

MASTER SERVICES AGREEMENT
BY AND BETWEEN
THE TEXAS A&M UNIVERSITY SYSTEM
AND PROTIVITI GOVERNMENT SERVICES, INC.

This Master Services Agreement (“Agreement”) is entered into as of the date of last signature below (the “Effective Date”), by and between The Texas A&M University System (hereafter referred to as “A&M System”), an agency of the state of Texas, and Protiviti Government Services, Inc., a corporation in the State of Virginia (hereafter referred to as “PROVIDER”). A&M System and PROVIDER are sometimes hereafter referred to as “Party” individually or “Parties” collectively).

A&M System and PROVIDER hereby agree as follows:

1. SCOPE OF WORK

PROVIDER will work with the A&M System and its members (hereafter referred to as “Member” or “Members”) to provide services and deliverables (“Services”) to assist with the data management services, on an as needed basis. The Services included (but not limited to) in the scope of this Agreement are listed in Exhibit A, attached hereto.

This Agreement is not a contract to perform specific work but is intended to demonstrate the ability of A&M System and its Members to contract with the PROVIDER for the Services outlined in Exhibit A. Each Member will negotiate a statement of work for any specific sub-project and execute an order form or purchase order for the specific needs (each an “Order Form”). The terms of this Agreement shall be incorporated into all Order Forms executed by a Member and PROVIDER for the Services during the term of this Agreement.

A&M System Responsibility for Process and Controls. A&M System acknowledges that the achievement of any policy, process, model, system or risk management practice depends not only on the design and implementation, but also on the quality, experience and continuity of personnel involved, the diligent ongoing execution of any such policy, process, model, system or risk management practice, and appropriate modifications as changing conditions warrant. A&M System understands and accepts responsibility for all decisions related to, and implementation and ongoing modification of, policies, processes, models, systems and risk management practice assessments, methods and assumptions, if any, developed in the course of the Order Form.

2. PROVIDER OBLIGATIONS

- A. PROVIDER will perform the Services in accordance with the standards of care, skill, and diligence expected of a qualified, competent and experienced professional in the provision of the type of services required under this Agreement.
- B. PROVIDER will obtain, maintain in effect, and pay the cost for all licenses, permits, or certifications that may be necessary for PROVIDER’s performance of this Agreement.
- C. PROVIDER represents and warrants that there are no obligations, commitments, third party rights, or impediments of any kind that will limit or prevent PROVIDER’s performance of the Services.

3. TERM OF THE AGREEMENT

The term of this Agreement begins on the Effective Date and continues for a period of five (5) years unless earlier terminated as provided herein; provided, however, that the terms of this

Agreement shall remain applicable to any Order Form that was executed prior to the expiration or termination of this Agreement but whose period of performance extends beyond the expiration or termination of this Agreement. This Agreement may be extended for two (2) additional two (2) year periods upon mutual written agreement executed by the Parties.

4. PAYMENT TERMS

- A. A&M System shall not pay any costs or fees as a direct result of this Agreement. For the services rendered under this Agreement, A&M System or Member utilizing services shall pay PROVIDER based on the pricing proposal attached as Exhibit B and made a part of this Agreement. The rate schedule may be renegotiated at the discretion of A&M System upon renewal of this Agreement. Additional rates may be negotiated on a per project basis.
- B. PROVIDER shall invoice Member for amounts due consistent with the payment schedule as negotiated per project. Each invoice must reference the A&M System or Member purchase order number (which will be provided to PROVIDER within 15 days of the execution of this Agreement) and include a description of services provided to include but not limited to time, deliverables, and activities along with documentation that A&M System may reasonably request to support the invoice amount. The A&M System will make payment on a properly prepared and submitted invoice in accordance with Chapter 2251, Texas Government Code (the "Texas Prompt Payment Act"), which shall govern remittance of payment and remedies for late payment and non-payment.
- C. Business-related travel, lodging and/or meal expenses validly incurred directly and solely in support of the Services and approved by A&M System or Member in advance, PROVIDER will be reimbursed by A&M System according to the State of Texas rates, rules, and regulations (<https://fm.xcpa.texas.gov/fmx/travel/texttravel/rates/current.php>). When requesting such reimbursement, PROVIDER will submit to A&M System or Member receipts, invoices and other documentation as required by A&M System or Member. Under no circumstances will PROVIDER be reimbursed for alcohol purchases. State travel rates are subject to change without notice and will be adjusted accordingly. Mileage rates will be calculated from point-to-point (PROVIDER's place of business to job site) using the State of Texas mileage. Should the Agreement be renewed for an additional term, travel reimbursement amounts will be renegotiated at that time.
- D. All payments will be made by electronic direct deposit. PROVIDER is required to complete and submit to A&M System a Vendor Direct Deposit Authorization form prior to the first payment request. The form can be accessed at; <https://www.tamus.edu/business/budgets-and-accounting/accounting/general/> .

5. DEFAULT AND TERMINATION

- A. Default of Respondent – A&M System shall have the right to terminate this Agreement without penalty after a 90-day written notice of termination in the event:
 - a. PROVIDER disregards or violates material provisions of this Agreement or A&M System instructions; or fails to execute the work according to the agreed upon schedule of completion and/or time of completion specified, including extensions thereof, or fails to reach agreed upon performance results.

- b. PROVIDER declares bankruptcy, become insolvent, or assign company assets for the benefit of creditors.
- B. For Convenience – A&M System shall have the right to terminate this Agreement at any time upon ninety (90) days prior notice to PROVIDER.
- C. Termination of this Agreement for either of the reasons stated above shall not terminate any Member specific agreement or purchase order. Refer to Section 11.Q for survivability of terms beyond termination of this Agreement.
- D. The period of performance of any Order Form will be as provided in the Order Form. Either party to the Order Form may terminate such Order Form effective upon written notice to the other party if the other party materially breaches any term of this Agreement or the Order Form and fails to cure such breach within fifteen (15) days after receiving written notice of the breach. In the event that the Member terminates the Order Form pursuant to this Section, the Member shall receive a pro-rata refund of any pre-paid fees. Furthermore, Member may terminate the Order Form at any time upon thirty (30) days prior notice to PROVIDER. The termination of any one Order Form will not affect any other Order Form or this Agreement.

