

This Subcontract Agreement (**the “Agreement”**) is made and is effective on the date of signature by the last party to sign (**“Effective Date”**), and is:

BETWEEN: ICF Resources, LLC (the “Contractor” or “ICF”)
1902 Reston Metro Plaza
Reston, VA 20190

AND: [Subcontractor Name] (the “Subcontractor”)
[Subcontractor Address]
[Subcontractor City, State, and ZIP]

WHEREAS, Subcontractor offers unique services and desires to provide Contractor with such services; and Contractor desires to utilize Subcontractor’s services as provided herein to assist Contractor in the performance of such services.

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein, the parties hereto agree as follows:

1. **CLIENT NAME: SOUTHERN MARYLAND ELECTRIC COOP**
2. **PRIME CONTRACT NO.: N/A**
3. **PROJECT NAME:**
4. **AGREEMENT NO.:**
5. **TYPE OF AGREEMENT:**
6. **PERIOD OF PERFORMANCE**

6.1 The period of performance for this Agreement shall be as follows:

6.1.1 Effective Date - [End Date]

The initial period of performance is the Base Period, and the period of performance may be extended through the exercise of option periods by ICF. ICF may unilaterally extend the term of this Agreement by giving written notice to the Subcontractor that an option period is exercised. ICF may provide preliminary notice of its intent to exercise such option period, but the preliminary notice does not commit ICF to exercise the option period.

7. POINTS OF CONTACT

7.1 All contractual changes for this Agreement shall be made from Contractor’s duly authorized representatives or the following Subcontracts Administrator:

Name:

Email:

7.2 Contractor’s Program Manager is responsible for supervision of all technical aspects of the Services and Deliverables shall be submitted to the following Contractor’s Program Manager:

Name:

Email:

ICF reserves the right to change these designations and may communicate such changes via electronic mail to Subcontractor.

8. GENERAL TERMS AND CONDITIONS

8.1 The general terms and conditions of this Agreement are set forth in Appendix A - General Terms and Conditions, attached hereto and incorporated herein by reference.

9. SCOPE OF WORK

9.1 Subcontractor shall provide to Contractor the services set forth in Appendix B - Statement of Work, attached hereto and incorporated herein by reference ("Services"). Subcontractor shall furnish all reports and deliverables as set forth in Appendix B - Statement of Work in accordance with the terms set forth therein ("Deliverables").

10. FEES, PAYMENT, AND INVOICING

10.1 In consideration of Services performed, Contractor will pay Subcontractor the fees set forth in Appendix C - Fee Schedule, attached hereto and herein incorporated by reference.

10.2 Subcontractor is not authorized to perform and shall not receive compensation for performing Services, making expenditures; and/or incurring obligations which exceed the amounts set forth in Appendix C - Fee Schedule. Unless otherwise expressly specified herein or solely to the extent provided in a formal change order issued by an authorized ICF procurement representative, such amount set forth in Appendix C is the maximum amount for which Contractor shall be liable. Appendix C is attached hereto and incorporated herein by reference.

10.3 Subcontractor shall submit invoices by the 10th of the month following the month in which the Services were performed. The invoiced period shall match the period for monthly progress reporting, if applicable.

10.4 Subcontractor invoices shall include, at a minimum, all supporting data required for invoices to be submitted in the Prime Contract and include the following information:

- Agreement Number
- ICF Project Code (see footer of this Agreement)
- Payee Name and Remittance Address
- Invoice Number
- Invoice Date
- Total Funded Value/Total Agreement Funded Value
- Short Description of Services Performed
- Amounts being billed
 - If Fixed Price, Current and Cumulative Hours

- If T&M, Current and Cumulative Hours and Amounts by Person including hourly rate & ICF provided Contract Labor Category as well as ODCs
- Remaining amount to be billed (Agreement Funded Value – Cumulative Amounts Billed)

10.5 Invoices shall be submitted to the Contractor’s Project Finance Controller for processing as follows:

Name:
Email:

10.6 Each invoice shall contain the following certification signed by an authorized representative of the Subcontractor:

“I hereby certify that, to the best of our knowledge and belief, all payments requested are correct, accurate, and complete, that payment therefore has not been received and that all amounts requested are for the appropriate purposes and in accordance with this Agreement.”

10.7 All questions concerning payment of invoices shall be referred to the Contractor’s Program Manager.

11. NOTICE

11.1 Any notice given by either party shall be in writing and shall be deemed given upon the earlier of delivery or date evidencing attempted delivery via United States Postal Service, postage prepaid, certified return receipt requested or courier delivery, or upon confirmation of actual receipt if via electronic mail or facsimile to the other party at the following addresses:

Contractor
ICF Resources, LLC
Attention: [ICF Subcontract Admin]
1902 Reston Metro Plaza
[ICF City, State, and ZIP]
[ICF Subcontract Admin E-mail]
Attention: Notices@icf.com

Subcontractor
[Subcontractor Name]
Attention: [Subcontractor POC]
[Subcontractor Address]
[Subcontractor City, State, and ZIP]
[Subcontractor POC E-mail]

12. ENTIRE AGREEMENT



12.1 The parties acknowledge that they have read this Agreement, understand it, and agree to be bound by its terms. Unless expressly and specifically provided for in this Agreement, this Agreement and the exhibits, appendices and other attachments incorporated herein by reference shall constitute the entire agreement of the parties regarding the subject matter hereof. There are no provisions, terms, conditions, or other obligations other than those contained in the Agreement, and this Agreement supersedes all prior agreements, whether written or oral, relating to the subject matter hereof. No modification or other change to this Agreement shall be binding unless such modification or change is in writing and signed by an authorized representative of each party.

IN WITNESS WHEREOF, Contractor and Subcontractor have caused this Agreement to be executed by their duly authorized representatives as set forth and as of the date set forth below and each warrants respectively that he or she has the right and authority to so act on behalf of such party.

FOR CONTRACTOR:

FOR SUBCONTRACTOR:

X

X

Name (Typed or Printed)

Name (Typed or Printed)

Date

Date

APPENDIX A – GENERAL TERMS & CONDITIONS

1. DEFINITIONS

As used herein, capitalized terms have the meanings below. Other terms used in this Agreement are defined in the context in which they are used and will have the meanings therein indicated.

“Affiliates” in relation to a Party, mean any entity that directly or indirectly Controls, is Controlled by, or is under common Control with that party, for so long as such Control exists.

“Changes” means any changes to this Agreement that are within the scope of the Services.

“Change in Control” means a merger, acquisition, or other corporate transaction in which the owners of all of the subject entity’s voting interests immediately prior to the transaction own less than 50% of the voting interests of the successor entity resulting from the transaction.

“Claim” means any asserted or threatened liability, suits, claims, actions, or proceedings related to or resulting in Loss.

“Client” means a government agency or entity, company or other legal entity which purchases services or goods as part of Contractor’s Prime Contract and/or related service or other agreements.

“Confidential Information” means and includes all commercial, pricing, technical or other information of a confidential or proprietary nature including but not limited to trade secrets, formulae, processes, methodologies, know-how, ideas and inventions, specifications, designs, financial or business information, market research, business and market plans and procedures, Client details or information, Personal Data, test plans, test results, protocols, results of analyses, notebooks, project documentation, and other technical, business, and trade secret information, in tangible or documented, whether communicated orally or in writing or otherwise, and irrespective of whether such information is identified as confidential at the time of disclosure, but does not include any information which becomes publicly available through no breach of this Agreement, or any other obligation of confidentiality. With respect to information communicated to Subcontractor by Contractor and/or Client or to which Subcontractor has access in connection with the Services, Confidential Information also shall include Personal Data.

“Contractor Third Party Vendors” mean third party vendors of Contractor.

“Control” means the ability (whether direct or indirect) to direct the affairs of an entity, either by having: (i) beneficial ownership of more than 50% of the voting stock, shares, interest, or equity in the entity; (ii) the right to appoint or remove majority of its board of directors; (iii) the power to

cause the direction of the general management of the entity by the virtue of any powers conferred by law, constitutional documents, contractual arrangements or by other means; or (iv) the ability to in fact control its management decisions; and Controls, Controlled and the expression Change of Control shall be construed accordingly.

“Data Protection Laws” mean all applicable privacy, security, data protection, direct marketing, consumer protection and workplace privacy laws, rules and regulations of any applicable jurisdiction (including the United States and each state of the United States), and all then-current industry standards, guidelines and practices with respect to privacy, security, data protection, direct marketing, consumer protection and workplace privacy, including the collection, processing, storage, protection and disclosure of Personal Information.

“Deliverables” mean Materials, along with all related drafts, versions, and other material, created, that Subcontractor originates or prepares for Contractor (either independently or in concert with Contractor or third parties) and delivered to Contractor during the course of Subcontractor’s performance under this Agreement, all as may be specified in an Appendix. For purposes of this Agreement, Deliverables–Custom and Deliverables–Other may be collectively referred to as “Deliverables”.

“Intellectual Property” means all patents, rights in inventions, rights in designs, trademarks, trade and business names and all associated goodwill, rights to sue for passing off or for unfair competition, copyright, moral rights and related rights, rights in databases, topography rights, domain names, rights in information (including know-how and trade secrets) [tools and methodologies] and all other similar or equivalent rights [subsisting now or in the future] in any part of the world, in each case whether registered or unregistered and including all applications for, and renewals or extensions of, such rights for their full term.

“Loss(es)” or “Costs” means losses, liabilities, damages, expenses damages, judgments, or reasonable costs (including reasonable legal fees and disbursements).

“Materials” mean work product and other materials, including without limitation, data, designs, reports, documents, templates, studies, software programs in both source code and object code, specifications, business methods, tools, methodologies, processes, techniques, solution construction aids, analytical frameworks, algorithms, know-how, processes, products, documentation, abstracts, and summaries thereof, works of authorship and other related material.

“Parties” mean Contractor and Subcontractor, as signatories to this Agreement.

“Person” means an individual, a corporation, association, partnership, limited liability company, joint venture, unincorporated organization, trust or any other legal entity or organization of any kind or character, including a Governmental body.

“Personal Data” shall have the meaning specified for “personal data” where applicable in European Data Protection Laws and if European Data Protection Laws are inapplicable shall mean any information, directly or indirectly, related to one or several identified, identifiable, natural, or legal persons or which can be associated with an individual or legal entity, including, but not limited, to first or last name, address (physical or electronic), or other contact information.

