BENCHMARK RELATED CONSULTING SERVICES
CONTRACT FOR PROFESSIONAL SERVICES
BETWEEN
THE NATIONAL ASSOCIATION OF STATE AUDITORS,
COMPTROLLERS AND TREASURERS
AND
(CONTRACTOR)

This Contract is made and entered into by and between the National Association of State Auditors, Comptrollers and Treasurers ("NASACT") and the party named below, hereinafter referred to as "Contractor."

Contractor: MAXIMUS Consulting Services, Inc.
Address: 1891 Metro Center Drive
City, State & Zip Code: Reston, VA 20190
Phone: 703.251.8500
Email Address: stevenwhitney@maximus.com
Federal ID No.: 26-1557956

PURPOSE

The purpose of this contract is to acquire professional services and expertise to assist state governments in procuring benchmark-related consulting services.

CONTRACTING; STATEMENT OF WORK (SOW)

Each contracting state (hereinafter referred to herein as the "Client" or "contracting state" or "Participating State") will enter into a contract with NASACT substantially similar to this agreement and a Statement of Work (hereinafter, "Statement of Work" or "SOW") substantially similar to Exhibit A attached hereto. It is understood by the parties that the Statement of Work entered into by each participating state may contain project specific terms and NASACT and the Contractor will negotiate any changes from this agreement and Exhibit A and execute these documents prior to beginning work on any Benchmark Related Consulting Services engagement. The terms of this Contract and the General Terms and Conditions, Exhibit C, will be incorporated by reference and govern any underlying SOW. The parties understand that Exhibit A represents a sample with typical schedule, data collection and resource commitments. These components will vary by state and will be finalized during Phase 1- Planning and Kickoff of the process. Notwithstanding the foregoing, NASACT and Contractor hereby agree that they will work cooperatively together and will exercise commercially reasonable efforts to (subject always to Contractor's and NASACT'S final review and approval as to exact language used): (i) include language into the SOW that is the same or substantially similar to the Special Terms Related to Intellectual Property Ownership & Use set forth in Exhibit A; or (ii) seek and receive Client's execution of a written agreement containing such terms and conditions. Contractor acknowledges that certain Clients may refuse to include or agree to the exact terms and conditions set forth in Exhibit A. In such event, NASACT and Contractor shall work together diligently and in good faith to negotiate with such Client(s) terms substantially similar to what is set forth in Exhibit A which the Client can accept. NASACT understands and agrees that Contractor will not be obligated to initiate or complete any Services under this Agreement or any
SOW unless and until NASACT returns to Contractor a copy of the approved language referenced hereinabove properly signed by an authorized representative of each Client.

**SCOPE OF WORK**

The Contractor will provide services to participating states, and otherwise do all things necessary for or incidental to the performance of work, as set forth in the SOW.

Exhibit C contains the General Terms and Conditions governing work to be performed under this contract, the nature of the working relationship between NASACT and the Contractor and a participating State, and specific obligations of all parties. In the event a participating state is unable to execute an SOW due to language in the General Terms and Conditions of the NASACT Contract due to state restrictions, NASACT and the Contractor will work in good faith to negotiate mutually agreeable terms under a Contract Amendment which will apply solely to that Client to enable the participating state to use the NASACT Benchmark Related Consulting Services Contract. Amendments to the Contract or General Terms contained in any underlying SOW will not be applicable to any other participating state(s).

The Contractor shall produce the following written reports or other written documents (deliverables) to the contracting state as indicated in the applicable SOW.

This Contract intends to provide benchmark related consulting services and related information to benefit the Participating States with due consideration of safeguarding the Contractor's proprietary or confidential information. This consideration must be appropriately balanced with applicable transparency and public information laws, the requirements of which may differ among the Participating States. In the event that such laws would require the disclosure of Contractor's proprietary or confidential data, such information shall be retained by the Contractor, who shall provide a secondary report to the Participating State to allow their key State officials to view the information without compromising Contractor's proprietary or confidential information. Specifically, upon request of the applicable Client on the basis of their respective open-records laws, the Parties agree to include the following stipulation in the applicable SOW:

The Contractor will provide each Participating State with 2 reports:

1. A version which may be distributed internally to those legislative committees and/or other internal state government officials which oversee the contracting State's audit and/or budgeting process and to such contracting state's auditor, if applicable but not distributed at will nor posted for public viewing and will be marked Draft and/or Proprietary as deemed necessary by the State.

