

ATTACHMENT A – PRICE AGREEMENT

STATE OF OREGON PRICE AGREEMENT DASPS-3270-19 Gaucha Translations LLC
FOR: TRANSLATION SERVICES

This Price Agreement (“Price Agreement” or “Agreement”) is between the State of Oregon (“State”), acting by and through its Department of Administrative Services (“DAS” or “Department”) on behalf of Agencies, as defined below, and Gaucha Translations LLC (“Contractor”). This Agreement is effective on the date that it has been fully executed by the parties and approved as required by law (“Effective Date”). DAS has the authority to enter into this Agreement under ORS 279A.050 (7) (a).

RECITALS

- A. DAS, on behalf of Agencies, desired to engage contractors to provide certain Translation Services (Services). The Services are to assist Agencies in the translation of written materials for medical services, human services, courts, and other public programs.
- B. To that end, DAS undertook a joint cooperative procurement under ORS 279A.200(1)(e) and ORS 279A.210 and issued RFP No. DASPS-2859-17 (the “RFP”) seeking proposals from Translation Services providers.
- C. Contractor submitted a proposal in response to the RFP offering to provide to Authorized Purchasers the Services described in Exhibit 1, Statement of Services. Contractor was one of the successful proposers to the RFP.
- D. DAS and Contractor now desire to memorialize the terms and conditions pursuant to which: (i) Contractor will provide the Services as may be requested from Agencies from time to time; and (ii) Agencies will pay for the provided Services.

Therefore, DAS and Contractor Agree as follows:

SECTION 1: AGREEMENT

1.1 Purpose.

1.1.1 This Agreement:

- 1.1.1.1 Identifies the process Contractor and Agencies will follow in establishing subsequent service order contracts (each a “Service Order Contract” or “SOC”) and subsequent purchase orders (each a “Purchase Order” or “PO”) for the provision of Services under this Agreement;
- 1.1.1.2 Sets forth the general terms and conditions that will apply to all SOC's entered into by Contractor and Agencies and all PO's issued by Agencies pursuant to which Contractor will provide Services (as defined in Exhibit 1, Statement of Services) ; and
- 1.1.1.3 Is not, by itself, a binding contract for the provision of Services by Contractor. Execution of this Agreement is no guarantee that any Agency will issue any Purchase Orders against this Agreement or enter into any Service Order Contracts with Contractor under this Agreement. DAS and Agencies have the need for the Services on an “as requested” basis. There is no guarantee of work under this Agreement.

DAS makes no representation or guarantee that any specific amount of purchases will be made under this Price Agreement. Notwithstanding the award of this Price Agreement to Contractor, DAS and Agencies may conduct separate solicitations or award project-specific contracts or purchase orders for Services that are the same or similar to those described in this Agreement using any method allowed by law. In addition, DAS reserves discretion to re-open or readvertise competition to provide Services that are the same or similar to those described in this Agreement, if necessary to serve the interests of Agencies, at intervals no more frequently than on a yearly basis.

Contractor accepts all risks, and waives any claims, that may be associated with or arise out of the volume of the Services or work ordered under this Agreement.

SECTION 2: AGREEMENT DOCUMENTS and ORDER of PRECEDENCE

This Agreement includes the following Exhibits, each of which are attached to and incorporated into this Agreement by reference:

- Exhibit 1 – Statement of Services
- Exhibit 2 – Service Order Process
- Exhibit 3 – Sample Purchaser Order
- Exhibit 4 – Sample Service Order Contract
- Exhibit 5 – Translator Qualification Guidelines
- Exhibit 6 - Key Persons
- Exhibit 7 – Federal Terms and Conditions
- Exhibit 8 – Rate Schedule
- Exhibit 9 – Volume Sales Reports and Vendor Collected Administrative Fee
- Exhibit 10 – Insurance Requirements
- Exhibit 11 – Volume Sales Report

ORDER of PRECEDENCE.

An Ordering Instrument (Service Order Contract or Purchase Order) consists of the following documents, listed in order of precedence:

- a) Federal terms and conditions attached to the Ordering Instrument, if any;
- b) This Agreement including its Attachments; and
- c) The Ordering Instrument, less any federal terms and conditions.

In the event any conflict is based solely upon minimum standards, such as quality or safety, the higher or more stringent standard applies. Contractor is responsible for making any modifications required to achieve compliance with applicable laws and standards. Contractor shall notify DAS and any affected Authorized Purchaser of any such required modifications upon receipt of knowledge or notification of such.

SECTION 3: DEFINITIONS

“Agency” means:

- DAS when DAS is engaged in Public Contracting, as defined in ORS 279A.010;
- An agency of the State of Oregon that: (i) is subject to the procurement authority of the Director of the Department pursuant to ORS 279A.050 and 279A.140 and with delegated authority pursuant to OAR 125-246-0170; or (ii) has independent procurement authority pursuant to ORS 279A.050 or other statutory authority under provisions of applicable State law;
- Oregon Cooperative Procurement Program (“ORCPP”) members with appropriate purchasing authority under their applicable statutes, rules, regulations or ordinances that submit Purchaser Orders to, or enter into Service Order Contracts with, Contractor; and
- Master Contracts Usage Agreement (“MCUA”) participants with appropriate purchasing authority under their applicable statutes, rules, regulations or ordinances that submit Purchaser Orders to or enter into Service Order Contracts with Contractor.

“Authorized Purchaser” means (a) DAS, (b) any Agency that is an agency of the State of Oregon, (c) any ORCPP member, and (d) any Master Contracts Usage Agreement participant.

“Contract” means the agreement formed by an Authorized Purchaser’s issuance of a Purchase Order to Contractor or by an Authorized Purchaser’s establishment of a Service Order Contract with Contractor.

“ORCPP” means the Oregon Cooperative Purchasing Program, which recognizes certain agencies and organizations within the State of Oregon as authorized to purchase the goods and services available under a price agreement entered into by the State. ORCPP members include cities, counties, school districts, public universities, special districts, Qualified Rehabilitation Facilities, residential programs under contract with the Oregon Department of Human Services, United States governmental agencies, and American Indian tribes or agencies. ORCPP membership can be verified through the webpage below or by contacting DAS at (503) 378-2497. <https://www.oregon.gov/das/Procurement/Pages/Orcppmember.aspx>

“MCUA” means the Master Contracts Usage Agreement (MCUA) and is a one-time agreement necessary to meet statutory requirements allowing qualifying organizations to use Washington State master contracts. The current participant list is found at the address:

<https://www.des.wa.gov/services/contracting-purchasing/purchasing/master-contracts-usage-agreement>.

“Services” means the Services that Contractor has been approved to provide as a result of the RFP and which Contractor agrees to provide under a Service Order Contract (SOC) or a Purchase Order (PO) as may be requested by Agencies from time to time. The specific Services performed by Contractor shall be agreed to by an Authorized Purchaser and Contractor in a fully executed SOC or Purchase Order and will include the Services described in Exhibit 1, Statement of Services.

SECTION 4: ORDERING METHODS; PROVISION OF SERVICES

Contractor must look solely to Authorized Purchaser for payment of all amounts that may be due under any Contract formed under this Agreement. AUTHORIZED PURCHASER IS SOLELY RESPONSIBLE FOR PAYMENT UNDER THE CONTRACT.

Payment is due from Authorized Purchaser within forty five (45) days after the date of the invoice pursuant to ORS 293.462(4) and Oregon Accounting Manual (OAM) Section 15.40.00.PR.111.

Authorized Purchasers shall obtain Contractor’s Services by following the instructions provided in Exhibit 2, Service Order Process.

4.1 Purchase Orders

Agencies shall order Services by issuing Purchase Orders as follows:

Authorized Purchasers shall submit Purchase Orders to Contractor identifying any agreed upon Service details.

Authorized Purchasers that are agencies of the State of Oregon may use either of the following as ordering instruments: i) the DAS-approved purchase order form (attached as Exhibit 3); or ii) an electronic ordering method when the Authorized Purchaser is using a Small Purchase Order Transaction System (SPOTS) card. Unless expressly authorized by DAS in writing, Contractor shall not accept a different type of ordering instrument from a State agency.

Authorized Purchasers that are not agencies of the State of Oregon may use their own Purchase Order forms.

To be effective, the Purchase Order must specify all of the following:

- The MANDATORY PURCHASE ORDER LANGUAGE set forth below.
- The specific Services ordered.
- The net price.
- The requested delivery schedule.
- The delivery location(s).
- The invoicing address.
- The Authorized Purchaser’s authorized representative contact information including email address.

Contractor shall accept Purchase Orders from Authorized Purchasers that comply with the provisions of this

Price Agreement until this Price Agreement terminates. Each such Purchase Order Contractor accepts shall create a separate Contract between the parties, enforceable in accordance with the terms thereof and independent of all other such Contracts. DAS is not obligated or liable under a Purchase Order unless DAS is the Authorized Purchaser.

A Contract created by a Purchase Order consists only of the terms specified or required by this Price Agreement. Additional, different or conflicting terms and conditions in any Purchase Order are of no effect. Contractor shall reject any Purchase Order that does not meet the requirements of this Price Agreement.

Contractor shall reject a Purchase Order from any entity that is not an Authorized Purchaser. Contractor may verify Authorized Purchasers that are ORCPP participants at the following address:

<https://www.oregon.gov/das/Procurement/Pages/Orcppmember.aspx>

Contractor may verify Authorized Purchasers that are MCUA participants at the following address:

<https://apps.des.wa.gov/ContractSearch/MCUAListing.aspx>

Nothing in this Price Agreement obligates any Authorized Purchaser to place any Purchase Order.

MANDATORY PURCHASE ORDER LANGUAGE:

THIS PURCHASE IS SUBMITTED PURSUANT TO OREGON DAS PRICE AGREEMENT # DASPS-3270-19. THE PRICE AGREEMENT, INCLUDING STANDARD CONTRACT TERMS AND CONDITIONS (T'S & C'S) CONTAINED IN THE PRICE AGREEMENT, IS INCORPORATED BY REFERENCE AND APPLIES TO THIS PURCHASE AND TAKES PRECEDENCE OVER ALL OTHER CONFLICTING T'S AND C'S, EXPRESS OR IMPLIED.

4.2 Service Order Contracts

Authorized Purchasers shall, as may be needed from time to time, have the right to enter into Service Order Contracts attached as Exhibit 4, which are binding and enforceable Contracts, for Contractor's Services that are similar in form and substance to the Services under this Price Agreement. Service Order Contracts by reference shall contain the terms and conditions in this Price Agreement.

4.2.1 Agreement Incorporated

Each SOC executed shall be subject to the terms and conditions of this Agreement by reference therein.

4.2.2 Contents of Service Order Contract

Each Service Order Contract shall include a detailed Statement of Services ("SOS") that shall specify the: (i) specific Services that Contractor will provide to the Authorized Purchaser for a particular term or project; (ii) all costs associated with the Services; (iii) any applicable fees and discounts associated with the Service delivery; and (iv) any deliverables that will be delivered to the Authorized Purchaser as a result of performing the Services.

4.2.3 Time of Performance and Payment.

Contractor is responsible for completing all Services agreed to in the SOC to the satisfaction of the Authorized Purchaser.

4.2.4 Compliance with Agreement.

Pursuant to ORS 27A.210(1)(c) neither an Authorized Purchaser nor Contractor shall accept or enter into any SOC or PO that does not comply with the terms and conditions of this Agreement. Notwithstanding the foregoing, a SOC or PO may amend the terms and conditions of this Agreement if agreed to in an amendment made in accordance with Section 7.4 below and only to the extent that such amendment does not, in accordance with ORS 279A.210(1)(c), amend the material terms and conditions of this Agreement.

4.2.5 Independent Contracts.

Each fully executed SOC and PO, together with this Agreement incorporated therein, is enforceable in accordance with its terms and shall create a separate contract between the Authorized Purchaser and Contractor.

4.3 Volume Sales Reports

Contractor shall comply with the VSR requirements of this Price Agreement set forth in Exhibit 9.

4.4 Vendor Collected Administration Fee

Contractor shall comply with the VCAF requirements of this Price Agreement set forth in Exhibit 9.

SECTION 5: CONSIDERATION

Contractor shall be compensated for completing Services based on the billing rates ("Billing Rates") set forth in Section 5.1 below. All Billing Rates include all overhead and administrative expenses and an Authorized Purchaser shall not be charged separately for any such costs incurred by Contractor. Notwithstanding the foregoing, Contractor may, if agreed to in a SOC or PO, charge an Authorized Purchaser for: (i) any third-party facilities fees as a pass-through expense without mark-up.

5.1 Contractor Billing Rates

Billing Rates shall be subject to separate negotiation between an Authorized Purchaser and Contractor. However, in no event may any Billing Rate exceed the rates agreed upon in Exhibit 8 - Rate Schedule, unless agreed to in a writing in a Purchase Order or Service Order Contract signed by both the Authorized Purchaser and Contractor and made in accordance with Sections 7.3 and 7.4 below. Billing Rates shall include all charges associated with Services being provided without limitation. Any hourly Services shall be charged in fifteen (15) minute increments.

The proposed Billing Rates and commission rates must remain in effect and firm for the first two years this Price Agreement is in effect (the initial Term (one year) plus the first year of any Extension Term). Billing rates and commission rates will not be subject to adjustment at the first extension (the extension of the initial one-year Term). Thereafter, Billing Rate and commission rate de-escalation or escalation requests shall be subject to DAS approval and must be submitted at least 60 days prior to the expiration of any term. Rates shall be tied to the Producers Price Index Series PCU54181-54181- for Employment Services, which must be referenced to calculate rate de-escalation or escalation.

Contractor shall maintain a firm rate schedule relative to any and all costs associated with the Services described in Exhibit 1, Statement of Services, which may be requested by Authorized Purchasers for the duration of any engagement established by a Service Order Contract or a Purchase Order.

SECTION 6: INVOICING

Contractor shall invoice Authorized Purchasers for the Services as agreed to in the applicable Purchase Order or Service Order Contract. Contractor must submit invoices to the Authorized Purchaser monthly, may bill only for Services actually performed, and shall be paid only in accordance with the applicable ordering mechanism terms. Payment shall be subject to the Authorized Purchaser's review and approval of invoices submitted by Contractor. Invoices that are unclear, vague or contain fees not previously agreed upon may be rejected by the Authorized Purchaser.

Contractor shall provide invoices detailing which Agency, division, or work unit the Services were for, and the rate applied to the Services. Payment terms shall be Net 45 days pursuant to Oregon Revised Statute (ORS) 293.462(4) and OAM Section 15.40.00.PR.111. Contractors offering accelerated payment discounts shall honor the discount percentage or percentages specified in Exhibit A - Rate Schedule. Contractor shall include applicable discounts for accelerated payments on the face of Contractor's invoices.

