prior written notice, except in cases where immediate action is required to protect network integrity or public safety.

Scheduled Maintenance shall **not** be included in downtime calculations for purposes of determining compliance with the Availability Commitment.

- c. **Measurement of Downtime:** "Downtime" means the total accumulated time during which the Network Service is unavailable, excluding Scheduled Maintenance and Force Majeure Events, as measured on a per-month basis. Downtime shall not include outages attributable to Customer equipment, Customer facilities, or third-party networks outside the Provider's reasonable control.
- d. **Service Credits:** If the Provider fails to meet the Availability Commitment in any calendar month, the Customer shall be eligible to receive service credits applied against the monthly recurring charge for the affected service, as follows:

Monthly Availability	Service Credit
99.990% – 99.998%	5%
99.900% – 99.989%	10%
Below 99.900%	20%

Service credits shall be the Customer's sole monetary remedy for failure to meet the Availability Commitment and shall be applied to the next invoice following verification of the outage.

18. **HARDWARE WARRANTY:** Contractor agrees to warrant and assume responsibility for all hardware portions of any Procurement Item, that it licenses, contracts, or sells to UCA under this Contract, for a period of the contract. Contractor acknowledges that all warranties granted to UCA by the Uniform Commercial Code of the State of Utah apply to this Contract. Product liability disclaimers and/or warranty disclaimers from Contractor are not applicable to this Contract. In general, the Contractor warrants that the hardware: (a) will perform as specified in the Proposal; (b) will live up to all specific claims listed in the Proposal; (c) will be suitable for the ordinary purposes for which the hardware is used; (d) will be suitable for any special purposes that UCA has/have relied on Contractor's skill or judgment to consider when it advised UCA about the hardware in the Proposal; (e) the hardware has

been properly designed and manufactured; and (f) is free of significant defects or unusual problems about which the UCA has not been warned.

19. **UPDATES AND UPGRADES:** Contractor grants to the UCA a non-exclusive, non-transferable license to use upgrades and updates provided by Contractor during the term of this Contract. Such upgrades and updates are subject to the terms of this Contract. The UCA shall download, distribute, and install all updates as released by Contractor during the Contract Period.
20. **TECHNICAL SUPPORT AND MAINTENANCE:** Contractor acknowledges and understands that the UCA is a public safety agency tasked with maintaining emergency communications throughout the State of Utah. As such, Contractor commits to perform technical support and maintenance in a manner that is commensurate with this public safety standard and to employ best efforts to maintain the products and services provided under this Contract. Contractor shall, within one hour of discovering or receiving any notice of any diminution in performance, failure, or other decrease in services provided by the Procurement Item(s) under this Agreement, or within one hour of when the Contractor should have known of any diminution in performance, failure, or other decrease in services provided by the Procurement Item(s), dispatch appropriate personnel, equipment, and resources to fully restore the Procurement Item(s) utilizing Contractor's best efforts to do so. In the event the Contractor fails to dispatch appropriate personnel, equipment, and resources within the afore-mentioned one hour period, Contractor shall pay to the UCA a penalty equal to six (6) months of revenue the Contractor would otherwise receive under this Contract. Furthermore, in the event that the Contractor fails to dispatch appropriate personnel, equipment, and resources within the afore-mentioned one hour period, Contractor hereby grants to the UCA all rights and authority to access Contractor's property, equipment, networks, etc. necessary or convenient to correct any diminution in performance, failure, or other decrease in services provided by the Procurement Item(s) and releases the UCA from any and all liability associated with such access or actions.