“Personnel” means any and all employees, agents (including, without limitation, employees of such agents) of a Party or Person, as indicated, and may include contractors.

“Prime Contract” shall refer to the contract between ICF and the Client, as set forth on the front page of the Subcontract or Section 45 hereof.

“Records” mean, including but not limited to, books of account, documents, records, files, calculations, interpretations, assumptions, estimates, logs, drawings, equipment calibrations and other related materials, together with such supporting or underlying documents and materials.

“Services” mean the work, as described in The Statement of Work pursuant to this Agreement, which Subcontractor will perform to Contractor’s and/or Client’s benefit.

“Solicit” shall have the same meaning as set forth in Section 13 & 14 hereof.

“Subcontractor” when not capitalized, refers generally to any Person that has a contract (as an independent contractor and not an employee) with another Person to provide some portion of work or services on a project providing that the subcontractor has agreed to perform. When the term “Subcontractor” is capitalized, it means the Party identified as such on the front page of the Subcontract, and the terms “Consultant,” “Supplier” or “Vendor,” when capitalized and used in this Agreement shall also refer to the Subcontractor.

“Treat” means access, align, alter, adapt, amending, change, classify, collect, combine, delete, destroy, disclose, disseminate, export, handle, group, lock, manage, obtain, organize, receive, record, retain, retrieve, process, save, store, test, transfer, transform, transport, use, or secure, or otherwise treat Personal Data.

2. INDEPENDENT CONTRACTOR Subcontractor shall perform its obligations under this Agreement as an independent contractor and not an employee, agent, or representative of Contractor. Subcontractor agrees that it is not an agent, joint venturer, partner, or employee of ICF, nor is it entitled to any employee benefits provided by ICF.

Subcontractor shall be solely responsible for all employment-related wages, benefits, FICA, federal and state unemployment, social security, withholding and payroll taxes, and other taxes and payments as required by law, for itself and any persons it employs. Subcontractor shall perform the services and provide the necessary facilities, personnel, materials, equipment, and shall otherwise do all things necessary for the performance of the Statement of Work and shall be solely responsible for its own financial obligations to third parties and to its employees and contractors. Subcontractor shall be solely responsible for its own acts and the acts of those employed by, contracting with, or otherwise performing on its behalf with regard to the Services or other work performed under this Agreement. Further, Subcontractor agrees that it shall not be covered by any Contractor insurance or benefits, including but not limited to Worker’s Compensation, Professional Liability, General Liability, Employer’s Liability, Automotive Liability, and Unemployment Compensation. Subcontractor shall protect, defend, and hold Contractor harmless from any claims or penalties asserted or assessed against Contractor by any person or governmental entity relating to Subcontractor’s responsibilities as an independent contractor.

3. TAXES AND LIENS Subcontractor agrees to pay and discharge all valid taxes, lienable claims, claims for labor, services, materials, charges, or other materials imposed, in connection with or otherwise resulting from Subcontractor’s provision of Services or performance of its obligations under this Agreement. Except as otherwise specified in this Agreement, the fees for Services and Deliverables shall include all applicable federal, state, local sales, provisional, municipal, use, privilege, and other taxes or assessments, however designated or levied, which are required pursuant to any applicable law, rule, or regulation and relate to any amounts payable under this Agreement and any required taxes or amounts in lieu thereof paid or payable by Subcontractor, exclusive of taxes based on Subcontractor net income or net worth, which still remain Subcontractor’s responsibility.

4. ADDITIONAL INSTRUMENTS The Parties shall cooperate with each other and execute such other documents as may be necessary or appropriate to: (i) achieve the objectives of this Agreement, and establish, preserve, or enforce the related rights or (ii) provide the other with any and all documents or materials required to achieve the obligations in connection with this Agreement.

5. CONFIDENTIAL INFORMATION

Use and Nondisclosure. The Confidential Information of the discloser may be used by the receiver only in connection with the Services or Deliverables and may only be copied or reproduced to the extent reasonably necessary for the receiver to perform its obligations or to receive or use the Services or Deliverables under this Agreement.

Subcontractor shall neither use nor disclose Confidential Information except to Persons who: (i) reasonably need to know such Confidential Information solely for purposes of performing the Services; (ii) have been informed of their obligation to maintain the confidential, proprietary and/or trade secret status of such Confidential Information; and (iii) have signed an agreement of confidentiality at least as restrictive as the confidentiality obligations herein. Subcontractor shall allow no Personnel or Persons to provide Services or Deliverables who have not signed such an agreement. Subcontractor's Personnel obligations of confidentiality are in effect both during their employment and thereafter. Subcontractor shall take such steps necessary to ensure that no unauthorized person shall have access to Confidential Information. Subcontractor shall be responsible for any use or disclosure of Confidential Information by its employees, Personnel, or others to whom it discloses Confidential Information.

Subcontractor shall use Personal Data as set forth in Section 41 hereof ("Data Protection Compliance"), and ensure that it complies with any applicable laws related to the protection of Personal Data as set forth in Section 41 hereof ("Data Protection Compliance")

Standard of Care. Subcontractor shall maintain in strict confidence all Confidential Information received from Contractor and/or Client, either orally or in writing, or generated by the Subcontractor. Subcontractor shall protect the confidentiality of Confidential Information in the same manner as it would protect the confidentiality of its own confidential information of like kind, but in no event shall Subcontractor use less than commercially reasonable care.

Return. Subcontractor shall return to the Contractor and/or Client Confidential Information or destroy such Confidential Information, and all copies of such Confidential Information, upon the expiration or termination of this Agreement, unless Contractor otherwise directs sooner in writing.

Exceptions. Notwithstanding the foregoing, the preceding provisions of this Section 5 will not apply to information that: (i) is publicly available or in the public domain at the time disclosed without breach of this Agreement by Subcontractor or its employees, Personnel, or others to whom it disclosed Confidential Information; (ii) is or becomes publicly available or enters the public domain through no fault of the recipient; (iii) is rightfully communicated to the recipient by persons not bound by contractual, legal or fiduciary duty of confidentiality with respect thereto; (iv) is rightfully already in the recipient's possession free of any confidentiality obligations with respect thereto at the time of disclosure; (v) is independently developed by the recipient; or (vi) is approved for release or disclosure by the disclosing Party without restriction.

Government Obligations. A Party will not be considered to have breached its obligations under this Section 5 for

disclosing Confidential Information of the other Party to the extent required to: (i) comply with the order of a court of competent jurisdiction or other governmental body having authority over such Party; (ii) comply with applicable law or regulation requiring such disclosure; or (iii) make such court filings as may be required to establish a Party's rights under this Agreement; provided that promptly upon receiving any request from or on behalf of such authority and to the extent that it may legally do so, such Party receiving such request: (y) advises the other Party prior to making such disclosure in order that the other Party may: (a) object to such disclosure; (b) take action to ensure confidential treatment of the Confidential Information; or (c) take, subject to applicable law, such other action as it considers appropriate to protect the Confidential Information and (x) takes all action necessary to not disclose Confidential Information that is not required to satisfy such legal requirement (including through redaction of sensitive commercial information, including key terms of this Agreement, or otherwise).

6. DELIVERABLES

Works Made for Hire. With the exception of Subcontractor Knowledge Capital and/or Third-Party Intellectual Property embodied in the Deliverables, all right, title, and interest in Materials and/or Deliverables, as part of, or produced in performing, the Services shall be and remain Contractor's sole and exclusive royalty-free property of, and shall vest with, Contractor or such party as Contractor may designate. The Materials and/or Deliverables shall be deemed to be a "work made for hire" in the course of Subcontractor's performance hereunder. Subcontractor shall make full and prompt disclosure to Contractor of all Deliverables and/ or Materials and deliver all Deliverables and/ or Materials to Contractor. To the extent any Deliverable contains Client's or Subcontractor's Confidential Information, it shall be subject to Section 4 hereof ("Confidential Information").

Assignment. If for any reason the Materials and/or Deliverables are not considered "works made for hire" owned by the Contractor by operation of law, Subcontractor hereby unconditionally and irrevocably conveys and assigns to Contractor and its successors all right, title and interest including copyright and other intellectual property rights, in and to the Materials and/or Deliverables in all media (whether now known or later developed) throughout the world in perpetuity. Subcontractor hereby irrevocably assigns to Contractor all moral rights in the Materials and/or Deliverables. Subcontractor agrees not to assert and hereby irrevocably waives any moral rights that it may have in the Materials and/or Deliverables. Subcontractor further assigns to Contractor all rights in any supporting data and material used in creating the Materials and/or Deliverables, if and to the extent that the copyright is not held by others.

Subcontractor shall defend and indemnify Contractor against any claim or loss related to the infringement of any

patent, trademark or copyright by Subcontractor under this Agreement.

7. CONFLICTS of INTEREST In the performance of the Services or delivery of the Deliverables hereunder, it is Subcontractor's responsibility to avoid (i) any actual, apparent or potential conflict between Subcontractor's duties or obligations to other parties, including the federal government or the local country government, and such duties and obligations assumed under this Agreement and (ii) disclosure of information which could, or could appear to, violate or otherwise impair such duties and obligations to third parties. In the performance of this Agreement, Subcontractor shall not make or participate in any business development, marketing, sales or like calls or contacts with the federal government or the local country government or others which might create the possibility or appearance of a conflict of interest or an actual conflict of interest with respect to this Agreement, the Prime Contract, and the work to be or proposed to be performed thereunder.

Subcontractor warrants that neither its entering into this Agreement nor its performance of any Services and/or delivery of Deliverables hereunder will result in an actual, apparent or potential conflict of interest on its part. For purposes hereof, a conflict of interest includes, but is not limited to, circumstances under which Subcontractor or its subcontractors may become biased with respect to the Services or Deliverables, gain an unfair competitive advantage or otherwise not be in the best interest of the Contractor with respect to the Services. Subcontractor further warrants that it will promptly notify Contractor of any such actual, apparent or potential conflict of interest of which it becomes aware after the Effective Date of this Agreement. Failure of Subcontractor to promptly disclose same shall constitute a material breach of this Agreement. Subcontractor further warrants that entering into this Agreement will not conflict with any existing agreements or arrangement to which the Subcontractor is party.

8. MEETINGS/EVENTS Subcontractor shall attend periodic meetings as may be requested or required by the Contractor and be prepared to accurately report on the current and projected status of the Services at those meetings.