6. OWNERSHIP OF CREATED WORKS

“Deliverables” means literary works or other works of authorship (such as documentation, reports and similar works) that Provider is required to deliver to A&M System and its Members as part of the Services, in each case as specifically set forth in the Order Form. All Deliverables will be prepared solely for the use of A&M System’s and its Member’s management, employees and directors. The Deliverables may not be relied upon for any purpose by any third party without the prior written consent of Provider. Each party grants only the licenses and rights specified in this Agreement. No other rights or licenses (including, but not limited to, licenses or rights under patents) are granted either directly, by implication or otherwise.

Proprietary Rights in Deliverables. Subject to the terms of this Agreement, including distribution of Deliverables, and fulfillment of all payment obligations under an Order Form, Provider agrees that A&M System or the Member identified in such Order Form shall own the copyright in the Deliverables, excluding any Provider Proprietary Materials (as defined below) and any third-party content that is incorporated into the Deliverables (“A&M System Owned Deliverables”). A&M System acknowledges that as part of performing Services, Provider may utilize, develop, license or purchase proprietary copyrights, patents, trade secrets, software, ideas, concepts, know-how, tools, models, processes, methodologies and techniques (including any derivatives, enhancements or modifications thereto which Provider originates, develops or purchases or licenses prior to or during the provision of Services, collectively, “Provider Proprietary Materials”). A&M System acknowledges and agrees that Provider retains all right, title, and interest in the Provider Proprietary Materials, including all intellectual property rights therein or related thereto. Subject to the terms of this Agreement, including Distribution of Deliverables and fulfillment of all payment obligations under an Order Form, Provider grants to A&M System or the Member identified in the Order Form a nonexclusive, nontransferable license to use the Provider Proprietary Materials .

PROVIDER certifies that all Deliverables will be original, or that PROVIDER will have obtained all rights necessary for the ownership and unrestricted use of the Deliverables by A&M System. PROVIDER shall secure for A&M System all consents, releases, and contracts and perform other reasonable acts as A&M System may deem necessary to secure and evidence A&M System’s rights

in any Deliverable. Distribution of Deliverables. Deliverables or other documents or materials that are provided by Provider that are Provider-branded or marked as being authored by Provider, or Deliverables or other documents or materials that, based on the circumstances, context or any related communications, would lead a reasonable reader to understand that Provider produced, authored or contributed to such Deliverables, documents or materials (collectively, "Branded Deliverables") are for the use and benefit of A&M System or its Members and Board of Regents only and not for any other party (each a "Third Party"), including, but not limited to, A&M System's affiliates, shareholders, business partners, contractors or advisors. If A&M System desires to disclose Branded Deliverables, or make reference to Provider, to any Third Party (other than A&M System's legal counsel and external auditors who need access to such information and who have agreed to keep such information confidential), A&M System will obtain Provider's prior written approval and, if requested by Provider, obtain from such Third Party a non-disclosure agreement and release in a form satisfactory to Provider. Provider accepts no liability or responsibility to any Third Party who benefits from or uses the Services or gains access to any Deliverables, including, but not limited to, Branded Deliverables. Notwithstanding the foregoing, A&M System may disclose and distribute Deliverables if, and solely to the extent that, disclosure is required by the applicable public records act and A&M System receives a request for such disclosure; provided, that A&M System provides Provider with prior written notice of such intended disclosure in sufficient time to allow Provider to seek confidential treatment of such information.

All Deliverables are based upon information made available by A&M System or its Member to Provider as of the date such Deliverables are provided to A&M System or its Member. Provider has no obligation to update any Deliverable.

7. CONFIDENTIALITY

- A. The Parties anticipate that under this Agreement it may be necessary for a Party (the "Disclosing Party") to transfer information of a confidential nature ("Confidential Information") to the other Party (the "Receiving Party"). The Disclosing Party shall clearly identify Confidential Information at the time of disclosure by (a) appropriate stamp or markings on the document exchanged, or (b) written notice, with attached listings of all material, copies of all documents, and complete summaries of all oral disclosures (under prior assertion of the confidential nature of the same) to which each notice relates, delivered within thirty (30) days of the disclosure to the other party. "Confidential Information" does not include information that: (a) is or becomes publicly known or available other than as a result of a breach of this Agreement by the Receiving Party; (b) was already in the possession of the Receiving Party as the result of disclosure by an individual or entity that was not then obligated to keep that information confidential; (c) the Disclosing Party had disclosed or discloses to an individual or entity without confidentiality restrictions; or (d) the Receiving Party had developed or develops independently before or after the Disclosing Party discloses equivalent information to the Receiving Party.
- B. The Receiving Party shall use the same reasonable efforts to protect the Disclosing Party's Confidential Information as it uses to protect its own confidential information of a similar nature. The Receiving Party may only disclose Confidential Information to its personnel having a need to know the Confidential Information to fulfill the Receiving Party's obligations under this Agreement. The Receiving Party may not reproduce, disclose, or use Confidential Information except in performing its obligations under this Agreement. If the Receiving Party is legally required to disclose Confidential Information, the

Receiving Party shall, to the extent allowed by law, promptly give the Disclosing Party written notice of the requirement so as to provide the Disclosing Party a reasonable opportunity to pursue appropriate process to prevent or limit the disclosure. If the Receiving Party complies with the terms of this Section, disclosure of that portion of the Confidential Information, which the Receiving Party is legally required to disclose, will not constitute a breach of this Agreement.