Within twenty-four (24) after the Contractor knew, should have known, or was notified of any diminution in performance, failure, or other decrease in services provided by the Procurement Item(s), Contractor shall correct any diminution in performance, failure, or other decrease in services provided by the Procurement Item(s). In the event any diminution in performance, failure, or other decrease in services provided by the Procurement Item(s) continues for more than twenty four (24) hours after Contractor knew, should have known, or was notified of any diminution in performance, failure, or other decrease in services provided by the Procurement Item(s), Contractor shall pay to the UCA a penalty equal to one (1) month of revenue the Contractor would otherwise receive under this Contract for each additional hour that the diminution in the Procurement Item(s) continues to exist or persist. In addition, in the event any diminution in performance, failure, or other decrease in services provided by the Procurement Item(s) continues for more than twenty four (24) hours after Contractor knew, should have known, or was notified of any diminution in performance, failure, or other decrease in services provided by the Procurement Item(s), the Contractor hereby grants to the UCA all rights and authority to access Contractor's property, equipment, networks, etc. necessary or convenient to correct any diminution in performance, failure, or other decrease in services provided by the Procurement Item(s) and releases the UCA from any and all liability associated with such access or actions.

21. **SECURITY INCIDENT NOTIFICATION:** Contractor shall immediately inform the UCA of any Security Incident. Contractor may need to communicate with outside parties regarding a Security Incident, which may include contacting law enforcement and seeking external expertise as mutually agreed upon, defined by law or contained in this Contract. Discussing Security Incidents with the UCA should be handled on an urgent, as-needed basis as part of Contractor's communication and mitigation processes, defined by law or contained in this Contract.
22. **DATA BREACH RESPONSIBILITIES:** Contractor agrees to comply with all applicable laws that require the notification of individuals in the event of a Data Breach or other events requiring notification. Contractor shall immediately inform the UCA of any Data Breach. In the event of a Data Breach or other event requiring notification under applicable law (Utah Code § 13-44-101 thru 301 et al), Contractor shall:

(a) cooperate with the UCA by sharing information relevant to the Data Breach; (b) promptly implement necessary remedial measures, if necessary; (c) document responsive actions taken related to the Data Breach, including any post-incident review of events and actions taken to make changes in business practices in relation to the Data Breach; and (d) in accordance with applicable laws indemnify, hold harmless, and defend the UCA and the State of Utah against any claims, damages, or other harm related to such Data Breach. If the Data Breach requires public notification, all communication shall be coordinated with the UCA. Contractor shall be responsible for all notification and remedial costs and damages.

23. **CHANGE MANAGEMENT:** Any Goods or Custom Deliverables furnished or Services performed by Contractor which have the potential to cause any form of outage or to modify DTS's infrastructure must be reviewed by the DTS Change Management Committee. Following this notification, any outages or Data Breaches which are a direct result of Contractor's failure to comply with DTS instructions and policies following notification will result in Contractor's liability for any and all damages resulting from or associated with the outage or Data Breach.
24. **ELECTRONIC DELIVERY:** Contractor may electronically deliver any Procurement Item to the UCA or provide any Procurement Item for download from the Internet, if approved in writing by the UCA. Contractor must take all reasonable and necessary steps to ensure that the confidentiality of those electronic deliveries is preserved in the electronic delivery process, and is reminded that failure to do so may constitute a breach of obligations owed to the UCA under this Contract. Contractor warrants that all electronic deliveries will be free of known, within reasonable industry standards, malware, bugs, Trojan horses, etc. Any electronic delivery that includes State Data that Contractor processes or stores must be delivered within the specifications of this Contract.
25. **CONTRACTOR'S INSURANCE RESPONSIBILITY.** The Contractor shall maintain the following insurance coverage:
- Workers' compensation insurance during the term of this Contract for all its employees and any Subcontractor employees related to this Contract. Workers' compensation insurance shall cover full liability under the workers' compensation laws of the jurisdiction in which the work is performed at the statutory limits required by said jurisdiction.
 - Commercial general liability [CGL] insurance (including Products/Completed Operations coverage) from an insurance company authorized to do business in the State of Utah. The limits of the CGL insurance policy will be no less than one million dollars (\$1,000,000.00) per person per occurrence and three million dollars (\$3,000,000.00) aggregate per occurrence.
 - Commercial automobile liability [CAL] insurance from an insurance company authorized to do business in the State of Utah. The CAL insurance policy must cover bodily injury and property damage liability and be applicable to all vehicles used in your performance of Services under this Agreement whether owned, non-owned, leased, or hired. The minimum liability limit must be \$1 million per occurrence, combined single limit. The CAL insurance policy is required if Contractor will use a vehicle in the performance of this Contract.
 - Other insurance policies required in the Solicitation.

