



Katie Hobbs
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Director

ARIZONA DEPARTMENT OF ADMINISTRATION

100 NORTH FIFTEENTH AVENUE · SUITE 305
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In accordance with Arizona Revised Statute (A.R.S.) §41-2632 and Arizona Administrative Code (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 for Software Value Added Reseller (SVAR), Master Agreement Contract Number CTR060021} as competitively awarded by the State of Arizona as Lead State (Master Agreement). Portions of the Master Agreement are/may be reproduced herein for ease of reference only; the most recent version of the Master Agreement is available on the NASPO Value Point website. To the extent that terms are used in the Participating Addendum that are defined in the Master Agreement, the definition in the Master Agreement shall be incorporated in this Participating Addendum, as if stated herein.

All requirements stated within this document are allowable under the Arizona Procurement Code Arizona Procurement Code (A.R.S. §§ 41-2501 *et seq.*, and the rules promulgated thereunder, AAC R2-7-101 *et seq.*) Any attempt to modify or change this document without consent from the State of Arizona shall be null and void.



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State of Arizona
State Procurement Office
100 North 15th Ave, Suite 305
Phoenix, AZ 85007

Contract Number: CTR070896

Contractor: CDW-G

Description: Software Value Added Reseller (SVAR)

Led by the State of Arizona

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PARTICIPATING ADDENDUM

Software Value Added Reseller (SVAR)

Lead by the State of Arizona

PARTICIPATING ADDENDUM TO THE STATE OF ARIZONA:

The Undersigned hereby agrees to furnish the material, service or construction in compliance with all terms, conditions, specifications and amendments as set forth in the Master Agreement and this Participating Addendum.

CDW Government LLC




Company Name

Signature of Person Authorized to Sign

625 W Adams St

Offer Dario Bertocchi

Address

Printed Name

Chicago, IL 60661

Vice President, Contracting Operations

City

State

Zip

Title

dariber@cdw.com

(203) 851-7049

Email

Phone Number

By signature in the 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 2009-09 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 NOT a small business with less than 100 employees or has gross revenues of \$4 million or less.

The Contractor has been 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 9th day of April, 2024.



John Red Horse, Statewide Procurement Group Manager

PARTICIPATING ADDENDUM

Software Value Added Reseller (SVAR)

Lead by the State of Arizona

Master Agreement #: **CTR060021**

AZ Contract #: CTR070896

Contractor: **CDW Government LLC**

Participating Entity: **State of Arizona**

The following products or services are included in this contract portfolio:

- *All services, products and accessories listed on the Contractor page of the NASPO ValuePoint website.*

Master Agreement Terms and Conditions:

1. Scope: This addendum covers the Software, Support, Maintenance and Services as defined in the SOW, and that is led by the State of Arizona "Lead State", Master Agreement number CTR060021 "MA" for use by state agencies and other entities located in the State of Arizona authorized by that State's statutes to utilize State contracts with the prior approval of the State's Chief Procurement Official.
2. Participation: This NASPO ValuePoint Master Agreement may be used by the State of Arizona, and its departments, agencies, boards, commissions, universities, and other entities authorized to use statewide contracts in the State of Arizona. Issues of interpretation and eligibility for participation are solely within the authority of the State Chief Procurement Official.
3. Primary Contacts: The primary contact individuals for this Participating Addendum are as follows (or their named successors):

Contractor

Name:	Luke Anderson
Address:	625 W Adams St, Chicago, IL 60661
Telephone:	(847) 419-7416
Email:	lukeand@cdwg.com

Participating Entity

Name:	Eric Bell
Address:	100 N 15 th Ave, Suite 305
Telephone:	602-542-8921
Email:	eric.bell@azdoa.gov

4. **Participating Entity Modifications or Additions To The Master Agreement**

These modifications or additions apply only to actions and relationships within the Participating Entity.

Participating Entity must check one of the boxes below:

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☐ No changes to the terms and conditions of the Master Agreement are required.

☒ The following changes are modifying or supplementing the Master Agreement terms and conditions.

4.1. Definition

4.1.1. "Contract" For the purpose of this Participating Addendum, the term Contract refers to the NASPO ValuePoint Master Agreement resulting from the NASPO ValuePoint Solicitation, as defined therein, and as modified by this Participating Addendum (including the Uniform and Special Instructions to Offerors, the Uniform and Special Terms and Conditions, and the Specifications and Statement or Scope of Work) and any Amendments to either the NASPO ValuePoint Master Agreement or the Participating Addendum.

4.2. The following attachments are hereby incorporated into this Participating Addendum "MPA":

4.2.1. Attachment A – State of Arizona Special Terms and Conditions are changed as attached herein

4.2.2. Attachment B – State of Arizona Uniform Terms and Conditions

4.2.3. Attachment C – Participation In Boycott of Israel

4.2.4. Attachment D – Annual Forced Labor of Ethnic Uyghurs Ban Certification for Off-Contract Purchases

4.2.5. Attachment E – Statement of Work are changed as attached herein

4.2.6. Attachment F – Conformance Statements (including Exception Tracker)

5. Subcontractors: All contactors, dealers, and resellers authorized in the State of Arizona, as shown on the dedicated Contractor (cooperative contract) website, are approved to provide sales and service support to participants in the NASPO ValuePoint Master Agreement. The contractor's dealer participation will be in accordance with the terms and conditions set forth in the aforementioned Master Agreement.

6. Orders: Any order placed by a Participating Entity or Purchasing Entity for a product and/or service available from this Master Agreement shall be deemed to be a sale under (and governed by the prices and other terms and conditions) of the Master Agreement unless the parties to the order agree in writing that another contract or agreement applies to such order.

PARTICIPATING ADDENDUM**Software Value Added Reseller (SVAR)**

Lead by the State of Arizona

IN WITNESS WHEREOF, the parties have executed this Addendum as of the date of execution by both parties below.

Participating Entity: State of Arizona	Contractor: CDW Government LLC
Signature: 	Signature: 
Name: John Red Horse	Name: Dario Bertocchi
Title: Senior Procurement Group Manager	Title: Vice President, Contracting Operations
Date: 4/9/2024	Date: 4/9/2024


 Handwritten initials "JH" in blue ink, with a small "JH" printed below them.

Effective Date: 4/9/2024

For questions on executing a participating addendum, please contact:

NASPO ValuePoint

Cooperative Development Coordinator:	Nick Hughes
Telephone:	385-210-0310
Email:	nhughes@naspo.org

[Please email fully executed PDF copy of this document to

PA@naspovaluepoint.org

to support documentation of participation and posting in appropriate data bases.]



Attachment A
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STATE OF ARIZONA SPECIAL TERMS AND CONDITIONS

The Special Terms and Conditions modify the Uniform Terms and Conditions. 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. Definition of Terms: As used in the Contract, the terms listed below are defined as follows:
 - 1.1. Acceptance: The document titled "Offer and Acceptance Form" bearing the state contract number once Procurement Officer has signed it to signify (1) State's formal acceptance of the Accepted Offer and (2) 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:
 - 1.2.1. If State did not request a Revised Offer, then "Accepted Offer" means the Initial Offer.
 - 1.2.2. If State requested a Revised Offer but not a Best and Final Offer, then "Accepted Offer" means the latest Revised Offer.
 - 1.2.3. If State requested a Best and Final Offer, then "Accepted Offer" means the Best and Final Offer.
 - 1.3. Arizona Procurement Code: The Arizona Procurement Code consists of Arizona Revised Statutes (A.R.S.) §§ 41-2501 *et seq.* and Arizona Administrative Code (A.A.C.) R2-7-101 *et seq.* There is additional information in the Solicitation Instructions regarding how to access these state statutes and rules.
 - 1.4. Arizona Transaction Privilege Tax (TPT): For information, refer to the Arizona Department of Revenue (DOR) website at: <https://azdor.gov/transaction-privilege-tax-tpt>
 - 1.5. Attachment.

