opentext™ | Professional Services
Consulting Services

Statement of Work for Professional Services

to

Texas Workforce Commission

Qfiniti 16.6 to 22.4 Upgrade Project

Department of Information Resources (DIR) Contract #: DIR-CPO-4405

from

Open Text Inc. ("Open Text")

SOW ID: 0063z00001KDzLp

Date of Issue: November 10, 2023

Prepared by:
Rob Dennis
Professional Services | Director

Confidentiality Notice

This Statement of Work is proprietary to Open Text and contains Open Text Confidential Information. It may not be disclosed in whole or in part without the express written authorization of Open Text. No portion of this Statement of Work may be duplicated or used for any purposes other than to receive Services from Open Text described herein.

Copyright © 2016 Open Text Corporation.

DOCUMENT REVISIONS

Version	Date	Changes	Author
1.00	04/20/2023	Initial version	Rob Dennis
1.01	06/07/2023	Legal redlines	Roy Vieira
1.02	06/27/2023	Customer added 2 bullet points on 2.2 Customer Responsibility	Paul Hesser
1.03	10/16/2023	The biggest change was the 2 bullets that were added. Rest that I saw was grammar, and I added your contact info in Attachment A.	Beth Anders
1.04	10/16/2023	Compared to latest version to track changes. Accepted acceptable changes. Additional redlines and comments from CEM Legal.	Roy Vieira
1.05	10/23/2023	Updated Implementation Date to November 2023	Roy Vieira
1.06	10/24/2023	Accepted all tracked changes	Roy Vieira
1.07	10/25/2023	Updated Implementation Date	Roy Vieira

Contact Information

TWC Contact:

TWC Contact Information	
Name:	Carlos Herrera
Title:	Operations Manager, TWC
Email Address:	jose.herrera@twc.texas.gov
Phone Number:	1-512-463-6819

Open Text Contacts:

Open Text Contact Information	
Name:	Rob Dennis
Title:	Director, Professional Services
Email Address:	rdennis@opentext.com
Phone Number:	1-415-852-0651

Open Text Contact Information	
Name:	Roy Vieira
Title:	Business Development Manager, Professional Services
Email Address:	rvieira@opentext.com
Phone Number:	650-773-8322

Statement of Work

This Statement of Work ("**SOW**") is entered into as of the date of later signature hereto ("**Effective Date**") by and between the Open Text, Inc. ("**Open Text**") and Texas Workforce Commission ("**TWC**" or "**Customer**") and is governed by DIR Contract #: **DIR-CPO-4405**. To the extent not inconsistent with DIR - CPO-4405, this SOW is governed by the Open Text Terms - Professional Services ("**Agreement**") attached hereto as Attachment A. Capitalized terms used herein shall have the meaning set forth in the Agreement, unless otherwise defined in this SOW. In the event of a conflict between the provisions of the DIR Contract, this SOW and the Agreement, the DIR Contract controls with the Agreement taking precedence over this SOW to the extent of such conflict and limited to the extent the SOW. Notwithstanding the foregoing, Section 7.2 of the Agreement shall take precedence over conflicting terms in the DIR Contract.

1   Services Overview

This project is intended to provide Services to complete an upgrade of Customer's Qfiniti system from version 16.6 to 22.4, on new hardware provided by Customer, as described herein.

Open Text may use Open Text tools, templates, and other pre-existing intellectual property of Open Text during the course of providing Services ("**Open Text Pre-existing IP**"). Open Text Pre-existing IP is separate from (i) any Services to be provided herein; and (ii) Open Text products.

Open Text retains all intellectual property ownership rights in such Open Text Pre-existing IP. All Open Text Pre-existing IP is Open Text Confidential Information.

2   Project Scope

2.1   Services

Open Text's Services are provided on a Fixed Fee basis to provide the Customer with a flexible means of obtaining experienced consultants from Open Text. Working at the direction of Customer, Open Text consultant(s) will perform Services based on the list of activities described in this SOW, which may be amended from time to time by agreement of the parties. This Service provides the Customer with the ability to direct the efforts of the Open Text Consultant in the most effective manner to accomplish Customer's business objectives.

In support of Customer's project, Open Text will provide resources to perform and/or assist with the following:

Server Readiness Verification

- Prior to installation of the Qfiniti Software, Open Text will verify server specifications and deployment requirements.
- Open Text will verify Qfiniti Software specifications and third-party software requirements.
- Open Text will document any discrepancies and recommendations and provide such documentation via a Validation Document.

Technical Assistance:

OpenText will assign a Technical Consultant, working remotely, to assist with and/or perform the following actions in the Customer's Production environment:

TWC Call Center Locations:
- Austin
- Fort Worth
- San Antonio

- El Paso
- McAllen

Austin - Qfiniti 22.4 Platform, QWA and Observe Voice Recording
- Validate Qfiniti Software pre-requisites .
- Install the applicable Qfiniti Platform and QWA Software on Customer provided hardware .
- Upgrade/Install the applicable Qfiniti Observe Voice software on Customer provided hardware.
- Install the latest Qfiniti Quick Updates for the Platform and Observe Server
- Configure Voice Recording server for Avaya DMCC/Service Observe recording type and AES CTI Source.
- Assist Customer as needed with the backup/restore of the existing Qfiniti 16.6 database in the new Qfiniti 22.4 environment.
- After the existing Qfiniti 16.6 database is restored, execute SQL Scripts to update database to latest Qfiniti 22.4 version.

