

STATE OF TEXAS       §  
                                  §  
COUNTY OF TRAVIS   §

**SPECIAL EDUCATION SUPPORT SERVICES CONTRACT  
AMENDMENT 2 TO CON0001566**

The **Texas Juvenile Justice Department**, hereinafter **TJJD**, and **TalkPath Live**, [REDACTED], hereinafter **Service Provider**, acknowledge that they have previously entered into a contract for the provision of Special Education Support Services for the period of **December 15, 2023** through **August 31, 2025**. This contract is identified as **CON0001566**.

Both parties wish to continue the relationship that exists without a lapse in services. Service Provider agrees to continue to provide services under the existing contract, and TJJD agrees to continue to use Service Provider’s services during the term of this contract.

Service Provider represents and warrants that the individual signing this Amendment is authorized to sign this document on behalf of the Service Provider and to bind the Service Provider under this Amendment.

The parties hereto agree to be bound by the terms of the existing contract subject to the following changes:

Pursuant to **Exhibit C, Terms and Conditions Article 13: Contract Amendment and Merger Clause**, the contract may be amended and to reflect the following revisions. Therefore, the parties agree to amend **Contract Number CON0001566** as follows:

1. **Change address listed on Contract to new location address:**  
  
**From:** 103 Carnegie Center, Suite 104, Princeton, NJ 08540  
**To:** PO Box 1753 Voorhees, NJ 08043,
  
2. **SECTION I. Contract Term**, this contract is being renewed by exercising the first of two (2) additional two-year renewal options, therefore the first of the two (2) year renewal option extends the contract term through **August 31, 2027**. The contract is being renewed effective **September 1, 2025 through August 31, 2027**.
  
3. **Exhibit C, TERMS AND CONDITIONS**, are revised and **attached** hereto as **Exhibit C, TERMS AND CONDITIONS** and hereby incorporated by reference.

**IN WITNESS WHEREOF**, the parties hereto have made and executed this Amendment as of the day and year last below written.

**For the Texas Juvenile Justice Department:**

 <hr/> Shandra Carter, Executive Director	06/29/2025 <hr/> Date
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**For Contractor:**

 <hr/> Signature	Adrian Pellew <hr/> Printed Name	CEO <hr/> Title	6/13/2025 <hr/> Date
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## **EXHIBIT C TERMS AND CONDITIONS**

By responding to the solicitation, or fulfilling the contract, procurement, or agreement, the Vendor agrees to the terms and conditions below, which apply to and become a part of every Texas Juvenile Justice Department (TJJJ) purchase. Only mutually written exceptions will be valid.

The following are conforming terms for purposes of these Terms and Conditions. References to a Contract may correspond to Bid, Application, Response, Proposal. References to Vendor may correspond to "Bidder/Offeror/Applicant/Proposer/Respondent/Contractor/Service Provider." Reference to the Solicitation may correspond to one of the types of solicitation methods (i.e., IFB, RFO, RFP). Any specification in the solicitation or subsequent contract that conflicts with these terms and conditions takes precedence.

All references to "days" shall be calendar days unless specified otherwise. Vendor and TJJJ herein may be referred to individually as a "Party" and collectively as the "Parties."

### **1. Americans with Disabilities Act**

Vendor 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 Response and any resulting contract, neither I nor any representative of the Vendor have violated any provision of the Texas Free Enterprise and Antitrust Act, Tex. Bus. & Comm. Code Chapter 15; (2) in connection with this Response and any resulting contract, neither I nor any representative of the Vendor have violated any federal antitrust law; and (3) neither I nor any representative of the Vendor have directly or indirectly communicated any of the contents of this Response to a competitor of the Vendor or any other company, corporation, firm, partnership or individual engaged in the same line of business as the Vendor.

### **3. Assignment (Only applies to solicitations and contracts for services)**

Vendor shall not assign its rights under the contract or delegate the performance of its duties under the Contract without prior written approval from TJJJ. Any attempted assignment in violation of this provision is void and without effect.

