
Professional Services Agreement

This Professional Services Agreement ("Agreement") is by and between City of Columbia, MO ("Client") and Telvent USA, LLC, a limited liability company organized under the laws of Delaware ("Contractor") and is entered into on the date of the last signatory below ("Effective Date"). Client and Contractor are collectively the "Parties" and individually, "Party" with reference to the following:

WHEREAS, Client requires Contractor to perform certain professional Services as defined in each applicable Task Order to this Agreement; and

WHEREAS, Contractor has the expertise necessary to perform such Services; and

NOW, THEREFORE, in consideration of the foregoing and of the mutual covenants and promises the Parties hereby agree as follows:

Article 1 – Scope of Agreement

This Agreement establishes the framework in order to enable Contractor to provide professional Services to Client and its Affiliates. "Services" means work described in an applicable Task Order/Statement of Work ("SOW") that is agreed upon by both Parties in the format set forth in Attachment A. The Parties agree that the terms of this Agreement will govern all purchases by Client of Services unless otherwise agreed by the Parties in writing. Pre-printed terms contained in any Client purchase order shall not apply to any of the Services provided under this Agreement

"Affiliate" means any corporation or other entity that owns or controls, is owned or controlled by, or is under common control or ownership with a Party. A corporation or other entity shall be deemed to control another corporation or entity if it, directly or indirectly, owns more than fifty (50%) percent of the voting shares or other interest, or has the power to elect more than half the directors or representatives of such other corporation or entity.

Article 2 – Responsibilities of Contractor

- a. **Professional Standards.** Contractor shall perform all Services and provide all products as specified in this Agreement and the applicable Task Order. In performing the specified Services, Contractor shall follow practices consistent with the professional and technical standards in the industry.
- b. **Staffing.** Contractor will furnish Services in the amount necessary to complete the work promptly and effectively and shall be responsible for the supervision and direction of the work by its employees. For each Task Order, Contractor shall identify a designated project manager, who shall be empowered to act for the Contractor in accordance with this Agreement in all matters relating to the technical administration and staffing matters relating to the Services as defined in the Scope of Work set forth in each Task Order.
- c. **Change in Key Contractor Staff.** Should Contractor's project manager be unable to complete his/her responsibility for any reason, Contractor will provide replacement personnel of equal qualifications, education and experience. Contractor will be responsible to bear any relocation, training, and expenses associated with providing such replacement personnel including the time necessary for such personnel to become familiar with the Services already performed.

Article 3 – Independent Contractor

Nothing contained herein or any document executed in connection herewith, shall be construed to create an employer-employee partnership or joint venture relationship between Client and Contractor. Contractor is an independent contractor and not an employee of Client, or any of its subsidiaries or Affiliates. The consideration set forth in a Task Order or SOW shall be the sole consideration due to Contractor for the Services rendered hereunder.

Article 4 – Responsibilities of Client

- a. **Staffing and Project Manager.** Client agrees that its officers and employees will cooperate with Contractor in the performance of Services under this Agreement and will be available for consultation with Contractor at such reasonable times as do not conflict with their other responsibilities. In each Task Order, Client shall identify its designated Project Manager, who shall be empowered to act for the Client in accordance with this Agreement and shall have sole discretion to review the quality, acceptability and fitness of Services performed and items provided by the Contractor.
- b. **Change in Key Client Staff.** Should Client's Project Manager be unable to complete his/her responsibility for any reason, Client will provide replacement personnel of equal qualifications, education and experience. Client will be responsible to bear any relocation, training, and expenses associated with providing such replacement personnel including the time necessary for such personnel to become familiar with the Services already performed.
- c. **Data, Resources and Facilities.** Upon request by Contractor, Client, without charge, will reasonably furnish or make available for examination or use any data and/or Client resources that is necessary for Contractor to complete the Services.

Client shall also provide Contractor sufficient access to the hardware and software system(s) required for the performance of the Services. Remote access to Client's systems may also be required and such access may be provided through an external connection such as Citrix, VNC (Virtual Network Connection), VPN (Virtual Private Network), or PCAnywhere. If Client is not able to provide access via an external connection, then Client may be required to supply additional hardware and equipment.

