



Douglas A. Ducey
Governor

Andrew Tobin
Director

ARIZONA DEPARTMENT OF ADMINISTRATION

100 NORTH FIFTEENTH AVENUE • SUITE 402
PHOENIX, ARIZONA 85007
(602) 542-5511



NASPO Value Point WIRELESS DATA, VOICE & ACCESSORIES
NASPO Master Contract Number MA176-1

State of Arizona
State Procurement Office
100 North 15th Avenue, Suite 402
Phoenix, AZ 85007

Arizona Participating Addendum

Contract No. CTR052803
Contractor: T-Mobile USA, Inc.

In accordance with A.R.S. §41-2632, AAC R2-7-1002, Cooperative Purchasing, the following document shall relay all additional requirements for the State of Arizona in its use and participation in the NASPO Value Point Contract # MA176-1 for WIRELESS DATA, VOICE & ACCESSORIES, as awarded by the State of Utah, Lead State, for this competitively procured contract.

Contractors are strongly encouraged to read this document in its entirety. All requirements stated within this document are allowable under any respective Master contract, and shall be viewed as such. Any attempt to modify or change this document without consent from the State of Arizona shall result in the nullification of this contract.



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State Procurement Office
100 North 15th Avenue, Suite 402
Phoenix, AZ 85007

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Attachment 1 - Offer and Acceptance

State of Arizona
State Procurement Office
100 North 15th Avenue, Suite 402
Phoenix, AZ 85007

Contract Number: CTR052803

Description: WIRELESS DATA, VOICE & ACCESSORIES

OFFER

TO THE STATE OF ARIZONA:

The Undersigned hereby offers and agrees to furnish the material, service or construction in compliance with all terms, conditions, specifications and amendments in this Contract. Signature also certifies Small Business status

T-Mobile USA, Inc.

Company Name

12920 SE 38th Street

Address

Bellevue

WA

98006-1350

City

State

Zip

David.bezzant@t-mobile.com

Contact Email Address

ACKNOWLEDGED AND AGREED, with respect to Section 9 of the
Scope of Work: Sprint Solutions, Inc.

Company Name

12502 Sunrise Valley Drive

Address

Reston

VA

20196

City

State

Zip

David.bezzant@t-mobile.com

Contact Email Address

DocuSigned by:

3/29/2021

Signature of Person Authorized to Sign Offer

David Bezzant

Printed Name

Vice President, T-Mobile for Government

Title

Phone:

(425) 383-4000

Fax:

N/A

DocuSigned by:

3/29/2021

Signature of Person Authorized to Sign Offer

David Bezzant

Printed Name

Vice President, T-Mobile for Government

Title

Phone:

(425) 383-4000

Fax:

N/A

Legal Approved by:

DocuSigned by:

Dave Visconich

T-Mobile USA, Inc. Legal Department

By signature in the Offer section above, the Offeror certifies:

1. The submission of the Offer did not involve collusion or other anticompetitive practices.
2. The Offeror shall not discriminate against any employee or applicant for employment in violation of Federal Executive Order 11246, State Executive Order 2009-9 or A.R.S. §§ 41-1461 through 1465.
3. The Offeror has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the submitted offer. Failure to provide a valid signature affirming the stipulations required by this clause shall result in rejection of the offer. Signing the offer with a false statement shall void the offer, any resulting contract and may be subject to legal remedies provided by law.
4. The Offeror certifies that the above referenced organization IS/ X IS NOT a small business with less than 100 employees or has gross revenues of \$4 million or less.

ACCEPTANCE OF OFFER

The Offer is hereby accepted.

The Contractor is now bound to sell the materials or services listed within or incorporated into the Contract from the Master Agreement (as defined within the Contract).

This Contract shall henceforth be referred to as Contract No: **CTR052803**

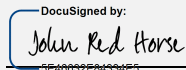
The effective date of the Contract is: April 1, 2021

The Contractor is cautioned not to commence any billable work or to provide any material or service under this Contract until Contractor receives purchase order, contract release document or written notice to proceed.

State of Arizona
Awarded this

day of 3/29/2021

20_____

DocuSigned by:

5E40032E81304E5

Procurement Officer



Scope of Work

State of Arizona
State Procurement Office
100 North 15th Avenue, Suite 402
Phoenix, AZ 85007

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Description: WIRELESS DATA, VOICE & ACCESSORIES

Scope of Work

1. Introduction

The State of Arizona, its Agencies, Boards and Commissions ("**State**"), as well as authorized Cooperative Members, have an ongoing requirement for the Materials and Services as described herein. This NASPO Value Point Participating Addendum ("**PA**") is developed by and for the State of Arizona. This PA is executed in connection with the NASPO ValuePoint Wireless, Data, Voice and Accessories Master Agreement # MA176-1 led by the State of Utah (the "**NASPO Master Agreement**"), for use by the State and other participating entities specified in this PA. This PA consists of the following documents: (i) Attachment 1 – Offer and Acceptance; (ii) Scope of Work; (iii) Special Terms and Conditions; (iv) Uniform Terms and Conditions; (vi) Exhibit A – Pricing Document; (vii) Attachment 2 – Boycott of Israel Disclosure; and (viii) Attachment 3 - Disaster Readiness & Emergency Response.

The NASPO Master Agreement (including its attachments) and this PA (including its attachments) together constitute the "**Contract**" between the State and Contractor.

2. Background

In October 2018, the State of Utah competitively solicited offers from national and regional Contractors for the provision of WIRELESS DATA, VOICE & ACCESSORIES. The purpose of the Master Agreement is the purchase of vendor-provided equipment and services for WIRELESS DATA, VOICE & ACCESSORIES. NASPO Master Agreements may be established with one or more vendors and may be modified as necessary to add new technology or enhancements to existing products and services available from the contract vendor. The result of this State of Utah procurement was the award of six (6) NASPO Master Agreements that became effective on or about 7/1/2019. Per the procedure outlined on the NASPO Value Point website and other materials, an interested participating State, must develop a Participating Addendum (PA) with the contractors of their choosing.

The Participating Addendum (PA) must adhere to the requirements of the NASPO Master Agreement as awarded and negotiated by the State of Utah. However, each individual PA may stipulate specific requirements, terms and conditions, and other contract features that are mandated or desired by each participating State.

3. State of Arizona Requirements

The State of Arizona shall engage various contractors through the PA process and award. For this particular PA, the Contractor shall be: T-Mobile USA, Inc. As per the NASPO Master Agreement, the Contractor shall provide the products and services specified in Category 1 – Cellular Wireless Services, Category 2 – Equipment and Accessories, and Category 3 – Turnkey Wireless Solutions (provided that within Category 3, Contractor has elected to only participate in Category 3A – Fleet Management and Category 3C – Mobile Integration). For the full catalog of offerings, please contact the Contractor.

4. Participating Addendum Allowances and Restrictions

This PA shall allow and restrict the following:

- A. Any products and services awarded under the NASPO Master Agreement shall be allowed.
- B. Employee Purchase Programs are not allowed under this PA.
- C. Category 3 – Turnkey Wireless and IoT Solutions are not allowed under this PA. The State and Contractor may mutually opt to add these solutions at a later date via an amendment to this PA.



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5. Reporting

At a minimum the Contractor shall provide sales reports as outlined in the NASPO Master Agreement. Sales reports will only be requested as needed by either the State or any other eligible entity ordering under this PA. More importantly for this PA, is Contractor's compliance to Item 3.13 (Statewide Contract Provisions) as stated in the Special Terms and Conditions of this PA.

6. Utilization of Partners [Reserved]

7. Current Product and Pricing Schedules

The Contractor is responsible to ensure that any changes made to the Pricing Landing Page under the NASPO Master Agreement (see Attachment B – Scope of Work, Section 6) are current and are accurate.

8. Ordering Instruments

Any order for Materials or Services, shall be placed with the Contractor by either a valid purchase order or a government/commercially sponsored procurement card (P Card). Private and or individual credit may not be accepted.

9. **Stipulation Regarding Amendment No. 2 to NASPO Master Agreement.** Pursuant to Amendment No. 2 of the NASPO Master Agreement, upon execution of this PA, the parties agree that the terms of any existing Participating Addendum(s) previously executed by the State under either: 1) the NASPO ValuePoint Master Agreement #1907 between the State of Nevada and Contractor ("**T-Mobile NASPO 1907 Agreement**"); or 2) the NASPO ValuePoint Master Agreement #1907 between the State of Nevada and Sprint Solutions, Inc., ("**Sprint NASPO 1907 Agreement**") will be governed under the terms of this PA and the NASPO Master Agreement. Contractor and the State agree that this PA will supersede and replace any existing Participating Addendum(s) under either T-Mobile NASPO 1907 Agreement or Sprint NASPO 1907 Agreement ("**Existing 1907 Participating Addendums**") as of the Effective Date, subject to the terms herein. The Existing 1907 Participating Addendums will be terminated in their entirety as of the Effective Date.

10. Technology Evolution.

10.1. In the normal course of technology evolution and enhancement, Contractor continually updates and upgrades its Services, Products and networks. In some instances, these efforts will result in the need to ultimately replace or discontinue certain offerings or technologies. In such event, Contractor will undertake such efforts in a customer-focused and commercially reasonable manner. Accordingly and notwithstanding anything in this Participating Addendum to the contrary, Contractor reserves the right, in its sole discretion, after providing the notice set forth in subsection 10.2 below, to: (a) migrate the State to a replacement technology; or (b) discontinue any Service, Product, network standard, or technology without either party being in breach of this PA or incurring early termination liability relating to the discontinuance of the affected Service, Product, network standard, or technology.

10.2. If Contractor takes any action set forth in subsection 10.1 above, Contractor will provide advance notice reasonably designed to inform State (if affected) of such pending action. The form of Contractor's notice may include providing written notice to any address (a) listed in the PA for the State, (b) Contractor uses for billing, or (c) set forth in an Order. The State agrees that such notice is reasonable and sufficient notice of Contractor's pending action.



Special Terms and Conditions

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The Special Terms and Conditions modify the Uniform Terms and Conditions and its Appendices. It can modify them by replacing, deleting, appending to, or revising the text of an existing provision or by inserting a new paragraph into an existing article. No other document modifies or adds to the Uniform Terms and Conditions, except as may subsequently be otherwise and expressly agreed and incorporated by Contract Amendment.

1.0 Definition of Terms

As used in the Contract, the terms listed below are defined as follows:

- | | |
|---|---|
| 1.1 Acceptance | "Acceptance" means the <u>Attachment 1</u> to this Contract, entitled "Offer and Acceptance", bearing the State contract number once Procurement Officer has signed it to signify the formation of the Contract. For clarity of intent, the foregoing is not to be confused with the term "acceptance" used throughout the Contract in the context of delivery, inspection, etc., with respect to Materials or Services. |
| 1.2 Accepted Offer | [Reserved] |
| 1.3 Arizona Procurement Code; A.R.S.; A.A.C. | [Reserved] |
| 1.4 Arizona TPT | "Arizona TPT" means Arizona Transaction Privilege Tax. For information, refer to the Arizona Department of Revenue (DOR) website at:
https://www.azdor.gov/business/transactionprivilegetax.aspx . |
| 1.5 Attachment | "Attachment" means any attachment to this Contract. |
| 1.6 Pricing Document | "Pricing Document" means <u>Exhibit A</u> to this Contract. |
| 1.7 Contract Amendment | "Contract Amendment" means a document signed by Procurement Officer that has been issued for the purpose of making changes to the Contract after execution. |
| 1.8 Contract Terms and Conditions | "Contract Terms and Conditions" means these <u>Special Terms and Conditions</u> and the <u>Uniform Terms and Conditions</u> taken collectively. |
| 1.9 Contractor | "Contractor" means the entity identified on the Acceptance who has entered into the Contract with State. |
| 1.10 Contractor Indemnitor | "Contractor Indemnitor" means Contractor or any of its owners, officers, directors, agents, employees, or Subcontractors. |
| 1.11 Co-Op Buyer | <p>"Co-Op Buyer" means a member of the State Purchasing Cooperative that has entered into a "Cooperative Purchasing Agreement" with the Arizona Department of Administration State Procurement Office under A.R.S. § 41-2632. Unless there is an applicable Cooperative Purchasing Agreement in effect at the time, a State Purchasing Cooperative member cannot be a Co-Op Buyer. For reference, "Co-Op Buyer" is to be construed as encompassing "eligible procurement unit" under A.A.C. R2-7-101(23).</p> <p>NOTE: Membership in the State Purchasing Cooperative is open to all Arizona political subdivisions, including cities, counties, school districts, and special districts. Membership is also available to non-profit organizations, other state governments, the federal government and tribal nations. For reference, "non-profit organizations" are defined in A.R.S. § 41-2631(4) as any nonprofit corporation as designated by the IRS under section 501(c)(3) through 501(c)(6) of the tax code.</p> |
| 1.12 Eligible Agency | If the <u>Special Terms and Conditions</u> indicates that the Contract is a "single-agency" contract, then "Eligible Agency" means the particular State of Arizona agency, university, commission, or board identified therein. If the <u>Special Terms and Conditions</u> indicates that the Contract is a "statewide" contract, then "Eligible Agency" means any State of Arizona department, agency, university, commission, or board. |
| 1.13 Indemnified Basic Claims | "Indemnified Basic Claims" means any and all third-party claims, actions, liabilities, damages, losses, or expenses, including court costs, reasonable outside attorneys' fees, and costs of claim processing, investigation and litigation, for bodily injury or personal injury, including death, or loss or damage to any real or tangible or intangible personal property, collectively. See paragraph 6.3. |



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1.14 Instructions to Offerors

[Reserved]

1.15 Order

"Order" means the instrument by which State authorizes Contractor to perform some or all of the Work, that is accepted by Contractor. Whether the Contract will have one Order or many Orders depends the scope of the Contract and how the State will use it. The Special Terms and Conditions provide that information. Any of the following is to be construed as being an "Order":

1. "Release" or "Release Purchase Order" in the State's e-Procurement System;
2. "task order", "service order," or "job order" when a Release Purchase Order for Services has already been committed in The State's e-Procurement System; or
3. "purchase order" for buying by Co-Op Buyers, if co-op buying applies.

1.16 The State's e-Procurement System

"The State's e-Procurement System" means State's official electronic procurement system, established pursuant to A.A.C. R2-7-201 as set forth in the Arizona Department of Administration State Procurement Office policy document *Technical Bulletin No. 020, The State's e-Procurement System – The Official State eProcurement System*.