### **5. Buy Texas Affirmation**

In accordance with Section 2155.4441 of the Texas Government Code and to the extent applicable, Vendor 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 of the Family Code, the Vendor certifies that the individual or business entity named in this Contract 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 in addition to other remedies set out in 231.006(f).** 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) of the Texas Family Code.

## **8 INTENTIONALLY LEFT BLANK**

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

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

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

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

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### **12. Confidentiality**

- a. Vendor 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 youth records and identifying information.
- b. Vendor agrees that all information regarding TJJD and/or its youth that is gathered, produced, or otherwise derived from the Contract shall remain confidential and subject to release only by written permission of TJJD and in accordance with all state and federal laws.
- c. Vendor employees, contractors, subcontractors, or associates who visit any TJJD facility will comply with that facility's security regulations.
- d. Identifying pictures, appearances, films, or reports of TJJD youth may not be disclosed by Vendor 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**

The 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 the Contract. No other contracts or agreements, oral or written, shall constitute a part of the Contract unless such is made in writing, executed by the Parties hereto or their successors, and expressly made a part of the Contract.

- a. **Bilateral Amendment:** Except as provided for in the Unilateral Amendment section below, the Contract can only be changed by a Bilateral Amendment or supplemented in writing, executed by both Parties hereto or their successors, and expressly made a part of the Contract.
- b. **Unilateral Amendment.** A Unilateral Amendment will be effective on the date that is specified in the Unilateral Amendment. TJJD has sole discretion to issue a Unilateral Amendment to modify a contract's requirements, terms, or conditions as follows:
  1. Minor administrative changes to correct typographical errors;
  2. Change the TJJD contract identification number;

3. Changes to incorporate new or revised state or federal laws, regulations, rules, or policies;
4. Increase the “not to exceed” amount or contract rates (if applicable) necessary for continuation of services;
5. Update Vendor’s name as recorded by the Secretary of State, as required by law, or as authorized by TJJD; and
6. Change either Party’s contact information.

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#### **15. COVID-19 Vaccine Passport Prohibition**

Vendor 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 Vendor’s business. Vendor acknowledges that such a vaccine or recovery requirement would make Vendor ineligible for a state-funded contract.

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#### **17. Cybersecurity Training**

Vendor shall ensure that any Vendor employee or subcontractor or employee who has access to a state computer system or database shall complete a cybersecurity training program under Section 2054.5192 of the Texas Government Code. Such training is required to occur during the contract term and renewal period. Vendor shall provide TJJD with verification of the completion of the requisite training.

#### **18. Damage to Government Property**

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

#### **19. Data Management and Security Controls**

In accordance with Section 2054.138 of the Texas Government Code, Vendor certifies that it will comply with the security controls required under this Contract and will maintain records and make them available to TJJD as evidence of Vendor’s compliance with the required controls.

#### **20. Dealings with Public Servants Affirmation**

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

Vendor 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 including, but not limited to, delinquent taxes, delinquent student loan payments, and delinquent child support.

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

In accordance with 13 TAC § 6.94(a)(9), Vendor 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.

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#### **24. Disentanglement Services [For IT type Agreements/Services - Only applies to Contracts when Vendor has access to TJJD data, shared servers, or Vendor’s data embedded with TJJD data]**

(a) The following definitions are incorporated into the Contract and relevant to this Section:

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

## **25. Dispute Resolution**

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

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## **27. Drug-Free Workplace**

Vendor 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**

Vendor certifies that for contracts for services, Vendor 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 Vendor to perform duties within Texas; and
2. all persons, including subcontractors, assigned by Vendor to perform work pursuant to the Contract within the United States of America.

