



**PERSONAL SERVICES AGREEMENT**  
**BETWEEN**  
**THE STATE OF CONNECTICUT**  
**OFFICE OF THE TREASURER**  
**AND**



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## PERSONAL SERVICES AGREEMENT

This **PERSONAL SERVICES AGREEMENT** (“Agreement” or “Contract”) is entered into as of \_\_\_\_\_ (the “Commencement Date”), between the **STATE OF CONNECTICUT**, acting through its Treasurer (the “Treasurer” or the “State”) and \_\_\_\_\_ a corporation, having a principal place of business at \_\_\_\_\_ (the “Contractor”).

WHEREAS Section 3-11a of the Connecticut General Statutes authorizes the Treasurer to enter into contracts as may be necessary and proper for the discharge of his duties;

WHEREAS having engaged in a process designed to solicit and evaluate bids, the Treasurer has selected the Contractor based on the Contractor’s proposal to provide \_\_\_\_\_ services. The Treasurer wishes to appoint the Contractor to provide such services, and the Contractor wishes to accept this appointment, on the terms and conditions set forth below; and

WHEREAS the Contractor hereby reaffirms the reliability and accuracy of the written and oral representations made to the Treasurer in Contractor’s solicitation of this Agreement, including without limitation the disclosures and certifications set forth in Exhibit A (Compliance Reporting).

NOW, THEREFORE, in consideration of the foregoing recitals that are incorporated herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

### 1. **Term**

This Agreement shall commence on the Commencement Date and shall expire on the earlier of (i) \_\_\_\_\_, or (ii) termination by either party as set forth in Section [32] hereof (Termination).

### 2. **Definitions**

“**Agreement**” shall mean this Personal Services Agreement, which may also be referred to herein as the “Contract.”

“**C.G.S.**” shall mean the Connecticut General Statutes.

“**Commencement Date**” shall have the meaning set forth in the introductory paragraph hereto.

“**Commission**” shall mean the Connecticut Commission on Human Rights and Opportunities.

“**Confidential Information**” shall mean any name, number or other information that may be used, alone or in conjunction with any other information, to identify a specific individual including, but not limited to, such individual's name, date of birth, mother's maiden name, motor vehicle operator's license number, Social Security number, employee identification number, employer or taxpayer identification number, alien registration number, government passport number, health insurance identification number, demand deposit account number, savings account number, credit card number, debit card number or unique biometric data such as fingerprint, voice print, retina or iris image, or other unique physical representation. Without limiting the foregoing,

Confidential Information shall also include any information that the Department classifies as “confidential” or “restricted.” Confidential Information shall not include information that may be lawfully obtained from publicly available sources or from federal, state, or local government records which are lawfully made available to the general public.

“Confidential Information Breach” shall mean, generally, an instance where an unauthorized person or entity accesses Confidential Information in any manner, including but not limited to the following occurrences: (1) any Confidential Information that is not encrypted or protected is misplaced, lost, stolen or in any way compromised; (2) one or more third parties have had access to or taken control or possession of any Confidential Information that is not encrypted or protected without prior written authorization from the Treasurer; (3) the unauthorized acquisition of encrypted or protected Confidential Information together with the confidential process or key that is capable of compromising the integrity of the Confidential Information; or (4) if there is a substantial risk of identity theft or fraud to the client, the Contractor, the Treasurer or State

“Contractor” shall have the meaning set forth in the introductory paragraph hereto.

“Contractor Parties” shall mean the Contractor’s members, directors, officers, shareholders, partners, managers, principal officers, representatives, agents, servants, consultants, employees or any one of them or any other person or entity with whom the Contractor is in privity of oral or written contract and the Contractor intends for such other person or entity to perform under the Contract in any capacity.

“Election Laws” shall mean C.G.S. Section 9-612, 9-613, *et seq*, as amended from time to time.

“Internal Investigation” shall have the meaning set forth in Section [21] (Legal proceedings) hereof.

“Proceeding” shall have the meaning set forth in Section [21] (Legal Proceedings) hereof.

“State” shall mean the State of Connecticut, acting through its Treasurer.

“State Ethics Code” shall mean Chapter 10 of the Connecticut General Statutes.

“Treasurer” shall mean (i) the Office of the State Treasurer; (ii) the then-current Treasurer of the State of Connecticut in his capacity as trustee; and/or (iii) the State Treasurer’s authorized agent, employee or designee.

### **3. Scope of Services**

#### **Part A – Arbitrage Rebate Services**

The scope of services to be provided by the Arbitrage Rebate services provider will include, but not be limited to, the following for each bond issue (“Issue”):

- a. Consult with the State regarding the nature of the bonding program, the Issue, and collect all necessary documentation and investment data.

- b. Review documentation for special elections and eligibility for spending exceptions. Determine if, and to what extent, the Issue is subject to the Rebate Requirements, and whether such Issue qualifies for exception(s).
- c. Calculate the “yield on the issue” (20 U.S.C. Section 148(f)(2)(A)(ii)).
- d. Review and confirm (if requested) prior arbitrage rebate reports for the Issue, if any.
- e. Identify, and separately account for, all “Gross Proceeds” of the Issue, including those requiring allocation analyses due to “Transferred Proceeds” and/or “Commingled Funds” circumstances (each as defined by the Code).
- f. Review and analyze the investments, funds, and accounts in which the proceeds are held. Determine, as needed, the fair market price or present value of investments.
- g. Calculate the Issue's excess investment earnings (cumulative rebate liability), taking into account any other deemed proceeds that are or have become subject to the rebate requirements and all credit and debits required or permitted by the tax regulations.
- h. Deliver a comprehensive report, acceptable to the Internal Revenue Service (“IRS”), detailing the tax arbitrage rebate calculations, the rebate liability and any yield restriction issues as well as an opinion letter regarding the calculations for the Issue. The letter shall provide, among other things, that such calculations were performed in compliance with federal tax law. Provide an executive summary identifying the methodology employed, major assumptions, conclusions, and any recommendations for changes in the State’s recordkeeping and investment policy.
- i. Prepare and provide for signing and dating a completed Form 8038-T ready for filing with the IRS, and any other required forms.
- j. Assist the State as necessary in the event of an IRS or other inquiry.
- k. Consult with State’s staff and the State’s bond and tax counsel as necessary to provide tax advice regarding rebate-related matters, record keeping and compliance, strategies to maximize investment earnings (net of rebate) while complying with tax regulations and changes in tax laws and their effects on outstanding issues and future issuances.
- l. When requested, develop models for calculating projected future rebate liability for investment and budgeting purposes. In lieu of an annual calculation, the State may request a liability estimate for the end of a June 30 fiscal year. Also, develop and maintain other models as requested for specific programs or issues.
- m. Maintain a database of all issues for the assigned bonding program and advise the State of any upcoming important dates, including, without limitation, spending exceptions, yield restrictions, required calculation dates, required payment dates, and current status of all issues in the program.