Certificate of Insurance, showing up-to-date coverage, shall be on file with the UCA before the Contract may commence. The CGL and CAL policies shall name the UCA and the State of Utah as additional insureds.

The State reserves the right to require higher or lower insurance limits where warranted. Failure to provide proof of insurance as required will be deemed a material breach of this Contract. Contractor's failure to maintain this insurance requirement for the term of this Contract will be grounds for immediate termination of this Contract.

26. **ADDITIONAL TERMS APPLICABLE TO PROCUREMENT ITEMS INVOLVING CONSTRUCTION.** The following provisions shall apply to Procurement Items involving construction and/or installation work.
- In addition to, and not in limitation of, any other warranty or duty to correct defects in the

Procurement Items set forth in the Contract, Seller warrants to UCA that the labor, materials and equipment included in the Procurement Items hereunder shall: (i) conform to specifications and other descriptions referenced in the Contract or purchase order emanating from the Contract, (ii) be free from liens, encumbrances and claims by third parties; and (iii) be free from faults, defects in materials, workmanship, and design, unless the design was supplied by the UCA. The terms of this subsection a. shall be ongoing and survive the termination or expiration of the Contract.

b. Contractor shall be responsible for the safety of the employees of Contractor and Subcontractors while on the UCA's premises.

c. At the end of each work day and at completion of the on-site work, Contractor shall and shall cause its Subcontractors to remove from and about the premises and the property on which the UCA's premises is located all waste materials, rubbish, tools, machinery and equipment caused by or used in connection with such on-site work.

d. Contractor shall be responsible to UCA for acts or omissions of Contractor's and Contractor's Subcontractor's agents, employees and independent contractors.

e. Contractor shall and shall cause Contractor's Subcontractors to enforce strict discipline and good order among their respective employees.

f. Contractor shall and shall cause Contractor's Subcontractors to perform the services with the highest degree of care for safety, cleanliness, order, and minimal interference with the employees, invitees and operations of the UCA and the other occupants and owner of the property on which UCA's premises is located. Any utilities interruption must have prior approval from the UCA. Contractor shall exercise all precautions to minimize noise and any construction hazards that in any way would cause harm to the employees or invitees of, or damage to property of, the UCA or the other occupants or owner of the property on which UCA's premises is located.

g. Contractor shall confine the work at the UCA's premises and the property on which such premises are located to areas designated by the UCA. Contractor and Contractor's Subcontractors shall keep their respective employees out of areas beyond where the work is being performed except where necessary for actual performance of such work. Without prior approval of the UCA and or (if applicable) the UCA's landlord, Contractor shall not permit any workers to use any of the facilities at such property, including lavatories, entrances and parking areas, other than those designated by the UCA. Under no circumstances shall Contractor or any Subcontractor charge UCA a fee of any kind for time spent or equipment used in traveling to or from any job site. UCA shall not be responsible for weather caused delays on either time, travel, materials, or tools and will not compensate Contractor for any time, labor, materials, or tools associated therewith.

h. Should Contractor or its Subcontractors cause damage to the property of the UCA or the other occupants or owner of the property on which the UCA's premises is located, Contractor shall promptly remedy such damage.

27. **PUBLIC INFORMATION:** Contractor agrees that this Contract, related purchase orders, related pricing documents, and invoices will be public documents and may be available for public and private distribution in accordance with the State of Utah's Government Records Access and Management Act (GRAMA). Contractor gives the UCA and the State of Utah express permission to make copies of this Contract, related sales orders, related pricing documents, and invoices in accordance with GRAMA. Except for sections identified in writing by Contractor and expressly approved by the State of Utah Division of Purchasing and General Services, Contractor also agrees that the Contractor's Response will be a public document, and copies may be given to the public as permitted under GRAMA. The UCA and the State of Utah are not obligated to inform Contractor of any GRAMA requests for disclosure of this Contract, related purchase orders, related pricing documents, or invoices.