Any item that:

 - 1.5.1. The Solicitation required Offeror to submit as part of the Offer (e.g., Initial Offer, Revised Offer, or Best and Final Offer);
 - 1.5.2. Was attached to an Offer when submitted; and
 - 1.5.3. Was included in the Accepted Offer.



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- 1.6. Pricing Document: The Pricing Section of the Special Terms and Conditions; provided that, if there is no such Section in the Contract, then "Pricing Document" is to be construed as referring to whatever item in the Contract contains the contracted pricing and payment provisions.
- 1.7. Contract Terms and Conditions: The Special Terms and Conditions and the Uniform Terms and Conditions taken collectively.
- 1.8. Contractor: The Person identified on the Accepted Offer who has entered into the Contract with the State.
- 1.9. Contractor Indemnitor: Contractor or any of its owners, officers, directors, agents, employees, or Subcontractors.
- 1.10. Co-Op Buyer: 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 an "eligible procurement unit" under A.A.C. R2-7-101(23).

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 I.R.S. under Section 501(c)(3) through 501(c)(6) of the tax code.

- 1.11. Eligible Agency:
- 1.11.1. If the Special Terms and Conditions indicate that the Contract is a "single-agency" contract, then "Eligible Agency" means the particular State of Arizona agency, university, commission, or board identified therein.
- 1.11.2. If the Special Terms and Conditions indicate that the Contract is a mandatory statewide contract, then "Eligible Agency" means any State of Arizona department, agency, university, commission, or board.
- 1.11.3. If the Special Terms and Conditions indicate that the Contract is a "cooperative" contract available for use by Co-Op Buyers, then "Eligible Agency" means any State of Arizona department, agency, university, commission, board, or any Co-Op Buyer.
- 1.12. Instructions to Offerors: "Instructions to Offerors" means the Solicitation Instructions document of the Solicitation.



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1.13. Order: The instrument by which the Eligible Agency or Co-Op Buyer authorizes a Contractor to perform some or all of the Work. Whether the Contract will have one Order or many Orders depends on the scope of the Contract and how the State will use it. The Special Terms and Conditions provide that information. Any of the following are construed as an "Order": "Purchase order," "task order," "service order," or "job order".

1.14. The State's eProcurement System: The 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 eProcurement System--The Official State eProcurement System. Technical Bulletin No. 020 is available online at:

https://spo.az.gov/sites/default/files/documents/files/TB_020_APP_20181024.pdf

1.15. 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 Eligible Agency or Co-Op Buyer who has issued the Order.

1.16. State Indemnitees: Collectively, the State of Arizona, its departments, agencies, universities, commissions, and boards and, and their respective officers, agents, and employees.

1.17. Work: 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. Contract Interpretations

2.1. Usage. Where the Contract:

2.1.1. assigns obligations to Contractor, any reference to "Contractor" is to be construed to be a reference to the 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 Subcontractor's respective agents, representatives, and employees in every instance unless the context plainly requires that it is a reference only to Contractor as apart from Subcontractors.

2.1.2. uses the permissive "may" with respect to a party's actions, determinations, etc., the terms is to be interpreted as in A.A.C. R2-7-101(32) [*Definitions*]. For clarity of intent, any right given to State using "State may" or a like construction denotes



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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;

- 2.1.3. 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(44) [*Definitions*]. Conversely, the phrase "shall not" is to be interpreted as an imperative prohibition.
- 2.1.4. uses the term "must" with respect to a requirement, criterion, etc., the term is to be interpreted as conveying compulsion or strict necessity;
- 2.1.5. 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
- 2.1.6. 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. Contract Order of Precedence

- 2.2.1. Complementary Documents. All of the documents forming the Contract 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.
- 2.2.2. Conflicts. In case of any inconsistency, conflict, or ambiguity among the documents forming the Contract and their provisions, they are to prevail in the following order, descending from most dominate 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.
 - 2.2.2.1. Contract Amendments;
 - 2.2.2.2. The final Solicitation Documents, in the following order:



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- (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) Specifications; and
- (7) Any other documents referenced or included in the Solicitation;

2.2.2.3. Orders, in reverse chronological order; and

2.2.2.4. Accepted Offer.

2.2.3. Attachments and Exhibits. For clarity of intent, if an item was an Attachment in the Solicitation Documents or an Offer (either Initial, Revised, Best and Final, or Accepted) and was subsequently made into an Exhibit, or its content was incorporated into one of the other Contract documents, then that Attachment no longer exists contractually as an "Attachment" since it has at that point been made into some other Contract document. In every other case, an Attachment and the Offeror data therein remain part of the Accepted Offer for purposes of precedence and contractual effect.

3. Contract Administration and Operation

3.1. Term of Contract. The term of the Contract will commence on the date indicated on the Acceptance and continue for forty-eight (48) months unless canceled, terminated, or permissibly extended.

3.2. Contract Extensions. State may at its discretion extend the initial Contract term in increments of one (1) or more months and do so one or more times, provided that the maximum aggregate term of the Contract including extensions cannot exceed the maximum aggregate term of five (5) years nor can it exceed the Master Agreement Expiration Date.

3.3. Notices and Correspondence

3.3.1. To Contractor. State shall 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 State's eProcurement System Vendor Profile; and address any required notices to Contractor to the "Contact Name and Title" at the "Mailing Address" indicated on the Accepted Offer, as that address might have been amended during the term of the Contract.



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3.3.2. To State. Contractor shall address all Contract correspondence other than format notices to the email address indicated in "Contact Instructions" in the State's eProcurement System Summary for State; and address any required notices to State via email to the Procurement Officer identified as "Purchaser" in the State's eProcurement System and via mail to the following mailing address:

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3.3.3. Changes. State may change the designated Procurement Officer, update contact information, or change the applicable mailing address.

3.4. Signing of Contract Amendments. Contractor's counter-signature (or "approval" in the State's eProcurement System, in the case of an amendment) is not required to give effect if the Contract Amendment only covers either:

- 3.4.1. extension of the term of the Contract within the maximum aggregate term; or
- 3.4.2. 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 3.4.1 and 3.4.2 above, both parties' signatures (or "approval" in the State's eProcurement System in the case of an Amendment) are required to give it effect.

3.5. Click-through Terms and Conditions. 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 System, 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.



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3.6. Books and Records

- 3.6.1. Retain Records. In addition to the audit rights detailed in the Uniform Terms and Conditions, State also requires that, pursuant to A.R.S. § 41-2548(B), Contractor shall retain and shall contractually require each Subcontractor to retain books and records relating to any cost and pricing data submitted in satisfaction of § 41-2543 for the period specified in the statute.
- 3.6.2. Usage Information. Additionally, any and all information (including, but not limited to, documentation or Data) related to Eligible Agency and Co-Op Buyer usage retained solely within the Contractor's system (for example, related to punch-out or Contractor catalog sales) shall be considered public information or information that can be shared with and distributed by the State freely and for any purpose under the State's government purpose rights detailed in Section 3 of the Uniform Terms and Conditions [Ownership of Intellectual Property]. Any modifications to this Contract notwithstanding, the State shall have free use of any and all information related to Eligible Agency or Co-Op Buyer purchasing. Upon request by the State, Contractor shall promptly provide the State with any usage information requested and shall not attempt to limit the State's use in any way.
- 3.6.3. Right To Audit. The retained books and records are subject to audit by State during that period. Pursuant to A.R.S. § 41-2548(B), Contractor shall retain and shall contractually require each Subcontractor to retain 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.
- 3.6.4. 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. Subcontract

- 3.7.1. Initial list. At the time of Contract execution, Contractor's candidate Subcontractors were identified in Attachment Proposed Subcontractors to the Accepted Offer [Proposed Subcontractors]. Agreeing to them being included in the Accepted Offer signified Procurement Officer's advance consent for Contractor to enter into a Subcontract with each candidate, which Contractor shall do as promptly as necessary to ensure its ability to carry out the Work in a timely manner.



