



**CONTRACT**

**No. 2025-LUMIN**

**FOR**

**HEALTH MESSAGING ANALYZATION**

By and Between

**WASHINGTON STATE FRUIT COMMISSION**

and

**LUMINARY INSIGHTS, LLC**

Dated: June 5, 2025

**CONTRACT**  
**No. 2025-LUMIN**  
**WASHINGTON STATE FRUIT COMMISSION**  
**AND**  
**LUMINARY INSIGHTS, LLC**

This Contract ("Contract") is made and entered into by and between the State of Washington acting by and through the Washington State Fruit Commission ("WSFC"), a Washington State governmental agency and Luminary Insights, LLC ("Contractor") and is dated and effective as of June 5, 2025.

**RECITALS**

- A. The provisions of Chapter 39.26 RCW require the agency to file this sole source contract with the Department of Enterprise Services (DES) for approval. The effective date of this contract is upon DES approval of the contract, the fifteenth (15th) working day after it is filed with DES, or as agreed between the parties, whichever is later.
- B. The Washington State Fruit Commission has determined that entering into this Contract will meet the identified needs and be in the best interest of the State of Washington.

**AGREEMENT**

**Now THEREFORE**, in consideration of the mutual promises, covenants, and conditions set forth herein, the parties hereto hereby agree as follows:

1. **TERM.** The term of this Contract is for ONE (1) year, commencing June 5, 2025, ending June 4, 2026; AGENCY may opt to extend the contract for an additional Five (5) times in ONE (1) year increments if required. AGENCY determines that each optional additional ONE YEAR EXTENSION would result in equal (and/or slightly higher) consideration being added to the total contract value.
2. **SCOPE – INCLUDED SERVICES AND PRICE.**
  - 2.1. **CONTRACT SCOPE.** Pursuant to this Contract, Contractor is authorized to provide only those services set forth in the attached *Exhibits*:
    - A. **EXHIBIT A – CONTRACTOR'S "PROPOSAL"** ATTACHED HERETO AND INCORPORATED HEREIN BY REFERENCE, CONTAINS THE SPECIFICS SET OUT FOR THE PERIOD AND NOT TO EXCEED THE AMOUNT OF \$139,980 PLUS APPLICABLE TAXES.
  - 2.2. **STATE'S ABILITY TO MODIFY SCOPE OF CONTRACT.** Subject to mutual agreement between the parties, WSFC reserves the right to modify the services included in this Contract; *Provided*, however, that any such modification must be within the scope of the Competitive Solicitation and this Contract.
  - 2.3. **COMPENSATION.** Contractor guarantees to provide the Services as indicated in the attached *Exhibits* and under section 2.1 Contract Scope, at no greater than \$139,980 plus applicable taxes.

3. **CONTRACTOR REPRESENTATION & WARRANTIES.** Contractor makes each of the following representations and warranties as of the effective date of this Contract and at the time of performance pursuant to this Contract. If, at the time of performance, Contractor cannot make such representations and warranties, Contractor shall not perform and shall, within three (3) business days notify WSFC, in writing, of such breach.

3.1. **QUALIFIED TO DO BUSINESS.** Contractor represents and warrants that it is in good standing and qualified to do business in the State of Washington, that it is registered with the Washington State Department of Revenue and the Washington Secretary of State, that it possesses and shall keep current all required licenses, permits, and/or approvals, and that it is current, in full compliance, and has paid all applicable taxes owed to the State of Washington.

3.2. **LICENSES, CERTIFICATIONS, AUTHORIZATIONS, APPROVALS.** Contractor represents and warrants that Contractor possesses and shall keep current during the term of this contract all required licenses, certifications, permits, authorizations, and approvals necessary for Contractor's proper performance of this contract.

3.3. **SUSPENSION & DEBARMENT.** Contractor represents and warrants that neither it nor its principals or affiliates presently are debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in any governmental Contract by any governmental department or agency within the United States.

3.4. **PERFORMANCE OF SERVICES.** Contractor represents and warrants that in performing this Contract, Contractor shall

- (a) Perform its obligations in a timely, professional, and workmanlike manner consistent with standards in the profession;
- (b) Meet or exceed the performance and operational standards and specifications in this Contract;
- (c) Provide all contractual requirements in good quality with no material defects;
- (d) Not interfere with the State's operations;
- (e) Obtain and maintain all necessary licenses, certifications, permits, or other authorizations necessary for the performance of the Contract;
- (f) Possess all necessary software, equipment, personnel, or supplies necessary for the performance of the Contract;
- (g) Cooperate with WSFC to achieve the objectives of the Contract;
- (h) Return to WSFC any agency-furnished equipment or other resources in the same condition as when provided when no longer required for the Contract;
- (i) Comply with all Washington State physical and IT security policies and standards which will be made available upon request; and
- (j) Provide WSFC priority in performance of this Contract except as mandated by federal disaster response requirements.

Notwithstanding any provision to the contrary, any breach under this paragraph is considered a material breach.

3.5. **WAGE VIOLATIONS.** Contractor represents and warrants that neither it nor its principals or affiliates presently are determined, by a final order of the Washington Department of Labor and Industries or a Court, to be in willful violation of state wage laws.

- 3.6. CIVIL RIGHTS. In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Persons with disabilities who require alternative means of communication for program information (e.g., Braille, large print, audiotape, American Sign Language, etc.) should contact the State or local Agency that administers the program or contact USDA through the Telecommunications Relay Service at 711 (voice and TTY). Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD-3027, found online at [How to File a Program Discrimination Complaint](#) and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by: (1) mail: U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue, SW, Mail Stop 9410, Washington, D.C. 20250-9410; (2) fax: (202) 690-7442; or (3) email: [program.intake@usda.gov](mailto:program.intake@usda.gov).

