



# STATE OF UTAH COOPERATIVE CONTRACT

1. CONTRACTING PARTIES: This Contract is between the Division of Purchasing and the following Contractor:

Propio LS LLC  
 \_\_\_\_\_  
 Name

10801 Mastin St. #580  
 \_\_\_\_\_  
 Address

Overland Park                      KS                      66210  
 \_\_\_\_\_  
 City                                      State                      Zip

Contact Person Julian Van Dyke Phone # 913-396-6042 Email jvandyke@propio.com  
 Vendor # VC0000181981 Commodity Code # 96175

LEGAL STATUS OF CONTRACTOR

Sole Proprietor  
 Non-Profit Corporation  
 For-Profit Corporation  
 Partnership  
 Government Agency

2. CONTRACT PORTFOLIO NAME: In-Person and Remote Interpreting Services

3. PROCUREMENT: This Contract is entered into as a result of Solicitation #MK25-40.

4. CONTRACT PERIOD: Effective Date: 8/2/2025 or date of last signature, whichever is later. Termination Date: 8/1/2030 unless terminated early or extended in accordance with the terms and conditions of this Contract. Renewal options (if any): None.

5. Prompt Payment Discount (if any): N/A. Price Guarantee Period (if any): One year.

6. Administrative Fee, as described in the Solicitation and Attachment A: .25%.

7. ATTACHMENT A: State of Utah Standard Terms and Conditions for  Goods and Services, or  IT

ATTACHMENT B: Scope of Work

ATTACHMENT C: Cost

ATTACHMENT D: Business Associate Agreement

ATTACHMENT E: Medicaid Requirements

**Any conflicts between Attachment A and the other Attachments will be resolved in favor of Attachment A.**

8. DOCUMENTS INCORPORATED INTO THIS CONTRACT BY REFERENCE BUT NOT ATTACHED:

- a. All other governmental laws, regulations, or actions applicable to the goods and/or services authorized by this Contract.
- b. Utah State Procurement Code, Procurement Rules, the Solicitation, and Contractor's response to the Solicitation.

9. Each person signing this Contract represents and warrants that he/she is duly authorized and has legal capacity to execute and deliver this Contract and bind the parties hereto. Each signatory represents and warrants to the other that the execution and delivery of the Contract and the performance of each party's obligations hereunder have been duly authorized and that the Contract is a valid and legal Contract binding on the parties and enforceable in accordance with its terms.

IN WITNESS WHEREOF, the parties sign and cause this Contract to be executed. Notwithstanding verbal or other representations by the parties, the "Effective Date" of this Contract shall be the date provided within Section 4 above.

## CONTRACTOR

Christopher Pesce  
 \_\_\_\_\_  
 Contractor's Signature

Christopher Pesce                      CFO                      08/18/2025  
 \_\_\_\_\_  
 Print Name                      Title                      Date

## STATE

\_\_\_\_\_  
Director, Division of Purchasing

\_\_\_\_\_  
Date

**ATTACHMENT A: STATE OF UTAH STANDARD INFORMATION TECHNOLOGY TERMS AND CONDITIONS**  
**STATE OF UTAH COOPERATIVE INFORMATION TECHNOLOGY CONTRACT**

This is a State Cooperative Contract for information technology products and services. DTS policies referenced by number in this Attachment are only applicable to the Executive Branch and are available at <https://dts.utah.gov/policies>. All other policies and codes of conduct are available upon request.

**1. DEFINITIONS:**

- a. "Access to Secure State Facilities, Data, or Technology" means Contractor will (a) enter upon secure premises controlled, held, leased, or occupied by State of Utah or Eligible User; (b) maintain, develop, or have access to any deployed hardware, software, firmware, or any other technology, that is in use by State of Utah or Eligible User; or (c) have access to or receive any State Data or Confidential Information.
- b. "Authorized Persons" means the Contractor's employees, officers, partners, Subcontractors, or agents of Contractor who need Access to Secure State Facilities, Data, or Technology to enable the Contractor to perform its responsibilities under this Contract.
- c. "Background IP" means intellectual property (IP) owned or controlled prior to the effective date of this Contract or that IP developed or acquired from activities independent of the services performed under this Contract, including but not limited to (a) methodologies, processes, technologies, algorithms, software, or development tools used in performing the Services, and (b) processes and reusable reports, designs, charts, plans, specifications, documentation, forms, templates, or output which are supplied or otherwise used by or on behalf of Contractor in the course of performing the Services or creating the Custom Deliverables, other than portions that specifically incorporate proprietary or Confidential Information or Custom Deliverables of Eligible User.
- d. "Contract" means the Contract Signature Page(s), including all referenced attachments and documents incorporated by reference.
- e. "Contract Period" means the term of this Contract, as set forth in the Contract Signature Page(s).
- f. "Contract Signature Page(s)" means the cover page that the Division and Contractor sign.
- g. "Contractor" means the individual or entity identified on the Contract Signature Page(s). "Contractor" includes Contractor's agents, officers, employees, partners, contractors, and Subcontractors at any level.
- h. "Custom Deliverables" means the product that Contractor is required to design, develop, or customize and deliver to the Eligible User as specifically described under this Contract or an associated statement of work for which all interest and title shall be transferred to and owned by the Eligible User. This includes every invention, design, development, customization, improvement, process, software program, work of authorship, documentation, formula, datum, technique, know how, or intellectual property right whatsoever or any interest therein (whether patentable or not patentable or registrable under copyright or similar statutes or subject to analogous protection) that is specifically made, conceived, discovered, or reduced to practice by Contractor pursuant to this Contract.
- i. "Data Breach" means the unauthorized access or acquisition of State Data that compromises the security, confidentiality, or integrity of State Data.
- j. "Division" means the State of Utah Division of Purchasing.
- k. "DTS" means the Utah Department of Technology Services.
- l. "Eligible User(s)" means the State of Utah's government departments, institutions, agencies, political subdivisions (i.e., colleges, school districts, counties, cities, etc.), and, as applicable, nonprofit organizations, agencies of the federal government, or any other entity authorized by the laws of the State of Utah to participate in State Cooperative Contracts.
- m. "Federal Criminal Background Check" means a fingerprint-based, nationwide background check conducted and processed by the FBI.
- n. "Federal Data" means all information that originated with a federal entity, including tax information.
- o. "Good" means any deliverable not classified as a Custom Deliverable or Service.
- p. "Intellectual Property Rights" means all rights to patents, utility models, mask works, copyrights, trademarks, trade secrets, and other protection afforded by law to inventions, models, designs, technical information, and applications.
- q. "Non-Public Data" means records or data that are not subject to distribution to the public. Access is restricted because it includes information that is protected by state or federal law. Non-Public Data includes, but is not limited to, a person's name; government-issued identification numbers (e.g., Social Security, driver's license, passport); financial account information; or Protected Health Information.
- r. "Procurement Item" means a Good, a supply, Services, Custom Deliverable, construction, or technology that Contractor is required to deliver to the State of Utah under this Contract, including software and Software as a Service.
- s. "Protected Health Information" (PHI) is as defined in the Health Insurance Portability and Accountability Act of 1996 (HIPAA), as amended, and its implementing regulations.
- t. "Response" means the Contractor's bid, proposals, quote, or any other document used by the Contractor to respond to the State Entity's Solicitation.
- u. "Security Incident" means the attempted unauthorized access to State Data that may result in the use, disclosure, or theft of State Data.

- v. "Services" means the furnishing of labor, time, or effort by Contractor, and may include installation, configuration, implementation, technical support, warranty maintenance, and other support services.
- w. "Solicitation" means an invitation for bids, request for proposals, notice of sole source procurement, request for statement of qualifications, request for information, or any document used to obtain bids, proposals, pricing, qualifications, or information for the purpose of entering into this Contract.
- x. "Single Sign On" means the authentication and authorization system operated by the State of Utah for accessing resources operated either by the State or a third party on behalf of the State.
- y. "X [Software, Platform, Infrastructure, Network, etc.] as a Service (SaaS)" means an application running on a Contractor's or State's cloud infrastructure which is accessible from various client devices through a client interface (e.g. a Web browser, Web-based email, a program interface etc.) For clarity, the State does not manage or control the underlying cloud infrastructure including network, servers, operating systems, storage, or even individual application capabilities, with the possible exception of limited user-specific application configuration settings.
- z. "State Data" means Data that is created, controlled, maintained, owned, or in any way originating from or on behalf of the State of Utah, including confidential information, Non-Public Data, and all data that is the output of computer processing or other electronic manipulation of any data created, controlled, maintained, or in any way originating from the State of Utah, regardless of where such data or output is stored or maintained.. "State of Utah" means the State of Utah, in its entirety, including its institutions, agencies, departments, divisions, authorities and instrumentalities, boards, commissions, elected or appointed officers, employees, agents, authorized volunteers, and where applicable, Eligible Users.
- aa. "Subcontractors" includes contractors, manufacturers, distributors, suppliers, or consultants, at any tier, that are under the direct or indirect control or responsibility of Contractor, including a person or entity that is, or will be, providing goods or performing services pursuant to this Contract.

## 2. ESSENTIAL PROVISIONS:

- a. **CONTRACT JURISDICTION, CHOICE OF LAW, AND VENUE:** This Contract shall be governed solely by the laws of the State of Utah. Any action or proceeding arising from this Contract shall be brought in a court of competent jurisdiction in the State of Utah. Exclusive venue shall be in Salt Lake City, in the Third Judicial District Court for Salt Lake County.
- b. **LAWS:** Contractor and all Goods and Services delivered under this Contract will comply with all applicable federal and state of Utah laws, including applicable licensure and certification requirements.
- c. **SOVEREIGN IMMUNITY:** The Division and the State of Utah do not waive any protection, right, defense or immunity under the Governmental Immunity Act of Utah, Utah Code §§ 63G-7-101 to 904, as amended, the Eleventh Amendment to the Constitution of the United States, or otherwise, from any claim or from the jurisdiction of any court. If a claim must be brought in a federal forum, then the party bringing the claim shall file it and seek to adjudicate it exclusively within the United States District Court for the District of Utah. This paragraph applies only to a claim brought against DTS or the State of Utah to the extent Congress has abrogated the State of Utah's sovereign immunity. Furthermore, this paragraph is not consent by DTS or the State of Utah to be sued in federal court.
- d. **PUBLIC INFORMATION:** This Contract and any purchase orders, invoices, pricing lists, and the Response are public records available for disclosure in accordance with the State of Utah's Government Records Access and Management Act (GRAMA, Utah Code 63G-2-101 et seq.), except to the extent classified as protected in accordance with UCA 63G-2-309. GRAMA takes precedence over any statements of confidentiality or similar notations. Neither the Division, the Eligible User nor the State of Utah will inform Contractor of any request for a copy of this Contract, including any purchase orders, invoices, pricing lists, or the Response.
- e. **CREDITING THE DIVISION IN PUBLICITY:** Any publicity given to this Contract shall identify the Division as the managing agency and shall not be released without prior written approval from the Division.
- f. **SALES TAX EXEMPTION:** Goods, Custom Deliverables, and Services purchased by some Eligible Users are being paid from that Eligible User's funds and used in the exercise of that Eligible User's essential functions as a State of Utah governmental entity. Any such Eligible Users will provide Contractor with a copy of its sales tax exemption number upon request.
- g. **SEVERABILITY:** A declaration or order by any court that any provision of this Contract is illegal and void shall not affect the legality and enforceability of any other provision of this Contract, unless the provisions are mutually dependent.
- h. **AMENDMENTS:** This Contract may only be amended by the mutual written agreement of the parties, provided that the amendment is within the Scope of Work of this Contract, is within the scope/purpose of the Solicitation, and is attached and made part of this Contract. Automatic renewals are prohibited and are deemed void even if listed elsewhere in this Contract.
- i. **DEBARMENT:** Contractor certifies that it is not presently nor has ever been debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation by any government department or agency, whether international, national, state, or local. Contractor must notify the Division within thirty (30) days if debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in any contract by any governmental entity.
- j. **NONAPPROPRIATION OF FUNDS, REDUCTION OF FUNDS, OR CHANGES IN LAW:** This Contract may be terminated in whole or in part at the sole discretion of the Division or Eligible User upon thirty days written notice, if the Division or Eligible User determines that (a) a change in Federal or State legislation or applicable laws materially affects the ability of either party to perform under the terms of this Contract; or (b) that a change in available funds affects the Division or Eligible User's ability to pay under this Contract. A change of available funds includes, but is not limited to, a change in Federal or State funding, whether as a result of a legislative act or an order of the President, the Governor, or Executive Director.
- k. The Division or Eligible User, as applicable, will reimburse Contractor for the Goods or Services properly ordered and delivered

until the effective date of said notice. The Division and Eligible User are not liable for any performance, commitments, penalties, or liquidated damages that accrue after the effective date of the notice.