## **Part B – Verification Agent Service**

The Provider will be required to provide the services listed below in connection with each refunding bond or cash defeasance requested by the State. The Verification Agent services will include, but not be limited to, the following:

- a. Preparation of reports (defeasance requirements, investment cashflow, escrow sufficiency, bond yield, escrow yield, savings, etc.) and verification of the mathematical accuracy of escrow reports relating to the purchase of securities placed in the escrows to support debt service, including the verification of existing escrows.
- b. Review source documents (numbers run, official statements, trade confirmations, available SLGS rates, SLG subscription forms, prior verification reports, etc.) and confirm that the assumptions used in the calculations conform to such source documents.
- c. Coordinate as necessary with the financing team, including the Underwriters, Financial Advisor(s) Bond Counsel (s), and Tax Counsel to ensure that necessary information concerning the Refunding Bonds, the refunded (or defeased) bonds and escrow investments (the “Refunding Bond Information”) is accurately and completely transmitted and included in the verification report.
- d. Within 12 hours of receiving Refunding Bond or defeasance information provide an email confirmation, and within 7 calendar days (but no later than 2 days prior to closing) provide an opinion letter and report, of the mathematical accuracy of:
  1. Sources and Uses of Funds;
  2. Debt Service to maturity of the Refunded and Refunding Bonds, including June 30 fiscal year totals;
  3. Debt Service Requirements of the Refunding Bonds for Bond Yield calculation purposes;
  4. Proof of Bond Yield on the Refunding Bonds;
  5. Redemption price on the Refunded Bonds;
  6. Defeasance Requirements of the Refunded Bonds;
  7. Schedule of Escrow Investments, including required reinvestments, if any;
  8. The interest rates on the SLGS subscription is equal to, or less than, the maximum rate available for SLGS on the SLGS subscription date;
  9. Cashflow of the Escrow Investments, including reinvestments, if any;
  10. Proof of Yield on the Escrow Investments;
  11. The Escrow Yield is equal to or lower than the Bond Yield;

12. Escrow Fund Cash Flow Sufficiency;
  13. Savings report on a June 30 fiscal year basis, and on an alternative date basis, if requested. Cash flow and Net Present Value basis.
  14. Transferred Proceeds Calculations
  15. Dollar price of refunding bonds sold on a yield basis (to maturity or call)
  16. Accreted value calculations for deep discount term bonds
  17. Other schedules needed in support of transaction
- e. The Provider's Opinion Letter and reports shall be addressed to and may be relied upon by the State, Financial Advisor(s), Bond Counsel(s), Tax Counsel, Underwriters and Trustee.
  - f. In addition, prior to the pricing of the Refunding Bonds, or the escrow restructuring, or the cash defeasance and based on information submitted by the State, the verification agent will conduct a "dry-run" verification (pre-verification) of the pricing calculations by the State, underwriter, or financial advisor in order to ensure the accuracy of the proposed structure of the Refunding Bonds and/or escrow. The Refunding Bonds may be issued along with one or more other issues for yield purposes and the calculations may involve different escrows funded from various sources of funds and may give effect to prior restricted escrow investments.

#### **4. Compensation**

- A. The Treasurer shall pay the Contractor a fee of \_\_\_\_\_, for each of the [\_\_\_\_\_] years of the Term (the "Fee"). The Fee shall be paid on a quarterly basis in arrears in accordance with this Section [4] (Compensation). The maximum value of this Agreement is \$\_\_\_\_\_.
- B. For the quarter in which this Agreement commences or terminates, the Fee shall be prorated based upon the number of days in that quarter during which this Agreement is in effect. The Fee shall be calculated as follows: the regular quarterly Fee shall be multiplied by a fraction, the numerator of which is the number of days in the quarter during which the Agreement is in effect and the denominator of which is the total number of days in the quarter.
- C. The Contractor shall submit an invoice for payment of the Fee no later than 15 calendar days following the last business day of the quarter for which the Fee is due. In no event shall the Fee for any quarter be due or payable sooner than 30 calendar days following the end of the quarter for which the invoice is rendered.
- D. The Treasurer shall review any request for changes in Fees proposed by the Contractor. If the Treasurer approves a change in Fees, such change shall be implemented by amending this Agreement as provided in Section [25] (Entire Agreement; Integration; Amendments) hereof.
- E. The Contractor shall submit to the Treasurer invoices only covering work already performed; no compensation shall be paid to, or requested by, the Contractor in advance of services rendered. Invoices shall be mailed to:

Office of the Treasurer  
State of Connecticut  
165 Capitol Avenue  
Hartford, CT 06106  
Attention: Debt Management Division

The Treasurer may change the above address for invoices under this Section upon prior written notification to the Contractor.

**5. Representations and Warranties of the Contractor**

- A. The Contractor represents and warrants that it is fully experienced and properly qualified to perform the services provided for herein and that it is properly licensed, equipped, organized and financed to perform such services.
- B. The Contractor represents and warrants that neither the execution and delivery of this Agreement nor the consummation of the transactions contemplated herein will violate any agreement or a contractual commitment to which the Contractor is a party or by which it is bound, any law, regulation, order, or any provision of the Contractor's charter documents. The Contractor further represents and warrants that it is not a party to any existing agreement that would prevent the Contractor from entering into and performing this Agreement. For the term of this Agreement, the Contractor agrees not to enter into any other agreement that is in conflict with the Contractor's obligations under this Agreement.
- C. The Contractor represents and warrants that it is duly organized, validly existing, and in good standing under the laws of the state of its organization and has full corporate power and authority to carry on its business as it has been and is currently being conducted.
- D. The Contractor represents and warrants that it has full power and authority to enter into and perform fully the terms of this Agreement and that the execution of this Agreement on behalf of the Contractor is duly authorized and, upon execution and delivery, this Agreement shall be binding upon the Contractor in accordance with its terms.
- E. The Contractor represents and warrants that it has completed, obtained and performed all applicable registrations, filings, approvals, licenses, authorizations, consents and/or examinations required by any government or governmental authority for entry into this Agreement and performance of the services contemplated herein, and the Contractor further represents and warrants that it shall maintain all such proper and required registrations, filings, approvals, licenses, authorizations, consents and/or examinations for the term of this Agreement.
- F. The Contractor represents and warrants that it shall act as an independent contractor in performing this Agreement and shall maintain complete control over its employees and any subcontractors hired by it to perform services hereunder.
- G. The Contractor represents and warrants that it shall perform all services hereunder in accordance with the terms of this Agreement and in compliance with all applicable federal, state and local laws, regulations, guidelines, permits, and requirements.
- H. The Contractor represents that services to be rendered hereunder do not in any way conflict with other contractual commitments with or by the Contractor.

- I. The Contractor represents and warrants that neither any representation and warranty contained herein nor any written statements, certificates or documents delivered or to be delivered to the Treasurer or the Treasurer's designated representative(s) by or on behalf of the Contractor contains or will contain any misstatements of material fact, or omits or will omit to state a material fact necessary to make the statements contained herein or therein not misleading.
- J. The Contractor represents and warrants that the Contractor (including its key professionals) has no undisclosed material or potential conflict of interest with the Treasurer other than as disclosed in its **Conflict of Interest Certification in Attachment 4A to Exhibit A (Compliance Reporting)**. The Contractor shall, no less than annually and for the term of this Agreement, submit to the Treasurer a conflicts of interest certification.
- K. The Contractor shall promptly notify the Treasurer in writing in the event that any of the foregoing acknowledgements, representations, warranties or agreements herein shall no longer be true.

## **6. Changes in Services**

When changes in services are required or requested by the Treasurer, the Contractor shall promptly estimate the monetary effect of such services and so notify the Treasurer. Subject to the terms and conditions set forth in Section 25 (Entire Agreement; Integration; Amendments), the Contractor shall not implement any change in services under this Agreement unless such change is first approved by the Treasurer in writing. Unless otherwise agreed to in writing, the provisions of this Agreement shall apply to all changes in services.

## **7. Labor and Personnel**

At all times, the Contractor shall utilize qualified personnel necessary to perform the services under this Agreement. The Contractor shall, if requested to do so by the Treasurer, reassign from the Treasurer's account, within a reasonable period of time, any employee or authorized representative whom the Treasurer, in its sole discretion, determines is incompetent, dishonest, uncooperative or unable to effectively perform the responsibilities and services required hereunder.

## **8. Insurance Requirements**

- A. **Minimum Coverage Requirements.** At minimum, the Contractor shall at its sole cost and expense procure and maintain in full force and effect, during the Term of this Agreement and during the time that any provisions survive the Term, the types and minimum limits of insurance coverage specified in this Section [8] (Insurance) against claims for injuries to persons or damages to property that may arise from or in connection with the performance of the work hereunder by the Contractor, its agents, representatives, employees or subcontractors. In no event shall the Contractor perform work under this Agreement until the required evidence of insurance has been furnished to the Treasurer. All insurance shall be procured from reputable insurers (rated A-, class X or better by A.M. Best & Company) that are approved/admitted to doing business in the State of Connecticut or otherwise acceptable to the Treasurer. Coverage for occurrences happening during the performance of the services provided hereunder shall be maintained in full force and effect under the policy.