NOTE (1): Technical Bulletin No. 020 is available online at:

<https://spo.az.gov/administration-policy/state-procurement-resource/procurement-regulations>

1.17 State

With respect to the Contract generally, "State" means the State of Arizona and its department, agency, university, commission, or board that has executed the Contract. With respect to administration or rights, remedies, obligations and duties under the Contract for a given Order, "State" means each of Eligible Agency or Co-Op Buyer who has issued the Order.

1.18 State Indemnitees

"State Indemnitees" means, collectively, the State of Arizona, its departments, agencies, universities, commissions, and boards and, and their respective officers, agents, and employees.

1.19 Subcontractor

"Subcontractor" has the meaning given in A.R.S. § 41-2503(38), which, for convenience of reference only, is "... a person who contracts to perform work or render service to ... [C]ontractor or to another [S]ubcontractor as a part of a contract with a state governmental unit . . ." The Contract is to be construed as "a contract with a state governmental unit" for purposes of the definition. For clarity of intent, an entity carrying out any element of the Work is a Subcontractor from the moment they first carry out that element of the Work regardless of whether or not a Subcontract exists then or subsequently.

1.20 Work

"Work" means the totality of the Materials and the Services and all the acts of administration, creation, production, and performance necessary to fulfill and incidental to fulfilling all of Contractor's obligations and duties under the Contract in conformance with the Contract and applicable laws.

2.0 Contract Interpretation

2.1 Usage

Where the Contract:

1. assigns obligations to Contractor, any reference to "Contractor" is to be construed to be a reference to "Contractor and all Subcontractors, whether they are first-tier subcontractors, sub-subcontractors, suppliers, sub-suppliers, consultants, or sub-consultants, as well as all of Contractor's and the Subcontractors' respective agents, representatives, and employees" in every instance unless the context plainly requires that it is be a reference only to Contractor as apart from Subcontractors.
2. uses the permissive "may" with respect to a party's actions, determinations, etc., the term is to be interpreted as in A.A.C. R2-7-101(31) [Definitions]. For clarity of intent, any right given to State using "State may" or a like construction denotes discretion and freedom to act so far as any regulatory or operative constraints permit in the relevant circumstances, provided that: (a) where written "may, at its discretion," the discretion extends to whatever is most advantageous to State; and (b) where written only as "may," the discretion is constrained by what is fair, reasonable, and as accommodating of the respective best interests of both parties as practicable under the circumstances;
3. uses the imperative "shall" with respect to a party's actions, duties, etc., the term is to be interpreted as in A.A.C. R2-7-101(43) [Definitions]. Conversely, the phrase "shall not" is to be interpreted as an imperative prohibition.



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- 4. uses the term “must” with respect to a requirement, criterion, etc., the term is to be interpreted as conveying compulsion or strict necessity, and is to be read as though written “*must, if [the subject] is to be entitled to have [the object] considered or credited as being compliant with, conforming to, or satisfying [the requirement, criterion, constraint, etc.], otherwise, [the object] will be considered or debited as being non-compliant, non-conforming, or unsatisfactory for its Contract-related purposes*” in every instance;
- 5. uses the term “might” with respect to an event, outcome, action, etc., the term is to be interpreted as conveying contingency or non-discretionary conditionality; and
- 6. uses the term “will” or the phrases “is to be” or “are to be” with respect to an event, outcome, action, etc., the term or phrase is to be interpreted as conveying such certainty or imperativeness that “shall” is either unnecessary or irrelevant in that instance.

2.2 NASPO Master Agreement and Participating Addendum Order of Precedence

COMPLEMENTARY DOCUMENTS. All of the documents forming the Contract are set forth in Section 1 of the Scope of Work above, and are complementary. If certain work, requirements, obligations, or duties are set out only in one but not in another, Contractor shall carry out the Work as though the relevant work, requirements, obligations, or duties had been fully described in all, consistent with the other documents forming the Contract and as is reasonably inferable from them as being necessary to produce complete results.

CONFLICTS. In case of any inconsistency, conflict, or ambiguity among the documents forming the Contract and their provisions, and subject in all cases to Section 5(e) of the NASPO Master Agreement, they are to prevail in the following order, descending from most dominant to most subordinate, provided that, among categories of documents or provisions having the same rank, the document or provision with the latest date prevails. Information being identified in one document but not in another is not to be considered a conflict or inconsistency.

- (a) The State of Arizona Participating Addendum Amendments;
- (b) the State of Arizona Participating Addendum, in the following order:
 - (1) Special Terms and Conditions;
 - (2) Exhibits to the Special Terms and Conditions;
 - (3) Uniform Terms and Conditions;
 - (4) Scope of Work;
 - (5) Exhibits to the Scope of Work;
 - (6) Pricing Document; and
 - (7) Exhibits to the Pricing Document;
- (c) NASPO Master Agreement; and
- (d) Orders, in reverse chronological order;

2.3 Independent Contractor

Contractor is an independent contractor and shall act in an independent capacity in performance under the Contract. Neither party is or is to be construed as being to be the employee or agent of the other party, and no action, inaction, event, or circumstance will be grounds for deeming it to be so.

2.4 Complete Integration

Subject to Section 3.5 below, the Contract, including any documents incorporated into the Contract by reference, is intended by the parties as a final and complete expression of their agreement. There are no prior, contemporaneous, or additional agreements, either oral or in writing, pertaining to the Contract.

3.0 Contract Administration and Operation

3.1 Term of Contract

The term of this Contract shall be effective on the date specified on the Acceptance and shall be concurrent with the term of the NASPO Master Agreement, including any renewals or extensions thereof.

3.2 Contract Extensions

[Reserved]

3.3 Notices and Correspondence

3.3.1 TO CONTRACTOR. State shall:



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- (a) address all Contract correspondence other than formal notices to the email address indicated as "Default for Type" for "General Mailing Address" in Contractor's corresponding The State's e-Procurement System Vendor Profile; and
- (b) address any (i) required notices to Contractor to the "Contact Name and Title" at the "Mailing Address" indicated on the Acceptance, as that address might have been amended during the term of the Contract; and (ii) legal notices to Contractor to both (1) the "Contact Name and Title" at the "Mailing Address" indicated on the Acceptance, as that address might have been amended during the term of the Contract and (2) T-Mobile, USA, Inc., Attn: Legal Dept. – Sales & Distribution, 12920 SE 38th St., Bellevue, WA 98006, as that address might have been amended during the term of the Contract.

3.3.2 TO STATE. Contractor shall :

- (a) address all Contract correspondence other than formal notices to the email address indicated in "Contact Instructions" in the The State's e-Procurement System Summary for State; and
- (b) address any required notices to State to Procurement Officer identified as "Purchaser" in the State's e-Procurement System Summary at the following mailing address:

Arizona Department of Administration
 State Procurement Office
 100 N 15th Ave., Suite 402
 Phoenix, AZ 85007

3.3.3 CHANGES. State may change the designated Procurement Officer, update contact information, or change the applicable mailing address by Contract Amendment.

3.4 Signing of Contract Amendments

Contractor's counter-signature – or "approval" in The State's e-Procurement System, in the case of an amendment – is not required to give effect if the Contract Amendment only covers either:

1. extension of the term of the Contract within the maximum aggregate term; or
2. revision to Procurement Officer appointment or contact information; or
3. modifications of a clerical nature that have no effect on terms, conditions, price, scope, or other material aspect of the Contract.

In every case other than those listed in (1) and (2) above, both parties' signature – or "approval" in The State's e-Procurement System, in the case of an Amendment – are required to give it effect.

3.5 Licensing Agreements, Click-Through Terms and Conditions & Other Documents

Purchasing Entities (as defined in the NASPO Master Agreement) that acquire software shall be subject to the license agreements distributed with such software; however, in the event of a conflict in language between an end user license agreement (EULA) and the NASPO Master Agreement, the language in the NASPO Master Agreement will supersede and control. In addition, any language in a EULA which violates a Purchasing Entity's constitution, statute or other applicable law will be deemed void, and of no force or effect, as applied to the Purchasing Entity. Subject to the exceptions for the EULA stated in this paragraph, if either party uses a web based ordering system, an electronic purchase order system, an electronic order acknowledgement, a form of an electronic acceptance, or any software based ordering system with respect to the Contract (each an "Electronic Ordering System"), the parties acknowledge and agree that an Electronic Ordering System is for ease of administration only, and Contractor is hereby given notice that the persons using Electronic Ordering Systems on behalf of State do not have any actual or apparent authority to create legally binding obligations that vary from the terms and conditions of the Contract. Accordingly, where an authorized State user is required to "click through" or otherwise accept or be made subject to any terms and conditions in using an Electronic Ordering Systems, any such terms and conditions are deemed void upon presentation. Additionally, where an authorized State user is required to accept or be made subject to any terms and conditions in accessing or employing any Materials or Services, those terms and conditions will also be void.

3.6 Books and Records

- 3.6.1 RETAIN RECORDS. By A.R.S. § 41-2548(B), Contractor shall retain and shall contractually require each Subcontractor to retain books and records relating for any cost and pricing data submitted in satisfaction of § 41-2543 for the period specified in the statute.
- 3.6.2 RIGHT TO AUDIT. The retained books and records are subject to audit by State during that period. By A.R.S. § 41-2548(B), Contractor shall retain and shall contractually require each Subcontractor to retain



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books and records relating to performance under the Contract for the period specified in the statute and those retained books and records are subject to audit by State during that period.

- 3.6.3 AUDITING. Contractor or Subcontractor shall either make all such books and records under subparagraphs 3.6.1 and 3.6.2 available to State at all reasonable times or produce the records at a designated State office on State's demand, the choice of which being at State's discretion. For the purpose of this paragraph, "reasonable times" are during normal business hours and in such a manner so as to not unreasonably interfere with normal business activities.

3.7 Contractor Licenses

Contractor shall maintain current all federal, state and local licenses and permits required for the operation of its business in general, for its operations under the Contract, and for the Work itself.

3.8 Inspection and Testing

By A.R.S. § 41-2547, State may at reasonable times inspect the part of Contractor's or Subcontractors' plant or places of business related to performance under the Contract. Accordingly, Contractor agrees to permit (for itself) and ensure (for Subcontractors) access for inspection at any reasonable time to those parts of its plant or place of business related to performance of the Contract. Subject to State's compliance with A.R.S. § 41-2547, and in connection with an inspection under A.R.S. § 41-2547, State may inspect or test, at its own cost, any finished goods, work-in-progress, components, or unfinished materials that are to be supplied under the Contract or that will be incorporated into something to be supplied under the Contract, provided that Contractor's and Subcontractors' compliance is subject to the following: (a) such inspections shall reasonably be limited in geographic scope and shall only pertain to facilities that are directly related to performance of the Contract; (b) State shall provide reasonable prior written notice of any inspections; and (c) Contractor and Subcontractors reserve the right to reasonably pre-approve and require any designees or representatives who are not employees of State to enter into a confidentiality agreement as a condition of access to and inspection of such facilities. If the inspection or testing shows non-conformance or defects, then Contractor will owe State reimbursement or payment of all commercially reasonable costs it incurred in carrying out or contracting for the inspection and testing, as well as for any re-inspection or re-testing that might be necessary. Neither inspection of facilities nor testing of goods, work, components, or unfinished materials will of itself constitute acceptance by State of those things.

3.9 Ownership of Intellectual Property

3.9.1 RIGHTS IN WORK PRODUCT. All intellectual property originated or prepared by Contractor pursuant to the Contract, including but not limited to, inventions, discoveries, intellectual copyrights, trademarks, trade names, trade secrets, technical communications, records reports, computer programs and other documentation or improvements thereto, including Contractor's administrative communications and records relating to the Contract, are considered work product and Contractor's property, provided that, State has Government Purpose Rights to that work product as and when it was delivered to State.

(a) "Government Purpose Rights" are:

- i. the unlimited, perpetual, irrevocable, royalty free, non-exclusive, worldwide right to use, modify, reproduce, release, perform, display, sublicense, disclose and create derivatives from that work product without restriction for any activity in which State is a party;
- ii. the right to release or disclose that work product to third parties for any State government purpose; and
- iii. the right to authorize those to whom it rightfully releases or discloses that work product to use, modify, release, create derivative works from the work product for any State government purpose; such recipients being understood to include the federal government, the governments of other states, and various local governments.

(b) "Government Purpose Rights" do not include any right to use, modify, reproduce, perform, release, display, create derivative works from, or disclose that work product for any commercial purpose or to authorize others to do so.

3.9.2 JOINT DEVELOPMENTS. The parties may each use equally any ideas, concepts, know-how, or techniques developed jointly during the course of the Contract, and may do so at their respective discretion, without obligation of notice or accounting to the other party.

3.9.3 PRE-EXISTING MATERIAL. All pre-existing software and other materials developed or otherwise obtained by or for Contractor or its affiliates independently of the Contract or applicable Orders are not part of the work product to which rights are granted State under subparagraph 3.9.1 above, and will remain the exclusive property of Contractor, provided that:



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- (a) any derivative works of such pre-existing material or elements thereof that are created pursuant to the Contract are part of that work product;
- (b) any elements of derivative work of such pre-existing material that was not created pursuant to the Contract are not part of that work product; and
- (c) except as expressly stated otherwise, nothing in the Contract is to be construed to interfere or diminish Contractor's or its affiliates' ownership of such pre-existing materials.

3.9.4 DEVELOPMENTS OUTSIDE OF CONTRACT. Unless expressly stated otherwise in the Contract does not preclude Contractor from developing competing materials outside the Contract, irrespective of any similarity to materials delivered or to be delivered to State hereunder.

3.10 Subcontracts

[Reserved]

3.11 Offshore

Performance of Certain Work Prohibited

Except with the Purchasing Entity's express written permission, the Services will be provided solely from within the continental United States and on computing and data storage devices residing therein. In the event Contractor has secured the Purchasing Entity's permission to perform some of the Services from outside the United States, Contractor will comply with the Purchasing Entity's reasonable written security requirements made as conditions of such permission. For purposes of Contractor's provision of Customer Care support services to Purchasing Entity's government liable account and lines of service ("GL Account"), Contractor will comply with the preceding geographic limitations for call center support, provided that the Purchasing Entity contacts Contractor's Customer Care department through the contact information (e.g., toll free number) provided to Purchasing Entity for its GL Account.