2. A version which can be distributed at will by the State and will be marked Final.

Both of these reports are considered a part of our standard deliverable and are not subject to an additional report creation fee. Please see explanation in Pricing section of SOW.

All written reports required under this contract must be delivered to Kimberly O'Ryan, the Contract Manager, in accordance with the schedule set forth in the applicable SOW.
PERIOD OF PERFORMANCE

Subject to other contract provisions, this Contract will be a three-year contract with options for three, optional one-year extensions. An SOW extending beyond the expiration date of the Contract between NASACT and the Contractor shall be completed as long as the SOW is signed prior to the expiration date of this Contract.

COMPENSATION AND PAYMENT

NASACT will pay Contractor within 45 days of receipt of invoices for work performed under an SOW, which shall first be submitted to the Client's Project Manager for approval in accordance with the contract deliverables payment schedule. NASACT will deliver invoices to participating states within three (3) business days of the receipt of such invoices. The invoices shall describe and document to NASACT's and the contracting state's satisfaction a description of the work performed, the progress of the project, and fees.

As compensation for the Services hereunder, NASACT agrees to pay Contractor pursuant to the fee schedule set forth in each SOW. Contractor's compensation for services rendered shall be the fixed price agreed upon in the applicable SOW. Contractor reserves the right to raise the prices set forth in Exhibit A after 3 years from Contract signature. The price increase would tie to the Consumer Price Index.

BILLING PROCEDURES

NASACT maintains a vendor file to use for processing vendor payments. Contractors are strongly encouraged to sign up for direct deposit.

NASACT will pay Contractor upon receipt of properly completed invoices, which shall be submitted to the Project Manager within thirty (30) days of the invoice date. Payment shall be made to Contractor pursuant to the fee schedule set forth in each SOW without undue delay.

NOTE:

As compensation for the Identified Services, the states agree to pay Contractor pursuant to the fee schedule set forth in each SOW and Project Selection.

Payment shall be considered timely if made by NASACT within forty-five (45) days after receipt of properly completed invoices. Payment shall be sent to the address designated by the Contractor.

Travel Expense Allowed:

1. Only coach airfare rates will be used and Contractor will make sure of early purchase discounts when possible.
2. Per-diem rates will be capped at the CONUS meals and incidental rates for the relevant city.
3. Contractor will make best efforts to obtain government rates for lodging.

NASACT may, upon request by a participating state, terminate a SOW if the Contractor fails to satisfactorily comply with any term or condition of this contract.
Except as otherwise provided in the SOW, no payments in advance or in anticipation of services or supplies to be provided under this contract shall be made by NASACT.

CONTRACT MANAGEMENT

The Contract Manager for each of the parties shall be the contact person for all communications and billings regarding the performance of this Contract.

<table>
<thead>
<tr>
<th>Contract Manager for Contractor:</th>
<th>Contract Manager for NASACT:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Company Name: MAXIMUS Consulting Services, Inc.</td>
<td>Company Name: NASACT</td>
</tr>
<tr>
<td>Contractor Name: Steven E. Whitney</td>
<td>Contract Manager: Kimberly O’Ryan</td>
</tr>
<tr>
<td>Address: City/State/Zip: 1891 Metro Center Drive, Reston, VA 20190</td>
<td>Address: 449 Lewis Hargett Circle, Suite 290 City/State/Zip: Lexington, KY 40503-3590</td>
</tr>
<tr>
<td>Phone: 703.251.8500</td>
<td>Phone: (859) 276-1147</td>
</tr>
<tr>
<td>Fax: 703.251.8240</td>
<td>Fax: (859) 278-0507</td>
</tr>
<tr>
<td>Email address: <a href="mailto:stevenwhitney@maximus.com">stevenwhitney@maximus.com</a></td>
<td>Email address: <a href="mailto:koryan@nasact.org">koryan@nasact.org</a></td>
</tr>
</tbody>
</table>

The Contractor shall provide insurance coverage as set out in Request for Proposals No. 11-01. The intent of the required insurance is to protect NASACT should there be any claims, suits, actions, costs, damages or expenses arising from any negligent or intentional act or omission of the Contractor or subcontractor, or agents of either, while performing under the terms of this contract.