- 3.7. EXECUTIVE ORDER 18-03 – WORKERS’ RIGHTS [IF APPLICABLE]. Contractor represents and warrants that Contractor does NOT require its employees, as a condition of employment, to sign or agree to mandatory individual arbitration clauses or class or collective action waivers. Contractor further represents and warrants that, during the term of this Contract, Contractor shall not, as a condition of employment, require its employees to sign or agree to mandatory individual arbitration clauses or class or collective action waivers.
- 3.8. WASHINGTON SMALL BUSINESS [IF APPLICABLE]. Contractor represents and warrants, as previously certified in Contractor’s Bidder Certification, that Contractor qualifies as a Washington Small Business pursuant to RCW 39.26.010.
- 3.9. CERTIFIED VETERAN-OWNED BUSINESS [IF APPLICABLE]. Contractor represents and warrants, as previously certified in Contractor’s Bidder Certification, that Contractor qualifies as a Certified Veteran-Owned Business pursuant to RCW 43.60A.190.
- 3.10. PROCUREMENT ETHICS & PROHIBITION ON GIFTS. Contractor represents and warrants that it complies fully with all applicable procurement ethics restrictions including, but not limited to, restrictions against Contractor providing gifts or anything of economic value, directly or indirectly, to State employees.
- 3.11. ADVERTISING AND ENDORSEMENT. Contractor understands and acknowledges that neither WSFC nor the State of Washington are endorsing Contractor’s services or suggesting that such services are the best or only solution to their needs. Accordingly, Contractor represents and warrants that it shall make no reference to WSFC or the State of Washington in any promotional material without the prior written consent of WSFC.

- 3.12. FINANCIALLY SOLVENT. Contractor represents and warrants that Contractor has not commenced bankruptcy proceedings and that there are no judgements, liens, or encumbrances of any kind affecting title to any Goods and/or Services that are the subject of this Contract.
- 3.13. OPERATIONAL CAPABILITY. Contractor represents and warrants, as previously certified in Contractor's Bidder's Certification, that Contractor has the operational and financial capability to perform the Contract.
- 3.14. CONTRACT TRANSITION. Contractor represents and warrants that, in the event this Contract is transitioned to another contractor (e.g., Contract expiration or termination), Contractor shall use commercially reasonable efforts to assist WSFC for a period of sixty (60) days to effectuate a smooth transition to another contractor to minimize disruption of service and/or costs to the State of Washington.

#### 4. PERFORMANCE OF SERVICES.

- 4.1 PERFORMANCE REQUIREMENTS. Contractor must ensure that its services are performed as required by this Contract, including, without limitation, the requirements set forth in the attached *Exhibits* and under section 2.1 Contract Scope.
  - ☐ If there is a reduction in the Northwest Cherry crop in the 2025 season, **ALL** data projects will be moved to the 2026 season.
- 4.2 TECHNOLOGY EQUIPMENT AND ACCESS. Contractor is responsible for providing all equipment and access required to perform services as defined in this contract, including but not limited to video conferencing ability using webinar platforms such as Microsoft Teams and Zoom.
- 4.3 ON SITE REQUIREMENTS. While on WSFC premises, Contractor, its agents, employees, or subcontractors shall comply, in all respects, with WSFC's physical, fire, access, safety, and security requirements.
- 4.4 CONTRACTOR SAFETY PLAN. If requested by WSFC, Contractor shall provide WSFC with a copy of Contractor's current health/safety plan. WSFC reserves the right to condition access to its premises upon receipt of Contractor's health/safety plan.
- 4.5 OWNERSHIP OF DELIVERABLES. Notwithstanding any provision to the contrary, the parties understand and agree that WSFC shall own all rights to any plans, reports, or other deliverables provided to WSFC pursuant to this Contract. The copyright in all works of authorship created pursuant to this Contract shall be owned by the State of Washington. All such works or portions of works created by the Contractor are hereby agreed to be "works made for hire" within the meaning of 17 U.S.C. § 201. If, however, the State of Washington is not able to obtain copyright ownership under the statutory provisions for "works made for hire," then Contractor hereby assigns to State of Washington all right, title, and interest in: (a) the copyright to Contractor's work of authorship ("Work") and contribution to any such Work ("Contribution"); (b) any registrations and copyright applications, along with any renewals and extensions thereof, relating to the Contribution or the Work; (c) all works based upon, derived from, or incorporating the Contribution or the Work; (d) all income, royalties, damages, claims and payments now or hereafter due or payable with respect to the Contribution or the Work; (e) all causes of action, either in law or in equity, for past, present, or future infringement of copyright related to the Contribution or the Work, and all rights corresponding to any of the foregoing, throughout the world. In addition, to the extent any applicable law or treaty prohibits the transfer or assignment of any moral rights

or rights of restraint the Contractor has in the Contribution or the Work, the Contractor waives those rights as to State of Washington, its successors, licensees, and assigns.

- 4.6 **CONTRACTOR KEY STAFF CHANGES.** Except in the case of a leave of absence, sickness, death, termination of employment or unpaid or paid leave of absence, agreed upon Key Staff must not be changed during the term of this contract. Otherwise, any change in Key Staff must be agreed in writing between the parties. During the term of the Contract, WSFC reserves the right to approve or disapprove of Contractor and Subcontractor Key Staff assigned to perform services as required by this contract, or to require the removal or reassignment of any Contractor or Subcontractor Key Staff found unacceptable by WSFC, subject to WSFC's compliance with applicable laws and regulations. Contractor must provide WSFC with a resume of any member of its Key Staff or a Subcontractor's Key Staff assigned to or proposed for any aspect of performance under this Contract prior to commencing any Services.

In the event that proposed Contractor resources are unavailable to deliver the work, Contractor must staff the project with resources with equal or greater skills and capabilities, subject to approval from WSFC.

WSFC must be notified of any change in Contractor Key Staff as soon as practicable but in no event less than five (5) working days after removal of such staff from their duties in support of this Contract. Contractor must provide resumes and describe the roles and responsibilities of any replacement staff to WSFC as soon as practicable but in no event less than five (5) working days prior to the date that such staff begin work under this Contract. WSFC reserves the right, in its sole judgement, to approve or reject such replacement staff. WSFC's approval of such staff will not be unreasonably withheld.