3.12 Orders

- 3.12.1 ORDER SUFFICIENCY. The Contract was awarded in accordance with the Arizona Procurement Code; the transactions and procedures required by the code for competitive source selection have been met. An Order issued that cites the correct State contract number will suffice to authorize Contractor to provide the Materials and perform the Services covered by that Order.
- 3.12.2 ORDER TERMS. All Orders are subject to the Contract Terms and Conditions; an Order cannot modify the Contract Terms and Conditions.
- 3.12.3 ORDERS. Until the expiration or earlier termination of the Contract, State may issue and Contractor may accept Orders that make proper reference to the Contract and are permissible hereunder.
- 3.12.4 SPECIAL CASE. In the special case where both the following conditions are true, Procurement Officer's signature on the Acceptance is Contractor's authorization to perform and therefore no Order is required: (a) the Contract is identified as being a "single-agency/single-project" contract and (b) the Contract was created in The State's e-Procurement System as something other than a "Master/Blanket" type.
- 3.12.5 NO MINIMUMS OR COMMITMENTS. (a) Contractor shall not impose any minimum dollar amount, item count, services volume, or services duration on Orders; (b) State makes no commitment of any kind concerning the quantity or monetary value of activity actually initiated or completed during the term of the Contract; (c) Contractor shall only deliver or perform as authorized by Orders; and (d) State is not limited as to the number of Orders it may issue for the Contract. For clarity of intent, the foregoing applies equally whether an Eligible Agency issues the Order or, if applicable, a Co-Op Buyer issues it.
- 3.12.6 NON-CONTRACTED MATERIALS OR SERVICES. Any attempt to knowingly represent for sales, marketing, or related purposes that goods or services not specifically awarded are under a State contract is a violation of the Contract and law.

3.13 Statewide Contract Provisions

The Contract is a "statewide" contract for multiple purchases, projects, or assignments, and can be purchased against by some or all Eligible Agencies and any Co-Op Buyers that elect to participate. Even if only one Eligible Agency needs or elects to purchase against the Contract, it is to be construed as being a "statewide" contract hereunder.

The Contract is an indefinite delivery, indefinite quantity (ID/IQ) type of contract; it is to be construed as a "delivery order" sub-type of ID/IQ contract to the extent the Work is Materials, and a "task order" sub-type to the extent the Work is Services.

1. Contractor shall verify if an ordering entity is a bona fide Co-Op Buyer before selling Materials to or providing Services for them under the Contract. The current list of Co-Op Buyers is available on the State Procurement Office website:



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<https://spo.az.gov/procurement-services/cooperative-procurement/state-purchasing-cooperative>

2. Contractor shall sell to Co-Op Buyers at the same price and on the same lead times and other terms and conditions under which it sells to Eligible Agencies, with the sole exception of any legitimately additional costs for extraordinary shipping or delivery requirements if the Co-Op Buyer is having Materials delivered or installed or Services performed at locations not contemplated in the contracted pricing (e.g. delivery to a location outside Arizona).
3. Contractor shall pay State an administrative fee against all Contract sales to Co-Op Buyers, as provided for under A.R.S. § 41-2633. The fee rate is one (1%) percent. Failure to remit the administrative fees is a material breach of contract, and will entitle State to its remedies under Article 8 and its right to terminate for default under Article 9. Method of calculation, payment procedures, and other details are provided on the State Procurement Office website:

<https://spo.az.gov/contractor-resources/statewide-contracts-administrative-fee>

4. Contractor shall submit to State a quarterly usage report documenting all Contract sales to both Eligible Agencies and Co-Op Buyers, itemized separately. Contractor shall further itemize divisions, groups or areas within a given Eligible Agency if they place Orders independently of each other. Failure to submit the report is a material breach of contract, and will entitle State to its remedies under Article 8 and its right to terminate for default under Article 9. Contractor shall submit the report using the forms and following the instructions on the State Procurement Office website:

<https://spo.az.gov/contractor-resources/statewide-contracts-administrative-fee>

5. Contractor shall acknowledge each Order from Eligible Agencies the State's e-Procurement System or via an email from Contractor's representative or in the Contractor's ordering portal within 1 (one) business day after receipt by either: (a) "approving" the Order electronically in The State's e-Procurement System or via an email from Contractor's representative or in the Contractor's ordering portal, which will indicate Contractor's unqualified acceptance of the Order as-issued; or (b) "rejecting" the Order electronically in The State's e-Procurement System or via an email from Contractor's representative or in the Contractor's ordering portal. Unless and until Contractor has approved the Order in The State's e-Procurement System or via an email from Contractor's representative or in the Contractor's ordering portal, it will have no effect under the Contract and will not oblige either State or Contractor. If the relevant Eligible Agency explicitly instructs at the time that a verbal acceptance is sufficient because of urgency or other unusual circumstances and Contractor duly gives its verbal acceptance, then Contractor will be deemed to have accepted the Order immediately upon commencing performance, provided that, Contractor must follow-up its verbal acceptance by accepting the Purchase Order electronically in The State's e-Procurement System or via an email from Contractor's representative or in the Contractor's ordering portal within 3 (three) business days.
6. Contractor shall acknowledge each Order from Co-Op Buyers in conformance with each buyer's instructions given at the time of ordering or in any supplemental participating agreement Contractor might have with them. Orders from Co-Op Buyers create no obligation on State's part, since they are entirely between the Co-Op Buyer and Contractor. That notwithstanding, Contractor's obligation under the Contract is to service Co-Op Buyers commercially as though they were with an Eligible Agency, and Contractor's refusal to do so would be a material breach of the Contract.

3.14 Multiple-Use Provisions

Eligible Agencies may issue Orders for Materials and/or Services in several forms, all of which become final and effective by a "Release Purchase Order" in The State's e-Procurement System or via an email to Contractor's representative or in the Contractor's ordering portal. Orders issued by Co-Op Buyers will be in whatever form the Co-Op Buyer normally uses. Regardless of origin, Orders must cite the State contract number to be valid. State may, at its discretion in each instance, determine the scope, schedule, and price for each Order in any of the following ways:

1. By choosing some or all of the Materials or Services covered by the Contract for which a price is established in the Contract, then preparing an Order using those prices (e.g., filling out an order form), and sending it to Contractor.
2. By instructing Contractor to provide a comprehensive proposal of item quantities, combinations, etc., or services hours, personnel, etc., for a defined scope using those established prices as a basis, then validating and negotiating the proposal with Contractor and issuing an Order if and when reaching agreement.



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3. As described in (2) above but requesting the proposal from both Contractor and other vendors who are contracted within the applicable scope categories and locations, either sequentially or concurrently, then selecting the proposal or proposals combination that is most advantageous to State.
4. As described in (3) above but introducing ad-hoc commercial competition by making the selection and ordering conditional on obtaining more favorable prices than the contractually-established ones

When evaluating the proposals under (3) and (4) above, State may select based on price (for example, a quoted number of hours times the contracted or improved rate plus a fixed amount for incidentals), by experience and qualifications (for example, having an office nearer the required work location), or whatever combination thereof it determines is most appropriate to the work in question.

3.15 Other Contractors

State may undertake with its own forces or award other contracts to the same or other vendors for additional or related work. In such cases, Contractor shall cooperate fully with State's employees and such other vendors and carefully coordinate, fit, connect, accommodate, adjust, or sequence its work to the related work by others. Where the Contract requires handing-off Contractor's work to others, Contractor shall cooperate with State in a commercially reasonable manner regarding the necessary transfer of its work product, services, or records to State or the other vendors. Contractor shall not commit or permit any act that interferes with the State's or other vendors' performance of their work, provided that, State shall enforce the foregoing section equitably among all its vendors so as not impose an unreasonable burden on any one of them.

3.16 Work on State Premises

- 3.16.1 COMPLIANCE WITH RULES. Contractor is responsible for ensuring that its personnel comply with State's rules, regulations, policies, documented practices, and documented operating procedures while delivering or installing Materials or performing Services on State's grounds or in its facilities. For clarity of intent, the foregoing means that if Contractor is required to comply with certain security requirements in order to deliver, install, or perform at that particular location, then it shall do so nonetheless and without entitlement to any additional compensation or additional time for performance if those particular requirements are not expressly stated in the Contract. Contractor is reminded that violation of the prohibition under A.R.S. § 13-1502 against possession of weapons on State's property by anyone for whom Contractor is responsible is a material breach of contract and grounds for termination for default.
- 3.16.2 PROTECTION OF GROUNDS AND FACILITIES. Contractor shall deliver or install the Materials and perform the Services without damaging any State grounds or facilities. Contractor shall repair or replace any damage it does cause promptly and at its own expense, subject to whatever instructions and restrictions State needs to make to prevent inconvenience or disruption of operations. If Contractor fails to make the necessary repairs or replacements and do so in a timely manner, State will be entitled to exercise its remedies under Uniform Terms and Conditions paragraph 8.5.

3.17 Non-Exclusive Contract

This Contract has been awarded with the understanding and agreement that it is for the sole convenience of the State of Arizona. The State reserves the right to obtain like goods or services from another source when necessary. Off-contract purchase authorization(s) may be approved by the State Procurement Office. Approvals shall be at the exclusive discretion of the State and shall be final. Off-contract procurement shall be consistent with the Arizona Procurement Code.

4.0 Costs and Payments

4.1 Payments

- 4.1.1 PAYMENT DEADLINE. State shall make payments in compliance with Arizona Revised Statutes Titles 35 and 41. Unless and then only to the extent expressly stated otherwise in the Pricing Document, State shall make payment in full for Materials that have been delivered and accepted and Services that have been performed and accepted within the time specified in A.R.S. § 35-342 after both of the following become true: (a) all of the Materials being invoiced have been delivered or installed (as applicable) and accepted and all of the Services being invoiced have been performed and accepted; and (b) Contractor has provided a complete and accurate invoice in the form and manner called for in the Pricing Document, provided that, State will not make or be liable for any payments to Contractor until Contractor has registered properly in The State's e-Procurement System and provided a current IRS Form W-9 to State unless excused by law from providing one.



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4.2 Applicable Taxes	4.1.2 PAYMENTS ONLY TO CONTRACTOR. Unless compelled otherwise by operation of law or order of a court of competent jurisdiction, State will only make payment to Contractor under the federal tax identifier indicated on the Acceptance.
	4.2.1 CONTRACTOR TO PAY ALL TAXES. State is subject to Arizona TPT. Therefore, Arizona TPT applies to all sales under the Contract and Arizona TPT is Contractor's responsibility (as seller) to remit. Contractor's failure to collect Arizona TPT or any other applicable sales or use taxes from an Eligible Agency or Co-Op Buyer (as buyer) will not relieve Contractor of any obligation to remit sales or use taxes that are due under the Contract or laws. Contractor shall pay all federal, state, and local taxes applicable to its operations and personnel.
	4.2.2 TAX INDEMNITY. Contractor shall hold State harmless from any responsibility for taxes or contributions, including any applicable damages and interest, that applicable to Contractor's operation and are due to federal, state, and local authorities with respect to the Work and the Contract, as well any related costs; the foregoing expressly includes Arizona TPT, unemployment compensation insurance, social security, and workers' compensation insurance.

5.0 Contract Changes

5.1 Contract Amendments	The Contract is issued for State under the authority of Procurement Officer. Subject to Section 5.e of Attachment A to the NASPO Master Agreement and subject to Contractor's rights to amend the NASPO Master Agreement with the consent of the Lead State, only a Contract Amendment can modify the Contract, and then only if it does not change the Contract's general scope. Purported changes to the Contract by a person not expressly authorized by Procurement Officer or made unilaterally by Contractor will be void and without effect; Contractor will not be entitled to any claim made under the Contract based on any such purported changes.
5.2 Assignment and Delegation	5.2.1 IN WHOLE. Contractor shall not assign in whole its rights or delegate in whole its duties under the Contract without Procurement Officer's prior written consent, which consent Procurement Officer may withhold at his or her discretion. If Contractor's proposed assignment or delegation stems from a split, sale, acquisition, or other non-merger change in control, then no such consent will be given in any event without the assignee or delegate giving State satisfactory and equivalent evidence or assurance of its financial soundness, competency, capacity, and qualification to perform as that which Contractor possessed when State first awarded it the Contract. 5.2.2 IN PART. Subject to Section 5.2 of the Uniform Terms and Conditions with respect to subcontracting, Contractor may assign particular rights or delegate particular duties under the Contract, but shall obtain Procurement Officer's written consent before doing so. Procurement Officer shall not unreasonably withhold consent so long as the proposed assignment or delegation does not attempt to modify the Contract in any way or to alter or impair State's rights or remedies under the Contract or laws.

6.0 Risk and Liability

6.1 Risk of Loss	Contractor shall bear all risk of loss to Materials while in pre-production, production, storage, transit, staging, assembly, installation, testing, and commissioning, if and as those duties are within the scope of the Work, until they have been accepted as conforming by State in the particular location and situation specified in the Order, or as specified generally elsewhere in the Contract if the Order does not provide particulars, provided that, risk of loss for nonconforming Materials will remain with Contractor notwithstanding acceptance to the extent the loss stems from the nonconformance. Notwithstanding any of the foregoing, State will bear all risk of loss after receipt in the event that State does not provide Contractor written notice within 14 days of receipt of any non-conformance and either (i) returns such non-conforming Materials within 14 days thereafter to Contractor or (ii) notifies Contractor in writing that Contractor must arrange for the retrieval of such non-Conforming Materials.
6.2 Contractor Insurance	Contractor and subcontractors shall procure and maintain until all of their obligations have been discharged, including any warranty periods under this Contract, are satisfied, insurance against claims for injury to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Contractor, his agents, representatives, employees or subcontractors. The insurance requirements herein are minimum requirements for this Contract and in no way limit the indemnity covenants contained in this Contract. The State of Arizona in no way warrants that the minimum limits contained herein are sufficient to protect the Contractor from liabilities that might arise out of the



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performance of the work under this contract by the Contractor, its agents, representatives, employees or subcontractors, and Contractor is free to purchase additional insurance.

MINIMUM SCOPE AND LIMITS OF INSURANCE: Contractor shall provide coverage with limits of liability not less than those stated below.

1. Commercial General Liability (CGL) – Occurrence Form

Policy shall include bodily injury, property damage personal injury and broad form contractual liability coverage

General Aggregate	\$2,000,000
Products – Completed Operations Aggregate	\$1,000,000
Personal and Advertising Injury	\$1,000,000
Damage to Rented Premises	\$ 50,000
Each Occurrence	\$1,000,000

- a. The policy shall be endorsed, as required by this written agreement, to include the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees as additional insureds with respect to liability arising out of the activities performed by or on behalf of the Contractor.
- b. Policy shall contain a waiver of subrogation endorsement, as required by this written agreement, in favor of the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.