- C. The Receiving Party shall, upon request of the Disclosing Party, promptly return or destroy all materials embodying Confidential Information other than materials in electronic backup systems or otherwise not reasonably capable of being readily located and segregated without undue burden or expense, except that the Receiving Party may securely retain one (1) copy in its files solely for record purposes. The Receiving Party's obligations as to Confidential Information will survive the termination or expiration of this Agreement for a period of three (3) years.

8. INSURANCE

PROVIDER shall maintain the insurance requirements as stated within Exhibit C, attached hereto.

9. INFORMATION TECHNOLOGY

- A. **Electronic and Information Resources.** If determined to be applicable by A&M System, PROVIDER shall address all required technical standards (WCAG 2.0, Level AA) (the "Accessibility Standards") by providing a Voluntary Product Accessibility Template ("VPAT") attesting to the accessible features and capabilities of any electronic and information resources (as defined in Title 1, Chapter 213 of the Texas Administrative Code) and associated documentation and technical support (collectively, the "EIR") or provide a similarly formatted document as the VPAT attesting to the EIR's accessible features and capabilities. A&M System may test the EIR to ensure the accuracy of the VPAT response regarding conformance with the Accessibility Standards. If PROVIDER should have known, becomes aware, or is notified that the EIR do not comply with the Accessibility Standards, PROVIDER shall, in a timely manner and at no cost to A&M System, perform all necessary steps to satisfy the Accessibility Standards, including but not limited to remediation, replacement, or upgrading the EIR, or providing a suitable substitute.
- B. **Cyber Security Training.** Pursuant to Section 2054.5192, Texas Government Code, PROVIDER and its employees, officers, and subcontractors who have access to A&M System's computer system and/or database must complete a cybersecurity training program certified under Section 2054.519, Texas Government Code, and selected by A&M System. The cybersecurity training program must be completed by PROVIDER and its employees, officers, and subcontractors during the Term and any renewal period of this Agreement. PROVIDER shall verify completion of the program in writing to A&M System within the first thirty (30) calendar days of the Term and any renewal period of this Agreement. PROVIDER acknowledges and agrees that its failure to comply with the requirements of this Section are grounds for A&M System to terminate this Agreement for cause in accordance with the provisions of Section 4 of this Agreement.
- C. **Data Privacy.**

- i. PROVIDER shall hold A&M System's data in confidence. PROVIDER shall only use or disclose A&M System's data for the purpose of fulfilling PROVIDER's obligations under this Agreement, as required by law, or as otherwise authorized in writing by A&M System. PROVIDER shall restrict disclosure of the A&M System's data solely to those employees, subcontractors or agents of PROVIDER that have a need to access the A&M System's data in order for PROVIDER to perform its obligations under this Agreement. PROVIDER shall require any such subcontractors or agents to comply with the same restrictions and obligations imposed on PROVIDER in this Agreement.
- ii. PROVIDER shall, within two (2) business days of discovery of a confirmed unauthorized disclosure, report to A&M System any use or disclosure of A&M System's data not authorized by this Agreement or in writing by A&M System. PROVIDER's report must identify: (a) the nature of the unauthorized use or disclosure, (b) the A&M System data used or disclosed, (c) who made the unauthorized use or received the unauthorized disclosure, (d) what PROVIDER has done or will do to mitigate any deleterious effect of the unauthorized use or disclosure, and (e) what corrective action PROVIDER has taken or will take to prevent future similar unauthorized use or disclosure. PROVIDER shall provide such other information, including a written report, as reasonably requested by A&M System.
- iii. PROVIDER must promptly notify A&M System of any legal request for A&M System's data from a third party and take (and assist A&M System in taking) appropriate steps not to disclose such A&M System data.
- iv. Within thirty (30) days of the expiration or termination of this Agreement or an Order Form, PROVIDER, as directed by A&M System, shall return all A&M System data to A&M System in its possession (or in the possession of any of its subcontractors or agents) or delete, or render unrecoverable, all such A&M System data if return is not feasible. PROVIDER shall provide A&M System with at least ten (10) days' written notice of PROVIDER's intent to delete such A&M System data, and shall confirm such deletion in writing.

10. INDEMNIFICATION

PROVIDER shall indemnify and hold harmless A&M System, and their regents, employees and agents (collectively, the "A&M System Indemnitees") from and against any third-party claims, damages, or liabilities from personal injury or damage to tangible property, asserted against A&M System Indemnities arising directly out of any negligent or willful misconduct of PROVIDER or its employees or agents pertaining to the activities and obligations under this Agreement, except to the extent such liability, loss or damage arises from an A&M System Indemnitee's gross negligence or willful misconduct.

11. LIMITATION OF LIABILITY/WARRANTIES

- A. **Limitation Of Liability.** Notwithstanding anything to the contrary in this Agreement, to the extent authorized by the Constitution and the laws of the State of Texas, A&M System and Provider agree that, regardless of the legal theory asserted (including, but not limited to, breach of contract, warranty, negligence or tort): (i) Provider's entire liability to A&M System or any person asserting claims on behalf of or in the name of A&M System will not exceed in the aggregate, for all claims, liability, losses, damages or expenses, the total amount of fees paid or payable to Provider under the Order Form that is the subject of

the claim; and (ii) neither party shall be liable to the other party or any person asserting claims on behalf of or in the name of the other party for consequential, indirect, incidental, punitive or special damages of any nature suffered by A&M System or Provider (including, but not limited to, lost profits or business opportunity costs), even if the parties have been advised of the possibility of such damages. Notwithstanding the foregoing, no limitations or exclusions under this Agreement will apply to liability arising out of either Party's (i) data breach, data loss or other breach of data privacy and security obligations or failure to comply with confidentiality obligations, (ii) obligation under the Agreement to indemnify the other Party, (iii) gross negligence or willful misconduct; and (iv) liability which cannot lawfully be excluded or limited.