All payments are subject to the provisions of ORS 293.462 and shall not exceed any total maximum not-to-exceed compensation set forth in any SOC or PO. All Billing Rates invoiced by Contractor shall be charged at the rates agreed to in Section 5 above. An Authorized Purchaser shall have no liability for any Billing Rates or expenses that are charged in amounts that exceed those agreed to in Section 5 above nor shall an Authorized Purchaser have any liability for any Billing Rates, expenses, or any other fees that exceed the maximum not-to-exceed compensation agreed to in a SOC or PO.

SECTION 7: TERM OF AGREEMENT; AMENDMENTS

7.1 Term

The initial term of this Price Agreement shall be one (1) year, beginning on the date this Price Agreement has been executed and all required approvals have been obtained (the "Term").

On concurrence of the parties, this Price Agreement may be extended for additional extension terms ("Extension Terms"). It is provided, however, that the maximum term of this Agreement, including all Extension Terms, shall not exceed ten (10) years, beginning on the Effective Date. No SOC's or PO's executed prior to the expiration of this Agreement may extend more than one year beyond the expiration of this Agreement. No SOC's or PO's may be extended after the expiration of this Agreement.

7.2 Extension of Term

DAS reserves the right in its sole discretion to extend the term of this Agreement for not more than one calendar month beyond any term or beyond this Agreement's maximum term. DAS shall notify Contractor in writing of the one-month extension at least 30 calendar days before the term expires. Contractor may not increase pricing during the one-month extension obtained pursuant to this section.

7.3 Anticipated Amendments

The parties anticipate that during the term of the Agreement, the parties may need to modify selected terms and conditions of this Agreement. Any Amendments agreed to shall be made in accordance with OAR 125-247-0805 and ORS 279A.210(1)(c), which shall be incorporated by reference as though fully set forth in this section. Amendments that may be required could include, without limitation, those relating to (i) changes in the State's business process or restructure of an Agency, (ii) additional Services that are within the scope of the original procurement and the Agreement, (iii) certain Services that are no longer required to be performed, and (iv) Billing Rates changes but only in accordance with Section 5 above.

7.4 Amendments

No waiver, consent, or amendment of terms to this Agreement, including any Exhibits, SOC's and PO's, shall be binding unless in writing and signed by the authorized representatives of the applicable parties, and all approvals required by applicable law have been obtained. Pursuant to ORS 279A.210(1)(c) no SOC or PO may amend any of the material terms or conditions of this Agreement. Any SOC or PO that amends this Agreement in accordance with ORS 279A.210(1)(c) shall expressly state that the amended terms are for purposes of such SOC or PO only and must include the signature of an authorized representative of DAS. In no event shall any permitted amendatory SOC or PO serve to amend this Agreement for the purposes of any other SOC or PO.

SECTION 8: INDEPENDENT CONTRACTOR; RESPONSIBILITY FOR TAXES AND WITHHOLDING

8.1 Independent Contractor

Contractor shall perform all Services as an independent contractor. DAS and other Authorized Purchasers reserve the right to (i) determine and modify the delivery schedule for the Services and (ii) evaluate the quality of the Services. However, neither DAS nor any other Authorized Purchaser may control, nor will they control, the

means or manner of Contractor's performance. Contractor is responsible for determining the appropriate means and manner of performing the Services.

8.2 No Agency or Employment

Contractor understands and agrees that Contractor is not an "officer," "employee," or "agent" of DAS or any Authorized Purchaser, as those terms are used in ORS 30.265.

8.3 Responsibility for Taxes

Contractor shall be responsible for all federal or state taxes applicable to compensation or payments paid to Contractor under any SOC or PO and, unless Contractor is subject to backup withholding, neither DAS nor any Authorized Purchaser will withhold from such compensation or payments any amount(s) to cover Contractor's federal or state tax obligations. Contractor is not eligible for any social security, unemployment insurance or workers' compensation benefits from compensation or payments paid to Contractor under the SOC or PO, except as a self-employed individual.

Tax Compliance. Contractor warrants that Contractor has complied with the tax laws of this State and the applicable tax laws of any political subdivision of this State. Contractor shall, throughout the duration of this Agreement and any extensions, comply with all tax laws of this State and all applicable tax laws of any political subdivision of this State. For the purposes of this section, "tax laws" includes: (i) All tax laws of this State, including but not limited to ORS 305.620 and ORS chapters 316, 317, and 318; (ii) Any tax provisions imposed by a political subdivision of this State that applied to Contractor, to Contractor's property, operations, receipts, or income, or to Contractor's performance of or compensation for any work performed by Contractor; (iii) Any tax provisions imposed by a political subdivision of this State that applied to Contractor, or to goods, services, or property, whether tangible or intangible, provided by Contractor; and (iv) Any rules, regulations, charter provisions, or ordinances that implemented or enforced any of the foregoing tax laws or provisions.

Any failure to comply with the provisions of the previous paragraph ("Tax Compliance"), including Contractor's warranty set forth in the first sentence of that paragraph, constitutes a material breach of this Agreement. Any such failure to comply shall entitle DAS to terminate this Agreement, to pursue and recover any and all damages that arise from the breach and the termination of this Agreement, and to pursue any or all of the remedies available under this Agreement, at law, or in equity, including but not limited to:

- Termination of this Agreement, in whole or in part;
- Exercise of the right of setoff, and withholding of amounts otherwise due and owing to Contractor, in an amount equal to State's setoff right, without penalty; and
- Initiation of an action or proceeding for damages, specific performance, declaratory or injunctive relief.

DAS and other affected Authorized Purchasers may recover any and all damages suffered as the result of Contractor's breach of this Agreement, including but not limited to direct, indirect, incidental and consequential damages, costs of cure, and costs incurred in securing replacement Services.

In addition, DAS will report this Agreement to the Oregon Department of Revenue. The Department of Revenue may take any and all actions permitted by law relative to the collection of taxes due to the State of Oregon or a political subdivision, including: (i) garnishing Contractor's compensation under this Agreement or any SOC or PO issued by a state agency; and (ii) exercising a right of setoff for any amounts that may be due and unpaid.

SECTION 9: CONFLICTS OF INTEREST

If Contractor is currently performing services for the State of Oregon or the federal government, Contractor represents and warrants that: Contractor's Services to be performed under any SOC or PO create no potential or actual conflict of interest as defined by ORS chapter 244, and no statutes, rules or regulations of the state or federal agency for which Contractor currently performs services would prohibit Contractor's Services under any SOC or PO.

SECTION 10: COMPLIANCE WITH APPLICABLE LAW. AGENCY POLICIES AND PROCEDURES

- 10.1 Contractor shall comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to this Agreement, to any SOC or POs, or to the performance of the Services, as those provisions may be adopted or amended from time to time. DAS's and each Authorized Purchaser's performance under each SOC or PO is conditioned upon Contractor's compliance with the obligations of contractors under ORS 279B.220, 279B.230, and 279B.235, which are incorporated by reference herein. Contractor shall, to the maximum extent economically feasible in the performance of any SOC or PO, use recycled paper (as defined in ORS 279A.010(1)(ee)), recycled PETE products (as defined in ORS 279A.010(1)(ff)), and other recycled products (as "recycled product" is defined in ORS 279A.010(1)(gg)).
- 10.2 Without limiting the generality of Sections 8.3 and 10.1 above, Contractor must, throughout the duration of this Agreement, comply with all tax laws of the State and all applicable tax laws of any political subdivision of the State. For the purposes of this section, "tax laws" includes all the provisions described in Section 14.7 below.
- 10.3 Contractor shall comply with all policies and procedures of any Authorized Purchaser with whom Contractor enters into a SOC or PO, including, without limitation, those relating to access to and use of facilities, criminal background and driving record checks, use and dissemination of Authorized Purchaser information, and use of information technology and other tangible or intangible Authorized Purchaser assets. Contractor shall require the same from its Key Persons.
- 10.4 Pay Equity Compliance. As required by ORS 279B.235, Contractor must comply with ORS 652.220 and shall not unlawfully discriminate against any of Contractor's employees in the payment of wages or other compensation for work of comparable character on the basis of an employee's membership in a protected class. "Protected class" means a group of persons distinguished by race, color, religion, sex, sexual orientation, national origin, marital status, veteran status, disability, or age. Contractor's compliance with this Section and with Section 10.5 constitutes a material element of this Price Agreement and a failure to comply constitutes a breach that entitles DAS to terminate this Price Agreement for cause
- 10.5 As required by ORS 279B.235, Contractor may not prohibit any of its employees from discussing the employee's rate of wage, salary, benefits, or other compensation with another employee or another person. Contractor may not retaliate against an employee who discusses the employee's rate of wage, salary, benefits, or other compensation with another employee or another person.
- 10.6 Nondiscrimination in Employment. Contractor certifies, in accordance with ORS 279A.112, that Contractor has in place a written policy and practice of preventing sexual harassment, sexual assault, and discrimination against employees who are members of a protected class, as defined by ORS 279A.112. As a material term of this Agreement, Contractor must maintain, throughout the duration of this Agreement, a policy and practice that complies with ORS 279A.112. Contractor's policy and practice must include giving employees a written notice of a policy that both prohibits, and prescribes disciplinary measures for, conduct that constitutes sexual harassment, sexual assault, or unlawful discrimination. DAS reserves the right to request a copy of Contractor's policy.
- 10.7 Notwithstanding anything that may be to the contrary in this Price Agreement, the following paragraph shall be incorporated into any resulting Service Order Contract and Purchase Order:

Contractor and Authorized Purchaser shall provide DAS with written notice of any dispute arising between those parties involving Price Agreement, Service Order Contract, or Purchase Order Contract performance issues, such as disputes concerning the provision of Services or Compliance with specifications, that those parties have been unable to resolve.

SECTION 11: [RESERVED]

SECTION 12: SPECIAL QUALIFICATIONS NO SUBCONTRACTS; SUCCESSORS AND ASSIGNMENTS

12.1 Special Qualifications;

12.1.1 No Subcontracts. Contractor was a successful proposer under Request for Proposal No. DASPS-2859-17, a competitive, sealed procurement process, and was awarded the opportunity to enter into this Agreement as a result of an evaluation that Contractor possessed the special qualifications, experience, training, and integrity desired by DAS and Agencies. Contractor acknowledges that this Agreement is entered into as a result of the special qualifications, experience, training, and integrity of Contractor or, if Contractor is other than an individual, Contractor's Key Persons. Therefore, Contractor acknowledges and agrees that Contractor shall not delegate to any third party, Contractor employee, agent, or subcontractor, any performance of its powers and responsibilities it is required to provide under this Agreement, any SOC, or any PO. Further, Contractor shall not enter into any subcontracts for any of the Services required to be performed under this Agreement and shall not otherwise assign, delegate, transfer any of Contractor's rights or obligations under this Agreement.

12.1.1.1 If Contractor is other than an individual, Contractor understands and agrees that the prohibition against the delegation and subcontracting of Services, and the reasons for such prohibition, as set forth in Section 12.1.1 are applicable to Contractor's Key Person(s) identified in this section:

Contractor's Key Person(s) & Contact Information	
<u>Key Person # 1</u> Name: Helen Eby Title: Owner Phone: 503-929-8476 Email: helen@gauchatranslations.com	<u>Key Person # 2</u> Name: Title: Phone: Email:

12.1.2 Contractor may not assign, transfer or subcontract any of its rights under this Agreement, or delegate or subcontract any duties or obligations under this Agreement, except with the prior written consent of DAS. All assignments, transfers or subcontracting of rights are prohibited under this subsection, whether they are voluntary or involuntary, by merger, consolidation, stock transfer, asset sale, change in control, dissolution, operation of law, or by any other manner.

12.1.3 Any purported assignment, transfer, or subcontracting of rights or delegation or subcontracting of duties or obligations in violation of this section is void.

12.1.4 DAS's consent given for any of the actions described in this Section 12.1 shall not relieve Contractor of any of its duties or obligations under this Agreement.

12.1.5 Successors and Assigns. The provisions of this Agreement and any and all SOC's and PO's shall be binding upon and inure to the benefit of the parties, their respective successors, and permitted assigns, if any.

12.1.6 Each Authorized Purchaser reserves the right to require any successors, assigns, or subcontractors to undergo a responsibility determination equivalent to that which was a contingency of the award of this Price Agreement.

SECTION 13: INTELLECTUAL PROPERTY

13.1 Definitions. The following terms have the meanings set forth below:

13.1.1 "Contractor Intellectual Property" means any intellectual property owned by Contractor and developed independently from the Services provided pursuant to a SOC.

13.1.2 "Third Party Intellectual Property" means any intellectual property owned by parties other than Agency or Contractor.

13.1.3 "Work Product" means every invention, discovery, work of authorship, trade secret or other tangible or intangible item and all intellectual property rights therein that is specifically made, conceived, discovered or reduced to practice by Contractor (either alone or with others) pursuant to this Agreement, a SOC, or a PO.

13.2 Ownership of Certain Work Product. Work Product that is required to be delivered to DAS or any other Agency as a deliverable ("Deliverable") as agreed to under a SOC or PO shall be the exclusive property of Agency. Agency and Contractor agree that Deliverables which are required to be delivered to and which are paid for by Agency shall be "work made for hire" of which Agency is the author within the meaning of the United States Copyright Act. If for any reason any such Deliverable(s) is not "work made for hire," Contractor irrevocably assigns to Agency any and all of its rights, title, and interest in such Deliverable(s). Upon Agency's reasonable request, Contractor shall execute such further documents and instruments necessary to fully vest such rights in Agency.

13.3 Contractor Intellectual Property. Contractor retains ownership of all Contractor Intellectual Property that Contractor delivers to Agency pursuant to the Services performed under this Agreement, a SOC, or a PO. Contractor shall be the owner of all Work Product that is not "work made for hire" as identified in Section 13.2 above. Contractor grants Agency a license to use any and all Contractor Intellectual Property incorporated into any Work Product.

13.4 Third Party Intellectual Property. In the event Contractor uses any Third Party Intellectual Property in performing the Services, Contractor shall obtain a license to use all such Intellectual Property. Contractor shall also, in the event Contractor incorporates any Third Party Intellectual Property into any Work Product, secure on Agency's behalf, in the name of Agency and subject to Agency's approval, a license to all Third Party Intellectual Property that Contractor incorporates into any Work Product.

13.5 Agency Intellectual Property; Data and Background Information. Agency owns all Agency Intellectual Property and Agency data and background information provided to Contractor pursuant to this Agreement and any SOC or PO. Agency grants Contractor a non-exclusive, royalty-free, world-wide license to use, copy, display, distribute, transmit, and prepare derivative works of Agency Intellectual Property and Agency data and background information only to fulfill the purposes of this Agreement and any SOC or PO. Agency's license to Contractor is limited by the term of the applicable SOC or PO and the confidentiality obligations of this Agreement.

13.6 No Rights. Except as expressly set forth in this Agreement, nothing in this Agreement or in any SOC or PO shall be construed as granting to or conferring upon Contractor any right, title, or interest in any intellectual property that is now owned or subsequently owned by Agency. Except as expressly set forth in this Agreement or a SOC or PO, nothing in this Agreement shall be construed as granting to or conferring upon Agency any right, title, or interest in any Contractor Intellectual Property that is now owned or subsequently owned by Contractor. Neither DAS nor any other Agency grants Contractor the right to use their respective trademarks, trade names, service marks, or other designations in any promotion or publication without prior written consent.