2. Business Automobile Liability

Bodily Injury and Property Damage for any owned, hired, and/or non-owned vehicles used in the performance of this Contract.

Combined Single Limit (CSL)	\$1,000,000
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- a. Policy shall be endorsed, as required by this written agreement, to include the State of Arizona, and its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees as additional insureds with respect to liability arising out of the activities performed by, or on behalf of, the Contractor, involving automobiles owned, leased, hired and/or non-owned by the Contractor.
- b. Policy shall contain a waiver of subrogation endorsement as required by this written agreement in favor of the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.

3. Worker's Compensation and Employers' Liability

Workers' Compensation.....	Statutory
Each Accident	\$1,000,000
Disease – Each Employee	\$1,000,000
Disease – Policy Limit	\$1,000,000

- a. Policy shall contain a waiver of subrogation endorsement as required by this written agreement in favor of the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor
- b. This requirement shall not apply to each Contractor or subcontractor that is exempt under A.R.S. 23-901, and when such contractor or subcontractor executes the appropriate waiver form (Sole Proprietor/Independent Contractor).

4. Technology Errors & Omissions Insurance – Required as applicable to the services provided [Reserved]

5. Network Security (Cyber) and Privacy Liability – Required as applicable to the services provided [Reserved]

1.



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ADDITIONAL INSURANCE REQUIREMENTS: The policies shall include, or be endorsed to include, the following provisions:

1. The Contractor's policies, as applicable, shall stipulate that the insurance afforded the Contractor shall be primary and that any insurance carried by the Department, its agents, officials, employees or the State of Arizona shall be excess and not contributory insurance, as provided by A.R.S. § 41-621 E.
2. Insurance provided by the Contractor shall not limit the Contractor's liability assumed under the indemnification provisions of this Contract.

NOTICE OF CANCELLATION: Applicable to all insurance policies required within the Insurance Requirements of this Contract, Contractor's insurance shall not be permitted to expire, be suspended, be canceled, or be materially changed for any reason without thirty (30) days prior written notice to the State of Arizona. Contractor must provide 30 days' prior written notice to the State of Arizona if they receive notice of a policy that has been or will be suspended, canceled, materially changed for any reason, has expired, or will be expiring. Such notice shall be sent directly to the Department and shall be mailed, emailed, hand delivered or sent by facsimile transmission to State Procurement Office.

ACCEPTABILITY OF INSURERS: Contractor's Insurance shall be placed with companies licensed in the State of Arizona or hold approved non-admitted status on the Arizona Department of Insurance List of Qualified Unauthorized Insurers. Insurers shall have an "A.M. Best" rating of not less than A- VII. The State of Arizona in no way warrants that the above-required minimum insurer rating is sufficient to protect the Contractor from potential insurer insolvency.

VERIFICATION OF COVERAGE: Contractor shall furnish the State of Arizona with certificates of insurance (valid ACORD form or equivalent approved by the State of Arizona) evidencing that Contractor has the insurance as required by this Contract. An authorized representative of the insurer shall sign the certificates.

All such certificates of insurance and policy endorsements must be received by the State before work commences. The State's receipt of any certificates of insurance or policy endorsements that do not comply with this written agreement shall not waive or otherwise affect the requirements of this agreement.

Each insurance policy required by this Contract must be in effect at, or prior to, commencement of work under this Contract. Failure to maintain the insurance policies as required by this Contract, or to provide evidence of renewal, is a material breach of contract.

All such certificates required by this Contract shall be sent directly to the Arizona State Procurement Office. The State of Arizona project/contract number and project description shall be noted on the certificate of insurance. In the event of a claim giving rise to a coverage dispute, Contractor shall provide copies of applicable Policies giving rise to such dispute.

SUBCONTRACTORS: Contractors' certificate(s) shall include all subcontractors as insured under its policies or Contractor shall be responsible for ensuring and/or verifying that all subcontractors have valid and collectable insurance as evidenced by the certificates of insurance and endorsements for each subcontractor. All coverages for subcontractors shall be subject to the minimum Insurance Requirements identified above. The Department reserves the right to require, at any time throughout the life of this contract, proof from the Contractor that its subcontractors have the required coverage.

APPROVAL and MODIFICATIONS: The Contracting Agency, in consultation with State Risk, reserves the right to review or make modifications to the insurance limits, required coverages, or endorsements throughout the life of this contract, as deemed reasonably necessary. Such action will not require a formal Contract amendment but may be made by administrative action.

EXCEPTIONS: In the event the Contractor or sub-contractor(s) is/are a public entity, then the Insurance Requirements shall not apply. Such public entity shall provide a Certificate of self-insurance. If the Contractor or sub-contractor(s) is/are a State of Arizona agency, board, commission, or university, none of the above shall apply.

6.3 Indemnification

To the fullest extent permitted by law, Contractor shall defend, indemnify, and hold harmless the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees (hereinafter referred to as "Indemnitee") from and against any and all third-party claims, actions, liabilities, damages, losses, or expenses (including court costs, reasonable outside attorneys' fees, and costs of



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claim processing, investigation and litigation) (hereinafter referred to as "Claims") for bodily injury or personal injury (including death), or loss or damage to tangible or intangible property caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of Contractor or any of its owners, officers, directors, agents, employees or subcontractors in connection with the performance of the Contract. This indemnity includes any claim or amount arising out of, or recovered under, the Workers' Compensation Law or arising out of the failure of such Contractor to conform to any federal, state, or local law, statute, ordinance, rule, regulation, or court decree. It is the specific intention of the parties that the Indemnitee shall, in all instances, except to the extent Claims arise from the negligent or willful acts or omissions of the Indemnitee, be indemnified by Contractor from and against any and all claims. It is agreed that Contractor will be responsible for primary loss investigation, defense, and judgement costs where this indemnification is applicable. In consideration of the award of this contract, the Contractor agrees to waive all rights of subrogation against the State of, its officers, officials, agents, and employees for losses arising from the work performed by the Contractor for the State of Arizona. This indemnification will survive the termination of the above listed contract with the Contractor.

This indemnity shall not apply if the Contractor or sub-contractor(s) is/are an agency, board, commission or university of the State of Arizona.

6.4 Patent and Copyright Indemnification

CONTRACTOR/VENDOR (NOT PUBLIC AGENCY). With respect to Materials or Services provided or proposed by a Contractor Indemnitor for performance under the Contract, Contractor shall indemnify, defend and hold harmless State Indemnitees against any third-party claims for liability, costs, and expenses, including, but not limited to reasonable outside attorneys' fees, for infringement or violation of any patent, trademark, copyright, or trade secret by the Materials and the Services. With respect to the defense and payment of claims under this subparagraph:

1. State shall provide reasonable and timely notification to Contractor of any claim for which Contractor may be liable under this paragraph (and a State Indemnitee shall not be entitled to defense or indemnification to the extent the Indemnitee's failure to promptly notify the Contractor Indemnitor in accordance with this subsection (i) prejudices the Contractor Indemnitor's ability to defend against any Claim or claim under Section 6.4, or (ii) increases the amount of indemnification loss/damage incurred in respect of such indemnification obligation of the Contractor Indemnitor;
2. Contractor, with reasonable consultation from State, shall have control of the defense of any action on an indemnified claim including all negotiations for its settlement or compromise;
3. State may elect to participate in such action at its own expense; and
4. State may approve or disapprove any settlement or compromise, provided that, (i) State shall not unreasonably withhold or delay such approval or disapproval and (ii) State shall cooperate in the defense and in any related settlement negotiations.

If Contractor is a public agency, this paragraph 6.4 does not apply.

6.5 Force Majeure

6.5.1 DEFINITION. For this paragraph, "force majeure" means an occurrence that is (a) beyond the control of the affected party, (b) occurred without the party's fault or negligence, and (c) something the party was unable to prevent by exercising reasonable diligence. Without limiting the generality of the foregoing, force majeure expressly includes acts of God, acts of the public enemy, war, riots, strikes, mobilization, labor disputes, civil disorders, fire, flood, lockouts, injunctions-intervention-acts, failures or refusals to act by government authorities, and, subject to paragraph 0 [Performance in Public Health Emergency

Performance in Public Health Emergency], declared public health emergencies. Force majeure expressly does not include late delivery caused by congestion at a manufacturer's plant or elsewhere, an oversold condition of the market, late performance by a Subcontractor unless the delay arises out of an occurrence of force majeure, or inability of either Contractor or any Subcontractor to acquire or maintain any required insurance, bonds, licenses, or permits.

6.5.2 RELIEF FROM PERFORMANCE. Except for payment of sums due, the parties are not liable to each other if an occurrence of force majeure prevents its performance under the Contract. If either party is delayed at any time in the progress of their respective performance under the Contract by an occurrence of force majeure, the delayed party shall notify the other no later than the following working day after the occurrence, or as soon as it could reasonably have been expected to recognize that the occurrence had effect in cases where the effects were not readily apparent. In any event, the notice must make specific reference to this paragraph specifying the causes of the delay in the notice



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and, if the effects of the occurrence are on-going, provide an initial notification and thereafter the delayed party shall provide regular updates until such time as the effects are fully known. To the extent it is able, the delayed party shall cause the delay to cease promptly and notify the other party when it has done so. The parties shall extend the time of completion by Contract Amendment for a period equal to the time that the results or effects of the delay prevented the delayed party from performing.

6.5.3 EXCUSABLE DELAY IS NOT DEFAULT. Failure in performance by either party will not constitute default hereunder or give rise to any claim for damages or loss of anticipated profits if and to the extent that such failure was or is being caused by an occurrence of force majeure.

6.5.4 DEFAULT DIMINISHES RELIEF. Entitlement to relief from the effects of an occurrence of force majeure is diminished to the extent that the delay did or will result from the affected party's default unrelated to the occurrence, in which case and to that extent the other party's normal remedies and the affected party's obligations would apply undiminished.

6.6 Third Party Antitrust Violations

Contractor assigns to State any claim for overcharges resulting from antitrust violations to the extent that those violations concern materials or services supplied by third parties to Contractor toward fulfillment of the Contract.

7.0 Warranties

7.1 Conformity to Requirements

Contractor warrants that use of the Services as intended under this Contract do not and will not infringe or violate any patent, trademark, copyright, trade secret, or other intellectual property rights or laws. With respect to Materials, Contractor is not the manufacturer of the Materials and is not in a position to offer its own independent warranties or indemnities on the Materials, but Contractor shall pass on to the State all of the representations, warranties, and indemnities that Contractor receives from the manufacturer of the Materials.

7.2 Contractor Personnel

Contractor warrants that its personnel will perform their duties under the Contract in a professional manner, applying the requisite skills and knowledge, consistent with industry standards, and in accordance with the requirements of the Contract. Contractor further warrants that its key personnel will maintain any certifications relevant to their work, and Contractor shall provide individual evidence of certification to State's authorized representatives upon request.

7.3 Intellectual Property

Contractor warrants that use of the Services as intended under this Contract do not and will not infringe or violate any patent, trademark, copyright, trade secret, or other intellectual property rights or laws. With respect to Materials, Contractor is not the manufacturer of the Materials and is not in a position to offer its own independent warranties or indemnities on the Materials. Contractor will offer State the benefit of all representations, warranties and indemnities from the manufacturer to the extent allowed by contract.

7.4 Licenses and Permits

[Reserved]

7.5 Operational Continuity

Contractor warrants that it will perform without relief notwithstanding being sold or acquired; no such event will operate to mitigate or alter any of Contractor's duties hereunder absent a consented delegation under paragraph 5.2 above [Assignment and Delegation] that expressly recognizes the event.

7.6 Performance in Public Health Emergency

With respect to disaster readiness, emergency response and enterprise continuity, Contractor provides Attachment 3 (Disaster Readiness & Emergency Response) to this PA. Contractor agrees to make commercially reasonable efforts to abide by Attachment 3 Disaster Readiness & Emergency Response during the term of this PA in all material respects, subject to Contractor's right to modify Attachment 3 (Disaster Readiness & Emergency Response) in a commercially reasonable manner over time to account for changes in events, technology, and operational impacts.

If Contractor claims relief under paragraph 6.5 [Force Majeure] for an occurrence of force majeure that is a declared public health emergency, then that relief will be conditioned on Contractor having first implemented its plan and exhausted all reasonable opportunity for that plan implementation to overcome the effects of that occurrence, or mitigate those effects to the extent that overcoming entirely is not practicable.



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7.7 Lobbying

7.7.1 PROHIBITION.

(a) Contractor warrants that:

- i. it will not engage in lobbying activities, as defined in 40 CFR part 34 and A.R.S. § 41-1231, et seq., using monies awarded under the Contract, provided that, the foregoing does not intend to constrain Contractor's use of its own monies or property, including without limitation any net proceeds duly realized under the Contract or any value thereafter derived from those proceeds; and
- ii. upon award of the Contract, it will disclose all lobbying activities to State to the extent they are an actual or potential conflict of interest or where such activities could create an appearance of impropriety.

(b) Contractor shall implement and maintain adequate controls to assure compliance with (a) above.

(c) Contractor shall obtain an equivalent warranty from all Subcontractors and shall include an equivalent no-lobbying provision in all Subcontracts.

7.7.2 EXCEPTION. This paragraph does not apply to the extent that the Services are defined in the Contract as being lobbying for State's benefit or on State's behalf.

7.8 Survival of Warranties

All representations and warrants made by Contractor under the Contract will survive the expiration or earlier termination of the Contract.

7.9 Compliance with Applicable Laws

The Materials and Services supplied under this Contract shall comply with all applicable Federal, state and local laws, and the Contractor shall maintain all applicable licenses and permit requirements. Contractor represents and warrants to the State that Contractor has the skill and knowledge possessed by members of its trade or profession and Contractor will apply that skill and knowledge with care and diligence so Contractor and Contractor's employees and any authorized subcontractors shall perform the Services described in this Contract.

Contractor represents and warrants that the Materials provided through this Contract shall be free of viruses, backdoors, worms, spyware, malware and other malicious code that will hamper performance of the Materials, collect unlawful personally identifiable information on users or prevent the Materials from performing as required under the terms and conditions of this Contract.