- d. **Specification of Deliverables.** The specifications of deliverables described in each Task Order are intended as precise guidance as to the conduct within a project. However, the Client realizes that different combinations of work practice, updated technological approaches, and modern equipment can potentially yield a final product of accuracy and quality equal to that proposed in each Task Order.
- e. **Backup and Recovery.** During the entire course of the project, Client will be responsible for backup/recovery of all onsite project related digital data, materials and databases. Contractor will be responsible for backup/recovery of all project related data housed on Contractor computer systems.
- f. **Authority to Enter into Task Order.** Client's Purchasing Agent is the authorized representative to execute Task Orders under this Agreement.

Article 5 - Acceptance

- a. Deliverable Review. All deliverables as defined in each SOW ("Deliverable(s)") shall be submitted to Client for review and categorization as detailed in Article 5(c) below. Client shall have fourteen (14) days to categorize the Deliverables and Contractor shall be notified in writing of any delays in the review period. Should Client fail to notify Contractor in writing within fourteen (14) days, the Deliverables shall be deemed accepted.
- b. Compliance. All reviews will be performed on the basis of work correctness and compliance with the Agreement. Client reserves the right to return for correction within the review period any Deliverables that are in error or have not been prepared within the specifications set forth in the applicable SOW.
- c. Classification of Deliverables. After review, Deliverables shall be classified as follows:
 - (i) DELIVERABLE ACCEPTED, shall be defined as a Deliverable conforming to the SOW or meeting the specifications, with no more than minor and/or isolated exceptions or nonconformities. In such case Client will take responsibility for any necessary corrections.
 - (ii) DELIVERABLE ACCEPTED WITH REWORK, shall be defined as a Deliverable essentially conforming to its specification, but having a significant number of isolated exceptions, and is accepted pending re-editing and correction by Contractor. Contractor shall re-edit the work for the indicated errors and resubmit within 30 days. Client will rerun its acceptance checks for the classes of errors detected in the initial check and will reclassify the Deliverable(s) as either ACCEPTED or REJECTED.
 - (iii) DELIVERABLE REJECTED, shall be defined as a Deliverable failing to conform to the SOW or to meet specification in ways that indicate that major improvements in procedure are needed to avoid recurrence. Contractor shall rework the Deliverable and resubmit to Client within 30 days, at which time the Client will rerun its acceptance check and reclassify the work.
- d. Client Delays. Client must exercise due diligence and shall ensure that factors beyond the control of Contractor, such as Client delays and failure to fulfill Client responsibilities, will not interfere with Contractor's ability to complete the Services. Client shall notify Contractor of any such factors that may cause delays in the completion of tasks or changes to the SOW, and both Parties will mutually determine required modifications to this Agreement.
- e. Final Acceptance and Certification. At the conclusion of project acceptance, Contractor will request that Client sign a final acceptance certificate and Client shall have fourteen (14) days to sign off on the final acceptance certificate. Should Client fail to notify Contractor of their acceptance in writing within fourteen (14) days of receiving the final acceptance certificate, all of the Deliverables shall be deemed accepted. In addition, should Client use any of the Deliverables in a Production Environment prior to receipt of an acceptance certificate, such use shall constitute deemed acceptance on part of Client. A "Production Environment" is defined as a computer system consisting of hardware that is executing the Software in an environment that is accessed by end

users and is part of Licensee's system of record database system for live business operations.

Article 6 – Changes to the SOW

Client may at any time request additions, modifications or deletions to the SOW set forth in each Task Order. If such changes cause an increase or decrease in the cost of, or time required for, performance of the Services, an equitable adjustment shall be made in the fixed fee, and the Task Order shall be modified in writing accordingly, using the form provided in Attachment B. Project members may discuss or make arrangements for changes in the SOW, but any verbal or written communication between or among Client and Contractor project personnel shall not be construed as a modification to the conditions of the Agreement unless a formal modification is executed using the scope change order form provided. Client's Purchasing Agent is the authorized representative to execute formal modifications to the Task Order as required herein.