28. **DELIVERY:** All deliveries under this Contract will be F.O.B. destination with all transportation and handling charges paid for by Contractor. Responsibility and liability for loss or damage will remain with

Contractor until final inspection and acceptance when responsibility will pass to the UCA, except as to latent defects or fraud. Contractor shall strictly adhere to the delivery and completion schedules specified in this Contract.

29. **ACCEPTANCE AND REJECTION:** The UCA shall have thirty (30) days after delivery of the Procurement Item(s) to perform an inspection of the Procurement Item(s) to determine whether the Procurement Item(s) conform to the standards specified in the Solicitation and this Contract prior to acceptance of the Procurement Item(s) by the UCA.

If Contractor delivers nonconforming Procurement Item(s), the UCA may, at its option and at Contractor's expense: (i) return the Procurement Item(s) for a full refund; (ii) require Contractor to promptly correct or replace the nonconforming Procurement Item(s); or (iii) obtain replacement Procurement Item(s) from another source, subject to Contractor being responsible for any cover costs. Contractor shall not redeliver corrected or rejected Procurement Item(s) without: first, disclosing the former rejection or requirement for correction; and second, obtaining written consent of the UCA to redeliver the corrected Procurement Item(s). Repair, replacement, and other correction and redelivery shall be subject to the terms of this Contract.

30. **INVOICING:** Contractor will submit invoices within thirty (30) days of the delivery date of the Procurement Item(s) to the UCA. The contract number shall be listed on all invoices, freight tickets, and correspondence relating to this Contract. The prices paid by the UCA will be those prices listed in this Contract, unless Contractor offers a prompt payment discount within its Response or on its invoice. The UCA has the right to adjust or return any invoice reflecting incorrect pricing.

31. **PAYMENT:** Payments are to be made within thirty (30) days after a correct invoice is received. All payments to Contractor will be remitted by mail, electronic funds transfer, or the State of Utah's Purchasing Card (major credit card). If payment has not been made after sixty (60) days from the date a correct invoice is received by the UCA, then interest may be added by Contractor as prescribed in the Utah Prompt Payment Act. The acceptance by Contractor of final payment, without a written protest filed with the UCA within ten (10) business days of receipt of final payment, shall release the UCA and the State of Utah from all claims and all liability to the Contractor. The UCA's payment for the Procurement Item(s) and/or Services shall not be deemed an acceptance of the Procurement Item(s) and is without prejudice to any and all claims that the UCA or the State of Utah may have against Contractor. The State of Utah and the UCA will not allow the Contractor to charge end users electronic payment fees of any kind.

32. **ANTI-BOYCOTT ISRAEL:** Pursuant to Utah Code 63G-27-101, Contractor hereby certifies that it is not currently engaged in a boycott of the State of Israel and further agrees not to engage in a boycott of the State of Israel for the duration of the contract.

33. **INDEMNIFICATION RELATING TO INTELLECTUAL PROPERTY:** Contractor will indemnify and hold the UCA and the State of Utah harmless from and against any and all damages, expenses (including reasonable attorneys' fees), claims, judgments, liabilities, and costs in any action or claim brought against the UCA or the State of Utah for infringement of a third party's copyright, trademark, trade secret, or other proprietary right. The parties agree that if there are any limitations of Contractor's liability, such limitations of liability will not apply to this section.

36. **OWNERSHIP IN INTELLECTUAL PROPERTY:** The UCA and Contractor each recognizes that each has no right, title, or interest, proprietary or otherwise, in the intellectual property owned or licensed by the other, unless otherwise agreed upon by the parties in writing. All Procurement Item(s), documents, records, programs, data, articles, memoranda, and other materials not developed or licensed by Contractor prior to the execution of this Contract, but specifically manufactured under this Contract shall be considered work made for hire, and Contractor shall transfer any ownership claim to the UCA.