Vendor shall provide, upon written request by TJJJ, an electronic or hard copy screenshot of the confirmation that Vendor is enrolled in E-Verify. Vendor shall provide, upon written request by TJJJ, 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 Vendor 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 Vendor has violated the certifications set forth in this provision, then (1) Vendor shall be in breach of contract, (2) TJJJ 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 TJJJ under the Contract, Vendor shall be responsible for all costs incurred by TJJJ to obtain substitute services to replace the terminated Contract.

### **29. Energy Company Boycotts**

If Vendor is required to make a verification pursuant to Section 2276.002 of the Texas Government Code, Vendor verifies that Vendor does not boycott energy companies and will not boycott energy companies during the term of the Contract. If Vendor does not make that verification, Vendor must so indicate in its Response and state why the verification is not required.

### **30. Entities that Boycott Israel**

Pursuant to Section 2271.002 of the Texas Government Code, Vendor 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 any contract executed with TJJJ . Vendor shall state any facts that make it exempt from the boycott certification in its Response.

### **31. Equal Employment Opportunity**

Vendor 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**

- a. The Contract is subject to termination or cancellation, without penalty to TJJJ, either in whole or in part, subject to the availability of state funds. TJJJ is a state agency whose authority and appropriations are subject to actions of the Texas Legislature. If TJJJ becomes subject to a legislative change, revocation of statutory authority, or lack of appropriated funds that would render either TJJJ's or Vendor's delivery or performance under the Contract impossible or unnecessary, the Contract will be terminated or cancelled and be deemed null and void. In the event of a termination or cancellation under this Section, TJJJ will not be liable to Vendor for any damages, that are caused or associated with such termination, or cancellation, and TJJJ will not be required to give prior notice.
- b. TJJJ is prohibited from incurring obligations in excess of amounts lawfully appropriated by the Texas Legislature over the course of a biennium.

### **33. Excluded Parties**

Vendor 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, Vendor certifies that it is not (1) the executive head of TJJJ, (2) a person who at any time during the four years before the date of the Contract was the executive head of TJJJ, or (3) a person who employs a current or former executive head of TJJJ.

### **35. False Statements**

Vendor 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. Vendor 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(b) of the Texas Government Code, Vendor certifies that the individual or business entity named in this 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. Vendor shall:**

1. As directed by TJJD, provide information for each person providing services under this Contract with access to TJJD youth or youth records to perform a criminal background check, 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 Vendor 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 Vendor employee, agent, consultant, subcontractor, subcontractor employee, or volunteer 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. Within 24 hours of becoming aware of the information, notify TJJD's Director of Human Resources of any employee, agent, consultant, subcontractor, subcontractor employee, or volunteer who works with TJJD youth, 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 shall be immediately suspended from working under this Contract unless authorized by TJJD's Director of Human Resources.

#### **B. TJJD Approval**

TJJD will approve or deny any Vendor employee, agent, consultant, subcontractor, subcontractor employee, or volunteer 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.

### **39. Firearm Entities and Trade Association Discrimination**

If Vendor is required to make a verification pursuant to Section 2274.002 of the Texas Government Code, Vendor 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 Vendor does not make that verification, Vendor must so indicate in its Response and state why the verification is not required.

### **40. Force Majeure**

Neither Vendor nor TJJD shall be liable to the other for any delay in, or failure of performance, of any requirement included in the contract caused by force majeure. The existence of such causes of delay or failure shall extend the period of performance until after the causes of delay or failure have been removed provided the non-performing party exercises all reasonable due diligence to perform. Force majeure is defined as acts of God, war, fires, explosions, hurricanes, floods, failure of transportation, or other causes that are beyond the reasonable control of either party and that by exercise of due foresight such party could not reasonably have been expected to avoid, and which, by the exercise of all reasonable due diligence, such party is unable to overcome.

### **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. Vendor certifies that it is not ineligible to receive the Contract.

#### **42. Former Agency Employees**

Vendor represents and warrants that none of its employees including, but not limited to, those authorized to provide services under the Contract, were former employees of TJJJ during the twelve (12) month period immediately prior to the date of execution of the Contract.