Configure the OT Directory Services (OTDS)
- Install OTDS software on designated Platform server.
- Configure either a non-synchronized partition for Qfiniti only users/administrators or a synchronized partition integrated with Customer's existing Active Directory to a single Organizational Unit for Agent ID import and authentication as required by Customer.
- Provide support, assistance, and guidance to Customer as needed with initial partition setup/management and Active Directory integration.

Fort Worth - Qfiniti Observe Voice Recording
- Upgrade/Install the applicable Qfiniti Observe Voice software on TWC provided hardware.
- Install the latest Qfiniti Quick Updates for all Observe Voice server.
- Configure Voice Recording server for Avaya DMCC/Service Observe recording type and AES CTI Source.
- Verify the configuration of the Observe Voice server.
- Verify recording and playback functionality for the Observe Voice server.

San Antonio - Qfiniti Observe Voice Recording
- Upgrade/Install the applicable Qfiniti Observe Voice software on TWC provided hardware.
- Install the latest Qfiniti Quick Updates for all Observe Voice server.
- Install the latest Qfiniti Quick Updates for all Observe Voice server.
- Configure Voice Recording server for Avaya DMCC/Service Observe recording type and AES CTI Source.
- Verify the configuration of the Observe Voice server.
- Verify recording and playback functionality for the Observe Voice server.

El Paso - Qfiniti Observe Voice Recording
- Upgrade/Install the applicable Qfiniti Observe Voice software on TWC provided hardware.
- Install the latest Qfiniti Quick Updates for all Observe Voice server.
- Configure Voice Recording server for Avaya DMCC/Service Observe recording type and AES CTI Source.
- Verify the configuration of the Observe Voice server.
- Verify recording and playback functionality for the Observe Voice server.

Mc Allen - Qfiniti Observe Voice Recording
- Upgrade/Install the applicable Qfiniti Observe Voice software on TWC provided hardware.
- Install the latest Qfiniti Quick Updates for all Observe Voice server.
- Configure Voice Recording server for Avaya DMCC/Service Observe recording type and AES CTI Source.
- Verify the configuration of the Observe Voice server.
- Verify recording and playback functionality for the Observe Voice server.

User Acceptance/Go Live/Post Go Live Support
- Provide support and assistance as needed during user acceptance testing.
- Assist Customer as needed with Go Live activities (client update support, final testing support, etc.).
- Re-run Qfiniti 16.6 database backup/restore/22.4 update, if necessary, at Go Live.
- Provide post-Go Live support and assistance as needed for up to 2 weeks after Go Live event. At the end of this period the Project Manager will transition ongoing support of the Customer system to the OpenText Support group.

Project Manager

Open Text will designate a Project Manager, working remotely, to manage Open Text resources and will be the primary contact regarding the following:

- Participate in project kickoff meeting.
- Contribute to development of Project Plans, Tasks, and Schedules.
- Manage scope including formal requests for changes.
- Manage cost, schedule, quality, and change control.
- Authorize work assignments for OpenText consultants and Manage team performance.
- Perform risk assessment and mitigation.
- Participate in status meetings and prepare budget and status reports.
- Communicate status and manage project and Qfiniti related issues.
- Communicate what is required from Customer as part of the engagement.
- Manage project financials.
- Manage project closure.

The following describes the process by which these Services will be provided:

- Services are expected to be performed remotely.
- An Open Text Project Manager and Technical Consultant will be assigned as the Customer's primary Service contacts.
- The Open Text Project Manager will be primarily responsible for coordinating the activities of the Technical Consultant as requested by the Customer. The Customer may contact the Consultant directly for questions, issues, or as part of an ongoing effort, although the Project Manager should be copied on all communications and should be the initial contact for any new efforts to coordinate schedules.
- The Project Manager will schedule status meetings and provide periodic status and budget reports based on a schedule to be agreed upon with the Customer.
- The standard response time for Customer requests is 1 business day, although we will strive to provide immediate response whenever possible.
- Most Services will be provided or delivered during normal business hours, although it is understood by both parties that exceptions may occur periodically which require after hours assistance. These events will be evaluated by the Open Text Project Manager and, when appropriate, scheduled and executed by the Open Text Technical Consultant in coordination with the Customer.

- These Services are not meant to supplant or replace Open Text Support. When deemed appropriate the Open Text Project Manager may refer the Customer to Open Text Support, such as in cases where the issue or request is best serviced through the Customer's Support Maintenance Agreement.
- Services provided by the OpenText Project Manager and Technical Consultant, when initiated as part of a Customer request, **should be considered billable in all cases**, regardless of the nature of the issue or request, unless agreement by both parties has been reached prior to the actions that the work will not be billed.