37. **OWNERSHIP IN CUSTOM DELIVERABLES:** In the event that Contractor provides Custom Deliverables to UCA, pursuant to this Contract, Contractor grants the ownership in Custom Deliverables, which have been developed and delivered by Contractor exclusively for UCA and are specifically within the

framework of fulfilling Contractor's contractual obligations under this contract. Custom Deliverables shall be deemed work made for hire, such that all intellectual property rights, title and interest in the Custom Deliverables shall pass to UCA, to the extent that the Custom Deliverables are not recognized as work made for hire, Contractor hereby assigns to UCA any and all copyrights in and to the Custom Deliverables, subject to the following:

1. Contractor has received payment for the Custom Deliverables,
2. Each party will retain all rights to patents, utility models, mask works, copyrights, trademarks, trade secrets, and any other form of protection afforded by law to inventions, models, designs, technical information, and applications ("Intellectual Property Rights") that it owned or controlled prior to the effective date of this contract or that it develops or acquires from activities independent of the services performed under this contract ("Background IP"), and
3. Contractor will retain all right, title, and interest in and to all Intellectual Property Rights in or related to the services, or tangible components thereof, including but not limited to (a) all know-how, intellectual property, methodologies, processes, technologies, algorithms, software, or development tools used in performing the Services (collectively, the "Utilities"), and (b) such ideas, concepts, know-how, processes and reusable reports, designs, charts, plans, specifications, documentation, forms, templates, or output which are supplied or otherwise used by or on behalf of Contractor in the course of performing the Services or creating the Custom Deliverables, other than portions that specifically incorporate proprietary or Confidential Information or Custom Deliverables of UCA (collectively, the "Residual IP"), even if embedded in the Custom Deliverables.
4. Custom Deliverables, not including Contractor's Intellectual Property Rights, Background IP, and Residual IP, may not be marketed or distributed without written approval by UCA.

Contractor agrees to grant to UCA a perpetual, irrevocable, royalty-free license to use Contractor's Background IP, Utilities, and Residual IP, as defined above, solely for UCA and the State of Utah to use the Custom Deliverables. UCA reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish, or otherwise use and to authorize others to use, for UCA's and the State of Utah's internal purposes, such Custom Deliverables. For the Goods delivered that consist of Contractor's scripts and code and are not considered Custom Deliverables or Work Product, for any reason whatsoever, Contractor grants UCA a non-exclusive, non-transferable, irrevocable, perpetual right to use, copy, and create derivative works from such, without the right to sublicense, for UCA's and the State of Utah's internal business operation under this Contract. UCA and the State of Utah may not participate in the transfer or sale of, create derivative works from, or in any way exploit Contractor's Intellectual Property Rights, in whole or in part.

38. **PROTECTION AND USE OF RECORDS:** The UCA shall own exclusive title to all information gathered, reports developed, and conclusions reached in performance of this Contract. Contractor may not use, except in meeting its obligations under this Contract, information gathered, reports developed, or conclusions reached in performance of this Contract without the express written consent of the UCA.
39. **RETURN OF DOCUMENTS AND DATA:** All documents and data pertaining to work required by this Contract will be the property of the UCA, and must be delivered to UCA within thirty (30) working days after termination or expiration of this Contract, regardless of the reason for contract termination, and without restriction or limitation to their future use. Any documents and data that may be returned under provisions of this Section must either be in the format as originally provided, or in a format that is readily usable by the UCA or that can be formatted in a way that it can be used. The costs for returning documents and data to the UCA are included in this Contract.
40. **ASSIGNMENT:** Contractor may not assign, sell, transfer, subcontract or sublet rights, or delegate any right or obligation under this Contract, in whole or in part, without the prior written approval of the UCA.
41. **REMEDIES:** Any of the following events will constitute cause for the UCA to declare Contractor in default of this Contract: (i) Contractor's non-performance of its contractual requirements and

obligations under this Contract; or (ii) Contractor's material breach of any term or condition of this Contract. The UCA may issue a written notice of default providing a ten (10) day period in which Contractor will have an opportunity to cure. Time allowed for cure will not diminish or eliminate Contractor's liability for damages. If the default remains after Contractor has been provided the opportunity to cure, the UCA may do one or more of the following: (i) exercise any remedy provided by law or equity; (ii) terminate this Contract; (iii) impose liquidated damages, if liquidated damages are listed in this Contract; (iv) debar/suspend Contractor from receiving future contracts from the UCA or the State of Utah; or (v) demand a full refund of any payment that the UCA has made to Contractor under this Contract for Procurement Item(s) that do not conform to this Contract.