- B. Comprehensive General Liability Insurance: The Contractor shall obtain and maintain, at Contractor's sole cost and expense, occurrence-based commercial general liability insurance (including without limitation, Premises and Operations, Independent Contractors, Products and Completed Operations, Contractual Liability and Broad Form Property Damage coverage) or similar coverage with a limit of not less than \$1,000,000 for each occurrence for bodily injury, personal injury and property damage. If such insurance contains a general aggregate limit, the Contractor shall separately obtain and maintain a total (or aggregate) limit of \$2,000,000 per policy period. The Contractor shall cause the State and its officers, agents and employees to be named as an additional insured on the policy. The State shall be entitled to recover under the insurance policies even if a body of competent jurisdiction determines that the State is contributorily negligent.
- C. Professional Liability Insurance or Miscellaneous Professional Liability Insurance. The Contractor agrees to procure and maintain professional liability insurance or miscellaneous professional liability insurance with a limit of not less than \$10,000,000. The Contractor's insurance policy must have a provision for a supplemental Extended Reporting Period ("ERP" a/k/a "tail coverage"). This tail coverage allows for claims to be reported after the policy is terminated for covered incidents that occurred while the Contractor was insured. Should the Contractor cease operations which would result in the termination of this claims-made policy prior to the expiration date of this Agreement, the Contractor is required to activate the supplemental "ERP" or "tail" coverage by purchasing the extended coverage prior to the policy's termination. The Extended Reporting Period must be for three full years after termination.
- D. Information Security and Privacy Insurance. The Contractor shall carry, at Contractor's sole cost and expense, an information security and privacy insurance policy with limits not less than \$1,000,000 per occurrence or claim and \$2,000,000 annual aggregate. Coverage shall be sufficiently broad to respond to the duties and obligations as undertaken by the Contractor in this Contract and shall include without limitation claims involving security breach, system failure, data recovery, business interruption, cyber extortion, social engineering, infringement of intellectual property, including infringement of copyright, trademark, trade dress, invasion of privacy violations, information theft, damage to or destruction of electronic information, release of private information, and alteration of electronic information. The policy shall provide coverage for breach response costs, regulatory fines and penalties as well as credit monitoring expenses.
- E. Deductibles, Subrogation. The Contractor shall assume any and all deductibles in the described insurance policies. The Contractor's insurers shall have no right of recovery or subrogation against the State and the described Contractor's insurance shall be primary coverage.
- F. Certification. Prior to the execution of this Agreement, and otherwise as may be requested by the Treasurer, the Contractor shall furnish the Treasurer with proof of its insurance coverage. In doing so, the Contractor shall furnish the Treasurer with a true and correct copy of (a) the original insurance policies or (b) a Certificate of Insurance that shall clearly evidence all insurance required in this Agreement and which provide that such insurance may not be canceled, except on 30 days' prior written notice to the Treasurer. Notices of cancellation, termination, and alteration of such insurance or bond shall be delivered to the Treasurer immediately upon receipt by the Contractor. The Contractor shall, at least

annually, furnish proof of its insurance coverage, to the email address set forth in **Exhibit A (Compliance Reporting)**.

- G. **Cancellations, Modifications, Failures to Maintain, Etc.** The Contractor shall not cancel or reduce such coverage as set forth in this Section [8] (Insurance Requirements), except upon thirty (30) days prior written notice to the Treasurer. Notices of cancellation, termination, and alteration of such insurance or bond shall be delivered to the Treasurer *via* certified mail immediately upon receipt by the Contractor. If at any time during the term of this Agreement the Contractor fails to obtain or maintain the required insurance, the Treasurer shall have the right to treat such failure as a breach of contract and to exercise all appropriate rights and remedies. Each of the insurance coverages shall provide for at least thirty (30) days prior written a notice to be given to the Treasurer in the event coverage is materially changed, canceled or non-renewed.
- H. **Claims.** The Contractor shall notify the Treasurer in writing of any claims made to, and any payment received on a claim from any of its insurance carriers pertaining to the State or the Treasurer. Any failure to comply with the claim reporting provisions of the policy shall not affect coverage provided to the State. The Treasurer reserves the right to receive the benefit of any insurance coverage obtained by the Contractor in amounts higher than the minimums set forth herein.
- I. **Effect.** The insurance requirements set forth herein are not intended and shall not be construed to modify, limit or reduce the indemnification obligations made in this Agreement by the Contractor to the Treasurer or to limit the Contractor's liability under this Agreement to the limits of the policies of insurance required to be maintained by the Contractor hereunder.

## **9. Audit and Inspection of Plants, Places of Business and Records**

- A. The Contractor shall provide to the Treasurer access to any data, as defined in C.G.S. 4e-1, concerning the Agreement and the Treasurer that are in the possession or control of the Contractor, upon demand, and shall provide the data to the Treasurer in a format prescribed by the Treasurer and the State Auditors of Public Accounts at no additional cost.
- B. For purposes of this paragraph, the term "Records" shall mean all working papers and such other information and materials as may have been accumulated by the Contractor in performing the Contract, including but not limited to, documents, data, plans, books, computations, drawings, specifications, notes, reports, records, estimates, summaries, memoranda and correspondence, kept or stored in any form.
  - (a) The State and its agents, including, but not limited to, the Connecticut Auditors of Public Accounts, Attorney General and State's Attorney and their respective agents, may, at reasonable hours, inspect and examine all of the parts of the Contractor's and Contractor Parties' plants and places of business which, in any way, are related to, or involved in, the performance of this Contract.
  - (b) The Contractor shall maintain, and shall require each of the Contractor Parties to maintain, accurate and complete Records. The Contractor shall make all of its and the Contractor Parties' Records available at all reasonable hours for audit and inspection by the State and its agents.

- (c) The State shall make all requests for any audit or inspection in writing and shall provide the Contractor with at least twenty-four (24) hours' notice prior to the requested audit and inspection date. If the State suspects fraud or other abuse, or in the event of an emergency, the State is not obligated to provide any prior notice.
- (d) The Contractor shall pay for all costs and expenses of any audit or inspection which reveals information that, in the sole determination of the State, is sufficient to constitute a breach by the Contractor under this Agreement. The Contractor shall remit full payment to the State for such audit or inspection no later than 30 days after receiving an invoice from the State. If the State does not receive payment within such time, the State may set off the amount from any moneys which the State would otherwise be obligated to pay the Contractor in accordance with this Agreement's setoff provision.
- (e) The Contractor shall keep and preserve or cause to be kept and preserved all of its and Contractor Parties' Records until three (3) years after the latter of (i) final payment under this Agreement, or (ii) the expiration or earlier termination of this Agreement, as the same may be modified for any reason. The State may request an audit or inspection at any time during this period. If any Claim or audit is started before the expiration of this period, the Contractor shall retain or cause to be retained all Records until all Claims or audit findings have been resolved.
- (f) The Contractor shall cooperate fully with the State and its agents in connection with an audit or inspection. Following any audit or inspection, the State may conduct and the Contractor shall cooperate with an exit conference.
- (g) The Contractor shall incorporate this entire Section verbatim into any contract or other agreement that it enters into with any Contractor Party.

## **10. Nondisclosure**

The Contractor shall not release any information concerning the services provided pursuant to this Agreement or any part thereof to any member of the public, the press or media, business entity or any official body unless prior written consent is obtained from the Treasurer or required by law or court order.

## **11. Promotion**

No publicity release or announcement concerning this Agreement shall be issued without the advance written approval of the Treasurer. Unless specifically authorized in advance in writing by the Treasurer on a case-by-case basis, the Contractor shall have no right to use, and shall not use, the name of the State of Connecticut, its officials or employees, or the seal of the State of the Treasurer:

- i. In any advertising, publicity, or promotion;
- ii. As an express or implied endorsement of the Contractor's products or services; or
- iii. In any other manner (whether or not similar to uses prohibited by subsections (a) and (b) above), except to perform and deliver in accordance with this Agreement such services as are hereby contracted by the State of Connecticut.