9. NOTICE of EXPENDITURE If this is a time and materials, cost reimbursable or unit price agreement, Subcontractor shall provide prompt written notice to Contractor of expenditures of seventy-five percent (75%) and ninety percent (90%) of estimated costs except when the remaining period of performance for the Services is less than two (2) weeks.

10. LICENSES and PERMITS Subcontractor represents and warrants that it has or shall, in advance of performance hereunder and at its sole expense, obtain all licenses, certifications, permits, approvals, inspections and other authorizations required to perform the Services. Inability or failure to obtain such items shall not excuse

Subcontractor's failure to strictly comply with the terms hereof.

11. RELATED WORK Should Subcontractor's performance depend in any way on the proper performance of another subcontractor or consultant, Subcontractor agrees to take all reasonable measures to discover any defects in such performance as it relates to the Services and shall promptly report such defects in writing to the Contractor. Subcontractor shall cooperate fully with other subcontractors and consultants and with Contractor's employees and agents, shall incorporate any reasonable changes in scheduling and performing the Services to accommodate the needs of the other subcontractors or consultants, and shall comply promptly with the directions given by the Contractor's representatives.

12. CONTACTS with CLIENT Contractor shall be solely responsible for all liaison and coordination with Client. Under no circumstances will Subcontractor act upon directions given by Client. If Subcontractor receives such directions from Client, Subcontractor will notify the Contractor as soon as possible and obtain written authorization from Contractor before taking any action based upon Client's directions. Contractor will not be liable for the cost of work done by Subcontractor without the express written authorization of Contractor.

13. NON-SOLICITATION of CLIENTS Subcontractor agrees that, during the term of this Agreement and for a period that ends twelve (12) months after the later of (i) the termination or expiration of this Subcontract, for any reason or (ii) the expiration of the program with the Client that is the subject of this Subcontract, the Subcontractor shall not, either directly or indirectly, enter into a contract to:

- a. provide the same or similar services that Subcontractor is providing to ICF, nor.
- b. support the program associated with the Prime Contract or Subcontract.

The foregoing restriction does not restrict sales by the Subcontractor directly to a Government agency of any item or process (including computer software) made or furnished by Subcontractor under this Agreement. Nothing in this Agreement shall preclude Subcontractor from offering or selling its standard commercial products or services to any third party, provided such offering or sale does not result in the Subcontractor breaching this Subcontract.

The Parties acknowledge that the restrictions set forth in Sections 13(a) and 13(b) do not contain any geographic scope and agree that such a scope is unnecessary in light of the limited scope of the respective restrictions set forth in those Sections that are applicable only to the program that is the subject of the Prime Contract.

The Subcontractor agrees that an impending or existing violation of any of the restrictive covenants contained in this Agreement would cause ICF irreparable injury for which it would have no adequate remedy at law and agrees that ICF shall be entitled to obtain injunctive relief prohibiting such violation, in addition to any other rights and remedies available to it at law or in equity.

The Subcontractor's obligations under each of Sections 13(a), 13(b), and 14 are independent, separable, and independently enforceable of each other and of any legal obligations that may exist between ICF and the Subcontractor.

The real or perceived existence of any claim or cause of action of the Subcontractor against ICF, whether predicated on this Agreement or some other basis, shall not alleviate the Subcontractor of the Subcontractor's obligations under this Agreement and shall not constitute a defense to the enforcement by ICF of the restrictions and covenants contained herein.

14. NON-SOLICITATION of EMPLOYEES During the term of this Agreement and for an additional period ending six (6) months after the termination of the Subcontractor's provision of services under this Agreement for any reason (collectively the "Restricted Period"), Contractor and Subcontractor shall not, without the other Party's prior written consent, directly or indirectly, (i) offer employment (or a consulting, agency, independent contractor or other similar paid position) to any Person who is or was at any time during the twelve (12) months prior to such offer an employee, representative, officer or director of either Party or any of its subsidiaries and who was working on the project that is the basis of the Agreement or (ii) induce, encourage or solicit any such Person to accept employment (or any aforesaid position) with either Party or an entity with which either Party is otherwise affiliated. Further, during the Restricted Period, neither Party shall encourage nor induce any such employee, representative, officer or director of the other Party or any of its subsidiaries to cease their relationship with the other Party or any of its subsidiaries for any reason. If the Subcontractor breaches this Section 14, the Subcontractor shall pay compensation to ICF in the form of liquidated damages equal to the greater of one (1) year's compensation either: (i) offered to such personnel by the Consultant; or (ii) paid or offered to such personnel by ICF. However, this Section will not apply to (x) individual Personnel who independently respond to indirect solicitations (such as general newspaper advertisements, employment agency referrals and internet postings) not targeting such Personnel, or (y) work by an entity engaged by a Party other than in connection with this Agreement.

15. CHANGES

- a. No modification or other change ("Change" or "Changes") to this Agreement shall be binding unless such modification or change is in writing

and signed by an authorized representative of each party..

- b. If any such change causes a change in the labor mix, or the time required for performance of any part of this Agreement, Subcontractor may request an equitable adjustment in this Agreement price and/or delivery schedule.
- c. Subcontractor must request any equitable adjustment within seven (7) calendar days of receipt of the written change. If the Subcontractor's proposal includes the cost of property made obsolete or excess by the change, Contractor shall have the right to prescribe the manner of disposition of the property.
- d. Disagreement over any adjustment shall be resolved in accordance with the "Disputes" clause of this Agreement. However, nothing contained in this clause of this Agreement shall excuse Subcontractor from proceeding without delay in the performance of this Agreement as directed. Further, unless expressly instructed by Contractor in writing, Subcontractor shall not be entitled to compensation for work associated with a Change unless, until and solely to the extent such Change is approved in writing by the Contractor.

16. PERFORMANCE BY SUBCONTRACTOR

Subcontractor shall furnish services, material and equipment at the time and place agree upon and continue performance diligently without delay, in a safe, proper, and workmanlike manner, in conformity with the requirements of this Agreement. Subcontractor shall immediately remove from performing the Services any employee or other Personnel (including employees of approved lower tier subcontractors or lower-tier consultants) at Contractor's request. Subcontractor acknowledges and agrees that any such request relates specifically to performance on the project that is the subject of this Agreement and that all decisions regarding the employment of employees or contracting of other Personnel are made exclusively and solely by the Subcontractor and its lower-tier subcontractors. Subcontractor shall promptly recommend a suitable replacement for Contractor's approval. Persons so removed shall not be used in the future for the Services without the express written authorization of the Contractor. Subcontractor warrants that it will only utilize personnel and approved lower tier subcontractors who are adequately trained and experienced to properly perform the Services in a safe and efficient manner.

17. INSPECTIONS Contractor and/or its Client may inspect and otherwise evaluate the Services or Deliverables at any reasonable time and place, but such review or approval is for Contractor's sole benefit and shall not relieve

Subcontractor from its representations and obligations set forth in this Agreement.

18. ACCEPTANCE Acceptance of the Services is conditioned upon final acceptance by Contractor's Client under the Prime Contract when confirmed in writing by Contractor's authorized representative. Payments, including final payment, shall not constitute acceptance, nor does any payment or final acceptance release Subcontractor from any warranty hereunder. Contractor reserves the right to revoke acceptance at any time upon discovery of defects in design, workmanship, or other non-conformity of the Services or Deliverables to the requirements of this Agreement.

19. WARRANTY

- a. **Deliverables and Goods:** Subcontractor warrants that all Deliverables and other goods furnished under this Subcontract will be free from defects for a period of one (1) year from final acceptance by Contractor or for the standard warranty period provided by Subcontractor, whichever is longer; will conform with all requirements of this Agreement, and, unless manufactured solely in accordance with Contractor-certified manufacturing designs, will be free from defects in design. Any Deliverables or other goods corrected or replaced will be covered by this warranty. Subcontractor agrees to notify Contractor immediately upon becoming aware of potential problem(s) with a Deliverable or good previously delivered to Contractor. Such notification shall include a recommended course of action that mitigates the impact to ICF and its Client.
- b. **Services:** Subcontractor warrants that all services performed under this Agreement will be performed with the exercise of reasonable skill, care and diligence and based upon the standard of a fully qualified professional, be free from defects, conform to the requirements of the Agreement, and be performed in strict compliance with any regulatory or international standards specified in the Statement of Work for this Agreement. Any services corrected or re-performed will be covered by this warranty.
- c. The warranties provided in (a) and (b) above shall apply in addition to and not in place of more extensive warranty(s) is/are specified as in the Prime Contract Clauses, or regularly offered by Subcontractor, in which case Subcontractor shall meet the aggregate set of requirements for all warranties.
- d. If Subcontractor breaches any warranty, Contractor may elect, at its sole discretion and with no increase in the Agreement price, to:

- i. Require Subcontractor either to repair or replace, at Contractor's election, defective or nonconforming Deliverables or other goods promptly; or
- ii. Require Subcontractor promptly to furnish materials or parts and installation instructions required to successfully accomplish the correction of defective or nonconforming any Deliverable or goods, and equitably reduce the Agreement price to account for the cost of correction including, without limitation, removal, and installation; or
- iii. Require Subcontractor to promptly redesign any defective or nonconforming Deliverables or goods and require Subcontractor promptly to repair or replace any Deliverable or goods manufactured in accordance with such defective design; or
- iv. Require Subcontractor either to correct or re-perform, at Contractor's election, defective or nonconforming services promptly; or
- v. Equitably reduce the Agreement price; or
- vi. Correct or have corrected the nonconformity at Subcontractor's expense.

20. BILLINGS Subcontractor warrants, and will separately certify each invoice submitted hereunder, that to its best knowledge and belief, the billings presented by Subcontractor are a complete and accurate statement of the Services provided by Subcontractor (each such invoice, the "Invoiced Services"), that Subcontractor is properly entitled to payment, and that all amounts requested are for appropriate purposes in strict accordance with the terms of this Agreement. All materials provided by Contractor shall be accounted for and materials not accounted for will not be charged to Contractor and will be paid for by the Subcontractor. Subcontractor shall only charge for materials in the quantities actually used in the performance of the Services. Subcontractor shall be paid within fifteen (15) days after Contractor receives payment for the Invoiced Services from the Client. Invoicing shall be once a month unless the Contractor agrees in writing to an alternative invoice cycle. Each invoice for the Invoiced Services shall contain all invoice data required in the Prime Contract as it relates to the Services. The amounts invoiced, in the aggregate, shall not exceed the amounts authorized or other limitations set forth in the Agreement.