Article 7 – Compensation and Invoices

- a. **Fixed Fee for Tasks.** Client shall pay Contractor the fixed fee for each task performed as outlined in the applicable Task Order. If changes in the schedule are made by consent of both Parties that affect the completion of tasks or change the order of the tasks that affect milestone acceptance, Contractor has the right to invoice based on a partial milestone completion percentage. In the event any work task is not 100 percent complete, Contractor will submit sufficient documentation to assure the Client that Contractor has satisfactorily performed such tasks. This preliminary acceptance for payment in no way abrogates Contractor's responsibility to correct any errors in compensated work tasks. The maximum amount that Contractor may be paid for each task, unless otherwise provided by written authorization from Client, shall be as specified in the Task Order.
- b. **Milestone Payments and Out-of-Pocket Expenses.** Each Milestone payment amount includes the labor plus any out-of-pocket expenses. The Contractor will submit an invoice and Milestone Acceptance Form (Attachment C, attached hereto and made a part hereof), identifying the Milestone delivered, and the expected amount. The Client will have 15 days to approve or reject the Milestone Acceptance form, the signature of which constitutes acceptance of the deliverables within the Milestone. Failure on the part of Client to reject the Milestone within 15 days will constitute acceptance. Invoice terms are 30 days net, following receipt of invoice. The Contractor will provide bank wiring instructions for wire transfer. Any invoices that are past due are subject to additional interest of 8% per year calculated monthly.
- c. **Exclusive of Shipping, Handling, and Taxes.** The price excludes all present or future sales taxes, excise taxes, value-added taxes, import and export duties and any other taxes, surcharges or duties now existing or hereafter imposed by Government authorities upon Services provided by the Contractor. Client shall be responsible for all such taxes and duties resulting from this Agreement. The Contractor is required to impose taxes on orders and shall invoice the Client for such taxes and/or fees according to state and local statute, unless the Client furnishes the Contractor at the time of order with a properly completed exemption certificate(s) acceptable to the authorities imposing the tax or fees.

Article 8 – Indemnification

- a. **General Indemnity.** To the extent allowed by law, each Party (the “Indemnifying Party”) agrees to indemnify the other Party (the “Indemnified Party”), its officers, directors and employees from and against any and all third Party claims, damages, costs, expenses (including, but not limited to, reasonable attorneys’ fees and costs) or liabilities to the extent resulting from the Indemnifying Party’s negligence or misconduct arising from or related to the performance of the work pursuant to this Agreement. It is the intent of this Agreement that each Party to this contract shall bear the risk of and liability for its own actions arising from or related to the performance of the work pursuant to this Agreement. Client shall continue to have any other remedies available at law, subject to the limits of liability set out herein.

- b. **Copyright and Intellectual Property Rights.** Contractor will indemnify, at its expense, any action or proceeding brought against Client by a third Party to the extent that it is based on a claim that any part of the Deliverables provided, or their use under this Agreement, infringes any copyrights, trademarks, patents or other intellectual property right in Canada or United States (“Claim”). Client shall promptly notify Contractor in writing of any infringement action or proceeding that has been brought or threatened of which it is aware. Contractor will settle or defend the action and pay the costs and damages awarded in any action or proceeding, provided that Contractor has control of the defense of any action and all negotiations for settlement or compromise in connection therewith. In the event that a final injunction is obtained against Client’s use of any part of the Deliverables by reason of infringement of a foregoing proprietary right, or if in Contractor’s opinion the Deliverables is likely to become the subject of a claim for such infringement, Contractor shall at its option and expense, either:
 - (i) procure for Client the right to continue using such portion of the Deliverables; or
 - (ii) replace such portion of the Deliverables with a non-infringing and non-misappropriating functional equivalent satisfactory to Client or
 - (iii) modify such portion of the Deliverables in a way satisfactory to Client so that it becomes non-infringing and non-misappropriating.

Contractor will have no indemnification obligations under this section with regard to any Claim that is based upon (a) a modification of the Deliverables made by Client (other than at Contractor’s written direction); (b) use of the Deliverables in combination with products, data or business methods not provided by Contractor, if the infringement or misappropriation would not have occurred without the combined use; (c) use of any release of the Deliverables if, as of the date of a Claim or threatened Claim, the infringement or misappropriation would not have occurred through use of a more recent release of the Deliverables; (d) any use of the Deliverables by Client other than for Client’s internal use; (e) use by Client after notice by Contractor to discontinue use of all or a portion of the Deliverables.

- c. **Data for Work Execution.** It is understood among the Parties that the Contractor is relying solely upon information, data, records, documentation, and maps already in existence and copy made available through public record or confidential sources by the Client to the Contractor with which to perform its obligation under this Agreement, and

that the resulting work product is informational only and may not be relied on as a substitute for documents of records.

