CONTRACT

RFP # DOE 2013-14

This Agreement ("Agreement") is effective only upon the execution of a State of Delaware Purchase Order and will end on *June 30,* 2014, by and between the State of Delaware, Department of Education, hereafter referred to as DDOE, and **Auralog** doing business as ***Tell Me More*** hereafter referred to as TMM.

WHEREAS, DDOE desires to obtain certain services to **provide foreign language instruction; training Adult Education Staff; and Adult Education IT Technicians**; and

WHEREAS, TMM desires to provide such services to DDOE on the terms set forth below;

WHEREAS, DDOE and TMM represent and warrant that each party has full right, power and authority to enter into and perform under this Agreement;

FOR AND IN CONSIDERATION OF the premises and mutual agreements herein, DDOE and VENDOR NAME agree as follows:

1. Services.

1.1 TMM shall perform for DDOE the services specified in the Appendices to this Agreement, attached hereto and made a part hereof.

1.2 Any conflict or inconsistency between the provisions of the following documents shall be resolved by giving precedence to such documents in the following order: (a) this Agreement (including any amendments or modifications thereto); (b) DDOE's request for proposals, attached hereto as Appendix B; and (c) TMM's response to the request for proposals, attached hereto as Appendix C. The aforementioned documents are specifically incorporated into this Agreement and made a part hereof.

1.3 DDOE may, at any time, by written order, make changes in the scope of this Agreement and in the services or work to be performed. No services for which additional compensation may be charged by TMM shall be furnished without the written authorization of DDOE. When DDOE desires any addition or deletion to the deliverables or a change in the Services to be provided under this Agreement, it shall notify TMM, who shall then submit to DDOE a "Change Order" for approval authorizing said change. The Change Order shall state whether the change shall cause an alteration in the price or the time required by TMM for any aspect of its performance under this Agreement. Pricing of changes shall be consistent with those established within this Agreement.

1.4 TMM will not be required to make changes to its scope of work that result in TMM's costs exceeding the current unencumbered budgeted appropriations for the services. Any claim of either party for an adjustment under Section 1 of this Agreement shall be asserted in the manner specified in the writing that authorizes the adjustment.

2. Payment for Services and Expenses.

2.1 The term of the initial contract shall be from the execution of this agreement and a State of Delaware Purchase Order through June 30, 2014.

2.2 DDOE will pay TMM for the performance of services described in Appendix A, Statement of Work. The fee will be paid in accordance with the payment schedule attached hereto as part of Appendix D.

2.3 DDOE's obligation to pay TMM for the performance of services described in Appendix A, Statement of Work will not exceed the fixed fee amount of $100,128.00. It is expressly understood that the work defined in the appendices to this Agreement must be completed by TMM and it shall be TMM's responsibility to ensure that hours and tasks are properly budgeted so that all services are completed for the agreed upon fixed fee. DDOE's total liability for all charges for services that may become due under this Agreement is limited to the total maximum expenditure(s) authorized in DDOE's purchase order(s) to TMM.

2.4 TMM shall submit annual invoices to DDOE in sufficient detail to support the services provided during the previous month. DDOE agrees to pay those invoices within thirty (30) days of receipt. In the event DDOE disputes a portion of an invoice, DDOE agrees to pay the undisputed portion of the invoice within thirty (30) days of receipt and to provide TMM a detailed statement of DDOE's position on the disputed portion of the invoice within thirty (30) days of receipt. DDOE's failure to pay any amount of an invoice that is not the subject of a good-faith dispute within thirty (30) days of receipt shall entitle TMM to charge interest on the overdue portion at no more than 1.0% per month or 12% per annum. All payments should be sent to Auralog Inc. (dba TMM), 3710 E. University Dr. #1, Phoenix, AZ, 85034.

2.5 Unless provided otherwise in an Appendix, all expenses incurred in the performance of the services are to be paid by TMM. If an Appendix specifically provides for expense reimbursement, TMM shall be reimbursed only for reasonable expenses incurred by TMM in the performance of the services, including, but not necessarily limited to, travel and lodging expenses,

communications charges, and computer time and supplies.