8.0 State's Contractual Remedies

No modifications to uniform terms and conditions section

9.0 Contract Termination

No modifications to uniform terms and conditions section

10.0 Contract Claims

10.1 Claim Resolution

Notwithstanding any law to the contrary, all contract claims or controversies under the Contract are to be resolved according to Arizona Revised Statutes Title 41, Chapter 23, Article 9, and rules adopted thereunder, including judicial review under A.R.S. § 12-1518.

11.0 General Provisions for Materials

11.1 Applicability

Article 11 applies to the extent the Work is or includes Materials.



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- | | |
|--|--|
| 11.2 Off-Contract Materials | Contractor shall ensure that the design and/or procedures for the Materials ordering method prevents Orders for off-contract items or excluded items. Notwithstanding that State might have its own internal administrative rules regarding off-contract or excluded item ordering, and endeavors to prevent such orders from occurring, Contractor is responsible for not accepting any such Orders, State may, at its discretion, return any such items under subparagraph 11.17 or cancel any such Order under subparagraph 11.18, in either case being without obligation and at Contractor's expense. As used above, "off-contract item" refers to any product not included in the scope of the Contract and for which no price or compensation has been established contractually, and "excluded item" refers to any product expressly stated in the Contract as being excluded from the Contract. |
| 11.3 Compensation for Late Deliveries | Contractor shall have clear, published policies in place regarding late delivery, order cancellation, discounts, or rebates given to compensate for late deliveries, etc., and make them readily available to those Eligible Agencies, and Co-Op Buyers if applicable, that are likely to need them |
| 11.4 Indicate Shipping Costs on Order | Contractor shall identify and provide the required substantiating documentation for the amount it intends to add for shipping in the Order acknowledgment if shipping is additional to the contracted price or rate for an item; otherwise, Contractor shall indicate that shipping is included in the Order price (in other words, every Order must indicate clearly whether or not shipping is included in the Order price, and if not included, how much is to be added and why that amount is the correct or appropriate one) |
| 11.5 Current Products | [Reserved] |
| 11.6 Maintain Comprehensive Selection | [Reserved] |
| 11.7 Additional Products | [Reserved] |
| 11.8 Discounted Products | Contractor shall provide at all times the selection of products for which a price is established in the Contract for ordering by Eligible Agencies, and Co-Op Buyers if applicable. |
| 11.9 Forced Substitutions | Forced substitutions will not be permitted; Contractor shall obtain State's prior written consent before making any discretionary substitution for any Materials covered by the Contract. |
| 11.10 Recalls | In the event of a recall notice, technical service bulletin, or other important notification affecting a product offered under the Contract (collectively, "recalls" hereinafter), Contractor shall send timely notice to State for each applicable Order referencing the affected Order and product. Notwithstanding whatever protection Contractor might have under A.R.S. § 12-684 with respect to a manufacturer, Contractor shall handle recalls entirely (or will ensure that the manufacturer handles the recall) and without obligation on State's part, other than to permit removal of installed products, retrieval of stored products, etc., as necessary to implement the recall |
| 11.11 Delivery | [Reserved] |
| 11.12 Delivery Time | Unless stated otherwise in the <u>Pricing Document</u> generally or in the applicable Order particularly, Contractor shall make commercially reasonable efforts to make delivery within 2 (two) business days after receiving each Order |



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11.13 Delivery Locations

Contractor shall offer deliveries to every location served under the scope of the Contract, specifically

1. if the Contract is for a single State agency in a single area, then Contractor shall deliver to any agency location in that area;
2. if the Contract is for a single State agency in all its locations, then Contractor shall deliver to any of that agency's location in Arizona;
3. if the Contract is for statewide use but excludes certain areas, then Contractor shall deliver to any Eligible Agency or Co-Op Buyer location that is not in the excluded areas; and
4. if the Contract is for unrestricted statewide use, then:
 - a) Contractor shall deliver to any Eligible Agency or Co-Op Buyer anywhere in Arizona;
 - b) If a prospective Co-Op Buyer outside Arizona wishes to order against the Contract, Contractor agrees to negotiate in good faith any fair and reasonable price or lead time adjustments necessary to serve that location if practicable to do so within the scope of its normal business; and,
 - c) if the Contract indicates defined delivery areas and prices, those always apply unless the Order expressly states otherwise and Contractor accepts it.

11.14 Conditions at Delivery Location

Contractor shall verify receiving hours and conditions (i.e. height/weight restrictions, access control, etc.) with the relevant purchaser for the receiving site before scheduling or making a delivery. State will neither allow extra charges for wait time, comebacks, or the like nor excuse late delivery if Contractor has failed to make the verification or comply with the applicable conditions. Contractor shall make each delivery to the specific location indicated in the Order, which Contractor acknowledges might be inside an industrial building, institutional building, low-rise office building, or high-rise office building instead of a normal receiving dock. Contractor might be required to make deliveries to locations inside a secured perimeter at certain institutional facilities such as prisons where prior clearances are required for each delivery and driver individually. Contractor shall contact each such facility directly to confirm its most-current security clearance procedures, allowable hours for deliveries, visitor dress code, and other applicable rules. State will neither allow extra charges for wait time, comebacks, or the like nor excuse late delivery if Contractor has failed to make the confirmation or comply with the applicable conditions

11.15 Acceptance

State has the right to make acceptance of Materials subject to a complete inspection on delivery and installation, if installation is Contractor's responsibility. State may apply as acceptance criteria conformity to the Contract, workmanship and quality, correctness of constituent materials, and any other matter for which the Contract or applicable laws state a requirement, whether stated directly or by reference to another document, standard, reference specification, etc. Contractor shall remove any rejected Materials from the delivery location, or from any immediate environs to which it might have been reasonably necessary to move it, carry it off the delivery premises, and subsequently deliver an equal number or quantity of conforming items. State will not owe Contractor any payment for rejected Materials, and State may, at its discretion, withhold or make partial payment for any rejected Materials that have been returned to Contractor in those instances where State has agreed to permit repair instead of demanding replacement.

11.16 Correcting Defects

Contractor shall, at no additional cost and without entitlement to extension of any delivery deadline or specified time for performance, remove or exchange and replace any defective or non-conforming delivered or installed Materials



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1. Contractor shall be solely responsible for the cost of any associated cutting and patching, temporary protection measures, packing and crating, hoisting and loading, transportation, unpacking, inspection, repacking, reshipping, and reinstallation if installation is within the scope of the Contract.
2. If Contractor fails to do so in a timely manner, State will be entitled to exercise its remedies under paragraph 8.5 [*Right of Offset*] of the Uniform Terms and Conditions.
3. Whether State will permit Contractor to repair in place or demands that Contractor remove and replace is at State's discretion in each instance, provided that, State shall not apply that discretion punitively if repair in place is practicable and doing so would not create safety hazards, put property at risk, unreasonably interfere with operations, create public nuisance, or give rise to any other reasonable concern on State's part.

11.17 Returns

State may, at its discretion, return for full credit and with no restocking charges any delivered Materials unused in the original packaging, including any instruction manuals or other incidental item that accompanied the original shipment, within thirty (30) days after receipt. If State elects to return delivered Materials, then State shall pay all freight, delivery, and transit insurance costs to return the products to the place from which Contractor shipped them, provided that, if State returns delivered Materials because they are defective or non-conforming or for any other reason having to do with Contractor fault or error, then State will not be responsible for paying freight, delivery, or transit insurance costs to return the products and may, at its discretion, either have those billed directly to Contractor or offset them under paragraph 8.5 [*Right of Offset*] of the Uniform Terms and Conditions.

11.18 Order Cancellations

State may cancel Orders after issuance and prior to the start of performance at its discretion. The same method as that used for ordering will be used for cancellation. If State cancels such an Order, then State shall:

1. reimburse Contractor for:
 - a) its actual, documented costs incurred in fulfilling the Order up to the cancellation effective date plus one (1) additional business day;
 - b) the cost of any obligations it incurred in fulfilling the Order up to the cancellation effective date plus one (1) additional business day that demonstrably cannot be canceled, or that have pre-established cancellation penalties specified in the relevant Subcontracts, to the extent the penalties are reasonable and customary for the work in question; and,
2. Contractor shall not charge or be entitled to charge State for any new costs it incurs after receiving the cancellation notice.

By way of reminder, State is not liable for any products that were produced, shipped, or delivered or any services that were performed before Contractor had acknowledged the corresponding Order.

11.19 Product Safety

Materials as-shipped must comply with applicable safety regulations and standards. Unless expressly stated otherwise in the Scope of Work, State is not responsible for making any Materials safe or compliant following acceptance and is relying exclusively on Contractor to deliver only products that are already safe and compliant

11.20 Hazardous Materials

Contractor shall timely provide State with any "Safety Data Sheets" (SDS) and any other hazard communication documentation required under the US Department of Labor's Occupational Safety and Health Administration (OSHA) "Hazard Communication Standard" (often referred to as the "HazCom 2012 Final Rule") that is reasonably necessary for State to comply with



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regulations when it or its other contractors install, handle, operate, repair, maintain or remove any Materials. Note that, in the past, those documents might have been referred to as "Material Safety Data Sheets" or "Product Safety Data Sheets", but State (and this Contract) use only the more up-to-date "SDS" reference. Contractor shall ensure that all its relevant personnel understand the nature of and hazards associated with, to the extent it they are Contractor's responsibility under the Contract, the design, shipping, handling, delivery, installation, repair and maintenance of any portion of the Work that is, contains or will become upon use a hazardous material, with "hazardous material" being any material or substance that is: (1) identified now or in the future as being hazardous, toxic or dangerous under applicable laws; or (2) subject to statutory or regulatory requirement governing special handling, disposal or cleanup.

12.0 General Provisions for Services

- 12.1 Applicability** Article 12 applies to the extent the Work is or includes Services.
- 12.2 Comprehensive Services Offering** Contractor shall provide the comprehensive range of Services for which a price is established in the Contract for ordering by Eligible Agencies, and Co-Op Buyers if co-op buying applies.
- 12.3 Additional Services** [Reserved]
- 12.4 Off-Contract Services** Contractor shall ensure that the design and/or procedures for the Services ordering method prevents Orders for off-contract or excluded services. Notwithstanding that State might have its own internal administrative rules regarding off contract or excluded service ordering, and endeavors to prevent such orders from occurring, Contractor is responsible for not accepting any such Orders. State may, at its discretion, cancel any such Order without obligation. As used above, "off-contract service" refers to any service not included in the scope of the Contract and for which no price or compensation has been established contractually, and "excluded service" refers to any service expressly excluded from the scope of the Contract.
- 12.5 Removal of Personnel** [Reserved]
- 12.6 Transitions** During commencement, Contractor shall attend transition meetings with any outgoing vendors to coordinate and ease the transition so that the effect on State's operations is kept to a minimum. State may elect to have outgoing vendors complete some or all of their work or orders in progress to ease the transition as is safest and most efficient in each instance, even if that scope is covered under the Contract (provided that Contractor still will be compensated fully according to Contract terms). Conversely, State anticipates having a continued need for the same Materials and Services upon expiration or earlier termination of the Contract (which will be subject to good faith negotiation by the parties, including regarding the terms and conditions governing such continued provision of the Materials and Services). Accordingly, Contractor shall work closely with any new (incoming) vendor and State to ensure as smooth and complete a transfer as is practicable. State's representative shall coordinate all transition activities and facilitate joint development of a comprehensive transition plan by both Contractor and the incoming vendor. As with the incoming transition. State may permit Contractor (outgoing) to complete Work or Orders in progress to ease the transition as is safest and most efficient in each instance.
- 12.7 Accuracy of Work** Contractor is responsible for the accuracy of the Services, and shall promptly make all necessary revisions or corrections resulting from errors and omissions on its part without additional compensation. Acceptance by State will not relieve Contractor of responsibility for correction of any errors discovered subsequently or necessary clarification of any ambiguities.
- 12.8 Requirements at Services Location** Contractor personnel shall perform their assigned portions of the Services at the specific location indicated in the Order (if applicable). Contractor acknowledges that the location might be inside an industrial building, institutional building, or one of various office types and classes. Additionally, if performing the Services requires Contractor personnel to work inside a secured perimeter at certain institutional facilities such as prisons where prior clearances are required, Contractor shall contact the facility directly to confirm its most-current security clearance procedures, allowable hours for work, visitor dress code, and other applicable rules. State will neither



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allow extra charges for wait time, comebacks, or the like nor excuse late performance if Contractor has failed to make the confirmation or comply with the applicable conditions.

12.9 Services Acceptance

State has the right to make acceptance of Services subject to commercially reasonable acceptance criteria for the applicable Services, provided that such acceptance criteria are provided to Contractor in writing prior to fulfillment of any Order. State may apply as acceptance criteria conformity to the Contract, accuracy, completeness, or other indicators of quality or other matter for which the Contract or law states a requirement, whether stated directly or by reference to another document, standard, reference specification, etc. State will not owe Contractor any payment for un-accepted Services; and State may, at its discretion, withhold or make partial payment for any rejected Services if Contractor is still in the process of re-performing or otherwise curing the grounds for State's rejection.

12.10 Corrective Action Required

Notwithstanding any other guarantees, general warranties, or particular warranties Contractor has given under the Contract, if Contractor fails to perform any material portion of the Services, including failing to complete any contractual deliverable, or if its performance fails to meet agreed-upon service levels or service standards set out in or referred to in the Contract, then Contractor shall perform a root-cause analysis to identify the source of the failure and use all commercially reasonable efforts to correct the failure and meet the Contract requirements as promptly as is practicable.

1. Contractor shall provide to State a report detailing the identified cause and setting out its detailed corrective action plan promptly after the date the failure occurred (or the date when the failure first became apparent, if it was not apparent immediately after occurrence).
2. State may demand to review and approve Contractor's analysis and plans, and Contractor shall make any corrections State instructs and adopt State's recommendations so far as is commercially practicable, provided that State may insist on any measures it determines within reason to be necessary for safety or protecting property and the environment.
3. Contractor shall take the necessary action to avoid any like failure in the future, if doing so is appropriate and practicable under the circumstances.