Article 9 – Limitation of Liability

CONTRACTOR'S LIABILITY, INCLUDING THE LIABILITY OF ANY SUBCONTRACTORS OR AFFILIATES, TO CLIENT IN CONTRACT TORT, STRICT LIABILITY OR OTHERWISE REGARDING THE SERVICES OR DELIVERABLES PROVIDED UNDER THIS AGREEMENT, IS LIMITED TO AMOUNTS PAID BY CLIENT UNDER THE STATEMENT OF WORK WHICH IS THE BASIS FOR THE LIABILITY. IN NO EVENT WILL CONTRACTOR, OR ANY SUBCONTRACTOR OR AFFILIATE, BE LIABLE FOR ANY INDIRECT, SPECIAL, OR CONSEQUENTIAL DAMAGES, INCLUDING LOST PROFITS, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGE OR LOSS. THE PARTIES EXPRESSLY ACKNOWLEDGE AND AGREE THAT THEY HAVE ENTERED INTO THIS AGREEMENT, INCLUDING THE PRICES HEREIN, IN RELIANCE UPON THE LIMITATIONS OF LIABILITY SPECIFIED HEREIN, WHICH ALLOCATE THE RISK BETWEEN CONTRACTOR AND CLIENT. IF ANY REMEDY HEREUNDER IS DETERMINED TO HAVE FAILED IN ITS ESSENTIAL PURPOSE, ALL LIMITATIONS OF LIABILITY, DISCLAIMERS AND EXCLUSIONS OF WARRANTY AND DAMAGES SET FORTH IN THIS AGREEMENT SHALL REMAIN IN EFFECT. THE LIMITATION OF LIABILITY STATED IN THIS ARTICLE SHALL NOT APPLY TO DAMAGES RESULTING FROM PERSONAL INJURY, DEATH OR PROPERTY DAMAGE TO TANGIBLE PHYSICAL PROPERTY WHICH RESULTS FROM CONTRACTOR'S OR ANY SUBCONTRACTOR'S OR AFFILIATE'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT.

Article 10 – Insurance

- a. Insurance Coverage. Contractor shall maintain in force, throughout the term of the Contract or any extension thereof, insurance with the following coverage and limits:
 - (i) If applicable, Automobile Insurance in the amount of not less than one million dollars (\$1,000,000). Such policy shall provide that it shall not be cancelled except upon thirty (30) days prior written notice (by registered mail) to the Client.
 - (ii) Professional Errors and Omissions Insurance in the amount of not less than one million dollars (\$1,000,000). Such policy shall provide that it shall not be cancelled or amended so as to reduce or restrict coverage except upon thirty (30) days prior written notice (by registered mail) to the Client.
 - (iii) Commercial General Liability Insurance on an occurrence basis with limits of at least one million dollars (\$1,000,000) inclusive for both bodily injury (including death) and property damage for each occurrence including the following extensions: Products and Completed Operations, Blanket Written Contractual, Personal Injury, Broad Form Property Damage, Employer's Liability, Owner's and Contractor's Protective Liability and Non-Owned Automobile Liability. Such policy shall: (i) Contain a severability of interest clause and cross liability clause between the Contractor and the Client; (ii) Be primary, noncontributing with, and not in excess to any insurance available to the Client; (iii) Provide that it shall not be cancelled or amended so as to reduce or restrict coverage except upon thirty (30) days prior written notice (by registered mail) to the Client.

- b. Copies of Insurance Policies. At the Client's request, Contractor will provide a memorandum of insurance to Client upon execution of this Agreement reflecting Contractor's liability insurance coverage, limits to liability to the extent required by this Agreement, insured entities, and blanket endorsements.
- c. Workers Compensation. Contractor shall ensure that, with respect to all persons performing the Services, Contractor and its subcontractors maintain in effect at all times during performance of the Services, coverage or insurance in accordance with the applicable laws relating to Workers' Compensation.