#### **43. Franchise Taxes**

a. Vendor certifies that should Vendor be subject to payment of Texas franchise taxes, that all franchise taxes are current. If such certification is false, this Contract may be terminated at the option of TJJJ or other sanctions may be exercised.

b. If Vendor is exempt from payment of Texas franchise taxes, Vendor shall so indicate by attachment to this Contract.

c. If Vendor's payment of Texas franchise taxes becomes delinquent during the term of this Contract, Vendor will notify TJJJ 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 TJJJ, this Contract may be terminated at the option of TJJJ 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 TJJJ.

**45. Hardening of State Government Respondent** certifies that neither it, nor its holding companies or subsidiaries, is:

(a) Listed in Section 889 of the 2019 National Defense Authorization Act;

(b) Listed in Section 1260H of the 2021 National Defense Authorization Act; or

(c) Owned by the government of a country on the U.S. Department of Commerce's foreign adversaries list under 15 C.F.R Section 791.4; or

(d) Controlled by any governing or regulatory body located in a country on the U.S. Department of Commerce's foreign adversaries list under 15 C.F.R Section 791.4.

#### **46. Human Trafficking Prohibition**

Under Section 2155.0061, Government Code, Vendor 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.

#### **47. Indemnification**

**VENDOR SHALL DEFEND, INDEMNIFY, AND HOLD HARMLESS THE STATE OF TEXAS AND TJJJ, 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 VENDOR 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 VENDOR WITH THE OFFICE OF THE TEXAS ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND VENDOR MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE TEXAS ATTORNEY GENERAL. VENDOR AND TJJJ AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM.**

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**50. Independent Contractor - Relationship of the Parties**

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

**51. Legal and Regulatory Actions**

Vendor represents and warrants that Vendor is not aware of and has received no notice of any court or governmental agency actions, proceedings or investigations, etc., pending or threatened against Vendor 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 Vendor's performance under the Contract, relate to the solicited or similar goods or services, or otherwise be relevant to TJJJ's consideration of the Response. If Vendor is unable to make the preceding representation and warranty, then Vendor instead represents and warrants that Vendor 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 Vendor's performance under the Contract, relate to the solicited or similar goods or services, or otherwise be relevant to TJJJ's consideration of the Response. In addition, Vendor represents and warrants that it shall notify TJJJ 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 TJJJ shall constitute breach of contract and may result in immediate termination of the Contract.

**52. Limitation on Authority**

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

**53. Lobbying Prohibition**

Vendor represents and warrants that TJJJ's payments to Vendor and Vendor'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**

Vendor shall not use TJJJ's name, logo, or other likeness in any press release, marketing material, or other announcement without TJJJ's prior written approval. TJJJ does not endorse any vendor, commodity, or service. Vendor 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 TJJJ's prior written consent, and then only in accordance with explicit written instructions from TJJJ.

**55. No Conflicts of Interest**

Vendor 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. Vendor has disclosed in writing to TJJJ all existing or potential conflicts of interest relative to the performance of the Contract. And if circumstances change during the course

of the Contract, Vendor 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 of Changes**

a. Vendor shall notify TJJD immediately in writing of any significant change affecting Vendor, including, but not limited to, change of Vendor'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.

b. Vendor shall not transfer or assign this contract or enter into any subcontract for the services under this Contract without prior written approval from TJJD.

c. Vendor shall not relocate the services provided under this Contract from the location stated in the preamble of the Contract, 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.

**60. Permits, Certifications, and Licenses**

Vendor 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.

**61. Prior Disaster Relief Contract Violation**

Under Sections 2155.006 and 2261.053 of the Texas Government Code, the Vendor 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.

**62. 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.

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**64. Public Information Act**

Information, documentation, and other material in connection with a 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, Vendor 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.

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

Pursuant to Section 572.069 of the Texas Government Code, Vendor 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 Vendor 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.