13.0 Data and Information Handling (Reserved)

14.0 Information Technology Work (Reserved)

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1. Definition of Terms

As used in this Solicitation and any resulting Contract, the terms listed below are defined as follows:

- 1.1. *"Attachment"* means any attachment to this Contract.
- 1.2. *"Contract"* means the combination of the PA (as defined in the Statement of Work) and the NASPO Master Agreement.
- 1.3. *"Contract Amendment"* means a document signed by Procurement Officer that has been issued for the purpose of making changes to the Contract after execution.
- 1.4. *"Contractor"* means the entity identified on the Acceptance who has entered into the Contract with State.
- 1.5. *"Days"* means calendar days unless otherwise specified.
- 1.6. *"Exhibit"* means any item labeled as an Exhibit in this Contract.
- 1.7. *"Gratuity"* means a payment, loan, subscription, advance, deposit of money, services, or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value is received.
- 1.8. *"Materials"* means all property, including equipment, supplies, printing, insurance and leases of property but does not include land, a permanent interest in land or real property or leasing space. "Materials" also means "Products" (as used in the NASPO Master Agreement) when clearly intended to reference equipment, hardware, software, cabling or other materials sold or leased to State by or through Contractor as a separate item from, or bundled with, a Service.
- 1.9. *"Procurement Officer"* means the person, or his or her designee, duly authorized by the State to enter into and administer Contracts and make written determinations with respect to the Contract.
- 1.10. *"Services"* means wireline and wireless business telecommunications services, including basic or telecommunications services, information or other enhanced services, and non-regulated professional services provided to State by or through Contractor under this Contract, excluding Materials.
- 1.11. *"Subcontract"* means any Contract, express or implied, between the Contractor and another party or between a subcontractor and another party delegating or assigning, in whole or in part, the making or furnishing of any material or any service required for the performance of the Contract.
- 1.12. *"State"* means the State of Arizona and Department or Agency of the State that executes the Contract.
- 1.13. *"State Fiscal Year"* means the period beginning with July 1 and ending June 30.

2. Contract Interpretation

- 2.1. Arizona Law. The Arizona law applies to this Contract including, where applicable, the Uniform Commercial Code as adopted by the State of Arizona and the Arizona Procurement Code, Arizona Revised Statutes (A.R.S.) Title 41, Chapter 23, and its implementing rules, Arizona Administrative Code (A.A.C.) Title 2, Chapter 7.
- 2.2. Implied Contract Terms. Each provision of law and any terms required by law to be in this Contract are a part of this Contract as if fully stated in it.
- 2.3. Contract Order of Precedence. In the event of a conflict in the provisions of the Contract, the applicable order of precedence is set forth in Section 2.2 of the Special Terms and Conditions.
- 2.4. Relationship of Parties. The Contractor under this Contract is an independent Contractor. Neither party to this Contract shall be deemed to be the employee or agent of the other party to the Contract.



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- 2.5. Severability. The provisions of this Contract are severable. Any term or condition deemed illegal or invalid shall not affect any other term or condition of the Contract.
- 2.6. No Parole Evidence. This Contract is intended by the parties as a final and complete expression of their agreement. No course of prior dealings between the parties and no usage of the trade shall supplement or explain any terms used in this document and no other understanding either oral or in writing shall be binding.
- 2.7. No Waiver. Either party's failure to insist on strict performance of any term or condition of the Contract shall not be deemed a waiver of that term or condition even if the party accepting or acquiescing in the nonconforming performance knows of the nature of the performance and fails to object to it.

3. Contract Administration and Operation

- 3.1. Records. Under A.R.S. § 35-214 and § 35-215, the Contractor shall retain and shall contractually require each subcontractor to retain all data and other "records" relating to the acquisition and performance of the Contract for a period of five years after the completion of the Contract. All records shall be subject to inspection and audit by the State at reasonable times. Upon request, the Contractor shall produce a legible copy of any or all such records.
- 3.2. Non-Discrimination. The Contractor shall comply with State Executive Order No. 2009-09 and all other applicable Federal and State laws, rules and regulations, including the Americans with Disabilities Act.
- 3.3. Audit. Pursuant to ARS § 35-214, at any time during the term of this Contract and five (5) years thereafter, the Contractor's or any subcontractor's books and records shall be subject to audit by the State and, where applicable, the Federal Government, to the extent that the books and records relate to the performance of the Contract or Subcontract.
- 3.4. Facilities Inspection and Materials Testing. Refer to Section 3.8 of the Special Terms and Conditions.
- 3.5. Notices. Notices shall be provided as set forth in Section 3.3 of the Special Terms and Conditions.
- 3.6. Advertising, Publishing and Promotion of Contract. The Contractor shall not use, advertise or promote information for commercial benefit concerning this Contract without the prior written approval of the Procurement Officer.
- 3.7. Property of the State. Any Materials, including reports, computer programs and other deliverables, created under this Contract are the sole property of the State. The Contractor is not entitled to a patent or copyright on those Materials and may not transfer the patent or copyright to anyone else. The Contractor shall not use or release these materials without the prior written consent of the State.
- 3.8. Ownership of Intellectual Property. Refer to Section 3.9 of the Special Terms and Conditions.
- 3.9. Federal Immigration and Nationality Act. The contractor shall comply with all federal, state and local immigration laws and regulations relating to the immigration status of their employees during the term of the contract. Further, the contractor shall flow down this requirement to all Subcontractors utilized during the term of the contract. The State shall retain the right to perform random audits of contractor and subcontractor records or to inspect papers of any employee thereof to ensure compliance. Should the State determine that the contractor and/or any Subcontractors be found noncompliant, the State may pursue all remedies allowed by law, including, but not limited to; suspension of work, termination of the contract for default and suspension and/or debarment of the Contractor.
- 3.10. E-Verify Requirements. In accordance with A.R.S. § 41-4401, Contractor warrants compliance with all Federal immigration laws and regulations relating to employees and warrants its compliance with Section A.R.S. § 23-214, Subsection A.



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3.11 Offshore Performance of Work Prohibited.

Any Services that are described in the Contract that directly serve the State of Arizona or its clients and involve access to secure or sensitive data or personal client data shall be performed within the defined territories of the United States. Unless specifically stated otherwise in the specifications, this paragraph does not apply to indirect or 'overhead' services, redundant back-up services or services that are incidental to the performance of the contract. This provision applies to work performed by subcontractors at all tiers.

4. Costs and Payments

4.1. Payments. Payments shall comply with the requirements of A.R.S. Titles 35 and 41, Net 30 days. Upon receipt and acceptance of goods or services, the Contractor shall submit a complete and accurate invoice for payment from the State within thirty (30) days.

4.2. Delivery. Unless stated otherwise in the Contract, all prices shall be F.O.B. Destination and shall include all freight delivery and unloading at the destination.

4.3. Applicable Taxes.

4.3.1. Payment of Taxes. The Contractor shall be responsible for paying all applicable taxes.

4.3.2. State and Local Transaction Privilege Taxes. The State of Arizona is subject to all applicable state and local transaction privilege taxes. Transaction privilege taxes apply to the sale and are the responsibility of the seller to remit. Failure to collect such taxes from the buyer does not relieve the seller from its obligation to remit taxes.

4.3.3. Tax Indemnification. Contractor and all subcontractors shall pay all Federal, state and local taxes applicable to its operation and any persons employed by the Contractor. Contractor shall, and require all subcontractors to hold the State harmless from any responsibility for taxes, damages and interest, if applicable, contributions required under Federal, and/or state and local laws and regulations and any other costs including transaction privilege taxes, unemployment compensation insurance, Social Security and Worker's Compensation.

4.3.4. IRS W9 Form. In order to receive payment the Contractor shall have a current I.R.S. W9 Form on file with the State of Arizona, unless not required by law.

4.4. Availability of Funds for the Next State fiscal year. Funds may not presently be available for performance under this Contract beyond the current state fiscal year. No legal liability on the part of the State for any payment may arise under this Contract beyond the current state fiscal year until funds are made available for performance of this Contract.

4.5. Availability of Funds for the current State fiscal year. Should the State Legislature enter back into session and reduce the appropriations or for any reason and these Products or Services are not funded, the State may take any of the following actions:

- 4.5.1. Accept a decrease in price offered by the Contractor;
- 4.5.2. Cancel the Contract; or
- 4.5.3. Cancel the contract and re-solicit the requirements.



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5. Contract Changes

- 5.1. Amendments. This Contract is issued under the authority of the Procurement Officer who signed this Contract. The Contract may be modified only through a Contract Amendment within the scope of the Contract. Changes to the Contract, including the addition of work or materials, the revision of payment terms, or the substitution of work or materials, directed by a person who is not specifically authorized by the procurement officer in writing or made unilaterally by the Contractor are violations of the Contract and of applicable law. Such changes, including unauthorized written Contract Amendments shall be void and without effect, and the Contractor shall not be entitled to any claim under this Contract based on those changes.
- 5.2. Subcontracts. The Contractor shall not enter into any Subcontract under this Contract for the performance of this contract without the advance written approval of the Procurement Officer (such approval not to be unreasonably withheld). The Contractor shall clearly list any proposed subcontractors and the subcontractor's proposed responsibilities. The Subcontract shall incorporate by reference the terms and conditions of this Contract.
- 5.3. Assignment and Delegation. Contractor shall not assign, sell, transfer, subcontract or sublet rights, or delegate responsibilities under this Contract, in whole or in part, without the prior written approval of the WSCA-NASPO Master Agreement Administrator.

6. Risk and Liability

- 6.1. Risk of Loss: The Contractor shall bear all loss of conforming Material covered under this Contract until received by authorized personnel at the location designated in the Order or Contract. Mere receipt does not constitute final acceptance. The risk of loss for nonconforming Materials shall remain with the Contractor regardless of receipt.

6.2. Indemnification

- 6.2.1 Contractor/Vendor Indemnification (Not Public Agency) The parties to this contract agree that the State of Arizona, its departments, agencies, boards and commissions shall be indemnified and held harmless by the contractor for the vicarious liability of the State as a result of entering into this contract. However, the parties further agree that the State of Arizona, its departments, agencies, boards and commissions shall be responsible for its own negligence. Each party to this contract is responsible for its own negligence.
- 6.2.2. Public Agency Language Only Each party (as 'indemnitor') agrees to indemnify, defend, and hold harmless the other party (as 'indemnitee') from and against any and all claims, losses, liability, costs, or expenses (including reasonable attorney's fees) (hereinafter collectively referred to as 'claims') arising out of bodily injury of any person (including death) or property damage but only to the extent that such claims which result in vicarious/derivative liability to the indemnitee, are caused by the act, omission, negligence, misconduct, or other fault of the indemnitor, its officers, officials, agents, employees, or volunteers."
- 6.3. Indemnification - Patent and Copyright. The Contractor shall indemnify and hold harmless the State against any liability, including costs and expenses, for infringement of any patent, trademark or copyright arising out of Contract performance or use by the State of materials furnished or work performed under this Contract. The State shall reasonably notify the Contractor of any claim for which it may be liable under this paragraph. If the contractor is insured pursuant to A.R.S. § 41-621 and § 35-154, this section shall not apply.

6.4 Force Majeure.

- 6.4.1 Except for payment of sums due, neither party shall be liable to the other nor deemed in default 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 is beyond the control of the party affected and occurs without its fault or negligence. Without limiting the foregoing, force majeure includes acts of God; acts of the public enemy; war; riots; strikes; mobilization; labor disputes; civil disorders; fire; flood;



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lockouts; injunctions-intervention-acts; or failures or refusals to act by government authority; and other similar occurrences beyond the control of the party declaring force majeure which such party is unable to prevent by exercising reasonable diligence.

6.4.2. Force Majeure shall not include the following occurrences:

6.4.2.1. Late delivery of equipment or materials caused by congestion at a manufacturer's plant or elsewhere, or an oversold condition of the market;

6.4.2.2. Late performance by a subcontractor unless the delay arises out of a force majeure occurrence in accordance with this force majeure term and condition; or

6.4.2.3. Inability of either the Contractor or any subcontractor to acquire or maintain any required insurance, bonds, licenses or permits.

6.4.3. If either party is delayed at any time in the progress of the work by force majeure, the delayed party shall notify the other party in writing of such delay, as soon as is practicable and no later than the following working day, of the commencement thereof and shall specify the causes of such delay in such notice. Such notice shall be delivered or mailed certified-return receipt and shall make a specific reference to this article, thereby invoking its provisions. The delayed party shall cause such delay to cease as soon as practicable and shall notify the other party in writing when it has done so. The time of completion shall be extended by Contract Amendment for a period of time equal to the time that results or effects of such delay prevent the delayed party from performing in accordance with this Contract.

6.4.4. Any delay or failure in performance by either party hereto shall not constitute default hereunder or give rise to any claim for damages or loss of anticipated profits if, and to the extent that such delay or failure is caused by force majeure.

6.5. Third Party Antitrust Violations. The Contractor assigns to the State any claim for overcharges resulting from antitrust violations to the extent that those violations concern materials or services supplied by third parties to the Contractor, toward fulfillment of this Contract.

7. Warranties

7.1. Liens. The Contractor warrants that the Materials supplied under this Contract are free of liens and shall remain free of liens.

7.2. Quality. Refer to Section 7.1 of the Special Terms and Conditions.

7.3. Fitness. The Contractor warrants that any Materials supplied to the State shall fully conform to all requirements of the Contract and all representations of the Contractor, and shall be fit for all purposes and uses required by the Contract.

7.4. Inspection/Testing. The warranties set forth in subparagraphs 7.1 through 7.3 of this paragraph are not affected by inspection or testing of or payment for the Materials by the State.

7.5. Compliance With Applicable Laws. The Materials and Services supplied under this Contract shall comply with all applicable Federal, state and local laws, and the Contractor shall maintain all applicable license and permit requirements.

7.6. Survival of Rights and Obligations after Contract Expiration or Termination.

7.6.1. Contractor's Representations and Warranties. All representations and warranties made by the Contractor under this Contract shall survive the expiration or termination hereof. In addition, the parties hereto acknowledge that pursuant to A.R.S. § 12-510, except as provided in A.R.S. § 12-529, the State is not subject to or barred by any limitations of actions prescribed in A.R.S., Title 12, Chapter 5.



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7.6.2. Purchase Orders. The Contractor shall, in accordance with all terms and conditions of the Contract, fully perform and shall be obligated to comply with all Orders received and accepted by the Contractor prior to the expiration or termination hereof, unless otherwise directed in writing by the Procurement Officer, including, without limitation, all Orders received prior to but not fully performed and satisfied at the expiration or termination of this Contract.