Contractor shall submit to NASACT within fifteen days of the contract effective date, a certificate of insurance which outlines the coverage and limits defined in the Insurance section. Contractor shall submit renewal certificates as appropriate during the term of the contract.

ASSURANCES

NASACT and the Contractor agree that all activity pursuant to this contract will be in accordance with all the applicable current federal, state and local laws, rules and regulations.

ORDER OF PRECEDENCE

Each of the exhibits listed below is by this reference hereby incorporated into this contract. In the event of an inconsistency in this contract, the inconsistency shall be resolved by giving precedence in the following order:

* Federal and state statutes and regulations applicable to the participating state.
* This Contract (as amended)
* Exhibit C – General Terms and Conditions.
* The applicable SOW, including Exhibit A attached hereto
* Request for Proposals No. 11-01 including provisions, terms or material incorporated herein by reference or otherwise incorporated, as amended by the Contract.
* Contractor’s Proposal as amended by the Contract
* Any other provision, term or material incorporated herein by reference or otherwise incorporated including any underlying SOW.
NASACT acknowledges that Contractor shall be an intended third party beneficiary to the End User Agreements with the right to pursue NASACT's remedies thereunder, to the extent permitted by applicable law.

EXCLUSIVE REMEDY; ASSIGNMENT OF RIGHTS; THIRD PARTY BENEFICIARY

The parties hereto agree that, absent bad faith, negligence, fraud, failure to remit funds paid by a participating state, breach of the confidentiality or intellectual property provisions of this agreement or injuries to persons or property caused by NASACT, Contractor shall not be entitled to bring a claim against NASACT hereunder. In the event of a breach of an SOW by a participating state, NASACT shall assign its rights to proceed against such state to Contractor and shall cooperate in the pursuit of an action against such state at Contractors expense. In the event that such assignment of rights is not effective, NASACT agrees to bring a lawsuit in its name against such participating state and pursue any and all remedies requested by Contractor at Contractor's expense. In such event, NASACT agrees to use a law firm chosen by Contractor to pursue the claim. In the event of a dispute between NASACT and the Contractor, NASACT reserves the right to hire its own law firm at NASACT’s expense.

ENTIRE AGREEMENT

This contract including referenced exhibits represents all the terms and conditions agreed upon by the parties. No other understandings or representations, oral or otherwise, regarding the subject matter of this contract shall be deemed to exist or to bind any of the parties hereto.

CONFORMANCE

If any provision of this contract violates any statute or rule of law of the contracting state, it is considered modified to conform to that statute or rule of law.

AMENDMENTS

The contract may be changed, modified or amended only by written amendment executed by both parties.

THIS CONTRACT, consisting of 15 pages including 2 attachment(s), is executed by the persons signing below who warrant that they have the authority to execute the contract.

CONTRACTOR

Signature ___________________________ Signature ___________________________
Title Vice President Date 12/21/13

NASACT

Signature ___________________________ Signature ___________________________
Title Executive Director Date 1/18/14
EXHIBIT A
BENCHMARK RELATED CONSULTING SERVICES
EXAMPLE STATEMENT OF WORK (SOW) FOR PROFESSIONAL SERVICES
Between NASACT and The State of _________

This Statement of Work (SOW) is made and entered into by and between the National Association of State Auditors, Comptrollers and Treasurers ("NASACT") and State of [ ] (the "Participating State" or "State") under a Benchmark Related Consulting Services Contract by and between (Vendor) and NASACT on behalf of all Participating States (the "Contract"), which Contract is hereby incorporated by reference herein.

NOW, THEREFORE, in consideration of the agreements contained herein, and of other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound, under the terms of the Contract, the Parties hereto agree as follows:

The SOW will be completed based on the nature and scope of the engagement.

IN WITNESS WHEREOF, this SOW has been duly executed and delivered by the duly authorized officer of each of the Parties with effect as of the last date executed below.

PARTICIPATING STATE

Authorized Signature: _______________________
Name: _______________________
Title: _______________________
Date: _______________________

NASACT

Authorized Signature: _______________________
Name: _______________________
Title: _______________________
Date: _______________________
EXHIBIT C
GENERAL TERMS AND CONDITIONS

DEFINITIONS - As used throughout this contract, the following terms shall have the meaning set forth below:

A. "NASACT" shall mean the National Association of State Auditors, Comptrollers and Treasurers, and any other officials lawfully representing NASACT.

