

STATE OF TEXAS           §  
  §  
COUNTY OF TRAVIS       §

**SPECIAL EDUCATION SUPPORT SERVICES  
CONTRACT NUMBER CON0001567**

This contract is effective **January 15, 2024**, and is by and between the **Texas Juvenile Justice Department**, hereinafter **TJJD**, and **Presence Learning, Inc.**, [REDACTED], hereinafter **Service Provider**, to provide **Special Education Support Services**. This contract expires on **August 31, 2025**, and is identified as **TJJD CONTRACT NUMBER CON0001567**.

This contract is made and entered into under the authority of Title 12 of the Texas Human Resources Code, for the mutual considerations described herein.

This Agreement is composed of the following documents:

1. This contract, including all exhibits;
2. Request for Proposal (RFP) # 644-22-122921 - A, hereby incorporated by reference;
3. Service Provider’s clarification email dated July 3, 2023, with **revised Exhibit B, Price Form** Dated September 8, 2023, hereby incorporated by reference; and
4. Service Provider’s proposal dated April 6, 2023, hereby incorporated by reference.

In the event there is conflict between the Agreement documents, the order of precedence shall be the order listed above, unless otherwise indicated.

**SECTION I: CONTRACT TERM**

This contract is effective **January 15, 2024, through August 31, 2025**. Prior to expiration of the original term, TJJD has the option to extend the contract, by amendment, with two (2) additional two-year renewal options, provided that both parties agree in writing to each renewal. Any renewals shall be at the same terms and condition, including any approved changes.

**Presence Learning, Inc.**, agrees to provide TJJD Special Education Support Services for the amount of up to **twenty-eight thousand one hundred sixty-six dollars (\$28,166.00)**. **The Not to Exceed** total amount for the initial term of the contract is **twenty-eight thousand one hundred sixty-six dollars (\$28,166.00)**. TJJD may renegotiate an increase for FY’25 rate based on Service Provider performance and TJJD’s budget.

**SECTION II: SERVICE PROVIDER**

**1. SCOPE**

Service Provider shall provide Special Education Support Services in-person or virtually for the following:

**A. Speech Therapy:**

Persons assigned to provide speech therapy instructional services must hold a valid Texas Education Agency certificate in speech and hearing therapy or speech and language therapy, or a valid state license as a speech/language pathologist. Speech or language

impairment means a communication disorder, such as stuttering, impaired articulation, a language impairment, or a voice impairment, that adversely affects a youth's educational performance. Speech-Language pathology services to include:

1. Identification of youth with speech or language impairments;
2. Diagnosis and appraisal of specific speech or language impairments;
3. Referral for medical or other professional attention necessary for the habilitation of speech or language impairments;
4. Provision of speech and language services for the habilitation or prevention of communicative impairments; and
5. Counseling and guidance of parents, youth, and teachers regarding speech and language impairments.

### **B. Psychological/Psychoeducational Services:**

Psychological Services provided by a Licensed Specialist in School Psychology (LSSP). LSSP means a person who is trained to address psychological and behavioral problems manifested in and associated with educational systems by utilizing psychological concepts and methods in programs or actions which attempt to improve the learning, adjustment and behavior of students. Such activities include, but are not limited to, addressing special education eligibility, conducting manifestation determinations, and assisting with the development and implementation of individual educational programs, conducting Texas Juvenile Justice Department with Special Education Support Services behavioral assessments, and designing and implementing behavioral interventions and supports. Psychological services to include:

1. Interpreting assessment results;
2. Obtaining, integrating, and interpreting information about youth behavior and conditions relating to learning;
3. Consulting with other staff members in planning school programs to meet the special educational needs of youth as indicated by psychological tests, interviews, direct observation, and behavioral evaluations;
4. Planning and managing a program of psychological services, including psychological counseling for youth and parents; and assisting in developing positive behavioral intervention strategies.

### **C. Occupational Therapy (OT) /Physical Therapy (PT) Services**

#### **2.0 Additional Requirements:**

Service provider will implement the student individualized education program (IEP) needs as determined by the Admission Review and Dismissal Committee (ARD). Contractor needs to be procured in anticipation of incoming students with specialized needs in the area(s) of speech, psychological evaluation and occupational therapy services.

Service provider will complete the project based on the internal timelines generated for each student on an individualized basis as indicated on the student's IEP as determined by the ARD. The ARD committee makes individualized special education support service(s) decisions for special education eligible students on an annual basis (or sooner) as student needs change.

#### **2.1 TJJJ Service Locations**

Special Education Services shall be provided for the following TJJD facilities.

Institutions
<p><b>Evins Regional Juvenile Center</b>                      3801 E. Monte Cristo Road                      Edinburg, Texas 78541                      (956) 289-5500                      FAX (956) 381-1425</p>
<p><b>Gainesville State School</b>                      1379 FM 678                      Gainesville, Texas 76240                      (940) 665-0701                      FAX (940) 665-0469</p>
<p><b>Giddings State School</b>                      2261 James Turman Rd.                      P.O. Box 600                      Giddings, Texas 78942                      (979) 542-4500                      FAX (979) 542-0177</p>
<p><b>McLennan County State                      Juvenile Correctional Facility</b>                      116 Burlison Road                      Mart, Texas 76664                      (254) 297-8200                      FAX (254) 297-8392</p>
<p><b>Ron Jackson State Juvenile                      Correctional Complex</b>                      611 FM 3254                      Brownwood, Texas 76801                      P.O. Box 1267                      Brownwood, Texas 76804                      (325) 641-4200                      FAX (325) 646-7704</p>

**2.2 Deliverable Schedule**

Service Provide shall provide the following deliverables:

No.	Deliverable Description	Estimated Due Date
1	Speech Therapy Services	Annually as determined by the ARD committee
2	Occupational Therapy (OT)/Physical Therapy (PT) Services	Annually as determined by the ARD committee

3	Psychological/Psychoeducational Services	Annually or as determined by the ARD committee
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### 3. Invoices:

**PresenceLearning, Inc.**, will submit invoices to TJJJ Claims Department via email at [tjjdinvoice@tjjd.texas.gov](mailto:tjjdinvoice@tjjd.texas.gov) and to: [Marilyn.Harris@tjjd.texas.gov](mailto:Marilyn.Harris@tjjd.texas.gov) on a monthly basis, within 10 days of each month's end with invoices bearing Service Provider's name, address, and TJJJ contract number. Invoices will be submitted not less than thirty (30) days prior to the payment due date. Invoices will be paid in accordance with Chapter 2251 of the Texas Government Code.

### 4. Contractor-Furnished Equipment and work Space:

The Service Provider shall provide all equipment required by its personnel for the duration of this contract. The Service Provider shall provide Special Education Support Services according to the **Revised Exhibit B, Dated 09/08/2023**.

### 5. Service Level Agreement:

#### 5.1 Software Requirements:

The versions of any software identified in this contract are to be considered the minimum allowed version. Service Provider will work with TJJJ technical staff to ensure that software environments remain aligned with current software releases.

#### 5.2 Customer Service Support – Service Provider will:

- A. Establish and maintain a Customer Service Support component during normal business hours (Monday – Friday 8:00 am – 5:00 pm) for all provided components related to the support services and tools provided.
- B. Work in close coordination between Contractor / providers and TJJJ special education staff regarding any issues / problems that may arise, such as; scheduling, quality of services, equipment issues, etc.
- C. Provide primary telephone support on a daily basis during standard business hours (8:00 am - 5:00 pm) and will provide after-hours support via e-mail on weekends for critical issues. Escalation procedures and timelines will be determined collaboratively between Contractor and TJJJ.
- D. Establish and participate in problem management meetings as needed / requested with TJJJ special education staff to review new and existing issues and to develop a remediation plan commensurate with the severity of the identified issue(s).
- E. TJJJ will make necessary initial decisions to interpret severity levels and service levels. The Contractor will have the authority to request a conference, to occur as expeditiously as reasonably possible. The conference will be between representatives of the Contractor and TJJJ, and will be for the purpose of discussing the severity level or service determination and attempting to resolve the disagreement.

### **SECTION III TJJJ**

1. Acceptance:

Once a deliverable is provided, the TJJJ Education Department will confirm that the services were performed according to the following criteria for acceptable contractor performance:

1. Service Provider arrived at the scheduled time for any on site meetings and work required, if applicable.
2. Service Provider performed the services per established TJJJ standards and guidelines;
3. Service Provider always maintained professional composure when on site (if site visit was needed).

Note: If the services are determined to be satisfactory, the Education Department will approve and submit the verified invoice to the TJJJ Accounting Department for payment.

TJJJ will pay Service Provider to provide Special Education Support Services.