## 5. INVOICING & PAYMENT.

- 4.1 **CONTRACTOR INVOICE.** Contractor shall submit to WSFC's designated invoicing contact.

Such invoices shall itemize the following:

- a) Contract No. 2025-LUMIN;
- b) Contractor name, address, telephone number, and email address for billing issues (i.e., Contractor Customer Service Representative);
- c) Contractor's Federal Tax Identification Number;
- d) Description of Services and Deliverables provided;
- e) Net invoice Price for each Service or Deliverables;
- f) Applicable taxes;
- g) Total invoice amount; and
- h) Payment terms, including any available prompt payment discounts.

Contractor's invoices for payment shall reflect accurate Contract prices. Invoices will not be processed for payment until receipt of a complete invoice as specified herein. WSFC shall have no obligation to pay Contractor for any services that do not comply with this Contract.

- 4.2 **PAYMENT.** Payment is the sole responsibility of, and will be made by, WSFC. Payment is due within thirty (30) days of invoice.

- 4.3 **OVERPAYMENTS.** Contractor promptly shall refund to WSFC the full amount of any erroneous payment or overpayment. Such refunds shall occur within thirty (30) days of written notice

to Contractor; *Provided*, however, that WSFC shall have the right to elect to have either direct payments or written credit memos issued.

- 4.4 **NO ADVANCE PAYMENT.** No advance payments shall be made for any products or services furnished by Contractor pursuant to this Contract.
- 4.5 **NO ADDITIONAL CHARGES.** Unless otherwise specified herein, Contractor shall not include or impose any additional charges including, but not limited to, charges for shipping, handling, or payment processing.
- 4.6 **TAXES/FEES.** Contractor promptly shall pay all applicable taxes on its operations and activities pertaining to this Contract. Failure to do so shall constitute breach of this Contract. Unless otherwise agreed, WSFC shall pay applicable sales tax imposed by the State of Washington on purchased services. Contractor, however, shall not make any charge for federal excise taxes and WSFC agrees to furnish Contractor with an exemption certificate where appropriate.

## 6. CONTRACT MANAGEMENT.

- 5.1 **CONTRACT ADMINISTRATION & NOTICES.** Except for legal notices, the parties hereby designate the following contract administrators as the respective single points of contact for purposes of contract administration for this Contract. WSFC's contract administrator shall provide contract administrative oversight. Contractor's contract administrator shall be Contractor's principal contact for invoice/billing activities under this Contract. The parties may change contract administrators by written notice as set forth below.

Any notices required or desired shall be in writing and sent by U.S. mail, postage prepaid, or sent via email, and shall be sent to the respective addressee at the respective address or email address set forth below or to such other address or email address as the parties may specify in writing:

**WSFC**

Attn: Tammy Marquis  
WSFC  
105 S. 18th St., STE #205  
Yakima, WA. 98901  
Tel : (509) 453-4837  
Email : tammy@wastatefruit.com

**Contractor**

Attn: Adam Brohimer  
Luminary Insights, LLC  
830 7<sup>th</sup> St., Idaho Falls, ID 83401  
Tel : (402) 578-4494  
Email: adam@LuminaryInsights.ai

Notices shall be deemed effective upon the earlier of receipt, if mailed, or, if emailed, upon transmission to the designated email address of said addressee.

- 5.2 **CONTRACTOR CUSTOMER SERVICE REPRESENTATIVE.** Contractor shall designate a customer service representative (and inform WSFC of the same) who shall be responsible for addressing WSFC's issues pertaining to this Contract.
- 5.3 **LEGAL NOTICES.** Any legal notices required or desired shall be in writing and delivered by U.S. certified mail, return receipt requested, postage prepaid, or sent via email, and shall be sent to the respective addressee at the respective address or email address set forth below or to such other address or email address as the parties may specify in writing:

**WSFC**

**Contractor**

Attn: Tammy Marquis  
WSFC  
105 S. 18th St., STE #205  
Yakima, WA. 98901  
Email: legal@wastatefruit.com

Attn: Adam Brohimer  
Luminary Insights, LLC  
830 7<sup>th</sup> Street  
Idaho Falls, ID 83401  
Email: adam@LuminaryInsights.ai

Notices shall be deemed effective upon the earlier of receipt when delivered, or, if mailed, upon return receipt, or, if emailed, upon transmission to the designated email address of said addressee.

## **7. RECORDS RETENTION & AUDITS.**

- 7.1 RECORDS RETENTION. Contractor shall maintain books, records, documents, and other evidence pertaining to this Contract to the extent and in such detail as shall adequately reflect performance and administration of payments and fees. Contractor shall retain such records for a period of six (6) years following expiration or termination of this Contract or final payment, whichever is later; *Provided*, however, that if any litigation, claim, or audit is commenced prior to the expiration of this period, such period shall extend until all such litigation, claims, or audits have been resolved.
- 7.2 AUDIT. WSFC reserves the right to audit or have a designated third-party audit, applicable records to ensure that Contractor has properly invoiced WSFC. Accordingly, Contractor shall permit WSFC and any other duly authorized agent of a governmental agency, to audit, inspect, examine, copy and/or transcribe Contractor's books, documents, papers and records directly pertinent to this Contract for the purpose of making audits, examinations, excerpts, and transcriptions. This right shall survive for a period of six (6) years following expiration or termination of this Contract or final payment, whichever is later; *Provided*, however, that if any litigation, claim, or audit is commenced prior to the expiration of this period, such period shall extend until all such litigation, claims, or audits have been resolved.

## **8. INSURANCE.**

- 7.1 REQUIRED INSURANCE. During the Term of this Contract, Contractor, at its expense, shall maintain in full force and effect the insurance coverages set forth in *Exhibit D– Insurance Requirements*.
- 7.2 WORKERS COMPENSATION. (If applicable) Contractor shall comply with applicable workers compensation statutes and regulations (e.g., RCW Title 51, Industrial Insurance). If Contractor fails to provide industrial insurance coverage or fails to pay premiums or penalties on behalf of its employees as may be required by law, WSFC may terminate this Contract. This provision does not waive any of the Washington State Department of Labor and Industries (L&I) rights to collect from Contractor. In addition, Contractor waives its immunity under RCW Title 51 to the extent it is required to indemnify, defend, and hold harmless the State of Washington and its agencies, officials, agents, or employees.