B. "Agent" shall mean the Executive Director of NASACT and/or the delegate authorized in writing to act on the Director's behalf.

C. "Contractor" shall mean that Proposer, provider, organization, individual or other entity performing service(s) under this contract, and shall include all employees of the Contractor.

D. "Subcontractor" shall mean one not in the employment of the Contractor, who is performing all or part of those services under this contract under a separate contract with the Contractor. The terms "Subcontractor" and "Subcontractors" mean Subcontractor(s) in any tier.

ACCESS TO DATA AND OWNERSHIP – Subject to the terms below, the Contractor shall provide access to data generated under this contract to NASACT and to the legislative committees and/or other internal state government officials which oversee the contracting state's audit and to the contracting state's auditor, if applicable, at no additional cost. This includes access to all information that supports the findings, conclusions, and recommendations of the Contractor's reports, including computer models and methodology for those models. NASACT or the Contracting State shall provide reasonable prior written notice of any such audits, which shall be conducted during normal business hours in a manner that does not disrupt Contractor's business. NASACT and the Contracting State shall abide by all Contractor work rules and security regulations while conducting such audit. NASACT and the participating states shall have a perpetual, non-exclusive license to utilize the reports provided by Contractor and may disclose reports provided by Contractor or generated by Contractor data collection tools to those legislative committees and/or other internal state government officials which oversee the contracting state's audit and to such contracting state's auditor, if applicable, at no additional cost, provided that NASACT discloses the ownership and rights related to the Contractor reports to all disclosed parties. Notwithstanding the foregoing, the pre-existing and underlying intellectual property, methodologies, and templates are proprietary to Contractor and are Contractor's trade secrets. Subject to each state's open record laws and as specifically provided in any SOW, NASACT and the participating state agree that these trade secrets will be held in strict confidence by NASACT and any participating state, its officers, and employees, that they will utilize the same degree of care with respect to the Contractor trade secrets as each utilizes with its own confidential information to prevent the unauthorized disclosure to third parties (but no less than a reasonable degree of care), and that NASACT and any participating state will either return or destroy all copies of the Contractor trade secrets upon Contractor's request. Contractor shall remain the exclusive owner of all right, title and interest in and to this proprietary information and trade secrets, and each of their component parts, now in existence or hereafter developed, including all copyrights thereto, in whatever medium in which they are embodied. Contractor agrees not to publish the data of any participating state in a format that identifies the information as that of the participating state. However, each state shall retain ownership of its individual data.
Marketing
- Contractor may reference a State as a client on its website.
- Contractor may reference a State in its sales material – state logos will be used to represent who has contributed data into our database. However, state seals may not be used without the prior written consent of the participating state.
- Contractor occasionally produces Press Releases/Case Studies on specific client organizations. A unique client would not be referenced without expressed written consent.
- Contractor will sometimes present at Conferences and Seminars. Contractor will leverage State logos to describe client participants, but will not reference explicit outcomes without prior written consent.

ADVANCE PAYMENTS PROHIBITED – Unless otherwise provided in the SOW, no payments in advance of or in anticipation of goods or services to be provided under this contract shall be made by NASACT.

ASSIGNMENT – Other than as provided for in this agreement or any SOW, the work to be provided under this Agreement, and any claim arising hereunder, is not assignable or delegable by either party in whole or in part, without the express prior written consent of the other party, which consent shall not be unreasonably withheld.

ATTORNEYS’ FEES - In the event of litigation or other action brought to enforce contract terms, each party agrees to bear its own attorneys’ fees and costs.

CONFIDENTIALITY / SAFEGUARDING OF INFORMATION - Subject to each Client’s open record laws and as specifically provided in any SOW, neither party shall use or disclose any information concerning the other, including any contracting state, or information which may be classified as confidential, for any purpose not directly connected with the administration of this contract, except with prior written consent of the disclosing party, or as may be required by law or administrative process. Notwithstanding the foregoing, Contractor shall be permitted to use and publish certain information gathered in connection with its work under any SOWs in Contractor programs as now or in the future conducted, which may include the aggregated results of the data analysis and research, and the reports generated in connection with the Contractor programs for its own business, provided Contractor shall not publish such information in the Contractor programs or related publications in a way that identifies NASACT or any participating state. However, each state shall retain ownership of its individual data.