SECTION 14: CONTRACTOR'S REPRESENTATIONS AND WARRANTIES

Contractor represents and warrants to DAS and each Authorized Purchaser that:

14.1 Authority. Contractor has the power and authority, including the legal capacity, to enter into and perform the Services required under this Agreement and the applicable SOC or PO;

14.2 Enforceability of SOC's and PO's. Each SOC and PO issued under this Agreement, when executed and delivered, is a valid and binding obligation of Contractor enforceable in accordance with its terms;

- 14.3 No Violations. Contractor is not in violation of, charged with nor, to the best of Contractor's knowledge, under any investigation with respect to violation of, any provision of any federal, state or local law, ordinance, regulation, or any other requirement or order of any governmental or regulatory body or court or arbitrator applicable to provision of the Services, and Contractor's provision of the Services shall not violate any such law, ordinance, regulation or order;
- 14.4 Licenses. Contractor is duly licensed to perform the Services and shall maintain its license(s) throughout the term of this Agreement and all SOC's and PO's, and if there is no licensing requirement for the performance of the profession or Services, is duly qualified and professionally competent to perform the Services;
- 14.5 Professional Standards. Contractor has the skill and knowledge possessed by well-informed members of its profession, industry, or trade and Contractor will apply that skill and knowledge with care and diligence and perform all Services in a timely, professional manner in accordance with the highest standards applicable to Contractor's profession, industry, or trade;
- 14.6 Intellectual Property. When used as authorized by this Agreement, no Work Product infringes, nor will DAS's or any other Authorized Purchaser's use, duplication, or transfer of the Work Product infringe, any copyright, patent, trade secret or other proprietary right of any third party; and
- 14.7 Taxes. To the best of Contractor's knowledge, after due inquiry, for a period of no fewer than six (6) calendar years preceding the Effective Date, Contractor faithfully has complied with:
- 14.7.1 All tax laws of the State, including but not limited to ORS 305.620 and ORS chapters 316, 317, and 318;
- 14.7.2 Any tax provisions imposed by a political subdivision of the State that applied to Contractor, to Contractor's property, operations, receipts, or income, or to Contractor's performance of or compensation for any work performed by Contractor;
- 14.7.3 Any tax provisions imposed by a political subdivision of the State that applied or apply to Contractor, or to goods, services, or property, whether tangible or intangible, provided by Contractor.
- 14.8 Other Warranties. The warranties specified in this Section 14 are in addition to, and not in lieu of, any other warranties provided. All warranties are cumulative and will be interpreted broadly to give DAS and any other Authorized Purchaser the greatest warranty protection available.

SECTION 15: BREACH; REMEDIES; TERMINATION

15.1 Breach by Contractor.

Contractor breaches this Agreement if Contractor:

- 15.1.1 Has instituted against it insolvency, receivership or bankruptcy proceedings, makes an assignment for the benefit of creditors, or ceases doing business on a regular basis;
- 15.1.2 No longer holds a license or certificate that is required for Contractor to perform its obligations under this Agreement and Contractor has not obtained the license or certificate within fourteen (14) calendar days after DAS or any other Authorized Purchaser, as applicable, delivers notice of breach to Contractor or a longer period as DAS or the Authorized Purchaser may specify in the notice;
- 15.1.3 Commits any material breach of any covenant, warranty, obligation or certification under this Agreement, fails to perform its obligations under this Agreement or a SOC or PO (or both) within the time specified or any extension of that time, and Contractor fails to cure, if curable, the breach within fourteen (14) calendar days after DAS or the Authorized Purchaser delivers notice of breach to Contractor or a longer period as DAS or the Authorized Purchaser, as applicable, may specify in the notice; or

15.1.4 Breaches its obligations under Sections 8.3, 10.2, 10.3, 10.4 to 10.6, 12.1, or its warranties in Section 14.5 or 14.7.

15.2 Remedies.

If Contractor is in breach of this Agreement, DAS and any affected Authorized Purchaser shall be entitled to recover for any and all damages suffered as the result of Contractor's breach. In addition, at DAS's and the Authorized Purchaser's option, DAS and the Authorized Purchaser shall have the right to pursue any or all other remedies DAS or the Authorized Purchaser may have available at law or in equity, including, but not limited to any or all of the following:

15.2.1 DAS's Termination of this Agreement under Section 15.3.3;

15.2.2 DAS's or the Authorized Purchaser's termination of any SOC or PO to which it is a party;

15.2.3 If Contractor is in breach under Section 15.1.4, pursue and recover damages, including penalties on behalf of other political subdivisions of the State.

To the extent they are not inconsistent, these remedies are cumulative and are in addition to any other remedies DAS or an Authorized Purchaser may have under a SOC or PO, and DAS or the Authorized Purchaser may pursue any remedy or remedies singly, collectively, successively, or in any order whatsoever. If it is determined for any reason that Contractor was not in breach under Section 15.1 above, the rights and obligations of the parties shall be the same as if this Agreement was terminated pursuant to Section 15.3.2 below.

15.3 Termination.

This Agreement may be terminated as follows:

15.3.1 The parties may terminate this Agreement at any time by mutual written consent.

15.3.2 DAS may, at its sole discretion, terminate this Agreement, in whole or in part, upon 30 days' notice to Contractor.

15.3.3 DAS may terminate this Agreement immediately upon written notice to Contractor, or at such later date as it may establish in such notice, if Contractor breaches its obligations under Section 12.1 or is in breach of the Agreement as set forth in Section 15.1.

15.3.4 DAS may terminate this Agreement immediately upon written notice to Contractor, or at such later date as it may establish in such notice, if federal or state laws, regulations, or guidelines are modified or interpreted in such a way that the purchase of the Services offered by Contractor under this Agreement are prohibited.

15.3.5 Effect of Termination. Upon receipt of written notice of termination, Contractor shall stop performance under this Agreement as directed by DAS. SOCs and POs executed prior to termination of this Agreement may continue in effect, subject to the limits on SOC and PO extensions in Section 7.1. All property of the State or of any affected Authorized Purchaser (or both) in the possession of Contractor at the time of termination shall be returned to the State or the Authorized Purchaser, as may be applicable, upon termination.

SECTION 16: INTENDED BENEFICIARIES

16.1 Agreement. DAS and Contractor are the only parties to this Agreement; however, Authorized Purchasers are intended third party beneficiaries of this Agreement. DAS, Contractor, and Authorized Purchasers are the only parties entitled to enforce the terms of this Agreement. Nothing in this Agreement is intended to give, or shall be construed to give or provide any benefit or right, whether directly or indirectly, to any third party (except

Authorized Purchasers as the only intended third party beneficiaries and only when an Authorized Purchaser and Contractor have entered into a SOC or PO in connection with this Agreement

- 16.2 Service Order Contracts. An Authorized Purchaser and Contractor are the only parties to a SOC and are the only parties entitled to enforce its terms. Nothing in a SOC gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly or indirectly, to third parties unless such third parties are individually identified by name in the SOC and expressly identified as an intended third-party beneficiary of the SOC.
- 16.3 Purchase Orders. An Authorized Purchaser and Contractor are the only parties to a PO and are the only parties entitled to enforce its terms. Nothing in a PO gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly or indirectly, to third parties unless such third parties are individually identified by name in the PO and expressly identified as an intended third-party beneficiary of the PO.

SECTION 17: FUNDS AVAILABLE AND AUTHORIZED PAYMENTS

Except as provided otherwise in the applicable SOC or PO, Contractor shall be compensated for the Services only by the Authorized Purchaser with whom Contractor enters into a SOC or PO. An Agency will not enter into a SOC or PO unless it believes that it has, at the time of execution of the SOC or PO, sufficient funds available and authorized for expenditure to finance the costs of the Services within the Agency's biennial appropriation or limitation. Nevertheless, Contractor understands and agrees that an Authorized Purchaser's payment of amounts under any SOC or PO is contingent on the Authorized Purchaser receiving funding, appropriations, limitations, allotments or other expenditure authority at levels sufficient to allow the Authorized Purchaser, in the exercise of its reasonable administrative discretion, to make payments under the SOC or PO.

SECTION 18: [RESERVED].

SECTION 19: INSURANCE AND INDEMNITY

- 19.1 Insurance. Contractor shall, at its own cost and expense, maintain insurance as set forth in Exhibit 10 of this Agreement.
- 19.2 GENERAL INDEMNITY. CONTRACTOR SHALL DEFEND, SAVE, HOLD HARMLESS, AND INDEMNIFY STATE, DAS, AUTHORIZED PURCHASERS, AND THEIR AGENCIES, OFFICERS, DIRECTORS, AND EMPLOYEES, FROM AND AGAINST ALL CLAIMS, SUITS, ACTIONS, LOSSES, DAMAGES, LIABILITIES, STATUTORY PENALTIES, COSTS AND EXPENSES OF ANY NATURE WHATSOEVER, INCLUDING PERSONAL INJURY, DEATH, DAMAGE TO REAL PROPERTY AND DAMAGE TO TANGIBLE OR INTANGIBLE PERSONAL PROPERTY, RESULTING FROM, ARISING OUT OF, OR RELATING TO THE INTENTIONAL, RECKLESS OR NEGLIGENT ACTS OR OMISSIONS OF CONTRACTOR OR ITS OFFICERS, EMPLOYEES, SUBCONTRACTORS, OR AGENTS UNDER THIS AGREEMENT OR UNDER ANY SERVICE ORDER CONTRACT OR PURCHASE ORDER ISSUED HEREUNDER, INCLUDING: (I) ANY CLAIM THAT CONTRACTOR, A SUBCONTRACTOR, OR CONTRACTOR'S STAFF OR A SUBCONTRACTOR'S STAFF ARE EMPLOYEES OF THE STATE, DAS, OR ANOTHER AUTHORIZED PURCHASER FOR ANY REASON; AND (II) ANY CLAIM AGAINST THE STATE, DAS, OR ANOTHER AUTHORIZED PURCHASER, WHICH, IF TRUE, WOULD CONSTITUTE A BREACH BY CONTRACTOR OF ANY OF THE REPRESENTATIONS, WARRANTIES, OR COVENANTS SET FORTH IN THIS AGREEMENT OR IN ANY SERVICE ORDER CONTRACT OR PURCHASE ORDER ("CLAIM").
- 19.3 INDEMNITY FOR INFRINGEMENT CLAIMS. WITHOUT LIMITING THE GENERALITY OF SECTION 19.2, CONTRACTOR SHALL DEFEND, SAVE, HOLD HARMLESS AND INDEMNIFY STATE, DAS, AUTHORIZED PURCHASERS, AND THEIR AGENCIES, OFFICERS, DIRECTORS, AND EMPLOYEES, FROM AND AGAINST ALL THIRD PARTY CLAIMS, SUITS, ACTIONS, LOSSES, DAMAGES, LIABILITIES, STATUTORY PENALTIES, COSTS, AND EXPENSES ARISING OUT OF OR RELATING TO ANY CLAIMS THAT THE WORK, THE WORK PRODUCT OR ANY OTHER TANGIBLE OR INTANGIBLE ITEM DELIVERED UNDER THIS AGREEMENT OR ANY SERVICE ORDER CONTRACT OR PURCHASE ORDER BY CONTRACTOR THAT MAY BE THE SUBJECT OF PROTECTION UNDER ANY STATE OR FEDERAL INTELLECTUAL PROPERTY LAW OR DOCTRINE, OR PURCHASING ENTITY'S

REASONABLE USE THEREOF, INFRINGES ANY PATENT, COPYRIGHT, TRADE SECRET, TRADEMARK, TRADE DRESS, MASK WORK, UTILITY DESIGN, OR OTHER PROPRIETARY RIGHT OF ANY THIRD PARTY ("INFRINGEMENT CLAIM"); PROVIDED, THAT STATE SHALL PROVIDE CONTRACTOR WITH PROMPT WRITTEN NOTICE OF ANY INFRINGEMENT CLAIM.

- 19.4 STATE SHALL REASONABLY COOPERATE IN GOOD FAITH, AT CONTRACTOR'S REASONABLE EXPENSE, IN THE DEFENSE OF CLAIMS AND INFRINGEMENT CLAIMS, AND CONTRACTOR SHALL SELECT COUNSEL REASONABLY ACCEPTABLE TO THE OREGON ATTORNEY GENERAL TO DEFEND SUCH CLAIMS AND INFRINGEMENT CLAIMS AND SHALL BEAR ALL COSTS OF SUCH COUNSEL. COUNSEL MUST ACCEPT APPOINTMENT AS A SPECIAL ASSISTANT ATTORNEY GENERAL UNDER ORS CHAPTER 180 BEFORE COUNSEL MAY ACT IN THE NAME OF, OR REPRESENT THE INTERESTS OF, STATE, ITS AGENCIES, OFFICERS, EMPLOYEES, OR AGENTS. STATE, HOWEVER, ACTING BY AND THROUGH ITS DEPARTMENT OF JUSTICE, MAY ASSUME ITS OWN DEFENSE, INCLUDING THAT OF ITS OFFICERS, EMPLOYEES AND AGENTS, AT ANY TIME WHEN IN THE STATE'S SOLE DISCRETION IT DETERMINES THAT: (I) PROPOSED COUNSEL IS PROHIBITED FROM THE PARTICULAR REPRESENTATION CONTEMPLATED; (II) COUNSEL IS NOT ADEQUATELY DEFENDING OR ABLE TO DEFEND THE INTERESTS OF THE STATE, ITS OFFICERS, EMPLOYEES OR AGENTS; (III) IMPORTANT GOVERNMENTAL INTERESTS ARE AT STAKE; OR (IV) THE BEST INTERESTS OF THE STATE ARE SERVED THEREBY. CONTRACTOR'S OBLIGATION TO PAY FOR ALL COSTS, ATTORNEY FEES, AND EXPENSES SHALL INCLUDE THOSE INCURRED BY THE STATE IN ASSUMING ITS OWN DEFENSE AND THAT OF ITS OFFICERS, EMPLOYEES, OR AGENTS UNDER (I) AND (II) ABOVE. SUBJECT TO THE LIMITATIONS NOTED ABOVE, CONTRACTOR MAY DEFEND SUCH CLAIMS AND INFRINGEMENT CLAIMS WITH COUNSEL OF ITS OWN CHOOSING PROVIDED THAT NO SETTLEMENT OR COMPROMISE OF ANY SUCH CLAIMS OR INFRINGEMENT CLAIMS SHALL OCCUR WITHOUT THE CONSENT OF STATE, WHICH CONSENT SHALL NOT UNREASONABLY BE WITHHELD, CONDITIONED, OR DELAYED.
- 19.5 CONTROL OF DEFENSE AND SETTLEMENT FOR CLAIMS AGAINST ORCPP MEMBERS. IN THE EVENT A CLAIM ARISES UNDER ANY SERVICE ORDER CONTRACT OR PURCHASE ORDER ENTERED INTO BY CONTRACTOR AND AN ORCPP MEMBER THAT IS NOT A STATE AGENCY, THIS SECTION SHALL CONTROL OVER SECTION 19.4 ABOVE. IN ANY SUCH CASES, CONTRACTOR SHALL HAVE CONTROL OF THE DEFENSE AND SETTLEMENT OF ANY CLAIM THAT IS SUBJECT TO INDEMNIFICATION UNDER THIS SECTION 19; HOWEVER, NEITHER CONTRACTOR NOR ANY ATTORNEY ENGAGED BY CONTRACTOR SHALL DEFEND THE CLAIM IN THE NAME OF THE ORCPP MEMBER, NOR PURPORT TO ACT AS LEGAL REPRESENTATIVE OF THE ORCPP MEMBER, WITHOUT FIRST RECEIVING PRIOR WRITTEN CONSENT FROM SUCH MEMBER, NOR SHALL CONTRACTOR SETTLE ANY CLAIM ON BEHALF OF SUCH ORCPP MEMBER WITHOUT THE PRIOR WRITTEN CONSENT OF THE REPRESENTATIVE OF THE ORCPP MEMBER AUTHORIZED TO PROVIDE SUCH CONSENT. THE ORCPP MEMBER MAY, AT ITS ELECTION, ASSUME ITS OWN DEFENSE AND SETTLEMENT IF THE MEMBER DETERMINES THAT: (I) CONTRACTOR IS PROHIBITED FROM DEFENDING THE ORCPP MEMBER, (II) CONTRACTOR IS NOT ADEQUATELY DEFENDING THE ORCPP MEMBER'S INTERESTS, OR (III) AN IMPORTANT PRINCIPLE IS AT ISSUE AND THE ORCPP MEMBER DESIRES TO ASSUME ITS OWN DEFENSE. IN THE EVENT THE ORCPP MEMBER ASSUMES ITS OWN DEFENSE UNDER (I) OR (II), IT SHALL BE AT CONTRACTOR'S EXPENSE.