In no event may the Contractor use the State Seal or the seal of the Office of the Treasurer in any way without the express written consent of the Secretary of State of the State of Connecticut or the Treasurer, respectively.

## **12. Confidentiality**

A. All data provided to the Contractor by the Treasurer, the Treasurer's staff or designated representatives, or developed internally by the Contractor with regard to the Treasurer or the State will be treated as proprietary to the State and confidential unless the Treasurer agrees in writing to the contrary in advance. The Contractor agrees to forever hold in confidence all files, records, documents or other information ("State Information") as designated, whether prepared by the State or others, which may come into the Contractor's possession during the term of this Agreement, except where a disclosure of such information by the Contractor is required (whether in the ordinary course of business or otherwise) by another governmental authority to ensure compliance with laws, rules or regulations, and such disclosure will be limited to that actually so required. Where such disclosure is required, the Contractor will provide advance written notice to the Treasurer of the need for disclosure. The Contractor shall inform all of its agents of the confidentiality provision contained in this Agreement. To fulfill the obligations of this Section, the Contractor shall maintain a privacy policy which shall contain procedures to safeguard State Information.

### **B. Protection of Confidential Information**

- a. Contractor and Contractor Parties, at their own expense, have a duty to and shall protect from a Confidential Information Breach any and all Confidential Information which they come to possess or control, wherever and however stored or maintained, in a commercially reasonable manner in accordance with current industry standards.
- b. Each Contractor or Contractor Party shall develop, implement and maintain a comprehensive data - security program for the protection of Confidential Information. The safeguards contained in such program shall be consistent with and comply with the safeguards for protection of Confidential Information, and information of a similar character, as set forth in all applicable federal and state law and written policy of the Treasurer or State concerning the confidentiality of Confidential Information. Such data-security program shall include, but not be limited to, the following:
  - 1) A security policy for employees related to the storage, access and transportation of data containing Confidential Information;
  - 2) Reasonable restrictions on access to records containing Confidential Information, including access to any locked storage where such records are kept;
  - 3) A process for reviewing policies and security measures at least annually;
  - 4) Creating secure access controls to Confidential Information, including but not limited to passwords; and
  - 5) Encrypting of Confidential Information that is stored on laptops, portable devices or being transmitted electronically.
- c. The Contractor and Contractor Parties shall notify the Treasurer and the Connecticut Office of the Attorney General as soon as practical, but no later than twenty-four (24)

hours, after they become aware of or suspect that any Confidential Information which Contractor or Contractor Parties have come to possess or control has been subject to a Confidential Information Breach. If a Confidential Information Breach has occurred, the Contractor shall, within three (3) business days after the notification, present a credit monitoring and protection plan to the Commissioner of Administrative Services, the Treasurer and the Connecticut Office of the Attorney General, for review and approval. Such credit monitoring or protection plan shall be made available by the Contractor at its own cost and expense to all individuals affected by the Confidential Information Breach. Such credit monitoring or protection plan shall include, but is not limited to reimbursement for the cost of placing and lifting one (1) security freeze per credit file pursuant to Connecticut General Statutes § 36a-701a. Such credit monitoring or protection plans shall be approved by the State in accordance with this Section and shall cover a length of time commensurate with the circumstances of the Confidential Information Breach. The Contractors' costs and expenses for the credit monitoring and protection plan shall not be recoverable from the Treasurer, any State of Connecticut entity or any affected individuals.

- d. The Contractor shall incorporate the requirements of this Section in all subcontracts requiring each Contractor Party to safeguard Confidential Information in the same manner as provided for in this Section.
- e. Nothing in this Section shall supersede in any manner Contractor's or Contractor Party's obligations pursuant to HIPAA or the provisions of this Contract concerning the obligations of the Contractor as a Business Associate of the Treasurer.

### **13. Nondiscrimination**

- (a) For purposes of this Section, the following terms are defined as follows:
  - i. "Commission" means the Commission on Human Rights and Opportunities;
  - ii. "Contract" and "contract" include any extension or modification of the Contract or contract;
  - iii. "Contractor" and "contractor" include any successors or assigns of the Contractor or contractor;
  - iv. "Gender identity or expression" means a person's gender-related identity, appearance or behavior, whether or not that gender-related identity, appearance or behavior is different from that traditionally associated with the person's physiology or assigned sex at birth, which gender-related identity can be shown by providing evidence including, but not limited to, medical history, care or treatment of the gender-related identity, consistent and uniform assertion of the gender-related identity or any other evidence that the gender-related identity is sincerely held, part of a person's core identity or not being asserted for an improper purpose;
  - v. "good faith" means that degree of diligence which a reasonable person would exercise in the performance of legal duties and obligations;
  - vi. "good faith efforts" shall include, but not be limited to, those reasonable initial efforts necessary to comply with statutory or regulatory requirements and additional or

- substituted efforts when it is determined that such initial efforts will not be sufficient to comply with such requirements;
- vii. "marital status" means being single, married as recognized by the state of Connecticut, widowed, separated or divorced;
  - viii. "mental disability" means one or more mental disorders, as defined in the most recent edition of the American Psychiatric Association's "Diagnostic and Statistical Manual of Mental Disorders", or a record of or regarding a person as having one or more such disorders;
  - ix. "minority business enterprise" means any small contractor or supplier of materials fifty-one percent or more of the capital stock, if any, or assets of which is owned by a person or persons: (1) who are active in the daily affairs of the enterprise, (2) who have the power to direct the management and policies of the enterprise, and (3) who are members of a minority, as such term is defined in subsection (a) of Connecticut General Statutes § 32-9n; and
  - x. "public works contract" means any agreement between any individual, firm or corporation and the State or any political subdivision of the State other than a municipality for construction, rehabilitation, conversion, extension, demolition or repair of a public building, highway or other changes or improvements in real property, or which is financed in whole or in part by the State, including, but not limited to, matching expenditures, grants, loans, insurance or guarantees.

For purposes of this Section, the terms "Contract" and "contract" do not include a contract where each contractor is (1) a political subdivision of the state, including, but not limited to, a municipality, unless the contract is a municipal public works contract or quasi-public agency project contract, (2) any other state, including but not limited to any federally recognized Indian tribal governments, as defined in C.G.S. § 1-267, (3) the federal government, (4) a foreign government, or (5) an agency of a subdivision, state or government described in the immediately preceding enumerated items (1), (2), (3), or (4)

- (b) (1) The Contractor agrees and warrants that in the performance of the Contract such Contractor will not discriminate or permit discrimination against any person or group of persons on the grounds of race, color, religious creed, age, marital status, national origin, ancestry, sex, gender identity or expression, status as a veteran, status as a victim of domestic violence, intellectual disability, mental disability or physical disability, including, but not limited to, blindness, unless it is shown by such Contractor that such disability prevents performance of the work involved, in any manner prohibited by the laws of the United States or of the State of Connecticut; and the Contractor further agrees to take affirmative action to ensure that applicants with job-related qualifications are employed and that employees are treated when employed without regard to their race, color, religious creed, age, marital status, national origin, ancestry, sex, gender identity or expression, status as a veteran, status as a victim of domestic violence, intellectual disability, mental disability or physical disability, including, but not limited to, blindness, unless it is shown by the Contractor that such disability prevents performance of the work involved; (2) the Contractor agrees, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, to state that it is an "affirmative action equal opportunity employer" in accordance with regulations adopted by the Commission; (3) the Contractor agrees to provide each labor union or representative of workers with which the Contractor has a collective bargaining Agreement or other contract or