2.2 Customer will perform the following Tasks:

- TWC will obtain new servers from Texas DIR's Shared Technology Services (STS) and provide new servers to be housed in the State Data Center. DSTS will be responsible for patching, operating system updates, maintenance, backups, and operations.
- TWC Unemployment Insurance Division will de-commission servers currently housed at the five Tele-center locations and will properly sanitize each server in consultation with TWC Information Technology division before re-locating or disposing of de-commissioned servers.
- Ensure that the hardware and 3rd party software is properly installed, configured, and operating prior to Open Text commencement of Services, including SQL Server and Microsoft Windows
- Ensure person(s) responsible for managing, administering, and performing technical support for the Open Text application server(s) are available as needed to work with Open Text staff.
- If the access to the site is done remotely, then ensure that Open Text Support has access to one machine that is able to connect to all the applicable servers.

2.3 Training Services

What's New in Qfiniti 22.4 (4-hour course, up to 10 participants):
This overview for Qfiniti system administrators provides information on product changes since version 16.6.

3 Deliverables

Open Text will perform the Services described in Section 2.1 to create the following Deliverables. For purposes of this SOW, "**Deliverables**" means the tangible work product resulting from Open Text's performance of Services, excluding products, custom products, and modifications, enhancements, and derivative works thereto.

1. Project Planning and Setup
   a. Project Kickoff meeting
   b. Develop Project Plan/Schedule
   c. Complete Site Preparation/Equipment validation activities

2. Platform Upgrade and Migration
   a. Qfiniti 22.4 Platform (Database server)
   b. Qfiniti 22.4 Platform (IIS/Web servers)
   c. OT Directory Service (OTDS) is successfully integrated with TWC's Active Directory
   d. Provide support and assistance as needed with Qfiniti client upgrades, user acceptance testing, go live, and post go live support.

3. Austin Upgrade and Migration
   a. Install new Observe Voice server or complete an in-place upgrade of existing Voice server.
   b. Provide support and assistance as needed with Qfiniti client upgrades, recording migration, user acceptance testing, go live, and post go live support.

4. Fort Worth Upgrade and Migration
    a. Install new Observe Voice server or complete an in-place upgrade of existing Voice server.
    b. Provide support and assistance as needed with Qfiniti client upgrades, recording migration, user acceptance testing, go live, and post go live support.

5. San Antonio Upgrade and Migration
    a. Install new Observe Voice server or complete an in-place upgrade of existing Voice server.
    b. Provide support and assistance as needed with Qfiniti client upgrades, user acceptance testing, go live, and post go live support.

6. El Paso Upgrade and Migration
    a. Install new Observe Voice server or complete an in-place upgrade of existing Voice server.
    b. Provide support and assistance as needed with Qfiniti client upgrades, user acceptance testing, go live, and post go live support.

7. Mc Allen Upgrade and Migration and Project Closeout
    a. Install new Observe Voice server or complete an in-place upgrade of existing Voice server.
    b. Provide support and assistance as needed with Qfiniti client upgrades, user acceptance testing, go live, and post go live support.
    c. Resolve Post Go Live Project related issues.
    d. Finalize Support handoff documentation.
    e. Complete Support handoff/Close project

Test Observe clients will be set up to demonstrate standard product functionality. A checklist will be provided showing system has passed standard product functionality testing.

Deliverable Documentation to include: Qfiniti System Architecture and Server Information document, and Qfiniti Production System Functional Validation Checklist.

4   Project Responsibilities

This section describes general TWC and Open Text responsibilities relative to this SOW. Open Text's ability to fulfill its responsibilities relative to this SOW is dependent upon TWC fulfilling the Responsibilities described below and elsewhere herein.

4.1   Customer Responsibilities

- Assign the appropriate personnel with the requisite skills and expertise to work with Open Text throughout the project.
- Ensure Server hardware and 3rd party software is properly installed, configured, and operating prior to Open Text commencement of Services. Including SQL Server and Microsoft Windows per the Qfiniti Server Requirements documents.
- Ensure person(s) responsible for managing, administering, and performing technical support for the Open Text application server(s) are available as needed to work with Open Text staff.
- Participate in scheduled project status/progress meetings.
- Provide Open Text timely credentials and access to systems as needed. If provision of credentials or access to systems is delayed or incomplete, any Services necessary to correct problems created thereby shall be treated as a Customer requested Change Order and subject to the Change Management Process described below.

- Purchase or provide all hardware, software licenses, staff, current maintenance contracts, and environments necessary for Open Text to provide the Services described in this SOW. Open Text will provide laptops with standard commercial software for its consultants.
- If Open Text's performance under this SOW depends upon services, hardware or software being supplied by third parties, Customer is responsible for obtaining all such third-party hardware, software, and consulting services, which are a prerequisite or dependency to Open Text's performance under this SOW. Customer is also responsible for any such third-party product and/or service charges and fees.
- During the provision of the Services described in this SOW, Open Text may be required to install copies of third party or Open Text branded software and will be required to accept license terms accompanying such software on behalf of Customer. It is Customer's responsibility to review such license terms at the time of installation, and Customer hereby authorizes Open Text to accept such license terms on its behalf after Customer review.
- Perform any backups needed before changes are made and backup the target systems and work implemented by Open Text.
- Provide accurate, complete and timely information, business and technical data or documentation as requested by Open Text to perform the Services.

4.2   Open Text Responsibilities

- Provide off-site consultant(s) with the requisite skills necessary to assist Customer and Partner, on a Fixed Price basis, for the Customer's project.
- Provide a single point of contact to Customer and Partner during provision of Services described in this SOW for coordination and scheduling of project tasks, documentation and any changes to scope requiring a Change Order.
- Perform the Services set forth herein.