- l. **ENTIRE AGREEMENT:** This Contract is the entire agreement between the parties, and supersedes any prior and contemporaneous agreements and understandings between the parties, whether oral or written.
  - m. **WAIVER:** The waiver by either party of any provision, term, covenant, or condition of this Contract shall not be deemed to be a waiver of any other provision, term, covenant, or condition of this Contract nor any subsequent breach of the same or any other provision, term, covenant, or condition of this Contract. The Eligible User's approval, acceptance, or payment for any Goods or Services required under this Contract shall not be construed to operate as a waiver by the Eligible User of any right under this Contract or of any cause of action arising out of the performance or nonperformance of this Contract.
  - n. **CHANGES IN SCOPE:** Any changes in the scope of work to be performed under this Contract shall be in the form of a written amendment to this Contract, mutually agreed to and signed by both parties, specifying any such changes, fee adjustments, any adjustment in time of performance, or any other significant factors arising from the changes in the scope of work.
  - o. **TRAVEL COSTS:** Unless otherwise agreed to in the contract, all travel costs associated with the delivery of Services will be paid in accordance with the Utah Administrative Code R25-7. Invoices containing travel costs outside of these rates will be returned to the Contractor for correction.
- 3. RECORDS ADMINISTRATION:** Contractor shall maintain or supervise the maintenance of all records necessary to properly account for Contractor's performance and the payments made by an Eligible User to Contractor. These records shall be retained by Contractor for at least six (6) years after final payment (per Utah Administrative Code R33-12-605 and Utah Code 78B-2-309), or until all audits initiated within the six (6) years have been completed, whichever is later. Contractor shall allow, at no additional cost, State of Utah auditors, federal auditors, Eligible Users or any firm identified by the Division, access to all such records. Contractor must refund to the Division any overcharges brought to Contractor's attention by the Division or the Division's auditor and Contractor is not permitted to offset identified overcharges by alleged undercharges to Eligible Users.
- CERTIFY REGISTRATION AND USE OF EMPLOYMENT "STATUS VERIFICATION SYSTEM":** This Status Verification System, also referred to as "E-verify", requirement only applies to contracts issued through a Request for Proposal process and to sole sources that are included within a Request for Proposal.
- 1) Contractor certifies as to its own entity, under penalty of perjury, that Contractor has registered and is participating in the Status Verification System to verify the work eligibility status of Contractor's new employees that are employed in the State of Utah in accordance with applicable immigration laws including Section 63G-12-302, Utah Code, as amended.
  - 2) Contractor shall require that the following provision be placed in each subcontract at every tier: "The subcontractor shall certify to the main (prime or general) Contractor by affidavit that the subcontractor has verified through the Status Verification System the employment status of each new employee of the respective subcontractor, all in accordance with applicable immigration laws including Section 63G-12-302, Utah Code, as amended, and to comply with all applicable employee status verification laws. Such affidavit must be provided prior to the notice to proceed for the subcontractor to perform the work."
  - 3) Contractor's failure to comply with this section will be considered a material breach of this Contract.
  - 4) Contractor shall protect, indemnify, and hold harmless the Division, the Eligible Users, and the State of Utah, and anyone that the State of Utah may be liable for, against any claim, damages, or liability arising out of or resulting from violations of the above Status Verification System Section whether violated by employees, agents, or contractors of the following: (a) Contractor; (b) Subcontractor at any tier; and/or (c) any entity or person for whom the Contractor or Subcontractor may be liable.
- 4. CONFLICT OF INTEREST:** Contractor represents that none of its officers or employees are officers or employees of the State of Utah, unless written disclosure has been made to the Division.
- 5. INDEPENDENT CONTRACTOR:** Contractor is an independent contractor, and not an employee or agent of the Division, the Eligible Users, or the State of Utah, and therefore is not entitled to any of the benefits associated with such employment. Contractor has no authorization, express or implied, to bind the Division, the Eligible Users, or the State of Utah to any agreements, settlements, liabilities, or understandings, and shall not perform any acts as an agent for the Division, the Eligible users, or the State of Utah. Contractor is responsible for all applicable federal, state, and local taxes and FICA contributions.
- 6. CRIMINAL BACKGROUND SCREENING:** Depending on the Eligible User's policy, each employee of Contractor and Subcontractor may be required to successfully complete a Federal Criminal Background Check, prior to being granted Access to Secure State Facilities, State Data, or Technology. Contractor or the applicable employee shall provide Eligible Users with sufficient personal information (at Contractor's expense) so that a Federal Criminal Background Check may be completed by the Eligible User, at Eligible User's expense. The Eligible User will provide Contractor with forms which must be filled out by Contractor and returned to the Eligible User. Each employee of Contractor or a Subcontractor who will have Access to Secure State Facilities, State Data, or Technology must be fingerprinted by the Eligible User or local law enforcement a minimum of one week prior to needing access. At the time of fingerprinting, said employee shall disclose all felony or misdemeanor convictions. Eligible Users may conduct a Federal Criminal Background Check based upon the fingerprints and personal information provided and use this same information to complete a Name Check in the Utah Criminal Justice Information System (UCJIS) at least every two years. Eligible Users may revoke Access to Secure State Facilities, Data, and Technology granted in the event of any negative results. Contractor and the employee or subcontractor shall immediately notify Eligible Users if an arrest or conviction for a felony or misdemeanor of any person that has Access to Secure State Facilities, State Data or Technology occurs during the Contract Period. Eligible Users will determine in its discretion if such person's Access to Secure State Facilities, State Data, or Technology shall remain in effect. Felony and misdemeanor are defined by the laws of the State of Utah, regardless of where the conviction occurred. (DTS Policy 2000-0014 Background Investigations)
- 7. DRUG-FREE WORKPLACE:** Contractor shall abide by the Eligible User's drug-free workplace policies while on the Eligible User's

or the State of Utah's premises.

8. **CODE OF CONDUCT:** If Contractor is working at facilities controlled or owned by the State of Utah, Contractor shall follow and enforce the agency applicable code of conduct. Contractor will ensure that each employee receives a copy of the policies and applicable codes of conduct. (DTS Policy 2000-0001 Code of Conduct, DTS Policy 1000-0003 Acceptable Use of Information Technology Resources)

9. **INDEMNITY AND LIABILITY**

- a. **Indemnity Clause:** Contractor shall fully indemnify, defend, and save harmless the Division, Eligible Users, and the State of Utah from all claims, losses, suits, actions, damages, and costs of every name and description arising out of Contractor's performance of this Contract caused by any intentional act, omission or negligence of Contractor, its agents, employees, officers, partners, and Subcontractors, without limitation; provided, however, that the Contractor shall not indemnify for that portion of any claim, loss, or damage due to the fault of the Division, the Eligible User, or the State of Utah. Any limitations of the Contractor's liability will not apply to injuries to persons, including death, or to damages to property.
- b. **Governmental Immunity Act:** In accordance with the Constitution of the State of Utah and the Governmental Immunity Act of Utah ("the Act", Utah Code §§63G-7-101 to 904, as amended), the Division and the State of Utah have no liability for the operations, acts, or omissions of the Contractor or any third party. Any indemnity obligations of the Division, Eligible Users, or the State of Utah are subject to the Constitution of the State of Utah and the Act and limited to claims that arise from and to the extent caused by the negligent acts or omissions of the Division or the Eligible Users in the performance of the Division's or the Eligible User's obligations under this Contract.
- c. **Intellectual Property Indemnification:** Contractor warrants and represents it has full ownership and clear title free of all liens and encumbrances to any Good delivered under this contract. Contractor also warrants that any Good, Custom Deliverable, or Service furnished by Contractor under this Contract, including its use by the Eligible Users in unaltered form, will not infringe any copyrights, patents, trade secrets, or other proprietary rights.

Contractor will release, indemnify, and hold the Division, the Eligible Users, and the State of Utah harmless from liability or damages of any kind or nature, including Contractor's use of any copyrighted or un-copyrighted composition, secret process, patented or un-patented invention, article, or appliance furnished or used in Contractor's performance of this Contract. Additionally, if such a claim or liability is based upon an allegation that a Good, Custom Deliverable, or Service furnished by Contractor infringes on any right protected by any patent, copyright, trademark, trade secret, and/or proprietary right, Contractor shall indemnify and hold harmless the Division, the Eligible Users, and the State of Utah for any judgments, settlements, costs, and reasonable attorneys' fees resulting from such a claim or liability. Contractor shall defend all actions brought upon such matters to be indemnified hereunder and pay all costs and expenses incidental thereto; however, the Eligible Users shall have the right, at its option, to participate in the defense of any such action at its own expense without relieving Contractor of any obligation hereunder. If there are any limitations of liability in this Contract, such limitations will not apply to this section.

10. **HARDWARE WARRANTY: THE STATE OF UTAH DOES NOT ACCEPT ANY PROCUREMENT ITEM "AS-IS".** CONTRACTOR WARRANTS ALL HARDWARE PORTIONS OF ANY GOOD OR CUSTOM DELIVERABLE THAT IT DIRECTLY OR INDIRECTLY PROVIDES FOR A PERIOD OF **ONE YEAR**. ALL WARRANTIES GRANTED TO THE DIVISION AND ELIGIBLE USERS BY THE UNIFORM COMMERCIAL CODE OF THE STATE OF UTAH APPLY TO THIS CONTRACT. PRODUCT LIABILITY DISCLAIMERS AND/OR WARRANTY DISCLAIMERS FROM CONTRACTOR OR ITS SUPPLIERS ARE REJECTED. CONTRACTOR WARRANTS THAT THE HARDWARE: (A) WILL PERFORM AS SPECIFIED IN THE RESPONSE; (B) WILL LIVE UP TO ALL SPECIFIC CLAIMS LISTED IN THE RESPONSE; (C) WILL BE SUITABLE FOR THE ORDINARY PURPOSES FOR WHICH THE HARDWARE IS USED; (D) WILL BE SUITABLE FOR ANY SPECIAL PURPOSES THAT THE DIVISION HAS RELIED ON CONTRACTOR'S SKILL OR JUDGMENT TO CONSIDER WHEN IT ADVISED THE DIVISION ABOUT THE HARDWARE IN THE RESPONSE; (E) THE HARDWARE HAS BEEN PROPERLY DESIGNED AND MANUFACTURED; AND (F) IS FREE OF SIGNIFICANT DEFECTS.