- understanding and each vendor with which the Contractor has a contract or understanding, a notice to be provided by the Commission, advising the labor union or workers' representative of the Contractor's commitments under this section and to post copies of the notice in conspicuous places available to employees and applicants for employment; (4) the Contractor agrees to comply with each provision of this Section and Connecticut General Statutes §§ 46a-68e and 46a-68f and with each regulation or relevant order issued by said Commission pursuant to Connecticut General Statutes §§ 46a-56, 46a-68e and 46a-68f; and (5) the Contractor agrees to provide the Commission on Human Rights and Opportunities with such information requested by the Commission, and permit access to pertinent books, records and accounts, concerning the employment practices and procedures of the Contractor as relate to the provisions of this Section and Connecticut General Statutes § 46a-56. If the contract is a public works contract, the Contractor agrees and warrants that he will make good faith efforts to employ minority business enterprises as subcontractors and suppliers of materials on such public works projects.
- (c) Determination of the Contractor's good faith efforts shall include, but shall not be limited to, the following factors: The Contractor's employment and subcontracting policies, patterns and practices; affirmative advertising, recruitment and training; technical assistance activities and such other reasonable activities or efforts as the Commission may prescribe that are designed to ensure the participation of minority business enterprises in public works projects.
  - (d) The Contractor shall develop and maintain adequate documentation, in a manner prescribed by the Commission, of its good faith efforts.
  - (e) The Contractor shall include the provisions of subsection (b) of this Section in every subcontract or purchase order entered into in order to fulfill any obligation of a contract with the State and such provisions shall be binding on a subcontractor, vendor or manufacturer unless exempted by regulations or orders of the Commission. The Contractor shall take such action with respect to any such subcontract or purchase order as the Commission may direct as a means of enforcing such provisions including sanctions for noncompliance in accordance with Connecticut General Statutes §46a-56; provided if such Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Commission, the Contractor may request the State of Connecticut to enter into any such litigation or negotiation prior thereto to protect the interests of the State and the State may so enter.
  - (f) The Contractor agrees to comply with the regulations referred to in this Section as they exist on the date of this Contract and as they may be adopted or amended from time to time during the term of this Contract and any amendments thereto. Without limiting the foregoing, Contractor further represents and warrants that the CHRO Contract Compliance Report information disclosed in the form of **Exhibit A** (Compliance Reporting), Attachments 1A and 1B, is accurate and complete as of the date of this Agreement.
  - (g) (1) The Contractor agrees and warrants that in the performance of the Contract such Contractor will not discriminate or permit discrimination against any person or group of

persons on the grounds of sexual orientation, in any manner prohibited by the laws of the United States or the State of Connecticut, and that employees are treated when employed without regard to their sexual orientation; (2) the Contractor agrees to provide each labor union or representative of workers with which such Contractor has a collective bargaining Agreement or other contract or understanding and each vendor with which such Contractor has a contract or understanding, a notice to be provided by the Commission on Human Rights and Opportunities advising the labor union or workers' representative of the Contractor's commitments under this Section, and to post copies of the notice in conspicuous places available to employees and applicants for employment; (3) the Contractor agrees to comply with each provision of this Section and with each regulation or relevant order issued by said Commission pursuant to Connecticut General Statutes § 46a-56; and (4) the Contractor agrees to provide the Commission on Human Rights and Opportunities with such information requested by the Commission, and permit access to pertinent books, records and accounts, concerning the employment practices and procedures of the Contractor which relate to the provisions of this Section and Connecticut General Statutes § 46a-56.

- (h) The Contractor shall include the provisions of the foregoing paragraph in every subcontract or purchase order entered into in order to fulfill any obligation of a contract with the State and such provisions shall be binding on a subcontractor, vendor or manufacturer unless exempted by regulations or orders of the Commission. The Contractor shall take such action with respect to any such subcontract or purchase order as the Commission may direct as a means of enforcing such provisions including sanctions for noncompliance in accordance with Connecticut General Statutes § 46a-56; provided, if such Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Commission, the Contractor may request the State of Connecticut to enter into any such litigation or negotiation prior thereto to protect the interests of the State and the State may so enter.
- (i) Pursuant to subsection (c) of section 4a-60 and subsection (b) of section 4a-60a of the Connecticut General Statutes, the Contractor, for itself and its authorized signatory of this Contract, affirms that it understands the obligations of this Section and that it will maintain a policy for the duration of the Contract to assure that the Contract will be performed in compliance with the nondiscrimination requirements of such Sections. **The Contractor and its authorized signatory of this Contract demonstrate their understanding of this obligation by (A) having provided an affirmative response in the required online bid or response to a proposal question which asks if the contractor understands its obligations under such Sections, (B) signing this Contract, or (C) initialing this**

**nondiscrimination affirmation in the following box:** ☐

#### **14. Fiduciary Duties**

By execution of this Agreement, the Contractor, to the extent that it exercises any discretionary authority or discretionary control respecting the management or disposition of the assets, or renders investment advice, acknowledges that it is a fiduciary with respect to the Office of the Treasurer, and asserts that it is registered and/or licensed pursuant to all applicable state and federal laws. The Contractor shall discharge such fiduciary duties under this Agreement solely in the

interests of the Office of the Treasurer with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of like character and with like aims, and in accordance with the provisions of this Agreement.

**15. Indemnification**

- (a) The Contractor shall indemnify, defend and hold harmless the State and its officers, representatives, agents, servants, employees, successors and assigns from and against any and all (1) Claims arising, directly or indirectly, in connection with the Contract, including the acts of commission or omission (collectively, the "Acts") of the Contractor or Contractor Parties; and (2) liabilities, damages, losses, costs and expenses, including but not limited to, attorneys' and other professionals' fees, arising, directly or indirectly, in connection with Claims, Acts or the Contract. The Contractor shall use counsel reasonably acceptable to the State in carrying out its obligations under this Section. The Contractor's obligations under this Section to indemnify, defend and hold harmless against Claims includes Claims concerning confidentiality of any part of or all of the Contractor's bid, proposal or any Records, any intellectual property rights, other proprietary rights of any person or entity, copyrighted or uncopyrighted compositions, secret processes, patented or unpatented inventions, articles or appliances furnished or used in the Performance.
- (b) The Contractor shall not be responsible for indemnifying or holding the State harmless from any liability arising due to the negligence of the State or any third party acting under the direct control or supervision of the State.
- (c) The Contractor shall reimburse the State for any and all damages to the real or personal property of the State caused by the Acts of the Contractor or any Contractor Parties. The State shall give the Contractor reasonable notice of any such Claims.
- (d) The Contractor's duties under this Section shall remain fully in effect and binding in accordance with the terms and conditions of the Contract, without being lessened or compromised in any way, even where the Contractor is alleged or is found to have merely contributed in part to the Acts giving rise to the Claims and/or where the State is alleged or is found to have contributed to the Acts giving rise to the Claims.
- (e) The Contractor shall carry and maintain at all times during the term of the Contract, and during the time that any provisions survive the term of the Contract, sufficient general liability insurance to satisfy its obligations under this Contract. The Contractor shall name the State as an additional insured on the policy and shall provide a copy of the policy to the Agency prior to the effective date of the Contract. The Contractor shall not begin Performance until the delivery of the policy to the Agency. The Agency shall be entitled to recover under the insurance policy even if a body of competent jurisdiction determines that the Agency or the State is contributorily negligent.
- (f) This Section shall survive the Termination of the Contract and shall not be limited by reason of any insurance coverage.

**16. Liability**

Nothing set forth in this Agreement shall in any way constitute a waiver or limitation of any rights that the State or the Treasurer may have under any applicable laws and nothing contained in this Agreement shall be construed as relieving the Contractor from any responsibility or liability for any responsibility, obligation, or duty hereunder imposed on the Contractor by state or federal law.

**17. Corporate Responsibility**

The Contractor agrees and acknowledges that the Treasurer expects all of its vendors to be good corporate citizens. Good corporate citizenship includes, without limitation, embracing workforce diversity within the company and with respect to the procurement of goods and services, supporting the communities where the company does business with respect to charitable and civic organizations, community works and procurement practices, and incorporating good corporate governance in the company's operation. During the term of this Agreement, the Contractor agrees to furnish the Treasurer with detailed and accurate reports of its good corporate citizenship activities upon request.

**18. Third-Party Fee Disclosure**

The Contractor acknowledges and agrees that:

- A. Pursuant to Section 3-13j of the Connecticut General Statutes, and Office of the Treasurer policy, any person or entity who would be a party to a contract for investment services with the Office of the Treasurer shall disclose to the Treasurer, in writing, all third-party fees attributable to such contract before any such contract may take effect;
- B. Contractor is not providing investment services to the Office of the Treasurer under this Agreement.