5   Limitations, Exclusions and Assumptions

- Services described in this SOW will be performed remotely at Open Text consultant local office locations.
- Open Text, Partner, and Customer acknowledge that successful completion of this project will require full and mutual good faith cooperation. Where agreement, approval, consent or similar action by either party is required by any provision of this SOW, such action will not be unreasonably delayed or withheld.
- While Open Text will make recommendations during the provision of Services described in this SOW, Customer shall be responsible for final determination whether or how to implement these recommendations.
- Open Text uses a forty (40) hour billable work week as its standard. Travel time is non-billable and Open Text will make every attempt to adhere to the Customer's Travel policy, should travel be requested by the Customer.
- The off-site schedule of the Open Text team will be mutually agreed upon prior to the commencement of the Services. Open Text and Customer agree to plan an on-site/off-site schedule that leverages off-site Services as much as possible.
- Open Text may choose to utilize qualified subcontractors. Customer agrees to conduct any subcontractor Project-related communications through the Open Text Project Manager.

- Requests for Services to be performed outside of normal business hours must be approved by Open Text.
- The Services described in this SOW do not include delivery of Services provided by Open Text support services, including fixing of software bugs. Customer is responsible for maintaining a valid support services contract with Open Text and contacting Open Text support for support-related issues.
- Any Services not documented in Section 2 is considered outside the scope of this SOW.
- This SOW does not contemplate the sale of products or maintenance services, which shall require the necessary terms and conditions for such purchase pursuant to a separate agreement between the parties.

6   Change Process

Any changes to the SOW must be mutually agreed upon by both Open Text and Customer in writing through a Change Order.

6.1 Definition

"Change Order" means an agreed upon change or modification to the Services or other material aspect of the SOW. Requests by Customer and recommendations by Open Text for Change Orders are subject to the procedures set forth below and shall be prepared by Open Text utilizing the Open Text Change Order Form attached hereto as Attachment B.

6.2   Procedure

Either party may request a change to the Services described in this SOW. All changes must be requested in writing and prepared by Open Text and will be signed by the appointed representative for each party.

Change Order requests will be processed as soon as is commercially reasonable. The change will be evaluated and any project impact will be identified. The cost, scope, and schedule impact, if any, of the change will be analyzed and documented by Open Text utilizing the Open Text Change Order Form. The change impact will then be processed for Customer authorization or closure.

All Change Orders must be mutually agreed and signed by the parties.

7   Acceptance

Open Text offers this SOW on a <u>Fixed Fee</u> basis. A portion of the total project effort will be assigned to each Deliverable. The value of the Deliverable will be invoiced to the Customer once it is Complete and Accepted. In developing the estimate of hours to be included in this SOW, Open Text assumed the following process for Acceptance of Deliverables:

7.1   Acceptance Process for Service Deliverables

Open Text will notify the Customer when a Services Deliverable is ready for acceptance testing. Upon issue of notification of each Deliverable by Open Text to the Customer, acceptance tests will be conducted in accordance with acceptance criteria that has been previously agreed by the parties.

If the acceptance tests demonstrates that the Deliverable fails to meet the acceptance criteria then the Customer shall notify Open Text in writing within five (5) working days (or such other time period as otherwise agreed by the Parties in writing in respect of a particular Deliverable) of the details of how the deliverable fails to meet the acceptance criteria; Open Text shall, within a reasonable time period after receipt of the Customer's notification, correct any such non-conformance so that the deliverable (as modified) meets the acceptance criteria; and resubmit the deliverable (as modified) to a repeat of the acceptance tests. If such repeat tests are successful then the Customer shall provide written notification

to Open Text that the Customer accepts the deliverable, otherwise this process will be repeated until the acceptance criteria is met or a mutually agreed upon accommodation is made.

Acceptance of the Deliverable shall be deemed to have occurred on whichever is the earliest of the:

(a)   Written confirmation by the Customer confirming that the Deliverable is accepted or

(b)   expiry of five (5) working days after communication of task completion, during which time the Customer does not notify Open Text in writing of any objectively verifiable non-compliance with the relevant Acceptance Criteria, or

(c)   use of the Deliverable by Customer, in any manner beyond validation testing, including putting the Deliverable into productive use. Productive use is where system is actively recording calls from customers.

Note: This Acceptance process applies only to Service Deliverables. Product issues and Enhancement of Functionality requests are managed under the Customer's Software License and Support Maintenance Agreements.

8   Escalation Process

Timely resolution of issues is critical to maintaining project control and Customer satisfaction. The purpose of the escalation process is to ensure issues are identified and resolved quickly. The escalation process provides a mechanism to alert project managers or Open Text lead consultant and other management personnel of issues not being resolved. Either Open Text or Customer may escalate a project issue as follows:

- Raise the issue initially to the Open Text and Customer project managers or Open Text lead consultant.
- If not resolved at this level, an issue report will be generated and the issue will be escalated to the Customer project sponsor and Open Text delivery manager.
- If the issue cannot be resolved within a reasonable time or falls outside the authority of the Customer project sponsor or Open Text delivery manager, it will be escalated to higher levels of management within Open Text and Customer.