**SECTION IV: NOTICES AND CONTACTS**

Notices shall be addressed to the Business Operations and Contracts, Texas Juvenile Justice Department, mailing address: P.O. Box 12757, Austin, Texas 78711; and to. The following is additional contact information for purposes of this contract:

**Service Provider Point of Contact:**

Name: Elizabeth McComb  
Phone: (765) 914-5172  
Email: [elizabeth.mccomb@presence.com](mailto:elizabeth.mccomb@presence.com)

**TJJD Point of Contact for Service:**

Name: Robert Fischer Assistant Superintendent of Education  
Phone: 512-490-7723  
Email: [robert.fischer@tjtd.texas.gov](mailto:robert.fischer@tjtd.texas.gov)

**Contracts Point of Contact:**

Dorene Corsentino, Contract Specialist  
Phone: 512-490-7124  
Email: [Dorene.Corsentino@tjtd.texas.gov](mailto:Dorene.Corsentino@tjtd.texas.gov)

**Exhibits to this contract are as follows:**

- Exhibit A:** Execution of Proposal
- Exhibit B:** Revised Price Form Dated, September 8, 2023
- Exhibit C:** Terms and Conditions
- Exhibit D:** Federal Terms and Conditions and Federal Assurance

**IN WITNESS WHEREOF**, the parties hereto have made and executed this contract as of the day and year first written above.

**For the Texas Juvenile Justice Department:**

	1/22/2024
Shandra Carter, Executive Director	Date

**For Service Provider:**

	Fletcher Hutson	2024-01-16
Signature	Printed Name	Date

## **EXHIBIT A - EXECUTION OF OFFER**

**NOTE: RESPONDENT SHALL COMPLETE AND RETURN THIS EXHIBIT WITH PROPOSAL. FAILURE TO DO SO WILL RESULT IN DISQUALIFICATION OF THE PROPOSAL.**

**By signature hereon, Respondent certifies that:**

All statements and information prepared and submitted are current, complete and accurate.

Failure to sign the Execution of Offer or signing it with a false statement shall void the submitted Offer or any resulting contracts.

Prior Disaster Relief Contract Violation. Under Section 2155.006 and 2261.053, Government Code, the vendor or contractor [Respondent] certifies that the individual or business entity named in this bid [Response] or contract is not ineligible to receive the specified contract and acknowledges that this contract may be terminated and payment withheld if this certification is inaccurate.

Sections 2155.006 and 2261.053 of the Texas Government Code, prohibit state agencies from accepting a response or awarding a contract that includes proposed financial participation by a person who, in the past five years, has been convicted of violating a federal law or assessed a penalty in connection with a contract involving relief for Hurricane Rita, Hurricane Katrina, or any other disaster, as defined by Section 418.004 of the Texas Government Code, occurring after September 24, 2005. Under Sections 2155.006 and 2261.053 of the Texas Government Code, Therefore, undersigned Respondent certifies that the individual or business entity named in this response or contract is not ineligible to receive the specified contract and acknowledges that this contract may be terminated and payment withheld if this certification is inaccurate.

**Compliance with Child Support Obligation Pursuant to Texas Family Code Section 231.006**

Under Section 231.006 of the Texas Family Code, Service Provider must certify that the individual or business entity named in this contract, bid, or application is not ineligible to receive the specified grant, loan, or payment and acknowledges that this contract may be terminated and payment may be withheld if this certification is inaccurate. Therefore, to assess compliance with Texas Family Code Section 231.006: SERVICE PROVIDER MUST PROVIDE, IN THE SPACE BELOW, THE NAME AND SOCIAL SECURITY NUMBER OF AN INDIVIDUAL OWNER, A SOLE PROPRIETOR, AND ALL PARTNERS, SHAREHOLDERS, OR OWNERS WITH AN OWNERSHIP INTEREST OF AT LEAST TWENTY-FIVE (25) PERCENT OF THE BUSINESS ENTITY ENTERING INTO THIS CONTRACT.

For a business entity to which the above does not apply, indicate with "NONE" below.

Name:	Social Security Number:	Percent Ownership:
NONE		

Under Texas Government Code Section 669.003, relating to contracting with an executive head of a state agency, Respondent represents that (1) no person currently serves, (2) a person at any time during the four years before the date of the contract or (3) a person who employs a current or former executive head of TJJJ has served as an executive head of the Texas Comptroller of Public Accounts, TJJJ, or any other state agency involved with or that has any interest in this proposal or any contract resulting from this solicitation. If Respondent employs or has used the services of a former executive head of TJJJ or other state agency, then Respondent shall provide the following information: Name of former executive, name of state agency, date of separation from state agency, position with Respondent, and date of employment with Respondent.

Pursuant to Section 2271.002 of the Texas Government Code, Respondent certifies that either (i) it meets an exemption criterion under Section 2271.002; or (ii) it does not boycott Israel and will not boycott Israel during the term of the contract resulting from this solicitation. Respondent shall state any facts that make

it exempt from the boycott certification in its Response. Respondent also certifies by signature that it is not ineligible to receive the contract pursuant to Section 2252.152 of the Texas Government Code which prohibits TJJJ from awarding a contract to any person who does business with Iran, Sudan, or a foreign terrorist organization as defined in Section 2252.151 of the Texas Government Code.

**Advertising Of Award:** The Contractor agrees not to refer to awards in commercial advertising in such a manner as to state or imply that the product or services provided is endorsed or preferred by the Department or is considered by the Department to be superior to other products or services.

**Immigration:** Respondent represents and warrants that it shall comply with the requirements of the Immigration and Nationality Act (8 U.S.C.A. § 1101 et seq.) and all subsequent immigration laws and amendments.

**No Collusion:** Offeror represents and certifies its employees, agents and representatives have not and shall not discuss or disclose the terms of their proposal and its submission or response thereto with any third party other than persons or entities which Offeror engaged to assist it with respect to such response or submission.

Respondent represents and warrants that the individual signing this Execution of Offer is authorized to sign this document on behalf of the Respondent and to bind the Respondent under any contract resulting from this Offer.

Respondent certifies that it has not been an employee of TJJJ within the last twelve (12) months.

By their signature below, Respondent acknowledges that it has read and understands the foregoing and certifies to same.

**RESPONDENT (COMPANY):** PresenceLearning, Inc.

**SIGNATURE (INK):** [REDACTED]

**NAME (TYPED/PRINTED)** Brian Culbreth

**TITLE:** Chief Customer Officer **DATE:** 3/30/2023

**EMAIL ADDRESS:** bids@presencelearning.com

**STREET:** 530 7th Ave., Suite M1

**CITY/STATE/ZIP:** New York, NY 10018

**TELEPHONE AND FACSIMILE NO.:** 415.512.9000 / 844.811.3654

**PAYEE IDENTIFICATION NUMBER:** \_\_\_\_\_ **or**

**FEDERAL TAXPAYER IDENTIFICATION NUMBER:** [REDACTED]

Texas Juvenile Justice Department  
 REVISED - EXHIBIT B - PRICE FORM\_ 9/8/2023  
 Special Education Support Services 644-22-122921A

Note: N/A's for line items 5, 6, 18,19, 26, 27, 34 and 36 due to no pricing noted.