In the event that Contractor invoices the Client and receives payment from the Client for an amount less than the amount invoiced by Contractor on an invoice, Subcontractor will be paid for the Invoiced Services according to its pro rata share of such payment actually received by Contractor with respect thereto. For illustrative purposes, the pro rata share will be generally determined by calculating the percentage of the Invoiced Services to the overall amount of the invoice submitted to the Client by Contractor and for which the payment was made. In all cases, the pro rata share will be determined by the Contractor in its reasonable discretion. In the event of non-payment by the Client or payment from the Client less than the amounts invoiced by Contractor, Contractor may, at its sole discretion, submit a claim for payment to the Client. In such event, any settlement amounts agreed to by Contractor and the Client or ordered or determined in an administrative or judicial proceeding or other binding dispute resolution forum, will be binding on Subcontractor to the same extent that Contractor is bound, and, again, Subcontractor will be paid for the Invoiced Services according to its pro rata share of such amounts received by Contractor.

21. CONTRACT CEILING PRICE If at any time Subcontractor has reason to believe that an increase in the ceiling of a time and material, unit price or cost reimbursable contract will be necessary, it will give prompt prior notice to that effect providing a written estimate to complete the Services and proposing a new limitation figure and giving appropriate supporting data so that Contractor may, at its sole discretion, determine whether to increase such limitation. Any change to the contract ceiling price or limitation must be made by written modification to this Agreement.

In no event shall Subcontractor exceed the ceiling price or maximum amount authorized for this Agreement. Any dispute, including without limitation disputes relating to the contract-ceiling price, shall be resolved in accordance with the Disputes clause of this Agreement. Subcontractor shall continue to perform the Services pending resolution of a Dispute.

Contractor shall not be obligated to use all Services or assistance referenced herein and Contractor shall pay only for those Services authorized by Contractor pursuant to the terms of this Agreement and actually rendered by Subcontractor.

22. AUDIT RIGHTS For three (3) years following the completion or termination of this Agreement, Contractor and/or Client, shall have access to Subcontractor's records and documentation for audit purposes during normal business hours and upon ten (10) calendar days' notice. Subcontractor shall promptly reimburse Contractor for any amounts for which Subcontractor cannot provide adequate documentation or substantiation or are otherwise unallowable or not properly chargeable.

Promptly during the term hereof, and upon the expiration or termination of this Agreement, Subcontractor shall make complete disclosures of all activities under this Agreement not previously reported and certify in writing that such disclosures are complete and accurate.

23. CURRENCY of PAYMENT Unless otherwise set forth in this Agreement, all payments shall be in United States Dollars (\$US). Where exchange rates are set forth in this Agreement, the rate of exchange between \$US and the other currency involved in the transaction shall be the rate of exchange as of the date of payment. The date of each invoice shall be clearly marked on each invoice.

24. SET-OFF Contractor may, at its election, make a reduction or set-off, in whole or in part, against any amounts payable to Subcontractor or any Claims or Losses for which Subcontractor is or may be liable under this (or any other) Agreement or pursuant to law and equity.

25. TERMINATION This Agreement may be terminated, in whole or in part, by written notice of Contractor for any reason. The notice of termination shall specify the extent to which performance is terminated and the effective date of such termination. In such event, Subcontractor shall be paid only for the Services properly performed prior to such termination. Subcontractor waives all claims for profits not earned as a result of such termination.

26. STOP-WORK Notwithstanding any other provision hereof, Contractor may, by notice to Subcontractor, suspend all or any portion of the Services. Subcontractor shall stop all such Services immediately upon receipt of Contractor's stop-work order and shall promptly resume the Services after receipt of direction from the Contractor to proceed. Stop-work orders issued for conditions or circumstances unrelated to the Subcontractor's fault or negligence shall result in a reasonable adjustment in the contract schedule.

27. RISK of LOSS Subcontractor bears the risk of loss for the Services until final acceptance thereof.

28. INDEMNIFICATION To the extent not restricted by applicable law, Subcontractor shall defend, indemnify and hold the Client, Contractor, Contractor's Affiliates, and each of their respective directors, officers, agents and employees harmless against any injury, death, damages, suit, Claim or Loss, including without limitation expenses, credits, refunds, costs, fines, penalties and attorney's fees incurred by the indemnified parties arising from, in connection with, or related to, directly or indirectly, this Agreement, Subcontractor's performance hereunder, the failure to perform or the breach thereof, failure to comply with applicable laws or regulations, alleged infringement of Intellectual Property, except to the extent that such Loss was caused by the gross negligence or willful misconduct of the Contractor.

Except in the case of indemnification obligations in this Agreement, claims made by the Client or payments

(including fines or penalties) made by ICF to the U.S. Government arising from Subcontractor's actions or failures to act, and/or breaches of confidentiality, in no event shall either party or its respective employees, representatives or subsidiaries be liable to the other party for any consequential, indirect, punitive, incidental or special damages, whether foreseeable or unforeseeable, and whether or not Subcontractor, ICF, or anyone else has been advised of the possibility of such damages.

This provision shall survive termination of this Agreement.

29. INSURANCE During the term of this Agreement the Subcontractor shall maintain the Insurance requirements as determined by the selected boxes checked below.

Workers' Compensation Insurance: Statutory limits in accordance with the laws of the country, state, or province, or territory exercising jurisdiction over employees in which work is to be performed.

Employers' Liability Insurance with a minimum occurrence limit of:

- **Bodily injury by accident** \$1,000,000 each accident
- **Bodily injury by disease** \$1,000,000 policy limit and
- **Bodily injury by disease** \$1,000,000 each employee

Or the statutory minimum if the state or jurisdiction has such a requirement.

Commercial General Liability Insurance:

- **Each Occurrence Limit** \$1,000,000
- **Products/Completed Operations Aggregate Limit** \$1,000,000
- **Advertising Injury and Personal Injury Limit** \$1,000,000
- **General Aggregate** \$2,000,000

Business Automobile Liability Insurance:

- **Minimum Limit** \$1,000,000
- For all owned, rented, leased, or hired vehicles used in conjunction with this Agreement

Professional Liability, Errors and Omissions Insurance: Amount not less than \$1,000,000 each claim.

Umbrella and or Excess Liability Insurance:

Follow-Form – General Liability, Automobile Liability and Employers' Liability with drop down over reduced or exhausted aggregate limits of the underlying policy(ies)

- \$1,000,000 per occurrence
- \$1,000,000 aggregate
- Limit applies in excess of Employers' Liability, Commercial General Liability, and Business Auto Liability policies.

Property Insurance: Covering the full replacement value of any and all property of the Subcontractor that may be used on premises in connection with the Subcontractor's duties.

Cyber/Privacy/Technology Services Liability: Including breach response

- Coverage \$2,000,000 per occurrence

Commercial Crime: Involves access, handling, processing, possession of ICF property, money, securities, or those of a 3rd party.

Contractors Pollution Liability: Covering Subcontractor and ICF based on the SOW and Contract requirements. The Contractor shall maintain pollution liability covering the Contractor's liability for bodily injury, property damage and environmental damage resulting from pollution and related cleanup costs incurred arising out of the work or services to be performed under this Agreement. Coverage shall be provided for both work performed on site as well as transportation and proper disposal of hazardous materials.

- \$1,000,000 per claim or occurrence limits/\$2,000,000 in the aggregate
- If the services involve mold removal and/or identification/remediation, the policy shall not contain mold exclusions and the definition of "Pollution" shall include microbial matter including mold.
- If the services involve lead-based paint or asbestos removal and/or identification/remediation, the policy shall not contain lead-based paint or asbestos exclusions.

ICF shall not be responsible for any deductibles, self-insured retentions, and/or waiting periods that may appear in the Subcontractors policies.

Subcontractor shall procure and maintain for the duration of the Agreement all necessary insurance against claims now and in the future for injuries to persons or damages to property which may arise from or in connection with the performance of the Services by the Subcontractor, the Subcontractor's agents, representatives, employees, and subcontractors.

Subcontractor shall furnish Insurance Industry standard ACORD form certificates of insurance to ICF prior to the execution of this Agreement and the performance of services, and from time to time upon ICF's reasonable

request. Subcontractor shall provide at least thirty (30) calendar days written notice to ICF and Contractor of any policy cancellation, non-renewal or material reduction in coverage that is relevant to the contract.

Failure of ICF to receive or identify deficiencies in Certificates of Insurance or endorsements should not waive the Subcontractor's obligations to obtain or maintain the required insurance coverages and limits. In other words, any acceptance of the evidence of insurance does not constitute approval or agreement that the insurance requirements have been met, or that the insurance policies identified in the certificates are compliant with the requirements express in the agreement. Coverages and limits furnished by Subcontractor in no way should limit the Subcontractor's liabilities and responsibilities specified within the agreement or by law.

In the event of Subcontractor's failure to maintain insurance in form and amount(s) reasonable and customary for the services in which Subcontractor is providing in the performance of this Agreement, Subcontractor agrees to defend, indemnify and hold harmless ICF its subsidiaries and affiliates, officers, directors, employees and agents from any liability, claim, and demands of whatever kind or nature, either in law or equity, which may arise from or relate to the Subcontractor's performance or non-performance under this Agreement.

ICF reserves the right to review any and all of the required insurance policies and/or endorsements but has no obligation to do so. ICF's failure to demand evidence of full compliance with the insurance requirements set forth in this Agreement or ICF's failure to identify any insurance deficiency shall not relieve Subcontractor from, nor be construed or deemed a waiver of, its obligation to maintain the required insurance at all times during the performance of this Agreement.

All insurance policies required shall be issued by insurance companies rated at least 'A-' 'VII' in the most current edition of *A.M. Best Guide* or equivalent rating from another ratings agency.

All coverage obtained and maintained by the Subcontractor and the Certificate of Insurance shall indicate:

ICF Resources, LLC, its subsidiaries and SOUTHERN MARYLAND ELECTRIC COOP are included as Additional Insured as respect to the General Liability and Automobile Liability policies. Waiver of Subrogation is included to the extent permitted by law. All policies are primary and, with the exception of Professional Liability, non-contributory with any and all applicable coverage, contain cross-liability coverage, and severability of interests language.