- B. **Warranties.** OTHER THAN AS SET FORTH IN THIS AGREEMENT AND THE ORDER FORMS, PROVIDER MAKES NO WARRANTIES, EXPRESS OR IMPLIED, WHETHER ARISING BY OPERATION OF LAW, COURSE OF PERFORMANCE OR DEALING, CUSTOM, USAGE IN THE TRADE OR PROFESSION OR OTHERWISE, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, NONINFRINGEMENT AND FITNESS FOR A PARTICULAR PURPOSE.

12. MISCELLANEOUS

- A. **Authority to Contract.** If PROVIDER is a business entity, PROVIDER warrants, represents, covenants, and agrees that it is duly organized, validly existing and in good standing under the laws of the state of its incorporation or organization and is duly authorized and in good standing to conduct business in the State of Texas, that it has all necessary power and has received all necessary approvals to execute and deliver this Agreement, and the individual executing this Agreement on behalf of PROVIDER has been duly authorized to act for and bind PROVIDER.
- B. **Use of Name.** Each Party acknowledges that all rights in any trademarks, service marks, slogans, logos, designs, and other similar means of distinction associated with that Party (its "Marks"), including all goodwill pertaining to the Marks, are the sole property of that Party. Neither Party may use the Marks of the other without the advance written consent of that Party, except that each Party may use the name of the other Party in factual statements that, in context, are not misleading. The Parties will mutually agree in advance upon any public announcements, or communications to the media regarding this Agreement or the services to be provided pursuant to this Agreement.
- C. **Family Education Rights and Privacy Act.** For purposes of the Family Educational Rights and Privacy Act ("FERPA"), A&M System hereby designates PROVIDER as a school official with a legitimate educational interest in any education records (as defined in FERPA) that PROVIDER is required to create, access, receive, or maintain in order to fulfill its obligations under this Agreement. PROVIDER shall comply with FERPA as to any such education records and is prohibited from redisclosure of the education records except as provided for in this Agreement or otherwise authorized by FERPA or A&M System in writing. PROVIDER is only permitted to use the education records for the purpose of fulfilling its obligations under this Agreement and shall restrict disclosure of the education records solely to those employees, subcontractors or agents who have a need to access the education records for such purpose. PROVIDER shall require any such subcontractors or agents to comply with the same restrictions and obligations imposed on PROVIDER in this Section, including without limitation, the prohibition on redisclosure. PROVIDER shall

implement and maintain reasonable administrative, technical, and physical safeguards to secure the education records from unauthorized access, disclosure or use.

- D. **Export Compliance [If Applicable].** Each Party shall comply with U.S. export control regulations. If either Party desires to disclose to the other Party any information, technology, or data that is identified on any U.S. export control list, the disclosing Party shall advise the other Party at or before the time of intended disclosure and may not provide export-controlled information to the other Party without the written consent of the other Party. PROVIDER certifies that none of its personnel participating in the activities under this Agreement is a “restricted party” as listed on the Denied Persons List, Entity List, and Unverified List (U.S. Department of Commerce), the Debarred Parties Lists (U.S. Department of State), the Specially Designated Nationals and Blocked Persons List (U.S. Department of Treasury), or any similar governmental lists.
- E. **Independent Contractor.** Notwithstanding any provision of this Agreement to the contrary, the Parties hereto are independent contractors. No employer-employee, partnership, agency, or joint venture relationship is created by this Agreement or by PROVIDER’s service to A&M System. Except as specifically required under the terms of this Agreement, PROVIDER (and its representatives, agents, employees and subcontractors) will not represent themselves to be an agent or representative of A&M System or A&M System. As an independent contractor, PROVIDER is solely responsible for all taxes, withholdings, and other statutory or contractual obligations of any sort, including but not limited to workers’ compensation insurance. PROVIDER and its employees shall observe and abide by all applicable A&M System policies, regulations, rules and procedures, including those applicable to conduct on its premises.
- F. **Representations & Warranties.** If PROVIDER is a business entity, PROVIDER warrants, represents, covenants, and agrees that it is duly organized, validly existing and in good standing under the laws of the state of its incorporation or organization and is duly authorized and in good standing to conduct business in the State of Texas, that it has all necessary power and has received all necessary approvals to execute and deliver this Agreement, and the individual executing this Agreement on behalf of PROVIDER has been duly authorized to act for and bind PROVIDER.
- G. **Delinquent Child Support Obligations.** A child support obligor who is more than 30 days delinquent in paying child support and a business entity in which the obligor is a sole proprietor, partner, shareholder, or owner with an ownership interest of at least 25 percent is not eligible to receive payments from state funds under an agreement to provide property, materials, or services until all arrearages have been paid or the obligor is in compliance with a written repayment agreement or court order as to any existing delinquency. Under Section 231.006, *Texas Family Code*, PROVIDER certifies that it is not ineligible to receive the payments under this Agreement and acknowledges that this Agreement may be terminated and payment may be withheld if this certification is inaccurate.
- H. **Payment of Debt or Delinquency to the State.** Pursuant to Sections 2107.008 and 2252.903, *Texas Government Code*, PROVIDER agrees that any payments owing to PROVIDER under this Agreement may be applied directly toward certain debts or delinquencies that PROVIDER owes the State of Texas or any agency of the State of Texas regardless of when they arise, until such debts or delinquencies are paid in full.