SECTION 20: RECORDS MAINTENANCE; ACCESS

Contractor shall maintain all financial records relating to this Agreement and all SOC's and PO's in accordance with generally accepted accounting principles. In addition, Contractor shall maintain any other records, including books, documents, papers, plans, records of shipments and payments and writings of Contractor that are pertinent to this Agreement or any SOC or PO in such a manner as to clearly document Contractor's performance. All financial records and all other records are "Records." Contractor shall permit State, DAS, any Authorized Purchaser, the Oregon Secretary of State's Office, the federal government, and their duly authorized representatives to have access to the Records, whether in paper, electronic or other form, to perform examinations and audits and make copies, excerpts and transcripts, except to the extent that such Records are confidential under state or federal law. Contractor shall retain and keep accessible all Records for a minimum of six (6) years, or such longer period as may be required by applicable law, following both (i) the final payment under the last SOC and last PO entered into and (b) the expiration or termination of the Agreement, or until the

conclusion of any audit, controversy or litigation arising out of or related to the Agreement or any SOC or PO, whichever date is later.

SECTION 21: FOREIGN CONTRACTOR

If Contractor is not domiciled in or registered to do business in the State of Oregon, Contractor shall promptly provide to the Oregon Department of Revenue and the Secretary of State Corporation Division all information required by those entities relative to this Agreement and the applicable SOC or PO. Contractor shall demonstrate its legal capacity to perform the Services under this Contract and any SOC or PO in the State of Oregon before entering into this Agreement.

SECTION 22: DISCLOSURE OF SOCIAL SECURITY NUMBER

Contractor shall provide Contractor's Social Security number to DAS upon execution of this Agreement and to the Authorized Purchaser upon execution of a SOC or PO unless Contractor provides a federal tax identification number. This number is requested pursuant to ORS 305.385, OAR 125-246-0330(2), and OAR 150-305-0010. Social Security numbers provided pursuant to this authority will be used for the administration of state, federal, and local tax laws.

SECTION 23: FORCE MAJEURE

DAS, Authorized Purchasers, and Contractor will not be liable for any delays or failures in performance due to riot, acts of political sabotage, war, fire, earthquakes, tsunamis, or other similar natural disasters beyond the reasonable control of DAS, the respective Authorized Purchaser, or Contractor. Each party shall, however, make all reasonable efforts to remove or eliminate such a cause of delay or default and shall, upon the cessation of the cause, diligently pursue performance of its obligations under this Agreement and any SOC or PO.

However, DAS may terminate this Agreement upon written notice to Contractor after reasonably determining that such delay or default will likely prevent successful performance of this Agreement. An Authorized Purchaser may terminate a SOC or PO formed under this Agreement after reasonably determining that such delay or default will likely prevent successful performance of the Contract formed by the SOC or PO.

SECTION 24: SURVIVAL

All rights and obligations shall cease upon termination or expiration of this Agreement except those rights and obligations which expressly or by their nature survive termination of this Agreement, including, without limitation, Sections 4 to 8, 12 to 15, 19, 20, and 24 to 31. All rights and obligations under a SOC or PO shall cease upon termination or expiration thereof except those rights and obligations which expressly or by their nature survive termination of such SOC or PO including, without limitation, those sections relating to warranties and liabilities, independent contractor status, taxes and withholdings, not-to-exceed compensation, Contractor's duties of confidentiality, ownership and license of intellectual property and Deliverables, remedies, order of precedence, third party beneficiaries, waiver, integration, and certifications.

SECTION 25: NOTICE

Except as otherwise expressly provided in the applicable SOC or PO, any communications between Contractor and DAS or notices to be given under this Agreement shall be given in writing by email, personal delivery, US mail, or parcel carrier to Contractor or DAS at the address, number or email address set forth in this Agreement in the signature blocks below, the applicable SOC or PO, or both, or to such other addresses or numbers as the parties may indicate in writing to the others pursuant to this section. Any communication or notice so addressed shall be deemed received as follows: (i) via US Mail - five (5) calendar days after the date of the postmark, (ii) via parcel carrier - 48 hours after placing the Notice with such carrier, (iii) via hand delivery - when actually delivered to the physical address, and (iv) via email - upon receipt of auto-delivery notice from the recipients email program when followed up by a confirmation telephone call by the party providing Notice.

SECTION 26: SEVERABILITY

The parties agree that if any term or provision of this Agreement or any SOC or PO is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if, respectively, this Agreement, the SOC, or the PO did not contain the particular term or provision held to be invalid. In such event, the parties intend that the conflict not invalidate the other provisions of this Agreement, the SOC, or the PO, and the parties shall negotiate in good faith to agree on replacement language for the offending term or provision that will be consistent with the purposes of this Agreement, the SOC, or the PO.

SECTION 27: COUNTERPARTS

This Agreement may be executed in several counterparts, all of which when taken together shall constitute one agreement binding on all parties, notwithstanding that all parties are not signatories to the same counterpart. Each copy of this Agreement so executed shall constitute an original.

SECTION 28: GOVERNING LAW, VENUE, CONSENT TO JURISDICTION

This Agreement, and each SOC or PO established under this Agreement, shall be governed by, and shall be construed and enforced in accordance with, the laws of the State of Oregon without regard to principles of conflicts of law.

- 28.1 State Venue; Consent to Jurisdiction. Any claim, action, suit or proceeding (collectively, "Claim") between an Authorized Purchaser that is an agency of the State of Oregon and Contractor that arises from or relates to this Agreement or any Service Order Contract or Purchase Order entered into under this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of the State of Oregon for Marion County. It is provided, however, that if a Claim must, as mandated by federal law, be brought in a federal forum, then unless otherwise prohibited by law it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. CONTRACTOR HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SUCH COURTS, WAIVES ANY OBJECTION TO VENUE IN SUCH COURTS, AND WAIVES ANY CLAIM THAT SUCH FORUM IS AN INCONVENIENT FORUM. Nothing herein may be construed as a waiver of the State's sovereign or governmental immunity, whether derived from the Eleventh Amendment to the United States Constitution or otherwise, or of any defenses to Claims or jurisdiction based thereon.
- 28.2 ORCPP Venue; Consent to Jurisdiction. Any Claims between Contractor and an Authorized Purchaser other than an agency of the State of Oregon that arise from or relate to this Agreement or any Service Order Contract or Purchase Order entered into under this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of the county in which such Authorized Purchaser resides, or at the Authorized Purchaser's option, within such other county as the Authorized Purchaser is entitled under the laws of the relevant jurisdiction to bring or defend Claims. It is provided, however, that if a Claim must, as mandated by federal law, be brought in a federal forum, then unless otherwise prohibited by law it shall be brought and conducted solely and exclusively within the United States District Court for the District in which such ORCPP Authorized Purchaser resides. CONTRACTOR HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SAID COURTS, WAIVES ANY OBJECTION TO VENUE IN SUCH COURTS, AND WAIVES ANY CLAIM THAT SUCH FORUM IS AN INCONVENIENT FORUM. Nothing herein shall be construed as a waiver of an Authorized Purchaser's sovereign or governmental immunity, if any, whether derived from the Eleventh Amendment to the United States Constitution or otherwise, or of any defenses to Claims or jurisdiction based thereon.

SECTION 29: MERGER CLAUSE; WAIVER

This Agreement constitutes the entire agreement between the parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding the subject matter of this Agreement. No waiver, consent, modification or change of terms of this Agreement or any SOC or

PO shall bind the parties unless agreed to in an amendment made in accordance with Section 7.4 above. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of DAS or any Authorized Purchaser to enforce any provision of this Agreement or any SOC or PO shall not constitute a waiver by DAS or the Authorized Purchaser of that or any other provision.

SECTION 30: MEDIATION

If the parties to an SOC or PO become involved in a dispute regarding any of the terms, conditions, performance, or any obligations under the SOC or PO, the parties shall submit to mediation prior to the commencement of litigation to enforce the SOC or PO. The mediator shall be an individual mutually acceptable to the parties, but in the absence of agreement, each party shall select a temporary mediator, and the temporary mediators shall jointly select the permanent mediator. Each party agrees to pay its own costs for the time and effort involved in mediation and split equally the cost of the temporary mediators, if any, and the mediator. Both parties agree to exercise best efforts and act in good faith to resolve all disputes in mediation. The parties shall mutually agree on the schedule and time allowed for mediation. The parties shall comply with statutes and administrative rules governing the confidentiality of mediation, if any.

SECTION 31: TAX CERTIFICATION

The individual signing on behalf of Contractor hereby certifies and swears under penalty of perjury to the best of the individual's knowledge that:

- 31.1 Not Subject to Backup Withholding. Contractor is not subject to backup withholding because (a) Contractor is exempt from backup withholding, (b) Contractor has not been notified by the IRS that Contractor is subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified Contractor that Contractor is no longer subject to backup withholding;
- 31.2 Authorized to Act. The individual signing on behalf of Contractor is authorized to act on Contractor's behalf, has authority and knowledge regarding Contractor's payment of taxes, and to the best of the signator's knowledge, Contractor is not in violation of any Oregon tax laws, including, without limitation, those tax laws listed in ORS 305.380(4), namely ORS Chapters 118, 314, 316, 317, 318, 320, 321 and 323 and Sections 10 to 20, Chapter 533, Oregon Laws 1981, as amended by Chapter 16, Oregon Laws 1982 (first special session); and any local taxes administered by the Oregon Department of Revenue under ORS 305.620;
- 31.3 Independent Contractor. Contractor is an independent contractor as defined in ORS 670.600; and
- 31.4 Tax ID Accurate. The Contractor tax identification numbers provided to DAS are true and accurate.

[SIGNATURES FOLLOW]

IN WITNESS WHEREOF THE PARTIES HAVE EXECUTED THIS AGREEMENT.

CONTRACTOR

Authorized Signature: _____

Date: October 11, 2019

Printed Name: _____

Title: Owner, Gaucha Translations

Legal Entity Name:
(tax filing) _____

Business Name: _____

Address: _____

Citizenship:

(if applicable) _____

Non-resident alien ☐ Yes ☒ No
USA

Business Designation:
(check one)

☐ Professional Corporation ☐ Partnership ☐ Limited Partnership
☒ Limited Liability Company ☐ Limited Liability Partnership
☐ Sole Proprietorship ☐ Other

Contractor Notices Contact

Notices Contact Name: _____

Title: _____

Address: _____

Email Address: _____

Phone Number: _____

Helen Eby

Owner, Gaucha Translations

7710 SW 184th Ave, Aloha, OR 97007

helen@gauchatranslations.com

503-929-8476

DAS PROCUREMENT SERVICES

Authorized Signature: _____

Date: October 24, 2019

Printed Name: _____

Dion Kerlee

Title: State Procurement Analyst

DAS Notices Contact

Notices Contact Name: _____

Title: _____

Address: _____

Email Address: _____

Phone Number: _____

Dion Kerlee

State Procurement Analyst

1225 Ferry St SE Salem OR 97301

dion.kerlee@oregon.gov

503-378-2816

OREGON DEPARTMENT OF JUSTICE (Legal Sufficiency Approval)

Authorized Signature: _____

Date: 7/30/2019

Printed Name: _____

Bill Nessly

Title: Assistant Attorney General

Email Approval: Dion Kerlee - Friday, July 26, 2019 4:47 PM
(addressee, date and time)

Exhibit 1 - Statement of Services

STATE OF OREGON PRICE AGREEMENT DASPS-3270-19 Gaucha Translations LLC

FOR: TRANSLATION SERVICES

Part I. GENERAL INFORMATION

Agency Objectives

High quality translations are necessary for government agencies and organizations to ensure language access is available to every customer or client. High quality translations are precise documents that read as if produced originally in the language by an author of similar education and background, and for similar purpose and audience.

High quality translations follow a professional translation process:

- a review of source language documents and Translation Glossaries to abstract the message from the words and word order to determine the correct conceptual and semantic language matches;
- correct use of syntax, sentence structure, grammar, punctuation, and capitalization;
- strategic use of Authorized Purchaser Translation Glossaries, research tools, and software;
- engagement of Contractors utilizing Translation Memory; and
- accurate formatting of documents for electronic and print publication.

Successful professional translation service providers must also be able to meet reasonable business expectations for successful delivery of services. At a minimum, translation service providers must be able to work within standardized ordering systems, communicate and collaborate with agencies' translation coordinators, use standard business tools and software, consistently submit accurate invoices, and meet contractual timelines.

The volume of the services to be provided by the successful Proposer or Proposers will depend on the demand for the services expressed by the Authorized Purchasers for which the services will be performed, as well as on the government agencies' preferences for the particular types of services offered. Therefore, neither DAS nor any other agency makes any representation or guarantee of any minimum or maximum volumes of work or purchases of services to be made under any Price Agreements awarded under the RFP.

Method of Compensation.

Price Agreement performance shall be based on the tasks and deliverables described herein. Price Agreement payment method shall be based on the methods described in Price Agreement Section 5, "Consideration." All work must be performed to the satisfaction of the Authorized Purchaser prior to release of payment for services.