RESPONDENT: PRESENCE LEARNING

Instructions: TJJD is requesting services for Rate Per Hour or Flat Rate for line items 1 through 37 and unit price for line items 38 through 40.			
Line Item:	SERVICE	Rate per Hour	Flat Rate
<b>SPEECH-LANGUAGE SERVICES: Speech Therapy</b>			
1	Speech-Language Therapy: Individual	\$75.00	\$0.00
2	Speech-Language Therapy - Bilingual: Individual (Including ASL)	\$95.00	\$0.00
3	Speech-Language Therapy - Case Management	\$75.00	\$0.00
4	Speech-Language Therapy - Meeting Attendance	\$0.00	\$120.00
5	Speech-Language Assessment	\$0.00	Attached component pricing
6	Speech-Language Assessment - Bilingual	\$0.00	Attached component pricing
7	Speech-Language Screening	\$0.00	\$66.00
8	Speech-Language Screening - Bilingual	\$0.00	\$120.00
9	Speech-Language Review of Records	\$0.00	\$120.00
10	Speech-Language - Progress Report Writing	\$75.00	\$0.00
11	Dyslexia Services	\$0.00	\$0.00
12	Dyslexia Services - Bilingual	\$0.00	\$0.00
13	American Sign (ASL) Language (Interpretation <b>in-person - not virtual</b> )	\$0.00	\$0.00
14	Visual (VI) Therapy - In-person ( <b>not virtual</b> )	\$0.00	\$0.00
<b>OCCUPATIONAL THERAPY SERVICES/PHYSICAL THERAPY SERVICES</b>			
15	Occupational/Physical Therapy Services: Individual	\$75.00	\$0.00
16	Occupational/Physical Therapy Services - Bilingual: Individual	\$90.00	\$0.00
17	Occupational/Physical Therapy Services - Meeting Attendance	\$0.00	\$124.00
18	Occupational/Physical Therapy Assessment	\$0.00	Attached component pricing
19	Occupational/Physical Therapy Assessment - Bilingual	\$0.00	Attached component pricing
20	Occupational/Physical Therapy - Screening	\$0.00	\$73.00
21	Occupational/Physical Therapy - Screening- Bilingual	\$0.00	\$73.00
22	Occupational/Physical Therapy - Review of Records	\$0.00	\$124.00
23	Occupational/Physical Therapy - Progress Report Writing	\$75.00	\$0.00
<b>PSYCHOLOGICAL - (PSYCHOEDUCATIONAL) SERVICES</b>			
24	School Psychologist	\$75.00	\$0.00
25	School Psychologist - Bilingual	\$90.00	\$0.00
26	Psychoeducational Assessment	\$0.00	Attached component pricing
27	Psychoeducational Assessment - Bilingual	\$0.00	Attached component pricing
28	Psychoeducational - Review of Records	\$0.00	\$279.00
29	Psychoeducational - Review of Records - Bilingual	\$0.00	\$279.00
30	School Psychology - Progress Report Writing	\$75.00	\$0.00
31	School Psychology- Meeting Attendance	\$0.00	\$160.00
32	Educational Diagnostician	\$75.00	\$0.00
33	Academic Assessment - Bilingual	\$0.00	\$320.00
34	Educational Diagnostician - Educational Evaluation	\$0.00	Attached component pricing
35	Educational Diagnostician - Bilingual	\$90.00	\$0.00
36	Educational Diagnostician - Educational Evaluation - Bilingual	\$0.00	Attached component pricing
37	School Psychology - Progress Report Writing	\$75.00	\$0.00
<b>GRAND TOTAL</b>		<b>\$1,040.00</b>	<b>\$1,858.00</b>
<b>ADDITIONAL SERVICES</b>			
(Respondent to enter Pricing in Price Per Unit Field)			
Line Item:	SERVICE		PRICE PER UNIT
38	External Camera (Basic Model)		\$49.00
39	Document Camera		\$99.00
40	Occupational Therapy Kits		\$85.00
<b>GRAND TOTAL</b>			<b>\$233.00</b>

**EXHIBIT - C  
TERMS AND CONDITIONS**

**1. Americans with Disabilities Act and Equal Employment Opportunity**

Service Provider represents and warrants its compliance with the requirements of the Americans With Disabilities Act (ADA) and its implementing regulations, as each may be amended.

**2. Antitrust Affirmation**

The undersigned affirms under penalty of perjury of the laws of the State of Texas that (1) in connection with this Contract, neither I nor any representative of the Service Provider have violated any provision of the Texas Free Enterprise and Antitrust Act, Tex. Bus. & Comm. Code Chapter 15; (2) in connection with this Contract, neither I nor any representative of the Service Provider have violated any federal antitrust law; and (3) neither I nor any representative of the Service Provider have directly or indirectly communicated any of the contents of this Contract to a competitor of the Service Provider or any other company, corporation, firm, partnership or individual engaged in the same line of business as the Service Provider.

**3. Assignment**

Service Provider shall not assign its rights under the contract or delegate the performance of its duties under the contract without prior written approval from TJJD. Any attempted assignment in violation of this Section is void and without effect.

**4. INTENTIONALLY LEFT BLANK**

**5. Buy Texas Affirmation**

In accordance with Section 2155.4441 of the Texas Government Code, Service Provider agrees that during the performance of a contract for services it shall purchase products and materials produced in Texas when they are available at a price and time comparable to products and materials produced outside this state.

**6. Change in Law and Compliance with Laws**

Any alterations, additions, or deletions to the terms of the contract that are required by changes in federal or state law or regulations are automatically incorporated into the contract without written amendment hereto, and shall become effective on the date designated by such law or by regulation.

**7. Child Support Obligation Affirmation, Section 231.006, Texas Family Code**

**Under Section 231.006, Family Code, the vendor or applicant [Service Provider] certifies that the individual or business entity named in this contract, bid, or application is not ineligible to receive the specified grant, loan, or payment and acknowledges that this contract may be terminated and payment may be withheld if this certification is inaccurate.** A bid or an application for a contract, grant, or loan paid from state funds must include the name and social security number of the individual or sole proprietor and each partner, shareholder, or owner with an ownership interest of at least 25 percent of the business entity submitting the bid or application. **FEDERAL PRIVACY ACT NOTICE:** This notice is given pursuant to the Federal Privacy Act. Disclosure of your Social Security Number (SSN) is required under Section 231.006(c) and Section 231.302(c)(2) of the Texas Family Code. The SSN will be used to identify persons that may owe child support. The SSN will be kept confidential to the fullest extent allowed under Section 231.302(e), Texas Family Code.

**8. INTENTIONALLY LEFT BLANK**

**9. Compliance with Section 572.054, Texas Government Code, Former Officer or Employee of TJJD**

Service Provider certifies compliance with Texas Government Code Section 572.054. Service Provider has not employed a former officer or employee of TJJD to perform services on Service Provider's behalf, to secure the contract, or to represent Service Provider in any manner prohibited by Section 572.054. A false certification could result in termination of this contract, withholding of payments, or other sanctions.

**10. Compliance with the Prison Rape Elimination Act of 2003 (PREA)**

Service Provider shall comply with the Prison Rape Elimination Act of 2003 (PREA) (34 U.S.C. 30301 et seq.) and with all applicable standards, rules, regulations, and TJJD policies related to PREA. Service Provider shall

## TJJD Terms and Conditions

make itself familiar with and at all times shall observe and comply with all PREA regulations which affect performance in any manner under this contract. Failure to comply with PREA standards, rules, regulations, and TJJD policies may result in termination of this contract.

**11. INTENTIONALLY LEFT BLANK****12. Confidentiality and Security**

**Section 1:** Service Provider agrees that all of its employees, contractors, subcontractors, or associates will comply with all state and federal law and with TJJD policies regarding maintaining the confidentiality of TJJD youth, including, but not limited to, maintaining confidentiality of student records and identifying information.

**Section 2:** Service Provider agrees that all information regarding TJJD and/or its youth that is gathered, produced, or otherwise derived from this contract shall remain confidential and subject to release only by permission of TJJD.

**Section 3:** Service Provider's employees, contractors, subcontractors, or associates who visit any TJJD facility will comply with that facility's security regulations.

**Section 4:** Identifying pictures, appearances, films, or reports of TJJD youth may not be disclosed by Service Provider without the written consent of TJJD, of the youth and, if under age 18, of the youth's parent, guardian, or managing conservator.

**13. Contract Amendment and Merger Clause**

This contract encompasses the complete and entire agreement of the parties. Neither party has made nor relied on any representations, stipulations, or agreements other than those expressly contained in this contract. No other contracts or agreements, oral or written, shall constitute a part of this contract unless such is made in writing, executed by the parties hereto or their successors, and expressly made a part of this contract. This contract may only be amended or supplemented in a writing, executed by the parties hereto or their successors, and expressly made a part of this contract, except that TJJD reserves the right to make unilateral minor administrative changes to correct typographical errors, change TJJD contract identification number, or increase the "not to exceed" amount (if applicable) necessary for continuation of services.

**14. INTENTIONALLY LEFT BLANK****15. COVID-19 Vaccine Passport Prohibition**

Service Provider certifies that it does not require its customers to provide any documentation certifying the customer's COVID-19 vaccination or post-transmission recovery on entry to, to gain access to, or to receive service from the Service Provider's business. Service Provider acknowledges that such a vaccine or recovery requirement would make Service Provider ineligible for a state-funded contract.

**16. INTENTIONALLY LEFT BLANK****17. INTENTIONALLY LEFT BLANK****18. Damage to Government Property**

Service Provider shall be liable for all damage to government-owned, leased, or occupied property and equipment caused by the Service Provider and its employees, agents, subcontractors, and suppliers, including any delivery or cartage company, in connection with any performance pursuant to the contract. Service Provider shall notify the TJJD in writing of any such damage within one (1) calendar day. Service Provider is responsible for the removal of all debris resulting from work performed under the contract.

**19. INTENTIONALLY LEFT BLANK****20. Dealings with Public Servants Affirmation**

Pursuant to Section 2155.003 of the Texas Government Code, Service Provider represents and warrants that it has not given, offered to give, nor intends to give at any time hereafter any economic opportunity,

## TJJD Terms and Conditions

future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the contract.