11. **SOFTWARE WARRANTY: THE STATE OF UTAH DOES NOT ACCEPT ANY PROCUREMENT ITEM "AS-IS".** CONTRACTOR WARRANTS FOR A PERIOD OF **NINETY DAYS** FROM THE DATE OF ACCEPTANCE THAT THE SOFTWARE PORTIONS OF THE GOODS AND CUSTOM DELIVERABLES THAT CONTRACTOR DIRECTLY OR INDIRECTLY PROVIDES WILL: (A) PERFORM IN ACCORDANCE WITH THE SPECIFIC CLAIMS PROVIDED IN THE RESPONSE; (B) BE SUITABLE FOR THE ORDINARY PURPOSES FOR WHICH SUCH GOODS AND CUSTOM DELIVERABLES ARE USED; (C) BE SUITABLE FOR ANY SPECIAL PURPOSES THAT THE ELIGIBLE USER HAS RELIED ON CONTRACTOR'S SKILL OR JUDGMENT TO CONSIDER WHEN IT ADVISED THE STATE ABOUT THE GOODS OR CUSTOM DELIVERABLES; (D) HAVE BEEN PROPERLY DESIGNED AND MANUFACTURED; AND (E) BE FREE OF SIGNIFICANT DEFECTS. CONTRACTOR SHALL PROVIDE THE ELIGIBLE USER WITH BUG FIXES, INCLUDING INFORMING THE ELIGIBLE USERS OF ANY KNOWN SOFTWARE BUGS OR SOFTWARE DEFECTS THAT MAY AFFECT THE STATE'S USE OF THE SOFTWARE.

12. **WARRANTY REMEDIES:** Upon breach of warranty, Contractor will repair or replace (at no charge to the Eligible User) the nonconforming Goods or Custom Deliverables. If the repaired and/or replaced products are inadequate, Contractor will refund the full amount of any payments that have been made for the failed products. These remedies are in addition to any other remedies provided by law or equity.

13. **UPDATES AND UPGRADES:** Contractor grants to the Eligible User a non-exclusive, non-transferable license to use upgrades and updates provided by Contractor during the Contract Period. Upgrades and updates are subject to the terms of this Contract. The Eligible User reserves the right to accept updates and upgrades at its discretion and to determine if such updates comply with the requirements in the Contract scope of work. Contractor shall keep any applicable hardware, software, middleware, and application plugins up to date and in a state of good repair. All patches, critical vulnerabilities, and/or hardware issues must be addressed based on response times by criticality as laid out in the SOW. If the State hosts the solution, then Contractor may request such maintenance from the DTS hosting team.

- 14. BUG FIXING AND REMOTE DIAGNOSTICS:** Contractor shall use commercially reasonable efforts to provide work-around solutions or patches to reported software problems. With the Eligible User's prior written authorization, Contractor may perform remote diagnostics to work on reported problems. If the Eligible User declines remote diagnostics, Contractor and the Eligible User may agree to on-site technical support, subject to the terms of the Contract.
- 15. TECHNICAL SUPPORT AND MAINTENANCE:** If technical support and maintenance is required by the Contract, Contractor will use commercially reasonable efforts to respond to the Eligible User in a reasonable time, and in all events, in accordance with the specific timeframes detailed in the Contract, when the Eligible User makes technical support or maintenance requests.
- 16. PHYSICAL DELIVERY:** All non-electronic deliveries will be F.O.B. Destination Freight Prepaid and Allowed, unless specifically negotiated otherwise and explicitly written in this contract, with all transportation and handling charges paid by Contractor. Contractor is responsible for including any freight charges due by the Eligible User to Contractor when providing quotes to the Eligible User. Invoices listing freight charges that were not identified in the quote will be returned to the Contractor to remove such costs. Responsibility and liability for loss or damage will remain with Contractor until final inspection and acceptance, when responsibility will pass to the Eligible User except as to latent defects, fraud, and Contractor's warranty obligations.
- 17. ELECTRONIC DELIVERY:** Contractor may electronically deliver any Good or Custom Deliverable to the Eligible User or provide any Good and Custom Deliverable for download from the Internet, if pre-approved in writing by the Eligible User. Contractor shall ensure the confidentiality of electronic deliveries in transit. Contractor warrants that all electronic deliveries will be free of known malware, bugs, Trojan horses, etc.
- 18. ACCEPTANCE PERIOD:** A Good, Custom Deliverable, or Service furnished under this Contract shall function in accordance with the specifications identified in this Contract and Solicitation. If the Goods and Custom Deliverables delivered do not conform to the specifications identified in this Contract and Solicitation ("Defects"), the Eligible User shall within thirty (30) calendar days of the delivery date ("Acceptance Period") notify Contractor in writing of the Defects. Upon receiving notice, Contractor shall use reasonable efforts to correct the Defects within fourteen (14) calendar days ("Cure Period"). The Eligible User's acceptance of a Good, Custom Deliverable, or Services occurs at the end of the Acceptance Period or Cure Period, whichever is later.

If after the Cure Period, a Good, Custom Deliverable, or Service still has Defects, then the Eligible User may, at its option: (a) declare Contractor to be in breach and terminate this Contract; (b) demand replacement conforming Goods, Custom Deliverables, or Services from Contractor at no additional cost to the Eligible User; or (c) continue the Cure Period for an additional time period agreed upon by the Eligible User and Contractor in writing. Contractor shall pay all costs related to the preparation and shipping of the replacement products. No products shall be deemed accepted and no invoices shall be paid until acceptance. The warranty period will begin upon the end of the Acceptance Period.

- 19. SECURE PROTECTION AND HANDLING OF STATE DATA:** If Contractor is given access to State Data, the protection of State Data shall be an integral part of the business activities of Contractor, and Contractor shall ensure that there is no inappropriate or unauthorized use of State Data. Contractor shall safeguard the confidentiality, integrity, and availability of the State Data and comply with the conditions outlined below. The Eligible User reserves the right to verify Contractor's adherence to the following conditions to ensure they are met:
- a. **Network Security:** Contractor shall maintain network security that, at a minimum, includes: network firewall provisioning, intrusion detection, and regular third-party penetration testing. Contractor shall maintain network security and ensure that Contractor network security policies conform to one of the following:
    - 1) Those standards the State of Utah applies to its own network, found outlined in *DTS Policy 5000-0002 Enterprise Information Security Policy*;
    - 2) Current standards set forth and maintained by the National Institute of Standards and Technology, includes those at: <http://nvlpubs.nist.gov/nistpubs/SpecialPublications/NIST.SP.800-53r4.pdf>; or
    - 3) Any generally recognized comparable standard that Contractor then applies to its own network and pre-approved by the Eligible User in writing.
  - b. **State Data Security:** Contractor shall protect and maintain the security of State Data with protection that is at least as good as or better than that maintained by the State of Utah which will be provided by an Eligible User upon Contractor's request (*DTS Policy 5000-0002*). These security measures included but are not limited to maintaining secure environments that are patched and up to date with all appropriate security updates as designated (ex. Microsoft Notification). Data access must incorporate the principles of test privilege and be physically and technologically controlled. The Eligible User reserves the right to determine if Contractor's level of protection meets the Eligible User's security requirements.
  - c. **State Data Transmission:** Contractor shall ensure all transmission or exchange of system application data with the Eligible User and State of Utah and/or any other parties expressly designated by the State of Utah, shall take place via secure means (ex. HTTPS or FTPS).
  - d. **State Data Storage:** All State Data will be stored and maintained in data centers in the United States. No State Data will be processed on or transferred to any portable or laptop computing device or portable storage medium, except for devices that are used and kept only at Contractor's United States data centers, unless such medium is part of the Contractor's designated backup and recovery process.
  - e. **Access:** Contractor shall permit its employees and Subcontractors to remotely access non-State Data only as required to provide technical support.
  - f. **State Data Encryption:** Contractor shall store all data provided to Contractor, including State, as well as any backups made of that data, in encrypted form using no less than 128 bit key and include all data as part of a designated backup and recovery process.
  - g. **Authentication:** Any portable or laptop computer that has access to the Eligible User's or State of Utah networks, or stores any Eligible User data shall be equipped with strong and secure password protection. All systems that require authentication must use the Single Sign On solution operated by the State of Utah. This may be accomplished through federation using standard

authentication protocols or direct integration into the vendor supplied application. If the Goods or Services, or both, are to be accessed or used by both Internal (state employees, contractors, etc.) and External (public, etc.) users, then the Goods and Services must be able to be integrated with multiple identity providers at the same time.

- h. **Confidential Information Certification:** Contractor shall sign a Confidential Information Certification form prior to being given access to confidential computerized records.
- i. **State Data Re-Use:** All data exchanged shall be used expressly and solely for the purpose enumerated in this Contract. No State Data of any kind may be transmitted, exchanged, or provided to other contractors or third parties except on a case-by-case basis as specifically agreed to in writing by the Eligible User.
- j. **State Data Destruction:** No sooner than 60 days but no later than 90 days following the expiration or termination of this Contract, and only after ensuring compliance with Section 32 (Ownership, Protection, and Return of Documents and Data) of this Attachment A, Contractor shall erase, destroy, and render unreadable all State Data from all non-state computer systems and backups, and certify in writing that these actions have been completed within thirty (30) days of the expiration or termination of this Contract or within seven (7) days of the request of the Eligible User, whichever shall come first, unless the Eligible User provides Contractor with a written directive. The Eligible User's written directive may require that certain data be preserved in accordance with applicable law.
- k. **Services Shall Be Performed Within the United States:** ALL OF THE SERVICES RELATED TO STATE DATA SHALL BE PERFORMED WITHIN THE BORDERS AND JURISDICTION OF THE UNITED STATES.
- l. **User Support:** Contractor may provide technical user support on a 24/7 basis using a Follow the Sun model, unless otherwise prohibited by this contract.
- m. **Federal Data Protection:** Contractor shall store all Federal Data in a manner that, at all times, is physically and electronically secure from access by unauthorized persons. Contractor shall employ both physical and technological barriers to prevent unauthorized retrieval of Federal Data via computer, remote terminal, or other means. Federal Data must be subject to separation-of-duties protocols and provided only to those with a need to know.
  - 1) Contractor shall store each query for Federal Data in Contractor's system (including read-only and system access events that do not result in a change to data or a new transaction) as a separate record, not overlaid by subsequent records. All viewing of Federal Data must be recorded by a fully-automated audit trail system, which can be via an online query, automated report, batch processing, or any other logical means. Access to the audit file must be restricted to authorized users with a need to know and be maintained for a minimum of three years or the amount of time required by a federal agency, whichever is greater.
  - 2) Contractor shall delete, purge, destroy, or return to the State of Utah all Federal Data upon termination of the Contract with no output retained by Contractor. If immediate purging is not possible, Contractor shall certify that any Federal Data in physical or electronic storage will remain safeguarded to prevent unauthorized disclosure. Contractor agrees to abide by all relevant federal laws, restrictions on access, use, disclosure, and security requirements in the State's data exchange agreement with the social security administration, including receipt of security awareness training by Contractor's employees who have access to Federal Data through this Contract. Contractor shall permit the State to conduct, at least once every three years and upon prior notice, a review to verify that the Contract is in compliance with the State's agreement with the social security administration.
  - 3) Federal Data may be used only for the purpose of carrying out the provisions of the Contract. Federal Data must be treated as confidential and may not be divulged or made known in any manner to any person except as may be necessary in the performance of the Contract.
  - 4) All computer systems receiving, processing, storing, or transmitting Federal Data must meet the requirements set forth by the applicable federal agency.