30. DISPUTES The Parties agree to attempt in good faith to first resolve any dispute arising out of or relating to this Agreement through negotiations between authorized

representatives of each respective Party in the normal course of business, before resorting to the pursuit of any other remedies available at law or in equity.

Each Party agrees to bear its own costs related to resolving any dispute arising under or related to this Agreement. Pending any decision, appeal or judgment referred to in this provision or the settlement of any dispute arising under this Agreement, the Parties shall proceed diligently with the performance of this Agreement.

31. ASSIGNMENT/SUBCONTRACTING

- a. Neither the Agreement nor any duty or right under the Agreement shall be delegated or assigned by Subcontractor to another party without the prior written consent of ICF, except that claims for monies due or to become due may be assigned to a financial institution if ICF is so notified in writing prior to such assignment. ICF shall be furnished a signed copy of any such assignment. All payments under the Agreement, including those to an assignee, shall be subject to setoff or recoupment for any present or future claim or claims that ICF may have against Subcontractor. ICF reserves the right to make settlements, or adjustments in price, or both, with Subcontractor under the terms of the Agreement notwithstanding any assignment of claims for monies due or to become due hereunder and without notice to the assignee. Subcontractor is responsible to ensure that all terms, conditions, and flow-down requirements in the Agreement are flowed down to any lower tier Subcontractor who is approved by ICF. Subcontractor is fully responsible for the acts and omissions of its lower tier Subcontractor and of persons either directly or indirectly employed by them.
- b. Subcontractor shall not assign, novate, or transfer, by operation of law or otherwise, the Agreement, in whole or in part, without the prior written approval of ICF. For purposes of the Agreement, an assignment shall be deemed to occur upon the earlier of the announcement or consummation of any of the following: a merger, consolidation, sale or acquisition of a party or any division or component of Subcontractor; the sale of all or substantially all of the assets of Subcontractor; or the acquisition of a controlling interest in the stock or interest, as the case may be, of the Subcontractor.

Any assignment, novation, or transfer not in accordance with this Article shall be in a material breach of the Agreement, which shall entitle ICF to terminate the Agreement immediately.

32. PUBLICITY and PUBLICATIONS Subcontractor may not publicize this Agreement, or its subject matter or

state that Contractor and/or Client has approved or endorsed any Services or Deliverables Subcontractor has provided or provides as contemplated by this Agreement. No public releases including those for news, advertising, information, technical or scientific purposes relating to this Agreement shall be issued by Subcontractor without Contractor's prior written consent.

33. ORDER of PRECEDENCE In the event of a conflict in the terms and conditions of the contract documents, the following order of precedence shall apply:

- Data Protection Requirements (Appendix D)
- The/This Agreement (*)
- General Terms & Conditions (Appendix A)
- Statement of Work (Appendix B)
- Fee Schedule (Appendix C)
- Other contractual documents

(*) References to "the Agreement," "this Agreement," "the Subcontract" or "this Subcontract" shall refer to the base subcontract agreement to which this Appendix A is appended.

34. NON-WAIVER Failure of Contractor to insist on strict performance of any of the terms and conditions contained in this Agreement shall not constitute or be construed as a waiver or relinquishment of Contractor's right to subsequently require strict compliance with such terms and conditions.

35. SEVERABILITY If any part of this Agreement shall be held by a court of competent jurisdiction to be invalid, illegal, or unenforceable as to particular provisions, this Agreement shall remain in full force and effect as to the remaining provisions.

36. COMPLIANCE with LAW Subcontractor specifically agrees to comply with all Federal and state laws and regulations of Subcontractor/Contractor conduct such as procurement integrity regulations, and post-government service employment regulations including, but not limited to 41 U.S.C. 423 and 18 U.S.C. 207 which apply to Subcontractor, Subcontractor's employees, or the work performed by Subcontractor under this Agreement.

Subcontractor shall provide Contractor with information, documentation, and certifications and execute such papers as will demonstrate Subcontractor's compliance with said laws, regulations, and this Agreement upon request. Subcontractor will provide Contractor with additional assistance, if requested, to enable Contractor to also comply with said laws and regulations.

Subcontractor agrees to comply with all applicable provisions of the OFPP/OMB Policy Letter on Subcontractor and Conflict of Interest, the Lobbying and Disclosure Act of 1995, and Public Law No. 101-121 (the Byrd Amendment), including but not limited to, those pertaining to disclosure, registration, and certification. Further, Subcontractor shall not perform any activities on behalf of Contractor which are intended to influence, or which attempt to influence U.S.

Government Executive or Legislative branch officers or employees, including members of Congress, with respect to the award, renewal, extension, amendment, administration or modification of a contract, grant, cooperative agreement, loan, license, or permit. Subcontractor shall make no communication (written, oral or telephonic) to a Congressional or Executive branch member, officer, or employee on Contractor's behalf without the prior written consent of Contractor. Subcontractor shall not knowingly solicit or obtain, directly or indirectly, from any government or agency employee, any proprietary or source selection information.

Notwithstanding the above, Subcontractor shall abide by the requirements of 41 CFR 60-300.5(a). This regulation prohibits discrimination against qualified protected veterans and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans. Additionally, Subcontractor shall abide by the requirements of 41 CFR 60-741.5(a). This regulation prohibits the discrimination against qualified individuals on the basis of disability and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment individuals with disabilities.

Subcontractor shall not offer or provide any bribe or kickback to any person, nor shall Subcontractor offer or provide any gratuity of any type or nature, including the purchase of meals, to any Federal, State, or local government employees or officials.

Subcontractor hereby acknowledges that at the time of entering into this Agreement neither it nor any person employed by or representing Subcontractor is (1) presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in any program sponsored by a Federal, State or local department or agency; or (2) under current investigation for a crime or otherwise engaged in conduct for which an entity or individual can be debarred by any Federal, State, or local department or agency. Subcontractor represents that it will immediately notify Contractor of any inquiry or commencement of any debarment proceedings from any government procurement activity; and any suspension, debarment, pending debarment charges or criminal convictions or notice thereof received during the performance of this Agreement. Upon receiving such written notice of inquiry or commencement of any such proceeding from Subcontractor, Contractor shall have the right to immediately terminate this Agreement.

37. GOVERNING LAW The validity, construction, scope, and performance of this Agreement shall be governed by the laws of the Commonwealth of Virginia without regard to its conflict of law principles, except as to any provisions hereof which are governed by the laws or regulations of the United States of America, as to which provisions such laws of the United States shall govern provided, however, that the Parties hereby expressly agree

that any resulting award shall not be governed under the terms and conditions of the U.N. Convention on Contracts for the International Sale of Goods. In the event an action or proceeding is commenced with respect to this Agreement, the prevailing party shall be entitled to receive reasonable legal fees and expenses from the other party. Each Party expressly and irrevocably consents that any suit, action, or proceeding arising out of or related to this Agreement and brought by either party will be instituted in a state or federal court sitting in Fairfax County in the Commonwealth of Virginia, and both Parties further expressly waives any objection that it has or may have to the jurisdiction of such courts. Further, each Party hereby waives its right to a jury trial in any action arising hereunder. Further, each Party waives any objection based on improper venue or forum non conveniens.

38. NO AGENCY Except as specifically set forth otherwise, it is agreed and understood that neither party hereto is, by this Agreement or anything herein contained, constituted, or appointed agent or representative of the other for any purpose whatsoever, nor shall anything in this Agreement be deemed or construed as granting either party any right or authority to assume or to create any obligation, warranty, or responsibility, express or implied, for or on behalf of the other.

39. CAPTIONS The captions and headings of this agreement are intended for convenience and reference only, shall not affect the construction or meaning of this Agreement.

40. BUSINESS ETHICS & CONDUCT Contractor is committed to conducting its business free from unlawful, unethical, or fraudulent activity. Subcontractor, and each of its personnel, and subcontractors that perform Services or provide Deliverables hereunder will: (i) conduct their activities fairly, impartially, and in an ethical and proper manner; and (ii) not engage in any personal, business, or investment activity that may be defined as a conflict of interest, whether real or perceived. Accordingly, the ICF subcontractor identified herein, by execution of any ICF agreement with the ethical and professional standards of Contractor as contained a cumulative funded value exceeding \$5,000,000 and a performance period of more than 120 days, certifies (1) that it has already established, or (2) Subcontractor will adhere to Contractor's published Code of Business Ethics and Conduct. A copy of ICF's Code of Business Ethics and Conduct can be found at https://www.icf.com/-/media/files/icf/other-docs/ethics/icf-code-of-business-and-ethics_web_external.pdf or provided, which is available upon request. To report a related serious concern or violation, please contact the ICF Ethics Hotline toll-free at 866-373-6934 or by submitting a claim via by contacting the ICF online ethics database at <http://icfi.silentwhistle.com/ethfeedback/index.jsp>. You should use the Hotline only to make a good faith claim, as Contractor takes all allegations seriously.

41. DATA PROTECTION COMPLIANCE The Parties shall comply with their respective obligations under applicable data privacy and data security laws and regulations (together, the "**Data Protection Laws**"). Where, in connection with this Agreement, Subcontractor Treats Personal Data, Subcontractor shall: (i) maintain throughout the Term the appropriate data privacy and data security measures, policies, and procedures that are designed to comply with the Data Protection Laws; (ii) Treat Personal Data solely to provide the Services hereunder and for no other purpose; (iii) only grant "need to know" Personnel access to Personal Data; (iv) not disclose Personal Data to any person or third party except as set forth in this Agreement or as required by law or with Contractor's prior written consent; (v) implement all commercially reasonable practices to prevent misuse, destruction, loss, theft, intrusion, attack, computer virus infection, unauthorized Treatment, or similar activities; (vi) preserve the integrity of all Personal Data and system information on systems and in databases maintained by Subcontractor in transfer to, transfer from, or while at rest with Subcontractor (including, but not limited to, using industry standard encryption technology); and (vii) immediately notify Contractor if it becomes aware of any misuse of Personal Data or actual unintended or unauthorized access of any Subcontractor system that may Treat Personal Data produced under, provided under, or related to this Agreement. Subcontractor warrants that it has a formal written information data privacy and data security program, and said program is incorporated herein to this Agreement by reference.