## **9. CLAIMS.**

- 8.1 ASSUMPTION OF RISKS; CLAIMS BETWEEN THE PARTIES. Contractor assumes sole responsibility and all risks of personal injury or property damage to itself and its employees and agents in connection with Contractor's operations under this Contract. WSFC has made no representations regarding any factor affecting Contractor's risks. Contractor shall pay for all

damage to any WSFC's property resulting directly or indirectly from its acts or omissions under this Contract, even if not attributable to negligence by Contractor or its agents.

- 8.2 **THIRD-PARTY CLAIMS; INDEMNITY.** To the fullest extent permitted by law, Contractor shall defend, indemnify, and hold harmless WSFC and its employees and agents from and against all claims, demands, judgments, assessments, damages, penalties, fines, costs, liabilities or losses including, without limitation, sums paid in settlement of claims, attorneys' fees, consultant fees, and expert fees (collectively "claims") arising from any act or omission of Contractor or its successors, agents, and subcontractors under this Contract, except claims caused solely by WSFC's negligence. Contractor shall take all steps needed to keep WSFC's property free of liens arising from Contractor's activities, and promptly obtain or bond the release of any such liens that may be filed.

## **10. DISPUTE RESOLUTION.**

- 10.1. The parties shall cooperate to resolve any dispute pertaining to this Contract efficiently, as timely as practicable, and at the lowest possible level with authority to resolve such dispute. If, however, a dispute persists and cannot be resolved, it may be escalated within each organization. In such a situation, upon notice by either party, each party, within five (5) business days shall reduce its description of the dispute to writing and deliver it to the other party. The receiving party then shall have three (3) business days to review and respond in writing. In the event that the parties cannot then agree on a resolution of the dispute, the parties shall schedule a conference between the respective senior manager of each organization to attempt to resolve the dispute. In the event the parties cannot agree, either party may resort to court to resolve the dispute.

## **11. SUSPENSION & TERMINATION; REMEDIES.**

- 10.1 **SUSPENSION & TERMINATION FOR DEFAULT.** WSFC may suspend Contractor's operations under this Contract immediately by written cure notice of any default. Suspension shall continue until the default is remedied to WSFC's reasonable satisfaction; *Provided*, however, that, if after twenty (20) days from such a suspension notice, Contractor remains in default, WSFC may terminate Contractor's rights under this Contract. All of Contractor's obligations to WSFC survive termination of Contractor's rights under this Contract, until such obligations have been fulfilled.
- 10.2 **DEFAULT.** Each of the following events shall constitute default of this Contract by Contractor:
- (a) Contractor fails to perform or comply with any of the terms or conditions of this Contract;
  - (b) Contractor breaches any representation or warranty provided herein; or
  - (c) Contractor enters into proceedings relating to bankruptcy, whether voluntary or involuntary.
- 10.3 **REMEDIES FOR DEFAULT.**
- (a) WSFC's rights to suspend and terminate Contractor's rights under this Contract are in addition to all other available remedies.
  - (b) In the event of termination for default, WSFC may exercise any remedy provided by law including, without limitation, the right to procure replacement services. In such event, Contractor shall be liable to WSFC for damages as authorized by law

including, but not limited to, any price difference between the Contract price and the replacement or cover price as well as any administrative and/or transaction costs directly related to such replacement procurement – e.g., the cost of the competitive procurement.

10.4 LIMITATION ON DAMAGES. Notwithstanding any provision to the contrary, the parties agree that in no event shall any party be liable to the other for exemplary or punitive damages.

10.5 GOVERNMENTAL TERMINATION.

(a) Termination for Withdrawal of Authority. WSFC may suspend or terminate this Contract if, during the term hereof, WSFC's procurement authority is withdrawn, reduced, or limited such that WSFC, in its judgment, would lack authority to enter into this Contract; *Provided*, however, that such suspension or termination for withdrawal of authority shall only be effective upon twenty (20) days prior written notice; and *Provided further*, that such suspension or termination for withdrawal of authority shall not relieve WSFC from payment for services already ordered as of the effective date of such notice. Except as stated in this provision, in the event of such suspension or termination for withdrawal of authority, WSFC shall not have any obligation or liability to Contractor.

(b) Termination for Public Convenience. WSFC, for public convenience, may terminate this Contract; *Provided*, however, that such termination for public convenience must, in WSFC's judgment, be in the best interest of the State of Washington; and *Provided further*, that such termination for public convenience shall only be effective upon sixty (60) days prior written notice; and *Provided further*, that such termination for public convenience shall not relieve WSFC from payment for services already ordered as of the effective date of such notice. Except as stated in this provision, in the event of such termination for public convenience, WSFC shall not have any obligation or liability to Contractor.

(c) Loss of Funding. In the event that funding necessary to the agency's performance under this Contract is withdrawn, reduced, or limited in any way after the effective date and prior to its normal completion, due to the agency's budgetary constraints or the elimination of one or more of the agency's programs, the agency may summarily terminate this Contract as to the funds withdrawn, reduced, or limited or the elimination of a program notwithstanding any other termination provisions of this Contract. If the level of funding is withdrawn, reduced or limited or the elimination of a program is so great that the agency deems that the continuation of the performance of obligations is no longer in the best interests of the agency, the agency may summarily terminate this Contract in whole notwithstanding any other termination provision of the Contract. Termination under this section shall be effective upon receipt of written notice thereof.

10.6 TERMINATION PROCEDURE. Regardless of basis, in the event of suspension or termination (in full or in part), the parties shall cooperate to ensure an orderly and efficient suspension or termination.