**20. SECURITY INCIDENT OR DATA BREACH NOTIFICATION:** Contractor shall immediately inform the Eligible User of any Security Incident or Data Breach. It is within the Eligible User's discretion to determine whether any attempted unauthorized access is a Security Incident or a Data Breach.

- a. **Incident Response:** Contractor may need to communicate with outside parties regarding a Security Incident, which may include contacting law enforcement and seeking external expertise as mutually agreed upon, defined by law or contained in this Contract. Discussing Security Incidents with the Eligible User should be handled on an urgent as-needed basis, as part of Contractor's communication and mitigation processes, defined by law or contained in this Contract.
- b. **Security Incident Reporting Requirements:** Contractor shall promptly report a Security Incident to the Eligible User.
- c. **Breach Reporting Requirements:** As required by Utah Code 13-44-202 or any other law, Contractor shall immediately notify the Eligible User of a Data Breach that affects the security of State Data.

**21. DATA BREACH.** In the event of a data breach, liability for notification, remedial costs, and damages are the responsibility of the Party whose environment was breached.

**22. DATA BREACH RESPONSIBILITIES:** Contractor shall comply with all applicable laws that require the notification of individuals in the event of a Data Breach or other events requiring notification (*DTS Policy 5000-0002 Enterprise Information Security Policy*). In the event of a Data Breach or other event requiring notification under applicable law (Utah Code § 13-44-101 thru 301 et al), Contractor shall: (a) cooperate with the Eligible User by sharing information relevant to the Data Breach; (b) promptly implement necessary remedial measures, if necessary; and (c) document responsive actions taken related to the Data Breach, including any post-incident review of events and actions taken to make changes in business practices in relation to the Data Breach. If the Data Breach requires public notification, all communication shall be coordinated with the Eligible User. Contractor is responsible for all notification and remedial costs and damages.

**23. STATE INFORMATION TECHNOLOGY POLICIES:** If Contractor is providing an Executive Branch Agency of the State of Utah with Goods or Custom Deliverables, Contractor shall comply with policies and procedures that meet or exceed those DTS follows for internally developed goods and deliverables to minimize security risk, ensure applicable Utah and Federal laws are followed, address issues with accessibility and mobile device access, and prevent outages and data breaches within the State of Utah's environment. Contractor shall comply with the following DTS Policies:

- a. **DTS Policy 4000-0001, Enterprise Application and Database Deployment Policy:** A Contractor developing software for the State to develop and establish proper controls that will ensure a clear separation of duties between developing and deploying applications and databases to minimize security risk; to meet due diligence requirements pursuant to applicable Utah and federal regulations; to enforce contractual obligations; and to protect the State's electronic information and information technology assets.
- b. **DTS policy 4000-0002, Enterprise Password Standards Policy:** A Contractor developing software for the State must ensure it complies with the password requirements of the Enterprise Password Standards Policy.
- c. **DTS Policy 4000-0003, Software Development Life Cycle Policy:** A Contractor developing software for the State shall work with DTS in implementing a Software Development Lifecycle (SDLC) that addresses key issues of security, accessibility, mobile device access, and standards compliance.
- d. **DTS Policy 4000-0004, Change Management Policy:** Goods or Custom Deliverables furnished or Services performed by Contractor which have the potential to cause any form of outage or to modify DTS's or the State of Utah's infrastructure must be reviewed by the DTS Change Management Committee. Any outages or Data Breaches which are a result of Contractor's failure to comply with DTS instructions and policies will result in Contractor's liability for all damages resulting from or associated with the outage or Data Breach.

**24. CONFIDENTIALITY:** This section does not apply to records where disclosure is regulated under Federal or State laws.

GRAMA applies only to records, therefore if information (other than Non-Public Data, Public Health Information, or State Data) is disclosed orally by either party which either party wishes to remain confidential, then each party shall adhere to the following:

Each party will: (a) limit disclosure of any such information to Authorized Persons who have a need to know such information in connection with the current or contemplated business relationship between the parties to which this Contract relates, and only for that purpose; (b) advise its Authorized Persons of the proprietary nature of the information and of the obligations set forth in this Contract and require such Authorized Persons to keep the information confidential; (c) shall keep all information strictly confidential by using a reasonable degree of care, but not less than the degree of care used by it in safeguarding its own confidential information; and (d) not disclose any such information received by it to any third parties, except as otherwise agreed to in writing by the disclosing party. Each party will notify the other of any misuse or misappropriation of such information that comes to said party's attention.

This duty of confidentiality shall be ongoing and survive the Contract Period.

**25. Reserved**

**26. OWNERSHIP IN INTELLECTUAL PROPERTY:** The Parties recognize that each has no right, title, or interest, proprietary or otherwise, in or to the name, logo, or intellectual property owned or licensed by the other. The Parties shall not, without the prior written consent of the other or as authorized in this Contract, use the name, logo, or intellectual property owned or licensed by the other.

**27. OWNERSHIP IN CUSTOM DELIVERABLES:** Contractor warrants, represents and conveys full ownership, clear title free of all liens and encumbrances to any Custom Deliverable. Contractor conveys the ownership in Custom Deliverables as defined in this Attachment A to the Eligible User. All intellectual property rights, title and interest in the Custom Deliverables shall transfer to the Eligible User, subject to the following:

- a. Contractor has received payment for the Custom Deliverables,
- b. Each party will retain all rights to Background IP, even if embedded in the Custom Deliverables.
- c. Custom Deliverables, excluding Contractor's Background IP may not be marketed or distributed without written approval by the Eligible User.

Contractor shall grant to the Eligible User a perpetual, irrevocable, royalty-free license to use Contractor's Background IP as defined above, solely for the Eligible User to use the Custom Deliverables.

**28. LICENSE FOR GOODS:** For the Goods delivered that include Contractor's scripts and code and are not considered Custom Deliverables, Contractor grants the Eligible User a non-exclusive, non-transferable, irrevocable, perpetual right to use, copy, and, without the right to sublicense, for the Eligible User's internal business operation under this Contract

**29. OWNERSHIP, PROTECTION, AND USE OF RECORDS:** The Eligible User shall own exclusive title to all information and data gathered, reports developed, and conclusions reached by the Eligible User in performance of this Contract. Contractor may not use, except in meeting its obligations under this Contract, information gathered, reports developed, or conclusions reached by the Eligible User in performance of this Contract without the express written consent of the Eligible User. This includes information in anonymized or aggregated formats.

**30. OWNERSHIP, PROTECTION, AND USE OF DATA:** The Eligible User shall own and retain unlimited rights to use, disclose, or duplicate all information and data (copyrighted or otherwise) developed, derived, documented, stored, or furnished by Contractor under this Contract. Contractor, and any Subcontractors under its control, expressly agrees not to use Non-Public Data without prior written permission from the Eligible User.

**31. OWNERSHIP, PROTECTION, AND USE OF CONFIDENTIAL FEDERAL, UTAH, OR LOCAL GOVERNMENT INTERNAL BUSINESS PROCESSES AND PROCEDURES:** In the event that the Eligible User provides Contractor with confidential federal or

state business processes, policies, procedures, or practices, pursuant to this Contract, Contractor shall hold such information in confidence, in accordance with applicable laws and industry standards of confidentiality, and not to copy, reproduce, sell, assign, license, market, transfer, or otherwise dispose of, give, or disclose such information to third parties or use such information for any purpose whatsoever other than the performance of this Contract. The improper use or disclosure by any party of protected internal federal or state business processes, policies, procedures, or practices is prohibited. Confidential federal or state business processes, policies, procedures, or practices shall not be divulged by Contractor or its Subcontractors, except for the performance of this Contract, unless prior written consent has been obtained in advance from the Eligible User.

**32. OWNERSHIP, PROTECTION, AND RETURN OF DOCUMENTS AND DATA UPON CONTRACT TERMINATION OR COMPLETION:** All documents and data pertaining to work required by this Contract will be the property of the Eligible User, and must be delivered to the Eligible User upon its request at any time during the Contract Period, as well as within thirty (30) working days after termination or expiration of this Contract, and without restriction or limitation to their future use. Any State Data returned under this section must either be in the format as originally provided, in a format that is readily usable by the Eligible User, or formatted in a way that it can be used. The Contractor shall pay the costs for returning documents and data to the Eligible User except as specified in this Contract.

**33. ORDERING AND INVOICING:** All orders will be shipped promptly in accordance with the delivery schedule. Contractor will promptly submit invoices (within 30 days after shipment or delivery of goods or services, with the exclusion of end of fiscal year invoicing for Executive Branch Agencies) to the appropriate Eligible User. The contract number shall be listed on all invoices, freight tickets, and correspondence relating to an order under this Contract. The prices paid by the Eligible User shall not exceed prices listed in this Contract. The Eligible User shall adjust or return any invoice reflecting incorrect pricing. For Executive Branch Agencies, Contractor must send all invoices no later than July 10, or the last working day prior, to the State for all work completed or items received during the State's fiscal year of July 1-June 30.

**34. PAYMENT AND NOTICE:**

- a. Payments will be made within thirty (30) days from the date a correct invoice is received. For Executive Branch Agencies, a correct invoice will contain the contract and purchase order numbers as indicated in Section 33. After sixty (60) days from the date a correct invoice is received by the appropriate State official, the Contractor may assess interest on overdue, undisputed account charges up to the interest rate paid by the IRS on refund claims, plus two percent, computed in accordance with Section 15-6-3, Utah Prompt Payment Act of Utah Code, as amended.
- b. The contract costs may be changed only by written amendment. All payments to Contractor will be remitted by mail, by electronic funds transfer, or by the Eligible User's purchasing card (major credit card). Eligible Users will not pay electronic payment fees of any kind.
- c. Any written protest of the final contract payment must be filed with the Eligible User within ten (10) working days of receipt of final payment. If no protest is received, the Eligible User, the Division, and the State of Utah are released from all claims and all liability to Contractor for fees and costs pursuant to this Contract.
- d. Overpayment: If during or subsequent to the Contract an audit determines that payments were incorrectly reported or paid by the Eligible User to Contractor, then Contractor shall, upon written request, immediately refund to the Eligible User any such overpayments.

**35. CONTRACTOR'S INSURANCE RESPONSIBILITY:** The Contractor shall maintain the following insurance coverage:

- a. Workers' compensation insurance during the term of this Contract for all its employees and any Subcontractor employees related to this Contract. Workers' compensation insurance shall cover full liability under the workers' compensation laws of the jurisdiction in which the work is performed at the statutory limits required by said jurisdiction.
- b. Commercial general liability [CGL] insurance from an insurance company authorized to do business in the State of Utah. The limits of the CGL insurance policy will be no less than one million dollars (\$1,000,000.00) per person per occurrence and three million dollars (\$3,000,000.00) aggregate.
- c. Commercial automobile liability [CAL] insurance from an insurance company authorized to do business in the State of Utah. The CAL insurance policy must cover bodily injury and property damage liability and be applicable to all vehicles used in your performance of Services under this Agreement whether owned, non-owned, leased, or hired. The minimum liability limit must be \$1 million per occurrence, combined single limit. The CAL insurance policy is required if Contractor will use a vehicle in the performance of this Contract.
- d. If the Procurement Item is Software as a Service, Cyber Security Coverage from an insurance company that meet or exceeds industry standards. The insurance policy must cover data breach and privacy/cyber liability including technology errors and omissions and professional liability. The limits may not be less than \$5,000,000.00 aggregate.
- e. Other insurance policies specified in the Solicitation.