The Contractor represents and warrants that the information it has disclosed on the **Third-Party Fees Affidavit**, as **Attachment 3 to Exhibit A (Compliance Reporting)**, is accurate and complete as of the date of this Agreement. The Contractor covenants to promptly report any changes to the disclosure provided on the Third-Party Fees Affidavit and to file an updated affidavit with the Treasurer on an annual basis each contract year.

- C. Consulting Agreements Representation.

Pursuant to section 4a-81 of the Connecticut General Statutes, the person signing this Contract on behalf of the Contractor represents, to their best knowledge and belief and subject to the penalty of false statement as provided in section 53a-157b of the Connecticut General Statutes, that the Contractor has not entered into any consulting agreements in connection with this Contract, except for the agreements listed below or in an attachment to this Contract. "Consulting agreement" means any written or oral agreement to retain the services, for a fee, of a consultant for the purposes of (A) providing counsel to a contractor, vendor, consultant or other entity seeking to conduct, or conducting, business with the State, (B) contacting, whether in writing or orally, any executive, judicial, or administrative office of the State, including any department, institution, bureau, board, commission, authority, official or employee for the purpose of solicitation, dispute resolution, introduction, requests for information, or (C) any other similar activity related to such contracts.

"Consulting agreement" does not include any agreements entered into with a consultant who is registered under the provisions of chapter 10 of the Connecticut General Statutes as of the date such contract is executed in accordance with the provisions of section 4a-81 of the Connecticut General Statutes.

\_\_\_\_\_  
Consultant's Name and Title

\_\_\_\_\_  
Name of Firm (if applicable)

\_\_\_\_\_  
Start Date

\_\_\_\_\_  
End Date

\_\_\_\_\_  
Cost

The basic terms of the consulting agreement are: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Description of Services Provided: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Is the consultant a former State employee or former public official? ☐ YES ☐ NO

If YES: \_\_\_\_\_

\_\_\_\_\_  
Name of Former State Agency

\_\_\_\_\_  
Termination Date of Employment

**19. Campaign Contributions**

Campaign Contribution Restriction. For all State contracts, defined in Conn. Gen. Stat. §9-612 as having a value in a calendar year of \$50,000 or more, or a combination or series of such agreements or contracts having a value of \$100,000 or more, the authorized signatory to this Agreement expressly acknowledges receipt of the State Elections Enforcement Commission's notice advising state contractors of state campaign contribution and solicitation prohibitions, and will inform its principals of the contents of the notice.

**20. Summary of State Ethics Laws**

None of the Contractor or Contractor Parties shall engage directly or indirectly in any financial or other transaction with any trustee, staff member or employee of the Office of the Treasurer that would violate the standards set forth in the State Ethics Code. Pursuant to the requirements of

section 1-101qq of the Connecticut General Statutes (a) the State has provided to the Contractor the summary of State ethics laws developed by the State Ethics Commission pursuant to section 1-81b of the Connecticut General Statutes, which summary is incorporated by reference into and made a part of this Contract as if the summary had been fully set forth in this Contract; (b) the Contractor represents that the chief executive officer or authorized signatory of the Contract and all key employees of such officer or signatory have read and understood the summary and agree to comply with the provisions of state ethics law; (c) prior to entering into a contract with any subcontractors or consultants, the Contractor shall provide the summary to all subcontractors and consultants and each such contract entered into with a subcontractor or consultant on or after July 1, 2021, shall include a representation that each subcontractor or consultant and the key employees of such subcontractor or consultant have read and understood the summary and agree to comply with the provisions of state ethics law; (d) failure to include such representations in such contracts with subcontractors or consultants shall be cause for termination of the Contract; and (e) each contract with such contractor, subcontractor or consultant shall incorporate such summary by reference as a part of the contract terms.

**21. Notice of Certain Legal Proceedings, Internal Investigations; Duty to Update**

- A. As of the date hereof, the Contractor shall have provided the Treasurer with a complete and accurate report in writing of any known or threatened (i) lawsuit, legal or administrative proceeding or governmental investigation, examination, complaint, disciplinary action, non-routine Securities and Exchange Commission inquiry or investigation, or other proceeding relating to the Contractor or any of its affiliates (including any proceedings to which the Contractor, its affiliates, or any of their respective officers, directors, principals, members, partners, managers or employees is a named party or of which any of such has been the focus), or of any other lawsuit, legal proceeding or governmental investigation (whether or not the Contractor or its affiliates, or any of their respective directors, officers, managers, or principal is a party thereto, but only to the extent the Contractor has knowledge thereof) relating to or affecting the Contractor's ability to perform its obligations under this Agreement or involving any investment professional employed by the Contractor who has performed or does perform any services for the Treasurer (each, a "Proceeding") and (ii) formal internal investigations of the Contractor, or any of its directors, officers, principals, members, partners, managers, investment professionals or employees involved with providing services to the Treasurer under this Agreement relating to or affecting the Contractor's ability to perform its obligations under this Agreement or involving any investment professional employed by the Contractor who has performed or does perform any services for the Treasurer (each, an "Internal Investigation").
- B. During the term of this Agreement and to the extent permitted by law, the Contractor agrees to promptly notify the Treasurer in writing of the commencement or existence of any known or threatened Proceeding or Internal Investigation.
- C. During the term of this Agreement and to the extent permitted by law, the Contractor agrees to promptly provide the Treasurer with any and all information reasonably requested by the Treasurer in response to disclosure made pursuant to this Section [21].
- D. During the term of this Agreement and to the extent permitted by law, the Contractor shall promptly inform the Treasurer in writing of any material changes in the status of any pending Proceeding or Internal Investigation previously disclosed hereunder, and shall

promptly update any information previously disclosed to the Treasurer related to any such Proceeding or Internal Investigation.

**22. Compliance; Duty to Update; Whistleblower**

Whistleblowing. This Contract may be subject to the provisions of Section 4-61dd of the Connecticut General Statutes. In accordance with this statute, if an officer, employee or appointing authority of the Contractor takes or threatens to take any personnel action against any employee of the Contractor in retaliation for such employee's disclosure of information to any employee of the contracting state or quasi-public agency or the Auditors of Public Accounts or the Attorney General under the provisions of subsection (a) of such statute, the Contractor shall be liable for a civil penalty of not more than five thousand dollars for each offense, up to a maximum of twenty per cent of the value of this Contract. Each violation shall be a separate and distinct offense and in the case of a continuing violation, each calendar day's continuance of the violation shall be deemed to be a separate and distinct offense. The State may request that the Attorney General bring a civil action in the Superior Court for the Judicial District of Hartford to seek imposition and recovery of such civil penalty. In accordance with subsection (i) of such statute, each large state contractor, as defined in the statute, shall post a notice of the provisions of the statute relating to large state contractors in a conspicuous place which is readily available for viewing by the employees of the Contractor.

**23. Representations Concerning Gifts**

A. Large State Contract Representation for Contractor

Pursuant to section 4-252 of the Connecticut General Statutes and Acting Governor Susan Bysiewicz Executive Order No. 21-2, promulgated July 1, 2021, the Contractor, for itself and on behalf of all of its principals or key personnel who submitted a bid or proposal, represents:

- (1) That no gifts were made by (A) the Contractor, (B) any principals and key personnel of the Contractor who participate substantially in preparing bids, proposals or negotiating State contracts, or (C) any agent of the Contractor or principals and key personnel, who participates substantially in preparing bids, proposals or negotiating State contracts, to (i) any public official or State employee of the State agency or quasi- public agency soliciting bids or proposals for State contracts, who participates substantially in the preparation of bid solicitations or requests for proposals for State contracts or the negotiation or award of State contracts, or (ii) any public official or State employee of any other State agency, who has supervisory or appointing authority over such State agency or quasi-public agency;
- (2) That no such principals and key personnel of the Contractor, or agent of the Contractor or of such principals and key personnel, knows of any action by the Contractor to circumvent such prohibition on gifts by providing for any other principals and key personnel, official, employee or agent of the Contractor to provide a gift to any such public official or State employee; and

- (3) That the Contractor submitted its bids or proposals without fraud or collusion with any person.