CONFLICT OF INTEREST - NASACT may, in its sole discretion, by written notice to the Contractor terminate this contract if it is found after due notice and examination by the Agent that there is a violation of NASACT’s Procurement Policy for Cooperative Agreements, Section 6, involving the Contractor in the procurement of, or services under this contract. In addition, NASACT may terminate any SOW if it receives notice of a conflict of interest from any participating state.

In the event this contract is terminated as provided above, NASACT shall be entitled to pursue the same remedies against the Contractor as it could pursue in the event of a breach of the contract by the Contractor. The rights and remedies of NASACT and participating states provided for in this clause shall not be exclusive and are in addition to any other rights and
remedies provided by law. The existence of facts upon which the Agent or participating states makes any determination under this clause shall be an issue and may be reviewed as provided in the "Disputes" clause of this contract.

COPYRIGHT PROVISIONS—Except for the reports provided by Contractor, or unless otherwise provided, all Materials produced under this contract shall be considered "works for hire" as defined by the U.S. Copyright Act and shall be owned jointly by NASACT and each contracting state. NASACT shall be considered the author of such Materials. In the event the Materials are not considered "works for hire" under the U.S. Copyright laws, Contractor hereby irrevocably assigns all right, title, and interest in Materials, including all intellectual property rights, to NASACT effective from the moment of creation of such Materials.

Materials means all items in any format and includes, but is not limited to, data, reports, documents, pamphlets, advertisements, books, magazines, surveys, studies, computer programs, films, tapes, and/or sound reproductions (identified as materials in the Statement of Work). Ownership includes the right to copyright, patent, register and the ability to transfer these rights.

For Materials that are delivered under the contract, but that incorporate pre-existing materials not produced under the contract, Contractor hereby grants to NASACT a nonexclusive, royalty-free, irrevocable license (with rights to sublicense others) in such Materials to translate, reproduce, distribute, prepare derivative works, publicly perform, and publicly display. The Contractor warrants and represents that Contractor has all rights and permissions, including intellectual property rights, moral rights and rights of publicity, necessary to grant such a license to NASACT. Any rights and materials specific to a contracting state's project will be transferred from NASACT to that state.

The Contractor shall exert all reasonable effort to advise NASACT or the participating state, as applicable, at the time of delivery of Materials furnished under this contract, of all known or potential invasions of privacy contained therein and of any portion of such document which was not produced in the performance of this contract. NASACT shall receive prompt written notice of each notice or claim of copyright infringement received by the Contractor with respect to any Materials delivered under this contract. NASACT shall have the right to modify or remove any restrictive markings placed upon the data by the Contractor.

COVENANT AGAINST CONTINGENT FEES—The Contractor warrants that no person or selling agent has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, excepting bona fide employees or bona fide established agents maintained by the Contractor for the purpose of securing business. NASACT shall have the right, in the event of breach of this clause by the Contractor, to annul this contract without liability or, in its discretion, to deduct from the contract price or consideration or recover by other means the full amount of such commission, percentage, brokerage or contingent fee.

DISPUTES—Except as otherwise provided in this contract, when a dispute arises between the parties and it cannot be resolved, either party may request a dispute hearing with (Agent). Disputes shall be resolved as quickly as possible. In the event of a dispute between Contractor and a participating state, NASACT will assign its rights to pursue remedies under the applicable SOW to either the Contractor or the participating state.

1. The request for a dispute hearing must:
   • be in writing;
• state the disputed issue(s);
• state the relative positions of the parties;
• state the Contractor's name, address, and contract number; and
• be mailed to the Agent and the other party's (respondent's) Contract Manager within 3 working days after the parties agree that they cannot resolve the dispute.

2. The respondent shall send a written answer to the requester's statement to both the agent and the requester within 5 working days.

3. The Agent shall review the written statements and reply in writing to both parties within 10 working days. The Agent may extend this period if necessary by notifying the parties.

4. The parties agree that this dispute process shall precede any action in a judicial or quasi-judicial tribunal.

NASACT and Contractor agree that, the existence of a dispute notwithstanding, they will continue without delay to carry out all their respective responsibilities under this contract which are not affected by the dispute. Both parties agree to exercise good faith in the dispute resolution and to settle disputes prior to using the dispute resolution panel whenever possible.