9   Delivery Schedule

Open Text may require a three to four-week lead time after acceptance of the Customer's Purchase Order to staff the engagement unless otherwise agreed.

Services are anticipated to begin in **January 2024 and will continue until all deliverables are complete**.

The dates may be modified by the parties from time to time and should not be construed as a firm contractual commitment, unless otherwise specifically agreed to herein by the parties for payment or other purposes.

10 Fees and Invoicing

Open Text will provide the Services and Deliverables on a <u>fixed price basis</u> set forth in the table below. Currency is stated in **USD**, unless otherwise indicated.

#	Phase/Milestone/Deliverable	Payment Event	Price (USD)
1	Project Initiation/Kickoff	Project Initiation	$9,180.00
2	Qfiniti Observe Platform Upgrade	Acceptance	$9,180.00
3	Qfiniti Observe Austin Upgrade	Acceptance	$3,672.00
4	Qfiniti Observe Fort Worth Upgrade	Acceptance	$3,672.00
5	Qfiniti Observe San Antonio Upgrade	Acceptance	$3,672.00
6	Qfiniti Observe El Paso Upgrade	Acceptance	$3,672.00
7	Qfiniti Observe Mc Allen Upgrade/Project Closeout	Acceptance	$3,672.00
	Services Total "Spending Authority"		**$36,720.00**

Customer agrees to issue its purchase order in the amount of the above estimated **$36,720.00 (USD)** "Spending Authority" (Services and Expenses) to enable Open Text to begin work. Only completed milestones will be invoiced; undelivered milestones will not be invoiced.

If Open Text estimates that more time or resources are needed to complete the project, the parties will negotiate a mutually acceptable Change Order or Open Text will stop work when the Spending Authority is exhausted. Open Text will not provide Services or invoice Customer beyond Customer Spending Authority unless Open Text receives additional authorization from the Customer.

Open Text will track and invoice Customer for actual and reasonable expenses, including but not limited to transportation, lodging and meals in accordance with Open Text's travel policy and as incurred by Open Text in connection with the Services.

Prices are exclusive of, and Customer shall pay, all taxes, duties, levies or fees, or other similar charges imposed on Open Text or on the Customer by any taxing authority (other than taxes imposed on Open Text's income) related to Customer's order, unless Customer has provided Open Text with an appropriate resale or exemption certificate before the associated Services are performed and charges made.

If not executed, Open Text reserves the right to expire this SOW thirty (30) calendar days from the issue date of this SOW.

11 Invoice Schedule and Addresses

Open Text will invoice Customer based on fee schedule described in Section 10. Customer agrees to pay, without offset, all invoiced amounts within thirty (30) days of Open Text's invoice date. Open Text may change credit or payment terms for unfulfilled orders if, in Open Text's reasonable opinion, Customer's financial condition, previous payment record, or relationship with Open Text merits such change.

If Customer requests that specific Open Text personnel perform Services outside the city, state, province, or country in which such personnel are based, Customer shall reimburse Open Text for increased taxes and related out of pocket costs incurred by Open Text and/or its personnel as a result of providing such Services.

11.1 Addresses

ORDERING INFORMATION	
Delivery Site:	**Invoice to:**
Per Purchase Order	**Per Purchase Order**

11.2 Cancellation and Rescheduling

Customer may cancel or reschedule Services without charge if written notice of the cancellation or rescheduling is received by Open Text at least ten (10) business days prior to such cancellation or rescheduling taking effect; otherwise, Customer shall pay Open Text an amount equal to forty (40) hours of the cancelled or rescheduled engagement's Services rate for each scheduled Open Text resource.

Notwithstanding the foregoing sentence, in the event that Customer changes or reschedules Services after travel arrangements are made, Customer shall promptly reimburse Open Text for all non-cancelable expenses, including airfare.

12 Termination

Notwithstanding any provisions to the contrary in the Agreement, Open Text may terminate this SOW for convenience upon thirty (30) days' prior written notice to Customer.

13 Authorization

For your order to be accepted, a fully funded purchase order will be issued by Customer to cover the Spending Authority in this SOW. All parties agree that if there is a conflict between the standard PO terms and the SOW, the SOW shall take precedence.

Effective Date: November 10, 2023

Open Text Inc.	**Texas Workforce Commission**
Arvind Singhal	*Heather Hall*
Authorized Signature	*Authorized Signature*
Arvind Singhal	Heather Hall
Printed Name	*Printed Name*
Opentext Vice-President of Professional Services	Texas Workforce Commission, Chief Information Officer
Title	*Title*
11/14/2023	11/14/2023
Date	*Date*

Attachment A:

opentext™

Open Text Professional Services Agreement

This Professional Services Agreement ("**Agreement**") is between **Open Text Inc.** ("**OT**") and **Texas Workforce Commission** ("**Customer**"), and is made as of <u>**October 23, 2023**</u> ("**Effective Date**").

Whereas, OT provides consulting, installation, implementation, configuration and other services and Customer wishes to obtain such services;

Now Therefore, in consideration of the mutual promises contained herein and of other good and valuable consideration, OT and Customer agree as follows:

1.0   Scope of Services

1.1   Professional Services.   The terms of this Agreement shall govern the professional services provided by OT to Customer (**"Services"**) as described in a statement of work signed by both parties and referencing this Agreement ("**SOW"**).