Article 11 – Confidential Information

- a. Obligations. During the term of this Agreement, both Parties agree that (a) Confidential Information will be used only in accordance with the terms and conditions of this Agreement; (b) each will use the same degree of care it utilizes to protect its own confidential information, but in no event less than reasonable care; and (c) the Confidential Information may be disclosed only to employees, agents and contractors with a need to know, and to its auditors and legal counsel, in each case, who are under a written obligation to keep such information confidential using standards of confidentiality not less restrictive than those required by this Agreement. Both Parties agree that obligations of confidentiality will exist for a period of two (2) years following initial disclosure of the particular Confidential Information. "Confidential Information" means all information disclosed by either Contractor or Client ("Disclosing Party") to the other Party ("Recipient") during the term of this Agreement that is either (y) marked confidential or (z) disclosed orally and described as confidential at the time of disclosure and subsequently set forth in writing, marked confidential, and sent to the Recipient within thirty (30) days following the oral disclosure.
- b. Exclusions. Confidential Information will not include information:
 - (i) which was in Client's possession without any obligation of confidentiality prior to the disclosure thereof by Contractor to Client and was not acquired by Client directly or indirectly from Contractor;
 - (ii) which is or later becomes a matter of public knowledge without any fault or negligence on the part of Client;
 - (iii) which Client receives without any obligation of confidentiality from a third Party who is rightfully in possession of such information;
 - (iv) which is developed by Client independently of Contractor and without reference to any of the confidential information of Contractor; or
 - (v) which Client is required by law to disclose.

Both Parties acknowledge and agree that disclosure of any of the Confidential Information would cause serious and irreparable harm to the Disclosing Party which could not adequately be compensated for in damages and, in the event of a breach, or an anticipated breach, by the Recipient of any of the provisions of this Agreement, the Recipient hereby consents to an injunction being issued against it restraining it from such anticipated breach or any further breach of such provision (as applicable), but such action shall not be

construed so as to be in derogation of any other remedy which may be available in the event of such breach or anticipated breach.

The Recipient shall immediately notify the Disclosing Party of any unauthorized possession, use or knowledge of the Disclosing Party's Confidential Information which becomes known to a responsible officer of the Recipient.

Article 12 - Term and Termination

- a. **Contract In Force.** This Agreement shall continue in force until completion of all Services required of Contractor, unless terminated by Client or Contractor pursuant to the provisions herein.
- b. **Termination For Cause.** This Agreement may be terminated in whole or in part in writing by either Party in the event of substantial failure by the other Party to fulfill its obligations under this Agreement through no fault of the terminating Party. In the event Contractor is in default under this Agreement because of a failure to fulfill any material obligation contained herein, Client shall give written notice to Contractor of such default and in the event the Contractor has not remedied the default as soon as reasonably possible, but no later than thirty (30) calendar days from Contractor's receipt of said notice, the Agreement may be terminated; provided that no such termination may be effected unless the other Party is given: (1) not less than fifteen (15) working days written notice of intent to terminate, and (2) an opportunity for consultation with the terminating Party in order to correct any such default prior to termination.
- c. **Termination for Convenience.** The Agreement may be terminated in whole or in part in writing by Client for its convenience, provided that no such termination may be effected unless Contractor is given: (1) not less than ten (10) working days written notice of intent to terminate, and (2) an opportunity for consultation with Client prior to termination.
- d. **Delivery Following Termination.** Upon receipt of a notice of termination, Contractor shall: (1) promptly discontinue all Services affected (unless the notice directs otherwise), and (2) deliver or otherwise make available to Client all finished or unfinished documents and all information which have been accumulated, or prepared by Contractor in performing Services under the Agreement.
- e. **Payment Following Termination.** Contractor shall be paid on a pro rata basis for work completed under this Agreement through the effective date of termination including any associated wind-down expenses incurred by Contractor, all return travel and subsistence expenses associated with returning Contractor employees and/or subcontractors to their permanent duty locations.
- f. **Persistence of Property Rights.** Upon any termination of the Agreement, Client may take over the work and prosecute the same to completion by Agreement with another Party or otherwise. The provisions of Article 13, Property Rights, shall apply.
- g. **Suspension of Work.** If, prior to completion, work under this agreement is stopped or suspended by Client, Contractor shall be paid on a pro rata basis for work completed under this Agreement through the effective date of suspension, including any associated wind-down expenses incurred by Contractor, and all return travel and subsistence expenses associated with returning Contractor employees and/or subcontractors to their

permanent duty locations. In addition, prior to restarting work, both Parties will negotiate a change in scope as provided in Article 6 to address any necessary additions in time or expense to complete the work as a result of the suspension. Suspension of work will not terminate this agreement. All other terms and conditions of this Agreement shall remain in force until such time as work is resumed or terminated as provided in this Article, such period of time not to extend beyond ninety (90) days from the issuance of the suspension without the mutual consent of both Parties.