2.6 DDOE is a sovereign entity, and shall not be liable for the payment of federal, state and local sales, use and excise taxes, including any interest and penalties from any related deficiency, which may become due and payable as a consequence of this Agreement.

2.7 DDOE shall subtract from any payment made to TMM all damages, costs and expenses caused by TMM's negligence, resulting from or arising out of errors or omissions in TMM's work products, which have not been previously paid to TMM.

2.8 Invoices shall be submitted to: Maureen Whelan, RFP# DOE 2013-14
Collette Education Center, 35 Commerce Way, Suite 1, Dover, DE 19904

3. Responsibilities of VENDOR NAME.

3.1 TMM shall be responsible for the professional quality, technical accuracy, timely completion, and coordination of all services furnished by TMM, its subcontractors and its and their principals, officers, employees and agents under this Agreement. In performing the specified services, TMM shall follow practices consistent with generally accepted professional and technical standards. TMM shall be responsible for ensuring that all services, products and deliverables furnished pursuant to this Agreement comply with the standards promulgated by the Department of Technology and Information ("DTI") published at http://dti.delaware.gov/, and as modified from time to time by DTI during the term of this Agreement. If any service, product or deliverable furnished pursuant to this Agreement does not conform with DTI standards, TMM shall, at its expense and option either (1) replace it with a conforming equivalent or (2) modify it to conform with DTI standards. TMM shall be and remain liable in accordance with the terms of this Agreement and applicable law for all damages to DDOE caused by TMM's failure to ensure compliance with DTI standards.

3.2 It shall be the duty of the TMM to assure that all products of its effort are technically sound and in conformance with all pertinent Federal, State and Local statutes, codes, ordinances, resolutions and other regulations. TMM will not produce a work product that violates or infringes on any copyright or patent rights. TMM shall, without additional compensation, correct or revise any errors or omissions in its work products.

3.3 Permitted or required approval by DDOE of any products or services furnished by TMM shall not in any way relieve TMM of responsibility for the

professional and technical accuracy and adequacy of its work. DDOE's review, approval, acceptance, or payment for any of TMM's services herein shall not be construed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement, and TMM shall be and remain liable in accordance with the terms of this Agreement and applicable law for all damages to DDOE caused by TMM's performance or failure to perform under this Agreement.

3.4 TMM shall appoint a Project Manager who will manage the performance of services. All of the services specified by this Agreement shall be performed by the Project Manager, or by TMM's associates and employees under the personal supervision of the Project Manager. The positions anticipated include:

Project: Language Learning Programs for James H. Groves Adult High School
Team – TMM Service Team
Title - Project Manager to be determined after P.O. dispatched
100% of Project Involvement

3.5 Designation of persons for each position is subject to review and approval by DDOE. Should the staff need to be diverted off the project for what are now unforeseeable circumstances, TMM will notify DDOE immediately and work out a transition plan that is acceptable to both parties, as well as agree to an acceptable replacement plan to fill or complete the work assigned to this project staff position. Replacement staff persons are subject to review and approval by DDOE. If TMM fails to make a required replacement within 30 days, DDOE may terminate this Agreement for default. Upon receipt of written notice from DDOE that an employee of TMM is unsuitable to DDOE for good cause, TMM shall remove such employee from the performance of services and substitute in his/her place a suitable employee.

3.6 TMM shall furnish to DDOE's designated representative copies of all correspondence to regulatory agencies for review prior to mailing such correspondence.

3.7 TMM agrees that its officers and employees will cooperate with DDOE in the performance of services under this Agreement and will be available for consultation with DDOE at such reasonable times with advance notice as to not conflict with their other responsibilities.

3.8 TMM has or will retain such employees as it may need to perform the services required by this Agreement. Such employees shall not be employed by the State of Delaware or any other political subdivision of the State.

3.9 TMM will not use DDOE's name, either express or implied, in any of its advertising or sales materials without DDOE's express written consent.

3.10 The rights and remedies of DDOE provided for in this Agreement are in addition to any other rights and remedies provided by law.

4. Time Schedule.

4.1 A project schedule is included in Appendix A.

4.2 Any delay of services or change in sequence of tasks must be approved in writing by DDOE.

4.3 In the event that TMM fails to complete the project or any phase thereof within the time specified in the Contract, or with such additional time as may be granted in writing by DDOE, or fails to prosecute the work, or any separable part thereof, with such diligence as will insure its completion within the time specified in this Agreement or any extensions thereof, DDOE shall suspend the payments scheduled as set forth in Appendix D.