42. FORCE MAJEURE Neither Subcontractor nor Contractor shall be liable in any way for failure to perform any provision of this Agreement (except payment of monetary obligations) if such failure is caused by any law, rule, or regulation, or any cause beyond the control of the party in default. Should such acts or events occur that a Party believes should be covered by this provision, such Party shall provide notice of such position to the other Party promptly upon the occurrence of the act or event, reasonably specifying all facts related thereto, the anticipated consequences therefrom, and any proposed actions to be taken in mitigation of the adverse consequences. The parties agree to use commercially reasonable efforts to address the acts or events that are covered by this provision in order if Contractor determines the work is to be resumed.

43. RESERVED

44. COUNTERPARTS This Agreement may be executed in two or more counterparts, each of which will be deemed an original but all of which will constitute the same agreement. This Agreement and any document required hereby may be executed by facsimile signature that will be considered legally binding for all purposes.

45. SURVIVAL The provisions of this Agreement that by their terms, nature or context survive the termination or cancellation of the Agreement (including without limitation,

all warranty, confidentiality, publicity, audit, and indemnification provisions) will survive the termination or expiration of this Agreement as well as any Change of Control.

46. ENTIRE AGREEMENT The parties acknowledge that they have read this Agreement, understand it, and agree to be bound by its terms. Unless expressly and specifically provided for in this Agreement, this Agreement and the exhibits, appendices and other attachments incorporated herein by reference shall constitute the entire agreement of the parties regarding the subject matter hereof. There are no provisions, terms, conditions, or other obligations other than those contained in the Agreement, and this Agreement supersedes all prior agreements, whether written or oral, relating to the subject matter hereof. No modification or other change to this agreement shall be binding unless such modification or change is in writing and signed by an authorized representative of each party.

APPENDIX B – STATEMENT OF WORK

APPENDIX C – FEE SCHEDULE

- For performance of Task Orders, Contractor shall pay Subcontractor the fees (inclusive of salary, indirect costs, and fee) set forth below:

Base Period			
Labor Category	Hourly Rate (\$)	Total Hrs. NTE	Total Funded Value

Option Period I			
Labor Category	Hourly Rate (\$)	Total Hrs. NTE	Total Funded Value

- Other direct costs, including transportation, lodging, telephone, computer usage, and other actual direct expenses will be reimbursed at actual cost to the same extent that such actual costs are allowable and allocable under the Prime Contract.
- The total funded Value of this subcontract is as indicated below:

Total Value	Period of Performance	Funded Value

APPENDIX D
DATA PROTECTION REQUIREMENTS

1. **Definitions.** Capitalized terms not otherwise defined herein shall have the meaning given to them in the Agreement. Except as modified in Appendix 1, the terms of the Agreement shall remain in full force and effect. This DPA contains Subcontractor’s Technical and Operational Measures, which procedures are in addition to and cumulative of the requirements of the Agreement.
2. **Roles of the Parties.**
 - 2.1 During the Term of the Agreement, the Parties agree to comply with Data Protection Laws and Regulations directly applicable to their respective businesses.
 - 2.2 As between the Parties for the Processing of Contractor Personal Data, Contractor shall be the Data Controller and Subcontractor shall be the Data Processor. Contractor shall be solely responsible for determining compliance with Data Protection Laws and Regulations as the Data Controller. Subcontractor shall be solely responsible for determining compliance with Data Protection Laws and Regulations as the Data Processor.
 - 2.3 In no event will either Party be required to monitor or advise the other regarding the Data Protection Laws and Regulations applicable to other Party concerning Contractor Personal Data.
 - 2.4 Subcontractor will provide verifiable notice to applicable Data Subject through Contractor’s applicable local country privacy statement. Such privacy statement must comply with applicable Data Protection Laws and Regulations.
 - 2.5 Subcontractor will obtain Data Subjects’ verifiable, freely given, specific and unambiguous consent, where required by Data Protection Laws and Regulations, to Process Contractor Personal Data in the Services.
3. **Processing of Personal Data.**
 - 3.1 Contractor’s Processing of Personal Data. Contractor shall, in its use of the Services, Process Personal Data in accordance with the requirements of Data Protection Laws and Regulations. For the avoidance of doubt, Contractor’s instructions for the Processing of Personal Data shall comply with Data Protection Laws and Regulations. Contractor shall have sole responsibility for the accuracy, quality, and legality of Personal Data and the means by which Contractor acquired Personal Data.
 - 3.2 Subcontractor’s Processing of Personal Data. Subcontractor will:
 - 3.2.1 Process the types of Contractor Personal Data relating to the categories of Data Subjects set forth in Annex 1 to this DPA (“Details of Processing”)
 - 3.2.2 Process Contractor Personal Data on Contractor’s behalf and in accordance with Contractor’s documented instructions for the following purposes: (i) Processing in accordance with the Agreement and applicable SOWs or related orders forms; (ii) Processing initiated by Contractor in their use of the Services; and (iii) Processing to comply with other documented reasonable instructions provided by Contractor (e.g., via email) where such instructions are consistent with the terms of the Agreement.
 - 3.2.3 not Process, transfer, modify, amend or alter the Contractor Personal Data or disclose or permit the disclosure of the Contractor Personal Data to any third party other than in accordance with the Contractor’s documented instructions (whether in the Agreement or otherwise) unless Processing is required by applicable Data Protection Laws and Regulations to which Subcontractor is subject, in which case Subcontractor shall to the extent permitted by such law inform the Contractor of that legal requirement before Processing that Personal Data.
 - 3.2.4 not sell, rent, release, disclose, disseminate, make available, transfer or otherwise communicate Contractor Personal Data to any third party for monetary or other valuable consideration.
 - 3.2.5 only disclose Contractor Personal Data to (i) Permitted (Sub)processor, and then solely to enable the Permitted Service Provider to provide services for Contractor’s benefit, and/or (ii) those of Permitted (Sub)processor’s employees with a need to know in order to provide services for Contractor’s benefit.
 - 3.3 Confidentiality and Discloser. Subcontractor will:
 - 3.3.1 treat Contractor Personal Data as Confidential Information.
 - 3.3.2 ensure that its personnel engaged in the Processing of Contractor Personal Data are informed of the confidential nature of the Contractor Personal Data, have received appropriate training on their responsibilities and have executed written confidentiality agreements.
 - 3.3.3 ensure that such confidentiality obligations survive the termination of the personnel engagement.
 - 3.3.3.1 ensure the reliability of any Subcontractor personnel, contractor or agent engaged in the Processing of Personal Data.
 - 3.3.4 ensure that Subcontractor’s access to Contractor Personal Data is limited to those individuals who need access to perform Services in the context of that individual’s duties to Subcontractor.
 - 3.3.5 not disclose or permit the disclosure of the Contractor Personal Data to any third party other than in accordance with Contractor’s documented instructions.
 - 3.3.6 be permitted to disclose Contractor Personal Data as may be required by law, regulation, judicial or administrative process or in connection with litigation pertaining thereto, provided that Subcontractor first gives Contractor prompt notice, where feasible, and a reasonable opportunity to seek an injunction to prevent the disclosure of Contractor Personal Data if Contractor believes such disclosure is not legally required.
4. **Return and Deletion of Contractor Personal Data.**
 - 4.1 Subcontractor, within ninety (90) calendar days of the Relevant Date, will: (i) return a complete copy of all Contractor Personal Data to Contractor by secure file transfer in such format as notified by Contractor to Subcontractor and (ii) Delete and procure the Deletion of all other copies of Contractor Personal Data

- Processed by Subcontractor or any Authorized (Sub)processor.
- 4.2 Subject to Section 4.3, Contractor may, in its discretion, notify Subcontractor in writing within thirty (30) days of the Relevant Date to require Subcontractor, at Subcontractor's sole expense, to Delete and procure the Deletion of all copies of Contractor Personal Data Processed by Subcontractor or any (Sub)processor. Subcontractor shall comply with any such written request within ninety (90) days of the Relevant Date.
- 4.3 Subcontractor may retain Contractor Personal Data to the extent required by Applicable Laws only to the extent and for such period as required by Applicable Laws and always provided that Subcontractor shall ensure the confidentiality of all such Contractor Personal Data and shall ensure that such Contractor Personal Data is only Processed as necessary for the purpose(s) specified in the Applicable Laws requiring its storage and for no other purpose.
- 4.4 Subcontractor, upon Contractor's prior written request, shall provide written certification to Contractor that it has fully complied with this Section 4 within ninety (90) days of the Relevant Date.
5. **(Sub)Processing.**
- 5.1 Subcontractor may:
- 5.1.1 not engage any (Sub)processors (excluding its own personnel, resources or Subcontractor Affiliates) to Process Contractor Personal Data without Contractor's prior written approval, except as set out in Annex 2 ("Authorized (Sub)processor") in connection with the provision of the Services.
- 5.1.2 shall implement adequate due diligence on each pre-approved (Sub)processor to ensure that it is capable of providing the level of protection for Contractor Personal Data as is required by this DPA and enter into a written agreement with each (Sub)processor containing data protection obligations not less protective than those in this DPA with respect to the protection of Contractor Personal Data to the extent applicable to the nature of the Services provided by such (Sub)processor.
- 5.1.3 remain fully liable to Contractor for any failure by any (Sub)processor to fulfil its obligations in relation to the Processing of any Contractor Personal Data, except as otherwise set forth in the Agreement.
- 5.2 **Objection Right for New (Sub)processors.** If (Sub)processors are used, Contractor may object to Subcontractor's use of any new (Sub)processor by notifying Subcontractor promptly in writing within ten (10) business days after receipt of Subcontractor's notice in accordance with the mechanism set out in Section 5.1. In the event Contractor objects to a new (Sub)processor, as permitted in this Section, Subcontractor will make available to Contractor a change in the Services or recommend a change to Contractor's configuration or use of the Services to avoid Processing of Contractor Personal Data by the objected-to new (Sub)processor without unreasonably burdening the Contractor.
6. **International Transfers of Contractor Personal Data.**
- 6.1 Subcontractor shall not Process Contractor Personal Data nor permit any (Sub)processor to Process Contractor Personal Data in a country located outside of

the EEA (a "Restricted Country") unless authorised in writing by the Contractor in advance via an amendment to this DPA, which includes SCCs or compatible requirements applicable to Subcontractor and any Authorized (Sub)Processors to ensure the adequate protection of the transferred Contractor Personal Data.