Certificate of Insurance, showing up-to-date coverage, shall be on file with the State before the Contract may commence. Failure to provide proof of insurance as required will be deemed a material breach of this Contract.

Contractor's failure to maintain this insurance requirement for the Contract Period will be grounds for immediate termination.

**36. ADDITIONAL INSURANCE REQUIREMENTS:**

- a. Professional liability insurance in the amount as described in the Solicitation for this Contract, if applicable.
- b. Any other insurance policies described or referenced in the Solicitation for this Contract.

- c. Any type of insurance or any increase of limits of liability not described in this Contract which the Contractor requires for its own protection or on account of any federal, Utah, or local statute, rule, or regulation shall be its own responsibility, and shall be provided at Contractor's own expense.
- d. The carrying of insurance required by this Contract shall not be interpreted as relieving the Contractor of any other responsibility or liability under this Contract or any applicable law, statute, rule, regulation, or order. Contractor must provide proof of the above listed policies within thirty (30) days of being awarded this Contract.

**37. ASSIGNMENT/SUBCONTRACT:** Contractor will not assign, sell, transfer, subcontract or sublet rights, or delegate responsibilities under this Contract, in whole or in part, without the prior written approval of the Division.

**38. TERMINATION:** This Contract may be terminated for cause by either party upon written notice being given by the other party. The party in violation will be given ten (10) calendar days, or as otherwise agreed upon in writing, after notification to correct and cease the violations, after which this Contract may be terminated for cause immediately and subject to the remedies below. This Contract may also be terminated without cause (for convenience) by the Division, upon thirty (30) calendar days written termination notice being given to the Contractor. The Division and the Contractor may agree to terminate this Contract, in whole or in part, at any time by mutual written agreement.

Contractor shall be compensated for the Services properly performed and goods properly provided pursuant to this Contract up to the effective date of termination as stated in the notice. Contractor agrees that in the event of termination for cause or without cause, Contractor's sole remedy and monetary recovery from the Division, the Eligible User, or the State of Utah is limited to payment for all work properly performed as authorized under this Contract up to the date of termination, and any reasonable pro-rated monies that may be owed as a result of Contractor having to terminate other contracts necessarily and appropriately entered into by Contractor pursuant to this Contract, after receipt and verification of documented evidence of those terminated contracts.

**39. TERMINATION UPON DEFAULT:** In the event this Contract is terminated for default by Contractor, the Division may procure Goods, Custom Deliverables, or Services similar to those terminated, and Contractor shall be liable to the Division for any and all cover costs and damages.

**40. SUSPENSION OF WORK:** The Division may suspend Contractor's responsibilities under this Contract without terminating this Contract by issuing a written notice. Contractor's responsibilities may then be reinstated upon written notice from the Division.

**41. DEFAULT AND REMEDIES:** Any of the following events will constitute cause for the Division to declare Contractor in default of this Contract for nonperformance of contractual requirements or a material breach of any term or condition of this Contract. The Division will issue a written notice of default and may provide a fourteen (14) day period in which Contractor will have an opportunity to cure. Time allowed for cure will not diminish or eliminate Contractor's liability for damages. If the default remains, after Contractor has been provided the opportunity to cure, the Division may exercise any remedy provided by law; terminate this Contract and any related contracts or portions thereof; (c) impose liquidated damages, if liquidated damages are listed in the contract; (d) suspend or debar Contractor from receiving future solicitations; or (e) demand a full refund of the Goods, Custom Deliverables, or Services furnished by Contractor that are defective or Services that were inadequately performed.

**42. FORCE MAJEURE:** Neither party to this Contract will be held responsible for delay or default caused by fire, riot, acts of God, or war which is beyond that party's reasonable control. The Division may immediately terminate this Contract after determining such delay will reasonably prevent successful performance of this Contract.

**43. CONFLICT OF TERMS:** Contractor terms and conditions must be attached to this Contract. No other terms and conditions will apply to this Contract, including terms listed or referenced on a Contractor's website, quotation/sales order, purchase orders, or invoice. In the event of any conflict in the contract terms and conditions, the order of precedence is: (a) This Attachment A; (b) the Division's Contract Signature Page(s); (c) State of Utah's Additional Terms and Conditions, if any; and (d) Contractor Terms and Conditions, if any. Attachment A will be given precedence over any provisions including, limitation of liability, indemnification, standard of care, insurance, or warranty, and will not be nullified by or exception created by more specific terms elsewhere in this Contract.

**44. SURVIVORSHIP:** The contractual provisions that will remain in effect after expiration or termination of this Contract are: (a) Contract Jurisdiction, Choice of Law, and Venue; (b) Secure Protection and Handling of State Data; (c) Data Breach Responsibilities; (d) Ownership in Custom Deliverables; (e) Ownership, Protection, and Use of Records, including Residuals of such records; and (f) Ownership, Protection, and Use of Confidential Federal, Utah, or Local Government Internal Business Processes, including residuals of such confidential business processes; (g) Ownership, Protection, and Return of Documents and Data Upon Contract Termination or Completion; (h) Confidentiality; (i) Conflict of Terms; and (j) any other terms that by their nature would survive the expiration, completion, or termination of this contract.

#### **45. RELEVANT STATE AND FEDERAL LAWS**

- a. **Conflict of Interest with State Employees:** Contractor shall comply and cooperate in good faith with all conflict of interest and ethic laws, including Section 63G-6a-2404, Utah Procurement Code, as amended.
- b. **Procurement Ethics:** Contractor understands that a person who is interested in any way in the sale of any supplies, services, products, construction, or insurance to the State of Utah is violating the law if the person gives or offers to give any compensation, gratuity, contribution, loan, or reward, or any promise thereof to any person acting as a procurement officer on behalf of the State of Utah, or who in any official capacity participates in the procurement of such supplies, services, products, construction, or insurance, whether it is given for their own use or for the use or benefit of any other person or organization (63G-6a-2304.5, Utah Procurement Code, as amended).
- c. **Contact Information:** Per Utah Code §§63G-6a-110 and 35A-2-203, the State shall make Contractor's contact information available to the State of Utah Department of Workforce Services. The State of Utah Department of Workforce Services may post information regarding Contractor's job vacancies on its website.

- d. **Employment Practices:** Contractor shall abide by the following employment laws: (i) Title VI and VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e) which prohibits discrimination against any employee or applicant for employment or any applicant or recipient of services, on the basis of race, religion, color, or national origin; (ii) Executive Order No. 11246, as amended, which prohibits discrimination on the basis of sex; (iii) 45 CFR 90 which prohibits discrimination on the basis of age; (iv) Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act of 1990 which prohibits discrimination on the basis of disabilities; and (v) Utah's Executive Order 2019-1, dated February 5, 2019, which prohibits unlawful harassment in the work place. Contractor shall abide by any other laws, regulations, or orders that prohibit the discrimination of any kind of any of Contractor's employees.
- e. **Compliance with Accessibility Standards:** Contractor shall comply with the Accessibility Standards of Section 508 Amendment to the Rehabilitation Act of 1973. Contractor shall comply with Utah Administrative Code R895-14-3(3), which states that contractors developing new websites or applications for State agencies are required to meet accessibility guidelines subject to rule R895 and correct any items that do not meet these guidelines at no cost to the agency. Contractor shall comply with Utah Administrative Code R895-14-4(2), which states that contractors proposing IT products and services shall provide Voluntary Product Accessibility Template® (VPAT™) documents.

**46. RIGHT TO MONITOR PERFORMANCE AND AUDIT**

- a. **Audit:** Contractor shall, upon written notification permit the Division, or a third party designated by the Division, to perform an assessment, audit, examination, or review of all of Contractor's sites and environments - including physical, technical, and virtual sites and environments - in order to confirm Contractor's compliance with this Contract; associated scopes of work; and applicable laws, regulations, and industry standards. Contractor shall fully cooperate with such assessment by providing access to knowledgeable personnel; physical premises; records; technical and physical infrastructures; and any other person, place, or object which may assist the Division or its designee in completing such assessment. Upon request, Contractor shall provide the results of any audit performed by or on behalf of Contractor that would assist the Division or its designee in confirming Contractor's compliance with this Contract; associated scopes of work; and applicable laws, regulations, and industry standards.
- b. **Monitor Performance:** The Division and Eligible Users reserve the right to monitor Contractor's performance, perform plan checks, plan reviews, other reviews, and/or comment upon the Services of Contractor. This includes Contractor's Subcontractors, if any. Results of any evaluation may be made available to the Contractor upon Contractor's request.

**47. TIME IS OF THE ESSENCE:** The Services shall be completed and Goods and Custom Deliverables delivered by any applicable deadline stated in this Contract. Time is of the essence.

**48. STANDARD OF CARE:** For Services of Contractor which require licenses and certifications, such Services shall be performed in accordance with the standard of care exercised by licensed members of their respective professions having substantial experience providing similar services which similarities include the type, magnitude, and complexity of the Services that are the subject of this Contract.

**49. LARGE VOLUME DISCOUNT PRICING:** Eligible Users may seek to obtain additional volume discount pricing for large orders provided Contractor is willing to offer additional discounts for large volume orders. No amendment to this Contract is necessary for Contractor to offer discount pricing to an Eligible User for large volume purchases.

**50. ELIGIBLE USER PARTICIPATION:** Participation under this Contract by Eligible Users is voluntarily determined by each Eligible User. Contractor agrees to supply each Eligible User with Goods based upon the same terms, conditions and prices of this Contract.

**51. INDIVIDUAL CUSTOMERS:** Each Eligible User that purchases Goods from this Contract will be treated as if they were individual customers. Each Eligible User will be responsible to follow the terms and conditions of this Contract. Contractor agrees that each Eligible User will be responsible for their own charges, fees, and liabilities. Contractor shall apply the charges to each Eligible User individually. The Division is not responsible for any unpaid invoice.

**52. QUANTITY ESTIMATES:** The Division does not guarantee any purchase amount under this Contract. Estimated quantities are for Solicitation purposes only and are not to be construed as a guarantee.

**53. ORDERING:** Orders will be placed by the using Eligible User directly with Contractor. All orders will be shipped promptly in accordance with the terms of this Contract.