GOVERNING LAW - This contract shall be construed and interpreted in accordance with the laws of the Commonwealth of Kentucky, and the venue of any action brought hereunder shall be in the Superior Court for Fayette County. SOWs shall be construed and interpreted in accordance with the laws of the participating state and the venue of any action brought hereunder shall be in the state or federal courts of the participating state.

INDEMNIFICATION - To the fullest extent permitted by law, the Contractor shall indemnify, defend, and hold harmless NASACT and all officials, agents and employees of NASACT, from and against all claims for injuries or death arising out of or resulting from the performance of the contract. Contractor's obligation to indemnify, defend and hold harmless includes any claim by Contractor's agents, employees, representatives, or any subcontractor or its employees.

Contractor expressly agrees to indemnify, defend, and hold harmless NASACT for any claim arising out of or incident to Contractor's or any subcontractor's performance or failure to perform the contract (i) related to the negligence or willful misconduct of Contractor, or its officers, employees and/or agents, or (ii) related to claims by any of Contractor's employees for injuries or damages under the workmen's compensation or similar acts, (iii) incurred by NASACT based on any claim that any materials provided by Contractor under the Agreement or use thereof by Contractor in accordance with this Agreement infringes any patent, copyright, trademark, trade secret or other proprietary right of any third party. Contractor shall be required to indemnify, defend and hold harmless NASACT only to the extent claim is caused in whole or in part by negligent acts or omissions of Contractor. The Contractor shall not be responsible for indemnification for acts caused solely by the State or NASACT.

If Contractor or any of its affiliates, or any of their respective officers, directors, employees, agents, subcontractors or shareholders, is ever liable to NASACT for one or more breaches, disputes, controversies or claims arising under or in connection with Services provided hereunder (whether any such breach, dispute, controversy or claim is based upon contract, tort, statute, equity or any other legal theory), except for claims for personal injury arising out of Contractor's willful misconduct or negligence and/or Contractor's infringement of a third party intellectual property rights, then, (i) the cumulative amount of all damages and penalties, if any, recoverable by NASACT and any single participating state, in the aggregate, for all such breaches, disputes,
controversies and claims will not exceed an amount equal to two times the total amount paid or payable under the SOW from which the breach, dispute, controversy or claim arose.

In no event will Contractor or any of its affiliates, or any of their respective officers, directors, employees, agents, shareholders or subcontractors, be liable to NASACT or any other person for (i) any special, indirect, incidental or consequential damages, even if Contractor or such other person has been advised of the possibility of such damages, (ii) punitive damages, loss of anticipated profits, savings or business, loss of commercial reputation or other economic loss, or (iii) damages that could have been avoided, using reasonable diligence, by NASACT or such other person.

INDEPENDENT CAPACITY OF THE CONTRACTOR - The parties intend that an independent contractor relationship will be created by this contract. The Contractor and his or her employees or agents performing under this contract are not employees or agents of NASACT. The Contractor will not hold himself/herself out as or claim to be an officer or employee of NASACT by reason hereof, nor will the Contractor make any claim of right, privilege or benefit which would accrue to such employee under law. Conduct and control of the work will be solely with the Contractor.

INDUSTRIAL INSURANCE COVERAGE - NASACT may require the Contractor to provide proof of adequate worker's compensation and public liability insurance coverage before entering into a contract. Additionally, NASACT may require, at its sole discretion, the Contractor to provide proof of adequate professional malpractice liability or other forms of insurance. Failure to provide evidence of such insurance coverage is a material breach and grounds for termination of the contract negotiations. Any insurance required by NASACT shall be in form and substance acceptable to NASACT.

LICENSING, ACCREDITATION AND REGISTRATION - The Contractor shall comply with all applicable local, state, and federal licensing, accreditation and registration requirements/standards, necessary for the performance of this contract.

LIMITATION OF AUTHORITY - Only the Agent or Agent's delegate by writing (delegation to be made prior to action) shall have the express, implied, or apparent authority to alter, amend, modify, or waive any clause or condition of this contract. Furthermore, any alteration, amendment, modification, or waiver or any clause or condition of this contract is not effective or binding unless made in writing and signed by the Agent.

NONCOMPLIANCE WITH NONDISCRIMINATION LAWS - In the event of the Contractor's noncompliance or refusal to comply with any nondiscrimination law, regulation, or policy, this contract may be rescinded, canceled or terminated in whole or in part, and the Contractor may be declared ineligible for further contracts with NASACT. The Contractor shall, however, be given a reasonable time in which to cure this noncompliance. Any dispute may be resolved in accordance with the "Disputes" procedure set forth herein.