- I. **Prior Employment.** PROVIDER acknowledges that Section 2252.901, Texas Government Code, prohibits A&M System from using state appropriated funds to enter into an employment contract, a professional services contract under Chapter 2254, or a consulting services contract under Chapter 2254 with individual who has been previously employed by A&M System during the twelve (12) month period immediately prior to the effective date of the Agreement. If PROVIDER is an individual, by signing this Agreement, PROVIDER represents and warrants that it is not a former or retired employee of A&M System that was employed by A&M System during the twelve (12) month period immediately prior to the effective date of the Agreement.
- J. **Not Eligible for Rehire.** PROVIDER is responsible for ensuring that its employees involved in any work being performed for A&M System under this Agreement have not been designated as "Not Eligible for Rehire" as defined in System policy 32.02, *Discipline and Dismissal of Employees*, Section 4 ("NEFR Employee"). In the event A&M System becomes aware that PROVIDER has a NEFR Employee involved in any work being performed under this Agreement, A&M System will have the sole right to demand removal of such NEFR Employee from work being performed under this Agreement. Non-conformance to this requirement may be grounds for termination of this Agreement by A&M System.
- K. **Public Information.** PROVIDER acknowledges that A&M System is obligated to strictly comply with the Public Information Act, Chapter 552, *Texas Government Code*, in responding to any request for public information pertaining to this Agreement, as well as any other disclosure of information required by applicable Texas law. Upon A&M System's written request, PROVIDER will promptly provide specified contracting information exchanged or created under this Agreement for or on behalf of A&M System to A&M System in a non-proprietary format acceptable to A&M System that is accessible by the public. PROVIDER acknowledges that A&M System may be required to post a copy of the fully executed Agreement on its Internet website in compliance with Section 2261.253(a)(1), *Texas Government Code*. The requirements of Subchapter J, Chapter 552, *Texas Government Code*, may apply to this Agreement and PROVIDER agrees that this Agreement can be terminated if PROVIDER knowingly or intentionally fails to comply with a requirement of that subchapter.
- L. **Dispute Resolution.** To the extent that Chapter 2260, *Texas Government Code* is applicable to this Agreement, the dispute resolution process provided in Chapter 2260, and the related rules adopted by the Texas Attorney General pursuant to Chapter 2260, shall be used by A&M System and PROVIDER to attempt to resolve any claim for breach of contract made by PROVIDER that cannot be resolved in the ordinary course of business. PROVIDER shall submit written notice of a claim of breach of contract under this Chapter to the University Contracts Officer of A&M System, who shall examine PROVIDER's claim and any counterclaim and negotiate with PROVIDER in an effort to resolve the claim. This provision and nothing in this Agreement waives A&M System's sovereign immunity to suit or liability, and A&M System has not waived its right to seek redress in the courts.
- M. **Franchise Tax Certification.** If PROVIDER is a taxable entity subject to the Texas Franchise Tax (Chapter 171, *Texas Tax Code*), then PROVIDER certifies that it is not currently delinquent in the payment of any franchise (margin) taxes or that PROVIDER is exempt from the payment of franchise (margin) taxes.
- N. **State Auditor's Office.** PROVIDER understands that acceptance of funds under this Agreement constitutes acceptance of the authority of the Texas State Auditor's Office, or

any successor agency (collectively, "Auditor"), to conduct an audit or investigation in connection with those funds pursuant to Section 51.9335(c), *Texas Education Code*. PROVIDER agrees to cooperate with the Auditor in the conduct of the audit or investigation, including providing records supporting the deliverables and invoices submitted under this Agreement.. PROVIDER will include this provision in all contracts with permitted subcontractors.

O. **Entire Agreement.** This Agreement constitutes the entire and only agreement between the Parties hereto and supersedes any prior understanding, written or oral agreements between the Parties, or "side deals" which are not described in this Agreement. This Agreement may be amended only by a subsequent written agreement signed by authorized representatives of both parties.

P. **Severability.** In case any one or more of the provisions contained in this Agreement shall, for any reason, be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provisions hereof, and this Agreement shall be construed as if such invalid, illegal, and unenforceable provision had never been contained herein. The Parties agree that any alterations, additions, or deletions to the provisions of the Agreement that are required by changes in federal or state law or regulations are automatically incorporated into the Agreement without written amendment hereto and shall become effective on the date designated by such law or by regulation.

Q. **Survivability.** Any provision of this Agreement that may reasonably be interpreted as being intended by the Parties to survive the termination or expiration of this Agreement will survive the termination or expiration of this Agreement.

The PROVIDERS's duties under this Agreement, Member specific agreement and/or purchase order, which impose an obligation after expiration or termination of this Agreement, will survive unless otherwise stated within the Member specific agreement and/or purchase order.

R. **Headings.** Headings appear solely for convenience of reference. Such headings are not part of this Agreement and shall not be used to construe it.

S. **Non-Assignment.** PROVIDER shall neither assign its rights nor delegate its duties under this Agreement without the prior written consent of A&M System.

T. **HUB Subcontracting Plan.** It is the policy of the state of Texas and the Members to encourage the use of Historically Underutilized Businesses (HUBs) in our prime contracts, subcontractors, and purchasing transactions. The goal of the HUB program is to promote equal access and equal opportunity in Members contracting and purchasing.

If a subcontractor will be used to provide any commodity or service as part of the scope of this Agreement and/or a Member specific project, the PROVIDER may be required to make a good faith effort and complete the applicable Member HUB Subcontracting Plan (HSP).

For projects with the A&M System, contact Porschia Tolbert at so-hubprogram@tamus.edu for assistance in determining available HUB subcontractors and proper completion of the HSP. For all other Member projects, contact the applicable Member HUB Program office for project specific requirements.