**54. REPORTS AND FEES:**

- a. **Administrative Fee:** Contractor agrees to provide a quarterly administrative fee to the State in the form of a check, EFT or online payment through the Division's Automated Vendor Usage Management System. Checks will be payable to the "State of Utah Division of Purchasing" and will be sent to State of Utah, Division of Purchasing, Attn: Cooperative Contracts, PO Box 141061, Salt Lake City, UT 84114-1061. The Administrative Fee will be the amount listed in the Solicitation and will apply to all purchases (net of any returns, credits, or adjustments) made under this Contract.
- b. **Quarterly Reports:** Contractor agrees to provide a quarterly utilization report, reflecting net sales to the State during the associated fee period. The report will show the dollar volume of purchases by each Eligible User. The quarterly report will be provided in secure electronic format through the Division's Automated Vendor Usage Management System found at: <https://statecontracts.utah.gov/Vendor>.
- c. **Report Schedule:** Quarterly utilization reports shall be made in accordance with the following schedule:

| <u>Period End</u> | <u>Reports Due</u> |
|-------------------|--------------------|
| March 31          | April 30           |
| June 30           | July 31            |
| September 30      | October 31         |
| December 31       | January 31         |

- d. **Fee Payment:** After the Division receives the quarterly utilization report it will send Contractor an invoice for the total quarterly administrative fee owed to the Division. Contractor shall pay the quarterly administrative fee within thirty (30) days from receipt of invoice.
- 55. Timely Reports and Fees:** If the quarterly administrative fee is not paid by thirty (30) days of receipt of invoice or quarterly utilization reports are not received by the report due date, then Contractor will be in material breach of this Contract.
- 56. ANTI-BOYCOTT ACTIONS:** In accordance with Utah Code 63G-27 et seq., Contractor certifies that it is not currently engaged in any “economic boycott” nor a “boycott of the State of Israel” as those terms are defined in Section 102. Contractor further certifies that it has read and understands 63G-27 et. seq., that it will not engage in any such boycott action during the term of this Contract, and that if it does, it shall promptly notify the State in writing.
- 57. END USER AGREEMENTS:** If Eligible Users are required by Contractor to sign an End User Agreement before participating in this Contract, then a copy of the End User Agreement must be attached to this Contract as an attachment. An End User Agreement must reference this Contract, and may not be amended or changed unless approved in writing by the Division. Eligible Users will not be responsible or obligated for any early termination fees if the End User Agreement terminates as a result of completion or termination of this Contract.
- 58. COMPLIANCE WITH NIST 800.53** If Contractor is developing software for the State or providing Goods or Custom Deliverables or performing Services which have the potential to cause any form of outage or to modify any State of Utah infrastructure, Contractor shall comply with current standards set forth and maintained by the National Institute of Standards and Technology, NIST 800-53 or ISO 27001 and/or FedRamp for cloud solutions, as applicable.
- 59. USE OF AI OR STATE SUB DOMAIN:** Contractor must inform the Eligible Users of any generative Artificial Intelligence (“AI”) in the Goods or Services being contracted for prior to providing those Goods or Services to the State. Additionally, Utilization of generative AI in the creation of Goods and Services impacting the State’s Intellectual Property Rights shall include annotations sufficient to comply with DTS POLICY 4000-0008 Enterprise Generative AI Policy. Contractor is prohibited from using Eligible Users materials or data in generative AI queries without prior written permission from the Eligible User, as well as from building or training proprietary generative AI programs. Contractor attests that its AI models use only properly licensed material. Should Contract be found in violation of this requirement, Contractor shall fully indemnify and defend Eligible Users from all claims related thereto. Furthermore, should Contractor learn that Eligible Users materials or Data has been used in generative AI queries without permission from the Eligible User, Contractor shall immediately notify the Eligible Users of the use and cover the full expense of any remediation.
- b. Contractor shall support usage of a utah.gov subdomain according to R895-4 for Goods and Services that will be made available to non-state users.
- 60. PUBLICITY and WEBSITE BRANDING:** Contractor shall submit to the Division for written approval all advertising and publicity matters relating to this Contract. Contractor shall only use the approved executive branch agency, and/or State of Utah logo on websites produced under terms of this Contract. It is within the Division’s sole discretion whether to provide approval, which approval must be in writing.
- 61. DEVELOPMENT, TEST, AND PRODUCTION ENVIRONMENTS:** If Goods or Services under this Contract are Contractor-hosted, the Contractor shall include three environments throughout the term of the Contract: a development, test, and production environment. Regular refreshes to the database or application or both will be requested. To perform an application refresh, all developers involved in the project, whether from the Contractor or the State, will need to approve in writing the refresh request to prevent any code from being deleted without a prior backup. The cost to configure and maintain these environments is included in the Contract price and will not be charged beyond the amount noted on the Contract Cover Page.
- a. If a development or test region is promoted to production, that region must have all of the required security and privacy controls and audit requirements prior to promotion.
- b. If the application cannot perform a production refresh after the application is live, then a secondary environment for testing must be created by Contractor.
- c. If the Contractor receives written approval by the State of Utah, not to provide the three separate environments required by the first paragraph of this section 61, then Contractor shall configure the production environment with dummy or test accounts that have the ability to go through the full application process without causing or creating data or cost discrepancies. Additionally, a device or mechanism, such as a feature flag/banner announcement to call out new features to the user, or canary releases to allow for gradual release to smaller sets of users, must be included. Logging must be enabled in order to identify and diagnose issues and to fulfill audit and regulatory requirements, including security frameworks such as NIST and OWASP. A/B testing, automated testing, and incremental rollouts must also be considered and clarified in lettered additions to this Section 16 (e.g. “d,” “e,” etc.). A way of communicating upcoming changes via notification, alerts, emails, and updates must be available. Contractor shall make clearly defined fallback strategies and rollback plans available prior to any code promotion.

## ATTACHMENT B: SCOPE OF WORK

Vendor agrees to perform all tasks required as outlined in this scope of work.

- 1. Services** - The Contractor shall provide Eligible Users spoken language in-person (face-to-face) interpreting services, written translation services, over the phone interpretation (OPI) services and/or video remote interpretation (VRI) services in accordance with the categories awarded. All medical-related interpreting services, including in-person, OPI, VRI, etc., must comply with all State of Utah Medicaid Requirements, policies, rules, etc. as may be promulgated and amended from time to time (please see attached Medicaid Requirements as a reference).

The service categories are:

- General In-person Interpreting (non-medical, non-legal)
  - Legal In-person Interpreting
  - Medical In-person Interpreting
  - OPI Interpreting/VRI Interpreting (non-medical, non-legal)
  - Medical OPI Interpreting/VRI Interpreting
  - Legal OPI Interpreting/VRI Interpreting
  - Document Translation (this is not a stand-alone category; Vendor must also be awarded one of the above In-person or Remote Interpreting categories)
- 2. Population-** The specifics of the interpreting and translation services may be impacted if the service is provided for a member of the state's refugee population. A refugee is legally defined as a person who is outside his or her country of nationality and is unable to return due to a well-founded fear of persecution because of his or her race, religion, nationality, political opinion, or membership in a particular social group. Newly arrived refugees are often a unique population with specific needs that frequently differ from other non-English speaking populations.

**Refugee Population:** Contractors providing services for the state's refugee population must have access to at least one interpreter for 50% of the following priority languages:

|                          |          |
|--------------------------|----------|
| Arabic (Iraqi, Sudanese) | Chin     |
| Nepali (Bhutanese)       | Rohingya |
| Somali                   | Farsi    |
| Kinyarwanda              | Tigrinya |
| Burmese                  | Korean   |
| Karen                    | Tamil    |
| Karenni                  |          |

- 3. Testing and Training Plan-** In addition to the training/certifications that interpreters may independently possess, Contractors are to have an established testing and training plan in place for the interpreters they employ or contract with.

At a minimum the plan shall seek to:

- Develop objective language tests that screen prospective interpreters for competent ability to perform in both English and in each interpreter's target language(s) and assign only qualified interpreters to requestors of services
  - Develop interpreter skills programs and require that all interpreters complete annual skills development instruction.
  - Specify the number of interpreting/translation hours, number of hours of required continuing education/training hours, etc.
  - For **medical interpreters**, Contractor shall ensure its interpreters pass any required examinations, obtain/retain any certifications, possess all qualifications, as may be required by law to perform medical interpreting services. Some Eligible Users may require certification such as being Medical Language Interpreter Act certified in accordance with UCA 58-89a Part 3 and applicable rules. Contractor shall ensure its interpreters for those Eligible Users have the appropriate certification. Contractor shall ensure all medical interpreters participate in the nationally recognized, Bridging the Gap Medical Interpreter Training or similar training.
  - For **legal interpreters**, the Contractor shall ensure each qualified interpreter meets the Utah State Courts credentials and requirements for the appropriate designations of "Certified", "Approved" and "Registered". Contractor shall ensure the interpreters with the appropriate designations are used in the applicable and correct legal situations. These Utah State Courts requirements may be found **online here**: <https://www.utcourts.gov/en/court-records-publications/resources/court-interpreters/faq.html#credentials>
- 4. Administrative Support-** Contractors are to have strong administrative support in place with at least one person identified as the main interpreter coordinator, and a clear system in place for feedback/accountability.
- 5. Background Check-** Contractors are to perform annual criminal background checks on all interpreters providing educational services (K-12) under this contract. Contractor must be able to provide documentation of an annual criminal background check upon request (UCA §53A-3-410).
- 6. Identification -** Contractors must possess and present appropriate identification before conducting the interpretation service. The In-person Interpreters must have an identification card, or something similar, that includes: a recent, clear color photograph of the interpreter, the Interpreter's complete legal name, the official name of the contracting company, a date indicating when the identification expires, ensuring the identification is current.
- 7. Spanish Interpreting-** For Spanish-English legal interpreting the legal interpreters must follow the Utah State Courts Legal Terminology glossary found here: <https://www.utcourts.gov/en/court-records-publications/resources/court-interpreters/glossary.html>.
- 8. Travel-** In-Person Interpreting Contractor must get pre-approval from the Eligible User at the time the services are scheduled (before interpreting services are actually

provided) for the need to utilize per diem/travel expenses. If requested services are farther than 100 miles (one-way) from the interpreter's work location, the contractor will be reimbursed at then-current State per diem rates (please see here: <https://fleet.utah.gov/state-travel-a/in-state-per-diem-rates-1/>).

If Contractor invoices an Eligible User for travel expenses, without having received pre-approval from the Eligible User to utilize per diem/travel expenses, an Eligible User may return the invoice for correction and removal of the travel expenses to the contractor.

- 9. Minimum Charges for Services** - All in-person interpreting categories will have a 1-hour minimum charge. Unless otherwise agreed to beforehand between the Contractor and Eligible User, this 1 hour minimum shall not be applied multiple times for group or continuous interpreting situations, except as may be allowed and in accordance with Medicaid Requirements for Medical related interpreting. OPI and VRI interpreting will be charged per minute with no minimum charge. Document translation may have a minimum charge in accordance with contractor's pricing document. If Contractor charges cancellation fees, these are not allowed to be charged if Eligible Users provide 24 hour notice of the cancellation.
- 10. Grace Period** – All in-person interpreting categories will be provided a grace period of 15 minutes from the scheduled appointment start time and 8 minutes for all remote interpreting categories. If a Contractor/Interpreter arrives at the service location more than 15 minutes or online more than 8 minutes past the scheduled appointment start time the following will apply: (1) The eligible user will not be charged for the scheduled interpreting services. (2) The eligible user reserves the right to decline the interpreting services if the late arrival significantly impacts their needs or schedule.
- 11. Curricula of Instruction-** Contractor shall seek to develop and have available to requesters of services, curricula of instruction in diversity and in the effective use of interpreters.
- 12. Reporting-** In addition to the Mandatory Quarterly Reports, the Contractor shall make available management reports to assist in efforts to improve quality of interpreter services, to deliver more effective and efficient services, and to reduce costs.
  - Costs and frequency of use by language;
  - Such other reports as will assist in efforts to improve the quality of service.
  - Feedback results from providers and clients
- 13. Performance Evaluation-** Contractor shall design and execute an interpreter performance evaluation plan that includes input from users of their services and provides clear procedures of how the contractor will resolve issues with independent/individual interpreters, interpreting agency's processes, customer services,

etc. based on end user input.

**14. Equipment** – OPI/VRI Contractor must have all necessary equipment installed and functioning to provide the services required in this contract. OPI Contractor must have telephone terminal equipment with expansion capabilities to accommodate an increase in call volume, as needed. Contractor providing VRI must provide the following: A) real-time, full-motion video and audio over a dedicated high-speed, wide-bandwidth video connection or wireless connection that delivers high-quality video images that do not produce lags, choppy, blurry, or grainy images, or irregular pauses in communication. B) A sharp delineated image that is large enough to display the interpreter's face, arms, hands, and fingers, and the participating individual's face, arms, hands, and fingers, regardless of his or her body position. C) A clear, audible transmission of voices. 4) Adequate training for users of the technology and other involved individuals so that they may quickly and efficiently set up and operate the VRI.