Part II. SERVICES

SECTION 1: OFFICE REQUIREMENTS

- 1.1 Contractor shall perform work using current, common formats and must be able to deliver final products that reflect the layout and design of the original publication or document. Contractor's systems must support the use of a File Transfer Protocol (FTP) as a method to upload, download and manage files.
- 1.2 Contractor shall work within operating systems specified by the Authorized Purchaser. Contractor shall use word processing and design software programs and provide translation and production of online content and websites.
- 1.3 Contractor shall accept orders for services from Authorized Purchasers using Purchase Orders or Service Order Contracts that detail applicable processes. Upon request, Contractor shall provide services that shall include but shall not be limited to, initial account set-up, billing codes, specific key persons, detailed ordering instructions, applicable Translation Glossaries, and invoicing procedures. Individual Purchase

Orders or Service Order Contracts shall contain at a minimum the following project related detail:

- The language from which a message is translated
- The language into which the message is translated
- Purpose of the translation
- Translation details
- Applicable literacy level
- Required timelines
- Applicable Minimum Translator qualifications
- Applicable Translation Glossaries
- Applicable Translation Memory
- Any not to exceed amounts

1.4 Contractor shall use approved job tracking processes and ordering forms as requested by an Authorized Purchaser.

SECTION 2: SERVICE DELIVERY REQUIREMENTS

2.1 Translation Quality

- 2.1.1 Contractors shall follow widely accepted translation practices to translate, edit, and review products.
- 2.1.2 Translators shall work on projects in which their primary (native or most conversant) language is also the language into which the message is translated whenever possible.
- 2.1.3 Contractors shall use Authorized Purchaser-supplied Translation Memory to fulfill requests whenever Translation Memory exists for an Authorized Purchaser.
- 2.1.4 Machine translation tools or automated translation systems shall not be used for the translation of Authorized Purchaser Translation Services requests.
- 2.1.5 Authorized Purchaser-supplied Translation Glossaries shall be used when available and Contractor shall contribute to the development of Authorized Purchaser glossaries as a method to ensure uniform translations.
- 2.1.6 Contractor-supplied Translation Glossaries may be used only upon Authorized Purchaser approval and must be clarified at the point of sale and identified in the applicable ordering document.
- 2.1.7 Contractors shall ensure the quality of completed translations prior to delivery of the finished product to the Authorized Purchaser.

2.2 Translation Turnaround

- 2.2.1 Authorized Purchaser and Contractor shall agree on a delivery date for any translated materials. The delivery date shall be indicated on any ordering documents and be the day the Authorized Purchaser is to receive the translated materials.
- 2.2.2 In the event Contractor is unable to complete a translation by the agreed upon delivery date, the Contractor shall alert the Authorized Purchaser within one business day of such determination, and no later than two business days before the initially established delivery date.

2.2.3 Contractors shall make any requested corrections in translations or formatting without additional cost to the Authorized Purchaser and within two business days of being notified by the Authorized Purchaser of the errors.

2.2.4 Translation requests not completed within the agreed upon timeline shall be compensated as described in Exhibit 8 - Rate Schedule.

2.3 Emergency and Expedited Translation Requests

Contractors may be required respond to translation requests from Authorized Purchasers during emergency instances. Such instances may include but are not be limited to emergency public safety news releases and fact sheets containing information that has a direct and immediate impact on the general population or an affected population. Emergency Translation Requests also may relate to inclement weather, child welfare issues, immediate changes in client services, or office closures.

2.4 Translator Qualification Criteria

2.4.1 Translators shall possess a level of translation qualifications, language competency, standard of general education, and relevant experience appropriate to the complexity of the text being translated.

2.4.2 For translations in languages that are not certifiable by the American Translator Association, preference may be given to non- ATA certifiable language Translators who demonstrate (in descending order of importance): verifiable translation competency, interpreting competency, language proficiency, paid translation experience, active membership in a professional language organization, academic degree from an institution of higher education, diploma of completion in secondary education, or diploma of completion in primary education.

2.4.3 Authorized Purchasers may purposefully seek out Translators with specific qualifications outlined in Exhibit 5, Translator Qualification Guidelines.

2.5 Order Costs and Detail

2.5.1 Contractor shall ensure that Authorized Purchaser-submitted orders and requests contain sufficient information to provide accurate and timely translations. Individual Purchase Orders or Service Order Contracts shall contain at a minimum the information in Section 1.3.

2.5.2 In the event that Contractor receives an order or request for services from an Authorized Purchaser that does not contain adequate information, Contractor shall notify Authorized Purchaser and request additional information before proceeding.

2.5.3 Contractor shall provide Authorized Purchasers a total estimated cost for each translation and include any applicable fees.

2.6 Rates and Pricing

2.6.1 Contractor shall maintain rates set forth in Exhibit 8 - Rate Schedule. Rates in Exhibit 8 – Rate Schedule are ceiling rates to be adhered to unless Authorized Purchaser and Contractor determine more competitive rates are appropriate based on the volume of services to be ordered or other factors influencing rates charged to the Authorized Purchaser.

2.6.2 At no time shall the rates exceed the rates set forth in Exhibit 8 - Rate Schedule without approval of the Authorized Purchaser. Any negotiated rates shall be reflected in the Purchase Order or Service Order Contract.

2.6.3 Rates shall be reflected on all Contractor invoices.

2.7 Billing and Invoicing

- 2.7.1 Contractor shall submit monthly invoices that contain the desired fields as requested by an Authorized Purchaser.
- 2.7.2 Contractor shall provide invoices that include which agency, division or work unit the services were for and the rate applied to the services.
- 2.7.3 Contractor shall ensure that Early Payment Discounts, if applicable, are accurately calculated and reflected on the applicable invoices.
- 2.7.4 Translation requests not completed by the agreed upon date and time will be subject to a reduction in compensation as expressed in Exhibit 8 - Rate Schedule.
- 2.7.5 Contractor is responsible for all costs related to correcting jobs translated or formatted incorrectly. Payment will not be made if the final product is determined by the requesting Authorized Purchaser to have not been done or rectified in accordance with the translation request specifications. The Authorized Purchaser is the final arbiter in determining translation accuracy.
- 2.7.6 Invoices that are vague, unclear, or do not contain the necessary fields will be rejected by the Authorized Purchaser.

Exhibit 2 – Service Order Process

Purchase Orders:

Authorized Purchasers (APs) may order Services using the Purchase Order Form (attached as Exhibit 3) when the Services being requested are infrequent or for a single or specific request. APs may order Services during the term of this Price Agreement using a form of Purchase Order as prescribed in the Price Agreement, Section 4.1, Purchase Orders.

Service Order Contracts:

APs with frequent, recurring, or complex service needs may execute Service Order Contracts (attached as Exhibit 4) with Contractors to memorialize specific service delivery requirements of an AP. APs shall, as may be needed from time to time, enter into Service Order Contracts, which are binding and enforceable contracts, for Contractor's Services that are similar in form and substance to the Price Agreement. Service Order Contracts, by reference, shall contain the terms and conditions in the Price Agreement. APs may order Services during the term of this Price Agreement using a form of Service Order Contract as prescribed in the Price Agreement, Section 4.2, Service Order Contracts.

Duration:

To maintain fairness and competition among Proposers who were awarded Price Agreements under the RFP, Service Order Contracts or Purchase Orders established under the RFP must be restricted to a duration of no longer than one year. Service Order Contracts or Purchase Orders established under this Price Agreement may not be extended or renewed in a manner that exceeds this one year period without the written consent of DAS PS. Contractor may not enter into a replacement Service Order Contract or Purchase Orders with the same Authorized Purchaser for the same or substantially the same character of Services without the written consent of DAS PS.

Contractor Selection:

APs will select Contractors based on the following process:

- 1) select the potential Contractors that are qualified to provide Translation Services being sought;
- 2) select, from that group, the potential Contractors that can meet the required turnaround times;
- 3) select, from that group, the potential Contractors that can provide the specific Translation Services being sought;
- 4) select, from that group, the potential Contractors with the lowest and best cost options, e.g. lowest rates, volume discounts, most value to cost ratio.

The Authorized Purchaser may select, from among the Contractors awarded a Price Agreement under the RFP, the character of the Services offered and the Contractor that best suits the needs of the Authorized Purchaser. In making a selection of Services and of a Contractor, the Authorized Purchaser may apply price comparisons. The criteria used for the selection of Contractors also may include, depending on their pertinence to particular service engagements, the following, which are not listed in any order of relative significance:

- The Contractor's qualifications to perform the specific tasks required by the Authorized Purchaser;
- Price and cost data as presented in the submitted Proposals;
- The Contractor's experience in Translations similar to those sought to be filled by the Authorized Purchaser;

- The Contractor's geographic location that would be most advantageous to the Authorized Purchaser or to the effectiveness of the Contractor's performance of the Services to be requested; and
- The Contractor's past performance under other service engagements and its performance under any awarded Price Agreement of Services for other Authorized Purchasers in terms of:
 - (i) producing quality work;
 - (ii) ability to meet delivery schedules;
 - (iii) effectiveness of communication and coordination with Authorized Purchasers; and
 - (iv) efficiency in provision of individuals with the targeted qualifications.

APs are encouraged to include specific Service delivery details in the selected ordering method, being certain to detail any negotiated rates, Services, or combination of promised Services.

APs are encouraged to consider risk to their Agency when issuing Purchaser Orders or Service Order Contracts. APs may request additional insurance coverages or increased minimum and aggregate coverage limitations exceeding those required by Exhibit 10 to the Price Agreement depending on the risk associated with the Services to be provided.

APs must include the selection process that was followed in their contract files. At AP's option, AP may further evaluate specialized skills and abilities of Contractor before issuing a Purchase Order or Service Order Contract.

APs will negotiate and coordinate directly with the selected Contractors for execution of the Service Order for the required work.

APs reserve the right to engage, by a separate solicitation process, Contractors that may not be a party to the Price Agreement with the DAS State Procurement Office.

Contractor will perform, and APs shall pay for work only when performed under a Purchase Order or Service Order Contract. Individual Purchase Orders or Service Order Contracts will clarify the specific Services requested by APs.

Contractor is responsible to complete all work as defined in the Service Order to the satisfaction of the AP that is the party to the Service Order.

Amendments.

DAS State Procurement Office has determined that during the term of the Service Order Contracts, the APs may need to modify the types of work under circumstances related to the following categories of anticipated amendments, and that certain Purchase Orders or Service Order Contracts may require amendments within these categories of anticipated amendments :

- a) Amendments to the Statement of Services of a Contract to add Services within the scope of the RFP, the Price Agreement, and the Contract;
- b) Amendments to increase the maximum, not-to-exceed compensation payable to Contractor to cover new Work or additional quantity of Work added to the Contract;
- c) Amendments to delete Services from the Statement of Work of a Contract;
- d) Amendments to decrease the maximum, not-to-exceed compensation payable to Contractor;
- e) Amendments to extend the term of a Contract.

- f) Amendments to change rates, but only in accordance with Price Agreement, Section 5.
- g) Amendments to incorporate or accommodate special federal regulations or requirements that apply to the Service engagement or its funding.

Upon identification of any of the circumstances set forth above requiring an amendment to this Contract by either party, the parties may enter into negotiations regarding the proposed amendment to this Contract. All amendments must comply with Section 7 of the Price Agreement.

Purchase Orders and fully executed Service Order Contracts are binding Contracts between APs and Contractor. APs shall upload a copy of all Purchase Orders and executed Service Order Contracts to the Oregon Procurement Information Network.

Service Order Contracts may be emailed or faxed back and forth between AP, Contractor and other signatories required to sign the Service Order Contract.

Exhibit 3 – Sample Purchase Order


		STATE OF OREGON		PURCHASE ORDER (PO) NO.		PAGE #	
Authorized Purchaser's Authorized Representative			Purchase Order Date		Requisition No.		
Contractor Name and Address				Authorized Purchaser's Invoicing Address			
Contractor FEIN		Price Agreement number		Authorized Purchaser's Authorized Representative Email Address			
Deliver to Address				Authorized Purchaser's Authorized Representative Phone and Fax Number			
Delivery Schedule or Delivery Date							
Item	Description	Quantity	U/M	Unit Price	Net Price		
SEE SERVICE ORDER PROCESS							
					Sub Total		
					Freight		
					Total		
<p>THIS PURCHASE IS SUBMITTED PURSUANT TO OREGON DAS PRICE AGREEMENT # DASPS-XXXX-18. THE PRICE AGREEMENT, INCLUDING STANDARD CONTRACT TERMS AND CONDITIONS (T'S & C'S) CONTAINED IN THE PRICE AGREEMENT, IS INCORPORATED BY REFERENCE AND APPLIES TO THIS PURCHASE AND TAKES PRECEDENCE OVER ALL OTHER CONFLICTING T'S AND C'S, EXPRESS OR IMPLIED.</p>							
Agency's Authorized Representative to Make Purchase					Date		

Exhibit 4 – Service Order Contract

Price Agreement # DASPS-3270-19 Gaucha Translations LLC
Service Order Contract # [REDACTED]

[REDACTED] (“Agency”) and Gaucha Translations LLC (“Contractor”) hereby enter into a contract for services (“Service Order Contract” or “SOC”) that consists of this document and all terms and conditions set forth in Price Agreement # DASPS-3270- entered into by and between Gaucha Translations LLC and the State of Oregon acting by and through between the Department of Administrative Services (“DAS”) (the “Agreement”). This Service Order Contract is effective as of the last date of signature in the signature block below, (the “SOC Effective Date”).

SECTION 1: RECITAL

Agency requires Translation Services described in Price Agreement Exhibit 1, Statement of Services. Contractor desires to perform the services described in this SOC (“Services”) with respect to the service requirements.

SECTION 2: AGREEMENT

The parties agree as follows:

- Defined Terms. Capitalized terms not otherwise defined in this SOC have the meanings assigned to them in the Agreement.
- Agreement Incorporated by Reference. The Agreement is incorporated by reference as though fully set forth in this SOC.
- SOC Term. Unless extended or terminated earlier in accordance with its terms, this SOC shall terminate when Agency has accepted and paid Contractor in full for all completed Services that are required under this SOC (“SOC Term”). SOC termination shall not extinguish or prejudice Agency’s right to enforce this SOC with respect to any default by Contractor that has not been cured.

2.1 Statement of Services. The Service to be performed under this SOC is indicated in this Section below.

2.1.1 Translation Services

Most materials to be translated are for medical services, human services, or courts. Content may be technical or for a specific demographic. Contractor must be equipped to respond to any request within its area of expertise or field.

The types of publications/documents typically translated include, but are not limited to:

- Manuals, marketing materials, advertising campaigns
- Flyers, posters, signs, brochures
- Forms, service change notices, application materials
- Radio scripts, closed captioning translation, audio translations and voice overs
- Handwritten and client-directed correspondence
- Medical, court, or other legal documents

The Contractor shall receive most source documents via File Transfer Protocol (e.g. PDF or flat files, standard word processing languages, etc.), mail, or by UPS. The typical delivery is expected to be by other electronic means (e.g. FTP, secure file sharing and email).