## 12. GENERAL PROVISIONS.

11.1 TIME IS OF THE ESSENCE. Time is of the essence for each and every provision of this Contract.

11.2 COMPLIANCE WITH LAW. Contractor shall comply with all applicable law.

- 11.3 INTEGRATED AGREEMENT. This Contract constitutes the entire agreement and understanding of the parties with respect to the subject matter and supersedes all prior negotiations, representations, and understandings between them. There are no representations or understandings of any kind not set forth herein.
- 11.4 AMENDMENT OR MODIFICATION. Except as set forth herein, this Contract may not be amended or modified except in writing and signed by a duly authorized representative of each party.
- 11.5 AUTHORITY. Each party to this Contract, and each individual signing on behalf of each party, hereby represents and warrants to the other that it has full power and authority to enter into this Contract and that its execution, delivery, and performance of this Contract has been fully authorized and approved, and that no further approvals or consents are required to bind such party.
- 11.6 NO AGENCY. The parties agree that no agency, partnership, or joint venture of any kind shall be or is intended to be created by or under this Contract. Neither party is an agent of the other party nor authorized to obligate it.
- 11.7 ASSIGNMENTS. Contractor may not assign its rights under this Contract without WSFC's prior written consent and WSFC may consider any attempted assignment without such consent to be void; *Provided*, however, that, if Contractor provides written notice to WSFC within thirty (30) days, Contractor may assign its rights under this Contract in full to any parent, subsidiary, or affiliate of Contractor that controls or is controlled by or under common control with Contractor, is merged or consolidated with Contractor, or purchases a majority or controlling interest in the ownership or assets of Contractor. Unless otherwise agreed, Contractor guarantees prompt performance of all obligations under this Contract notwithstanding any prior assignment of its rights.
- 11.8 BINDING EFFECT; SUCCESSORS & ASSIGNS. This Contract shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.
- 11.9 PUBLIC INFORMATION. This Contract and all related documents are subject to public disclosure as required by Washington's Public Records Act, RCW 42.56.
- 11.10 ASSIGNMENT OF ANTITRUST RIGHTS REGARDING PURCHASED SERVICES. Contractor irrevocably assigns to WSFC, on behalf of the State of Washington, any claim for relief or cause of action which the Contractor now has or which may accrue to the Contractor in the future by reason of any violation of state or federal antitrust laws in connection with any services provided in Washington for the purpose of carrying out the Contractor's obligations under this Contract, including, at WSFC's option, the right to control any such litigation on such claim for relief or cause of action.
- 11.11 FORCE MAJEURE. Except for payment of sums due, neither party shall be liable to the other or deemed in breach under this Contract if, and to the extent that, such party's performance of this Contract is prevented by reason of force majeure. The term "force majeure" means an occurrence that causes a delay that is beyond the control of the party affected and could not have been avoided by exercising reasonable diligence. Force majeure shall include acts of God, war, riots, strikes, fire, floods, epidemics, or other similar occurrences. If either party is delayed by force majeure, said party shall provide written notification within forty-eight (48) hours. The notification shall provide evidence of the force majeure to the satisfaction of the other party. Such delay shall cease as soon as practicable and written notification of same shall likewise be provided. So far as consistent with the rights reserved below, the time of

completion shall be extended by Contract amendment for a period of time equal to the time that the results or effects of such delay prevented the delayed party from performing in accordance with this Contract. Notwithstanding any provision to the contrary, in the event that a Contractor-declared force majeure event lasts for more than thirty (30) days, WSFC shall have the right to terminate the Contract and/or purchase the services set forth in this Contract; *Provided*, however, that in such event, Contractor shall not be liable to WSFC for any price difference for such services.

- 11.12 **FEDERAL FUNDS.** To the extent that WSFC uses federal funds to purchase services pursuant to this Contract, WSFC shall specify any applicable requirement or certification that must be satisfied by Contractor as a condition of payment and Contractor shall adhere to such applicable federal requirements and/or certifications.
- 11.13 **SEVERABILITY.** If any provision of this Contract is held to be invalid or unenforceable, such provision shall not affect or invalidate the remainder of this Contract, and to this end the provisions of this Contract are declared to be severable. If such invalidity becomes known or apparent to the parties, the parties agree to negotiate promptly in good faith in an attempt to amend such provision as nearly as possible to be consistent with the intent of this Contract.
- 11.14 **WAIVER.** Failure of either party to insist upon the strict performance of any of the terms and conditions hereof, or failure to exercise any rights or remedies provided herein or by law, or to notify the other party in the event of breach, shall not release the other party of any of its obligations under this Contract, nor shall any purported oral modification or rescission of this Contract by either party operate as a waiver of any of the terms hereof. No waiver by either party of any breach, default, or violation of any term, warranty, representation, contract, covenant, right, condition, or provision hereof shall constitute waiver of any subsequent breach, default, or violation of the same or other term, warranty, representation, contract, covenant, right, condition, or provision.
- 11.15 **SURVIVAL.** All representations, warranties, covenants, agreements, and indemnities set forth in or otherwise made pursuant to this Contract shall survive and remain in effect following the expiration or termination of this Contract, *Provided*, however, that nothing herein is intended to extend the survival beyond any applicable statute of limitations periods.
- 11.16 **GOVERNING LAW.** The validity, construction, performance, and enforcement of this Contract shall be governed by and construed in accordance with the laws of the State of Washington, without regard to its choice of law rules.
- 11.17 **JURISDICTION & VENUE.** In the event that any action is brought to enforce any provision of this Contract, the parties agree to submit to exclusive jurisdiction in Thurston County Superior Court for the State of Washington and agree that in any such action venue shall lie exclusively at Olympia, Washington.
- 11.18 **ATTORNEYS' FEES.** In the event of litigation or other action brought to enforce the terms of this Contract or alternative dispute process, each party agrees to bear its own attorneys' fees and costs.
- 11.19 **FAIR CONSTRUCTION & INTERPRETATION.** The provisions of this Contract shall be construed as a whole according to their common meaning and not strictly for or against any party and consistent with the provisions contained herein in order to achieve the objectives and purposes of this Contract. Each party hereto and its counsel has reviewed and revised this Contract and

agrees that the normal rules of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be construed in the interpretation of this Contract. Each term and provision of this Contract to be performed by either party shall be construed to be both a covenant and a condition.