Article 13 – Intellectual Property Rights

- a. **Use of Proprietary Skills, Tools, and Data.** Each Party reserves the right to use, for any purpose, any programming tools, skills, and techniques previously acquired, developed or used in the performance of the Services described herein. Nothing in this Agreement shall be construed as restraining either Party, their employees, or agents in the use of the techniques and skills of computer programming and design which may be utilized or acquired in the course of performance of this Agreement.
- b. **License To Use.** Contractor grants to Client, subject to the terms of this Agreement, a personal, nontransferable, nonexclusive license to use and copy the Deliverables solely for Client's internal business purposes. Client shall include Contractor's copyright notice and any other legend of ownership on all copies of the Deliverables as such notice appears on the originals. The Services and Deliverables delivered hereunder are not "work for hire". With the exception of the portions of Deliverables that contain data (either spatial or non-spatial) relating to the land, facilities and customers of Client, Contractor shall own all right, title, and interest to such Services and Deliverables.
- c. **Excluded Uses.** Client shall not make, sell, translate, export, license, sublicense, localize, use with any time-sharing or for service bureau arrangements, or transmit to any person outside of Client's internal business organization the Deliverables.
- d. **Provision Against Derivation of Source Code.** Client shall not reverse engineer, decompile, disassemble or apply any process, technique, or procedure or make any attempt to ascertain or derive the source code of the core product used in conjunction with the Deliverables.
- e. **Retention of Patentable Rights.** Any patentable or unpatentable discoveries, ideas, including methods, techniques, know-how, concepts, or products ("Invention"); or any works fixed in any medium of expression, including copyright and mask work rights ("Works of Authorship"); or any other intellectual property created by Contractor during the course of the Services and provision of Deliverables shall be the sole and exclusive property of Contractor. With respect to any Inventions of Client relating to Contractor's software, Client hereby grants and agrees to grant Contractor an irrevocable, royalty-free, nonexclusive, worldwide right and license, with right to sublicense, use, make, sell, offer to sell, or import such Inventions for any purpose, whether or not patented in the country of such past or intended use. Client agrees to disclose promptly to Contractor (i) each Invention relating to the Contractor software and made or conceived by Client's Inventors during the term of this Agreement and (ii) of any decision to file a patent application with respect to such Invention and the country or countries in which such application will be filed.

- f. Ownership. Except as set forth in Section a. above, no direct or indirect ownership interest or license rights in Inventions, Works of Authorship or other intellectual property including software or patents are granted or created by implication in this Agreement.
- g. Performance of Similar Service. Contractor may perform the same or similar Services for others, including providing the same or similar conclusions and recommendations, provided that Client's Confidential Information is not disclosed.

Article 14 – Audit

- a. Inspection. Contractor shall maintain records of performance under this Agreement and make these records available for inspection and audit by Client.
- b. Audit. Audits conducted pursuant to this Article shall be in accordance with generally accepted auditing standards and established procedure and guidelines of the reviewing or auditing agency.
- c. Term. Records maintained under terms of the above shall be maintained and made available during performance of Services under this Agreement and until three years from date of final payment. In addition, those records which relate to any dispute, appeal, litigation, or the settlement of claims arising out of such performance or costs of items to which an audit exception has been taken shall be maintained and made available until three years after the date of resolution of such appeal, litigation, claim, or exception.

Article 15 – Covenant Against Contingent Fees

Contractor warrants that no person or company other than Contractor employees have been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee; nor has Contractor paid or agreed to pay any person other than Contractor employees, company, corporation, individual, or firm any fee, commission, contribution, donation, percentage, gift, or any other consideration contingent upon or resulting from award of this Agreement. For any breach or violation of this provision, Client shall have the right to terminate this Agreement without liability.

Article 16 – Force Majeure

Neither Party shall be considered in default in the performance of its obligations hereunder, to the extent that performance of such obligations is prevented or delayed by any cause, existing or future, which is beyond the reasonable control of such Party. Any delays beyond the control of either Party shall automatically extend the time schedules as set forth in this Agreement by the period of any such delay.