B. Large State Contract Representation for Official or Employee of State Agency

Pursuant to section 4-252 of the Connecticut General Statutes and Acting Governor Susan Bysiewicz Executive Order No. 21-2, promulgated July 1, 2021, the State agency official or employee represents that the selection of the person, firm or corporation was not the result of collusion, the giving of a gift or the promise of a gift, compensation, fraud or inappropriate influence from any person.

**24. Pay-to-Play**

The Contractor represents and warrants that neither the Contractor nor any individual in the Contractor's organization has received or paid, or entered into an agreement, to receive or pay, any compensation, fees, or any other benefit from or to any third party, including any consultants or contractors to the State or the Treasurer, in connection with the indirect or direct procurement of this Agreement.

**25. Entire Agreement; Integration; Amendments**

This Agreement embodies the entire agreement between the Treasurer and the Contractor on the matters specifically addressed herein. The parties shall not be bound by or be liable for any statement, representation, promise, inducement or understanding of any kind or nature not set forth herein. This Agreement shall supersede all prior written agreements between the parties and their predecessors. No party has been induced to enter into this Agreement by, nor is any party relying on, any representation or warranty outside those expressly set forth herein. No changes, amendments or modifications of any of the terms or conditions of this Agreement shall be valid unless reduced to writing, signed by both parties and approved by the Office of the Attorney General of the State of Connecticut. The parties shall meet and confer in good faith on any modification of this Agreement that may become necessary to make its provisions consistent with any policy of the Treasurer, or federal, state, local, foreign or international statute, rule, regulation or ordinance that governs any aspect of this Agreement.

**26. Notices**

Unless otherwise expressly provided to the contrary, all notices, requests, demands or other communications required by or otherwise with respect to this Agreement shall be in writing and shall be deemed given (i) when made, if made by hand delivery, and upon confirmation of receipt, if made by facsimile, (ii) one business day after being deposited with a next-day courier, postage prepaid, or (iii) three business days after being sent certified or registered mail, return receipt requested, postage prepaid, in each case to the applicable addresses set forth below (or to such other address as such party may designate in writing from time to time):

TREASURER: Office of the Treasurer  
State of Connecticut  
165 Capitol Avenue  
Hartford, CT 06106  
Telephone: (860) 702-3000

Attn: Debt Management Division

COPY TO: General Counsel  
Office of the Treasurer  
State of Connecticut  
165 Capitol Avenue  
Hartford, CT 06106  
Telephone: (860) 702-3000  
Fax: (860) 728-1290

CONTRACTOR:

[REDACTED]  
ADDRESS:  
CITY, STATE ZIP  
  
Telephone: (XXX) XXX-XXXX  
Fax: [REDACTED]

The parties may change their respective addresses for notices under this Section upon prior written notification to the other.

**27. Governing Law; Jurisdiction; Venue**

Forum and Choice of Law. The parties deem the Contract to have been made in the City of Hartford, State of Connecticut. Both parties agree that it is fair and reasonable for the validity and construction of the Contract to be, and it shall be, governed by the laws and court decisions of the State of Connecticut, without giving effect to its principles of conflicts of laws. To the extent that any immunities provided by Federal law or the laws of the State of Connecticut do not bar an action against the State, and to the extent that these courts are courts of competent jurisdiction, for the purpose of venue, the complaint shall be made returnable to the Judicial District of Hartford only or shall be brought in the United States District Court for the District of Connecticut only, and shall not be transferred to any other court, provided, however, that nothing here constitutes a waiver or compromise of the sovereign immunity of the State of Connecticut. The Contractor waives any objection which it may now have or will have to the laying of venue of any Claims in any forum and further irrevocably submits to such jurisdiction in any suit, action or proceeding.

**28. Discovery of Conflicts, Errors, Omissions, and Discrepancies**

In the case of conflicts, discrepancies, errors or omissions among the various parts of this Agreement, any such matter shall be submitted immediately by the Contractor to the Treasurer for clarification. The Treasurer shall issue such clarification within a reasonable period of time. This remedy shall not be deemed exclusive and the Contractor does not waive any of its legal or equitable remedies. Any services affected by such conflicts, discrepancies, errors or omissions which are performed by the Contractor prior to clarification by the State shall be at the Contractor's risk.

**29. Non-Waiver**

None of the conditions of this Agreement shall be considered waived by the Treasurer or the Contractor unless given in writing. Failure by the Treasurer to promptly assert any rights under this Agreement shall not be construed to be acquiescence of any misfeasance, malfeasance or nonfeasance. No such waiver shall be a waiver of any past or future default, breach, failure of condition, right or remedy or modification of any of the conditions of this Agreement unless expressly stipulated in such waiver.

**30. Survival**

The rights and obligations of the parties which by their nature survive termination or completion of this Agreement, including but not limited to those set forth herein Sections [10] (Nondisclosure), [11] (Promotion), [12] (Confidentiality), 15 (Indemnification) and [16] (Liability) of this Agreement, shall remain in full force and effect.

**31. Sovereign Immunity**

The parties acknowledge and agree that nothing in the Solicitation or the Contract shall be construed as a modification, compromise or waiver by the State of any rights or defenses of any immunities provided by Federal law or the laws of the State of Connecticut to the State or any of its officers and employees, which they may have had, now have or will have with respect to all matters arising out of the Contract. To the extent that this Section conflicts with any other section, this Section shall govern.

**32. Termination**

- (a) Notwithstanding any provisions in this Contract, the Agency, through a duly authorized employee, may Terminate the Contract whenever the Agency makes a written determination that such Termination is in the best interests of the State. The Agency shall notify the Contractor in writing of Termination pursuant to this Section, which notice shall specify the effective date of Termination and the extent to which the Contractor must complete its Performance under the Contract prior to such date.
- (b) Notwithstanding any provisions in this Contract, the Agency, through a duly authorized employee, may, after making a written determination that the Contractor has breached the Contract, Terminate the Contract in accordance with the provisions in the breach provisions of this Contract.
- (c) The Agency shall send the notice of Termination via certified mail, return receipt requested, to the Contractor at the most current address which the Contractor has furnished to the Agency for purposes of correspondence, or by hand delivery. Upon receiving the notice from the Agency, the Contractor shall immediately discontinue all services affected in accordance with the notice, undertake all commercially reasonable efforts to mitigate any losses or damages, and deliver to the Agency all Records. The Records are deemed to be the property of the Agency and the Contractor shall deliver them to the Agency no later than thirty (30) days after the Termination of the Contract or fifteen (15) days after the Contractor receives a written request from the Agency for the Records. The Contractor shall deliver those Records that exist in electronic,

magnetic or other intangible form in a non-proprietary format, such as, but not limited to, ASCII or .TXT.

- (d) Upon receipt of a written notice of Termination from the Agency, the Contractor shall cease operations as the Agency directs in the notice, and take all actions that are necessary or appropriate, or that the Agency may reasonably direct, for the protection, and preservation of the Goods and any other property. Except for any work which the Agency directs the Contractor to Perform in the notice prior to the effective date of Termination, and except as otherwise provided in the notice, the Contractor shall terminate or conclude all existing subcontracts and purchase orders and shall not enter into any further subcontracts, purchase orders or commitments.
- (e) The Agency shall, within forty-five (45) days of the effective date of Termination, reimburse the Contractor for its Performance rendered and accepted by the Agency in accordance with the Scope of Services, Section 3 of this Agreement, in addition to all actual and reasonable costs incurred after Termination in completing those portions of the Performance which the notice required the Contractor to complete. However, the Contractor is not entitled to receive and the Agency is not obligated to tender to the Contractor any payments for anticipated or lost profits. Upon request by the Agency, the Contractor shall assign to the Agency, or any replacement contractor which the Agency designates, all subcontracts, purchase orders and other commitments, deliver to the Agency all Records and other information pertaining to its Performance, and remove from State premises, whether leased or owned, all of Contractor's property, equipment, waste material and rubbish related to its Performance, all as the Agency may request.
- (f) For breach or violation of any of the provisions concerning representations and warranties, the Agency may Terminate the Contract in accordance with its terms and revoke any consents to assignments given as if the assignments had never been requested or consented to, without liability to the Contractor or Contractor Parties or any third party.
- (g) Upon Termination of the Contract, all rights and obligations shall be null and void, so that no party shall have any further rights or obligations to any other party, except with respect to the Sections that survive Termination. All representations, warranties, agreements and rights of the parties under the Contract shall survive such Termination to the extent not otherwise limited in the Contract and without each one of them having to be specifically mentioned in the Contract.
- (h) Termination of the Contract pursuant to this Section shall not be deemed to be a breach of contract by the Agency.