- 11.20 FURTHER ASSURANCES. In addition to the actions specifically mentioned in this Contract, the parties shall each do whatever may reasonably be necessary to accomplish the transactions contemplated in this Contract including, without limitation, executing any additional documents reasonably necessary to effectuate the provisions and purposes of this Contract.
- 11.21 EXHIBITS. All exhibits referred to herein are deemed to be incorporated in this Contract in their entirety.
- 11.22 CAPTIONS & HEADINGS. The captions and headings in this Contract are for convenience only and are not intended to, and shall not be construed to, limit, enlarge, or affect the scope or intent of this Contract nor the meaning of any provisions hereof.
- 11.23 ELECTRONIC SIGNATURES. An electronic signature or electronic record of this Contract or any other ancillary agreement shall be deemed to have the same legal effect as delivery of an original executed copy of this Contract or such other ancillary agreement for all purposes.
- 11.24 COUNTERPARTS. This Contract may be executed in any number of counterparts, each of which shall be deemed an original and all of which counterparts together shall constitute the same instrument which may be sufficiently evidenced by one counterpart. Execution of this Contract at different times and places by the parties shall not affect the validity thereof so long as all the parties hereto execute a counterpart of this Contract.
- 11.25 AMERICAN'S WITH DISABILITIES ACT. The Contractor must comply with the ADA, which provides comprehensive civil rights protection to individuals with disabilities in the areas of employment, public accommodations, state and local government services, and telecommunications.
- 11.26 NONDISCRIMINATION.
- a) Nondiscrimination Requirement. During the term of this Contract, Contractor, including any subcontractor, shall not discriminate on the bases enumerated at RCW 49.60.530(3). In addition, Contractor, including any subcontractor, shall give written notice of this nondiscrimination requirement to any labor organizations with which Contractor, or subcontractor, has a collective bargaining or other agreement.
  - b) Obligation to Cooperate. Contractor, including any subcontractor, shall cooperate and comply with any Washington state agency investigation regarding any allegation that Contractor, including any subcontractor, has engaged in discrimination prohibited by this Contract, pursuant to RCW 49.60.530(3).
  - c) Default. Notwithstanding any provision to the contrary, WSFC may suspend Contractor, including any subcontractor, upon notice of a failure to participate and cooperate with any state agency investigation into alleged discrimination prohibited by this Contract, pursuant to RCW

49.60.530(3). Any such suspension will remain in place until WSFC receives notification that Contractor, including any subcontractor, is cooperating with the investigating state agency. In the event Contractor, or subcontractor, is determined to have engaged in discrimination identified at RCW 49.60.530(3), WSFC may terminate this Contract in whole or in part, and Contractor, subcontractor, or both, may be referred for debarment as provided in RCW 39.26.200. Contractor or subcontractor may be given reasonable time in which to cure this noncompliance, including implementing conditions consistent with any court-ordered injunctive relief or settlement agreement.

- d) Remedies for Breach. Notwithstanding any provision to the contrary, in the event of Contract termination or suspension for engaging in discrimination, Contractor, subcontractor, or both, shall be liable for contract damages as authorized by law including, but not limited to, any cost difference between the original contract and the replacement or cover contract and all administrative costs directly related to the replacement contract, which damages are distinct from any penalties imposed under Chapter 49.60, RCW. WSFC shall have the right to deduct from any monies due to Contractor or subcontractor, or that thereafter become due, an amount for damages Contractor or subcontractor will owe WSFC for default under this provision.

## **QUALITY; WARRANTY; REMEDIES.**

- 11.27 **GOODS WARRANTY.** Contractor warrants that, for a period of twelve (12) months from the date when the Goods are put into use, or eighteen (18) months after delivery of the Goods, whichever is later (“Goods Warranty Period”), the Goods: (a) are free from defects in design, material, and workmanship; (b) are fit and safe for the intended purposes and appropriate for the specified application(s) (if any); (c) are consistent with recognized industry quality standards; (d) comply with the requirements, specifications, drawings, standards, and descriptions included in this Contract; and (e) are produced and delivered in full compliance with applicable law (“Goods Warranty”). Contractor further warrants that it has good and marketable title to the Goods and shall keep WSFC property free of liens. If WSFC receives notice of a lien caused by Contractor, WSFC may withhold any payment otherwise due Contractor until Contractor submits proof, in a form satisfactory to WSFC, that all lienable claims have been fully paid or waived.
- 11.28 Contractor’s Goods Warranty support shall include, at Contractor’s sole expense, all technical support, parts, materials and equipment, and labor, including freight and “in/out” costs required to address the defect. If, in [AGENCY’S] judgment, repair or replacement is inadequate, or fails of its essential purpose, Contractor shall refund the full amount of any payments that have been made. The rights and remedies of the parties under this warranty are in addition to any other rights and remedies of the parties provided by law or equity, including, without limitation, actual damages, and, as applicable and awarded under the law, to a prevailing party, reasonable attorneys’ fees and costs.
- 11.29 **SERVICES WARRANTY.** Contractor warrants that: (a) Services will be performed in a timely, efficient, professional, and workmanlike manner; (b) all Contractor personnel assigned to perform Services will have the necessary skill and training; and (c) Services will be performed in a manner consistent with the standard of care in the industry (“Services Warranty”). The Services Warranty will survive for a period of twelve (12) months after the date when Services are completed (“Services Warranty Period”).
- 11.30 **SERVICES REMEDY.** If Services do not comply with the Services Warranty or are in any manner found to be nonconforming during the Services Warranty Period, Contractor promptly shall remedy the non-conformance, or at WSFC election, Contractor shall re-perform or correct the nonconforming Services at no additional cost to WSFC or refund the amounts paid for the Services.