Article 17 – Governing Law

This Agreement shall be governed, interpreted, and enforced in accordance with the laws of the State of Missouri and/or the laws of the United States, as applicable. The venue for all litigation arising out of or relating to this Agreement shall be in Boone County, Missouri or the United States Western District of Missouri. The Parties hereto irrevocably agree to submit to the exclusive jurisdiction of such courts in the state of Missouri.

Article 18 – Assignment

Any attempt by Contractor to assign or otherwise transfer any interest in this Agreement without the prior written consent of Client shall be void provided, however, that claims for compensation due or to become due to Contractor from Client under this Agreement may be assigned without such approval. Notice of any such assignment or transfer shall be furnished promptly to Client.

Article 19 – Notice

Any notice required or permitted to be given hereunder shall be deemed to have been given when received by the Party to whom it is directed by personal service, hand delivery, or mail delivery as follows:

TO CLIENT: City of Columbia, MO
ATTN: Purchasing Agent
701 E. Broadway
Columbia, MO 65201

TO CONTRACTOR: Telvent USA, LLC
Contracts Department
4701 Royal Vista Circle
Fort Collins, CO 80528

Either Party may change its representative or address above by written notice to the other.

Article 20 – Non-Hire

It is hereby mutually agreed that Client will not solicit, hire, or contract with any employee(s) of Contractor's staff who are associated with efforts called for under this Agreement during the term of this Agreement and for a period of one (1) year thereafter. In the event the foregoing provision is breached, liquidated damages equal to twelve (12) months of the employee's compensation plus any legal expenses associated with the enforcement of this provision shall be paid by the Client to Contractor.

Article 21 – Warranty Disclaimer

EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THIS AGREEMENT OR IN A SPECIFIC TASK ORDER, CONTRACTOR MAKES NO EXPRESS OR IMPLIED WARRANTIES OF ANY KIND, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, OR WARRANTIES ALLEGED TO ARISE AS A RESULT OF CUSTOM AND USAGE, OR WARRANTIES OF TITLE AND AGAINST INFRINGEMENT.

IN ADDITION TO AND WITHOUT LIMITING THE PRECEDING PARAGRAPH, CONTRACTOR DOES NOT WARRANT IN ANY WAY THE MAP DATA, WHETHER SUPPLIED BY CONTRACTOR, OR ITS VENDORS. IF SUPPLIED BY CONTRACTOR OR ITS VENDORS, CONTRACTOR BELIEVES SUCH MAP DATA IS RELIABLE, BUT IT MAY NOT BE FREE OF NONCONFORMITIES, DEFECTS, ERRORS, OR OMISSIONS; BE AVAILABLE WITHOUT INTERRUPTION; BE CORRECTED IF ERRORS ARE DISCOVERED; OR MEET CLIENT'S NEEDS OR EXPECTATIONS. CLIENT IS

RESPONSIBLE FOR THE QUALITY OF DATA AND VERIFYING THE ACTUAL DATA FROM DOCUMENTS OF RECORD, FIELD MEASUREMENT, OR OBSERVATION.

Article 22 – Immigration and Entry Requirements

If this Agreement requires performance of Services in Client's or another country outside the United States, Client shall assist Contractor in obtaining all necessary licenses, permits, authorizations, and passes, including but not limited to professional visit passes and/or employment passes issued by the national immigration agency under the national immigration law of such country, and any other clearances required, in a timely manner to support performance under this Agreement. Contractor's performance is contingent upon the foregoing, and in the event that Contractor is unable to obtain such in a timely manner, or that any of such are later withdrawn, Contractor's performance schedule, and any other necessary terms of this Agreement shall be equitably adjusted.

Article 23 – Waiver

The failure of either Party at any time to enforce any of the provisions of this Agreement or any right under this Agreement, or to exercise any option provided, will in no way be construed to be a waiver of the provisions, rights, or options, or in any way to affect the validity of this Agreement. The failure of either Party to exercise any rights or options under the terms or conditions of this Agreement shall not preclude or prejudice the exercising of the same or any other right under this Agreement.

Article 24 - Severability

If any provision or portion of a provision of this Agreement is held invalid or unenforceable, the remainder of the Agreement shall not be affected, and the remaining terms will continue in effect and be binding on the Parties, provided that such holding of invalidity or unenforceability does not materially affect the essence of the Agreement.