- U. **Force Majeure.** Neither Party shall be held liable or responsible to the other Party nor be deemed to have defaulted under or breached this Agreement for failure or delay in fulfilling or performing any obligation under this Agreement if and to the extent such failure or delay is caused by or results from causes beyond the affected Party's reasonable control, including, but not limited to, acts of God, strikes, riots, flood, fire, epidemics, natural disaster, embargoes, war, insurrection, terrorist acts or any other circumstances of like character; provided, however, that the affected Party has not caused such force majeure event(s), shall use reasonable commercial efforts to avoid or remove such causes of nonperformance, and shall continue performance hereunder with reasonable dispatch whenever such causes are removed. Either Party shall provide the other Party with prompt written notice of any delay or failure to perform that occurs by reason of force majeure, including describing the force majeure event(s) and the actions taken to minimize the impact of such event(s).
- V. **Loss of Funding.** Performance by A&M System under this Agreement may be dependent upon the appropriation and allotment of funds by the Texas State Legislature (the "Legislature"). If the Legislature fails to appropriate or allot the necessary funds, A&M System will issue written notice to PROVIDER and A&M System may terminate this Agreement without further duty or obligation hereunder. PROVIDER acknowledges that appropriation of funds is beyond the control of A&M System. In the event of a termination or cancellation under this Section, A&M System will not be liable to PROVIDER for any damages that are caused or associated with such termination or cancellation.
- W. **Governing Law.** The validity of this Agreement and all matters pertaining to this Agreement, including but not limited to, matters of performance, non-performance, breach, remedies, procedures, rights, duties, and interpretation or construction, shall be governed and determined by the Constitution and the laws of the State of Texas.
- X. **Venue.** Pursuant to Section 85.18(b), *Texas Education Code*, mandatory venue for all legal proceedings against A&M System is to be in the county in which the principal office of A&M System's governing officer is located.
- Y. **Non-Waiver.** A&M System is an agency of the state of Texas and under the Constitution and the laws of the state of Texas possesses certain rights and privileges, is subject to certain limitations and restrictions, and only has authority as is granted to it under the Constitution and the laws of the state of Texas. PROVIDER expressly acknowledges that A&M System is an agency of the state of Texas and nothing in this Agreement will be construed as a waiver or relinquishment by A&M System of its right to claim such exemptions, remedies, privileges, and immunities as may be provided by law, including the sovereign immunity of A&M System.
- Z. **Conflict of Interest.** PROVIDER certifies, to the best of their knowledge and belief, that no member of the A&M System Board of Regents, nor any employee of A&M System, has a direct or indirect financial interest in PROVIDER or in the transaction that is the subject of the Agreement.
- AA. **Prohibition on Contracts with Companies Boycotting Israel.** To the extent that Chapter 2271, *Texas Government Code*, is applicable to this Agreement, PROVIDER certifies that (a) it does not currently boycott Israel, and (b) it will not boycott Israel during the Term

of this Agreement. PROVIDER acknowledges this Agreement may be terminated and payment withheld if this certification is inaccurate.

- BB. **Certification Regarding Business with Certain Countries and Organizations.** PROVIDER represents and warrants that it is not engaged in business with Iran, Sudan, or a foreign terrorist organization, as prohibited by Section 2252.152, *Texas Government Code*. PROVIDER acknowledges this Agreement may be terminated immediately if this certification is inaccurate.
- CC. **Records Retention.** PROVIDER will preserve all contracting information, as defined under *Texas Government Code*, Section 552.003 (7), related to the Agreement for the duration of the Agreement and for seven years after the conclusion of the Agreement.
- DD. **Verification Regarding Discrimination Against Firearm Entities and Trade Associations.** To the extent that Chapter 2274, *Texas Government Code*, is applicable to this Agreement, PROVIDER verifies that (1) it does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association, and (2) will not discriminate during the term of this Agreement against a firearm entity or firearm trade association.
- EE. **Verification Regarding Boycotting Energy Companies.** To the extent that Chapter 2274, *Texas Government Code*, is applicable to this Agreement, PROVIDER verifies that (1) it does not boycott energy companies, and (2) it will not boycott energy companies during the term of this Agreement. PROVIDER acknowledges this Agreement may be terminated and payment withheld if this verification is inaccurate.
- FF. **Compliance with Laws.** PROVIDER shall comply with all federal, state, and local laws, rules, and regulations applicable to the performance of its obligations under this Agreement.
- GG. **Notices.** Any notice required or permitted under this Agreement must be in writing, and shall be deemed given: (a) three (3) business days after it is deposited and post-marked with the United States Postal Service, postage prepaid, certified mail, return receipt requested, (b) the next business day after it is sent by overnight carrier, (c) on the date sent by email transmission with electronic confirmation of receipt by the party being notified, or (d) on the date of delivery if delivered personally. A&M System and PROVIDER can change their respective notice address by sending to the other Party a notice of the new address. Notices should be addressed as follows:

A&M System: The Texas A&M University System
301 Tarrow St., Suite 273
College Station, Texas 77840
Attention: Jeff Zimmermann
Phone: (979) 458-6410
E-mail: jzimmermann@tamus.edu

PROVIDER: Protiviti Government Services, Inc.
1737 King Street, Suite 320
Alexandria, VA 22314
Attention: John Owen
Phone: 571-842-191
Email: john.owen@roberthalf.com

- HH. **Use of Affiliates.** Notwithstanding the foregoing, Provider may utilize employees of its parent corporation and affiliates as necessary for the performance of the Services and such utilization shall not be considered a subcontractor relationship.

- II. **Remote Work.** Provider will provide Services to A&M System remotely (i.e., from a location other than A&M System’s offices) using A&M System laptops. A&M System acknowledges and agrees that Provider shall have no control over (i) Network accessibility and availability, software, services, tools and e-mail accounts (collectively, “Computer Systems”) used by the Provider staff, or (ii) the security or integrity of, nor be responsible for backing up, the data and other information stored therein or transmitted thereby. Provider shall not permit Provider staff to save or store any A&M System files or other A&M System data on Provider’s laptops nor on any software, services or tools provided by Provider (including, but not limited to, any virtual desktop infrastructure or Microsoft Office 365 solution). A&M System agrees that Provider shall not be liable for any loss, damage, expense, harm, business interruption or inconvenience resulting from the use of such Computer Systems.