7. **Data Protection Impact Assessment and Prior Consultation.**
- 7.1 Upon Contractor's prior written request and solely in relation to Subcontractor's Processing of Contractor Personal Data, Subcontractor shall provide Contractor with reasonable cooperation and assistance needed to help Contractor:
- 7.1.1 fulfil Contractor's obligation under the applicable Data Protection Laws and Regulations to implement a data protection impact assessment related to Contractor's use of the Services, to the extent Contractor does not otherwise have access to the relevant information.
- 7.1.1.1 in the cooperation or prior consultation with the Supervisory Authority of Contractor in the performance of its tasks relating to this of the DPA, to the extent required under applicable Data Protection Laws and Regulations.
8. **Data Subject Rights.**
- 8.1 Taking into account the nature of the Processing, Subcontractor, to the extent legally permitted, will:
- 8.1.1 promptly notify Contractor if Subcontractor receives a request from a Data Subject to exercise the Data Subject's right of access, right to rectification, restriction of Processing, erasure/right to be forgotten, data portability, object to the Processing, right not to be subject to an automated individual decision making ("Data Subject Request").
- 8.1.2 assist Contractor to facilitate the fulfilment of Contractor's obligation to respond to a Data Subject Request to exercise their rights under Data Protection Laws and Regulations.
- 8.1.3 assist Contractor in responding to Data Subject Requests, to the extent the response to such Data Subject Request is required under Data Protection Laws and Regulations.
9. **Security Controls and Safeguards.**
- 9.1 Subcontractor has implemented and will maintain appropriate administrative, technical, organizational, security and physical safeguards, which at a minimum, designed to (i) ensure the confidentiality, integrity, availability and resiliency of Personal Data; (ii) protect Personal Data against any anticipated threats or hazards to confidentiality, integrity, availability and resiliency of Personal Data; and (iii) protect against any actual or suspected unauthorized Processing, loss, disclosure, or acquisition of or access to any Personal Data or confidential information during the Agreement Term and as long as Contractor Personal Data is in Subcontractor's possession or under Subcontractor's control. Such controls include, but are not limited to:
- 9.1.1 Data Protection Security Awareness and Training. Subcontractor requires and will continue to require annual security and privacy training for all personnel with access to Contractor Personal Data.
- 9.1.2 Background Checks. Subcontractor shall perform a criminal background check on any employee performing

- Subcontractor Services under the Agreement, as required under the local laws and common practices.
- 9.1.3 Access Limitations. Subcontractor will (i) limit access to its information systems and the facilities in which they are housed to authorized persons under the Agreement and to those persons who are reasonably required to know such information to perform the Services; (ii) subject such authorized persons to user authentication and log on processes when they need access to Contractor Personal Data. Such access shall be accompanied by, at a minimum, a written procedure that sets forth the manner in which access to Contractor Personal Data is restricted, and storage of the Contractor Personal Data in locked facilities, storage areas or containers; (iii) accompany such access with a written procedure that sets forth the manner in which Subcontractor restricts access to Contractor Personal Data; (iv) store the Contractor Personal Data in locked facilities, storage areas or containers; and (v) remove Subcontractor personnel access to Contractor Personal Data upon employment termination or a change in job status that results in the personnel no longer requiring access to Customer Personal Data.
- 9.1.4 Password Protection. Subcontractor will not log passwords. Subcontractor will (i) require strong password standards (12 characters minimum), which include length, complexity and expiration and (ii) block access after a six (6) account attempt lockout threshold at a maximum is met.
- 9.1.5 Encryption. Subcontractor, at a minimum and where Subcontractor transmits Contractor Personal Data and communication, will use (i) industry-accepted encryption products, including 128-bit TLS Certificates 2048-bit RSA public keys at a minimum to protect Contractor Personal Data and communications during transmissions between a Contractor's and Subcontractors network and ii) AES-256 encryption for all data, including Contractor Personal Data, transmitted between data centres for replication purposes across a dedicated, encrypted link.
- 9.1.6 Monitoring, Testing and Detection. Subcontractor will: (i) employ an industry standard network intrusion detection system and firewalls to monitor and block suspicious network traffic; (ii) reviews access logs on servers and security events and retaining network security logs for 180 days; (iii) review privileged access to production systems; (iv) perform network vulnerability assessments on a regular basis; (v) perform scans using commercially available scanning tools that identify application and operating system vulnerabilities; (vi) maintain a vulnerability remediation program; (vii) ensure all endpoints run an anti-virus solution and applies timely signature updates; (viii) patch all critical, exploitable vulnerabilities in a commercially reasonable time frame; (ix) maintain any software or system design, develop, configure or implement under the Agreement in accordance with applicable security standards and commercial industry practices; and (xi) regularly monitor network and production systems and implement and maintain security controls and procedures designed to prevent, detect and respond to identified threats and risks to reasonably calculate and prevent unauthorized access to or unauthorized use of Contractor Personal Data, and upgrade information safeguards as necessary to limit risks.
- 9.1.7 PCI-DSS Compliance. If and where applicable, Subcontractor shall comply, where applicable and relevant to performing Services, with the appropriate Payment Card Industry Data Security Standards and shall not retain credit card information of Users (except last four-digit identifiers for transaction verification) after transmission of transactions to the credit card issuers.
- 9.1.8 Access To Contractor Systems. Where Subcontractor will access Contractor's systems, Subcontractor will comply with either Contractor's standards for third party access to Contractor systems or equivalent program standards, and Subcontractor will provide Contractor with written documentation of such program, which will be incorporated herein by reference. Subcontractor's access to such systems, if applicable, shall be limited to: (i) Subcontractor personnel who require access in order to perform Services under this Agreement; (ii) the Term of the Agreement or such other time as Contractor may determine in its sole discretion; and (iii) Contractor systems identified by Contractor as critical to the performance of this Agreement.
- 9.1.9 Remediation and Response. Subcontractor: i) documents responsive actions taken regarding any data protection incident and implements mandatory post-incident review of events and actions taken, if any, to change business practices relating to protection of Contractor Personal Data.
- 9.1.10 Business Continuity and Disaster Recovery. Subcontractor will: (i) design or has designed its production data centres to mitigate the risk of single points of failure and provide a resilient environment to support service continuity and performance; (ii) utilize secondary facilities that are geographically diverse from their primary data centres, along with required hardware, software, and Internet connectivity, in the event Subcontractor production facilities at the primary data centres were to be rendered unavailable; and (iii) ensure disaster recovery plans are in place and test them at least once per year to validate the ability to failover a production instance from the primary data centre to the secondary data centre utilizing developed operational and disaster recovery procedures and documentation. Subcontractor's disaster recovery plans currently have the following target recovery objectives: maximum Contractor Personal Data loss (recovery point objective) of 4 hours.
- 9.1.11 Backup and Reliability. Subcontractor will: (i) configure all networking components, network accelerators, load balancers, Web servers and application servers in a redundant configuration; (ii) store all Contractor Personal Data on a primary database server with multiple active clusters for higher availability; (iii) store all Contractor Personal Data on highly redundant carrier-class disk storage and multiple data paths to ensure reliability and performance; and (iv) automatically replicate Contractor Personal Data on a near real-time basis to the secondary site and is back it up on a regular basis and stored on backup media for an additional 90 days in production environments and 30 days in Sandbox environments, after which it is securely overwritten or deleted (Any backups are verified for

integrity and stored in the same data centres as their instance).

10. Audit.

10.1 Upon Contractor's thirty (30) days' prior written request and at commercially reasonable intervals, and subject to confidentiality obligations set forth in the Agreement, Subcontractor shall make available to Contractor, that is not Subcontractor's competitor (or to Contractor's independent, third party auditor that is not Subcontractor's competitor), a copy of Subcontractor's then most recent third-party audits, attestations, or certifications, as applicable.

10.2 If the copy under Section 10.1 is not acceptable for Contractor's audit purposes, Subcontractor shall provide reasonable assistance by allowing inspection, on Subcontractor's premises, of relevant documents or records, to the extent such information directly relates to the transaction records for the Services provided by Subcontractor to the Contractor under the Agreement. The audit shall be conducted at a mutually agreed upon time and Contractor will provide Subcontractor with no less than ten (10) business days' advanced written notice of any requested audit. Subcontractor will provide appropriate management personnel to engage with Contractor and supervise any audit. The onsite part of the audit shall last no longer than three (3) business days, unless the auditor requests a longer onsite inspection period.

11. Contractor Personal Data Breach Management, Notification and Related Process.

11.1 Notification and Updates. Subcontractor shall notify Contractor within twenty-four (24) hours of Subcontractor becoming aware of a Contractor Personal Data Breach ("Contractor Personal Data Breach Notice").

11.2 Contractor Personal Data Breach Notice. Such notification, at minimum, contain, will: (i) describe the nature of the Contractor Personal Data Breach, including the date of the Contractor Personal Data Breach and the date of the discovery; (ii) describe the types of Contractor Personal Data involved, including the number and categories or identities of Data Subject involved; (iii) communicate the name and contact details of Subcontractor's data protection officer, chief information security officer or other relevant contact from whom more information may be obtained; (iv) describe the measures Subcontractor has taken, is taking, and intends to take to mitigate harm or remediate the Contractor Personal Data Breach; and (v) recommended steps that the Contractor Personal Data should take to protect any affected individuals from harm. Subcontractor will timely update information provided in the Contractor Personal Data Breach Notice to Contractor.

11.3 Investigation and Cooperation. Subcontractor shall cooperate with Contractor to identify the cause of such Contractor Personal Data Incident and take those steps as Contractor deems necessary and reasonable to investigate and remediate the cause of such a Contractor Personal Data Incident.

11.4 In the event of a Contractor Personal Data Incident, Subcontractor shall not inform any third party without

first obtaining Contractor's prior written consent, unless notification is required by Data Protection Laws and Regulations or any other law to which Subcontractor is subject, in which case Subcontractor shall to the extent permitted by such law inform Contractor of that legal requirement, provide a copy of the proposed notification and consider any comments made by Contractor before notifying the Contractor Personal Data Incident.

12. Data Protection Indemnity.

12.1 Subcontractor shall indemnify and hold harmless Contractor and each Contractor Affiliate against all losses, fines and sanctions arising from any claim by a third party or Supervisory Authority arising from any breach of this Addendum.

13. Data Protection Liability.

13.1 Notwithstanding anything to the contrary in the Agreement, Subcontractor's liability for any breach of this Addendum shall be unlimited.

14. General Terms.

14.1 Termination. This DPA shall terminate automatically upon (i) termination of the Agreement; or (ii) expiry or termination of all service contracts, SOWs, work orders or similar contract documents entered into by Contractor with Contractor and/or Contractor Affiliates pursuant to the Agreement, whichever is later.