### **21. Debts and Delinquencies Affirmation**

Service Provider, a corporation, agrees that any payments due under the contract shall be directly applied towards eliminating any debt or delinquency it has to the State of Texas.

### **22. Disaster Recovery Plan**

In accordance with 13 TAC § 6.94(a)(9), Service Provider shall provide to TJJD the descriptions of its business continuity and disaster recovery plans if it has or is to have custody of vital state records.

### **23. INTENTIONALLY LEFT BLANK**

### **24. Disentanglement Services**

(a) The following definitions are incorporated into the contract and relevant to this Article:

- (1) **Disentanglement Period** - the period of time during and after the contract terminates that is necessary to provide disentanglement services.
- (2) **Disentanglement Services** - the obligations of each party imposed upon notice of contract termination or expiration that are designed to extract and protect proprietary data, databases, and structure.

(b) Service provider must provide disentanglement services as soon as possible after Notice of Contract Termination or contract expiration. The disentanglement period shall be for one month unless otherwise agreed upon. If disentanglement services cannot be completed during the agreed disentanglement period, Service provider must notify TJJD in writing 14 days before the end of the disentanglement period and must include an explanation of the cause for delay and a proposed timeframe for completion.

(c) Disentanglement services that Service provider must provide include: (1) Up-to-date documentation of data format and structure; and (2) documentation of what, if any, of Service provider's proprietary information is embedded within TJJD data. Service provider should also provide TJJD with their proprietary data in the same format and structure as used in Service provider's system before Contract Termination. If Service provider is unwilling to provide data in the same format and structure, then Service provider must work with TJJD or a 3rd party of TJJD's choice to provide the data and appropriate documentation in an acceptable alternate format agreed to by TJJD. After completion of the aforementioned obligations, TJJD shall continue to allow Service provider access to its shared servers so Service provider may uninstall their software, databases, and proprietary data and information. After removal of all proprietary data, Service provider shall confirm removal with written certification of such.

(d) Both parties shall have full access to shared servers, including source code and technical documentation, during the disentanglement period. If any disagreement between the parties arises before disentanglement services are completed, both parties shall continue to have full access while seeking resolution.

(e) Confidentiality requirements, restrictions on use of data, and intellectual property rights described in the contract remain effective until disentanglement services are completed.

(f) TJJD will pay for any fees associated with disentanglement.

### **25. Dispute Resolution**

The dispute resolution process provided for in Chapter 2260 of the Texas Government Code must be used to attempt to resolve any dispute arising under the contract.

### **26. INTENTIONALLY LEFT BLANK**

## TJJD Terms and Conditions

**27. Drug-Free Workplace**

Service Provider represents and warrants that it shall comply with the applicable provisions of the Drug-Free Work Place Act of 1988 (41 U.S.C. § 701 et seq.) and maintain a drug-free work environment.

**28. E-Verify Program**

Service Provider certifies that for contracts for services, Service Provider shall utilize the U.S. Department of Homeland Security's E-Verify system (E-Verify) during the term of the contract to determine the eligibility of:

1. all persons employed by Service Provider to perform duties within Texas; and
2. all persons, including subcontractors, assigned by Service Provider to perform work pursuant to the contract within the United States of America.

Service Provider shall provide, upon written request by the TJJD, an electronic or hard copy screenshot of the confirmation that Service Provider is enrolled in E-Verify. Service Provider shall provide, upon written request by the TJJD, an electronic or hard copy of the confirmation or non-confirmation screen containing the E-Verify case verification number for attachment to the Form I-9 for each Service Provider employee, subcontractor, and subcontractor employee that meet the criteria above, following any required E-Verify protocols to allow for the provision of such information.

If it is determined that Service Provider has violated the certifications set forth in this provision, then (1) Service Provider shall be in breach of contract, (2) TJJD shall have the option to terminate the contract for cause without prior notice, and (3) in addition to any other rights or remedies available to TJJD under the contract, Service Provider shall be responsible for all costs incurred by TJJD to obtain substitute services to replace the terminated contract.

**29. Energy Company Boycotts**

If Service Provider is required to make a verification pursuant to Section 2274.002 of the Texas Government Code, Service Provider verifies that Service Provider does not boycott energy companies and will not boycott energy companies during the term of the Contract. If Service Provider does not make that verification, Service Provider must so indicate in its Response and state why the verification is not required.

**30. Entities that Boycott Israel**

Pursuant to Section 2270.002 of the Texas Government Code, Service Provider certifies that either: (i) it meets an exemption criterion under Section 2270.002; or (ii) that it does not, and shall not for the duration of the contract, boycott Israel as the term is defined by 808.001(1) of the Texas Government Code.

**31. Equal Employment Opportunity**

Service Provider represents and warrants its compliance with all applicable duly enacted state and federal laws governing equal employment opportunities.

**32. Excess Obligations Prohibited - Funding Out Clause**

The contract is subject to termination or cancellation, without penalty to TJJD, either in whole or in part, subject to the availability of state funds.

**33. Excluded Parties**

Service Provider certifies that it is not listed in the prohibited vendors list authorized by Executive Order No. 13224, "Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism", published by the United States Department of the Treasury, Office of Foreign Assets Control.

**34. Executive Head of a State Agency Affirmation**

In accordance with Section 669.003 of the Texas Government Code, relating to contracting with the executive head of a state agency, Service Provider certifies that it is not (1) the executive head of TJJD, (2)

## TJJD Terms and Conditions

a person who at any time during the four years before the date of the contract was the executive head of the TJJD, or (3) a person who employs a current or former executive head of TJJD.

### 35. False Statements

Service Provider represents and warrants that all statements and information prepared and submitted in this document are current, complete, true, and accurate. Submitting a Response with a false statement or material misrepresentations made during the performance of a contract is a material breach of contract and may void the submitted Response and any resulting contract.

### 36. Federal Confidentiality Compliance

Any program that specializes, in whole or in part, in providing treatment, counseling, and/or assessment and referral services for youth with alcohol or other drug problems must comply with federal confidentiality regulations. Said regulations apply only to programs that are federally assisted either directly or indirectly. Service Provider certifies compliance with these federal requirements for confidentiality (42 USC 290dd-2; 42 CFR Part 2) and agrees to comply with said requirements for so long as this contract is in force.

### 37. Financial Participation Prohibition Affirmation

Under Section 2155.004, Government Code, the vendor [Service Provider] certifies that the individual or business entity named in this bid or contract is not ineligible to receive the specified contract and acknowledges that this contract may be terminated and payment withheld if this certification is inaccurate.

### 38. Fingerprinting and Background Check

#### A. Unless Service Provider is addressed in Section B below, Service Provider shall:

1. As directed, provide information regarding persons providing services under this contract with access to TJJD youth or youth records for a criminal background checks, which may include fingerprinting, criminal records check, sex offender registration records check, PREA employment standards check, child abuse registry check, and drug test. Criminal background checks shall be conducted at TJJD's expense. Any Service Provider employee, agent, consultant, subcontractor, subcontractor employee, or volunteer worker who is unwilling to provide or who does not provide required information will not be allowed to work under this contract. Any Service Provider employee, agent, consultant, subcontractor, subcontractor employee, or volunteer worker shall not work under this contract until the criminal background check is completed and approval is obtained from TJJD's Director of Human Resources.
2. Notify TJJD's Director of Human Resources of any employee, agent, consultant, subcontractor, subcontractor employee, or volunteer worker who works with TJJD youth and who is arrested, indicted, or charged with a criminal offense or who resigns while under investigation for inappropriate conduct or policy violations. Such employee, agent, consultant, subcontractor, subcontractor employee, or volunteer worker shall be immediately suspended from working under this contract unless authorized by TJJD's Director of Human Resources.

#### B. Service Provider Licensed by the Texas Department of Family and Protective Services

1. Employees, contractors (including subcontractors), or volunteers who provide services in a facility that contracts to accept TJJD youth and that is licensed by the Department of Family and Protective Services (DFPS) must, in order to work with TJJD youth, obtain clearance under DFPS background check rules. Further:
  - a. Service Provider must provide sufficient information to allow TJJD to verify DFPS clearance; and
  - b. Service Provider must notify TJJD's Director of Human Resources **within 24 hours** of learning of the arrest of any employee, contractor (including subcontractor), or volunteer.

#### C. TJJD Approval

TJJD will approve or deny any Service Provider employee, agent, consultant, subcontractor, subcontractor employee, or volunteer worker in accordance with TJJD policies and procedures. TJJD's designated contact for criminal background checks is the Human Resources Department, Manager of Criminal Background Checks, (512) 490-7674.

## TJJD Terms and Conditions

**39. Firearm Entities and Trade Association Discrimination** If Service Provider is required to make a verification pursuant to Section 2274.002 of the Texas Government Code, Service Provider verifies that it (1) does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association and (2) will not discriminate during the term of the contract against a firearm entity or firearm trade association. If Service Provider does not make that verification, Service Provider must so indicate in its Response and state why the verification is not required.