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3.7.2. Additional names. Contractor shall not enter into a Subcontract to perform Work under the Contract, without first obtaining Procurement Officer's written consent with any prospective Subcontractor that (a) was not listed on the Attachment Proposed Subcontractors at time of Contract execution or (b) is for any Materials or Services categories other than the ones for which they were previously consented. For either case (a) or (b), Contractor shall submit a written request sufficiently in advance of the need date for those materials or services so that performance under the Contract is not impaired. Procurement Officer may request any additional information he or she determines is necessary to assess the submittal, and may withhold consent pending it. Approval of additional subcontractors shall be added to the Contract by a bilateral Contract Amendment.

3.7.3. Flow-down. Contractor shall incorporate the provisions, terms, and conditions of the Contract into every Subcontract by inclusion or by reference, as appropriate. When making any post-execution consent requests, Contractor shall include its warrant that it will do the same for the pending Subcontracts covered by the request. Entering into Subcontracts will not relieve Contractor of any of its obligations or duties under the Contract, including, among other things, the duty to supervise and coordinate the work of Subcontractors. Nothing contained in any Subcontract will create or is to be construed as creating any contractual relationship between State and the Subcontractor.

3.8. Orders

3.8.1. Order Sufficiency. The Contract was awarded in accordance with the Arizona Procurement Code; the transactions and procedures required by the Arizona Procurement Code for competitive source selection have been met. An Order issued that cites the correct State contract number will suffice to authorize the Contractor to provide the Materials and perform the Services covered by that Order.

3.8.2. Order Terms. All Orders are subject to the Contract Terms and Conditions; an Order cannot modify the Contract Terms and Conditions. Any Contractor terms added to quotes or otherwise unilaterally added to Eligible Agency or Co-Op Buyer Orders are null and void.

3.8.3. Orders are Obligatory. Until the expiration or earlier termination of the Contract, State may issue and Contractor shall accept Orders that make proper reference to the Contract and are permissible hereunder, provided that, Contractor is not obliged to accept any Order that is not consistent with the then-current pricing, lead times, specifications, or payment provisions of the Contract. Contractor



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shall fulfill and complete any Orders that are begun but not yet completed as of expiration or earlier termination of the Contract unless State instructs otherwise at the time.

- 3.8.4. 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.
- 3.8.5. Non-contracted Materials or Services. Any attempt to knowingly represent for sales, marketing, or related purposes that Materials or Services not specifically awarded are under a State contract is a violation of the Contract and law.
- 3.9. Order Cancellations. State may cancel Orders within a reasonable period after issuance and at its discretion. The same method used for ordering will be used for cancellation.
- 3.9.1. If State cancels an Order, then State shall:
- 3.9.1.1. pay Contractor for any portion of the Materials and Services from that Order that have been properly delivered or performed as of the cancellation effective date; and
- 3.9.1.2. reimburse Contractor for actual, documented costs incurred in fulfilling the Order up to the cancellation effective date and the cost of any obligations incurred in fulfilling the Order up to the cancellation effective date 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.
- 3.9.2. Contractor shall not charge or be entitled to charge State for any new costs it incurs after receiving the cancellation notice; State is not liable for any Materials that were produced, shipped, or delivered, or Services that were performed before Contractor had acknowledged the corresponding Order.
- 3.9.3. State shall also be able to cancel Orders freely and without any further obligation at any time prior to Contractor's formal acknowledgement of the Order.
- 3.10. The Contract is a mandatory statewide contract (per A.A.C. R2-7-607) for multiple purchases, projects, or assignments, and a cooperative contract (per A.R.S. § 41-2632



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and A.A.C. R2-7-1002(B)) that 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 cooperative contract hereunder.

- 3.10.1. Contractor shall verify if an ordering entity is a current 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:

<https://spo.az.gov/programs/cooperative>

- 3.10.2. 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).

- 3.10.3. 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 the State to its remedies under Contract Terms and Conditions Section 8 and its right to terminate for default under Section 9. Method of calculation, payment procedures, and other details are provided on the State Procurement Office website:

<https://spo.az.gov/suppliers/usage-reporting>.

- 3.10.4. 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 the State to its remedies under Contract Terms and Conditions Section 8 and its right to terminate for default under Section 9. Contractor shall submit the report using the forms and following the instructions on the State Procurement Office website:

<https://spo.az.gov/suppliers/usage-reporting>.

- 3.10.5. Contractor shall acknowledge each Order from Eligible Agencies within one (1) business day after receipt by either: (a) "approving" the Order electronically in the State's eProcurement System, which will indicate Contractor's unqualified



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acceptance of the Order as-issued; or (b) "rejecting" the Order electronically in the State's eProcurement System, with a concurrent explanation by email to relevant originator as to the reason for rejecting it. By way of reminder, the only grounds on which the Contractor may reject or refuse an Order are those set out in subparagraph 3.11.3 [*Orders are Obligatory*]. Unless and until Contractor has approved the Order in the State's eProcurement System, 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 eProcurement System within three (3) business days. Contractor shall thereafter be barred from subsequently rejecting the Order in the State's eProcurement System and if it does so the rejection will be void.

3.10.6. Contractor shall acknowledge each Order from Co-Op Buyers in conformance with each Co-Op 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.

3.11. Multiple-Use Provisions. Eligible Agencies may issue Orders for Services in several forms, all of which become final and effective by a Purchase Order in the State's eProcurement System. 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:

- 3.11.1. By choosing some or all of the Materials or Services items 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 the Contractor;
- 3.11.2. 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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- 3.11.3. As described in 3.11.2 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; or
- 3.11.4. As described in 3.11.3 above but introducing ad-hoc commercial competition by making the selection and ordering conditional on obtaining more favorable prices than the contractually-established ones.
- 3.12. Work on State Premises
- 3.12.1. 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.
- 3.12.2. 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 in a timely manner, State will be entitled to exercise its remedies under paragraph 8.5 of the Uniform Terms and Conditions [Right of Offset].
- 3.13. Transitions
- 3.13.1. During commencement, Contractor shall attend transition meetings with any outgoing suppliers to coordinate and ease the transition so that the impact on State's operations is kept to a minimum. State may elect to have outgoing suppliers complete some or all of their Work or Orders in progress, even if that Work could be covered under the incoming supplier's Contract. Conversely, the State may have a continued need for the same Materials and Services upon expiration or earlier termination of the Contract. Accordingly, Contractor shall



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work closely with any incoming supplier and State to ensure as smooth and complete a transition transfer as is practicable.

- 3.13.2. Eligible Agency or Co-Op Buyers representative will coordinate all transition activities and facilitate joint development of a comprehensive transition plan by both Contractor and the incoming supplier. As with the incoming transition, State may permit Contractor, when Contractor is outgoing, to complete work or orders in progress to ease the transition as is safest and most efficient in each instance.

4. Costs and Payments

- 4.1. Type of Pricing. Offeror shall include only firm, fixed pricing in the Offer.
- 4.2. Contractor's Best Pricing. Contractor warrants that, for the term of the Contract, the prices and discounts set out in the Attachments titled Pricing, including any subsequent agreed amendment to it (the "Contract Pricing"), shall be equal to or better than the lowest prices and largest discounts, both separately and in combination, at which Contractor sells equivalent services, items of equipment, and materials.
- 4.2.1. That price-plus-discount equivalence ("Contractor's Best Pricing") is intended to be irrespective of whether or not those other sales have special purchase terms, conditions, rebates, or allowances.
- 4.2.2. If Contractor's Best Pricing for equivalent services, items of equipment, and materials is better than the Contract Pricing, then Contractor agrees to adjust the Contract Pricing to match the Contractor's Best Pricing for all sales related to the Contractor made after the date when the Contractor's Best Pricing was first better than the Contract Pricing.
- 4.2.3. For clarification of intent, that date is intended to be the date when the difference first occurred, which might have been before the difference was first identified. If the difference occurred before it was identified, then Supplier agrees to charge less than the Contract Pricing until the extended difference that would have been realized (i.e. if the Contractor's Best Pricing had been applied when it should have been) has been settled.
- 4.3. Pricing is all-inclusive, including any ancillary fees and costs required to accomplish the Scope of Work and all aspects of Contractor's offer as accepted by State.
- 4.3.1. Details of service not explicitly stated in the Scope of Work or in Contractor's Offer, but necessarily a part of, are deemed to be understood by Contractor and included herein. All administrative, reporting, or other requirements, all overhead costs and profit and any other costs toward the accomplishment of the requirements in the Contract are included in the pricing provided.