42. **FORCE MAJEURE:** Neither party to this Contract will be held responsible for delay or default caused by fire, riot, act of God, and/or war which is beyond that party's reasonable control. The UCA may terminate this Contract after determining such delay will prevent successful performance of this Contract.
43. **CONFIDENTIALITY:** If Confidential Information is disclosed to Contractor, Contractor shall: (i) advise its agents, officers, employees, partners, and Subcontractors of the obligations set forth in this Contract; (ii) keep all Confidential Information strictly confidential; and (iii) not disclose any Confidential Information received by it to any third parties. Contractor will promptly notify the UCA of any potential or actual misuse or misappropriation of Confidential Information.

Contractor shall be responsible for any breach of this duty of confidentiality, including any required remedies and/or notifications under applicable law. Contractor shall indemnify, hold harmless, and defend the UCA and the State of Utah, including anyone for whom the UCA or the State of Utah is liable, from claims related to a breach of this duty of confidentiality, including any notification requirements, by Contractor or anyone for whom the Contractor is liable.

Upon termination or expiration of this Contract, Contractor will return all copies of Confidential Information to the UCA or certify, in writing, that the Confidential Information has been destroyed. This duty of confidentiality shall be ongoing and survive the termination or expiration of this Contract.

44. **PUBLICITY:** Contractor shall submit to the UCA for written approval all advertising and publicity matters relating to this Contract. It is within the UCA's sole discretion whether to provide approval, which approval must be in writing.
45. **WORK ON STATE OF UTAH OR ELIGIBLE USER PREMISES:** Contractor shall ensure that personnel working on State of Utah premises shall: (i) abide by all of the rules, regulations, and policies of the premises; (ii) remain in authorized areas; (iii) follow all instructions; and (iv) be subject to a background check, prior to entering the premises. The State of Utah or Eligible User may remove any individual for a violation hereunder.
46. **CONTRACT INFORMATION:** During the duration of this Contract the State of Utah Division of Purchasing is required to make available contact information of Contractor to the State of Utah Department of Workforce Services. The State of Utah Department of Workforce Services may contact Contractor during the duration of this Contract to inquire about Contractor's job vacancies within the State of Utah.
47. **WAIVER:** A waiver of any right, power, or privilege shall not be construed as a waiver of any subsequent right, power, or privilege.
48. **SUSPENSION OF WORK:** Should circumstances arise which would cause the UCA to suspend Contractor's responsibilities under this Contract, but not terminate this Contract, this will be done by formal written notice pursuant to the terms of this Contract. Contractor's responsibilities may be reinstated upon advance formal written notice from the UCA.
49. **CHANGES IN SCOPE:** Any changes in the scope of the services to be performed under this Contract shall be in the form of a written amendment to this Contract, mutually agreed to and signed by both parties, specifying any such changes, fee adjustments, any adjustment in time of performance, or any other significant factors arising from the changes in the scope of services.