8. State's Contractual Remedies

- 8.1. Right to Assurance. If the State in good faith has reason to believe that the Contractor does not intend to, or is unable to perform or continue performing under this Contract, the Procurement Officer may demand in writing that the Contractor give a written assurance of intent to perform. Failure by the Contractor to provide written assurance within the number of Days reasonably specified in the demand may, at the State's option, be the basis for terminating the Contract under the Uniform Terms and Conditions or other rights and remedies available by law or provided by the Contract.
- 8.2. Stop Work Order.
 - 8.2.1. The State may, at any time, by written order to the Contractor, require the Contractor to stop all or any part, of the Work called for by this Contract for period(s) of days indicated by the State after the Order is delivered to the Contractor. The Order shall be specifically identified as a stop work order issued under this clause. Upon receipt of the stop work order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the Work covered by the order during the period of Work stoppage.
 - 8.2.2. If a stop work order issued under this clause is canceled or the period of the Order or any extension expires, the Contractor shall resume Work. The Procurement Officer shall make an equitable adjustment in the delivery schedule or Contract price, or both, and the Contract shall be amended in writing accordingly.
- 8.3. Non-exclusive Remedies. The rights and the remedies of the State under this Contract are not exclusive.
- 8.4. Nonconforming Tender. Materials or Services supplied under this Contract shall comply with the Contract in all material respects. The delivery of Materials or Services or a portion of the Materials or Services that do not so comply constitutes a breach of contract. On delivery of nonconforming Materials or Services, the State may terminate the Contract for default under applicable termination clauses in the Contract, exercise any of its rights and remedies under the Uniform Commercial Code, or pursue any other right or remedy available to it.
- 8.5. Right of Offset. The State shall be entitled to offset against any sums due the Contractor, any expenses or costs incurred by the State, or damages assessed by the State concerning the Contractor's non-conforming performance or failure to perform the Contract, including expenses, costs and damages described in the Uniform Terms and Conditions.

9. Contract Termination

- 9.1. Cancellation for Conflict of Interest. Pursuant to A.R.S. § 38-511, the State may cancel this Contract within three (3) years after Contract execution without penalty or further obligation if any person significantly involved in initiating, negotiating, securing, drafting or creating the Contract on behalf of the State is or becomes at any time while the Contract or an extension of the Contract is in effect an employee of or a consultant to any other party to this Contract with respect to the subject matter of the Contract. The cancellation shall be effective when the Contractor receives written notice of the cancellation unless the notice specifies a later time. If the Contractor is a political subdivision of the State, it may also cancel this Contract as provided in A.R.S. § 38-511.
- 9.2. Gratuities. The State may, by written notice, terminate this Contract, in whole or in part, if the State determines that employment or a Gratuity was offered or made by the Contractor or a representative of the Contractor to any officer or employee of the State for the purpose of influencing the outcome of the procurement or securing the



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Contract, an amendment to the Contract, or favorable treatment concerning the Contract, including the making of any determination or decision about contract performance. The State, in addition to any other rights or remedies, shall be entitled to recover exemplary damages in the amount of three times the value of the Gratuity offered by the Contractor.

- 9.3. Suspension or Debarment. The State may, by written notice to the Contractor, immediately terminate this Contract if the State determines that the Contractor has been debarred, suspended or otherwise lawfully prohibited from participating in any public procurement activity, including but not limited to, being disapproved as a subcontractor of any public procurement unit or other governmental body. Submittal of an offer or execution of a contract shall attest that the contractor is not currently suspended or debarred. If the Contractor becomes suspended or debarred, the contractor shall immediately notify the State.
- 9.4. Termination for Convenience. The State reserves the right to terminate the Contract or any Order, in whole or in part at any time when in the best interest of the State, without penalty or recourse, upon 30 days' written notice to Contractor. Upon receipt of the written notice, the Contractor shall stop all affected Work, as directed in the notice, notify all affected Subcontractors of the effective date of the termination and minimize all further costs to the State. In the event of termination under this paragraph, all documents, data and reports prepared by the Contractor under the Contract and related to the scope of the termination shall become the property of and be delivered to the State upon demand. The Contractor shall be entitled to receive just and equitable compensation for Work in progress, Work completed and Materials and Services accepted before the effective date of the termination. The cost principles and procedures provided in A.A.C. R2-7-701 shall apply.
- 9.5. Termination for Default.
- 9.5.1. In addition to the rights reserved in the Contract, the State may terminate the Contract in whole or in part due to both (i) the failure of the Contractor to comply with any material term or condition of the Contract, to acquire and maintain all required insurance policies, bonds, licenses and permits, or to make satisfactory progress in performing the Contract (each, a "Default") and (ii) Contractor's failure to cure the Default within 30 Days after Contractor's receipt of written notice of the Default. Subject to the foregoing, the Procurement Officer shall provide written notice of any termination and the reasons for it to the Contractor.
- 9.5.2. Upon termination under this paragraph, all goods, materials, documents, data and reports prepared by the Contractor under the Contract shall become the property of and be delivered to the State on demand.
- 9.5.3. The State may, upon termination of this Contract, procure, on terms and in the manner that it deems appropriate, materials or services to replace those under this Contract. The Contractor shall be liable to the State for any commercially reasonable excess costs incurred by the State in procuring materials or services in substitution for those due from the Contractor.
- 9.6. Continuation of Performance Through Termination. The Contractor shall continue to perform, in accordance with the requirements of the Contract, up to the date of termination, as directed in the termination notice.

10. Contract Claims

All contract claims or controversies under this Contract shall be resolved according to A.R.S. Title 41, Chapter 23, Article 9, and rules adopted thereunder.

11. Arbitration

The parties to this Contract agree to resolve all disputes arising out of or relating to this contract through arbitration, after exhausting applicable administrative review, to the extent required by A.R.S. § 12-1518, except as may be required by other applicable statutes (Title 41).



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12. Comments Welcome

The State Procurement Office periodically reviews the Uniform Terms and Conditions and welcomes any comments you may have. Please submit your comments to: State Procurement Administrator, State Procurement Office, 100 North 15th Avenue, Suite 402, Phoenix, Arizona, 85007.

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Exhibit A Pricing Document

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Contract No. CTR052803

Description: WIRELESS DATA, VOICE AND ACCESSORIES

Pricing Document

1.0 Compensation [Reserved]

2.0 Pricing

Pricing will be governed by **NASPO Master Agreement**.

2.1 TRAVEL.

- 2.1.1 Contractor shall get written approval prior to any travel under the Contract in which reimbursement of expenses will be requested. Contractor will be reimbursed for actual expenses incurred in accordance with the current rates specified in State's Travel Policy. Contractor shall itemize all per diem and lodging charges. State Travel Policy, including State rates, may be located at <https://gao.az.gov/travel>. The Eligible Entity / Customer shall reject any claim for travel reimbursement without prior written approval.

3.0 Funding

No particular funding considerations apart from paragraph 4.3 of the Uniform Terms and Conditions [Availability of Funds] have been identified as of the effective date of this Contract.

4.0 Invoicing

- 4.1 INVOICES GO TO BUYING ENTITY. Contractor shall submit all billing notices or invoices to the ordering Eligible Entity/Customer (e.g. Eligible Agency or Co-Op Buyer) at the address indicated on the applicable Order document or by utilizing the Buying Entity's purchasing tool/process.
- 4.2 MINIMUM INVOICE REQUIREMENTS. Every invoice must include the following information:

Item	Required
Bill-to name and address	●
Contractor name and Care contact information	●
Remit-to address	●
Order number (typically the The State's e-Procurement System PO #), if provided to Contractor	●
Invoice number and date	●
Date the items shipped or services performed	●
Applicable payment terms	●
Item description	●
Quantity delivered or performed	●
Line item unit of measure	●
Item price	●
Extended pricing	●



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Taxes <i>(as a separate invoice line item)</i>	●
Upcharge shipping/freight, etc. <i>(as a separate invoice line item)</i>	Materials only
Total invoice amount due	●

- 4.3 NO INVOICE WITHOUT AUTHORIZATION. Contractor shall not seek payment for any:
1. Materials or Services that have not been authorized on an acknowledged Order;
 2. Expediting, overtime, premiums, or upcharges absent State's express prior approval; or
 3. Materials or Services that are the subject of a Contract Amendment that has not been fully signed.
- 4.4 PRE-INVOICE REVIEW. Reserved.
- 4.5 SUBMITTING INVOICES. Contractor shall submit an invoice to the ordering Eligible Agency or Co-Op Buyer using the form and/or process provided or required by the ordering Eligible Entity/Customer (Eligible Agency or Co-Op Buyer). Every invoice must be accompanied by all supporting information and documentation required by the Contract and applicable laws.
- 4.6 DEFECTIVE INVOICES. Without prejudice to its other rights under the Contract or further obligation to Contractor, the ordering Eligible Entity/Customer (Eligible Agency or Co-Op Buyer) may, at its discretion, reject any materially defective invoice.
- 4.6.1 The ordering Authorize Entity/Customer (Eligible Agency or Co-Op Buyer) shall notify Contractor within 5 (five) business days after receipt if it determines an invoice to be materially defective.
- 4.6.2 Invoices will be deemed automatically rejected upon delivery if they:
- (a) are sent to an incorrect address; or
 - (b) are payable to any Person other than the Contractor.
- 4.6.3 The ordering Eligible Entity/Customer (Eligible Agency or Co-Op Buyer) will have no obligation to pay against a defective invoice unless and until Contractor has re-submitted it free of defects.

5.0 Payments

- 5.1 PAYMENT. The applicable Eligible Agency or Co-Op Buyer shall pay undisputed amounts due to Contractor within the time period specified in Section 4.0 Costs and Payments of the Uniform Terms and Conditions.
- 5.2 JOINT CHECKS OR DIRECT PAY.[Reserved]
- 5.3 RECOVERY OF OVER-PAYMENT. If applicable Eligible Agency or Co-Op Buyer determines that an over-payment has been made to Contractor on any prior invoice, it shall inform Contractor of the amount and date of the over-payment and may deduct the over-paid amount from amounts then or thereafter due to Contractor.
- 5.4 PAYMENTS TO SUBCONTRACTORS. Contractor shall make payment of all undisputed amounts due to Subcontractors within thirty (30) days of receipt of funds from applicable Eligible Agency or Co-Op Buyer applicable to their services.
- 5.5 PURCHASING CARD. Applicable Eligible Agency or Co-Op Buyer may pay invoices for some or all Orders using a purchasing card. Any and all fees related to payment using a Purchasing Card are the responsibility of Contractor. Unless otherwise stated in the Contract there will be no additional fees or increase in prices associated with this method of payment.
- 5.6 AUTOMATED CLEARING HOUSE. Applicable Eligible Agency or Co-Op Buyer may pay invoices for some or all Orders through an Automated Clearing House (ACH). In order to receive payments in this manner from Eligible Agencies, Contractor must complete an ACH Vendor Authorization Form (form GAO-618) within 30 (thirty) days after the effective date of the Contract. The form is available online at: <https://gao.az.gov/afis/vendor-information>



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Contractor shall cooperate with the State by providing the State information including, but not limited to, Contractor's bank information to support the State's selected means of payment. The Contractor shall not charge the State an amount to recover any convenience fee, discount fee, processing fee or service fee related to the acceptance of the State's payment.

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Attachment 2 Boycott of Israel Disclosure

State of Arizona
State Procurement Office
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Contract No. CTR052803

Description: WIRELESS DATA, VOICE AND ACCESSORIES

All materials submitted as part of a response to a solicitation are subject to Arizona public records law and will be disclosed if there is an appropriate public records request at the time of or after the award of the contract. Recently legislation has been enacted to prohibit the state from contracting with companies currently engaged in a boycott of Israel. To ensure compliance with A.R.S. §35-393.01. This form must be completed and returned with the response to the solicitation and any supporting information to assist the State in making its determination of compliance.

As defined by A.R.S. §35-393.01:

1. "Boycott" means engaging in a refusal to deal, terminating business activities or performing other actions that are intended to limit commercial relations with Israel or with persons or entities doing business in Israel or in territories controlled by Israel, if those actions are taken either:
 - (a) In compliance with or adherence to calls for a boycott of Israel other than those boycotts to which 50 United States Code section 4607(c) applies.
 - (b) In a manner that discriminates on the basis of nationality, national origin or religion and that is not based on a valid business reason.
2. "Company" means a sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, limited liability company or other entity or business association, and includes a wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate.
3. "Direct holdings" means all publicly traded securities of a company that are held directly by the state treasurer or a retirement system in an actively managed account or fund in which the retirement system owns all shares or interests.
4. "Indirect holdings" means all securities of a company that are held in an account or fund, including a mutual fund, that is managed by one or more persons who are not employed by the state treasurer or a retirement system, if the state treasurer or retirement system owns shares or interests either:
 - (a) together with other investors that are not subject to this section.
 - (b) that are held in an index fund.
5. "Public entity" means this State, a political subdivision of this State or an agency, board, commission or department of this State or a political subdivision of this State.
6. "Public fund" means the state treasurer or a retirement system.
7. "Restricted companies" means companies that boycott Israel.
8. "Retirement system" means a retirement plan or system that is established by or pursuant to title 38.

All offerors must select one of the following:

☒ My company **does not** participate in, and agrees not to participate in during the term of the contract, a boycott of Israel in accordance with A.R.S. §35-393.01. I understand that my entire response will become public record in accordance with A.A.C. R2-7-C317.

☐ My company **does** participate in a boycott of Israel as defined by A.R.S. §35-393.01.

By submitting this response, proposer agrees to indemnify and hold the State, its agents and employees, harmless from any claims or causes of action relating to the State's action based upon reliance on the above representations, including the payment of all costs and attorney fees incurred by the State in defending such an action.

T-Mobile USA, Inc.

12920 SE 38th St Company Name

Bellevue WA 98006-1350

City State Zip

DocuSigned by:

Signature of Person Authorized to Sign
David Bezzant

Printed Name
Vice President, T-Mobile for Government
Title

End of Attachment



Attachment 3 Disaster Readiness & Emergency Response

State of Arizona
State Procurement Office
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Description: WIRELESS DATA, VOICE AND ACCESSORIES

T Mobile™



**Disaster Readiness
& Emergency Response**



Attachment 3 Disaster Readiness & Emergency Response

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When disaster strikes, T-Mobile is super-charged to respond with a unique and amplified portfolio of people, equipment and capabilities to provide our customers the best possible experience and help ensure our customers stay connected to their families as well as emergency services during a disaster event.

We Are America's Un-Carrier

T-Mobile is committed to safeguarding the interests of our customers, employees, and stakeholders in the event of an emergency or significant business disruption. We maintain an Enterprise Continuity Program designed to provide effective responses to a wide



Attachment 3 Disaster Readiness & Emergency Response

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variety of disruptive events. The program is centralized in its design and decentralized in its implementation, promoting active involvement in the program across multiple lines of business and locations.