**40. INTENTIONALLY LEFT BLANK****41. Foreign Terrorist Organizations**

Section 2252.152 of the Texas Government Code prohibits TJJD from awarding a contract to any person who does business with Iran, Sudan, or a foreign terrorist organization as defined in Section 2252.151 of the Texas Government Code. Service Provider certifies that it is not ineligible to receive the contract.

**42. INTENTIONALLY LEFT BLANK.****43. Franchise Taxes**

**Section 1:** Service Provider certifies that should Service Provider be subject to payment of Texas franchise taxes, all franchise taxes are current. If such certification is false, this contract may be terminated at the option of TJJD or other sanctions may be exercised.

**Section 2:** If Service Provider is exempt from payment of Texas franchise taxes, Service Provider shall so indicate by attachment to this contract.

**Section 3:** If Service Provider's payment of Texas franchise taxes becomes delinquent during the term of this contract, Service Provider will notify TJJD within twenty-four (24) hours. If such delinquency cannot be cured within twenty-four (24) hours and a copy of the Certification of Account Status proving payment of delinquent taxes cannot be provided to TJJD, this contract may be terminated at the option of TJJD or other sanctions may be exercised under the provisions of this contract.

**44. Governing Law and Venue**

The contract shall be governed by and construed in accordance with the laws of the State of Texas, without regard to the conflicts of law provisions. The venue of any suit arising under the contract is fixed in any court of competent jurisdiction of Travis County, Texas, unless the specific venue is otherwise identified in a statute which directly names or otherwise identifies its applicability to TJJD.

**45. Human Trafficking Prohibition**

**Under Section 2155.0061, Government Code, the vendor [Service Provider] certifies that the individual or business entity named in this bid or contract is not ineligible to receive the specified contract and acknowledges that this contract may be terminated and payment withheld if this certification is inaccurate.**

**46. Indemnification (General)**

**SERVICE PROVIDER SHALL DEFEND, INDEMNIFY, AND HOLD HARMLESS THE STATE OF TEXAS AND TJJD, AND/OR THEIR OFFICERS, AGENTS, EMPLOYEES, REPRESENTATIVES, CONTRACTORS, ASSIGNEES, AND/OR DESIGNEES FROM ANY AND ALL LIABILITY, ACTIONS, CLAIMS, DEMANDS, OR SUITS, AND ALL RELATED COSTS, ATTORNEY FEES, AND EXPENSES ARISING OUT OF, OR RESULTING FROM ANY ACTS OR OMISSIONS OF SERVICE PROVIDER OR ITS AGENTS, EMPLOYEES, SUBCONTRACTORS, ORDER FULFILLERS, OR SUPPLIERS OF SUBCONTRACTORS IN THE EXECUTION OR PERFORMANCE OF THE CONTRACT AND ANY PURCHASE ORDERS ISSUED UNDER THE CONTRACT. THE DEFENSE SHALL BE COORDINATED BY SERVICE PROVIDER WITH THE OFFICE OF THE TEXAS ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND SERVICE PROVIDER MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE TEXAS ATTORNEY GENERAL. SERVICE PROVIDER AND TJJD AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM.**

**47. INTENTIONALLY LEFT BLANK****48. INTENTIONALLY LEFT BLANK****49. Independent Contractor - Relationship of the Parties**

The contract shall not create any joint venture, partnership, agency, or employment relationship between Service Provider and TJJD. Service Provider and Service Provider's employees, representatives, agents, subcontractors, suppliers, and third-party service providers shall serve as independent contractors in providing the services under the contract. Neither Service Provider nor TJJD is an agent of the other and neither may make any commitments on the other party's behalf. Should Service Provider subcontract any of the services required in the contract, Service Provider expressly understands and acknowledges that in entering into such subcontract(s), TJJD is in no manner liable to any subcontractor(s) of Service Provider. In no event shall this provision relieve Service Provider of the responsibility for ensuring that the services performed under all subcontracts are rendered in compliance with the contract.

Service Provider agrees and acknowledges that during the existence of the contract, Service Provider shall be entirely responsible for the liability and payment of Service Provider's and Service Provider's employees' taxes of whatever kind, arising out of the performance of the contract. Service Provider agrees to comply with all state and federal laws applicable to any such persons, including laws regarding wages, taxes, insurance, and workers' compensation. TJJD shall not be liable to Service Provider, its employees, agents, or others for the payment of taxes or the provision of unemployment insurance and/or workers' compensation or any benefit available to a TJJD or other state employee. Service Provider shall have no claim against TJJD for vacation pay, sick leave, retirement benefits, social security, worker's compensation, health or disability benefits, unemployment insurance benefits, or employee benefits of any kind. Further, Service Provider shall indemnify and hold harmless TJJD, state agencies, the State of Texas, and/or their employees, agents, representatives, and/or assignees from any liability, actions, claims, demands, or suits, and all related costs, attorneys' fees, and expenses relating to tax liability, unemployment insurance, and/or workers' compensation payments.

**50. Insurance**

**Section 1:** Service Provider shall maintain liability insurance in the amount of \$1,000,000.00 for each occurrence of negligence. The insurance must also cover injury to a youth that occurs when the youth is in Service Provider's care, custody, or control.

**Section 2:** Service Provider shall provide the TJJD Contracts Department proof of insurance listing TJJD as an additional insured upon contract execution, upon insurance renewal if coverage expires during the contract term (including contract extensions, if any), and upon request.

**Section 3:** The required insurance coverage, in the above-stated amount, must be maintained during the term of this contract and through any subsequent extensions. Failure to maintain the required insurance coverage may result in termination of this contract or sanctions.

**51. Legal and Regulatory Action**

Service Provider represents and warrants that it is not aware of and has received no notice of any court or governmental agency actions, proceedings or investigations, etc., pending or threatened against Service Provider or any of the individuals or entities included in the Response within the five (5) calendar years immediately preceding the submission of the Response that would or could impair Service Provider's performance under the contract, relate to the solicited or similar goods or services, or otherwise be relevant to TJJD's consideration of the Response. If Service Provider is unable to make the preceding representation and warranty, then Service Provider instead represents and warrants that it has included as a detailed attachment in its Response a complete disclosure of any such court or governmental agency actions, proceedings or investigations, etc. that would or could impair Service Provider's performance under the contract, relate to the solicited or similar goods or services, or otherwise be relevant to TJJD's consideration of the Response. In addition, Service Provider represents and warrants that it shall notify TJJD in writing within five (5) business days of any changes to the representations or warranties in this clause and understands that failure to so timely update TJJD shall constitute breach of contract and may result in immediate termination of the contract.

**52. Limitation on Authority**

Service Provider shall have no authority to act for or on behalf of TJJD or the State of Texas except as expressly provided for in the contract; no other authority, power or use is granted or implied. Service Provider may not incur any debt, obligation, expense or liability of any kind on behalf of TJJD or the State of Texas.

**53. Lobbying Prohibition**

Service Provider represents and warrants that TJJD's payments to Service Provider and Service Provider's receipt of appropriated or other funds under the contract are not prohibited by Sections 556.005 or 556.0055 of the Texas Government Code.

**54. Media Releases**

Service Provider shall not use TJJD's name, logo, or other likeness in any press release, marketing material, or other announcement without TJJD's prior written approval. TJJD does not endorse any vendor, commodity, or service. Service Provider is not authorized to make or participate in any media releases or public announcements pertaining to this procurement, the Response or the services to which they relate without TJJD's prior written consent, and then only in accordance with explicit written instructions from TJJD.

**55. No Conflicts of Interest**

Service Provider represents and warrants that the provision of goods and services or other performance under the contract will not constitute an actual or potential conflict of interest or reasonably create the appearance of impropriety. Service Provider has disclosed in writing to TJJD all existing or potential conflicts of interest relative to the performance of the contract. And if circumstances change during the course of the contract, Service Provider shall promptly notify TJJD.

**56. No Implied Waiver**

The failure of a party to insist at any time upon the strict performance of any covenant or agreement or to exercise any option, right, power, or remedy contained in the contract shall not be construed as a waiver or a relinquishment thereof for the future.

**57. No Quantity Guarantees**

TJJD makes no express or implied warranty whatsoever that a minimum compensation or minimum quantity will be guaranteed under this contract.

**58. No Third-Party Beneficiaries**

The contract is made solely and specifically among and for the benefit of the parties named herein and their respective successors and assigns, and no other person shall have any right, interest, or claims hereunder or be entitled to any benefits pursuant to or on account of the contract as a third-party beneficiary or otherwise.