1.2   Order of Precedence. In the event of any conflict or inconsistency between the Agreement and a SOW, the SOW will prevail to the extent it specifically references the parties' intent to override the Agreement.

1.3   Change Orders. SOWs may be amended or modified by written supplementary change orders signed by both parties, and thereafter the Services set out in such SOW will be deemed to include the Services described in such supplementary change order.

1.4   Provision of Services. The manner and means used by OT to perform the Services are in the sole discretion and control of OT. OT may make use of subcontractors to perform any of its obligations under this Agreement, but OT will remain responsible for the performance of its subcontractors.

1.5   Customer Policies. In advance of the relevant engagement, Customer shall provide OT with copies of any applicable Customer security or other policies. OT will not perform Services unless OT agrees to comply with such policies. OT will not be liable for any delays caused by time needed to review policies, or non-performance to the extent caused by OT inability to comply with policies.

1.6   Schedules and Delivery Dates. Dates related to performance described in an SOW are intended as an estimate only, and are not binding completion dates. Changes in scope or circumstances beyond OT's control may necessitate adjustment of previously provided estimates.

1.7   Licensing of OT Software. Under this Agreement, OT is not providing or licensing to Customer any OT software programs or products, except for the deliverables specified in a SOW (the "**Deliverables**"). Customer may acquire licenses for other OT software products only under the terms of a separate software license agreement between the parties.

1.8   Customer Cooperation. Customer and OT shall cooperate in good faith to complete the Services in a timely and professional manner. Customer acknowledges that failure to adhere to schedules or complete tasks within Customer's control, or failure to provide timely access to facilities, equipment, technology or complete and accurate information may delay completion of the Services and OT shall not be liable for any delays or inability to complete the Services to the extent caused by Customer's non-compliance with this section.

1.9   Reserved.

1.10   Right to Perform Services for Others. Subject to OT's compliance with the confidentiality provisions stated herein, nothing in this Agreement shall restrict or limit OT from providing services which may be similar to the Services to any other entity in any industry.

2.0   Intellectual Property Rights and Ownership

2.1   Intellectual Property Rights. Each party will retain all ownership rights to its previously existing intellectual property (including but not limited to trademarks, copyrights, patent rights, trade secrets, confidential or proprietary information, techniques, methods, software, technology, plans, designs, and business processes). OT will retain all ownership rights to any work product created in connection with this Agreement, including software, documentation, training or educational materials, inventions, innovations and developments ("**Work Product**"), excluding any of Customer's previously existing intellectual property contained in the Work Product.

2.2   License granted to Customer. With respect to the Work Product or other OT-owned intellectual property provided under a SOW, OT grants Customer a non-exclusive license for the sole purpose of allowing Customer to make use of the Services for its own internal business purposes in the manner contemplated in the applicable SOW. Such license is subject to Customer's payment of all fees and expenses under the related SOW.

3.0   Limited Warranty

3.1   Limited Warranty. OT warrants that the Services provided hereunder will be performed using reasonable skill and care consistent with generally accepted computer software industry practices ("**Services Warranty**").

3.2   DISCLAIMER. OTHER THAN THE EXPRESS SERVICES WARRANTY SET OUT ABOVE AND A WARRANTY AS TO TITLE., OT DISCLAIMS ALL OTHER EXPRESS, IMPLIED OR STATUTORY WARRANTIES, INCLUDING BUT NOT LIMITED TO WARRANTIES RELATED TO COMPATIBILITY WITH SOFTWARE OR HARDWARE, NON-EXISTENCE OF ERRORS, NON-EXISTENCE OF VIRUSES, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

3.3   Warranty Claims. In order to receive warranty remedies under the Services Warranty, warranty claims must be reported by Customer to OT in writing within thirty (30) days of the delivery of the related Services. Any modification of the Services not authorized by OT will cause immediate termination of the Services Warranty with respect to the modified Services**.**

3.4   Warranty Remedy. Customer's sole and exclusive remedy with respect to the Services Warranty will be that OT shall correct the breach of the Services Warranty within a commercially reasonable period of time. At OT's discretion, OT may elect to instead issue a refund of the fees allocable to the portion of the Services which do not satisfy the Services Warranty.

4.0   Services Fees and Expenses
4.1   Services Fees, Expenses and Applicable Taxes. Customer agrees to pay OT: (a) the Services fees set forth in the applicable SOW ("**Services Fees**"), (b) the travel, accommodation, lodging and out-of-pocket expenses reasonably incurred by OT in the course of providing the Services ("**Expenses**"), and (c) any applicable sales, use, consumption, goods and services, and value-added taxes imposed by the appropriate governments arising out of the provision of Services, except taxes imposed on OT's income (**"Applicable Taxes"**).