Nondiscrimination - During the performance of this contract, the Contractor shall comply with all federal and state nondiscrimination laws, regulations and policies.

PRIVACY PROTECTION CLAUSE - Personal information collected, used or acquired in connection with this contract shall be used solely for the purposes of this contract. Contractor and its subcontractors agree not to release, divulge, publish, transfer, sell or otherwise make known to unauthorized persons personal information without the express written consent of
NASACT and the contracting state or as provided by law. Contractor agrees to implement physical, electronic and managerial safeguards to prevent unauthorized access to personal information. Any breach of this provision may result in termination of the contract and the demand for return of all personal information. The Contractor agrees to indemnify and hold harmless NASACT for any damages related to the Contractor's unauthorized use of personal information.

For purposes of this provision, personal information includes but is not limited to information identifiable to an individual that relates to a natural person's health, finances, education, business, use or receipt of governmental services, or other activities, names, addresses, telephone numbers, Social Security numbers, driver's license numbers, financial profiles, credit card numbers, financial identifiers and other identifying numbers.

PUBLICITY - The Contractor agrees to submit to NASACT all advertising and publicity matters relating to this Contract which, in NASACT's judgment, NASACT's and the contracting state(s)' names can be implied or are specifically mentioned. The Contractor agrees not to publish or use such advertising and publicity matters without the prior written consent of NASACT and the contracting state(s).

RECORDS, DOCUMENTS, AND REPORTS - The Contractor shall maintain complete financial records relating to this contract and the services rendered including all books, records, documents, magnetic media, receipts, invoices and other evidence relating to this contract and performance of the services described herein, including but not limited to, accounting procedures and practices which sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this contract. Contractor shall retain such records for a period of six years following the date of final payment. At no additional cost, these records, including materials generated under the contract, shall be subject at all reasonable times following reasonable prior written notice to inspection, review, or audit by NASACT, its auditors, and federal and state officials so authorized by law, rule, regulation, or agreement.

If any litigation, claim or audit is started before the expiration of the six (6) year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved.

REGISTRATION WITH DEPARTMENT OF REVENUE - The Contractor shall complete registration with the Revenue Cabinet of the Commonwealth of Kentucky and be responsible for payment of all taxes due on payments made under this contract.

RIGHT OF INSPECTION - The Contractor shall provide right of access to its facilities, as they relate to the performance of this contract, to NASACT, or any of its officers, or to any other authorized agent or official of any contracting state or the federal government, during normal business hours, following reasonable prior written notice, in order to monitor and evaluate performance, compliance, and/or quality assurance under this contract.

SAVINGS - In the event funding from state, federal, or other sources is withdrawn, reduced, or limited in any way after the effective date of this contract and prior to normal completion, NASACT may terminate the contract under the "Termination for Convenience" clause, without the ten day notice requirement, subject to renegotiation at NASACT's discretion under those new funding limitations and conditions.
SEVERABILITY - The provisions of this contract are intended to be severable. If any term or provision is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of the contract.

SITE SECURITY - While on the premises of NASACT or a contracting state, the Contractor, its agents, employees, or subcontractors shall conform in all respects with physical, fire or other security regulations.

SUBCONTRACTING - Neither the Contractor nor any subcontractor shall enter into subcontracts for any of the work contemplated under this contract without obtaining prior written approval of NASACT.

TAXES - All payments accrued on account of payroll taxes, unemployment contributions, any other taxes, insurance or other expenses for the Contractor or its staff shall be the sole responsibility of the Contractor.

TERMINATION FOR CAUSE - In the event either party determines the other has failed to comply with the material conditions of this contract in a timely manner, such party has the right to terminate this Contract. The non-breaching party shall notify the other in writing of the need to take corrective action. If corrective action is not taken within fifteen (15) days, following written notice of a payment-related breach, then the contract may be terminated. For all other breaches, if corrective action is not taken within thirty (30) days following written notice, then the contract may be terminated. NASACT reserves the right to suspend all or part of the contract, withhold further payments, or prohibit the Contractor from incurring additional obligations of funds during the corresponding cure period while an investigation of the alleged compliance breach and pending corrective action by the Contractor is taken.