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- 4.3.2. Additional Charges. Any charges or fees not delineated in the Contract shall not be added, billed, or invoiced under the Contract.
- 4.4. Price Increase. The State may review a fully documented request for a price increase. The requested increase shall be in writing and be based upon a cost increase to the contractor that was clearly unpredictable at the time of the offer and is directly correlated to the price of the product concerned. Contractor must provide conclusive evidence of a need for any price increases.
- 4.4.1. Initial Contract prices shall be honored for forty-eight (48) months after award of Contract.
- 4.4.2. All written requests for price adjustments made by the Contractor shall be initiated thirty (30) days in advance of any desired price increase to allow the State sufficient time to make a fair and equitable determination to any such requests. This may be waived upon proper documentation demonstrating the urgency of the request.
- 4.4.3. All price adjustments will be implemented by a formal Contract Amendment if approved. State shall determine whether the requested price increase or an alternate option is in the best interest of the State.
- 4.4.4. State expects Contractors to use Lean Six Sigma principles to reduce costs in their supply chain, and not simply pass new costs on to the State. If a price increase is requested, State will ask for evidence that Lean Six Sigma principles and tools have been used by Contractor to attempt to reduce costs in advance of any request for a price increase under the Contract.
- 4.5. Price Reductions. Price reductions shall be immediately passed along to State and may be submitted in writing to State for consideration at any time during the Contract period. The contractor shall offer State a price reduction on the Contract product(s) concurrent with a published price reduction made to other customers. The State at its own discretion may accept a price reduction. The price reduction request shall be in writing and include documentation showing the actual reduction of cost. Sales promotions requests shall include differences in pricing, begin, and end date of promotion along with the products covered.
- 4.6. Travel. Contractor shall request and receive 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 the 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>.



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Eligible Agency or State shall reject any claim for travel reimbursement for which Contractor did not receive prior written approval.

- 4.7. Funding. No particular funding considerations apart from Uniform Terms and Conditions Sections 4.5 [Availability of Funds for the Next State Fiscal Year] and 4.6 [Availability of Funds for the Current State Fiscal Year] have been identified as of the Purchasing Addendum solicitation publication date.

4.8. Invoicing

- 4.8.1. Invoices Go To Ordering Entity. Contractor shall submit all billing notices or invoices to the ordering Eligible Agency or Co-Op Buyer at the address indicated on the applicable Order document or by utilizing the Ordering Entity's purchasing tool/process.

- 4.8.2. Minimum Invoice Requirements. Every invoice shall include the following information:

- 4.8.2.1. Bill-to name and address;
- 4.8.2.2. Contractor name and contact information;
- 4.8.2.3. Remit-to address;
- 4.8.2.4. Invoice number and date;
- 4.8.2.5. State contract number;
- 4.8.2.6. Order number (APP PO number);
- 4.8.2.7. Material or Service description (itemized);
- 4.8.2.8. Date(s) Services were performed or Materials were delivered;
- 4.8.2.9. Applicable payment terms;
- 4.8.2.10. Quantity delivered or performed;
- 4.8.2.11. Line item unit of measure;
- 4.8.2.12. Item price;
- 4.8.2.13. Extended pricing;
- 4.8.2.14. Receipt for pass-through expenses (if applicable);
- 4.8.2.15. Taxes (as a separate invoice line item), including the percentage used to calculate taxes;
- 4.8.2.16. Mailing fees (if applicable); and
- 4.8.2.17. Total invoice amount due.

- 4.8.3. No Invoice without Authorization. Contractor shall not seek payment for any:

- 4.8.3.1. Materials or Services that have not been authorized on an acknowledged Order;



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- 4.8.3.2. Expediting, overtime, premiums, or upcharges absent State's express prior approval; or
- 4.8.3.3. Materials or Services that are the subject of a Contract Amendment that has not been fully signed by the Procurement Officer.
- 4.8.4. Submitting Invoices. Contractor shall submit an invoice to the ordering Eligible Agency or Co-Op Buyer using the form and/or process required by the ordering Eligible Agency or Co-Op Buyer. Every invoice must be signed by Contractor's authorized representative and accompanied by all supporting information and documentation required by the Contract and applicable laws.
- 4.8.5. Defective Invoices. Without prejudice to its other rights under the Contract or further obligation to Contractor, the ordering Eligible Agency or Co-Op Buyer may, at its discretion, reject any materially defective invoice.
 - 4.8.5.1. The ordering Eligible Agency or Co-Op Buyer shall notify the Contractor within five (5) business days after receipt if it determines an invoice to be materially defective.
 - 4.8.5.2. Invoices will be deemed automatically rejected upon delivery if they: are sent to an incorrect address, do not reference the correct State contract and Purchase Order number, or are payable to any Person other than the Contractor.
 - 4.8.5.3. The ordering Eligible Agency or Co-Op Buyer shall have no obligation to pay against a defective invoice unless and until Contractor has re-submitted it free of defects.
- 4.9. Payments
 - 4.9.1. 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 Section of the Special Terms and Conditions above, 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 occur: (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 Contract, provided that, State will not make or be liable for any payments to Contractor until Contractor has registered



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properly in the State's eProcurement System and provided a current I.R.S. Form W-9 to State unless excused by law from providing one.

- 4.9.2. Payments Only To Contractor. Unless an assignment and assumption agreement has been reached between the Contractor and State pursuant to Section 5.2 of the Special Terms and Conditions [Assignment and Delegation] or the State has been otherwise compelled 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 Accepted Offer.
- 4.9.3. Payment. The applicable Eligible Agency or Co-Op Buyer shall pay undisputed amounts due to Contractor within the time period specified in Section 4 Costs and Payments of the Uniform Terms and Conditions.
- 4.9.4. Joint Checks or Direct Pay. Applicable Eligible Agency or Co-Op Buyer may, but is under no obligation to, pay by joint check or to pay directly to any Subcontractor or other creditor to whom any portion of Contractor's requested payment is owed.
- 4.9.5. Recovery of Overpayment. If applicable, Eligible Agency or Co-Op Buyer determines that an overpayment has been made to Contractor on any prior invoice, it shall inform Contractor of the amount and date of the overpayment and may deduct the overpaid amount from amounts then or thereafter due to Contractor.
- 4.9.6. 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 (also called a p-card) are the responsibility of the Contractor. Unless otherwise stated in the Contract, there will be no additional fees or increase in prices associated with this method of payment.
- 4.9.7. 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, the 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/publications/forms>.

4.10. Applicable Taxes

- 4.10.1. Contractor to Pay All Taxes. State is subject to Arizona Transaction Privilege Tax (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



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to collect Arizona TPT or any other applicable sales or use taxes from an Eligible Agency or Co-Op Buyer will not relieve the Contractor of any obligation to remit sales or use taxes that are due under the Contract or laws. Unless clearly stated otherwise in the Contract, all prices therein include Arizona TPT as well as every other manner of transaction privilege or sales/use tax that is due to a municipality or another state or its political subdivisions. Contractor shall pay all federal, state, and local taxes applicable to its operations and personnel.