**59. Notice**

Any written notice required under this contract will be either through hand delivery or by U.S. Mail, certified, return receipt requested, to Service Provider at the address indicated on page 1 of the contract and to TJJD at Texas Juvenile Justice Department, Office of General Counsel, P.O. Box 12757, Austin, Texas 78711-2757 or 1711 San Jacinto Blvd., Austin Texas 78701.

**60. Notice of Changes**

**Section 1:** Service Provider shall notify TJJD immediately in writing in advance of any significant change affecting Service Provider, including, but not limited to, change of Service Provider's name or identity, location of services, ownership or control, operating entity, governing board membership, key personnel, payee identification number, and any other significant changes that may affect the delivery of services under the terms of this contract.

## TJJD Terms and Conditions

**Section 2:** Service Provider shall not transfer or assign this contract or enter into any subcontract for the services under this contract without prior written approval from TJJD.

**Section 3:** Service Provider shall not relocate the services provided under this contract from the location stated in the preamble, if applicable, without prior written approval from TJJD and a certification that the location to which services are to be relocated is in compliance with Chapter 244, Texas Local Government Code, if applicable.

#### **61. Permits, Certifications, and Licenses**

Service Provider represents and warrants that it has determined what licenses, certifications, and permits are required under the contract and has acquired all applicable licenses, certifications, and permits and shall maintain them as necessary throughout the term of the contract.

#### **62. Prior Disaster Relief Contract Violation**

Under Sections 2155.006 and 2261.053 of the Texas Government Code, the Service Provider certifies that the individual or business entity named in this Response or contract is not ineligible to receive the specified contract and acknowledges that this contract may be terminated and payment withheld if this certification is inaccurate.

#### **63. Prompt Payment**

Payment shall be made in accordance with Chapter 2251 of the Texas Government Code, commonly known as the Texas Prompt Payment Act. Chapter 2251 of the Texas Government Code shall govern remittance of payment and remedies for late payment and non-payment.

#### **64. INTENTIONALLY LEFT BLANK**

#### **65. Public Information Act**

Information, documentation, and other material in connection with this Solicitation or any resulting contract may be subject to public disclosure pursuant to Chapter 552 of the Texas Government Code (the "Public Information Act"). In accordance with Section 2252.907 of the Texas Government Code, Service Provider is required to make any information created or exchanged with the State pursuant to the contract, and not otherwise excepted from disclosure under the Texas Public Information Act, available in a format that is accessible by the public at no additional charge to the State.

#### **66. Problem Solving in the Ordinary Course of Business**

**Section 1:** The parties to the contract shall use the procedures contained in this provision for routine problem solving. These procedures may also be used if a party is asserting a claim for breach of contract. Should these procedures not resolve claims for breach of the contract, the dispute resolution process provided for in Chapter 2260 of the Texas Government Code must be used.

**Section 2:** Informal Resolution: Service Provider and TJJD staff will communicate regularly and engage in informal problem-solving efforts as a routine measure, thus preventing differences from becoming major problems. When routine measures have been exhausted, Service Provider and TJJD staff are encouraged to utilize the following mechanism to resolve problems.

**Section 3:** Formal Resolution:

1. Service Provider or TJJD staff who wish to submit problems for resolution may do so in writing, including all relevant information and a recommended resolution (Statement of Problem).
2. The Statement of Problem will be submitted to the designated contact unless the problem specifically involves the designated contact, in which case, it will be submitted to the designated contact's supervisor.
3. Problems are to be addressed within ten (10) working days; a written decision will be sent to the individual or program that submitted it, with copies retained by the designated contact and the designated contact's supervisor.

**Section 4:** Appeal: Service Provider or TJJD staff desiring to appeal the decision may do so in writing, within ten (10) working days from the date of written decision, by providing all pertinent information relevant to the appeal to the designated contact's supervisor if the problem was originally addressed by the designated contact, or to TJJD's Office of General Counsel if the problem was addressed by the designated

## TJJD Terms and Conditions

contact's supervisor. When appealed, the problem shall be addressed within fourteen (14) working days, with written responses sent to the individual or program who submitted it, and copies retained by the designated contact, the designated contact's supervisor, and TJJD's Office of General Counsel.

### **67. Required Disclosure of Lobbyist Activity and Certificate of Interested Parties**

Service Provider agrees that if, at any time during the term of the contract, an employee, director, subconsultant, or subcontractor of Service provider is required to register as a lobbyist under Texas Government Code Chapter 305, Service provider shall notify TJJD and provide timely copies of all reports filed with the Texas Ethics Commission, as required by Chapter 305.

Additionally, pursuant to House Bill 1295 and Texas Government Code Section 2252.908, Service provider must submit a Certificate of Interested Parties or disclosure of interested parties on a form prescribed by the Texas Ethics Commission, currently identified as Form 1295. Prior to submission of this signed contract to TJJD, Service provider must file Form 1295 through the online filing application process on the Texas Ethics Commission website at [https://www.ethics.state.tx.us/whatsnew/elf\\_info\\_form1295.htm](https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm). TJJD will acknowledge Service provider's Form 1295 within thirty (30) days of submission.

### **68. Restricted Employment for Certain State Personnel**

Pursuant to Section 572.069 of the Texas Government Code, Service Provider certifies that it has not employed and will not employ a former state officer or employee who participated in a procurement or contract negotiations for TJJD involving Service Provider within two (2) years after the date that the contract is signed or the procurement is terminated or withdrawn. This certification applies to former state officers or employees whose state service or employment ceased on or after September 1, 2015.

### **69. Restriction on Possession of Weapons**

Service Provider agrees that Service Provider or any employees, contractors, subcontractors, or associates providing services on behalf of Service Provider shall not carry or possess any type of firearm or other weapon listed in Texas Penal Code Section 46.01 while rendering services to TJJD youth under this contract. This prohibition includes the carrying of a handgun licensed under the authority of Chapter 411, Subchapter H, Texas Government Code. Service Provider shall be under an affirmative duty to keep weapons out of the possession of TJJD youth in Service Provider's care.

### **70. Sanctions**

**Section 1:** In addition to its authority to terminate this contract under the termination provision or other provisions of this contract, TJJD, based on information from monitoring or other verifiable sources, may take other actions including, but not limited to:

1. Requiring Service Provider to take specific corrective actions in order to remain in compliance with the terms of this contract; and/or
2. Recouping payment made to Service Provider; and/or
3. Imposing recommendations from audit or investigative findings, and minor or major sanctions; and/or
4. Recovery of damages to the extent allowed by Texas law for each instance of non-compliance; and/or
5. Suspending, placing into abeyance, or removing any contractual rights including, but not limited to, withholding payment.

**Section 2:** Service Provider shall fully cooperate with TJJD and its authorized representatives in carrying out corrective action plans.

### **71. Severability**

If any provision of the contract is construed to be illegal or invalid, such construction will not affect the legality or validity of any of its other provisions. The illegal or invalid provision will be deemed severable and stricken from the contract as if it had never been incorporated herein, but all other provisions will continue in full force and effect.

### **72. Signature Authority**

## TJJD Terms and Conditions

Service Provider represents and warrants that the individual signing this contract is authorized to sign this document on behalf of Service Provider and to bind Service Provider under this contract. This contract shall be binding upon and shall inure to the benefit of TJJD and Service Provider and to their representatives, successors, and assigns.

### **73. Sovereign Immunity**

The Parties expressly agree that no provision of the contract is in any way intended to constitute a waiver by the TJJD or the State of Texas of any immunities from suit or from liability that the TJJD or the State of Texas may have by operation of law.

### **74. Specifications**

Service Provider shall provide services in accordance with the specifications contained in this contract. TJJD will determine the answers to all questions that may arise as to the interpretation of the specifications and the quality or acceptability of work performed. Substitutions cannot be made without TJJD prior approval. TJJD will decide the rate of progress of the work and the acceptable fulfillment of services on the part of Service Provider.

### **75. INTENTIONALLY LEFT BLANK**

### **76. State Auditor's and TJJD's Right to Audit**

Pursuant to Section 2262.154 of the Texas Government Code, the state auditor may conduct an audit or investigation of any entity receiving funds from the state directly under any contract or indirectly through a subcontract under the contract. The acceptance of funds by Service Provider or any other entity or person directly under the contract or indirectly through a subcontract under the contract acts as acceptance of the authority of the state auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds. Under the direction of the legislative audit committee, Service Provider or other entity that is the subject of an audit or investigation by the state auditor must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit. Service Provider shall ensure that this paragraph concerning the authority to audit funds received indirectly by subcontractors through the contract and the requirement to cooperate is included in any subcontract it awards.