### **33. Assignment**

This Agreement shall not be assigned by either party without the express prior written consent of the other party.

### **34. Severability**

If any part or parts of this Agreement shall be held to be void, invalid or unenforceable, or contrary to any express provision of law, or contrary to the policy of express law though not expressly prohibited, or against public policy, then such part or parts shall be treated as severable from the

rest of the Agreement, leaving valid and enforceable the remainder of this Agreement and in no way shall affect the validity or enforceability of the rights of the parties hereto.

**35. Executive Orders and Other Enactments**

- A. All references in this Contract to any Federal, State, or local law, statute, public or special act, executive order, ordinance, regulation or code (collectively, "Enactments") shall mean Enactments that apply to the Contract at any time during its term, or that may be made applicable to the Contract during its term. This Contract shall always be read and interpreted in accordance with the latest applicable wording and requirements of the Enactments. Unless otherwise provided by Enactments, the Contractor is not relieved of its obligation to perform under this Contract if it chooses to contest the applicability of the Enactments or the Client Agency's authority to require compliance with the Enactments.
- B. This Contract is subject to the provisions of Executive Order No. Three of Governor Thomas J. Meskill, promulgated June 16, 1971, concerning labor employment practices, Executive Order No. Seventeen of Governor Thomas J. Meskill, promulgated February 15, 1973, concerning the listing of employment openings and Executive Order No. Sixteen of Governor John G. Rowland promulgated August 4, 1999, concerning violence in the workplace, all of which are incorporated into and are made a part of this Contract as if they had been fully set forth in it.
- C. This Contract may be subject to (1) Executive Order No. 14 of Governor M. Jodi Rell, promulgated April 17, 2006, concerning procurement of cleaning products and services; and (2) Executive Order No. 61 of Governor Dannel P. Malloy promulgated December 13, 2017 concerning the Policy for the Management of State Information Technology Projects, as issued by the Office of Policy and Management, Policy ID IT-SDLC-17-04. If any of the Executive Orders referenced in this subsection is applicable, it is deemed to be incorporated into and made a part of this Contract as if fully set forth in it.

**36. Successor and Assigns**

This Agreement shall inure to the benefit of and be binding upon each party's respective successors or assigns.

**37. Miscellaneous Provisions**

- A. Disclosure of Records. This Contract may be subject to the provisions of section 1-218 of the Connecticut General Statutes. In accordance with this statute, each contract in excess of two million five hundred thousand dollars between a public agency and a person for the performance of a governmental function shall (a) provide that the public agency is entitled to receive a copy of records and files related to the performance of the governmental function, and (b) indicate that such records and files are subject to FOIA and may be disclosed by the public agency pursuant to FOIA. No request to inspect or copy such records or files shall be valid unless the request is made to the public agency in accordance with FOIA. Any complaint by a person who is denied the right to inspect or copy such records or files shall be brought to the Freedom of Information Commission in accordance with the provisions of sections 1-205 and 1-206 of the Connecticut General Statutes.

- B. Both parties hereto hereby agree that all references made in this Agreement to any statute, public act, regulation, code or executive order shall refer to such statute, a public act, regulation, code or executive order respectively as it has been amended, replaced or superseded.
- C. Despite and notwithstanding any contrary theory at law, in equity or otherwise, including but not limited to “the specific overruling the general,” the parties hereto expressly agree that in the event of any conflict between the provisions of this section of this Agreement (“Miscellaneous Provisions”) and the provisions of any other section of this Agreement, the provisions of this Miscellaneous Provisions section of this Agreement shall override, control and apply.
- D. Compliance with Consumer Data Privacy and Online Monitoring - Pursuant to section 4e-72a of the Connecticut General Statutes, Contractor shall at all times comply with all applicable provisions of sections 42-515 to 42-525, inclusive, of the Connecticut General Statutes, as the same may be revised or modified.

**38. Iran Investment Energy Certification**

- (a) Pursuant to Section 4-252a of the Connecticut General Statutes, the Contractor certifies that it has not made a direct investment of twenty million dollars or more in the energy sector of Iran on or after October 1, 2013, as described in Section 202 of the Comprehensive Iran Sanctions, Accountability and Divestment Act of 2010, and has not increased or renewed such investment on or after said date.
- (b) If the Contractor makes a good faith effort to determine whether it has made an investment described in subsection (a) of this Section then the Contractor shall not be deemed to be in breach of the Contract or in violation of this Section. A "good faith effort" for purposes of this subsection includes a determination that the Contractor is not on the list of persons who engage in certain investment activities in Iran created by the Department of General Services of the State of California pursuant to Division 2, Chapter 2.7 of the California Public Contract Code. Nothing in this subsection shall be construed to impair the ability of the State agency or quasi-public agency to pursue a breach of contract action for any violation of the provisions of the Contract.

**39. Headings**

Descriptive headings in this Agreement are for convenience only and shall not affect the construction or meaning of the contractual language.

**40. Further Assurances**

From and after the date of this Agreement, upon the request of the Treasurer, the Contractor shall execute and deliver such instruments, documents, and other writings as may be reasonably necessary or desirable to confirm and carry out and to effectuate fully the intent and purposes of this Agreement.

**41. Counterpart Originals**

This Agreement may be executed in any number of counterparts, each of which shall be an original, but which, taken together, shall constitute one and the same instrument.

**42. Call Center and Customer Service Work, If Applicable**

The Contractor shall perform all required state business-related call center and customer service work entirely within the State of Connecticut. If the Contractor performs work outside of the State of Connecticut and adds customer service employees who will perform work pursuant to this Contract, then the Contractor shall employ such new employees within the State of Connecticut prior to any such employee performing any work pursuant to this Contract.

**43. Health Insurance Portability and Accountability Act.**

Notwithstanding anything to the contrary contained herein, both parties hereby acknowledge and agree that this Agreement does not concern or in any way relate to the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”). Further, any foregoing provision of this Agreement that would cause this Agreement to concern or in any way to relate to HIPAA is null, void, unenforceable and hereby stricken from this Agreement.

*[Signature Page Follows]*

IN WITNESS WHEREOF, the parties have hereunto executed this Agreement, which shall become effective as of the Commencement Date.



**TREASURER  
STATE OF CONNECTICUT**

**By:** \_\_\_\_\_  
**Title:** \_\_\_\_\_

**By:** \_\_\_\_\_  
**Title:** **Treasurer**

**Dated:** \_\_\_\_\_

**Dated:** \_\_\_\_\_

**Approved as to form:  
OFFICE OF THE ATTORNEY GENERAL**

**By:** \_\_\_\_\_  
**Title:** \_\_\_\_\_

**Dated:** \_\_\_\_\_

## **EXHIBIT A – Compliance Reporting**

In accordance with Connecticut Law and Office of the Treasurer policies, vendors of the Office are required to provide various reports, affidavits and other documents indicating compliance with such laws and policies. The required forms may be found on the Compliance Reporting link:

**Compliance Reporting link:** <https://portal.ct.gov/OTT/Doing-Business/Compliance-Reporting>

[Completed forms will be attached to this Agreement when executed.]

Insurance Certificate – Vendors must produce annual proof of insurance coverage as required under this Agreement, which may consist of a copy of the Insurance Policy or an Insurance Certificate. Submit to [OTT.Compliance@ct.gov](mailto:OTT.Compliance@ct.gov)