- 4.10.2. Tax Indemnity. Contractor shall hold State harmless from any responsibility for taxes or contributions, including any applicable damages and interest, that are due to federal, state, and local authorities with respect to the Work and the Contract, as well as any related costs; the foregoing expressly includes Arizona TPT, unemployment compensation insurance, social security, and workers' compensation insurance.

5. Contract Changes

5.1. Assignment and Delegation

- 5.1.1. 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.

- 5.1.2. In Part. Subject to Special Terms and Conditions sections 3.10 [Subcontracts] 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 state law.

6. 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



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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.

6.2. General Contractor Indemnification and Insurance Requirements

6.2.1. Contractor Indemnification (Not Public Agency). 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 "Indemnatee") from and against any and all claims, actions, liabilities, damages, losses, or expenses (including court costs, attorneys' fees, and costs of 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. 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 Indemnatee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnatee, 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 judgment 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 Arizona, its officers, officials, agents, and employees for losses arising from the work performed by the Contractor for the State of Arizona. This indemnity shall not apply if the Contractor or Subcontractor(s) is/are an agency, board, commission or university of the State of Arizona.

6.2.2. Public Agency Language Only. Each party (as 'indemnitor') agrees to indemnify, defend, and hold harmless the other party (as 'indemnatee') 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 indemnatee, are caused by the act, omission, negligence, misconduct, or other fault of the indemnitor, its officers, officials, agents, employees, or volunteers.



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6.2.3. **Insurance Requirements.** Addendum A to the Special Terms and Conditions: Contractor Insurance Requirements is incorporated herein as part of the Special Terms and Conditions.

6.3. **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 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:

6.3.1. State shall provide reasonable and timely notification to Contractor of any claim for which Contractor may be liable under this paragraph;

6.3.2. 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;

6.3.3. State may elect to participate in such action at its own expense; and

6.3.4. 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 section 6.3 does not apply.

7. **Warranties**

7.1. Warranties and Requirements Related to Information Technology. Addendum B: Warranties and Requirements Related to Arizona Information Technology Statewide Policies, Standards, and Procedures is incorporated herein as part of the Special Terms and Conditions.

8. **General Provisions for Materials**

8.1. **Applicability.** Section 12 applies to the extent the Work is or includes Materials.

8.2. **Off-Contract Materials.** Contractor shall ensure that the design and/or procedures for the Materials ordering method prevents Orders for items not included in the scope of the Contract (and for which no price or compensation has been established contractually) or specifically 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



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Orders. State may, at its discretion, return any such items under subparagraph 12.17 or cancel any such Order under subparagraph 12.18, in either case being without obligation and at Contractor's expense.

- 8.3. 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. If late deliveries have been specifically addressed in the Contract, the Contract shall take precedence over any such Contractor policies.
- 8.4. 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).
- 8.5. Current Products. Contractor shall keep all products being offered under the Contract: (a) in current and ongoing production; (b) in its advertised product lines; (c) as models or types that are actively functioning in other paying customer environments; and (d) in conformance to the requirements of the Contract.
- 8.6. Maintain Comprehensive Selection. Contractor shall provide at all times the comprehensive selection of products for which a price is established in the Contract for ordering by Eligible Agencies, and Co-Op Buyers, if applicable.
- 8.7. Additional Products. State, at its discretion, may modify the scope of the Contract by Contract Amendment to include additional products or product categories so long as they are within the general scope of the ones originally covered by the Contract. Once the Contract Amendment has been fully executed, Contractor shall then update all applicable pricing and make the pricing available to all affected entities at no additional cost. Either party may make the request to add products to the Contract; regardless of who makes the request, the parties shall negotiate in good faith a fair price for any additional products, but State may elect not to add some or all of the products in question if no agreement is reached on pricing in a timely manner. Contractor's request or proposal in response to State's request shall include: (a) documentation demonstrating that the additional products meet or exceed the specifications for the original products while remaining in the same product groups as the original ones; and (b) documentation demonstrating that the proposed price for the additional products is both fair and reasonable and at the same level of discount relative to market price as were the original ones. Demonstration of (b)



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typically requires showing how prices offered to a significant number of buyers compare to the prices or discounts proposed for the additional products.

- 8.8. Discontinued Products. If a product or groups of products covered by the Contract are discontinued by the manufacturer, Contractor shall notify State within five (5) business days after receiving the manufacturer's notification. State, at its discretion, may allow Contractor to provide substitutes for the discontinued products or delete the products from the scope of the Contract. The resulting change to the Contract will be formalized by Contract Amendment. Contractor shall then update all applicable pricing and make the pricing available to all affected entities at no additional cost. The parties shall negotiate in good faith a fair price for any substitute product, but State may elect to delete the products from the scope of the Contract if no agreement is reached on substitute pricing in a timely manner. When notifying State of any discontinuance, Contractor shall provide: (a) manufacturer's announcement or documentation stating that the products have been discontinued, with identification by model/part number; (b) documentation demonstrating that the substitute products meet or exceed the specifications for the discontinued products while remaining in the same product groups as were the discontinued ones; and (c) documentation demonstrating that the proposed price for the substitute products is both fair and reasonable and at the same level of discount relative to market price as were the discontinued ones.
- 8.9. Forced Substitutes. The Contractor shall not provide forced substitutions under the Contract; Contractor shall obtain State's prior written consent before making any discretionary substitution for any product covered by the Contract.
- 8.10. 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 and without obligation on State's part, other than to permit removal of installed products, retrieve stored products, and take any other reasonably necessary actions, to implement the recall.
- 8.11. Delivery Time. Unless stated otherwise in the Purchase Order, Contractor shall make delivery within two (2) business days after receiving each Order.
- 8.12. Delivery Locations. Contractor shall offer deliveries to every location served under the scope of the Contract, specifically
- 8.12.1. if the Contract is for a single State agency in a single area, then Contractor shall deliver to any agency location in that area;



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- 8.12.2. 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;
- 8.12.3. if the Contract is for cooperative 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
- 8.12.4. if the Contract is for unrestricted mandatory statewide and cooperative use, then:
- 8.12.4.1. Contractor shall deliver to any Eligible Agency or Co-Op Buyer anywhere in Arizona;
 - 8.12.4.2. 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,
 - 8.12.4.3. if the Purchase Order indicates defined delivery areas and prices, those always apply unless the Order expressly states otherwise and Contractor accepts it.
- 8.13. Conditions at Delivery Location. Contractor shall verify receiving hours and conditions (e.g. height/weight restrictions, access control, etc.) with the relevant Eligible Agency or Co-Op Buyer for the receiving site before scheduling or making a delivery. 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 shall not pay extra charges for wait time, comebacks, or the like, nor excuse late deliveries if Contractor has failed to comply with this section.
- 8.14. Materials Acceptance. State has the right to accept Materials subject to a complete inspection on delivery and installation, if installation is Contractor's responsibility. State may require acceptance criteria, including, but not limited to, conformity to the Contract, workmanship, and quality under the Contract or for a specific Order. Contractor shall remove any rejected Materials from the delivery location, or from any area to which it might have been reasonably necessary to move it, and subsequently deliver an equal quantity of conforming items within a timeframe set by the Eligible Agency or Co-Op Buyer. State



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shall 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.

- 8.15. 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.
- 8.15.1. 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.
- 8.15.2. If Contractor fails to do so in a timely manner, State will be entitled to exercise its remedies under the Contract, including but not limited to, paragraph 8.5 [*Right of Offset*] of the Uniform Terms and Conditions.
- 8.15.3. 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.
- 8.16. Returns. State may, at its discretion, return for full credit and with no restocking charges, any delivered Materials unused in the original packaging within thirty (30) days after receipt, regardless of acceptance. If State elects to return delivered Materials, then State shall pay delivery costs to return the products to the place from which Contractor shipped them. However, 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 any costs associated with returning the Materials and may, at its discretion, either have those billed directly to Contractor, offset them under paragraph 8.5 [*Right of Offset*] of the Uniform Terms and Conditions, or take any other appropriate actions under the Contract.
- 8.17. 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. Contractor shall only deliver Materials that are already safe and compliant with the warranties in the Contract Terms and Conditions.