Service Provider shall maintain and retain supporting fiscal documents adequate to ensure that claims for contract funds are in accordance with TJJD and State of Texas requirements. Service Provider shall maintain all such documents and other records relating to this contract and the State's property for a period of seven (7) years after the date of submission of the final invoices or until a resolution of all billing questions or contract issues, whichever is later. Service Provider shall make available at reasonable times and upon reasonable notice, and for reasonable periods, all information related to the State's property, such as work papers, reports, books, data, files, software, records, and other supporting documents pertaining to this contract, for purposes of inspecting, monitoring, auditing, or evaluating by TJJD, the State of Texas, or their authorized representatives. Service Provider shall cooperate with auditors and other authorized TJJD and State of Texas representatives and shall provide them with prompt access to all of such State's property as requested by TJJD or the State of Texas. Service Provider's failure to comply with this provision shall constitute a material breach of this contract and shall authorize TJJD to immediately terminate and/or assess liquidated damages to the extent allowed by Texas law. TJJD may require, at Service Provider's sole cost and expense, independent audits by a qualified certified public accounting firm of Service Provider's books and records or the State's property. The independent auditor shall provide TJJD with a copy of such audit at the same time it is provided to Service Provider. TJJD retains the right to issue a request for proposals for the services of an independent certified public accounting firm under this contract.

The contract may be amended unilaterally by TJJD to comply with any rules and procedures of the state auditor in the implementation and enforcement of Section 2262.154 of the Texas Government Code.

### **77. Subcontractors**

## TJJD Terms and Conditions

Service Provider may not subcontract any or all of the work and/or obligations due under this contract without prior written approval of the TJJD. Subcontracts, if any, entered into by the Service Provider shall be in writing and be subject to the requirements of this contract. Should Service Provider subcontract any of the services required in this contract, Service Provider expressly understands and acknowledges that in entering into such subcontract(s), TJJD is in no manner liable to any subcontractor(s) of Service Provider. In no event shall this provision relieve Service Provider of the responsibility for ensuring that the services performed under all subcontracts are rendered in compliance with this contract.

### **78. Survival**

Expiration or termination of the contract for any reason does not release Service Provider from any liability or obligation set forth in the contract that is expressly stated to survive any such expiration or termination, that by its nature would be intended to be applicable following any such expiration or termination, or that is necessary to fulfill the essential purpose of the contract, including without limitation the provisions regarding warranty, indemnification, confidentiality, and rights and remedies upon termination.

### **79. Suspension and Debarment**

Service Provider certifies that it and its principals are not suspended or debarred from doing business with the state or federal government as listed on the *State of Texas Debarred Vendor List* maintained by the Texas Comptroller of Public Accounts and the *System for Award Management (SAM)* maintained by the General Services Administration.

### **80. Taxes**

Purchases made for state uses are exempt from Texas State Sales Tax and Federal Excise Tax. A Tax Exemption Certificate will be furnished upon written request to TJJD. Service Provider represents and warrants that it shall pay all taxes or similar amounts resulting from the contract, including, but not limited to, any federal, State, or local income, sales or excise taxes of Service Provider or its employees. TJJD shall not be liable for any taxes resulting from the contract.

### **81. INTENTIONALLY LEFT BLANK**

### **82. INTENTIONALLY LEFT BLANK**

### **83. Termination**

**Section 1:** Service Provider may terminate the contract for convenience by giving one hundred eighty (180) calendar days' written notice to TJJD.

**Section 2:** TJJD may terminate the contract for convenience on thirty (30) calendar days' written notice. There is no buy out or other amounts due if TJJD terminates early. Upon termination under this provision, Service Provider shall refund to TJJD any amounts attributable to the terminated months within thirty (30) days of the termination.

**Section 3:** TJJD shall terminate this contract in the event that TJJD is not granted funding to pay for the herein described services or in the event that funding is lost due to either a reduction in the budget or a reallocation of budgeted funds.

**Section 4:** Cause/Default/Breach: If Service Provider fails to provide the goods or services contracted for according to the provisions of this contract, or fails to comply with any terms or conditions of this contract, TJJD may, upon written notice of default or breach to Service Provider, immediately terminate all or any part of this contract. Termination is not an exclusive remedy, but exists in addition to any other rights and remedies provided in equity, by law, or under this contract. TJJD may exercise any other right, remedy, or privilege available to it under applicable law or may proceed by appropriate court action to enforce the provisions of this contract. The exercise of any of the foregoing remedies will not constitute a termination of this contract unless TJJD notifies Service Provider in writing prior to the exercise of such remedy

### **84. Unfair Business Practices**

Service Provider represents and warrants that it has not been the subject of allegations of Deceptive Trade Practices violations under Chapter 17 of the Texas Business and Commerce Code, or allegations of any unfair business practice in any administrative hearing or court suit and that Service Provider has not been

## TJJD Terms and Conditions

found to be liable for such practices in such proceedings. Service Provider certifies that it has no officers who have served as officers of other entities who have been the subject of allegations of Deceptive Trade Practices violations or allegations of any unfair business practices in an administrative hearing or court suit and that such officers have not been found to be liable for such practices in such proceedings.

**85. Use of Contract by Local and State Agencies**

This contract shall be available for use by all local governments and state agencies also known as "Customer," **provided** there are no conflicts with any applicable statutes, rules, policies, or procedures.

This contract was competitively solicited, negotiated and awarded or **directly awarded** in accordance with applicable State of Texas purchasing statutes, rules, policies, and procedures. State agencies and local governments may use the prices shown in this contract to issue their own contract or may negotiate lower rates based on the increase in capacity. Arrangements for delivery of services are contingent upon mutual agreement of the state agency or local government and Service Provider. The state agency's or local government's contract shall reference the TJJD's contract number and be sent directly to the Service Provider.

The terms and conditions set forth herein shall govern all transactions by Customers under this contract. Customers shall not have the authority to modify the terms of this contract, except as to receive better terms or pricing for a particular procurement than those set forth herein. In such event, Service Provider shall furnish a copy of such better offerings to the TJJD. Any savings or rate reductions offered to the other local governments and state agencies as a result of those local governments and state agencies using this contract will be offered to the TJJD. The TJJD shall have the right to modify the original contract to reflect those cost savings and rate reductions. No additional term or condition of a contract issued by a Customer can modify a term or condition of this contract, unless approval is obtained from the TJJD. In the event of a conflict between a Customer's purchase order and this contract, this contract shall prevail.

The Service Provider shall provide services as per the requirements, terms, and conditions of the established contract. The Customer may not deviate from the material requirements of this contract, as Service Provider is not obligated to perform other than as stated within this contract, unless a change is approved by the TJJD. The Customer shall use this contract exclusively while identified as an authorized user. If the Customer procures services from another provider, Customer's status as an authorized user will be terminated.

The Customer shall request services directly from Service Provider. The Customer shall receive and reconcile invoices and client participation reports independent from the TJJD. The Customer shall work directly with the Service Provider in resolving all issues, including litigation, as they relate to services performed under their contract with Service Provider. The Customer shall be billed directly by the Service Provider and make monthly payments from local funds as per the rates in this contract. The TJJD shall have no obligation to pay Service Provider for monies the Customer may owe Service Provider."

The Customer agrees to indemnify and hold the TJJD harmless from any and all of the following whether the same be actual or alleged: all loss, damage, claims, suits, taxes, liens, penalties, fines, liability, and expense (including attorneys' fees) howsoever arising or incurred as a result of this contract, including, but not limited to, damages or injuries or death to persons, or injury to or destruction of property.

## FEDERAL TERMS AND CONDITIONS

### **I. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards**

Title 2, Subtitle A, Chapter II, Part 200 of the Code of Federal Regulations (CFR), available at <https://ecfr.federalregister.gov/current/title-2/subtitle-A/chapter-II/part-200>, is incorporated herein by reference for all purposes. By accepting the funds under this agreement, Grantee agrees to comply with all requirements of these regulations.

### **II. Equal Employment Opportunity**

During the performance of this contract, PresenceLearning, Inc. (hereinafter "Contractor") agrees as follows:

(1) Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:

Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(2) Contractor will, in all solicitations or advertisements for employees placed by or on behalf of Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(3) Contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with Contractor's legal duty to furnish information.

(4) Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of Contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(5) Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(6) Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(7) In the event of Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in

whole or in part and Contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(8) Contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, Contractor may request the United States to enter into such litigation to protect the interests of the United States.

The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: Provided, That if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

### **III. Availability of Funds**

The disbursement of funds to Contractor pursuant to this IAC is at all times contingent on the Texas Department of Family and Protective Services (DFPS) receipt of the Title IV-E federal financial participation ("FFP") funds allocated to this IAC. If such funds become unavailable during any budget period, DFPS shall have the right to terminate this IAC, to defer payment to future budget periods or to reduce the amount of funds available hereunder.