Our Commitment to Customers & Reliable Service



We understand the importance of reliable communications and connectivity during critical events. Depending on the size and scale of the event, T-Mobile has business continuity strategies in place to provide added capacity, alternative work locations and remote access if necessary, to retain operations.

T-Mobile incorporates business continuity into the corporation's overall business philosophy. Our Enterprise Continuity Program promotes utilizing business continuity principles, guidelines, and standards by all company employees during routine business operations to assure the continuation of our mission critical enterprise operations and services. This level of consistency across the lines of business enhances T-Mobile's overall planning and business resumption efforts.

The T-Mobile Enterprise Continuity Program is designed to be best-in-class with proactive measures to reduce risk to enterprise operations and recovery

solutions that minimize impact to customers and services during a potential business disruption. We maintain multiple dedicated enterprise-wide teams to address Business Continuity, Disaster Recovery, Network Availability, Emergency Response and Customer Support, ensuring T-Mobile's continued focus on safeguarding the interests of our customers, employees and stakeholders in the event of an emergency or significant business disruption. These teams work in partnership to provide coordinated and effective responses to a wide variety of disruptive events.

A team of dedicated, certified, and seasoned Business Continuity professionals work with all lines of business to help ensure that Business Continuity Plans are current, comprehensive, and effective. This group supports our business continuity planning for each line of business and defines enterprise recovery tools and methodologies.

The T-Mobile Enterprise Continuity Program is reviewed and approved by leadership on an annual basis and is guided by the following governing principles:

- Commitment to employee and customer safety
- Commitment to preserving business operations and services
- Business continuity as a shared responsibility across all levels of management, all lines of business and the Enterprise Continuity Team.
- Continual business continuity plan assessment, improvement, flexibility, and maturity is necessary for success



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- Plan development with an “all hazards” mindset and focus on a full range of natural and man-made hazards and risks that could impact employees, customers, operations, and assets, in countries across the globe.

Critical operations, processes and services across the enterprise are identified along with criticality ratings, risks, gaps, and potential impacts of a service disruption. Process, criticality, and risk reviews are conducted on a regular basis.

Business Continuity Planning Focused on the Customer Experience

The T-Mobile Enterprise Continuity Program considers the full range of natural and man-made hazards that could impact employees, customers, operations, and assets across the country. T-Mobile utilizes information obtained through Business Impact Analyses (BIA) and development of business continuity (risk reduction) strategies to preserve business functions that are required in the face of a disaster.

Primary components of the T-Mobile Business Continuity Program include:

- Enterprise Business Continuity Project Initiation and Oversight
- Risk Evaluation and Controls
- Business Impact Assessment and Analysis
- Business Continuity and Disaster Recovery Strategic Direction
- Business Continuity Plan Development, Maintenance, and Exercising
- Awareness and Training Programs
- Public Relations and Crisis Response and Resumption
- Coordination with External Agencies
- Incident Command Structure integrated into each Engineering team nationwide



Business Impact Analysis (BIA)

Through various forms of examination, including Business Impact Analysis (BIA), criticality of each part of the business (business processes, applications, suppliers, partners, sites, network elements and other business aspects) is determined. The criticality defines how long these elements can be disrupted without significant impacts to the company's employees, customers, operations and/or assets. This prioritization drives mitigation and planning decisions. Critical business processes require a comparable criticality assigned to the applications they use, the suppliers they need and other dependencies. BIA reviews are scheduled and conducted annually.

Business Continuity Strategies and Planning

- Process & Standards: We deploy common terminology, standards, policies, methodologies, and documentation to reinforce consistency across the company.



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- Reporting: T-Mobile's Executive Management receives a quarterly risk report inclusive of the efforts and status of the Enterprise Continuity Program.
- Plan Maintenance: Annually, each organization's plan is reviewed by the owning team and Enterprise Continuity experts. Additionally, key stakeholders are responsible for reviewing program documents at least annually.
- Supplier Business Continuity – T-Mobile has a Business Continuity and Disaster Recovery Plan (BC/DR) Assessment process that is designed to inform us of partner plans along with the ability to request the business continuity plans used by our partners, suppliers and vendors, as needed.
- Our business continuity plans are housed in a centralized redundant repository that is accessible to internal stakeholders regardless of their physical location.

Enterprise Pandemic and Employee Continuity Plan



T-Mobile has in place a comprehensive "Enterprise Pandemic and Employee Continuity" plan which contemplates events that comprise several scenarios, ranging from employee injuries to extended absenteeism. T-Mobile has a designated internal structure responsible for impact assessments and decision-making during a pandemic or employee continuity event as well as proactive planning to identify emerging threats and new strategy implementation. As T-Mobile's business continuity plans are developed with an "all-hazards" mindset, Pandemic and Employee continuity strategies such as remote work, increased office cleanings and social distancing are considered in all plans. During the Covid-19 pandemic, we increased our resiliency by ensuring back office and call center staff (50,000+) had the ability to work from home. We can rapidly deploy that capability and sustain it for as long as needed.

Even when there's no active disaster or outage, we're always working to ensure that our network is operating at optimal levels for ever-changing demands. We regularly exercise our emergency response teams across the nation, to prepare for any situation that arises.

Customer Satisfaction Drives T-Mobile's Preparation & Response to Disaster Events

When T-Mobile becomes aware of an upcoming event (such as a hurricane or storm), our organization acts before a disaster occurs. Highly detailed emergency operations plans have been created and implemented nationwide and technical personnel have been trained. This preparation allows us to maximize resource availability and reduce response time. Some examples of how we prepare and act:



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Before a Disaster Strikes –T-Mobile Preparations	During & After Disaster –T-Mobile Response Actions
Analyze storm conditions for anticipated landfall. Prepare and test back up power sources in probable areas of impact Ensure supportive equipment, such as portable generators, Cell-On-Wheels (COWs) and Cell -On-Light-Truck, (COLTS) on standby nationwide Establish a command center that will mobilize teams of technicians and engineers as conditions permit Engage our national vendors regarding fuel, generators, technicians, staging yards, security, accommodations, and catering, so teams can focus on the tasks at hand Create staging areas for incoming equipment and personnel Forward deploy resources in safe zones Coordinate with local and state officials, State Offices of Emergency Management, DHS, FEMA, and the FCC as appropriate Monitor evacuation efforts and routes Identify opportunities to adjust wireless capacity in certain hubs/zones (<i>e.g.</i>, shelters, transport hubs, arenas, etc...)	Deploy portable generators, COWs, Satellite or Microwave as needed Establish comprehensive strategy for network recovery dependent upon impact and immediate needs Coordinate with local, State, and federal officials and Government organizations as appropriate Offer options to ensure public safety officials, emergency first responders, and others have adequate support Support impacted communities in various ways depending on circumstances and need (<i>e.g.</i>, Wi-Fi calling and charging stations)

T-Mobile's Reliable, Resilient & Redundant Network

Reliable connectivity is a must for our customers. We have spent many years focused on network and operational redundancy along with hardening and improving resiliency on our infrastructure, critical sites, and operations such as Network Operations Centers, Data Centers and Call Centers. Network design plays a critical part in hardening our network. MSO locations are designed to significantly reduce the chance of network failure due to third party fiber damage, equipment failures or other potential causes of service interruptions. We continue to make significant investments in our network's redundancy, resiliency and reliability and maintain an organized and integrated suite of disaster plans & procedures.

Our Network Operations Centers are not only geo-redundant and diverse across the country, but the NOC teams also practice operations rollover on a regular basis. We have geo-redundant teams that conduct not only those daily operations at each site, but also engage in the operational rollovers from center to center.

Our Data Centers are geo-diverse and geo-redundant. They support primary and alternate systems for critical operations, tools, and systems. We have geo-diverse and redundant teams of experts across engineering, facilities, NOCs, IT Teams, Network Support and Data Centers.



Attachment 3 Disaster Readiness & Emergency Response

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State Procurement Office
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Contract No. CTR052803

Description: WIRELESS DATA, VOICE AND ACCESSORIES

Our Cell Site and Switch Disaster Planning

Cell sites are generally equipped to accommodate back-up power sources as needed (e.g., batteries, fixed generators, portable generator connectors). We've also implemented a distributed architecture for interconnection redundancy utilizing dual fiber facilities at switch locations. Communications from T-Mobile cell sites are backhauled with various combinations of Ethernet, copper, fiber, and microwave systems. T-Mobile's radio network provides significant overlapping coverage areas, which often allow cell sites to compensate for a neighboring cell site fully or partially.

Site recovery plans have been developed for major switch locations, prioritizing available options for relocation, to help ensure agility when faced with disaster recovery issues. Mobile Switching Centers have permanent, on-site emergency backup power for use in the event of a momentary or extended power failure. They are protected by FM 200 or Pre-action Dry Fire Systems. They are also equipped with spare equipment inventory for all critical network elements.



IP Backbone Failover and Recovery

T-Mobile's IP network utilizes multiple logical adjacencies over physically diverse paths. Essentially, there are multiple diverse paths between any two nodes on the backbone. These backbone links travel over fiber physically diverse from other fiber paths. The IP Backbone is regularly reviewed and augmented for capacity needs and can reroute traffic based upon dynamic routing protocols. Thanks to the high level of diversity and fast convergence of the network most fiber outages and router failures will go completely unnoticed by our customers.

Additionally, in the event of a temporary outage of one or many network links, we can manage all customer routing requirements effectively. The IP backbone utilizes technology to take advantage of potential fiber paths during a disruption. The capacity available in the backbone helps ensure congestion-free service during normal operations and provides failover bandwidth in the event of one or more link outages.

IP backbone network routers have at least two physical connections, redundant processors, and redundant power supplies (such as batteries and diesel generators) at all sites. Equipment is installed in secure T-Mobile facilities that are built to withstand natural disasters.

Response Operations

T-Mobile has multiple strategies in place for Emergency Management and Rapid Response to quickly address and respond to all types and sizes of events and to support our customers across the globe. We understand the importance of reliable communications and always-on connectivity. We have a long history of moving quickly and efficiently in emergency situations to ensure our customers can stay connected when they need it the most.

When our Network team receives notification of an actual or potential situation that requires activation (hurricane, earthquake, regional power outage, other event where business as usual would not resolve the situation), a virtual Emergency Operations Center



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(EOC) is established to oversee and manage the company's response to an event from the beginning to end. This EOC performs an initial overall assessment, establishes monitoring bridge(s), coordinates between agencies impacted by the event, assigns tasks, gathers status information, and performs executive notifications at prescribed times.

We maintain an organized and integrated suite of disaster plans & procedures. Network teams leverage tools such as hardened GPS-enabled phones, wireless modems, custom applications, IoT solutions and smart phones to aid in situation assessment, response, and resource tracking. These multilayered investments are designed to deliver best in class service continuity.

When disaster strikes in one area of the country and there is a need for additional on-the-ground support, we have an **Emergency Volunteer Team** comprised of T-Mobile employees across the US who personally volunteer to go into disaster impacted areas to help keep our customers connected.

Rapid Response Vehicles

Our rapid response fleet of vehicles is pre-staged across our operational areas to enable rapid response and includes COLTs, COWs, Generators, Mobile Command Centers, snowmobiles & customized communication Jeeps, to help provide satellite service in the worst conditions. Our Jeeps can deploy within minutes and operate in some of the toughest terrains to support our customers when they need us most. We will never stop working to make our network the best for our customers.



Public Safety Grade Preparedness and Response

Fortifying Emergency Response Plans for our Public Safety customers and Critical Infrastructure partners is paramount at T-Mobile, and a function we have practiced for over many years.

A component of the T-Mobile Emergency Management Team is our Emergency Response Team (ERT), which is a national group with vast experience in all aspects of Public Safety Operations and Mission-Based Support. ERT is available 24 hours a day / 7 days a week (each day of the year) coordinating the necessary resources to help ensure reliable network services are available for Public Safety and First Responders.

Preparedness: Long before events arise, ERT personnel are engaged with Local, State, Federal and Critical Infrastructure planners, including, for example, leaders from the Department of Defense, the Federal Emergency Management Agency, Department of Homeland Security Critical Infrastructure Security Agency (CISA), and the Federal Communications Commission to develop policies and response frameworks, help shape best practices, coordinate on training and exercises, and improve the overall readiness of the nation. This collaboration promotes the readiness and operational capacities of T-Mobile as well as Local, State, and Federal entities, and other Critical Infrastructure and essential service partners.

Response: During times of crisis, disasters, and emergencies, T-Mobile National Emergency Management personnel who are coordinating recovery seek to remain in lockstep with Emergency Management, Homeland Security, and Public Safety officials.



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Through our collaboration with the National Communications Coordination Center and through State and Local Emergency Operations Centers, T-Mobile representatives can gather and share information, mitigate environmental and operational concerns, facilitate protective measures, and enhance rapid response and recovery capabilities.

Enhancing First Response: Our EM/ERT provides a full suite of first response capabilities. Uniquely qualified and time tested, our ERT program includes a national cache of handsets, hotspots, charging stations, and WIFI equipment to help address surge demands on Emergency Management and Public Safety operations. Additionally, our national fleet of deployables, including Satellite Cell on Light Trucks (SatCOLTs), Portable Satellite Antenna Systems, and other tactical communications systems provide the necessary and specialized infrastructure to support Government and Enterprise operations. This collaborative approach not only ensures T-Mobile's continuing capabilities to serve, but also helps address restoration of critical resources in the whole.

Sales and Retail Operations

We monitor the impact of events on our local stores, to protect the safety of our employees and customers. Depending on the unique impacts of each natural disaster, we have offered account relief, enhanced services, free devices, and accessories to help customers and the community at large meet their communication needs. Working with local officials, our fleet of T-Mobile trucks are deployed for community support efforts at evacuation centers, shelters, distribution points, and damaged stores, which can provide a point of contact for supplies and information.

Humanitarian Work

During major emergency events, we do our utmost to provide more than network recovery services to the communities impacted. We mobilize internally to support organized outreach. As part of these efforts, we have on our own and in partnership with other organizations made available/shared various essential supplies, including water, food, phones, charging stations, water, toys for kids and much more.



Maintaining a Dynamic Approach

T-Mobile's Enterprise Continuity Program is intended to be dynamic so that it can adjust to address ever evolving events and disruptions. As such, practices and procedures described in this program summary may also evolve and change over time to account for changes in events, technology, and operational impacts.