2.2 Authorized Purchaser Specifications (for consideration and inclusion by Authorized Purchaser)

2.2.1 Insurance Requirements (designated by Authorized Purchaser)

2.2.2 *Materials Translated*

2.2.3 *Standard Rates*

2.2.4 *Negotiated Rates*

2.2.5 *Minimum Certification Requirements*

2.2.6 *Turnaround Times*

2.2.7 *Applicable Translation Glossaries*

2.2.8 *Use of Translation Memory*

2.2.9 *Delivery Methods or Protocols*

2.2.10 *Invoice Fields*

2.2.11 *Prohibited Activities*

2.2.12 *Any Federal Requirements that May Be Specific to the Service Engagement*

2.3 Key Persons

Contractor shall assign the following Key Persons from Exhibit 6 for Contract Administration, Service Delivery Fulfillment, and issue resolution.

Contractor's Key Person(s) & Contact Information	
Key Person # 1 Name: Helen Eby Title: Owner Phone: 503-929-8476 Email: helen@gauchatranslations.com	Key Person # 2 Name: _____ Title: _____ Phone: _____ Email: _____
Contractor's Key Person(s) & Contact Information	
Key Person # 3 Name: _____ Title: _____ Phone: _____ Email: _____	

SECTION 3: CONSIDERATION

- 3.1 Maximum NTE Payable. The maximum, not-to-exceed ("Maximum NTE") amount payable to Contractor by Agency under this SOC is \$_____. Agency will not pay Contractor any amount in excess of this amount for completing the Services, and will not pay for Services performed after the termination of this SOC. Agency will pay Contractor only for completed Services that are accepted by Agency, and such acceptance shall not be unreasonably withheld.
- 3.2 Invoices. Contractor shall submit invoices in accordance with Section 6 of the Price Agreement and Exhibit 1 Section 2.7 to the Agreement, which is incorporated by reference as though fully set forth in this Section. Invoiced amounts shall not exceed the rates set forth in Exhibit 8, Rate Schedule.

However, negotiated rates set forth in Section 2.2 above are acceptable. All invoices shall be submitted to Agency's contract administrator via [email] [U.S. Mail] at the following address:

- Enter Name of Contract Administrator Here
- Enter email or physical address for Contract Administrator Here
- Enter phone number of Contract Administrator Here

Payment Terms. All payments are subject to the provisions of ORS 293.462 and shall not exceed the total maximum not-to-exceed compensation set forth in this SOC. All Billing Rates and allowable expenses invoiced by Contractor shall be charged at the rates agreed to in Exhibit 8 to the Agreement unless otherwise agreed upon per Section 2.2 above. Agency shall have no liability for any Billing Rates or expenses that are charged in amounts that exceed those agreed to in above nor shall Agency have any liability for any Billing Rates, expenses, or any other fees that exceed the maximum not-to-exceed compensation agreed to in this SOC.

Notwithstanding Section 3 of this SOC, in no event shall Contractor be paid for any Services under this SOC until Agency receives an accurate and complete W-9 Form from Contractor.

SECTION 4: TERMINATION; Remedies

- 4.1 Termination by Agency. Agency and Contractor may agree to terminate the SOC at any time. Agency may terminate the SOC for any reason or no reason immediately upon written notice to Contractor or at such other date as Agency may specify in such notice.
- 4.2 Termination by Contractor. Contractor may terminate the SOC for any reason or no reason effective upon delivery of thirty (30) days written notice to Agency
- 4.3 Agency Remedies. In addition to any other rights and remedies Agency may have under the Agreement or this SOC, Agency may terminate or modify the SOC immediately upon delivery of written notice from Agency to Contractor, or at such later date as Agency may establish in such notice, upon the occurrence of any of the following events:
 - 4.3.1 Funding from federal, state, or other sources is not obtained and continued at levels sufficient to pay for the Services;
 - 4.3.2 Federal or state laws, regulations, or guidelines are modified or interpreted in such a way that either the Services are prohibited or Agency is prohibited from paying for the Services from the planned funding source;
 - 4.3.3 Contractor commits any material breach or default of any covenant, warranty, obligation or agreement under the SOC, fails to perform the Services within the time specified herein, or so fails to pursue the Services as to endanger Contractor's performance under the SOC in accordance with its terms, and fails to cure such breach, default or failure within five (5) business days after delivery of written notice from Agency, or such other period as Agency may authorize or require.
- 4.4 No Prejudice of Rights. Termination of the SOC does not extinguish or prejudice Agency's right to enforce the SOC with respect to any default by Contractor that has not been cured. Termination pursuant to this Section shall be without prejudice to any obligations or liabilities of either party already accrued prior to such termination.
- 4.5 If Contractor is in breach or default under this SOC, Agency shall be entitled to recover for any and all damages suffered as the result of Contractor's breach or default. In addition, at Agency's option, Agency shall have the right to pursue any or all other remedies Agency may have available under the Agreement or at law or in equity.
- 4.6 Contractor Remedies; Agency Liability for Expenses. If Agency terminates the SOC or if Agency is in default and whether or not Contractor elects to exercise its right to terminate the SOC,

Contractor's sole monetary remedy is a claim for: (a) unpaid and accepted invoices; and (b) hours worked and authorized expenses incurred within any limits set forth in the SOC, but not yet billed. In no event shall Agency be liable to Contractor for any expenses related to termination of this Contract or for anticipated profits. If previous amounts paid to Contractor exceed the amount due to Contractor under this Subsection, Contractor shall pay immediately any excess to Agency upon written demand provided in accordance with the notice provisions of the SOC.

- 4.7 Return of Property. Upon termination of the SOC for any reason, Contractor shall immediately deliver to Agency all of Agency's property (including without limitation any deliverable for which Agency has made payment in whole or in part) that is in the possession or under the control of Contractor in whatever stage of development such Agency property is embodied at that time. Upon receiving a notice of termination of the SOC, Contractor shall immediately cease all activities under the SOC, unless Agency expressly directs otherwise in such notice of termination. Upon Agency's request and consistently with applicable confidentiality laws, Contractor shall surrender to anyone Agency designates all documents, research or objects or other tangible or intangible things needed to complete the Services and any deliverable.
- 4.8 Notices. Any communications between Contractor and Agency or Notices to be given under this SOC shall be made in accordance with Section 25 of the Agreement and sent, as applicable, to either: (a) Contractor or (b) Agency, with a copy to DAS, at the following addresses:

4.8.1 Agency Notice

- Enter Name of Contract Administrator Here
- Enter Agency Name Here
- Enter physical address for Contract Administrator Here
- Enter Email address of Contractor Contact Here
- Enter phone number of Contractor's Contract Administrator Here

4.8.2 DAS Notice:

- Dion Kerleé
- State Procurement Analyst
- Department of Administrative Services
- 1225 Ferry St SE Salem Oregon 97301
- dion.kerlee@oregon.gov
- 503-378-2816

4.8.3 Contractor Notice: Enter Contractor Firm Name Here

- Name of Contractor Contact
- Enter Contractor Title Here, if any
- Enter physical address for Contractor Here
- Enter Email address of Contactor Here
- Enter phone number of Contract Administrator Here

- 4.9 Remedies Not Exclusive. The rights and remedies provided in this Section 4 are not exclusive, and are in addition to any other rights and remedies provided by law, under the Agreement, or under this SOC.

SECTION 5: Executed SOC

Within 7 business days of full execution of this SOC, Agency shall upload a copy of this SOC to the Oregon Procurement Information Network.

SECTION 6: Insurance

Throughout the SOC Term Contractor shall carry, at its own cost and expense, the types of insurance at the limits agreed to in Exhibit 10 to the Agreement which is incorporated by reference as though fully set forth in this Section. Contractor shall provide Agency's contract administrator with a certificate of insurance prior to commencing any Services or performing any work under this SOC.

SECTION 7: Order of Precedence

This SOC is executed pursuant to the Agreement. This SOC consists of the following documents, which are listed in descending order of precedence:

- A. Federal Terms and Conditions incorporated into or attached to this SOC, if any
- B. Price Agreement # DASPS3270-19
- C. Exhibit A, Statement of Services
- D. This SOC, less its Exhibits
- E. Exhibit 8, Rate Schedule

SECTION 8: Certifications

The individual signing on behalf of Contractor hereby certifies and swears under penalty of perjury to the best of the individual's knowledge that:

- 8.1 Authority to Act. The individual signing on behalf of Contractor is authorized to act on Contractor's behalf, has authority and knowledge regarding the matters certifying in this Section 8;
- 8.2 Representations and Warranties. The Representations and Warranties set forth in the Agreement, including, without limitation, Section 14, are reaffirmed by the signator below;
- 8.3 Compliance with All Laws, Terms and Conditions. Signator affirms that Contractor will comply with all applicable laws as agreed to in Section 10 of the Agreement and that no conflicts of interest, as defined in ORS 244, preclude Contractor from performing any of the Services agreed to in this SOC. Signator further affirms that Contractor understands and agrees that Contractor is bound by all of the other the terms, conditions, and obligations agreed to in the Agreement, which are incorporated by reference in Section 2 of this SOC;
- 8.4 Not Subject to Backup Withholding. Contractor is not subject to backup withholding because (a) Contractor is exempt from backup withholding, (b) Contractor has not been notified by the IRS that Contractor is subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified Contractor that Contractor is no longer subject to backup withholding;
- 8.5 Certification of Tax Laws. To the best of the signator's knowledge, Contractor is not in violation of any Oregon tax laws, including, without limitation, those tax laws listed in ORS 305.380(4), namely ORS Chapters 118, 314, 316, 317, 318, 320, 321 and 323 and Sections 10 to 20, Chapter 533, Oregon Laws 1981, as amended by Chapter 16, Oregon Laws 1982 (first special session); and any local taxes administered by the Oregon Department of Revenue under ORS 305.620;
- 8.6 Independent Contractor. Contractor is an independent contractor as defined in ORS 670.600; and
- 8.7 Tax ID Accurate. The Contractor tax identification numbers provided to Agency under Section 31.4 of the Agreement are true and accurate.

CONTRACTOR, BY EXECUTING THIS SERVICE ORDER CONTRACT, ACKNOWLEDGES THAT CONTRACTOR HAS READ THIS SERVICE ORDER CONTRACT, UNDERSTANDS IT, AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.

CONTRACTOR:

AGENCY:_____

(include here division or section as well, if applicable)

By:_____

[Print Name Here]

Title:_____

Date:_____

By:_____

[Print Name Here]

Title:_____

Date:_____

Approved for Legal Sufficiency:

Authorized Signature

Printed Name

Title: Assistant Attorney General

(Required for state contracting agencies if contract amount is \$150,000 or greater)

Exhibit 5 – Translator Qualification Guidelines

Translators should possess a level of translation qualification, language competency, standard of general education, and relevant experience appropriate to the complexity of the text being translated. (Courts) (Melby) (C. Durbin)

Preference will be given to Contractors whose translators:

- a. Hold the American Translator Association (ATA)¹ Certification in ATA certifiable languages;

Or

- b. Score at least 18-25 points on at least one of the two exam texts in the ATA examination.²

Many languages are not certifiable by the American Translator Association. Preference will be given to non- ATA certifiable language translators who demonstrate (in descending order according to importance of qualifications): verifiable translation competency, interpreting competency, language proficiency, paid translation experience, active membership in a professional language organization, academic higher education degree from an institution of higher education, diploma of completion in secondary education, or diploma of completion in primary education.

Demonstration of some or all of the above criteria may be demonstrated through:

A. TRANSLATOR COMPETENCY via recognized translation assessments³:

1. State of Washington DSHS Document Translator Certification;⁴ and/or
2. Score of at least 10 on the ALTA Translation Assessment⁵; and/or
3. Standard Certification for Translation Services ([Canadian] Language Industry Association (AILIA) Translation Services Standard (CAN/CGSB-131) and/or
4. Score of at least ILR2+ on the Interagency Language Roundtable (ILR) Exam;⁶ and/or

¹ www.atanet.org available in (2018) Arabic, Chinese, Croatian, Danish, Dutch French, Finnish, German, Hungarian, Italian, Japanese, Polish, Portuguese, Russian, Spanish, Swedish, and Ukrainian

² The ATA Examination consists of the translation of two, 250 word texts and is based on an error point system, i.e. the lower the score, the better the candidate performed. A score of 17 or lower on each of two texts is required to pass and gain Certification. Scores of 18-25 are close to passing.

³ Translator competencies include reading and writing, so assessments that include these skills and/or translation performance in the target language are best predictors of translation proficiency.

⁴ <https://www.dshs.wa.gov/fsa/language-testing-and-certification-program> available in (2018) Cantonese, Korean, Mandarin, Russian, Spanish, Vietnamese;

⁵ ALTA Translation Assessment is a 12 level scale based on how well the candidate comprehended and maintained the meaning of the original message, used the mechanics of target language, and fluency in writing. <https://www.altalang.com/language-testing/protocols/>

⁶ Interagency Language Roundtable (ILR) is used by US Department of State and the FBI and measures reading, listening, speaking, writing, translation, interpretation, audio translation, intercultural communication. <http://www.govtilr.org/Skills/ILRscale1.htm>

5. Four year academic degree in Translation from a US or international university; and/or
6. Certificate of completion from a formal translation training program of at least 40-99 hours⁷and/or
7. Other recognized translation entity

OR

B. INTERPRETER COMPETENCY via recognized certifying body assessing interpreting knowledge, skills and abilities:⁸

1. Federal Court Interpreter Certification⁹ and/or
2. State Court Interpreter Certification; ¹⁰and/or
3. Hold the State of Washington DSHS Interpreter Certification¹¹; and/or
4. National Healthcare CCHI Certification¹² or NBCMI Certification¹³ and/or
5. State healthcare interpreter credential, such as the State of Washington DSHS Screened Languages Medical Interpreter credential;¹⁴ and/or
6. State social services interpreter credential, such as the State of Washington DSHS Screened Languages Social Service Interpreter credential.¹⁵
7. Other recognized interpreting entity.

OR

C. LANGUAGE PROFICIENCY via a recognized testing entity of language skills:

- 1. ACTFL: (American Council on the Teaching of Foreign Languages) score of “Superior”¹⁶**

⁷ Example: NYU Translator Certificate

⁸ <http://www.courts.ca.gov/documents/KSAs.pdf> Interpreter competencies include linguistic skills, speaking skills, listening comprehension skills, reading comprehensions skills, interpreting skills, and behavioral skills.