5. State Responsibilities.

5.1 In connection with TMM's provision of the Services, DDOE shall perform those tasks and fulfill those responsibilities specified in the appropriate Appendices.

5.2 DDOE agrees that its officers and employees will cooperate with TMM in the performance of services under this Agreement and will be available for consultation with TMM at such reasonable times with advance notice as to not conflict with their other responsibilities.

5.3 The services performed by TMM under this Agreement shall be subject to review for compliance with the terms of this Agreement by DDOE's designated representatives. DDOE representatives may delegate any or all responsibilities under the Agreement to appropriate staff members, and shall so inform TMM by written notice before the effective date of each such delegation.

5.4 The review comments of DDOE's designated representatives may be reported in writing as needed to TMM. It is understood that DDOE's representatives' review comments do not relieve TMM from the responsibility for the professional and technical accuracy of all work delivered under this

Agreement.

5.5 DDOE shall, without charge, furnish to or make available for examination or use by TMM as it may request, any data which DDOE has available, including as examples only and not as a limitation:

a. Copies of reports, surveys, records, and other pertinent documents;
b. Copies of previously prepared reports, job specifications, surveys, records, ordinances, codes, regulations, other document, and information related to the services specified by this Agreement.

TMM shall return any original data provided by DDOE.

5.6 DDOE shall assist TMM in obtaining data on documents from public officers or agencies and from private citizens and business firms whenever such material is necessary for the completion of the services specified by this Agreement.

5.7 TMM will not be responsible for accuracy of information or data supplied by DDOE or other sources to the extent such information or data would be relied upon by a reasonably prudent contractor.

5.8 DDOE agrees not to use TMM's name, either express or implied, in any of its advertising or sales materials. TMM reserves the right to reuse the nonproprietary data and the analysis of industry-related information in its continuing analysis of the industries covered.

6. Work Product

6.1 Where applicable, all materials, information, documents, and reports, whether finished, unfinished, or draft, developed, prepared, completed, or acquired by TMM for DDOE relating to the services to be performed hereunder shall become the property of DDOE and shall be delivered to DDOE's designated representative upon completion or termination of this Agreement, whichever comes first. TMM shall not be liable for damages, claims, and losses arising out of any reuse of any work products on any other project conducted by DDOE. DDOE shall have the right to reproduce all documentation supplied pursuant to this Agreement.

6.2 TMM retains all title and interest to the data it furnished and/or generated pursuant to this Agreement. Retention of such title and interest does not conflict with DDOE's rights to the materials, information and documents developed in performing the project. Upon final payment, DDOE shall have a

perpetual, nontransferable, non-exclusive paid-up right and license to use, copy, modify and prepare derivative works of all materials in which TMM retains title, whether individually by TMM or jointly with DDOE. Any and all source code developed in connection with the services provided will be provided to DDOE, and the aforementioned right and license shall apply to source code. The parties will cooperate with each other and execute such other documents as may be reasonably deemed necessary to achieve the objectives of this Section.

6.3 In no event shall TMM be precluded from developing for itself, or for others, materials that are competitive with the Deliverables, irrespective of their similarity to the Deliverables. In addition, TMM shall be free to use its general knowledge, skills and experience, and any ideas, concepts, know-how, and techniques within the scope of its consulting practice that are used in the course of providing the services.

6.4 Notwithstanding anything to the contrary contained herein or in any attachment hereto, any and all intellectual property or other proprietary data owned by TMM prior to the effective date of this Agreement ("Preexisting Information") shall remain the exclusive property of TMM even if such Preexisting Information is embedded or otherwise incorporated into materials or products first produced as a result of this Agreement or used to develop such materials or products. DDOE's rights under this section shall not apply to any Preexisting Information or any component thereof regardless of form or media.

7. Confidential Information.

To the extent permissible under 29 *Del. C.* § 10001, et seq., the parties to this Agreement shall preserve in strict confidence any information, reports or documents obtained, assembled or prepared in connection with the performance of this Agreement.

8. Warranty.

8.1 TMM warrants that its services will be performed in a good and workmanlike manner. TMM agrees to re-perform any work not in compliance with this warranty brought to its attention within a reasonable time after that work is performed.

8.2 Third-party products within the scope of this Agreement are warranted solely under the terms and conditions of the licenses or other agreements by which such products are governed. With respect to all third-party products and services purchased by TMM for DDOE in connection with the provision of the

Services, TMM shall pass through or assign to DDOE the rights TMM obtains from the manufacturers and/or vendors of such products and services (including warranty and indemnification rights), all to the extent that such rights are assignable.

9. Indemnification; Limitation of Liability.

9.1 TMM shall indemnify and hold harmless the State, its agents and employees, from any and all liability, suits, actions or claims, together with all reasonable costs and expenses (including attorneys' fees) directly arising out of (A) the negligence or other wrongful conduct of the TMM, its agents or employees, or (B) TMM's breach of any material provision of this Agreement not cured after due notice and opportunity to cure, provided as to (A) or (B) that (i) TMM shall have been notified promptly in writing by DDOE of any notice of such claim; and (ii) TMM shall have the sole control of the defense of any action on such claim and all negotiations for its settlement or compromise.

9.2 If DDOE promptly notifies TMM in writing of a third party claim against DDOE that any Deliverable infringes a copyright or a trade secret of any third party, TMM will defend such claim at its expense and will pay any costs or damages that may be finally awarded against DDOE. TMM will not indemnify DDOE, however, if the claim of infringement is caused by (1) DDOE's misuse or modification of the Deliverable; (2) DDOE's failure to use corrections or enhancements made available by TMM; (3) DDOE's use of the Deliverable in combination with any product or information not owned or developed by TMM; (4) DDOE's distribution, marketing or use for the benefit of third parties of the Deliverable or (5) information, direction, specification or materials provided by Client or any third party. If any Deliverable is, or in TMM's opinion is likely to be, held to be infringing, TMM shall at its expense and option either (a) procure the right for DDOE to continue using it, (b) replace it with a noninfringing equivalent, (c) modify it to make it noninfringing. The foregoing remedies constitute DDOE's sole and exclusive remedies and TMM's entire liability with respect to infringement.

9.3 DDOE agrees that TMM's total liability to DDOE for any and all damages whatsoever arising out of or in any way related to this Agreement from any cause, including but not limited to contract liability or TMM negligence, errors, omissions, strict liability, breach of contract or breach of warranty shall not, in the aggregate, exceed fees paid to TMM.

In no event shall TMM be liable for special, indirect, incidental, economic,

consequential or punitive damages, including but not limited to lost revenue, lost profits, replacement goods, loss of technology rights or services, loss of data, or interruption or loss of use of software or any portion thereof regardless of the legal theory under which such damages are sought, and even if TMM has been advised of the likelihood of such damages.

10. Employees.

10.1 TMM has and shall retain the right to exercise full control over the employment, direction, compensation and discharge of all persons employed by TMM in the performance of the services hereunder; provided, however, that it will, subject to scheduling and staffing considerations, attempt to honor DDOE's request for specific individuals.

10.2 Except as the other party expressly authorizes in writing in advance, neither party shall solicit, offer work to, employ, or contract with, whether as a partner, employee or independent contractor, directly or indirectly, any of the other party's Personnel during their participation in the services or during the twelve (12) months thereafter. For purposes of this Section 10.2, "Personnel" includes any individual or company a party employs as a partner, employee or independent contractor and with which a party comes into direct contact in the course of the services.

10.3 Possession of a Security Clearance, as issued by the Delaware Department of Public Safety or the Department of Correction, may be required of any employee of TMM who will be assigned to this project.

11. Independent Contractor.

11.1 It is understood that in the performance of the services herein provided for, TMM shall be, and is, an independent contractor, and is not an agent or employee of DDOE and shall furnish such services in its own manner and method except as required by this Agreement. TMM shall be solely responsible for, and shall indemnify, defend and save DDOE harmless from all matters relating to the payment of its employees, including compliance with social security, withholding and all other wages, salaries, benefits, taxes, exactions, and regulations of any nature whatsoever.

11.2 TMM acknowledges that TMM and any subcontractors, agents or employees employed by TMM shall not, under any circumstances, be considered employees of DDOE, and that they shall not be entitled to any of the benefits or rights afforded employees of DDOE, including, but not limited to, sick leave,

vacation leave, holiday pay, Public Employees Retirement System benefits, or health, life, dental, long-term disability or workers' compensation insurance benefits. DDOE will not provide or pay for any liability or medical insurance, retirement contributions or any other benefits for or on behalf of DDOE or any of its officers, employees or other agents.

11.3 TMM shall be responsible for providing liability insurance for its personnel.

11.4 As an independent contractor, TMM has no authority to bind or commit DDOE. Nothing herein shall be deemed or construed to create a joint venture, partnership, fiduciary or agency relationship between the parties for any purpose.

12. Suspension.

12.1 DDOE may suspend performance by TMM under this Agreement for such period of time as DDOE, at its sole discretion, may prescribe by providing written notice to TMM at least 30 working days prior to the date on which DDOE wishes to suspend. Upon such suspension, DDOE shall pay TMM its compensation, based on the percentage of the project completed and earned until the effective date of suspension, less all previous payments. TMM shall not perform further work under this Agreement after the effective date of suspension. TMM shall not perform further work under this Agreement after the effective date of suspension until receipt of written notice from DDOE to resume performance.

12.2 In the event DDOE suspends performance by TMM for any cause other than the error or omission of the TMM, for an aggregate period in excess of 30 days, TMM shall be entitled to an equitable adjustment of the compensation payable to TMM under this Agreement to reimburse TMM for additional costs occasioned as a result of such suspension of performance by DDOE based on appropriated funds and approval by DDOE.

13. Termination.

13.1 This Agreement may be terminated in whole or in part by either party in the event of substantial failure of the other party to fulfill its obligations under this Agreement through no fault of the terminating party; but only after the other party is given:

a. Not less than 30 calendar days written notice of intent to terminate; and

b. An opportunity for consultation with the terminating party prior to termination.

13.2 This Agreement may be terminated in whole or in part by DDOE for its convenience, but only after TMM is given:

a. Not less than 30 calendar days written notice of intent to terminate; and
b. An opportunity for consultation with DDOE prior to termination.

13.3 If termination for default is effected by DDOE, DDOE will pay TMM that portion of the compensation which has been earned as of the effective date of termination but:

a. No amount shall be allowed for anticipated profit on performed or unperformed services or other work, and
b. Any payment due to TMM at the time of termination may be adjusted to the extent of any additional costs occasioned to DDOE by reason of TMM's default.
c. Upon termination for default, DDOE may take over the work and prosecute the same to completion by agreement with another party or otherwise. In the event TMM shall cease conducting business, DDOE shall have the right to make an unsolicited offer of employment to any employees of TMM assigned to the performance of the Agreement, notwithstanding the provisions of Section 10.2.

13.4 If after termination for failure of TMM to fulfill contractual obligations it is determined that TMM has not so failed, the termination shall be deemed to have been effected for the convenience of DDOE.

13.5 The rights and remedies of DDOE and TMM provided in this section are in addition to any other rights and remedies provided by law or under this Agreement.

13.6 Gratuities.

13.6.1 DDOE may, by written notice to TMM, terminate this Agreement if it is found after notice and hearing by DDOE that gratuities (in the form of entertainment, gifts, or otherwise) were offered or given by TMM or any agent or representative of TMM to any officer or employee of DDOE with a view toward securing a

contract or securing favorable treatment with respect to the awarding or amending or making of any determinations with respect to the performance of this Agreement.

13.6.2 In the event this Agreement is terminated as provided in 13.6.1 hereof, DDOE shall be entitled to pursue the same remedies against TMM it could pursue in the event of a breach of this Agreement by TMM.

13.6.3 The rights and remedies of DDOE provided in Section 13.6 shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

14. Severability.

If any term or provision of this Agreement is found by a court of competent jurisdiction to be invalid, illegal or otherwise unenforceable, the same shall not affect the other terms or provisions hereof or the whole of this Agreement, but such term or provision shall be deemed modified to the extent necessary in the court's opinion to render such term or provision enforceable, and the rights and obligations of the parties shall be construed and enforced accordingly, preserving to the fullest permissible extent the intent and agreements of the parties herein set forth.

15. Assignment; Subcontracts.

15.1 Any attempt by T<< to assign or otherwise transfer any interest in this Agreement without the prior written consent of DDOE shall be void. Such consent shall not be unreasonably withheld.

15.2 Services specified by this Agreement shall not be subcontracted by TMM, without prior written approval of DDOE.

15.3 Approval by DDOE of TMM's request to subcontract or acceptance of or payment for subcontracted work by DDOE shall not in any way relieve TMM of responsibility for the professional and technical accuracy and adequacy of the work. All subcontractors shall adhere to all applicable provisions of this Agreement.

15.4 TMM shall be and remain liable for all damages to DDOE caused by negligent performance or non-performance of work under this Agreement by TMM, its subcontractor or its sub-subcontractor.

15.5 The compensation due shall not be affected by DDOE's approval of the TMM's request to subcontract.

16. Force Majeure.

Neither party shall be liable for any delays or failures in performance due to circumstances beyond its reasonable control.

17. Non-Appropriation of Funds.

17.1 Validity and enforcement of this Agreement is subject to appropriations by the General Assembly of the specific funds necessary for contract performance. Should such funds not be so appropriated DDOE may immediately terminate this Agreement, and absent such action this Agreement shall be terminated as to any obligation of the State requiring the expenditure of money for which no specific appropriation is available, at the end of the last fiscal year for which no appropriation is available or upon the exhaustion of funds.

17.2 Notwithstanding any other provisions of this Agreement, this Agreement shall terminate and DDOE's obligations under it shall be extinguished at the end of the fiscal year in which the State of Delaware fails to appropriate monies for the ensuing fiscal year sufficient for the payment of all amounts which will then become due.

18. State of Delaware Business License.

TMM and all subcontractors represent that they are properly licensed and authorized to transact business in the State of Delaware as provided in 30 *Del. C.* § 2301.

19. Complete Agreement.

19.1 This agreement and its Appendices shall constitute the entire agreement between DDOE and TMM with respect to the subject matter of this Agreement and shall not be modified or changed without the express written consent of the parties. The provisions of this agreement supersede all prior oral and written quotations, communications, agreements and understandings of the parties with respect to the subject matter of this Agreement.

19.2 If the scope of any provision of this Agreement is too broad in any respect whatsoever to permit enforcement to its full extent, then such provision shall be

enforced to the maximum extent permitted by law, and the parties hereto consent and agree that such scope may be judicially modified accordingly and that the whole of such provisions of the Agreement shall not thereby fail, but the scope of such provision shall be curtailed only to the extent necessary to conform to the law.

19.3 TMM may not order any product requiring a purchase order prior to DDOE's issuance of such order. Each Appendix, except as its terms otherwise expressly provide, shall be a complete statement of its subject matter and shall supplement and modify the terms and conditions of this Agreement for the purposes of that engagement only. No other agreements, representations, warranties or other matters, whether oral or written, shall be deemed to bind the parties hereto with respect to the subject matter hereof.

20. Miscellaneous Provisions.

20.1 In performance of this Agreement, TMM shall comply with all applicable federal, state and local laws, ordinances, codes and regulations. TMM shall solely bear the costs of permits and other relevant costs required in the performance of this Agreement.

20.2 Neither this Agreement nor any appendix may be modified or amended except by the mutual written agreement of the parties. No waiver of any provision of this Agreement shall be effective unless it is in writing and signed by the party against which it is sought to be enforced.

20.3 The delay or failure by either party to exercise or enforce any of its rights under this Agreement shall not constitute or be deemed a waiver of that party's right thereafter to enforce those rights, nor shall any single or partial exercise of any such right preclude any other or further exercise thereof or the exercise of any other right.

20.4 TMM covenants that it presently has no interest and that it will not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Agreement. TMM further covenants, to its knowledge and ability, that in the performance of said services no person having any such interest shall be employed.

20.5 TMM acknowledges that DDOE has an obligation to ensure that public funds are not used to subsidize private discrimination. TMM recognizes that if they refuse to hire or do business with an individual or company due to reasons of race, color, gender, ethnicity, disability, national origin, age, or any other

protected status, DDOE may declare TMM in breach of the Agreement, terminate the Agreement, and designate TMM as non-responsible.

20.6 TMM warrants that no person or selling agency has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, or a percentage, brokerage or contingent fee. For breach or violation of this warranty, DDOE shall have the right to annul this contract without liability or at its discretion deduct from the contract price or otherwise recover the full amount of such commission, percentage, brokerage or contingent fee.

20.7 This Agreement was drafted with the joint participation of both parties and shall be construed neither against nor in favor of either, but rather in accordance with the fair meaning thereof.

20.8 TMM shall maintain all public records, as defined by 29 *Del. C.* § 502(7), relating to this Agreement and its deliverables for the time and in the manner specified by the Delaware Division of Archives, pursuant to the Delaware Public Records Law, 29 *Del. C.* Ch. 5. During the term of this Agreement, authorized representatives of DDOE may inspect or audit TMM's performance and records pertaining to this Agreement at the TMM business office during normal business hours.

21. Insurance.

21.1 TMM shall maintain the following insurance during the term of this Agreement:

A. Worker's Compensation and Employer's Liability Insurance in accordance with applicable law, **and**

B. Comprehensive General Liability - $1,000,000.00 per person/$3,000,000 per occurrence, **and**

C. Medical/Professional Liability - $1,000,000.00 per person/$3,000,000 per occurrence; or

D. Miscellaneous Errors and Omissions - $1,000,000.00 per person/$3,000,000 per occurrence, or

E. Automotive Liability Insurance covering all automotive units used in the work with limits of not less than $100,000 each person and $300,000 each accident as to bodily injury and $25,000 as to property damage to others.

21.2. TMM shall provide forty-five (45) days written notice of cancellation or material change of any policies.

21.3. Before any work is done pursuant to this Agreement, the Certificate of Insurance and/or copies of the insurance policies, referencing the contract number stated herein, shall be filed with the State. The certificate holder is as follows:

Delaware Department of Education
401 Federal Street, Suite 2
Dover, DE 19901

21.4. In no event shall the State of Delaware be named as an additional insured on any policy required under this agreement.

22. Assignment of Antitrust Claims.

As consideration for the award and execution of this contract by the State, TMM hereby grants, conveys, sells, assigns, and transfers to DDOE all of its right, title and interest in and to all known or unknown causes of action it presently has or may now or hereafter acquire under the antitrust laws of the United States and the State of Delaware, relating to the particular goods or services purchased or acquired by the State pursuant to this contract.

23. Governing Law.

This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware, except where Federal Law has precedence. TMM consents to jurisdiction venue in the State of Delaware.

24. Notices.

Any and all notices required by the provisions of this Agreement shall be in writing and shall be mailed, certified or registered mail, return receipt requested. All notices shall be sent to the following addresses:

CONTRACTOR: Tell Me More
Mr. Mani S. Minassian
3710 E. University Dr. #1
Phoenix, AZ 85034

DDOE: Karen Field Rogers

Associate Secretary, Financial Reform & Resource Mgmnt.
Delaware Department of Education
John G. Townsend Building
401 Federal Street, Suite 2
Dover, DE 19901
Phone No. (302) 735-4040
Fax No. (302) 739-7768

DOE Certificated Staff coordinating activity:

_____

Next Page for Signatures.

IN WITNESS THEREOF, the Parties hereto have caused this Agreement to be duly executed as of the date and year first above written.

Tell Me More

Original on File

Tell Me More
Mr. Mani S. Minassian
Project Manager

12/23/13
Date

Original on File

AURALOG-INC
(Official of Contractor)
Principal Investigator

CHRISTOPHE PRALONG
VICE PRESIDENT

01/06/2014
Date

Delaware Department of Education

Original on File

Karen Field Rogers
Associate Secretary, Financial Reform & Resource Management

12/20/13
Date

Original on File

Initial Finance Director

Original on File

Branch Associate Secretary

11/27/13
Date

Original on File

Initial Work Group Director

12/22/13
This contract is amount as referenced in the attached rdw form.

Original on File