IN WITNESS WHEREOF, the Parties have entered into this Agreement as of the Effective Date.

The Texas A&M University System

DocuSigned by:
Jeff Zimmermann
By _____ 1/23/2024
E2BE2924E69547F... _____
Jeff Zimmermann Date
Executive Director, Procurement

Protiviti Government Services, Inc.

DocuSigned by:
John Owen
By _____ 1/23/2024
36779F3810CF426... _____
John Owen Date
Managing Director

Exhibit A – Scope of Work

Notwithstanding any other provision in this Agreement, PROVIDER's performance of the Services will (1) conform to the specifications and requirements of Request for Proposal No. RFP01 CIO-23-150 (the "RFP"), which is incorporated by reference for all purposes, and (2) to the extent consistent with the RFP, will conform with PROVIDER's proposal, dated July 26, 2023 ("PROVIDER's Proposal") which was submitted by PROVIDER in response to the RFP and is incorporated by reference for all purposes. To the extent that the RFP or PROVIDER's Proposal conflict with the terms of this Agreement, the terms of this Agreement will control.

1. General

The A&M System is looking for a deliverable-based and/or resource-based approach to implement and sustain its data governance programs. This may include support of an existing data management program, enhancements of the existing data management program, or establish and implement a data management program for the Member.

PROVIDER shall be able to assist A&M System and its Members in achieving the following objectives.

- 1.1 In compliance with Texas Government Code, Section 2054.137, manage, support, and/or develop and implement a data governance program for an A&M System agency or institution to oversee its data governance program.
- 1.2 Establish a data management program for the A&M System Member that will exercise authority and management over the agency's data assets. To accomplish this requirement the vendor may need to perform one or more of the following:
 - a. Establish a data governance organizational framework.
 - b. Establish a data governance process framework.
 - c. Define key roles that will support the DMO framework (Data Management Officer, data stewards, data custodians, business analyst, data architects/ engineers, SIO).
 - d. Develop a roadmap including timeline and budget based on the approved DMO Charter.
- 1.3 Guide the A&M System Member data management program in identifying the agency's data assets.
- 1.4 Ensure compliance with related processes and procedures to oversee the agency's data assets, including contextual information and metadata.
- 1.5 Implement best practices for managing and securing data in accordance with state privacy laws and data privacy classification.
- 1.6 Ensure the Member's records management programs apply to all types of data storage media.
- 1.7 Increase awareness of and outreach for the Member's records management programs within the agency.
- 1.8 Conduct a data maturity assessment of the Member's data governance program in accordance with the requirements established by department rule.
- 1.9 Coordinate with the Member's Chief Information Officer, System Chief Information Security Officer, and the System Chief Information Officer in providing program status to the Texas Department of Information Resources (DIR).

1.10 Data management services and expertise including but not limited to:

- 1.10.1 Data Governance
- 1.10.2 Business Intelligence and Data Warehouse Management
- 1.10.3 Data Integration and Interoperability Management
- 1.10.4 Documents and Content
- 1.10.5 Reference and Master Data
- 1.10.6 Metadata Management
- 1.10.7 Data Quality
- 1.10.8 Data Storage and Operations
- 1.10.9 Data Security

2. **A&M System Members in Scope**

The A&M System Member universities and agencies in scope for this RFP are listed here.

Universities

- Prairie View A&M University
- Tarleton State University
- Texas A&M International University
- Texas A&M University
- Texas A&M University - Central Texas
- Texas A&M University - Commerce
- Texas A&M University - Corpus Christi
- Texas A&M University - Kingsville
- Texas A&M University - San Antonio
- Texas A&M University - Texarkana
- Texas A&M University at Galveston

Agencies

- Texas A&M Agrilife Extension Service
- Texas A&M Agrilife Research
- Texas A&M Engineering Experiment Station
- Texas A&M Engineering Extension Service
- Texas A&M Forest Service
- Texas A&M Transportation Institute
- Texas A&M University Health Science Center
- Texas A&M Veterinary Medical Diagnostic Laboratory
- Texas Division of Emergency Management
- The Texas A&M University System

Exhibit B – Pricing

1. Pricing Methodology

Our objective is to deliver to you a high-quality product while maintaining your trust as a valued business partner. The tables below outline our hourly rates, which are exclusive of taxes and out of pocket expenses, across multiple delivery options and can be further tailored to your expectations.

Additionally, our Americas Delivery Center (ADC) and Global Delivery Centers (GDC) offer additional staffing options and capabilities, ensuring we can accommodate your project needs efficiently and cost effectively.

Our commitment is to provide exceptional service and value as we collaborate with you to achieve your goals and foster a successful long term partnership.

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Advisory & Consulting

Resource Level	Hourly Rate
Managing Director	\$400
Senior Director	\$400
Director	\$340
Associate Director	\$300
Senior Manager	\$270
Manager	\$240
Senior Consultant	\$215
Consultant	\$165

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Managed Solutions

We offer the only single solution that brings world-class caliber consulting and one of the largest networks of specialized talent solutions together to address our clients' needs. Our Managed Solutions engagements can utilize both rate schedules depending on specific resource requirements for each project. This ensures the best combination of expertise, scalability, and cost-effective resources.

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Staff Augmentation

Robert Half is a global market leader in providing specialized staff augmentation resources, including talent for nearly any role within Data Analysis & Design, Data Governance, Technology Governance, Application Development, IT Operations, Networking, Cloud, Security, and ERP. These resources are provided at market rates ranging from \$45 to \$250 per hour. Rates are based on skill level, experience, and location and are a lower-cost alternative to our Advisory & Consulting rates. We will provide specific rates for these resources per project engagement, working with TAMUS members to ensure a cost-effective approach.