⁹ <http://www.uscourts.gov/services-forms/federal-court-interpreters/federal-court-interpreter-certification-examination>

¹⁰ National Center for State Courts Language Access Services Section <http://www.ncsc.org/languageaccess>

¹¹ <https://www.dshs.wa.gov/fsa/language-testing-and-certification-program> available in (2018) Cantonese, Korean, Mandarin, Russian, Spanish, Vietnamese;

¹² National Health Care Interpreter Certification Program (CCHI), <http://www.cchicertification.org/>

¹³ National Board of Certification for Medical Interpreters(NBCMI) <http://www.certifiedmedicalinterpreters.org/>

¹⁴ <https://www.dshs.wa.gov/fsa/language-testing-and-certification-program/test-information-registration-policies>

¹⁵ <https://www.dshs.wa.gov/fsa/language-testing-and-certification-program/test-information-registration-policies>

¹⁶ <https://www.languagetesting.com/actfl-proficiency-scale>

2. **TOEFL iBT** (Test of English as a Foreign Language): score of 94+¹⁷ or 470+¹⁸
3. **ECCE** score of 750+¹⁹
4. **ECPE score of 750+** ²⁰
5. **ELPT** (English Language Proficiency Test): score of 950+²¹
6. **MELAB** (Michigan English Language Assessment Battery) Final score of 80+²²
7. **CEFR (Common European Framework of Reference) score of C1+**²³
8. **ECPE** (Examination for the Certificate of Proficiency in English): score of 750+²⁴
9. **(CES) Cambridge English Scale score of 185-190**²⁵
10. (IELTS) International English Language Testing System score of 7.0+²⁶
11. Other recognized language assessment

OR

D. ACTIVE MEMBERSHIP IN PROFESSIONAL LANGUAGE ORGANIZATIONS:

American Translator Association (ATA) or other recognized associations, or other recognized entity [see Appendix I];

OR

E. HAVE PAID TRANSLATION EXPERIENCE / PORTFOLIO OF SAMPLES OF PAID WORK;

1. At least five years' experience and client references, and/or
2. At least three years' experience and client references, and/or
3. Other professional translation experience and client references.

OR

F. HOLD AN ACADEMIC DEGREE FROM AN INSTITUTION OF HIGHER EDUCATION

OR

G. HOLD A DIPLOMA OF COMPLETION FROM A FORMAL SECONDARY EDUCATION;²⁷

OR

¹⁷ <https://www.ets.org/toefl/ibt/scores>

¹⁸ <https://files.eric.ed.gov/fulltext/ED562802.pdf>

¹⁹ <http://cambridgemichigan.org/test-takers/scores/>

²⁰ <http://cambridgemichigan.org/test-takers/scores/>

²¹ <https://files.eric.ed.gov/fulltext/ED562802.pdf>

²² <http://cambridgemichigan.org/test-takers/scores/>

²³ <http://cambridgemichigan.org/test-takers/scores/>

²⁴ <http://cambridgemichigan.org/test-takers/scores/>

²⁵ <http://www.cambridgeenglish.org/images/177867-the-methodology-behind-the-cambridge-english-scale.pdf>

²⁶ <https://takeielts.britishcouncil.org/find-out-about-results/understand-your-ielts-scores>

²⁷ Languages of lesser diffusion may have very few, if any, literate translators.

H. HOLD A DIPLOMA OF COMPLETION FROM A FORMAL SECONDARY EDUCATION.

Exhibit 6 – Key Persons

1. Contractors Key Person # 1

Name: Helen Eby
Title: Owner
Phone: 503-929-8476
E-mail : helen@gauchatranslations.com

2. Contractors Key Person # 2

Name:
Title:
Phone:
E-mail :

3. Contractors Key Person

Name:
Title:
Phone:
E-mail :

4. Contractors Key Person

Name:
Title:
Phone:
E-mail :

5. Contractors Key Person

Name:
Title:
Phone:
E-mail :

6. Contractors Key Person

Name:
Title:
Phone:
E-mail :

Exhibit 7 – Federal Terms and Conditions

REQUIRED FEDERAL TERMS AND CONDITIONS

General Applicability and Compliance. Unless exempt under 45 CFR Part 87 for Faith-Based Organizations (Federal Register, July 16, 2004, Volume 69, #136), or other federal provisions, Contractor shall comply and, as indicated, cause all subcontractors to comply with the following federal requirements to the extent that they are applicable to this Contract, to Contractor, or to the Work, or to any combination of the foregoing. For purposes of this Contract, all references to federal and state laws are references to federal and state laws as they may be amended from time to time.

1. **Miscellaneous Federal Provisions.** Contractor shall comply and require all subcontractors to comply with all federal laws, regulations, and executive orders applicable to the Contract or to the delivery of Work. Without limiting the generality of the foregoing, Contractor expressly agrees to comply and require all subcontractors to comply with the following laws, regulations and executive orders to the extent they are applicable to the Contract: (a) Title VI and VII of the Civil Rights Act of 1964, (b) Sections 503 and 504 of the Rehabilitation Act of 1973, (c) the Age Discrimination in Employment Act of 1967, and the Age Discrimination Act of 1975, (d) Title IX of the Education Amendment of 1972, (e) the Drug Abuse Office and Treatment Act of 1972, (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, (g) Section 523 and 527 of the Public Health Service Act of 1912, (h) Title VIII of the Civil Rights act of 1968, (i) the Hatch Act (U.S.C. 1501-1508 ad 7328), (j) Davis-Bacon Act (40 U.S.C. 276a to 276a7), (k) the Copeland Act (40 U.S.C. 276c and 18 U.S.C. 874), (l) the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333), (m) all other applicable requirements of federal civil rights and rehabilitation statutes, rules and regulations. These laws, regulations and executive orders are incorporated by reference herein to the extent that they are applicable to this Contract and required by law to be so incorporated. No federal funds may be used to provide Work in violation of 42 U.S.C. 14402.
2. **Equal Employment Opportunity.** If this Contract, including amendments, is for more than \$10,000, then Contractor shall comply and require all subcontractors to comply with Executive Order 11246, entitled "Equal Employment Opportunity," as amended by Executive Order 11375, and as supplemented in Department of Labor regulations (41 CFR Part 60).
3. **Clean Air, Clean Water, EPA Regulations.** If this Contract, including amendments, exceeds \$100,000 then Contractor shall comply and require all subcontractors to comply with all applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act (42 U.S.C. 7606), the Federal Water Pollution Control Act as amended (commonly known as the Clean Water Act) (33 U.S.C. 1251 to 1387), specifically including, but not limited to Section 508 (33 U.S.C.. 1368), Executive Order 11738, and Environmental Protection Agency regulations (2 CFR Part 1532), which prohibit the use under non-exempt Federal contracts, grants or loans of facilities included on the EPA List of Violating Facilities. Violations shall be reported to OED, United States Department of Health and Human Services and the appropriate Regional Office of the Environmental Protection Agency. Contractor shall include and require all subcontractors to include in all contracts with subcontractors receiving more than \$100,000, language requiring the subcontractor to comply with the federal laws identified in this section.
4. **Other Environmental Standards.** Contractor shall comply and require all subcontractors to comply with all applicable environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order 11514; (b) protection of wetlands pursuant to Executive Order 11990; (c) evaluation of flood hazards in flood plains in accordance with Executive Order 11988; (d) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et. seq.); (e) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. 7401 et seq.); (f) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and (g) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93-205).

5. **Energy Efficiency.** Contractor shall comply and require all subcontractors to comply with applicable mandatory standards and policies relating to energy efficiency that are contained in the Oregon energy conservation plan issued in compliance with the Energy Policy and Conservation Act 42 U.S.C. 6201 et. seq. (Pub. L. 94-163).
6. **Truth in Lobbying.** By signing this Contract, the Contractor certifies, to the best of the Contractor's knowledge and belief that:
- a. No federal appropriated funds have been paid or will be paid, by or on behalf of Contractor, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any federal contract, grant, loan or cooperative agreement.
 - b. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan or cooperative agreement, the Contractor shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying" in accordance with its instructions.
 - c. The Contractor shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients and subcontractors shall certify and disclose accordingly.
 - d. This certification is a material representation of fact upon which reliance was placed when this Contract was made or entered into. Submission of this certification is a prerequisite for making or entering into this Contract imposed by Section 1352, Title 31 of the U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.
 - e. No part of any federal funds paid to Contractor under this Contract shall be used other than for normal and recognized executive legislative relationships, for publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, electronic communication, radio, television, or video presentation designed to support or defeat the enactment of legislation before the United States Congress or any State or local legislature itself, or designed to support or defeat any proposed or pending regulation, administrative action, or order issued by the executive branch of any State or local government itself.
 - f. No part of any federal funds paid to Contractor under this Contract shall be used to pay the salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence the enactment of legislation, appropriations, regulation, administrative action, or Executive order proposed or pending before the United States Congress or any State government, State legislature or local legislature or legislative body, other than for normal and recognized executive-legislative relationships or participation by an agency or officer of a State, local or tribal government in policymaking and administrative processes within the executive branch of that government.
 - g. The prohibitions in subsections (e) and (f) of this Section shall include any activity to advocate or promote any proposed, pending or future Federal, State or local tax increase, or any proposed, pending, or future requirement or restriction on any legal consumer product, including its sale or marketing, including but not limited to the advocacy or promotion of gun control.

reasonable person to believe the Contractor or Contractor's employee, officer, agent or subcontractor has used a controlled substance, prescription or non-prescription medication that impairs the Contractor or Contractor's employee, officer, agent or subcontractor's performance of essential job function or creates a direct threat to OED clients or others. Examples of abnormal behavior include, but are not limited to: hallucinations, paranoia or violent outbursts. Examples of impairments in physical or mental performance include, but are not limited to: slurred speech, difficulty walking or performing job activities; and (x) Violation of any provision of this subsection may result in termination of the Contract.

- 10. Federal Intellectual Property Rights Notice.** The federal funding agency, as the awarding agency of the funds used, at least in part, for the Work under this Contract, may have certain rights as set forth in the federal requirements pertinent to these funds. For purposes of this subsection, the terms "grant" and "award" refer to funding issued by the federal funding agency to the State of Oregon. The Contractor agrees that it has been provided the following notice:

- a.** The federal funding agency reserves a royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use the Work, and to authorize others to do so, for Federal Government purposes with respect to:
 - (1) The copyright in any Work developed under a grant, subgrant or contract under a grant or subgrant; and
 - (2) Any rights of copyright to which a grantee, subgrantee or a contractor purchases ownership with grant support.
- b.** The parties are subject to applicable federal regulations governing patents and inventions, including government-wide regulations issued by the Department of Commerce at 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements."
- c.** The parties are subject to applicable requirements and regulations of the federal funding agency regarding rights in data first produced under a grant, subgrant or contract under a grant or subgrant.

Exhibit 8 - Rate Schedule

Rates

Rates in the tables below must remain firm for the first two (2) years that the Price Agreement (if extended) is in effect.

Rate adjustment requests shall be subject to DAS PS approval and must be submitted 60 days prior to the expiration of any term.

Rates for Translations	
Service	Rate
Minimum fee	\$85.00
Per Word Cost	\$0.28 to 0.31
Per 1,000 Word	\$295

Emergency Rates for Translations	
Service	Rate per word
Expedited (2 hour turnaround)	\$0.50
Rush (24 hour business day turnaround)	\$0.42
ASAP (48 hour business day turnaround)	\$0.36

Hourly Rates for Translations	
Service	Rate per hour
Formatting	\$50.00
Alternate Format	\$50.00
ASAP (48 hour turnaround)	\$70.00
Proofreading (upon Authorized Purchaser request)	\$50.00
Desktop Publishing (upon Authorized Purchaser request)	\$50.00
Glossary Building (upon Authorized Purchaser request)	\$50.00

Languages

The languages listed below will be translated at the rates proposed on this Exhibit 8 – Rate Schedule. All other languages translated by the Contractor shall be listed in Exhibit 1 – Statement of Services.

The following languages will be translated at the above rates;

- 🕒 English to Spanish
- 🕒 Spanish to English

Early Payment Discounts

The following discount percentages apply for early payments.

Early payment discount percentages in the table below remain firm for the first two (2) years that the Price Agreement (if extended) is in effect.

Adjustments to payment discount percentages shall be subject to DAS PS approval and must be submitted 60 days prior to the expiration of any term.

Interval	Discount
Net 45	0%
Net 30	.5%
Five Days	1.5%
Same Day	2.0%

The following terms and conditions apply to any early payment discounts.

Early payment discounts are subject to the following terms and conditions;

No additional discounts for credit card payment.

Translation Turnaround

Translation requests not completed by the agreed upon date and time will be subject to a reduction in compensation.

Accepted project request timelines will be fully reimbursed only when the time frames are met.

Compensation for translations returned late is as follows:

Business Days Late	Percent of Agreed Rate:
1	90%
2	80%
3	70%
4	60%
5	50%
6	40%
7	30%
8	20%
9	10%
10	No Compensation

Contractor is responsible for all costs related to correcting jobs translated or formatted incorrectly. Payment will not be made if the final product is determined by requesting agency to have not been done or rectified in accordance with translation request specifications. The requesting agency is the final arbiter in determining translation accuracy.

Exhibit 9 – Volume Sales Reports and Vendor Collected Administrative Fee

Volume Sales Reports:

Contractor shall submit a Volume Sales Report (“VSR”) to DAS Procurement Services (DAS PS) no later than thirty (30) calendar days after the end of each calendar quarter. For the purposes of this Agreement, calendar quarters end March 31, June 30, September 30, and December 31.

The VSR must be submitted in the format described in this Exhibit 9 and Exhibit 11 either by E-mail or by other electronic means (CD or thumb drive) contained in postage paid envelope or shipping package. Additional details are below.

The submitted VSR must contain:

- 1) Complete and accurate details of all receipts (for both sales and refunds) for the reported period;
- 2) a completed Volume Sales Report populated with the requested information and
- 3) other such information as DAS PS may reasonably request in writing;

Contractor shall send a VSR to DAS PS each quarter, whether or not there are sales or credits.

Contractor shall provide the VSR in MS Excel (.xls, .xlsx) format. The VSR must be submitted by e-mail to vcaf.reporting@oregon.gov unless the size of the file precludes transmission by email.

VSR may be submitted by thumb drive or CD if file size precludes transmission by email. Delivered print-outs of VSRs or faxed VSRs are not acceptable. Thumb drive or CD s must be delivered to:

DAS Procurement Services
1225 Ferry Street SE, U140
Salem, OR 97301-4285
Attention: Dion Kerlee

Contractor shall submit the first VSR to the DAS PS Contract Administrator for review and approval. The approved first VSR and subsequent VSRs must be submitted to vcaf.reporting@state.or.us with a copy to the DAS PS Contract Administrator.

Vendor Collected Administrative Fee

- a) **Contractors that engage subcontractors** to provide services to Authorized Purchasers shall remit to DAS PS a Vendor Collected Administrative Fee (“VCAF”) based on invoices received from DAS PS. DAS PS generates invoices from the data provided by a Contractor in the Contractor’s quarterly Volume Sales Report.
- b) Contractor shall not reflect the VCAF as a separate quote, Purchase Order line item, or Invoice line item charge to Authorized Purchasers.
- c) Contractor shall keep records showing the sales of Services under this Price Agreement in sufficient detail to enable DAS PS to determine the VCAF payable by Contractor and Contractor further agrees to permit its books and records to be examined from time to time to the extent necessary to verify the Volume Sales Reports. Such examination is to be made at the expense of DAS PS by any auditor appointed by DAS PS who is reasonably acceptable to Contractor, or, at the option and expense of Contractor, by a certified public accountant appointed by Contractor.
- d) In the event that such examination reveals underpayment of the VCAF, Contractor shall immediately pay to DAS PS the amount of deficiency, together with interest thereon at the rate of 18% per annum. If the

examination reveals an underpayment of 5% or more, Contractor shall reimburse DAS PS for the cost of the audit.