**ATTACHMENT C: COST**

**Minimum Charges:** All in-person interpreting categories will have a 1 hour minimum charge. Remote interpreting will be charged per minute with no minimum charge. Cancellation fees are not allowed if 24 hour notice is provided by Eligible Users.

**IN-PERSON INTERPRETING**

**General In-person Interpreting (non-medical, non-legal)**

|                                  | Spanish | Arabic   | Russian  | Somali   | Kinyarwanda | Nepalese | Swahili  | Karen    | All Other Languages |
|----------------------------------|---------|----------|----------|----------|-------------|----------|----------|----------|---------------------|
| <b>Standard Rate per hour</b>    | \$70.00 | \$99.00  | \$99.00  | \$99.00  | \$99.00     | \$99.00  | \$99.00  | \$99.00  | \$99.00             |
| <b>Weekend Rate per hour</b>     | \$95.00 | \$120.00 | \$120.00 | \$120.00 | \$120.00    | \$120.00 | \$120.00 | \$120.00 | \$120.00            |
| <b>After Hours Rate per hour</b> | \$95.00 | \$120.00 | \$120.00 | \$120.00 | \$120.00    | \$120.00 | \$120.00 | \$120.00 | \$120.00            |

**Additional Fees**

Late Cancellations (Less than 24 hours' notice):  
If a request is canceled within 24 hours of the scheduled appointment, the client will be charged 2 hour minimum or scheduled duration if >2 hours.  
Parking is reimbursed at cost, if applicable. All other expense requires prior client Approval

**Legal In-person Interpreting**

|                                  | Spanish  | Arabic   | Russian  | Somali   | Kinyarwanda | Nepalese | Swahili  | Karen    | All Other Languages |
|----------------------------------|----------|----------|----------|----------|-------------|----------|----------|----------|---------------------|
| <b>Standard Rate per hour</b>    | \$155.00 | \$230.00 | \$230.00 | \$230.00 | \$230.00    | \$230.00 | \$230.00 | \$230.00 | \$230.00            |
| <b>Weekend Rate per hour</b>     | \$180.00 | \$255.00 | \$255.00 | \$255.00 | \$255.00    | \$255.00 | \$255.00 | \$255.00 | \$255.00            |
| <b>After Hours Rate per hour</b> | \$180.00 | \$255.00 | \$255.00 | \$255.00 | \$255.00    | \$255.00 | \$255.00 | \$255.00 | \$255.00            |

**Additional Fees**

Late Cancellations (Less than 24 hours' notice):  
If a request is canceled within 24 hours of the scheduled appointment, the client will be charged 2 hour minimum or scheduled duration if >2 hours.  
Parking is reimbursed at cost, if applicable. All other expense requires prior client Approval

**Medical In-person Interpreting**

|                                  | Spanish  | Arabic   | Russian  | Somali   | Kinyarwanda | Nepalese | Swahili  | Karen    | All Other Languages |
|----------------------------------|----------|----------|----------|----------|-------------|----------|----------|----------|---------------------|
| <b>Standard Rate per hour</b>    | \$125.00 | \$200.00 | \$200.00 | \$200.00 | \$200.00    | \$200.00 | \$200.00 | \$200.00 | \$200.00            |
| <b>Weekend Rate per hour</b>     | \$150.00 | \$225.00 | \$225.00 | \$225.00 | \$225.00    | \$225.00 | \$225.00 | \$225.00 | \$225.00            |
| <b>After Hours Rate per hour</b> | \$150.00 | \$225.00 | \$225.00 | \$225.00 | \$225.00    | \$225.00 | \$225.00 | \$225.00 | \$225.00            |

**Additional Fees**

Late Cancellations (Less than 24 hours' notice):  
If a request is canceled within 24 hours of the scheduled appointment, the client will be charged 2 hour minimum or scheduled duration if >2 hours.  
Parking is reimbursed at cost, if applicable. All other expense requires prior client Approval

**REMOTE INTERPRETING**

**Over the Phone Interpreting (OPI) / Video Remote Interpreting (VRI) (non-medical, non-legal)**

|                              | Spanish | Arabic | Russian | Somali | Kinyarwanda | Nepalese | Swahili | Karen  | All Other Languages |
|------------------------------|---------|--------|---------|--------|-------------|----------|---------|--------|---------------------|
| <b>OPI - Rate per Minute</b> | \$0.50  | \$0.75 | \$0.75  | \$0.75 | \$0.75      | \$0.75   | \$0.75  | \$0.75 | \$0.75              |
| <b>VRI - Rate per Minute</b> | \$0.75  | \$0.75 | \$0.75  | \$0.75 | \$0.75      | \$0.75   | \$0.75  | \$0.75 | \$0.75              |

**Additional Fees**

The rates above apply to both scheduled and on-demand appointments. Cancellations made less than 24 hours in advance will be billed for the minimum service time.

**Over the Phone Interpreting (OPI) / Video Remote Interpreting (VRI) Medical**

|                              | Spanish | Arabic | Russian | Somali | Kinyarwanda | Nepalese | Swahili | Karen  | All Other Languages |
|------------------------------|---------|--------|---------|--------|-------------|----------|---------|--------|---------------------|
| <b>OPI - Rate per Minute</b> | \$0.50  | \$0.75 | \$0.75  | \$0.75 | \$0.75      | \$0.75   | \$0.75  | \$0.75 | \$0.75              |
| <b>VRI - Rate per Minute</b> | \$0.75  | \$0.75 | \$0.75  | \$0.75 | \$0.75      | \$0.75   | \$0.75  | \$0.75 | \$0.75              |

**Additional Fees**

The rates above apply to both scheduled and on-demand appointments. Cancellations made less than 24 hours in advance will be billed for the minimum service time.

**Over the Phone Interpreting (OPI) / Video Remote Interpreting (VRI) Legal**

|                              | Spanish | Arabic | Russian | Somali | Kinyarwanda | Nepalese | Swahili | Karen  | All Other Languages |
|------------------------------|---------|--------|---------|--------|-------------|----------|---------|--------|---------------------|
| <b>OPI - Rate per Minute</b> | \$0.50  | \$0.75 | \$0.75  | \$0.75 | \$0.75      | \$0.75   | \$0.75  | \$0.75 | \$0.75              |
| <b>VRI - Rate per Minute</b> | \$0.75  | \$0.75 | \$0.75  | \$0.75 | \$0.75      | \$0.75   | \$0.75  | \$0.75 | \$0.75              |

**Additional Fees**

The rates above apply to both scheduled and on-demand appointments. Cancellations made less than 24 hours in advance will be billed for the minimum service time.

**OTHER**

**Document Translation**

|                      | Spanish | Arabic | Russian | Somali | Kinyarwanda | Nepalese | Swahili | Karen  | All Other Languages |
|----------------------|---------|--------|---------|--------|-------------|----------|---------|--------|---------------------|
| <b>Rate per word</b> | \$0.12  | \$0.15 | \$0.16  | \$0.22 | \$0.26      | \$0.21   | \$0.21  | \$0.27 | \$0.26              |

**Additional Fees**

All orders are subject to a \$75 minimum charge per order

**Attachment D**  
**UTAH DEPARTMENT OF HEALTH**  
**BUSINESS ASSOCIATE AGREEMENT**

This Business Associate Agreement ("Agreement") is entered into by and between the Utah Department of Health (the "Department") and Propio LS, LLC ("Business Associate"). The Parties have entered into one or more underlying agreements (each and together, the "Service Agreement") pursuant to which Business Associate provides services to the Department that require the use and disclosure of PHI. This Agreement only applies when Business Associate is carrying out the functions described in the Service Agreement and does not apply when Business Associate is acting in its capacity as a healthcare oversight agency.

This Agreement sets forth the terms and conditions under which PHI that is created, received, maintained, or transmitted by Business Associate, for or on behalf of the Department, will be handled during the term of the Service Agreement and after its termination.

The Parties agree as follows:

**1. Definitions**

- A. The following terms used in this Agreement shall have the same meaning as those terms defined in the HIPAA Rules: Breach, Data Aggregation, Designated Record Set, Disclosure, Individual, Minimum Necessary, Notice of Privacy Practices, Protected Health Information, Required by Law, Secretary, Security Incident, Subcontractor, Unsecured Protected Health Information, Workforce Member, and Use.
- B. "HIPAA Rules" means the Health Insurance Portability and Accountability Act of 1996 (HIPAA), and its implementing regulations at 45 C.F.R. Parts 160 and 164, as amended by the Health Information Technology for Economic and Clinical Care Act (HITECH) enacted under Title XII of the American Recovery and Reinvestment Act of 2009, and its implementing regulations.

**2. Permitted Uses and Disclosures of PHI by Business Associate**

- A. Business Associate may use or disclose PHI to perform functions, activities, or services for, or on behalf of, the Department as specified in the Service Agreement, so long as such use or disclosure would not violate HIPAA Rules if done by the Department.
- B. Business Associate may use or disclose PHI if necessary for its proper management and administration or to carry out its legal responsibilities, provided that: (i) the disclosures are permitted by law; or (ii) (1) Business Associate obtains reasonable assurances from the third party to whom PHI is disclosed that the information will remain confidential and used or further disclosed only as required by law or for the purposes for which it was disclosed to the third party; and (2) the third party notifies Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.
- C. If Business Associate provides data aggregation services for the Department under the Service Agreement, Business Associate may use and aggregate PHI only for purposes of providing the data aggregation services to the Department. Any use of PHI for other data aggregation or commercial purposes unrelated to the Service Agreement is prohibited. Business Associate may de-identify PHI in accordance with 45 C.F.R. § 164.514. All such uses and disclosures of de-identified data shall be subject to the limits set forth in 45 C.F.R. § 164.514.

### 3. **Obligations and Activities of Business Associate**

- A. **Limitations on Use.** Business Associate may use or disclose PHI solely (1) as necessary to perform its obligations under the Service Agreement, (2) as required by law, or (3) as permitted or required under this Agreement. Business Associate shall not use or disclose PHI for any other purpose or in any other manner.
- B. **Minimum Necessary.** Business Associate shall request, use, and/or disclose only the minimum amount of PHI necessary to accomplish the intended purpose of the request, use, or disclosure in accordance with the HIPAA Rules.
- C. **Duty to Safeguard PHI.** Business Associate shall implement and maintain appropriate administrative, technical, and physical safeguards that comply with Subpart C of 45 C.F.R. 164, in order to secure electronic PHI, prevent use or disclosure of PHI other than as provided for by this Agreement, and protect the integrity and availability of PHI.

As appropriate, information security safeguards include: (i) limiting access to PHI to authorized workforce members and persons; (ii) securing its facilities, data centers, paper files, servers, back-up systems and computing equipment with information storage capability; (iii) implementing network, device application, database, and platform security; (iv) securing information in transit and at rest; (v) implementing authentication and access controls within media, applications, operating systems and equipment; (vi) encrypting PHI stored on any mobile media and computing devices that allow remote access; (vii) implementing appropriate personnel security and integrity procedures and practices; and (viii) providing appropriate privacy and information security training to its workforce members whose services may be used to satisfy Business Associate's obligations under this Agreement.