4.2   Time & Materials Model. Unless otherwise set forth in the applicable SOW, the Services Fees shall be calculated using a Time & Materials model. For the purposes of this Agreement, "**Time & Materials**" means that Services Fees will be calculated, invoiced and paid as follows:

a) Services Fees will be calculated by multiplying the number of hours/days worked by OT in respect of the Services by the applicable hourly/daily rate set forth in the applicable SOW, subject to any additional conditions as described in the SOW (for example, changes in rates for work on weekends or outside of normal business hours)
b) milestones and acceptance criteria in the applicable SOW shall only be used for project management purposes, and shall not affect OT's ability to invoice the Customer,
c) Customer is obligated to pay for completed Services as invoiced, regardless of whether all Services in the SOW have been completed, and

d) any reference to "total estimated services fees and expenses", "total fee", "maximum fee", "fee quote" or "quoted fee" (or other similar phrases) are a good faith estimate of the aggregate Services Fees which is provided for planning and budgeting purposes only, and shall not be a binding guarantee that all of the Services will be provided for an aggregate Services Fee equal to or less than such estimate.

4.3 Invoicing and Payment. Unless otherwise set forth in the applicable SOW, OT may invoice Customer in arrears on a monthly basis for Services Fees, Expenses incurred, and Applicable Taxes. All invoices issued under this Agreement shall be payable thirty (60) days from the date of invoice. Overdue amounts shall accrue interest at the lesser of two percent (2.0%) per month or the maximum amount permitted by law. OT may, at its option, suspend any ongoing work until any overdue account is brought current.

4.4 Purchase Orders. If Customer's procedures require invoices be submitted against a purchase order, Customer will be responsible for issuing such purchase order prior to the commencement of the provision of the Services. The parties agree that any purchase order terms and conditions which purport to amend or modify terms of this Agreement, or which conflict with this Agreement, shall have no force and effect.

5.0   Term and Termination

5.1 Term. The term of this Agreement shall commence on the Effective Date and will continue until terminated in accordance with the terms herein.

5.2 Termination for Convenience. Either party may terminate this Agreement or any individual SOW for convenience by providing written notice to the other party indicating their intention to terminate at least thirty (30) days in advance of the termination date.

5.3 Termination for Default. Either party may terminate this Agreement for default if the other party commits a material breach of the Agreement, provided (i) the non-breaching party provides the breaching party with written notice of breach and a thirty (30) day period to cure the breach ("**Cure Period**"), and (ii) the breaching party fails to cure each breach by the end of the Cure Period. Any termination of this Agreement shall be without prejudice to each right or remedy which the non-breaching party may possess against the breaching party under this Agreement, at law, in equity, or otherwise.

5.4 Effect of Termination. Upon the termination of this Agreement, any SOW that is not expressly terminated at the same time in accordance with the terms herein shall continue to be governed by this Agreement as if this Agreement had not been terminated. In addition, upon termination of a SOW, OT may immediately invoice Customer for all applicable Services Fees, Expenses incurred and Applicable Taxes related to the Services provided by OT up to the date of termination, and Customer shall pay such invoice in accordance with the terms of this Agreement.

5.5 Surviving Sections. The obligations of any party that have been incurred prior to the effective date of termination (including, without limitation, the obligations of Customer regarding payment of Services Fees, Expenses, and Applicable Taxes), and other provisions of this Agreement that by their nature extend beyond the expiration or termination of this Agreement (including, without limitation, the Limitation of Liability sections of this Agreement), shall continue in full force and effect notwithstanding the expiration or termination of this Agreement and whether or not an invoice has been rendered with respect thereto.

6.0   Confidentiality

6.1 Confidentiality. By virtue of this Agreement, each party (a "**Disclosing Party**") may disclose to the other party (a "**Receiving Party**") information that is confidential and otherwise proprietary ("**Confidential Information**"). Subject to the exceptions listed below, Confidential Information shall include any information that is clearly identified in writing at the time of disclosure as confidential or confirmed as confidential in writing within thirty (30) days of disclosure, as well as Deliverables, Work Product and any information that, due to the circumstances under which it is disclosed, a reasonable person would infer as confidential. Confidential Information does not include any information that: (a) is or becomes a part of the

public domain through no act or omission of the Receiving Party; (b) was in the Receiving Party's lawful possession prior to the disclosure and had not been obtained by the Receiving Party either directly or indirectly from the Disclosing Party; (c) is lawfully disclosed to the Receiving Party by a third party without restriction on disclosure; or (d) is independently developed by the Receiving Party by employees or agents without access to the Disclosing Party's Confidential Information. Each party agrees, for the term of this Agreement and for five (5) years after its termination, to hold the other party's Confidential Information in strict confidence, not to disclose such Confidential Information to third parties (other than professional advisers who are bound by appropriate obligations of confidentiality) unless authorized to do so by the Disclosing Party, and not to use such Confidential Information for any purpose except as expressly permitted hereunder. Each party agrees to take reasonable steps to protect the other party's Confidential Information to ensure that such Confidential Information is not disclosed, distributed or used in violation of the provisions of this Agreement. The foregoing prohibition on disclosure of Confidential Information shall not apply to the extent Confidential Information is required to be disclosed by the Receiving Party as a matter of law or by order of a court or by a regulatory body, provided that the Receiving Party promptly notifies the Disclosing Party so that it may seek an appropriate protective order or waive compliance with this section.

7.0   Limitation of Liability

7.1   Reserved.

7.2   LIMITATION OF LIABILITY. IN NO EVENT SHALL OT'S LIABILITY UNDER OR IN CONNECTION WITH THIS AGREEMENT OR ANY SOW EXCEED THE AMOUNT OF FEES PAID BY CUSTOMER UNDER THE APPLICABLE (OR MOST CLOSELY RELATED) SOW, WHETHER SUCH LIABILITY ARISES IN CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE.