Any obligation imposed on Contractor under this DPA in relation to the Processing of Contractor Personal Data shall survive any termination or expiration of this DPA.

14.2 Governing law of this DPA. This DPA shall be governed by the laws of the Commonwealth of Virginia

14.3 Choice of jurisdiction. The Parties to this DPA hereby submit to the choice of jurisdiction stipulated in this DPA with respect to any disputes or claims howsoever arising under this DPA.

14.4 Order of precedence. With regard to the subject matter of this DPA, in the event of inconsistencies between the provisions of this DPA and any other agreements between the Parties, including but not limited to the Agreement, the provisions of this DPA shall prevail with regard to the Parties' data protection obligations for Contractor Personal Data of a Data Subject.

14.5 Costs of compliance. Compliance by Contractor with the provisions of this DPA will be borne by Contractor.

14.6 Third party rights.

14.6.1 Except to the extent set forth in Section 13.2.2 and in the SCCs, a person who is not a party to this DPA shall have no right to enforce any term of this DPA.

14.6.2 A Contractor Affiliate may enforce any term of this DPA which is expressly or implicitly intended to benefit it. The rights of the Parties to rescind or vary this DPA are not subject to the consent of any other person.

14.7 Severance. Should any provision of this DPA be invalid or unenforceable, then the remainder of this DPA shall remain valid and in force. The invalid or unenforceable provision shall be either (i) amended as necessary to ensure its validity and enforceability, while preserving the Parties' intentions as closely as possible or, if this is

not possible or (ii) construed in a manner as if the invalid or unenforceable part had never been contained therein.

APPENDIX D – CONT.

Definitions

1. **DEFINITIONS. IN THIS DPA, THE FOLLOWING TERMS SHALL HAVE THE MEANINGS SET OUT BELOW AND COGNATE TERMS SHALL BE CONSTRUED ACCORDINGLY:**
- 1.1 "Affiliate" means an entity that owns or controls, is owned or controlled by or is or under common control or ownership with either Party, where control is defined as the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of an entity, whether through ownership of voting securities, by contract or otherwise.
- 1.2 "Applicable Laws" means (i) European Union or Member State laws with respect to any Subcontractor Personal Data in respect of which Subcontractor or any Subcontractor Affiliate is a Data Controller or a Data Processor under EEA Data Protection Laws and Regulations and (ii) any other applicable law with respect to any Subcontractor Personal Data in respect of which Subcontractor or any Subcontractor Affiliate is a Data Controller or a Data Processor under any other Data Protection Laws and Regulations.
- 1.3 "Authorized (Sub)processors" means (a) those (Sub)processors set out in Annex 2 ("Authorized (Sub)processor(s)"); and (b) any additional (Sub)processors consented to in writing by Subcontractor in accordance with Section 5 ("(Sub)processing").
- 1.4 "Contractor" means the Contractor or Contractor Affiliates, employees, representatives, Users.
- 1.5 "Contractor Personal Data" means the data described in Annex 1 ("Details of Processing of Personal Data) and any other Personal Data Processed by Subcontractor or any Subcontractor Affiliate on behalf of Contractor or any Contractor Affiliate pursuant to or in connection with the Agreement.
- 1.6 "Data Controller" shall have the same meaning as in the Data Protection Laws and Regulations.
- 1.7 "Data Processor" shall have the same meaning as in the Data Protection Laws and Regulations.
- 1.8 "Data Protection Laws" or "Data Protection Laws and Regulations" means any applicable data privacy or data security laws or electronic privacy laws applicable to the Processing of Personal Data under the Agreement, including but not limited to, the GDPR, Law Enforcement Directive (Directive (EU) 2016/680), UK Data Protection Bill, and other Applicable Laws within the United States, EEA and their member states, Switzerland and other jurisdictions.
- 1.9 "Data Subject", shall have the same meaning as in the Data Protection Laws and Regulations, including but not limited to Users.
- 1.10 "Delete" means the removal or obliteration of Personal Data such that it cannot be recovered or reconstructed.
- 1.11 "EEA" means the European Economic Area.
- 1.12 "GDPR" means the Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation).
- 1.13 "Permitted (Sub)processor" means an unaffiliated entity that Subcontractor engages to assist Subcontractor in Processing Contractor Personal Data for which all of the following conditions are satisfied before Subcontractor provides Permitted (Sub)processor any Contractor Personal Data:
- 1.13.1 the entity will provide services to Data Processor in order to assist Subcontractor in Processing Contractor Personal Data;
 - 1.13.2 the entity has been approved by Contractor in writing;
 - 1.13.3 Subcontractor has implemented due diligence on such entity reasonably sufficient for Subcontractor to determine that such entity Processes Contractor Personal Data in compliance with all applicable laws; and
 - 1.13.4 Subcontractor has entered into a valid and binding written agreement with the entity that includes terms and conditions that are at least as restrictive as those set out in this Addendum.
- 1.14 "Personal Data" shall have the same meaning as in applicable Data Protection Laws and Regulations.
- 1.15 "Personal Data Breach" means a data privacy violation and/or data security breach leading to the accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, misuse, or access to, Contractor Personal Data transmitted, stored or otherwise Processed, as well as any breach of Section 9 ("Security Controls and Safeguards") of this DPA, or of the data protection, confidentiality or security provisions of the Agreement.
- 1.16 "Process/Processing" shall have the same meaning as in the Data Protection Laws and Regulations.
- 1.17 "Relevant Date" means the date falling on the earlier of (i) the cessation of Processing of Contractor Personal Data by Subcontractor of Subcontractor Affiliates; or (ii) termination of the Agreement.
- 1.18 "Restricted Transfer" means either (i) a transfer of Personal Data from Contractor or any Contractor Affiliate ("Transferor") to Subcontractor or any Subcontractor Affiliate ("Transferee"); or (ii) an onward transfer from a Subcontractor to a (Sub)processor (also a "Transferee"), in each case where such transfer would be prohibited by Data Protection Laws and Regulations in the absence of the SCCs to be established under Section 6 ("Transfer Mechanisms for Restricted Transfers of Personal Data"). For the avoidance of doubt: (a) without limitation to the generality of the foregoing, the Parties to this DPA intend that transfers of Personal Data from the UK to the European Union or from the

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European Union to the UK, following any exit by the UK from the European Union shall be Restricted Transfers for such time and to such extent that such transfers would be prohibited by UK Data Protection Laws and Regulations or EEA Data Protection Laws and Regulations (as the case may be) in the absence of the SCCs to be established under Sections 5 ("Subprocessing") or 6 ("Transfer Mechanisms for Restricted Transfers of Personal Data"); and (b) where a transfer of Personal Data from one country to another country is of a type authorized by Data Protection Laws and Regulations in the exporting country for example in the case of transfers from within the European Union to a country or scheme (such as the EU - US Privacy Shield) which is approved by the European Commission as ensuring an adequate level of protection or any transfer which falls within a permitted derogation, such transfer shall not be a Restricted Transfer for the purposes of this DPA.

- 1.19 "**Services**" means the Services supplied under the Agreement.
- 1.20 "**Special Categories of Personal Data**" shall have the same meaning as in the Data Protection Laws and Regulations.
- 1.21 "**Standard Contractual Clauses**" or "**SCCs**" means (i) the standard contractual clauses for the transfer of Personal Data to Data Processors established in third countries, which do not ensure an adequate level of protection as

set out in Commission Decision C(2010) 593, as updated, amended, replaced or superseded from time to time by the European Commission; or (ii) where required from time to time by a Supervisory Authority for use with respect to any specific Restricted Transfer, any other set of contractual clauses or other similar mechanism approved by such Supervisory Authority or by applicable Data Protection Laws and Regulations for use in respect of such Restricted Transfer, as updated, amended, replaced or superseded from time to time by such Regulatory Authority or applicable Data Protection Laws and Regulations.

- 1.22 "**(Sub)processor**" means any subcontracting Data Processor appointed by Data Processor to Process Contractor Personal Data on behalf of Contractor or any Contractor Affiliate;
- 1.23 "**Supervisory Authority**" means (a) an independent public authority which is established by a Member State pursuant to Article 51 GDPR; and (b) any similar regulatory authority responsible for the enforcement of Data Protection Laws and Regulations;
- 1.24 "**Third Country**" means a country which is not a Member State of the EEA.
- 1.25 "**Users**" mean customers, consumers or users of Contractor services.

APPENDIX D – CONT.

ANNEX 1: DETAILS OF PROCESSING OF PERSONAL DATA

Nature and purpose of the Processing

Subcontractor will Process Contractor Personal Data as necessary to perform the Services.

Duration of the Processing

Subcontractor will Process Personal Data for the duration of the Agreement, unless otherwise agreed upon in writing or prohibited by law.

Data Subject Categories

Data Subjects who may be involved as part the Services may include, but is not limited to Contractor Personal Data, relating to the following categories:

- Prospects, customers, business partners and vendors of Client (who are natural persons)
- Client’s Users authorized by Client to use the Services

Personal Data Types

Contractor Personal Data that may be Processed as part of the Services, the extent of which is determined and controlled by Contractor in its sole discretion, and may include, but is not limited to Contractor Personal Data relating to the following Personal Data categories:

Personal Data Elements being processed	Processed Personal Data May Include:	
Contact Information	<input type="checkbox"/> Name	<input type="checkbox"/> Email address
	<input type="checkbox"/> Phone number	<input type="checkbox"/> Street address
Personal Information	<input type="checkbox"/> Phone number	<input type="checkbox"/> Social Security No.
	<input type="checkbox"/> Government ID	<input type="checkbox"/> Immigration Data (including Passport No.)
	<input type="checkbox"/> Driver's License No.	<input type="checkbox"/> Age
	<input type="checkbox"/> Date of Birth	<input type="checkbox"/> Background check/drug screening information
	<input type="checkbox"/> Gender	<input type="checkbox"/> Photos / Images
	<input type="checkbox"/> Emergency contacts	<input type="checkbox"/> Resumes/References
	<input type="checkbox"/> Education Information	<input type="checkbox"/> Children's Information
	<input type="checkbox"/> Family Information	<input type="checkbox"/> Racial or ethnic origins
<input type="checkbox"/> Offences and alleged offences	<input type="checkbox"/> Physical or mental	
<input type="checkbox"/> Religious beliefs or other beliefs of a similar nature		