## **12 SUBCONTRACTORS.**

- 12.1 **CONTRACTOR RESPONSIBILITY.** Notwithstanding any provision to the contrary, in the event Contractor elects to utilize subcontractors to perform this Contract, Contractor shall: (a) incorporate Contractor’s responsibilities under this Contract into its subcontracts; (b) be fully responsible for the performance of any such subcontractors (regardless of tier) and ensure that subcontractors comply with each and every Contractor obligation set forth in this Contract; (c) be the sole point of contact for [AGENCY] regarding all contractual matters, but will make key personnel with subcontractor available for questions if necessary; and (d) defend, indemnify,

and hold [AGENCY] harmless in case of negligence, other tortious fault, or intentional misconduct by any such subcontractors (regardless of tier).

- 12.2 REPORTING. If Contractor is required to report to [AGENCY], such report(s) will include subcontractor data, by subcontractor, for any data that Contractor is required to report as well as a consolidated 'rollup' report combining Contractor and subcontractor data.
- 12.3 SUBCONTRACTOR REPRESENTATIONS AND CERTIFICATIONS. Any Contractor representations or certifications set forth in this Contract shall apply to subcontractors (at any tier) and Contractor shall not utilize any subcontractors (at any tier) who cannot provide such representations or certifications, excepting the certification to be registered with Washington's Statewide Payee Desk, unless [AGENCY] will pay such subcontractor directly.

### **13 PRIVACY.**

- 13.1 Personal information including, but not limited to. "Protected Health Information" collected, used, or acquired in connection with this contract shall be protected against unauthorized use, disclosure, modification, or loss. Contractor shall ensure its directors, officers, employees, subcontractors, or agents use personal information solely for the purpose of accomplishing the services set for in this agreement. Contractor and its subcontractors agree not to release, divulge, publish, transfer, sell or otherwise make known to unauthorized persons personal information without the express written consent of the agency or as otherwise required by law. Any breach of this provision may result in termination of the contract and the demand for the return of all personal information. The Contractor agrees to indemnify and hold harmless the department for any damage related to the contractor's unauthorized use of personal information.

### **14 SAFEGUARDING INFORMATION.**

- 14.1 The Contractor shall not use or disclose personal information in any manner that would constitute a violation of federal law, the Health Insurance Portability and Accounting Act of 1996 (HIPAA) or any regulations enacted or revised pursuant to the HIPAA provisions and applicable provisions of Washington State law. The Contractor agrees to comply with all federal and state laws and regulations, as currently enacted or revised, regarding data security and electronic data interchange of all Personal Information.
- 14.2 The Contractor shall protect Personal Information collected, used, or acquired in connection with this Contract, against unauthorized use, disclosure, modification, or loss. The Contractor shall ensure its directors, officers, employees, subcontractors, or agents use it solely for the purpose of accomplishing the services set for in this agreement. The Contractor and its Subcontractors agree not to release, divulge, publish, transfer, sell or otherwise make it known to unauthorized persons without the express written consent of the AGENCY or as otherwise required by law. The Contractor agrees to implement physical, electronic, and managerial policies, procedures, and safeguards to prevent unauthorized access, use, or disclosure of data in any form. The Contractor shall make the Personal Information available to

amend as directed by Agency and incorporate any amendments into all the copies maintained by the Contractor or its Subcontractors.

- 14.3 The Contractor shall certify its return or destruction upon expiration or termination of this Contract and the Contractor shall retain no copies. If the Contractor and Agency mutually determine that return or destruction is not feasible, the Contractor shall not use the Personal Information in a manner other than those permitted or required by state and federal laws.
- 14.4 Agency reserves the right to monitor, audit, or investigate the use of Personal Information collected, used, or acquired by the contractor through this contract. The monitoring, auditing, or investigating may include, but is not limited to, "salting" by Agency. Salting is the act of introducing data containing unique but false information that can be used later to identify inappropriate disclosure of data.
- 14.5 The Contractor shall notify Agency in writing within 5 working days of becoming aware of any unauthorized access, use or disclosure. The contractor will take steps necessary to mitigate any known harmful effects of such unauthorized access including but not limited to sanctioning employees, notifying subjects, and taking steps necessary to stop further unauthorized access.
- 14.6 The Contractor agrees to indemnify and hold harmless Agency for any damages related to unauthorized use or disclosure by the Contractor, its officers, directors, employees, Subcontractors or agents. Any breach of this clause may result in termination of the contract and the demand for the return of all Personal Information.

## **15 DELIVERY & INSTALLATION.**

- 15.1 DELIVERY REQUIREMENTS. Contractor must ensure that the Goods and/or Services are delivered or provided as required by this Contract, including the requirements set forth in *Exhibit A*, or as otherwise mutually agreed in writing between WSFC and Contractor. The following apply to all deliveries:
  - a) Contractor shall make all deliveries to the applicable delivery location specified herein. Such deliveries shall occur during WSFC's normal work hours and within the time period mutually agreed in writing between Contractor and WSFC.
  - b) Contractor shall ship all Goods and/or Services purchased pursuant to this Contract, freight charges prepaid by Contractor, FOB WSFC's specified destination with all transportation and handling charges included. Contractor shall bear all risk of loss, damage, or destruction of the Goods and/or Services ordered hereunder that occurs prior to delivery and installation, except loss or damage attributable solely to WSFC's fault or negligence.
  - c) All packing lists, packages, instruction manuals, correspondence, shipping notices, shipping containers, and other written materials associated with this Contract shall be identified by the Contract number set forth on the cover of this Contract.

15.2 RECEIPT AND INSPECTION OF GOODS AND/OR SERVICES. Goods and/or Services purchased under this Contract are subject to WSFC's reasonable inspection, testing, and approval at WSFC's destination. WSFC reserves the right to reject and refuse acceptance of goods and/or services that are not in accordance with this Contract. If there are any apparent defects in the Goods and/or Services at the time of delivery, WSFC promptly will notify Contractor. At WSFC's option, and without limiting any other rights, WSFC may require Contractor to repair or replace, at Contractor's expense, any or all of the damaged goods and/or services or, at WSFC's option, WSFC may note any damage to the goods and/or services on the receiving report, decline acceptance, and deduct the cost of rejected goods and/or services from final payment.

EXECUTED as of the date and year first above written.