2. Rate Card

Resource Level	Hourly Rate
Managing Director	\$400
Senior Director	\$400
Director	\$340
Associate Director	\$300
Senior Manager	\$270
Manager	\$240
Senior Consultant	\$215
Consultant	\$165

Exhibit C – Insurance

The PROVIDER shall obtain and maintain, for the duration of this Agreement or longer, the minimum insurance coverage set forth below. With the exception of Professional Liability (E&O), all coverage shall be written on an occurrence basis. All coverage shall be underwritten by companies authorized to do business in the State of Texas or eligible surplus lines insurers operating in accordance with the Texas Insurance Code and have a financial strength rating of A- or better and a financial strength rating of VII or better as measured by A.M. Best Company or otherwise acceptable to A&M System. By requiring such minimum insurance, A&M System shall not be deemed or construed to have assessed the risk that may be applicable to PROVIDER under this Agreement. PROVIDER shall assess its own risks and if it deems appropriate and/or prudent, maintain higher limits and/or broader coverage. PROVIDER is not relieved of any liability or other obligations assumed pursuant to this Agreement by reason of its failure to obtain or maintain insurance in sufficient amounts, duration, or types. No policy will be canceled without unconditional written notice to A&M System at least ten days before the effective date of the cancellation.

Coverage

Limit

1. Worker's Compensation

Statutory Benefits (Coverage A)	Statutory
Employers Liability (Coverage B)	\$1,000,000 Each Accident \$1,000,000 Disease/Employee \$1,000,000 Disease/Policy Limit

Workers' Compensation policy must include under Item 3.A. on the information page of the workers' compensation policy the state in which work is to be performed for A&M System. Workers' compensation insurance is required, and no "alternative" forms of insurance will be permitted

2. Automobile Liability

Business Auto Liability Insurance covering all owned, non-owned or hired automobiles, with limits of not less than \$1,000,000 Single Limit of liability per accident for Bodily Injury and Property Damage;

If a separate Business Auto Liability policy is not available, coverage for hired and non-owned auto liability may be endorsed on the Commercial General Liability policy.

3. Commercial General Liability

Each Occurrence Limit	\$1,000,000
General Aggregate Limit	\$2,000,000
Products / Completed Operations	\$1,000,000
Personal / Advertising Injury	\$1,000,000
Damage to rented Premises	\$300,000
Medical Payments	\$5,000

The required commercial general liability policy will be issued on a form that insures PROVIDER's or its subcontractors' liability for bodily injury (including death), property damage, personal and advertising injury assumed under the terms of this Agreement.

4. Cyber Liability

Contractor shall procure and maintain for the duration of the contract insurance claims arising out of their services and including, but not limited to loss, damage, theft or other misuse of data, infringement of intellectual property, invasion of privacy and breach of data. Cyber Liability policy with limits not less than \$2,000,000 per occurrence or claim, \$2,000,000 aggregate. Coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by Contractor in this **agreement and shall include, but not limited to, claims involving infringement of intellectual property**, trademark, trade dress, invasion of privacy violations, information theft, damage to or destruction of electronic information, release of private information, alteration of electronic information, extortion and network security.

The policy shall provide coverage for breach response costs as well as regulatory fines and penalties as well as credit monitoring expenses with limits sufficient to respond to these obligations. Such insurance shall be maintained and in force at all times during the term of the agreement and for a period of two years thereafter for services completed during the term of the agreement. [SYSTEM AND/OR MEMBER] shall be given at least 30 days notice of the cancellation or expiration of the aforementioned insurance for any reason.

If the Contractor maintains broader coverage and/or higher limits than the minimums shown above, the System and its members require and shall be entitled to the broader coverage and/or higher limits maintained by the Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the System and its members.

5. Additional Endorsements

The Auto and Commercial General Liability Policies shall name the Texas A&M University System Board of Regents for and on behalf of The Texas A&M University System and the PROVIDER as additional insureds.

6. PROVIDER will deliver to A&M System:

Evidence of insurance on a Texas Department of Insurance approved certificate form verifying the existence and actual limits of all insurance after the execution and delivery of this Agreement and prior to the performance of any services by PROVIDER under this Agreement. Additional evidence of insurance will be provided on a Texas Department of Insurance approved certificate form verifying the continued existence of all required insurance no later than thirty (30) days after each annual insurance policy renewal.

All insurance policies, with the exception of worker's compensation, employer's liability and professional liability will be endorsed and name The Board of Regents for and on behalf of The Texas A&M University System, The Texas A&M University System and A&M System as Additional Insureds up to the actual liability limits of the policies maintained by PROVIDER. Commercial General Liability and Business Auto Liability will be endorsed to provide primary and non-contributory coverage. The Commercial General Liability Additional Insured endorsement will include on-going and completed operations and will be submitted with the Certificates of Insurance.

All insurance policies will be endorsed to provide a waiver of subrogation in favor of The Board of Regents of The Texas A&M University System, The Texas A&M University System and A&M System. No policy will be canceled without unconditional written notice to A&M System at least ten days before the effective date of the cancellation.

All insurance policies will be endorsed to require the insurance carrier providing coverage to send notice to A&M System ten (10) days prior to the effective date of cancellation, material change, or

non-renewal relating to any insurance policy required in this Section.

Any deductible or self-insured retention must be declared to and approved by A&M System prior to the performance of any services by PROVIDER under this Agreement. PROVIDER is responsible to pay any deductible or self-insured retention for any loss. All deductibles and self-insured retentions will be shown on the Certificates of Insurance.

Certificates of Insurance and Additional Insured Endorsements as required by this Agreement will be mailed or emailed to the following A&M System contact:

The Texas A&M University System
301 Tarrow Street
College Station, TX 77840
Attn: Jeff Zimmermann
Email Address: soprocurement@tamus.edu

The insurance coverage required by this Agreement will be kept in force until all services have been fully performed and accepted by A&M System in writing.