- e) The VCAF is a charge equal to Two Percent (2.00 %) of Contractor's gross total sales, less any credits, made to Authorized Purchasers during the calendar quarter. For purposes of this Agreement, "credits" includes refunds.
- f) Contractor late payments of the VCAF accrue interest at a rate of 18% per annum or the maximum rate permitted by law, whichever is less, until such overdue amount shall have been paid in full. DAS PS' right to interest on late payments shall not preclude DAS PS from exercising any of its other rights or remedies pursuant to this Price Agreement or otherwise with regard to Contractor's failure to make timely remittances.
- g) Contractor shall make VCAF payments by Automated Clearing House (ACH) transactions. ACH Credit transactions will be initiated by Contractor to initiate transfer of funds from a bank account of Contractor's choosing to the bank for DAS PS after Contractor receives from DAS PS a completed authorization agreement for ACH Credits. Contractor must process these payment transactions upon receipt of invoice from DAS PS. Contractor shall comply with DAS PS' reasonable instructions to facilitate this method of payment.
- h) In the event ACH is not available as a means of invoice payment, Contractor may remit payments of the VCAF in the form of a check. The check MUST reference the DAS PS invoice number. Payments must be mailed to:

DAS-SFS-Cashier
155 Cottage ST NE
Salem, OR 97301

Exhibit 10 – Insurance Requirements

INSURANCE REQUIREMENTS:

Contractor shall obtain at Contractor's expense the insurance specified in this Exhibit 10 prior to performing under this Price Agreement and shall maintain it in full force and at its own expense throughout the duration of this Price Agreement, as required by any extended reporting period or tail coverage requirements, and all warranty periods that apply. Contractor shall obtain the following insurance from insurance companies or entities that are authorized to transact the business of insurance and issue coverage in the State of Oregon and that are acceptable to DAS. Coverage shall be primary and non-contributory with any other insurance and self-insurance, with the exception of Professional Liability and Workers' Compensation. Contractor shall pay for all deductibles, self-insured retention and self-insurance, if any.

WORKERS' COMPENSATION & EMPLOYERS' LIABILITY

All employers, including Contractor, that employ subject workers, as defined in ORS 656.027, shall comply with ORS 656.017 and provide workers' compensation insurance coverage for those workers, unless they meet the requirement for an exemption under ORS 656.126(2). Contractor shall require and ensure that each of its subcontractors complies with these requirements. If Contractor is a subject employer, as defined in ORS 656.023, Contractor shall also obtain employers' liability insurance coverage with limits not less than \$500,000 each accident. If Contractor is an employer subject to any other state's workers' compensation law, Contractor shall provide workers' compensation insurance coverage for its employees as required by applicable workers' compensation laws including employers' liability insurance coverage with limits not less than \$500,000 and shall require and ensure that each of its out-of-state subcontractors complies with these requirements.

COMMERCIAL GENERAL LIABILITY:

☒ **Required** ☐ **Not required**

Commercial General Liability Insurance covering bodily injury and property damage in a form and with coverage that are satisfactory to DAS. This insurance shall include personal and advertising injury liability, products and completed operations, contractual liability coverage for the indemnity provided under this Price Agreement, and have no limitation of coverage to designated premises, project or operation. Coverage shall be written on an occurrence basis in an amount of not less than \$1,000,000 per occurrence. Annual aggregate limit shall not be less than \$2,000,000.

AUTOMOBILE LIABILITY INSURANCE:

☒ **Required** ☐ **Not required**

Automobile Liability Insurance covering Contractor's business use including coverage for all owned, non-owned, or hired vehicles with a combined single limit of not less than \$1,000,000 for bodily injury and property damage. This coverage may be written in combination with the Commercial General Liability Insurance (with separate limits for Commercial General Liability and Automobile Liability). Use of personal automobile liability insurance coverage may be acceptable if evidence that the policy includes a business use endorsement is provided.

PROFESSIONAL LIABILITY:

☒ Required ☐ Not required

Professional Liability insurance covering any damages caused by an error, omission or any negligent acts related to the services to be provided under this Price Agreement by the Contractor and Contractor's subcontractors, agents, officers or employees in an amount not less than \$1,000,000 per claim. Annual aggregate limit shall not be less than \$2,000,000. If coverage is on a claims made basis, then either an extended reporting period of not less than 24 months shall be included in the Professional Liability insurance coverage, or the Contractor shall provide Tail Coverage as stated below.

NETWORK SECURITY AND PRIVACY LIABILITY:

☐ Required ☒ Not required

Contractor shall provide network security and privacy liability insurance for the duration of the contract and for the period of time in which Contractor (or its Business Associates or subcontractor(s)) maintains, possesses, stores or has access to agency or client data, whichever is longer, with a combined single limit of no less than \$_____ per claim or incident. This insurance shall include coverage for third party claims and for losses, thefts, unauthorized disclosures, access or use of agency or client data (which may include, but is not limited to, Personally Identifiable Information ("PII"), Payment Card Data and Protected Health Information ("PHI")) in any format, including coverage for accidental loss, theft, unauthorized disclosure access or use of agency data.

POLLUTION LIABILITY:

☐ Required ☒ Not required

Pollution Liability Insurance covering Contractor's or appropriate subcontractor's liability for bodily injury, property damage and environmental damage resulting from sudden accidental and gradual pollution and related cleanup costs incurred by Contractor, all arising out of the Goods delivered or Services (including transportation risk) performed under this Price Agreement is required. Combined single limit per occurrence shall not be less than \$_____. Annual aggregate limit shall not be less than \$_____.

An endorsement to the Commercial General Liability or Automobile Liability policy, covering Contractor's or subcontractor' liability for bodily injury, property damage and environmental damage resulting from sudden accidental and gradual pollution and related clean-up cost incurred by the Contractor that arise from the Goods delivered or Services (including transportation risk) performed by Contractor under this Price Agreement is also acceptable.

EXCESS/UMBRELLA INSURANCE:

A combination of primary and excess/umbrella insurance may be used to meet the required limits of insurance.

ADDITIONAL INSURED:

All liability insurance, except for Workers' Compensation, Professional Liability, and Network Security and Privacy Liability (if applicable), required under this Price Agreement must include an additional insured endorsement specifying the State of Oregon, its officers, employees and agents , and all Authorized Purchasers that order Services under this Price Agreement, and their officers, employees and agents, as Additional Insureds, including additional insured status with respect to liability arising

out of ongoing operations and completed operations, but only with respect to Contractor's activities to be performed under this Price Agreement. Coverage shall be primary and non-contributory with any other insurance and self-insurance. The Additional Insured endorsement with respect to liability arising out of your ongoing operations must be on ISO Form CG 20 10 07 04 or equivalent and the Additional Insured endorsement with respect to completed operations must be on ISO form CG 20 37 04 13 or equivalent.

WAIVER OF SUBROGATION:

Contractor shall waive rights of subrogation which Contractor or any insurer of Contractor may acquire against DAS or the State of Oregon by virtue of the payment of any loss. Contractor will obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not DAS has received a waiver of subrogation endorsement from the Contractor or the Contractor's insurer(s).

TAIL COVERAGE:

If any of the required insurance is on a claims made basis and does not include an extended reporting period of at least 24 months, Contractor shall maintain either tail coverage or continuous claims made liability coverage, provided the effective date of the continuous claims made coverage is on or before the effective date of this Price Agreement, for a minimum of 24 months following the later of (i) Contractor's completion and DAS' acceptance of all Services required under this Price Agreement, or, (ii) DAS or Contractor termination of this Price Agreement, or, iii) the expiration of all warranty periods provided under this Price Agreement.

CERTIFICATE(S) AND PROOF OF INSURANCE:

Contractor shall provide to DAS Certificate(s) of Insurance for all required insurance before delivering any Goods and performing any Services required under this Price Agreement. The Certificate(s) shall list the State of Oregon, its officers, employees and agents as a Certificate holder and as an endorsed Additional Insured. The Certificate(s) shall also include all required endorsements or copies of the applicable policy language effecting coverage required by this Price Agreement. If excess/umbrella insurance is used to meet the minimum insurance requirement, the Certificate of Insurance must include a list of all policies that fall under the excess/umbrella insurance. As proof of insurance, DAS has the right to request copies of insurance policies and endorsements relating to the insurance requirements in this Contract.

NOTICE OF CHANGE OR CANCELLATION:

Contractor or its insurer must provide at least 30 days' written notice to DAS before cancellation of, material change to, potential exhaustion of aggregate limits of, or non-renewal of the required insurance coverage(s).

INSURANCE REQUIREMENT REVIEW:

Contractor agrees to periodic review of insurance requirements by DAS under this agreement and to provide updated requirements as mutually agreed upon by Contractor and DAS.

STATE ACCEPTANCE:

All insurance providers are subject to DAS acceptance. If requested by DAS, Contractor shall provide complete copies of insurance policies, endorsements, self-insurance documents, and related insurance documents to DAS' representatives responsible for verification of the insurance coverages required under this Exhibit 10.

Additional Coverages That May Apply:

DIRECTORS, OFFICERS AND ORGANIZATION LIABILITY:

☐ Required ☒ Not required

Directors, Officers and Organization insurance covering the Contractor's Organization, Directors, Officers, and Trustees actual or alleged errors, omissions, negligent, or wrongful acts, including improper governance, employment practices and financial oversight - including improper oversight and/or use of use of grant funds and donor contributions which includes state or federal funds - with a combined single limit of no less than \$_____ per claim.

CRIME PROTECTION COVERAGE: EMPLOYEE DISHONESTY or FIDELITY BOND

☐ Required ☒ Not required

Third party Employee Dishonesty or Fidelity Bond coverages for loss of state-owned property by dishonest acts of an employee of the Contractor. Coverage limits shall not be less than \$ _____.

PHYSICAL ABUSE AND MOLESTATION INSURANCE COVERAGE:

☐ Required ☒ Not required

Abuse and Molestation Insurance in a form and with coverage that are satisfactory to DAS covering damages arising out of actual or threatened physical abuse, mental injury, sexual molestation, negligent: hiring, employment, supervision, investigation, reporting to proper authorities, and retention of any person for whom the Contractor is responsible including but not limited to Contractor and Contractor's employees and volunteers. Policy endorsement's definition of an insured shall include the Contractor, and the Contractor's employees and volunteers. Coverage shall be written on an occurrence basis in an amount of not less than \$_____ per occurrence. Any annual aggregate limit shall not be less than \$_____. Coverage can be provided by a separate policy or as an endorsement to the commercial general liability or professional liability policies. The limits shall be exclusive to this required coverage. Incidents related to or arising out of physical abuse, mental injury, or sexual molestation, whether committed by one or more individuals, and irrespective of the number of incidents or injuries or the time period or area over which the incidents or injuries occur, shall be treated as a separate occurrence for each victim. Coverage shall include the cost of defense and the cost of defense shall be provided outside the coverage limit.

(DRONE) / UNMANNED AIRCRAFT SYSTEMS / UNMANEED AERIAL VEHICLE LIABILITY:

☐ Required ☒ Not required

Drone Liability Insurance covering bodily injury, property damage, and personal and advertising injury caused by owned and non-owned drones including the drone's payload and/or dispensable loads in a form and with coverage that are satisfactory to DAS. This insurance shall include premises liability, products and completed operations, contractual liability coverage for the indemnity provided under this contract, and have no limitation of coverage to designated premises, project, operation or territory of operation. Coverage shall be written on an occurrence basis in a combined single limit amount of not less than \$_____ per occurrence.

AIRCRAFT LIABILITY

☐ Required ☒ Not required

Aircraft Liability Insurance with a combined single limit for bodily injury and property damage liability including passengers (if carrying passengers other than crew members) of not less than \$_____ per occurrence/aggregate.

AIR CARGO LIABILITY INSURANCE

☐ Required ☒ Not required

Air cargo insurance covering loss of cargo in transit during the performance of this Price Agreement. Combined single limit per occurrence shall not be less than \$_____ per occurrence.

AIRCRAFT AERIAL APPLICATION LIABILITY

☐ Required ☒ Not required

Aircraft Aerial Application Liability Insurance covering claims arising from spraying operations. Coverage shall not be less than \$_____ combined single limit (alternate language if combined single limit cannot be provided: \$_____ per person and \$_____ per occurrence for bodily injury and \$_____ for property damage). This insurance requirement can also be met with an endorsement to the Aircraft Liability coverage.

MOTOR CARRIER CARGO LIABILITY

☐ Required ☒ Not required

Motor Truck Cargo Liability Insurance covering loss to cargo in transit during the performance of this Price Agreement. This coverage may be written in combination with the Commercial General Liability Insurance (with separate limits). Combined single limit per occurrence shall not be less than \$_____.

GARAGE LIABILITY

☐ Required ☒ Not required

Garage Liability Coverage for Garage Operations. Coverage shall include Garage Keepers legal liability for autos left for service or repair and shall not be less than \$_____ combined single limit.

GARAGE KEEPERS LEGAL LIABILITY

☐ Required ☒ Not required

Garage Keepers' Legal Liability Coverage for autos left for service, repair, storage or safekeeping, with a combined single limit of not less than \$_____ per location.

BAILEE'S COVERAGE

☐ Required ☒ Not required

Bailee's Customers Property Insurance covering any and all State property left in the care, custody, or control of the Contractor. Coverage shall include valuable papers, including but not limited to microfilm. Coverage shall be written on an occurrence basis. Combined single limit per occurrence shall not be less than \$_____ for each site or location.

MARINE PROTECTION LIABILITY

☐ Required ☒ Not required

Marine Protection and Indemnity Coverage. Combined single limit per occurrence shall not be less than \$_____.

	DO NOT EDIT TO CELLS HIGHLIGHTED IN THIS COLOR. THESE CELLS CONTAIN FOMULAS.
	ENTER DATA INTO CELLS IN THE TABLE THAT DO DO NOT CONTAIN COLORS.

Translation Services Volume Sales Report With VCAF
v2.0.0000 4/8/2019 Volume Sales Report required by State of Oregon

Volume Sales Report Summary Header	
Price Agreement Number	DASPS-3270-19
Company Name	Gaucha Translations LLC
Reporting Period	Oct-19
Total Extended Sales	\$0.00
Total VCAF for period	\$0.00
VCAF Percentage	2.00%
Form of Payment	ACH or ?
Original or Correction	Original
Contractor Contact	Helen Eby
Contractor Contact E-mail	helen@gauchatranslations.com
Contractor Contact Phone	503-929-8476
Comments	Please send this report to VCAF.Reporting@Oregon.gov

[illegible]

Total Sales Volume	\$0.00
Total VCAF Collected	\$0.00