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8.18. Hazardous Materials. Contractor shall timely provide State with any "Safety Data Sheets" (SDS) and any other hazard communication documentation required under the United States 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 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.

9. General Provisions for Services

9.1. Applicability. Article 13 applies to the extent the Work is or includes Services.

9.2. Comprehensive Services. 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.

9.3. Additional Services. State at its discretion may modify the scope of the Contract by Contract Amendment to include additional Services or service categories that are within the general scope of the ones originally covered by the Contract. Once the Contract Amendment is fully executed, Contractor shall then update all applicable pricing and make them available to all affected entities at no additional cost. Either party may make the request to add Services to the Contract; regardless of who makes the request, the parties shall negotiate in good faith a fair price for any additional Services, but State may elect not to add some or all of the Services in question if no agreement is reached on pricing in a timely manner. Contractor's request or proposal in response to State's request shall include documentation demonstrating that the proposed price for the additional Services is both fair and reasonable and comparable to the original prices.

9.4. Off-Contract Services. Contractor shall ensure that the ordering process for the Services prevents Orders for Services not included in the scope of the Contract (and for which no price or compensation has been established in the Contract) or Services explicitly excluded from the Contract. Notwithstanding that State might have its own internal administrative rules regarding off-contract or excluded ordering of Services, and



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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.

- 9.5. Removal of Personnel. Notwithstanding that Contractor is in every circumstance responsible for hiring, assigning, directing, managing, training, disciplining, and rewarding its personnel, State may at its discretion, and without the obligation to demonstrate cause, instruct Contractor to remove any of its personnel from State's facilities or from further assignment under the Contract. In such cases, Contractor shall promptly replace removed personnel with other personnel that have equivalent qualifications, experience, and capabilities.
- 9.6. 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 shall not relieve Contractor of responsibility for correction of any errors discovered subsequently or necessary clarification of any ambiguities.
- 9.7. Requirements at Location of Services
- 9.7.1. Contractor personnel shall perform their assigned portions of the Services at the specific location indicated in the Order. Contractor acknowledges that the location might be inside an industrial building, institutional building, or one of various office types and classes.
- 9.7.2. If performing the Services requires Contractor personnel to work inside a secured perimeter at certain institutional facilities (including but not limited to prisons) where prior clearances are required, Contractor shall contact the facility directly in advance of performing the Services to confirm its current security clearance procedures, allowable hours for work, visitor dress code, and other applicable rules. State shall not pay any additional fees (including but not limited to service charges) or excuse late performance, if Contractor has failed to comply with these requirements.
- 9.8. Acceptance of Services. State has the right to accept Services subject to acceptance criteria. State may apply acceptance criteria to the Contract or a specific Order, which may include, but are not limited to, accuracy, completeness, conformance to requirements, or quality. State shall not pay Contractor for unaccepted Services, and State may, at its discretion, withhold or make partial payment for any rejected Services, while Contractor is in the process of re-performing or otherwise curing the grounds for State's rejection.
- 9.9. Corrective Action Required. Notwithstanding any other guarantees, general warranties, or particular warranties Contractor has given under the Contract, and in addition to any other rights and remedies available under the Contract, if Contractor fails to perform any



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material portion of the Services including, but not limited to, failure to complete any contractual deliverable or failure 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.

- 9.9.1. Contractor shall provide 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).
- 9.9.2. State may demand to review and approve Contractor's analysis and plans, and Contractor shall make any and all reasonable corrections State instructs and adopt State's recommendations, including any measures State determines to be necessary for employee or public safety, or the protection of property or the environment.
- 9.9.3. Contractor shall take the necessary action(s) to avoid any like failures in the future.

10. Data and Information Handling

- 10.1. Applicability. Article 14 applies to the extent the Work includes handling of any (1) State's proprietary and sensitive data or (2) confidential or access-restricted information obtained from State or from others at State's behest.
- 10.2. Data Protection and Confidentiality of Information. Contractor warrants that it will establish and maintain procedures and controls acceptable to State for ensuring that State's proprietary and sensitive data is protected from unauthorized access and information obtained from State or others in performance of its contractual duties is not mishandled, misused, or inappropriately released or disclosed. For purposes of this paragraph, all data created by Contractor in any way related to the Contract, provided to Contractor by State, or prepared by others for State are proprietary to State, and all information by those same avenues is State's confidential information. To comply with the foregoing warrant:
 - 10.2.1. Contractor shall: (a) notify State immediately of any unauthorized access or inappropriate disclosures, whether stemming from an external security breach, internal breach, system failure, or procedural lapse; (b) cooperate with State to identify the source or cause and respond to each unauthorized access or inappropriate disclosure; and (c) notify State promptly of any security threat that could result in unauthorized access or inappropriate disclosures; and
 - 10.2.2. Contractor shall not: (a) release any such data or allow it to be released or divulge any such information to anyone other than its employees or officers as needed for each person's individual performance of his or her duties under the



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Contract, unless State has agreed otherwise in advance and in writing; or (b) respond to any requests it receives from a third party for such data or information, and instead route all such requests to State's designated representative.

- 10.3. Personally Identifiable Information. Without limiting the generality of paragraph 14.2, Contractor warrants that it will protect any personally identifiable information ("PII") belonging to State's employees or other contractors or members of the general public that it receives from State or otherwise acquires in its performance under the Contract. For purposes of this paragraph:

- 10.3.1. PII has the meaning given in the [federal] Office of Management and Budget (OMB) *Memorandum M-17-12 Preparing for and Responding to a Breach of Personally Identifiable Information, January 3, 2017*; and
- 10.3.2. "protect" means taking measures to safeguard personally identifiable information and prevent its breach that are functionally equivalent to those called for in that OMB memorandum and elaborated on in the [federal] General Services Administration (GSA) *Directive CIO P 2180.1 GSA Rules of Behavior for Handling Personally Identifiable Information*.

NOTE (1): For convenience of reference only, the OMB memorandum is available at:

<https://dpcl.d.defense.gov/Privacy/Authorities-and-Guidance/>

NOTE (2): For convenience of reference only, the GSA directive is available at:

[https://www.gsa.gov/directive/gsa-rules-of-behavior-for-handling-personally-identifiable-information-\(pii\)-](https://www.gsa.gov/directive/gsa-rules-of-behavior-for-handling-personally-identifiable-information-(pii)-)

- 10.4. Protected Health Information. Contractor warrants that, to the extent performance under Contract involves individually identifiable health information (referred to hereinafter as protected health information ("PHI") and electronic PHI ("ePHI") as defined in the Privacy Rule referred to below), it:

- 10.4.1. is familiar with and will comply with the applicable aspects of the following collective regulatory requirements regarding patient information privacy protection: (a) the "Privacy Rule" in CFR 45 Part 160 and Part 164 pursuant to the Health Insurance Portability and Accountability Act ("HIPAA") of 1996; (b) Arizona laws, rules, and regulations applicable to PHI/ePHI that are not preempted by CFR45-160(B) or the Employee Retirement Income Security Act of 1974 ("ERISA") as amended; and (c) State's current and published PHI/ePHI privacy and security policies and procedures;



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- 10.4.2. will cooperate with State in the course of performing under the Contract so that both State and Contractor stay in compliance with the requirements in (1) above; and
- 10.4.3. will sign any documents that are reasonably necessary to keep both State and Contractor in compliance with the requirements in (1) above, in particular "Business Associate Agreements" in accordance with the Privacy Rule.