Article 25 – Survival

The terms and conditions of this Agreement regarding confidentiality, payment, warranties, liability and all others that by their sense and context are intended to survive the execution, delivery, performance, termination or expiration of this Agreement survive and continue in effect.

Article 26 - No Waiver of Immunity

In no event shall the language of this Agreement constitute or be construed as a waiver or limitation for either Party's rights or defenses with regard to each Party's applicable sovereign, governmental, or official immunities and protections as provided by federal and state constitution.

Article 27 - Unauthorized Aliens Prohibited

Contractor shall comply with Missouri Revised Statute Section 285.530 in that Contractor shall not knowingly employ, hire for employment, or continue to employ an unauthorized alien to perform work within the state of Missouri. As a condition for the award of this Agreement, Contractor shall by sworn affidavit and provision of documentation affirm its enrollment and

participation in a federal work authorization program with respect to the employees working in connection with the contracted services. Contractor shall sign an affidavit affirming that it does not knowingly employ any person who is an unauthorized alien in connection with the contracted services. Contractor shall require all subcontractors to observe the requirements of this section and shall obtain a Work Authorization Affidavit from each subcontractor performing any of the contracted services.

This Agreement represents the entire understanding of the Parties as to the subject matter herein. No prior oral or written understanding shall be of any effect with regard to these matters. Any change or modification of this Agreement including but not limited to a change under Article 4 (Changes to Scope of Work) shall be made only upon written consent of both Parties.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement by their duly authorized representatives as of the date of the last signatory to this Agreement.

Client: **City of Columbia, Missouri**

By: _____
John Glascock, City Manager

Date: _____

ATTEST:

By: _____
Sheela Amin, City Clerk

APPROVED AS TO FORM:

By: _____
Nancy Thompson, City Counselor *AK*

Contractor: **Telvent USA, LLC**

By:  _____

Printed Name: Drew Dittus

Title: Director of Operations

Date: September 5, 2019

ATTACHMENT A
Sample Task Order

Professional Services Agreement
Task Order ____

In accordance with the terms and conditions of the Agreement (Contract No. _____/Effective Date of _____) between _____ (Client) and Telvent USA, LLC (Contractor), this Task Order authorizes delivery of the Services described and in accordance with the terms, schedule, and start/end date(s) specified below.

1. Scope of Work: See attached scope entitled, "_____."
2. Contract Type (FFP or T&M): _____.
3. Total Task Order Value: \$ _____ to be paid in accordance with the following milestone schedule.

Milestone #	Task #	Description	Cost
		Total	\$

4. Delivery Schedule or Start/End Date(s) for Each Deliverable: See attached scope of work.
5. Special Considerations: None
6. Contractor Project Manager:
Client Project Manager:

ACCEPTED AND AGREED:

(Client)

TELVENT USA, LLC
(Contractor)

Signature: _____

Signature: _____

Printed Name: _____

Printed Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

**ATTACHMENT B
Sample Change Order**

CHANGE ORDER #	Telvent Project Number	ENTERED BY
SUBJECT		ENTRY DATE
DESCRIPTION		
<p>In accordance with the terms and conditions of the _____ between _____ and Telvent USA LLC, both Parties now wish to modify the Scope of Work under Task Order #___ as follows:</p>		
Total Cost		
Schedule Impact		

ACCEPTED AND AGREED:

(Client)

TELVENT USA, LLC
(Contractor)

Signature: _____

Signature: _____

Printed Name: _____

Printed Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

ATTACHMENT C
Sample Milestone Acceptance Form

Client Name and Project Code	DATE COMPLETED	DATE DELIVERED
Agreement/Task Order Number		
Milestone Number, Description, & Value		

Upon signature of this document Client hereby accepts the milestone set forth above. Telvent shall invoice Client for the total value of the above referenced milestone in accordance with the terms and conditions of the Agreement.

Accepted and Agreed:

Telvent USA, LLC:

<< Client >>:

Signature: _____

Signature: _____

Printed Name: _____

Printed Name: _____

Title: Project Manager

Title: _____

Date: _____

Date: _____

Telvent Internal Use Only			
INVOICING and PAYMENT INFORMATION (per Contract Terms and Conditions)			
DATE RECEIVED (Milestone)	DATE ACCEPTED (≤15 Days after Received)	DATE INVOICED	DATE PAID (≤20 Days after Accepted/Invoiced)