In the event of termination, and subject to the limitations of liability in this contract, the Contractor shall be liable for damages as authorized by law including, but not limited to, any cost difference between the original contract and the replacement or cover contract and all administrative costs directly related to the replacement contract, e.g., cost of the competitive bidding, mailing, advertising and staff time. The termination shall be deemed to be a "Termination for Convenience" if it is determined that the Contractor: (i) was not in default, or (2) failure to perform was outside of his or her control, fault or negligence. The rights and remedies of NASACT provided in this contract are not exclusive and are in addition to any other rights and remedies provided by law.

TERMINATION FOR CONVENIENCE - Except as otherwise provided in this contract, NASACT may, by thirty (30) days prior written notice, beginning on the second day after the mailing, terminate this contract, in whole or in part. If this contract is so terminated, NASACT shall be liable only for payment required under the terms of this contract or outstanding SOW for services rendered or goods delivered prior to the effective date of termination.

TERMINATION PROCEDURES - Upon termination of this contract, NASACT, in addition to any other rights provided in this contract, may require the Contractor to deliver to NASACT any property specifically produced or acquired for the performance of such part of this contract as has been terminated. The provisions of the "Treatment of Assets" clause shall apply in such property transfer.

NASACT shall pay to the Contractor the agreed upon price, if separately stated, for completed work and services accepted by NASACT, and the amount agreed upon by the Contractor and NASACT for (i) completed work and services for which no separate price is stated, (ii) partially
completed work and services, (iii) other property or services which are accepted by NASACT, and (iv) the protection and preservation of property, unless the termination is for default, in which case NASACT shall determine the extent of the liability of NASACT. Failure to agree with such determination shall be a dispute within the meaning of the "Disputes" clause of this contract. NASACT may withhold from any amounts due the Contractor such sum as NASACT determines to be necessary to protect NASACT against potential loss or liability.

The rights and remedies of NASACT provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.

After receipt of a notice of termination, and except as otherwise directed by the Agent, the Contractor shall:

1. Stop work under the contract on the date, and to the extent specified, in the notice;
2. Place no further orders or subcontracts for materials, services, or facilities except as may be necessary for completion of such portion of the work under the contract that is not terminated;
3. Assign to NASACT, in the manner, at the times, and to the extent directed by the Agent, all of the rights, title, and interest of the Contractor under the orders and subcontracts so terminated, in which case NASACT have the right, at its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts;
4. Settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of NASACT to the extent NASACT may require, which approval or ratification shall be final for all the purposes of this clause;
5. Transfer title to NASACT and deliver in the manner, at the times, and to the extent directed by NASACT any property which, if the contract had been completed, would have been required to be furnished to NASACT;
6. Complete performance of such part of the work as shall not have been terminated by NASACT; and
7. Take such action as may be necessary, or as NASACT may direct, for the protection and preservation of the property related to this contract which is in the possession of the Contractor and in which NASACT have or may acquire an interest.

TREATMENT OF ASSETS -

A. Title to all property furnished by NASACT shall remain in NASACT. Title to all property furnished by the Contractor, for the cost of which the Contractor is entitled to be reimbursed as a direct item of cost under this contract, shall pass to and vest in NASACT upon delivery of such property by the Contractor. Title to other property, the cost of which is reimbursable to the Contractor under this contract, shall pass to and vest in NASACT upon (i) issuance for use of such property in the performance of this contract, or (ii) commencement of use of such property in the performance of this contract, or (iii) reimbursement of the cost thereof by NASACT in whole or in part, whichever first occurs.

B. Any property of NASACT furnished to the Contractor shall, unless otherwise provided herein or approved by NASACT, be used only for the performance of this contract.
C. The Contractor shall be responsible for any loss or damage to property of NASACT which results from the negligence of the Contractor or which results from the failure on the part of the Contractor to maintain and administer that property in accordance with sound management practices.

D. If any NASACT property is lost, destroyed or damaged, the Contractor shall immediately notify NASACT and shall take all reasonable steps to protect the property from further damage.

E. The Contractor shall surrender to NASACT all property of NASACT prior to settlement upon completion, termination or cancellation of this contract.

F. All reference to the Contractor under this clause shall also include Contractor's employees, agents or subcontractors.

WAIVER - Waiver of any default or breach shall not be deemed to be a waiver of any subsequent default or breach. Any waiver shall not be construed to be a modification of the terms of this contract unless stated to be such in writing and signed by NASACT.