NOTE: For convenience of reference only, the Privacy Rule is available at:

<http://www.hhs.gov/hipaa/for-professionals/privacy/index.html>

11. Information Technology Work

- 11.1. Applicability. Article 15 applies to any Invitation for Bids, Request for Proposals, or Request for Quotations for "Information Technology," as defined In A.R.S. §18-101(6) "...all computerized and auxiliary automated information processing, telecommunications and related technology, including hardware, software, vendor support and related services, equipment and projects," if and to the extent that the Work is or includes Information Technology.
- 11.2. Background Checks. Each Contractor's personnel who is an applicant for an information technology position must undergo the security clearance and background check procedure, which includes fingerprinting, as required by A.R.S. § 41-710, Eligible Agency, or Co-Op Buyer. Contractor shall obtain and pay for the security clearance and background check. Contractor personnel who will have administrator privileges on a State network must additionally provide identity and address verification and undergo State-specified training for unescorted access, confidentiality, privacy, and data security
- 11.3. Information Access
 - 11.3.1. System Measures. Contractor shall employ appropriate system management and maintenance, fraud prevention and detection, and encryption application and tools to any systems or networks containing or transmitting State's proprietary data or confidential information.
 - 11.3.2. Individual Measures. Contractor personnel shall comply with applicable State policies and procedures regarding data access, privacy, and security, including prohibitions on remote access and obtaining and maintaining access identifications (IDs) and passwords. Contractor is responsible to State for ensuring that any State access IDs and passwords are used only by the person to whom they were issued. Contractor shall ensure that personnel are only provided the minimum only such level of access necessary to perform his or



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duties. Contractor shall, on request, provide a current register of the access IDs and passwords and corresponding access levels currently assigned to its personnel.

- 11.3.3. Access Control. Contractor is responsible to State for ensuring that hardware, software, data, information, and that has been provided by State or belongs to or is in the custody of State and is accessed or accessible by Contractor personnel is only used in connection with carrying out the Work and is never commercially exploited in any manner whatsoever not expressly permitted under the Contract. State may restrict access of Contractor personnel, or instruct Contractor to restrict their access, if in its determination the requirements of this subparagraph are not being met.

11.4. Pass-Through Indemnity

- 11.4.1. Indemnity from Third Party. For computer hardware or software included in the Work as discrete units that were manufactured or developed solely by a third party, Contractor may satisfy its indemnification obligations under the Contract by, to the extent permissible by law, passing through to State such indemnity as it receives from the third-party source (each a "Pass-Through Indemnity") and cooperating with State in enforcing that indemnity. If the third party fails to honor its Pass-Through Indemnity, or if a Pass-Through Indemnity is insufficient to indemnify State Indemnitees to the extent and degree, Contractor is required to do by the Uniform Terms and Conditions, then Contractor shall indemnify, defend and hold harmless State Indemnitees to the extent the Pass-Through Indemnity does not.

- 11.4.2. Notification of Claims. State shall notify Contractor promptly of any claim to which a Pass-Through Indemnity might apply. Contractor, with reasonable consultation from State, shall control of the defense of any action on any claim to which a Pass-Through Indemnity applies, including negotiations for settlement or compromise, provided that:

- 11.4.2.1. State reserves the right to elect to participate in the action at its own expense;
- 11.4.2.2. State reserves the right to approve or reject any settlement or compromise on reasonable grounds and if done so timely; and
- 11.4.2.3. State shall in any case cooperate in the defense and any related settlement negotiations.

- 11.5. Systems and Controls. In consideration for State having agreed to permit Pass-Through Indemnities in lieu of direct indemnity, Contractor agrees to establish and keep in place



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systems and controls appropriate to ensure that State funds under this Contract are not knowingly used for the acquisition, operation, or maintenance of Materials or Services in violation of intellectual property laws or a third party's intellectual property rights.

11.6. Redress of Infringement

11.6.1. Replace, License, or Modify. If Contractor becomes aware that any Materials or Services infringe, or are likely to be infringing, on any third party's intellectual property rights, then Contractor shall, at its sole cost and expense and in consultation with State, either:

- 11.6.1.1. replace any infringing items with non-infringing ones;
- 11.6.1.2. obtain for State the right to continue using the infringing items; or
- 11.6.1.3. modify the infringing items so that they become non-infringing, so long as they continue to function as specified following the modification.

11.6.2. Cancellation Option. In every case under 15.6.1, if none of those options can reasonably be accomplished, or if the continued use of the infringing items is impracticable, State may cancel the relevant Order or terminate the Contract, and Contractor shall take back the infringing items. If State does cancel the Order or terminate the Contract, Contractor shall refund to State:

- 11.6.2.1. for any software created for State under the Contract, the amount State paid to Contractor for creating it;
- 11.6.2.2. for all other Materials, the net book value of the product provided according to generally accepted accounting principles; and
- 11.6.2.3. for Services, the amount paid by State or an amount equal to twelve (12) months of charges, whichever is less.

11.6.3. Exceptions. Contractor will not be liable for any claim of infringement based solely on any of the following by a State Indemnitee:

- 11.6.3.1. modification or use of Materials other than as contemplated by the Contract or expressly authorized or proposed by a Contractor Indemnitor;
- 11.6.3.2. operation of Materials with any operating software other than that supplied by Contractor or authorized or proposed by a Contractor Indemnitor; or
- 11.6.3.3. combination or use with other products in a manner not contemplated by the Contract or expressly authorized or proposed by a Contractor Indemnitor.



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11.7. First Party Liability Limitation

11.7.1. Limit. Subject to the provisos that follow below and unless stated otherwise in the Special Terms and Conditions, State's and Contractor's respective first party liability arising from or related to the Contract is limited to the greater of \$1,000,000 (one million dollars) or three (3) times the purchase price of the specific Materials or Services giving rise to the claim.

11.7.2. Provisos. This paragraph limits liability for first party direct, indirect, incidental, special, punitive, and consequential damages relating to the Work regardless of the legal theory under which the liability is asserted. This paragraph does not limit liability arising from any:

11.7.2.1. Indemnified Claim against which Contractor has indemnified State Indemnitees under paragraph 6.2;

11.7.2.2. claim against which Contractor has indemnified State Indemnitees under paragraph 6.3; or

11.7.2.3. provision of the Contract calling for liquidated damages or specifying amounts or percentages as being at-risk or subject to deduction for performance deficiencies.

11.7.3. Purchase Price Determination. If the Contract is for a single-agency and a single Order (or if no Order applies), then "purchase price" in Subparagraph 15.7.1 above means the aggregate Contract price current at the time of Contract expiration or earlier termination, including all Contract Amendments having an effect on the aggregate price through that date. In all other cases, "purchase price" above means the total price of the Order for the specific equipment, software, or services giving rise to the claim, and therefore a separate limit will apply to each Order.

11.7.4. No Effect on Insurance. This paragraph does not modify the required coverage limits, terms, and conditions of, or any insured's ability to claim against any insurance that Contractor is required by the Contract to provide, and Contractor shall obtain express endorsements that it does not.

11.8. Information Technology Warranty

11.8.1. Specified Design. Where the Scope of Work for information technology, Work provides a detailed design specification or sets out specific performance requirements, Contractor warrants that the Work will provide all functionality material to the intended use stated in the Contract, provided that, the foregoing warranty does not extend to any portions of the Materials that are:



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- 11.8.1.1. modified or altered by anyone not authorized by Contractor to do so;
 - 11.8.1.2. maintained in a way inconsistent to any applicable manufacturer recommendations; or
 - 11.8.1.3. operated in a manner not within its intended use or environment.
- 11.8.2. COTS Software. With respect to Materials provided under the Contract that are commercial-off-the-shelf (COTS) software, Contractor warrants that:
 - 11.8.2.1. to the extent possible, it will test the software before delivery using commercially available virus detection software conforming to current industry standards;
 - 11.8.2.2. the COTS software will, to the best of its knowledge, at the time of delivery be free of viruses, backdoors, worms, spyware, malware, and other malicious code that could hamper performance, collect unlawfully any personally identifiable information, or prevent products from performing as required by the Contract; and
 - 11.8.2.3. it will provide a new or clean install of any COTS software that State has reason to believe contains harmful code.
- 11.8.3. Payment has no Effect. The warranties in this paragraph are not affected by State's inspection, testing, or payment.
- 11.9. Specific Remedies. Unless expressly stated otherwise elsewhere in the Contract, State's remedy for breach of warranty under paragraph 15.8 includes, at State's discretion, re-performance, repair, replacement, or refund of any amounts paid by State for the nonconforming Work, plus (in every case) Contractor's payment of State's additional, documented, and reasonable costs to procure materials or services equivalent in function, capability, and performance that was first called for. For clarification of intent, the foregoing obligations are limited by the limitation of liability in paragraph 14.7. If none of the foregoing options can reasonably be effected, or if the use of the materials by State is made impractical by the nonconformance, then State may seek any remedy available to it under law.
- 11.10. Section 508 Compliance. Unless specifically authorized in the Contract, any electronic or information technology offered to the State of Arizona under this Contract shall comply with A.R.S. §18-131 and §18-132 and Section 508 of the Rehabilitation Act of 1973, which requires that employees and members of the public shall have access to and use of information technology that is comparable to the access and use by employees and members of the public who are not individuals with disabilities.