**WASHINGTON STATE FRUIT COMMISSION**

**LUMINARY INSIGHTS, LLC**

By: \_\_\_\_\_

By: \_\_\_\_\_

Its:

Its:

**INSURANCE REQUIREMENTS**

1. **INSURANCE OBLIGATION.** During the Term of this Contract, Contractor shall possess and maintain in full force and effect, at Contractor's sole expense, the following insurance coverages:
  - a. **COMMERCIAL GENERAL LIABILITY INSURANCE.** Commercial general liability insurance (and, if necessary, commercial umbrella liability insurance) covering bodily injury, property damage, products/completed operations, personal injury, and advertising injury liability on an 'occurrence form' that shall be no less comprehensive and no more restrictive than the coverage provided by Insurance Services Office (ISO) under the most recent version of form CG 00 01 in the amount of not less than \$1,000,000 per occurrence and \$2,000,000 general aggregate. This coverage shall include blanket contractual liability coverage. This coverage shall include a cross-liability clause or separation of insured condition.
  - b. **WORKERS' COMPENSATION INSURANCE.** (If applicable) Contractor shall comply with applicable Workers' Compensation or Industrial Accident insurance providing benefits as required by law.
  - c. **EMPLOYER'S LIABILITY (STOP GAP) INSURANCE.** (If applicable) Employer's liability insurance (and, if necessary, commercial umbrella liability insurance) with limits not less than \$1,000,000 each accident for bodily injury by accident, \$1,000,000 each employee for bodily injury by disease, and \$1,000,000 bodily injury by disease policy limit.
  - d. **COMMERCIAL AUTOMOBILE LIABILITY INSURANCE.** Commercial automobile liability insurance covering the ownership, maintenance, and/or use of all owned/leased, non-owned, and hired vehicles used in the performance of the Contract, with limits of not less than \$1,000,000 per accident, combined single limit for bodily injury and property damage liability. Coverage shall be provided on Insurance Services Office (ISO) form number CA 0001 or an equivalent. The required limits can be satisfied by any combination of primary, umbrella, or excess policy.

The insurance coverage limits set forth herein are the minimum. Contractor's insurance coverage shall be no less than the minimum amounts specified. Coverage in the amounts of these minimum limits, however, shall not be construed to relieve Contractor from liability in excess of such limits. Contractor waives all rights against the State of Washington for the recovery of damages to the extent such damages are covered by any insurance required herein.

2. **INSURANCE CARRIER RATING.** Coverages provided by the Contractor must be underwritten by an insurance company deemed acceptable to the State of Washington's Office of Risk Management. Insurance coverage shall be provided by companies authorized to do business within the State of Washington and rated A- Class VII or better in the most recently published edition of Best's Insurance Rating. WSFC reserves the right to reject all or any insurance carrier(s) with an unacceptable financial rating.
3. **ADDITIONAL INSURED.** Commercial General Liability, Commercial Automobile Liability, and Pollution Liability Insurance shall include the State of Washington and all authorized Purchasers (and their

agents, officers, and employees) as Additional Insureds evidenced by copy of the Additional Insured Endorsement attached to the Certificate of Insurance on such insurance policies.

4. **CERTIFICATE OF INSURANCE.** Prior to execution of the Contract, Contractor shall furnish to WSFC, as evidence of the insurance coverage required by this Contract, a certificate of insurance satisfactory to WSFC that insurance, in the above-stated kinds and minimum amounts, has been secured. In addition, no less than ten (10) days prior to coverage expiration, Contractor shall furnish to WSFC an updated or renewed certificate of insurance, satisfactory to WSFC, that insurance, in the above-stated kinds and minimum amounts, has been secured. Failure to maintain or provide proof of insurance, as required, will result in contract cancellation. **All policies and certificates of insurance shall include the Contract number stated on the cover of this Contract.** All certificates of Insurance and any related insurance documents shall be delivered to WSFC by U.S. mail, postage prepaid, or sent via email, and shall be sent to the address or email address set forth below or to such other address or email address as WSFC may specify in writing:

US Mail: Contracts & Procurement – Contract Insurance Certificate  
**Contract No. 2025-LUMIN – Health Messaging Analyzation**  
Attn: Tammy Marquis  
WSFC  
105 S. 18th St., STE #205  
Yakima, WA. 98901

Email: [tammy@wastatefruit.com](mailto:tammy@wastatefruit.com)

*Note:* For Email notice, the Email Subject line must state:

**Contract Insurance Certificate – Contract No. 2025-LUMIN – Health Messaging Analyzation**

5. **PRIMARY COVERAGE.** Contractor's insurance shall apply as primary and shall not seek contribution from any insurance or self-insurance maintained by, or provided to, the additional insureds listed above including, at a minimum, the State of Washington and/or any Purchaser. All insurance or self-insurance of the State of Washington and/or Purchasers shall be excess of any insurance provided by Contractor or subcontractors.
6. **SUBCONTRACTORS.** Contractor shall include all subcontractors as insureds under all required insurance policies. Alternatively, prior to utilizing any subcontractor, Contractor shall cause any such subcontractor to provide insurance that complies with all applicable requirements of the insurance set forth herein and shall furnish separate Certificates of Insurance and endorsements for each subcontractor. Each subcontractor must comply fully with all insurance requirements stated herein. Failure of any subcontractor to comply with insurance requirements does not limit Contractor's liability or responsibility.
7. **WAIVER OF SUBROGATION.** Contractor waives all rights of subrogation against the State of Washington and any Purchaser for the recovery of damages to the extent such damages are or would be covered by the insurance specified herein.
8. **NOTICE OF CHANGE OR CANCELLATION.** There shall be no cancellation, material change, exhaustion of aggregate limits, or intent not to renew insurance coverage, either in whole or in part, without at least sixty (60) days prior written Legal Notice by Contractor to WSFC. Failure to provide such

notice, as required, shall constitute default by Contractor. Any such written notice shall include the Contract number stated on the cover of this Contract.

9. **EXTENDED REPORTING PERIOD.** If any required insurance coverage is on a claims-made basis (rather than occurrence), Contractor shall maintain such coverage for a period of no less than three (3) years following expiration or termination of the Contract.