- D. **Subcontractors.** In accordance with 45 C.F.R. §§ 164.502(e)(1)(i) and 164.308(b)(2), Business Associate shall require any subcontractors or agents that create, receive, maintain, or transmit PHI, for or on behalf of Business Associate, agree in writing to the same restrictions, conditions, and requirements that apply to Business Associate with respect to such information. To the extent that subcontractors or agents create, receive, maintain, or transmit electronic PHI on behalf of Business Associate, it shall require its subcontractors or agents to comply with Subpart C of 45 C.F.R. 164.
- E. **Access to PHI.** If the services performed under the Service Agreement require Business Associate to maintain a designated record set, within fifteen (15) days of receipt of the Department's request, Business Associate agrees to make available PHI to the Department or, as directed by the Department, to an individual in order to meet the requirements under 45 C.F.R. § 164.524, relating to an individual's right to inspect and obtain a copy of PHI relating to such individual. In the event an individual requests access to PHI directly from Business Associate or its Subcontractors, Business Associate shall forward the request to the Department within three (3) days of the request.

As a governmental entity, Business Associate understands it must comply with the Government Records and Management Act (GRAMA) in the retention and disclosure of records in its possession. Pursuant to U.C.A. § 63G-2-107, GRAMA does not apply to a record containing PHI

as defined in 45 C.F.R., Part 164, Standards for Privacy of Individually Identifiable Health Information, if the record is: (1) controlled or maintained by a governmental entity; and (2) governed by 45 C.F.R., Parts 160 and 164, Standards for Privacy of Individually Identifiable Health Information

- F. **Amendment to PHI.** If the services performed under the Service Agreement require Business Associate to maintain a designated record set, within thirty (30) days of receipt of the Department's request, Business Associate agrees to make any amendments to PHI, if applicable, as the Department directs or agrees to pursuant to 45 C.F.R. § 164.526. In the event an individual requests an amendment to PHI directly from Business Associate or its Subcontractors, Business Associate shall forward the request to the Department within three (3) days of the request.
- G. **Accounting of Disclosures of PHI.** Business Associate shall, as applicable, maintain and make available the information required to provide an accounting of the disclosures as necessary to satisfy the Department's obligations under 45 C.F.R. § 164.528. In the event that an individual requests an accounting of disclosures to PHI directly from Business Associate or its Subcontractors, Business Associate shall forward the request to the Department within three (3) days of the request.
- H. **Performance of Obligations.** To the extent Business Associate is to carry out one or more of the Department's obligations under Subpart E of 45 C.F.R. Part 164, Business Associate shall comply with the requirements of Subpart E that apply to the Department in the performance of such obligations under this Agreement.
- I. **Availability of Records for Review.** Business Associate shall make its internal practices, books, and records available to the Secretary for purposes of determining the Department's compliance with the HIPAA Rules. Upon reasonable prior request of the Department, Business Associate agrees to allow the Department to perform a review of its facilities, systems, books, records, agreements, and policies and procedures relating to the use or disclosure of PHI in order to determine Business Associate's compliance with the terms of this Agreement.
- J. **Prohibition of Offshoring.** Business Associate shall inform the Department if it or its subcontractors or agents will perform any work outside the territory of the U.S. that involves access to, use, or disclosure of PHI in any form via any medium. Nothing in this Agreement shall permit Business Associate to assign, delegate, or subcontract any of its rights or obligations under this Agreement to its subcontractors or agents residing beyond the boundaries and jurisdiction of the U.S. without express written consent of the Department.

#### 4. Incident and Breach Reporting and Mitigation

- A. **Reporting Duties.** Business Associate shall report to the Department any security incident or use or disclosure of PHI not provided for by this Agreement of which it becomes aware, including breaches of unsecured PHI as required at 45 C.F.R. § 164.410, within two (2) days of Business Associate's discovery of such incident. The report must include the following information, to the extent known:
  - (1) Description of the incident;
  - (2) Date of the incident and the date the incident was discovered;
  - (3) Description of the type of PHI involved;

- (4) Identification of who received PHI;
- (5) Identification of the individuals whose PHI has been, or is reasonably believed to have been, accessed, acquired, used, or disclosed during the incident;
- (6) Steps Business Associate or its subcontractor or agents are taking to investigate the incident and prevent continuing or further incidents; and
- (7) Any other information requested by the Department.

B. **Breach Determination.** The Department will make the final determination of whether a breach of unsecured PHI has occurred and will notify Business Associate of the determination. If the Department determines a breach of unsecured PHI has occurred, Business Associate must take prompt corrective action to cure any such deficiencies and mitigate any significant harm that may have occurred to individuals whose information was disclosed inappropriately. The Department, in its sole discretion, will determine whether the Department or Business Associate is responsible to provide notifications to the individuals whose PHI has been disclosed, the Secretary, and/or the media.

C. **Mitigation.** Business Associate agrees to mitigate, to the extent practicable, any harmful effects resulting from a security incident or any use and or disclosure of PHI in violation of the requirements of this agreement, the HIPAA Rules, or other applicable law.

D. **Financial Obligations.** Notwithstanding any other provision in this Agreement, Business Associate shall be responsible for any and all costs and expenses arising from or related to a security incident or breach by Business Associate or its subcontractors and agents, including, but not limited, to any required notifications and credit monitoring services to affected individuals, notifications to the Secretary and the media, corrective action plans, and remedial and mitigation costs associated with the Department's and Business Associate's compliance with Subpart D of 45 C.F.R. 164.

## 5. **Obligations of the Department**

A. **Notice of Privacy Practices.** The Department shall notify Business Associate of any limitation in the Department's Notice of Privacy Practices in accordance with 45 C.F.R. § 164.520, to the extent such limitations affects Business Associate's use or disclosure of PHI.

B. **Revocation of Authorization of Individual.** The Department shall notify Business Associate of any changes in, or revocation of, the permission by an individual to use or disclose PHI, if and to the extent that such changes affect Business Associate's use or disclosure of PHI.

C. **Restrictions on Use and Disclosure.** The Department shall notify Business Associate of any restriction on the use or disclosure of PHI that the Department has agreed to or is required to abide by under 45 C.F.R. § 164.522, to the extent such restriction may affect Business Associate's use or disclosure of PHI.

D. **Requested Uses or Disclosures.** The Department shall not request Business Associate to use or disclose PHI in any manner that would not be permissible under the HIPAA Rules if done by the Department, except that Business Associate may use or disclose PHI for purposes set forth in Section 2(B).

## 6. **Term and Termination**

- A. **Term.** This Agreement shall be effective as of the effective date of the Service Agreement and shall terminate upon termination or expiration of the Service Agreement or on the date the Department terminates this Agreement for cause as authorized in paragraph (B) of this Section, whichever is sooner.
- B. **Termination.** If the Department determines that Business Associate has violated a material term of this Agreement, the Department may: (1) provide Business Associate an opportunity to cure the breach within the timeframe specified in writing by the Department, or (2) immediately terminate this Agreement if cure is not possible and termination is possible under state law. In the absence of a cure reasonably satisfactory to the Department, the Department may terminate this Agreement unless prohibited by state law.
- C. **Effect of Termination.** Upon termination of this Agreement, for any reason, Business Associate shall return or destroy all PHI received from the Department or created, maintained, or received by Business Associate on behalf of the Department that Business Associate still maintains in any form, unless the Business Associate is otherwise authorized by law to retain PHI for its official purposes. These termination provisions shall also apply to PHI in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of PHI. Upon the Department's request, Business Associate shall certify to the Department that all PHI in its possession or control, and all PHI created, received or maintained by its subcontractors or agents, has been returned or destroyed. If return or destruction of PHI is not feasible, Business Associate will provide written notification of the conditions that make return or destruction infeasible. Upon a mutual agreement by the Parties that return or destruction of PHI is infeasible, Business Associate shall extend the protections of this Agreement to such PHI and limit further uses and disclosures of such PHI to those purposes that make return or destruction infeasible, for so long as Business Associate maintains such PHI. This Section 6 shall survive termination of this Agreement for any reason.

## 7. **Indemnification**

Since Business Associate is a governmental entity, the parties mutually agree that each party assumes liability for the negligent and wrongful acts committed by its own agents, officials, or employees, regardless of the source of funding for the Service Agreement. Neither party waives any rights or defenses otherwise available under the Governmental Immunity Act.

## 8. **Miscellaneous**

- A. **Other Confidentiality Obligations.** The parties acknowledge that this Agreement is intended to supplement any and all other confidentiality obligations that either party may have under other agreements or applicable federal and state laws.
- B. **Independent Contractor Status.** Business Associate is an independent contractor of the Department, and shall not be considered an agent of Department.
- C. **Notice.** Any notice or other communications required or permitted to be given under this Agreement shall be sent to:

If to the Department:

Francesca Lanier  
UDOH Chief Privacy Officer  
288 North 1460 West  
P.O. Box 14109  
Salt Lake City, Utah 84114  
801-538-6271  
flanier@utah.gov

If to Business Associate:

Propio LS, LLC  
Attn: Legal Dept.  
10801 Mastin St. #580  
Overland Park, KS 66210  
legal@propio.com

- D. **Amendments.** This Agreement may be amended or modified only in a writing signed by the Parties. The Parties agree to take such action as is necessary to amend this Agreement from time to time for compliance with the requirements of the HIPAA Rules and any other applicable law.
- E. **Waiver.** Any failure of a party to exercise or enforce any of its rights under this Agreement will not act as a waiver of such rights.
- F. **Interpretation.** Any ambiguity in this Agreement shall be interpreted to permit the Department to comply with the HIPAA Rules. In the event the Service Agreement contains provisions relating to the use or disclosure of PHI that are more restrictive than the provisions of this Agreement, the provisions of the more restrictive documentation will control. Except as specified herein, all other terms of the Service Agreement will continue in full force and effect.
- G. **Entire Agreement.** This Agreement shall supersede any and all other earlier dated Business Associate Agreements that may have been entered into by Business Associate executing this Agreement and the Department.
- H. **Regulatory References.** A reference in this Agreement to HIPAA Rules means the sections as in effect or as amended.

IN WITNESS THEREOF, the parties sign this Agreement.

**Signatures**

For the Department:

For Business Associate:

\_\_\_\_\_  
Signature

*Christopher Pesce*  
\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name

Christopher Pesce  
\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

CFO  
\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

08/18/2025  
\_\_\_\_\_  
Date

## **Attachment E Medicaid Requirements for Statewide Interpretive Service RFP**

1. Medicaid Interpretive service providers (ISP) shall submit invoices, via secure email, to the email address(es) designated by the Department as noted on its website.
2. Medicaid interpretive services invoices shall use the “Medicaid Interpretive Services Invoice Form” prescribed by the Medicaid agency. The form shall be submitted in its native file format.
3. ISPs shall invoice Medicaid no more than once per month.
4. ISPs submitting both telephonic and in-person claims for payment shall submit separate invoices for each type of service which will allow, as an exception to Subsection (3), a total of two invoices per month.
5. ISPs shall submit invoices no later than the last day of the month following the month the service was provided. For example, if a service is provided on April 20, the invoice would be due no later than May 31.
6. The Department shall deny invoices not submitted timely.
7. ISPs shall not bill for more than one Medicaid recipient per invoice line. Interpreters in group situations shall divide their time appropriately and shall avoid overlapping time periods.
8. The Department will recoup monies previously paid to the ISP for any services invoiced not having a corresponding Medicaid claim in the State’s system one year after the date of service. An exception to this is when the ISP has declared on the original invoice the member didn’t show up to the scheduled appointment.
9. ISPs shall conform to all Medicaid policies and procedures as well as all other applicable laws.
10. ISPs must execute a Business Associate Agreement with the Department of Health prior to providing medical interpreting services that may result in a Medicaid claim (please see Buyer Attachments Section for a template of the Business Associate Agreement).