50. **PROCUREMENT ETHICS:** Contractor understands that a person who is interested in any way in the sale of any supplies, services, construction, or insurance to the State of Utah is violating the law if the person gives or offers to give any compensation, gratuity, contribution, loan, reward, or any promise thereof to any person acting as a procurement officer on behalf of the State of Utah, or to any person in any official capacity who participates in the procurement of such supplies, services, construction, or insurance, whether it is given for their own use or for the use or benefit of any other person or organization.
51. **ATTORNEY'S FEES:** In the event of any judicial action to enforce rights under this Contract, the prevailing party shall be entitled its costs and expenses, including reasonable attorney's fees incurred in connection with such action.
52. **TRAVEL COSTS:** If travel expenses are permitted by the Solicitation, then all travel costs associated with the delivery of Services under this Contract will be paid according to the rules and per diem rates found in the Utah Administrative Code R25-7. Invoices containing travel costs outside of these rates will be returned to Contractor for correction.
53. **DISPUTE RESOLUTION:** Prior to either party filing a judicial proceeding, the parties agree to participate in the mediation of any dispute. The UCA, after consultation with Contractor, may appoint an expert or panel of experts to assist in the resolution of a dispute. If the UCA appoints such an expert or panel, UCA and Contractor agree to cooperate in good faith in providing information and documents to the expert or panel in an effort to resolve the dispute.
54. **CONTRACTOR ACCESS TO SECURE STATE FACILITIES, STATE DATA, AND TECHNOLOGY:** If an employee of Contractor or a Subcontractor is required to complete a Federal Criminal Background Check or said employee of Contractor or a Subcontractor will have Access to Secure State Facilities, State Data, and Technology, Contractor shall provide UCA with sufficient personal information (at Contractor's own expense) so that a Federal Criminal Background Check may be completed by UCA, at UCA's expense.
55. **DRUG-FREE WORKPLACE:** Contractor agrees to abide by the UCA's drug-free workplace policies while on the UCA's premises. The UCA will provide Contractor with a copy of these written drug-free workplace policies upon request.
56. **CODE OF CONDUCT:** If Contractor is working at facilities controlled or owned by the State of Utah, Contractor agrees to follow and enforce the UCA's applicable code of conduct.
57. **COMPLIANCE WITH ACCESSIBILITY STANDARDS:** Contractor shall comply with and adhere to Accessibility Standards of Section 508 Amendment to the Rehabilitation Act of 1973. Contractors must also adhere to Utah Administrative rule R895-14-1-3-3, which states that vendors developing new websites or applications are required to meet accessibility guidelines subject to rule R895 and correct any items that do not meet these guidelines at no cost to the agency; and Rule R895-14-1-4-2, which states that vendors proposing IT products and services shall provide Voluntary Product Accessibility Template® (VPAT™) documents.
58. **RIGHT TO AUDIT:** Contractor agrees to, upon written request, permit the UCA, or a third party designated by the UCA, to perform an assessment, audit, examination, or review of all of Contractor's sites and environments - including physical, technical, and virtual sites and environments - in order to confirm Contractor's compliance with this Contract; associated Scopes of Work; and applicable laws, regulations, and industry standards.
59. **TIME IS OF THE ESSENCE:** The Procurement Items shall be completed by any applicable deadline stated in this Contract. For all services, time is of the essence. Contractor shall be liable for all damages to the UCA and the State of Utah, and anyone for whom the State of Utah may be liable, as a result of Contractor's failure to timely complete the services required under this Contract.
60. **ORDER OF PRECEDENCE:** In the event of any conflict in the terms and conditions in this Contract, the order of precedence shall be: (i) this Attachment A; (ii) Contract Signature Page(s); (iii) the State of Utah's

additional terms and conditions, if any;

(iv) any other attachment listed on the Contract Signature Page(s); and (v) Contractor's terms and conditions that are attached to this Contract, if any. Any provision attempting to limit the liability of Contractor or limit the rights of the UCA or the State of Utah must be in writing and attached to this Contract or it is rendered null and void.

61. **SURVIVAL OF TERMS:** Termination or expiration of this Contract shall not extinguish or prejudice the UCA's right to enforce this Contract with respect to any default of this Contract or defect in the Procurement Item(s) that has not been cured, or of any of the following clauses, including: Governing Law and Venue, Laws and Regulations, Records Administration, Remedies, Dispute Resolution, Indemnity, Newly Manufactured, Indemnification Relating to Intellectual Property, Warranty of Procurement Item(s), Insurance.
62. **SEVERABILITY:** The invalidity or unenforceability of any provision, term, or condition of this Contract shall not affect the validity or enforceability of any other provision, term, or condition of this Contract, which shall remain in full force and effect.
63. **ERRORS AND OMISSIONS:** Contractor shall not take advantage of any errors and/or omissions in this Contract. The Contractor must promptly notify the State of any errors and/or omissions that are discovered.
64. **ENTIRE AGREEMENT:** This Contract constitutes the entire agreement between the parties and supersedes any and all other prior and contemporaneous agreements and understandings between the parties, whether oral or written.