8.0   Miscellaneous Provisions

8.1   Non-Solicitation. Customer agrees that at any point during the term of the related SOW and for twelve (12) months thereafter, it will not, either directly or indirectly (for example, through a third-party recruiter) solicit for employment or similar relationship, any employee or contractor of OT who has performed Services for Customer. The foregoing shall not apply if such individuals respond without Customer's encouragement to Customer's general recruitment activities including employment advertisements, job postings, or similar, provided they do not specifically target such individuals.

8.2   Independent Contractors. OT and Customer are independent contractors. Neither OT nor Customer shall have any authority to bind the other in any manner.

8.3   Waiver, Amendment, Assignment. No failure or delay by any party in exercising any right, power or privilege hereunder shall operate as a waiver thereof nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege. No waiver of any provision of this Agreement is binding on either party unless set out in a mutually signed written waiver. This Agreement shall only be amended by a written document signed by OT and Customer stating such document is an amendment or an addendum hereto. This Agreement may be assigned by OT to an Affiliate of OT or to a successor-in-interest/title of OT without consent. Neither this Agreement nor any SOW may be assigned by Customer, in whole or in part, whether by operation of law, change of control or in any other manner, without OT's prior written consent.

8.4   Vienna Convention. All provisions of the United Nations Convention On Contracts For The International Sale of Goods are hereby rejected by the parties and excluded from this Agreement in their entirety.

8.5   Governing Law. This Agreement shall be governed by the laws of the State of Delaware, excluding its conflicts or choice of law rules. If Customer or OT commence any litigation or proceeding against the other related to this Agreement, the prevailing party shall be entitled to an award of its reasonable attorneys' fees and court costs.

8.6   Force Majeure. Except for (i) payment obligations or (ii) any obligations relating to the protection of or restrictions applicable to the other party's Confidential Information or intellectual property, neither party shall be liable to the other or in breach of this Agreement due to any failure or delay in performance of its obligations to the extent the failure or delay arises (and only for the duration that the affected party is precluded from performing) as a result of acts of God, fire, disaster, explosion, vandalism, adverse weather conditions, labor disputes or disruptions, epidemics, wars, national emergencies, civil disturbances, shortages of materials, actions or inactions of government authorities, terrorist acts, border delays, failures or interruptions of utilities or telecommunications equipment or services, system failures or any other cause that is beyond the reasonable control of that party.

8.7   Severability. Should any provision of this Agreement be deemed contrary to applicable law or unenforceable by any court of competent jurisdiction, the provision shall be considered severed from this Agreement but all remaining provisions shall continue in full force.

8.8 Reserved.

8.9 Reserved.

8.10   Entire Agreement. This Agreement, together with each written schedule, SOW, amendment or written addendum to this Agreement signed by OT and Customer, sets forth the entire agreement between OT and Customer, and supersedes all prior related oral and written agreements and understandings between the parties with respect to the subject matter hereof.

8.11   Third Party Rights. No term of this Agreement is intended to confer a benefit on, or to be enforceable by, any person or entity who is not a party to this Agreement; provided that either party's Affiliate which enters into a SOW shall be deemed a party to the Agreement for the purposes of that SOW.

8.12   Legal Review and Interpretation. It is acknowledged that this Agreement was initially prepared by OT. Both parties, however, have had an opportunity for legal review of all terms. The parties agree that, in interpreting any issues which may arise, any rules of construction related to who prepared the Agreement shall be inapplicable, each party having contributed or having had the opportunity to clarify any issue. In addition, the headings used in this Agreement are for convenience only and do not in any way limit or otherwise affect the meaning of any terms of this Agreement.

8.13   Calculation of Dates. For the purposes of this Agreement, a day shall mean a calendar day.

8.14   Notices. Communications related to the performance of Services under a SOW should be sent to the contact persons listed in the relevant SOW. Legal notices under this Agreement must be given by a party in writing and shall be deemed effective upon a party's receipt via FedEx or other commercial courier sent to the following addresses:

For Open Text:	For Customer:
OpenText Inc.	**Texas Workforce Commission**
275 Frank Tompa Drive	101 E 15th St
Waterloo, ON Canada N2L 0A1	Austin, TX 78778
	jose.herrera@twc.texas.gov
Attn: General Counsel	Attn: Carlos Herrera

Attachment B:

opentext™

Change Order Form

Originator name	Company
Originator phone number	Request date
Originator email address	Project name

Mark all that apply	Add or change project functionality	☐	Out of business hours	☐
	Assumptions changes	☐	Additional Milestones	☐
	Project schedule extension	☐	Other	☐

Describe request in detail (add additional pages if necessary)

#1	
#2	

Section below to be filled in by Open Text Project Manager

Statement of Work Version/Date	Change Order #

Change Request Status (Check one): ☐ Approved ☐ Modified ☐ Denied

Reason

Change Impact	Project Schedule	Cost	PO to which changes apply
#1			
#2			

Signatures:

Authorized Customer Signature:
Date:

Authorized Open Text Signature:
Date: