

EXHIBIT F
IT SERVICES CONTRACT
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EXHIBIT F
IT SERVICES CONTRACT

THIS SERVICES CONTRACT ("Contract") is entered into by and between Computer Aid, Inc, (hereinafter referred to as "SMSA Supplier"), and _____ ("Subcontractor") to be effective as of _____ ("Effective Date"). SMSA Supplier and Subcontractor are referred to herein individually as "Party" and collectively as the "Parties."

1. PURPOSE AND SCOPE

This Contract sets forth the terms and conditions under which Subcontractor shall provide Services pursuant to this agreement in accordance with specific orders or Statement of Work attached thereto.

2. DEFINITIONS

A. Acceptance

Acceptance shall take the form of successful performance of the Services at the designated location (receipt), or completed Acceptance testing in conformance with the Requirements as set forth in the applicable order or SOW attached thereto.

B. Assigned Employee

Any employee, sub-contractor, or independent contractor of Subcontractor who is assigned by Subcontractor to perform Services under this Contract.

C. Confidential Information

Any confidential or proprietary information of a Party that is disclosed in any manner, including oral or written, graphic, machine readable or other tangible form, to the other Party in connection with or as a result of discussions related to this Contract, and which at the time of disclosure either (i) is marked as being "Confidential" or "Proprietary", (ii) is otherwise reasonably identifiable as the confidential or proprietary information of the Disclosing Party, or (iii) under the circumstances of disclosure should reasonably be considered as confidential or proprietary information of the disclosing Party.

D. Deliverable

Means the tangible embodiment of the Services performed or provided by Subcontractor.

E. Requirements

The functional, performance, operational, compatibility, Acceptance testing criteria and other parameters and characteristics of the Service described in the order or SOW attached thereto.

F. SMSA Customer

All public bodies, including VITA, as defined by §2.2-4301 and referenced by §2.2-4304 of the Code of Virginia.

G. Statement of Work (SOW)

A Statement of Work means any document which, upon signing by both Parties, shall be deemed a part of this Contract, and which describes the deliverables, due dates, assignment duration and payment obligations for a specific project, engagement, or assignment for which Subcontractor shall be providing Services.

H. Subcontractor

Includes any individual who is an employee, sub-contractor, or independent contractor of Subcontractor who is assigned by Subcontractor to perform Services under this Contract.

I. Subcontractor Service

Any work performed or service provided, including any Deliverable described in the applicable order or SOW attached thereto, by Subcontractor under this Contract.

J. Work Product

The discovery, creation or development of inventions, combinations, machines, methods, formula, techniques, processes, improvements, software designs, computer programs, strategies, specific computer-related know-how, data and original works of authorship (collectively, the "Work Product").

3. TERM AND TERMINATION

Either Party may terminate this Contract, in whole or in part, upon not less than thirty (30) days prior written notice at any time for any reason, provided however that if Subcontractor is providing Services at the time of such notice, the Contract shall terminate at the later of (i) the date of termination specified in such notice, or (ii) the first date that Subcontractor is no longer providing Services pursuant to this Contract.

Either party may submit any contractual dispute to mediation for resolution according to the terms of the Dispute Resolution Section.

4. SERVICES

A. Nature of Services and Engagement

Subcontractor is an independent contractor engaged to perform certain Services, including but not limited to consulting, installation and/or support activities as set forth in any order or SOW attached thereto.

B. Statement of Work (SOW)

All Services shall be performed at the times, locations and rates set forth in the applicable order or SOW attached thereto. All changes in the scope of Service must be described in a written change request, which includes an appropriate adjustment to the price, delivery dates or both. Any authorized Services beyond the scope of an order or applicable SOW attached thereto shall be performed at the hourly rates set forth in the SOW, unless otherwise agreed in writing by the Parties.

C. Performance and Removal policy

SMSA Customer may, in its sole discretion, require the removal of the Assigned Employee. If the SMSA Customer determines within the first five (5) business days that the Assigned Employee does not have the skills or capabilities necessary to complete the job as requested in the original requisition, the SMSA Customer may request that the Assigned Employee be replaced immediately and the SMSA Customer will not pay for the work conducted by the unacceptable Assigned Employee. In the event of removal of an Assigned Employee for the foregoing reasons, SMSA Customer shall not pay and the Subcontractor shall not charge SMSA Supplier for the first five (5) business days of service of the replacement employee. Further, in the event the Subcontractor is unable to provide an adequate replacement employee and it is necessary for the SMSA Supplier to obtain a replacement employee from another subcontractor, Subcontractor shall reimburse the cost of the third party replacement employee pursuant to an invoice which shall be issued by SMSA Supplier for the equivalent of the first five (5) days of the replacement's approved time.

Should Subcontractor's Assigned Employee(s) be removed due to sickness, resignation, or failure to satisfactorily perform his or her assigned duties, Subcontractor will provide an approved replacement and the replacement will perform his/her duties for a period of ten (10) working days at no cost to the SMSA Supplier or SMSA Customer. This period of time is provided for the new IT professional to become familiar with the SMSA Customer's program(s) and his/her relationship to the overall system. Further, in the event the Subcontractor is unable to provide an adequate replacement employee and it is necessary for the SMSA Supplier to obtain a replacement employee from another subcontractor, Subcontractor shall reimburse the cost of the third party replacement employee pursuant to an invoice which shall be issued by SMSA Supplier for the equivalent of the first ten (10) days of the replacement's approved time.

The Subcontractor agrees not to remove any Assigned Employee under an SOW without the approval of the SMSA Supplier and the SMSA Customer's project officer (person issuing the original SOW or their designee). In the event the individuals assigned (NAMED) on a SOW become unavailable, either through sickness, resignation from the firm or inability to perform at an acceptable level, the Subcontractor agrees to provide an approved replacement. If the replacement offered is unacceptable to the SMSA Customer, the SOW may be terminated at the sole option of the SMSA Customer.

5. RIGHTS TO WORK PRODUCT

SMSA Supplier's right to any new work or Deliverable hereunder are for the sole purpose of meeting its contractual obligations to its SMSA Customer and are not for any other purpose or use, and, subject to the terms of the Master Contract, SMSA Supplier is obligated to assign the Work Product to its SMSA Customer.

A. Work Product

SMSA Supplier and Subcontractor each acknowledge that performance of this Contract may result in Work Product(s). Subcontractor agrees that it shall promptly and fully disclose to SMSA Supplier any and all Work Products generated, conceived, reduced to practice or learned by Subcontractor or any of its employees, either solely or jointly with others, during the term of this Contract, which in any way relates to the applicable order or SOW attached thereto. Subcontractor further agrees that neither Subcontractor or Subcontractor's employees, nor any party claiming through Subcontractor or Subcontractor's employees, shall, other than in the performance of this Contract, make use of or disclose to others any proprietary information relating to the Work Product. All Services performed hereunder shall include delivery of all source and object code and all executables and documentation. Subcontractor agrees that SMSA Supplier shall have the right to require Subcontractor to provide a copy of the most recent object or source code to SMSA Supplier's SMSA Customer at any and all times.

B. Ownership

Subcontractor agrees that, whether or not the Services are considered "works made for hire" or an employment to invent, all Work Product discovered, created or developed under this Contract shall be and shall remain the sole and exclusive property of SMSA Supplier. Except as specifically set forth in writing and signed by both SMSA Supplier and Subcontractor, Subcontractor agrees that SMSA Supplier shall have all rights with respect to any Work Product discovered, created or developed under this Contract without regard to the origin of the Work Product.

If and to the extent that Subcontractor may, under applicable law, be entitled to claim any ownership interest in the Work Product, Subcontractor hereby transfers, grants, conveys, assigns and relinquishes exclusively to SMSA Supplier any and all right, title and interest it now has or may hereafter acquire in and to the Work Product under patent, copyright, trade secret and trademark law in perpetuity or for the longest period otherwise permitted by law. If any moral rights are created, Subcontractor waives such rights in the Work Product. Subcontractor further agrees as to the Work Product to assist SMSA Supplier in every reasonable way to obtain and, from time to time, enforce patents, copyrights, trade secrets and other rights and protection relating to Work Product, and to that end, Subcontractor and its employees shall execute all documents for use in applying for and obtaining such patents, copyrights, trade secrets and other rights and protection with respect to such Work Product, as SMSA Supplier may reasonably request, together with any assignments thereof to SMSA Supplier or persons designated by it. Subcontractor's and its employees' obligations to assist SMSA Supplier in obtaining and enforcing such rights shall continue beyond the termination of this Contract.

C. Preexisting Code

If and to the extent that any pre-existing rights are embodied or reflected in the Service deliverables, Subcontractor hereby grants to the SMSA Supplier an irrevocable, perpetual, non-exclusive, worldwide, royalty-free right and license to (i) use, modify, transmit, execute, reproduce, display, perform, distribute, sublicense copies of and prepare derivative works based upon such pre-existing rights and any derivative works thereof, and (ii) authorize others to do any or all of the foregoing.

6. SUBCONTRACTOR PERSONNEL

A. Selection and Management of Subcontractor Personnel

Subcontractor shall take such steps as may be necessary to ensure that all Subcontractor personnel provided under this Contract are competent and knowledgeable of the contractual arrangements and the applicable order or SOW attached thereto, between SMSA Supplier and Subcontractor. Subcontractor shall be solely responsible for the conduct of its employees and subcontractors and shall ensure that such personnel comply with the appropriate work site security, information security and personnel conduct rules, as well as applicable federal, state and local laws. SMSA Supplier

reserves the right to require the immediate removal from such work site of any personnel believed to have failed to comply or whose conduct or behavior is unacceptable or unprofessional or results in a security or safety breach.

B. Subcontractor Personnel Supervision

Subcontractor and SMSA Supplier acknowledge that Subcontractor shall be and is the sole employer of Subcontractor personnel, and shall have sole responsibility to counsel, discipline, review, evaluate, set the pay rates of and terminate the employment of Subcontractor personnel. Subcontractor warrants that it is and shall be the only entity to provide consideration to Subcontractor personnel pursuant to this Contract.

7. REPRESENTATIONS AND WARRANTY OF SUBCONTRACTOR

With respect to the Services provided by Subcontractor, Subcontractor represents and warrants the following:

A. Ownership

Subcontractor has the right to provide the Services, including Deliverables, without violating or infringing any law, rule, regulation, copyright, patent, trade secret or other proprietary right of any third party.

B. Performance

- i). All Services shall be performed with care, skill and diligence, consistent with or above applicable professional standards currently recognized in its profession, and Subcontractor shall be responsible for the professional quality, technical accuracy, completeness and coordination of all plans, information, specifications, computer programs, software, Deliverables and Services furnished under this Contract;
- ii). The Services shall meet or exceed the requirements contained in any applicable order or SOW attached thereto;
- iii). The Services shall be performed in a professional manner;
- iv). Subcontractor warrants that the documentation which Subcontractor is required to provide under this Contract shall be sufficient in detail and content to allow a user to understand fully the software or other Deliverables without reference to any other materials or information.

THE OBLIGATIONS OF SUBCONTRACTOR UNDER THIS SECTION ARE MATERIAL. SUBCONTRACTOR MAKES NO OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY CONCERNING MERCHANTABILITY OR FITNESS FOR ANY OTHER PARTICULAR PURPOSE.

8. ORDERS AND COMPENSATION

A. Work Request Fulfillment Process

Any and all Services provided pursuant to this Contract must be pursuant to a written order or SOW attached thereto, and such order or SOW must incorporate by reference all the terms and conditions contained in this Contract.

[Additional terms and conditions addressing the work request fulfillment process may be mutually agreed to by the Parties at a later date.]

B. Fees and Payment

1) Payment terms are 30 days net payment from receipt of invoice – Subcontractor shall prepare and submit invoices based on approved time in the Peopleclick VMS system for the previous calendar month. SMSA Supplier shall use its best efforts to pay all properly prepared and submitted invoices within 30 calendar days from the date of receipt of such invoice by the Subcontractor. SMSA Supplier reserves the right to withhold payment until receipt of payment from the customer. The SMSA Supplier will notify the agency and the Subcontractor, in writing, of SMSA Supplier's intention to withhold payment and the reason.

2) The SMSA Supplier shall pay the Subcontractor interest at the rate of one percent per month on all amounts owed by the SMSA Supplier that remain unpaid seven (7) days following receipt of payment

from the Commonwealth, except for amounts withheld as stated in (1) above. The date of mailing of any payment by U. S. Mail is deemed to be payment to the addressee.

3) Subcontractor Shall:

(a) Pay their subcontractors within the same time frames and terms as noted in Section B.1 above.

C. Taxes

Subcontractor shall be responsible for the payment of all taxes incurred by it as a result of this Agreement.

D. Overtime

All approved hours will be paid at the straight time hourly rate. This includes hours over 40 hours per week unless otherwise agreed to by the SMSA Customer and stated in the job requisition. In the event that the SMSA Customer approves overtime work under this Contract, SMSA Supplier will be compensated at overtime rates (time and one-half) for those positions identified in the Contract incorporated herein, required to be paid overtime under the Fair Labor Standards Act.

E. Acceptance

Subcontractor's Services shall be accepted when the Deliverable meets the Acceptance Criteria in the SOW. SMSA Customer will commence Acceptance Testing within a reasonable time period after receipt of the Services or within such other time period mutually agreed upon by the Parties. Subcontractor agrees to notify SMSA Supplier and SMSA Customer when Acceptance Testing has not commenced within a reasonable time period.

Subcontractor agrees to provide to SMSA Customer and SMSA Supplier such assistance and advice as may reasonably be required, at no additional cost, during such Acceptance Testing, other than pre-approved travel expenses incurred which will be reimbursable by SMSA Customer at the then-current per diem amounts as published by the Virginia Department of Accounts.

F. Reimbursement of Expenses

SMSA Supplier shall pay, or reimburse Subcontractor, for all reasonable and actual travel-related expenses greater than thirty (30) miles from portal to portal incurred by Subcontractor during the relevant period; provided, however, that SMSA Supplier shall only be liable to pay for Subcontractor's travel-related expenses, including transportation, meals, lodging and incidental expenses, that have been authorized by SMSA Supplier in advance and which will be reimbursable by SMSA Supplier at the then-current per diem amounts as published by the Virginia Department of Accounts, see

<http://www.doa.state.va.us/procedures/AdminServices/capp/pdfdocs/20335REV0701042.pdf>.

All reimbursed expenses will be billed to the SMSA Supplier on a pass through basis without any markup by Subcontractor.

G. Adherence to Process and SLAs.

Subcontractor is responsible for providing information, resumes and employees in accordance with the processes defined in Exhibit A. Failure to comply that results in SMSA Supplier not meeting the service level agreements in the Master Agreement and set forth in Exhibit C may result in a reduction in the use of Subcontractor's services. Additionally, the Subcontractor Guidelines that are attached hereto as Exhibit D are incorporated herein by reference

H. Legal Obligations

Subcontractor is responsible for maintaining their legal obligations with SMSA Customer. Any violation or lapse in obligations may, at SMSA Supplier's discretion, may result in suspension and/or termination of Subcontractor from participation in the SMSA contract.

I. Industrial Funding Adjustment (IFA) Payments

Subcontractor is not required to remit IFA payments under this agreement. However, SMSA Supplier is required to ensure that all Subcontractors have no outstanding IFA debts. Subcontractor is responsible for maintaining current payments of all IFA fees. In the event Subcontractor becomes delinquent, SMSA Supplier may, at its discretion, suspend and/or terminate Subcontractor from participation in the SMSA contract.

9. SWAM

For each new order or SOW attached hereto, or as mutually agreed by the Parties, all Subcontractor personnel are required to provide certain information related to small, women-owned, and minority-owned (SWAM) business activity.

10. CONFIDENTIALITY

A. Treatment and Protection

Each Party agrees to (i) hold in strict confidence all Confidential Information of the other Party, (ii) use the Confidential Information solely to perform or to exercise its rights under this Contract, and (iii) not to transfer, display, convey or otherwise disclose or make available all or any part of such Confidential Information to any third-party. However, a Subcontractor may disclose Confidential Information directly related to Services provided pursuant to this Contract as delivered by or through SMSA Supplier to Subcontractor personnel that are bound by a non-disclosure agreement with such Subcontractor. Each Party shall take the same measures to protect against the disclosure or use of the Confidential Information as it takes to protect its own proprietary or confidential information (but in no event shall such measures be less than reasonable care).

B. Exclusions

The term "Confidential Information" shall not include information that is:

- i). in the public domain through no fault of the receiving Party or of any other person or entity that is similarly contractually or otherwise obligated;
- ii). obtained independently from a third-party without an obligation of confidentiality to the disclosing Party and without breach of this Contract;
- iii). independently developed by the receiving Party without reference to the Confidential Information of the other Party; or
- iv). information required to be disclosed under The Virginia Freedom of Information Act (§§2.2-3700 et seq. of the Code of Virginia) or similar laws or pursuant to a court order.

C. Return or Destruction

Upon the termination or expiration of this Contract or upon the earlier request of the disclosing Party, the receiving party shall (i) at its own expense, (a) promptly return to the disclosing party, which may be Supplier's customer, all tangible Confidential Information (and all copies thereof except the record required by law) of the disclosing party, or (b) upon written request from the disclosing party, destroy such Confidential Information and provide the disclosing party with written certification of such destruction, and (ii) cease all further use of the other party's Confidential Information, whether in tangible or intangible form.

11. LIABILITY AND INDEMNIFICATION

EXCEPT FOR ANY DIRECT DAMAGES FOR BODILY INJURIES OR TANGIBLE PROPERTY DAMAGE PROXIMATELY CAUSED BY SUBCONTRACTOR AND LIABILITY FOR INFRINGEMENT INDEMNIFICATION IN THIS SECTION, THE MAXIMUM AGGREGATE LIABILITY OF SUBCONTRACTOR IN ALL EVENTS SHALL BE LIMITED TO THE LESSER OF TWO (2) TIMES THE AMOUNT OF FEES PAID BY SMSA SUPPLIER TO SUBCONTRACTOR OR TWO (2) TIMES THE TOTAL SOLUTION PRICE SPECIFIED IN THE STATEMENT OF WORK GIVING RISE TO THE CLAIM,

The obligations of this Section 11 are conditioned upon the Subcontractor receiving prompt written notice of any claim and reasonable cooperation of SMSA Supplier. At the express request of the SMSA Supplier or SMSA Customer, Subcontractor shall defend any such Claim with counsel reasonably satisfactory to SMSA Supplier and shall pay any interim or final judgment or award entered against SMSA Customer and/or SMSA Supplier, or settlement amount agreed to by Subcontractor, within sixty (60) days of such judgment award being entered and shall, in addition, pay any and all other reasonable expenses incurred by SMSA Customer and SMSA Supplier in connection with any such claim. Subcontractor may settle any Claim without SMSA Supplier's written

consent unless such settlement (A) contains an admission of liability or wrongdoing by SMSA Customer or SMSA Supplier; (B) does not include a release of all covered claims pending against SMSA Customer or SMSA Supplier; or (C) imposes any obligations upon SMSA Customer or SMSA Supplier other than an obligation to stop using any infringing items.

Subcontractor agrees to indemnify, defend and hold harmless SMSA Supplier and SMSA Customer, their officers, directors, agents and employees ("Indemnified Parties") from and against any and all third party claims, demands, proceedings, suits and actions, including any related liabilities, obligations, losses, damages, fines, judgments, settlements, expenses (including attorneys' and accountants' fees and disbursements) and costs (each, a "Claim" and collectively, "Claims"), incurred by, borne by or asserted against any of SMSA Customer and/or SMSA Supplier's Indemnified Parties to the extent such Claims in any way relate to, arise out of or result from: (i) any negligence, misconduct, breach of warranty, misrepresentation, or other violation of this agreement by any Subcontractor employee or Subcontractor, (ii) breach of any representation, warranty or covenant of Subcontractor contained herein, (iii) any defect in the Services, or (iv) any actual or alleged infringement or misappropriation of any third party's intellectual property rights by any of the Services. Selection and approval of counsel and approval of any settlement shall be accomplished in accordance with all applicable laws, rules and regulations. For state agencies the applicable laws include §§ 2.2-510 and 2.2-514 of the Code of Virginia. In all cases the selection and approval of counsel and approval of any settlement shall be satisfactory to the SMSA Supplier against whom the claim has been asserted.

Subcontractor will have no liability for any infringement or misappropriation to the extent caused by or contributed to by (i) any modification or alteration of the services performed or Deliverables delivered other than modifications or alterations by SMSA Customer or Subcontractor, (ii) use of the Deliverables other than as specified under this Agreement, (iii) combination or use of the Deliverables with products, data, materials or services of another party, (iv) any third-party software, content or services not provided by Subcontractor, or (v) any acts of SMSA Supplier in violation of this Agreement.

In the event of a Claim pursuant to any actual or alleged infringement or misappropriation of any third party's intellectual property rights by any of the Services, and in addition to all other obligations of Subcontractor in this Section, Subcontractor shall at its expense, either (a) procure for SMSA Customer or SMSA Supplier, as appropriate, the right to continue use of such infringing Services, or any component thereof; or (b) replace with non-infringing substitute service satisfactory to SMSA Customer and SMSA Supplier. And in addition, Subcontractor shall provide SMSA Customer and SMSA Supplier with a comparable temporary replacement Services or reimburse SMSA Customer or SMSA Supplier for the reasonable costs incurred by SMSA Customer or SMSA Supplier in obtaining an alternative product in the event such SMSA Customer or SMSA Supplier cannot use the affected Services. If Subcontractor cannot accomplish any of the foregoing within a reasonable time and at commercially reasonable rates, then Subcontractor shall accept the return of the infringing component of the Services, along with any other components of any products rendered unusable by either SMSA Customer or SMSA Supplier as a result of the infringing component, and refund the price paid to Subcontractor for such components.

EXCEPT WITH REGARD TO CLAIMS FOR PROPERTY DAMAGE, PERSONAL INJURY OR INFRINGEMENT INDEMNIFICATION AND CONFIDENTIALITY OBLIGATIONS, WITH RESPECT TO EACH OF WHICH LIABILITY SHALL NOT BE LIMITED PURSUANT TO THIS SECTION, IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER PARTY (OR THE INDEMNIFIED PARTIES OF SUCH PARTY) FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES, INCLUDING (WITHOUT LIMITATION) LOSS OF PROFIT, INCOME OR SAVINGS, EVEN IF ADVISED OF THE POSSIBILITY THEREOF, EXCEPT WHEN SUCH DAMAGES ARE CAUSED BY THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF THE PARTY, ITS EMPLOYEES, AGENTS OR SUBCONTRACTORS.

12. INSURANCE

Subcontractor shall purchase and maintain insurance for protection from claims under the Worker's Compensation Act and other statutory employee benefit provisions, which are applicable in the state in which this Agreement is being performed. Subcontractor shall obtain and keep in force throughout the term of this Agreement, comprehensive general liability insurance to cover claims for damages because of bodily injury, including death, of SMSA Customer personnel and third parties and from claims for damage to property of SMSA Customer or third parties which may arise out of or result from Subcontractor's performance of work under the Agreement whether such work be by SMSA Supplier or by a subcontractor or anyone directly or indirectly employed by any of them. Such liability insurance shall have the following: single limit liability with a minimum amount of \$2,000,000 in coverage.

Further, Subcontractor shall maintain errors and omissions coverage in the minimum amount of \$1,000,000. All of Subcontractor's policies shall be with a company rated A- or better by AM Best and SMSA Supplier shall be named as an additional insured.

Subcontractor shall submit a Certificate of Insurance to SMSA Supplier evidencing the required insurance coverage and stating that thirty (30) days prior written notice must be given to SMSA Supplier before cancellation of the policy.

13. SECURITY COMPLIANCE

For each instance SMSA Supplier may request that Services be provided by the following:

Subcontractor agrees to require all Subcontractor personnel comply with all provisions of SMSA Supplier's then current security procedures for each applicable work location and as are pertinent to Subcontractor's operation and have been supplied to Subcontractor by SMSA Supplier and further agrees to comply with all applicable federal, state and local laws. Subcontractor shall indemnify, defend, and hold SMSA Supplier, its officers, directors, employees and agents harmless from and against any and all fines, penalties (whether criminal or civil), judgments, damages and assessments, including reasonable expenses suffered by, accrued against, or charged to or recoverable from SMSA Supplier, its officers, directors, agents or employees, on account of the failure of Subcontractor to perform its obligations pursuant this Section.

14. BANKRUPTCY

If Subcontractor becomes insolvent, takes any step leading to its cessation as a going concern, fails to pay its debts as they become due, or ceases business operations continuously for longer than fifteen (15) business days, then SMSA Supplier may immediately terminate this Contract on notice to Subcontractor unless Subcontractor immediately gives SMSA Supplier adequate assurance of the future performance of this Contract. If bankruptcy proceedings are commenced with respect to Subcontractor, and if this Contract has not otherwise terminated, then SMSA Supplier may suspend all further performance of this Contract until Subcontractor assumes this Contract and provides adequate assurance of performance thereof or rejects this Contract pursuant to Section 365 of the Bankruptcy Code or any similar or successor provision, it being agreed by the Parties that this is an executory contract. Any such suspension of further performance by SMSA Supplier pending Subcontractor's assumption or rejection shall not be a breach of this Contract, and shall not affect SMSA Supplier's right to pursue or enforce any of its rights under this Contract or otherwise.

15. NONSOLICITATION OF SMSA SUPPLIER'S CUSTOMERS.

The Subcontractor agrees that Subcontractor or their employees may not solicit the SMSA Customer for Time & Materials positions that would otherwise be provided under this agreement. Solicitation may result in dismissal from the vendor network and /or termination of this Agreement during the term of this Agreement and any renewals thereof. Subcontractor further agrees that it will not use any information regarding customers of SMSA Supplier which it may procure during the course of this Agreement. The prohibitions contained herein shall continue for a period of one year from the date of the termination of this Agreement provided the Master Agreement is still in effect. The prohibitions contained herein shall cease immediately upon termination of the Master Agreement between SMSA Supplier and the SMSA Customer.

NONSOLICITATION OF EMPLOYEES.

SMSA Supplier and Subcontractor agree that without the written consent of the other party, neither party shall, prior to the ending of the 12 month period next succeeding (a) the date of completion of this Agreement or (b) the date of termination, resignation or other separation from employment of any employee of SMSA Supplier or Subcontractor, directly employ any employee of the other party with whom there has been contact in connection with the performance of services under a Statement of Work. Subcontractor agrees to only provide employees resumes, in accordance with the SMSA Supplier process, that the Subcontractor has the legal authority and right to represent.

16. BACKGROUND CHECKS

Subcontractor is required to successfully complete the standard background check described on the following websites:

http://www.dgs.virginia.gov/FormsCenter/BFMForms/tabid/827/Default.aspx?udt_1673_param_detail=1221 and <http://www.vcp.state.va.us/security.htm>

This procedure may change during the course of this contract. The procedure in effect at the time the candidate is to complete the check will take precedent. Subcontractor may be required to perform additional background checks at Subcontractor's expense. This additional requirement will be noted in the requisition. If a background check reveals that the assigned candidate is unsuitable for work at the SMSA Customer, they can be removed or terminated.

Subcontractor must maintain valid Visa's for any of its employees for whom a Visa is required. Any failure to do so will result in removal of the employee and may result in the cancellation of this Agreement.

17. GENERAL PROVISIONS

A. Relationship Between SMSA Supplier and Subcontractor

Subcontractor has no authority to contract for SMSA Supplier or in any way to bind, to commit SMSA Supplier to any agreement of any kind, or to assume any liabilities of any nature in the name of or on behalf of SMSA Supplier. Under no circumstances shall Subcontractor, or any Subcontractor personnel, hold itself out as or be considered an agent or an employee of SMSA Supplier, and SMSA Supplier shall have no duty to provide or maintain any insurance or other employee benefits on behalf of Subcontractor or its personnel. Subcontractor represents and warrants that it is an independent contractor for purposes of all applicable taxes associated with the performance of this Contract. Subcontractor shall be responsible for payment of all applicable taxes associated with the performance of this Contract including, but not limited to, federal, state and local personal income and other payroll taxes payable with respect to the compensation of Subcontractor, its employees, agents and/or subcontractors and Subcontractor hereby agrees to indemnify, defend and hold SMSA Supplier's Indemnified Parties harmless from and against any and all Claims incurred by, borne by or asserted against any of SMSA Supplier's Indemnified Parties to the extent such Claims in any way relate to, arise out of or result from any employment related issue, payroll, tax, insurance or other employment issue related to this Agreement and Subcontractor's employment responsibilities as set forth herein. Subcontractor shall immediately pay all taxes lawfully imposed upon it with respect to this Contract or any Services provided pursuant to this Contract.

B. Incorporated Contractual Provisions

The contractual provisions at the following URL are statutorily mandated provisions that are hereby incorporated by reference, including the contractual claims provision §2.2-4363 of the Code of Virginia: http://www.vita.virginia.gov/procurement/documents/terms_04-05sw.pdf.

C. Master Agreement Flow Down Provision.

Subcontractor acknowledges that SMSA Supplier has or will enter into an agreement with the Commonwealth of Virginia (the "Master Agreement") to provide the services referenced herein and that the Subcontractor has had the opportunity to review the Master Agreement and the terms and conditions of SMSA Supplier's Agreement with the Commonwealth will flow down to the

Subcontractor and become part of this Agreement and the Subcontractor will be bound by the terms and conditions of the Master Agreement. In the event of a conflict between the terms and conditions contained herein and those contained in the Master Agreement, the terms and conditions in the Master Agreement shall prevail.

D. Governing Law

This Contract shall be governed by and construed in accordance with the laws of the Commonwealth of Virginia without regard to that body of law controlling choice of law. Any and all litigation shall be brought in the circuit courts of the Commonwealth of Virginia. The English language version of this Contract prevails when interpreting this Contract. The United Nations Convention on Contracts for the International Sale of Goods and all other laws and international treaties or conventions relating to the sale of goods are expressly disclaimed. UCITA shall apply to this Contract only to the extent required by §59.1-501.15 of the Code of Virginia.

E. Dispute Resolution

In the event that the Parties have any dispute, disagreement or cause of action (each, hereinafter, a "Dispute") arising pursuant to this Contract or any order or SOW attached hereto, the aggrieved Party shall first try in good faith to resolve such dispute with the other Party before instituting any legal action with respect to such Dispute. If such informal efforts are unsuccessful, the Parties shall thereafter submit such dispute to non-binding mediation in accordance with the terms of this Section. Upon initiation of any mediation (actual or constructive) the aggrieved Party shall promptly give notice to the other Party that it desires to mediate the Dispute. The aggrieved Party shall cooperate for a period of 90 days (or such shorter period as is necessary to avoid material financial harm to it or avoid prejudicing the enforceability of any of its legal rights) from the date that such notice is mailed (determined by postmark) to the other Party. Such mediation shall be administered by mutual agreement of the Parties, or in the absence of such mutual agreement, by the American Arbitration Association under its Commercial Mediation Procedures. In the event that such Dispute is not resolved to the satisfaction of the aggrieved Party within the time period contemplated above, then the aggrieved Party shall be free to engage in any legal process that it deems appropriate with respect to such Dispute. The foregoing shall not be implied to limit any response that the aggrieved Party may make in response to any lawsuit or other action initiated by the other Party.

In the event of any breach by SMSA Supplier, Subcontractor's remedies shall be limited to claims for damages and Prompt Payment Act interest and, if available and warranted, equitable relief, all such claims to be processed pursuant to this Section. In no event shall Subcontractor's remedies include the right to terminate any license or support services hereunder.

F. Notices

Any notice required or permitted to be given under this Contract shall be in writing and shall be deemed to have been sufficiently given if delivered in person, or if deposited in the US mails, postage prepaid, for mailing by registered, certified mail, or overnight courier service addressed to the addresses shown on the signature page. Either Party may change its address for notice purposes by giving the other Party notice of such change in accordance with this Section.

G. Advertising and Use of Proprietary Marks

Subcontractor shall not use any SMSA Supplier or SMSA Customer names or refer to any customer directly or indirectly in any press release or formal advertisement without receiving prior written consent of such by SMSA Supplier. In no event may Subcontractor use a proprietary mark without receiving the prior written consent of the owner.

H. No Waiver

Any failure to enforce any terms of this Contract shall not constitute a waiver.

I. Assignment

This Contract shall be binding upon and shall inure to the benefit of the permitted successors and assigns of each party hereto. Subcontractor may not assign, subcontract, delegate or otherwise convey this Contract, or any of its rights and obligations hereunder, to any entity without the prior written consent of SMSA Supplier, and any such attempted assignment or subcontracting without consent shall be void.

If any law limits the right of the Parties to prohibit assignment or nonconsensual assignments, the effective date of the assignment shall be thirty (30) days after the Subcontractor gives SMSA Supplier prompt written notice of the assignment, signed by authorized representatives of both the Subcontractor and the assignee. Any payments made prior to receipt of such notification shall not be covered by this assignment.

J. Captions

The captions are for convenience and in no way define, limit or enlarge the scope of this Contract or any of its Sections.

K. Severability

Invalidity of any term of this Contract, in whole or in part, shall not affect the validity of any other term. The Parties further agree that in the event such provision is an essential part of this Contract, they shall immediately begin negotiations for a suitable replacement provision.

L. Survival

The provisions of this Contract regarding Rights to Work Products, Warranty, Confidentiality, Liability and Indemnification, and the General Provisions shall survive the expiration or termination of this Contract.

M. Force Majeure

Neither Party shall be responsible for failure to meet its obligations under this Contract if the failure arises from causes beyond the control and without the fault or negligence of the non-performing Party. If any performance date under this Contract is postponed or extended pursuant to this section for longer than thirty (30) calendar days, SMSA Supplier, by written notice given during the postponement or extension, may terminate Subcontractor's right to render further performance after the effective date of termination without liability for that termination.

N. Remedies

The remedies set forth in this Contract are intended to be cumulative. In addition to any specific remedy, SMSA Supplier reserves any and all other remedies that may be available at law or in equity.

O. Right to Audit

SMSA Supplier reserves the right to audit those Subcontractor records that relate to the Services rendered or the amounts due Subcontractor for such Services under this Contract, as well as all applicable tax records related to local, state and federal taxes owed for Services provided under this Contract. SMSA Supplier's right to audit shall be limited as follows:

- i). Three (3) years from Service performance date;
- ii). Performed at Subcontractor's premises, during normal business hours at mutually agreed upon times; and
- iii). Excludes access to Subcontractor cost information.

P. Entire Contract

This Contract and any prior NDA constitute the entire agreement between the Parties and supersedes any and all previous representations, understandings, discussions or agreements between SMSA Supplier and Subcontractor as to the subject matter hereof. This Contract may only be amended by an instrument in writing signed by SMSA Supplier and Subcontractor.

SMSA Supplier and Subcontractor each acknowledge that it has had the opportunity to review this Contract with its legal counsel.

Executed as of the last date set forth below by the undersigned authorized representatives of the Parties.

Subcontractor:

SMSA Supplier: **Computer Aid, Inc.**

By: _____
(Signature)

By: _____
(Signature)

Name: _____

Name: _____

Title, Its: _____

Title, Its: _____

Date: _____

Date: _____

Address for Notice:

Address for Notice:

470 Friendship Dr., Suite 300

Harrisburg, PA 17111

Attention: _____

Attention: **Contract Administrator**

ATTACHMENTS:

Order Process

Service Level Agreements

Job Titles and Descriptions

Exhibit D - Supplier Managed Staff Augmentation Guidelines

Subcontractor (Vendor) Rates

Please note: These attachments can be found at the following website: <http://smsa.compaid.com>