### **IV. Payment of Claims**

DFPS will make reasonable efforts to pass through Title IV-E FFP funds within thirty days following the latter of: (i) receipt from Contractor of allowable and accurate claims and (ii) receipt from United States Department of Health and Human Services (USDHHS) of Title IV-E funds sufficient to pay such claims.

**V. Repayment of Funds**

(1) Federally Required Repayments or Penalties. Contractor shall be responsible for federal disallowances or penalties resulting from any disallowance or costs for cases that are claimed through or related to this IAC that DFPS must: (1) repay any Title IV-E funds, or (2) make any related penalty or other payments. In the event that DFPS is required to make such payment(s), Contractor shall repay the costs associated with all cases that are claimed through this contract and any other penalty. DFPS may immediately deduct/recoup such entire payment owed by Contractor against the amounts otherwise payable from DFPS to Contractor to the extent and until such entire payment amount has been credited. DFPS shall notify Contractor of the reason for and calculation of, as well as any such deductions of any such payment amount for which Contractor is responsible.

(2) Calculation of Repayment. Contractor's share of any such required federal repayment or penalty shall be equal to the sum of: (i) all disallowed costs associated with cases claimed through this IAC plus (ii) a proportionate share of any DFPS administrative or programmatic expenses disallowed as a result of extrapolated audit exceptions. The proportionate share of such expenses shall be determined using a percentage: the numerator of which is the aggregate sum of disallowed costs pertaining to Contractor claims during the relevant audit period, and the denominator of which is the aggregate sum of disallowed costs for all Title IV- E funds provided to DFPS during the same audit period.

(3) Repayments. To the extent, if any, that DFPS requires a reimbursement from Contractor in place of the deduction in section 4.4, Contractor shall transmit funds to cover such reimbursement amount to DFPS via Interagency Transfer Voucher, including recurring Transaction Index (RTI), and Contractor will transmit such funds within no more than thirty (30) days from the date of Contractor's receipt of notice to do so from DFPS. To the extent, if any, Contractor fails to make such reimbursement by the last date of the thirty (30) day period to do so, DFPS may immediately exercise its rights under Section 9 of the IAC.

(4) Survival. The provisions of Section shall survive the termination or expiration of this IAC.

**VI. Federal Assurances**

Performing Agency certifies that, to the extent federal assurances are incorporated into the Contract under the Signature Document, the Performing Agency has reviewed the federal assurances and that Performing Agency is in compliance with all requirements.

**VII. Federal Certifications**

Performing Agency certifies that, to the extent federal certifications are incorporated into the Contract under the Signature Document, the Performing Agency has reviewed the federal certifications and that Performing Agency is in compliance with all requirements. In addition, Performing Agency certifies that it is and shall remain in compliance with all applicable federal laws, rules, and regulations, as they may pertain to this Contract.

**VIII. Compliance with the Contract Work Hours and Safety Standards Act.**

(1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (b)(1) of this section Contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph

(b)(1) of this section, in the sum of \$27 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (b)(1) of this section.

(3) Withholding for unpaid wages and liquidated damages. The Texas Juvenile Justice Department shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by Contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (b)(2) of this section.

(4) Subcontracts. Contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (b)(1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (b)(1) through (4) of this section.

**IX. Clean Air Act**

(1) Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.

(2) Contractor agrees to report each violation to the (name of applicant entering into the contract) and understands and agrees that the (name of the applicant entering into the contract) will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

(3) Contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

**X. Federal Water Pollution Control Act**

(1) Contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.

(2) Contractor agrees to report each violation to the (name of the applicant entering into the contract) and understands and agrees that the (name of the applicant entering into the contract) will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

(3) Contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

**XI. Suspension and Debarment**

(1) This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such, Contractor is required to verify that none of Contractor's principals (defined at 2 C.F.R. § 180.995) or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).

(2) Contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.

(3) This certification is a material representation of fact relied upon by (insert name of recipient/subrecipient/applicant). If it is later determined that Contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to (insert name of recipient/subrecipient/applicant), the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

(4) The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

**XII. Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352 (as amended)**

Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, officer or employee of Congress, or an employee of a Member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the awarding agency.

Required Certification.

If applicable, contractors must sign and submit to the non-federal entity the following certification.

APPENDIX A, 44 C.F.R. PART 18 – CERTIFICATION REGARDING LOBBYING

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Contractor, \_\_\_\_\_, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, Contractor understands and agrees that the provisions of 31 U.S.C. Chap. 38, Administrative Remedies for False Claims and Statements, apply to this certification and disclosure, if any.

\_\_\_\_\_  
A9625E5023E249B...  
Signature of Contractor's Authorized Official  
Fletcher Hutson VP of Sales

\_\_\_\_\_  
Name and Title of Contractor's Authorized Official

\_\_\_\_\_  
2024-01-16

\_\_\_\_\_  
Date

**XIII. Procurement of Recovered Materials**

(1) In the performance of this contract, Contractor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired—

- a. Competitively within a timeframe providing for compliance with the contract performance schedule;
- b. Meeting contract performance requirements; or
- c. At a reasonable price.

(2) Information about this requirement, along with the list of EPA- designated items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.

(3) Contractor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.”

**XIV. No Obligation by Federal Government**

The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from the contract.

**XV. Program Fraud and False or Fraudulent Statements and Related Acts**

Contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to Contractor's actions pertaining to this contract.

**XVI. Access to Records.**

The following access to records requirements apply to this contract:

(1) Contractor agrees to provide the Texas Juvenile Justice Department, the State of Texas, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions.

(2) Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

(3) Contractor agrees to provide to construction or other work sites pertaining to the work being completed under the contract.

**(4) INTENTIONAL LEFT BLANK**

**DHS Seal, Logo, and Flags**

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**Compliance with Federal Law, Regulations, and Executive Orders**

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**XVII. Domestic Preferences for Procurements**

As appropriate and to the extent consistent with law, the non-Federal entity should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award.

For purposes of this section:

(1) "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

(2) "Manufactured products" means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

**XVIII. Rights to Inventions Made Under a Contract or Agreement.**

If the Federal award meets the definition of "funding agreement" under 37 CFR § 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

**XIX. Prohibition on certain telecommunications and video surveillance services or equipment.**

Recipients and subrecipients are prohibited from obligating or expending loan or grant funds to: (1) Procure or obtain; (2) Extend or renew a contract to procure or obtain; or (3) Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115-232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities). (i) For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities). (ii) Telecommunications or video surveillance services provided by such entities or using such equipment. (iii) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

In implementing the prohibition under Public Law 115-232, section 889, subsection (f), paragraph (1), heads of executive agencies administering loan, grant, or subsidy programs shall prioritize available funding and technical support to assist affected businesses, institutions and organizations as is reasonably necessary for those affected entities to transition from covered communications equipment and services, to procure replacement equipment and services, and to ensure that communications service to users and customers is sustained. (c) See Public Law 115-232, section 889 for additional information. (d) See also § 200.471.

**ASSURANCES - NON-CONSTRUCTION PROGRAMS**

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0040), Washington, DC 20503.

**PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.**

**NOTE:** Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant, I certify that the applicant:

1. Has the legal authority to apply for Federal assistance and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project cost) to ensure proper planning, management and completion of the project described in this application.
2. Will give the awarding agency, the Comptroller General of the United States and, if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§4728-4763) relating to prescribed standards for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).
6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§290 dd-3 and 290 ee- 3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and, (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.
7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.
8. Will comply, as applicable, with provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§276a to 276a-7), the Copeland Act (40 U.S.C. §276c and 18 U.S.C. §874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§327-333), regarding labor standards for federally-assisted construction subagreements.
10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.
11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 et seq.); (f) conformity of Federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. §§7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93-523); and, (h) protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93-205).
12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. §470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§469a-1 et seq.).
14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.
15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. §§2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.
16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.
17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular No. A-133, "Audits of States, Local Governments, and Non-Profit Organizations."
18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations, and policies governing this program.
19. Will comply with the requirements of Section 106(g) of the Trafficking Victims Protection Act (TVPA) of 2000, as amended (22 U.S.C. 7104) which prohibits grant award recipients or a sub-recipient from (1) Engaging in severe forms of trafficking in persons during the period of time that the award is in effect (2) Procuring a commercial sex act during the period of time that the award is in effect or (3) Using forced labor in the performance of the award or subawards under the award.

<p><b>SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL</b></p> <p>DocuSigned by:            69625E5023E249B</p>	<p><b>TITLE</b></p> <p>VP of Sales</p>
<p><b>APPLICANT ORGANIZATION</b></p> <p>Presence</p>	<p><b>DATE SUBMITTED</b></p> <p>2024-01-16</p>

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