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

Vendor agrees that Vendor or any employees, contractors, subcontractors, or associates providing services on behalf of Vendor 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. Vendor shall be under an affirmative duty to keep weapons out of the possession of TJJD youth in Vendor's care.

### **68. Sanctions**

- a. 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:
  - i. Requiring Vendor to take specific corrective actions in order to remain in compliance with the terms of this Contract; and/or
  - ii. Recouping payment made to Vendor; and/or
  - iii. Imposing recommendations from audit or investigative findings, and minor or major sanctions; and/or
  - iv. Recovery of damages to the extent allowed by Texas law for each instance of non-compliance; and/or
  - v. Suspending, placing into abeyance, or removing any contractual rights including, but not limited to, withholding payment.
- b. Vendor shall fully cooperate with TJJD and its authorized representatives in carrying out corrective action plans.

### **69. 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.

### **70. Signature Authority**

By submitting this Response, Vendor represents and warrants that the individual submitting this document and the documents made part of this Response is authorized to sign such documents on behalf of the Vendor and to bind the Vendor under any contract that may result from the submission of this Response.

### **71. Sovereign Immunity**

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

### **72. Specifications**

Vendor shall provide services in accordance with the specifications contained in the 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 Vendor.

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#### **74. State Auditor's and TJJJ'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 Vendor 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, Vendor 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. Vendor 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.

Vendor shall maintain and retain supporting fiscal documents adequate to ensure that claims for contract funds are in accordance with TJJJ and State of Texas requirements. Vendor 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. Vendor 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 TJJJ, the State of Texas, or their authorized representatives. Vendor shall cooperate with auditors and other authorized TJJJ and State of Texas representatives and shall provide them with prompt access to all of such State's property as requested by TJJJ or the State of Texas. Vendor's failure to comply with this provision shall constitute a material breach of this contract and shall authorize TJJJ to immediately terminate and/or assess liquidated damages to the extent allowed by Texas law. TJJJ may require, at Vendor's sole cost and expense, independent audits by a qualified certified public accounting firm of Vendor's books and records or the State's property. The independent auditor shall provide TJJJ with a copy of such audit at the same time it is provided to Vendor. TJJJ 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 TJJJ 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.

#### **75. Subcontractors**

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

#### **76. Survival**

Expiration or termination of the Contract for any reason does not release Vendor 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.

**77. Suspension and Debarment**

Vendor 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.

**78. 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 TJJJ. Vendor 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 Vendor or its employees. TJJJ shall not be liable for any taxes resulting from the Contract.

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**81. Termination for Convenience**

a. Vendor may terminate the Contract for convenience by giving one hundred eighty (180) calendar days' written notice to TJJJ.

b. TJJJ may terminate the Contract for convenience on thirty (30) calendar days' written notice. There is no buy out or other amounts due if TJJJ terminates early. Upon termination under this provision, Vendor shall refund to TJJJ any amounts attributable to the terminated months within thirty (30) days of the termination.

c. TJJJ shall terminate this Contract in the event that TJJJ 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.

d. Cause/Default/Breach: If Vendor 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, TJJJ may, upon written notice of default or breach to Vendor, 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. TJJJ 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 TJJJ notifies Vendor in writing prior to the exercise of such remedy. Vendor shall be liable for all costs and expenses, including court costs, incurred by TJJJ with respect to the enforcement of any of the remedies listed herein.

**82. Terms and Conditions Attached to Response (Essential Clause for Solicitation Only)**

Any terms and conditions attached to a Response will not be considered unless specifically referred to in the Response.

**83. Texas Bidder Affirmation (Essential Clause for Solicitation Only)**

Vendor certifies that if a Texas address is shown as the address of the Vendor on the Response, Vendor qualifies as a Texas Bidder as defined in Section 2155.444(c) of the Texas Government Code.

**84. Unfair Business Practices**

Vendor 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 Vendor has not been found to be liable for such practices in such proceedings. Vendor 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.

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