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11.11. Cloud Applications. The following are required for Contractor of any cloud solution that hosts State data outside of the State's network or transmits and/or receives State data.

- 11.11.1. Submit a completed Arizona Baseline Infrastructure Security Controls assessment spreadsheet as found at: <https://azdohs.gov/information-security-policies-standards-and-procedures>, and mitigate or install compensating controls for any issues of concern identified by State. Contractor is required to provide any requested documentation supporting the review of the assessment. The assessment shall be re-validated on a minimum annual basis.
- 11.11.2. State reserves the right to conduct penetration tests or hire a third party to conduct penetration tests of the Contractor's application. Contractor will be alerted in advance and arrangements made for an agreeable time. Contractor shall respond to all serious flaws discovered by providing an acceptable timeframe to resolve the issue and/or implement a compensating control.
- 11.11.3. Contractor must submit a copy of system logs from the cloud system to the State of Arizona security team on a regular basis to be added to the State SIEM (Security Information Event Monitor) or IDS (Intrusion Detection System).
- 11.11.4. Contractor must employ a government-rated cloud compartment to better protect sensitive or regulated State data



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1. Insurance Requirements

1.1 Indemnification Clause

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 claims, actions, liabilities, damages, losses, or expenses (including court costs, attorneys' fees, and costs of 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. 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 for Claims arising solely 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 judgment 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 Arizona, its officers, officials, agents, and employees for losses arising from the work performed by the Contractor for the State of Arizona.

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.

1.2 Insurance Requirements

1.2.1 Contractor and subcontractors shall procure and maintain, until all of their obligations have been discharged, including any warranty periods under this Contract, insurance against claims for injury to persons or damage to property arising from, or in connection with, the performance of the work hereunder by the Contractor, its agents, representatives, employees or subcontractors.

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



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1.3 Minimum Scope and Limits of Insurance

Contractor shall provide coverage with limits of liability not less than those stated below.

1.3.1 Commercial General Liability (CGL) – Occurrence Form

Policy shall include bodily injury, property damage, 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.

1.3.2 Business Automobile Liability

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

- Combined Single Limit (CSL) \$1,000,000
- a. 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 involving automobiles owned, 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.



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1.3.3 Workers' Compensation and Employers' Liability

- Workers' Compensation Statutory
- Employers' Liability
 - 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 or Independent Contractor).

1.4 Additional Insurance Requirements

The policies shall include, or be endorsed to include, as required by this written agreement, the following provisions:

- 1.4.1 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).
- 1.4.2 Insurance provided by the Contractor shall not limit the Contractor's liability assumed under the indemnification provisions of this Contract.

1.5 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. Within two (2) business days of receipt, Contractor must provide 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 Representative's Name, Address & Fax Number).



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1.6 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.

1.7 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.

- 1.7.1 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.
- 1.7.2 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.
- 1.7.3 All certificates required by this Contract shall be sent directly to the Department. The State of Arizona project/contract number and project description shall be noted on the certificate of insurance. The State of Arizona reserves the right to require complete copies of all insurance policies required by this Contract at any time.

1.8 Subcontractors

Contractor's certificate(s) shall include all subcontractors as insureds 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.

1.9 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

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throughout the life of this contract, as deemed necessary. Such action will not require a formal Contract amendment but may be made by administrative action.

1.10 Exceptions

In the event the Contractor or subcontractor(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 subcontractor(s) is/are a State of Arizona agency, board, commission, or university, none of the above shall apply.

End of Addendum A to the Special Terms and Conditions.

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Addendum B to the Special Terms and Conditions

Warranties and Requirements Related to Arizona Information Technology Statewide Policies, Standards, and Procedures

1. Security Standards

- 1.1. Security of the State's systems and data are of **utmost** importance to the State. In order to assure security from a personnel and operations perspective, Contractor shall comply with all requirements, in their entirety, as described in the statewide enterprise architecture; statewide Information Technology security policies, standards, and procedures; and any applicable agency-specific Information Technology security policies, standards, and procedures.
- 1.2. Contractor shall follow the correct, current version of these policies, standards, and procedures. The current website for some of these policies, standards, and procedures is: [Information Technology Policies, Standards and Procedures](#). Note that this link is provided for convenience only.
- 1.3. For security reasons, some state facilities require non-state personnel to have escorts. If required by the state facility, Contractor personnel shall only be allowed inside of a State facility if accompanied by an escort designated by the State. This is applicable in Correctional facilities, Public Safety facilities, State Lottery, and other facilities as designated by the State.

2. Security Framework

- 2.1. The State of Arizona information security policies and standards follow the National Institute of Standards and Technology (NIST) Cyber Security Framework (CSF) and NIST SP 800-53 Rev. 5 Security and Privacy Guidelines may currently be located at: <https://nvlpubs.nist.gov/nistpubs/SpecialPublications/NIST.SP.800-53r5.pdf>.
- 2.2. The State has established a process to assess risk associated with storing, processing and/or transmitting State of Arizona data with external, non-State of Arizona, entities. The Arizona Risk and Authorization Management Program (AZRamp) was developed to ensure State and contractors meet these requirements. All contractors responding to State solicitations must successfully complete the AZRamp risk assessment based upon the data classification involved as determined by the data owner and Arizona Strategic Enterprise Technology (ASET) Department. Failure to successfully complete AZRamp assessment will be deemed as breach of contract.

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- 2.3. In the State's sole discretion, the State may also accept current FedRamp and StateRamp certifications as evidence that the Contractor has met the State's risk assessment requirements.
- 2.4. Other forms of Cybersecurity Frameworks (CSF), Trust Documents, Self-Attestations, including, but not limited to, ISO/IEC, SOC 2 & 3, PCI, or HIPAA reports of compliance, may be reviewed as part of the State's risk assessment, but are not exclusive or conclusive evidence that the Contractor has met the State's risk assessment requirements.

3. Additional Security Requirements

- 3.1. Contractor shall comply with all security requirements requested by the State.
- 3.2. If an Arizona Risk and Authorization Management Program (AZRamp) is required, it will generally follow these steps, each of which shall be completed by the Contractor upon request by the State:
 - 3.2.1. Contractor shall submit a completed Arizona Baseline Infrastructure Security Controls assessment spreadsheet with its Offer. The Arizona Baseline Infrastructure Security Controls assessment spreadsheet as found at: <https://azdohs.gov/file/4357>, and mitigate gaps or install compensating controls for any issues of concern identified by State.
 - 3.2.2. Contractor shall provide Information Security documentation for the AZRamp assessment to include System Security Plan (SSP), Written Information Security Programs (WISP), or supporting written IT policies for review of the assessment.
 - 3.2.3. Note regarding the confidential treatment of Contractor information:
 - 3.2.3.1. The State of Arizona seeks a partnership with our supporting vendors, therefore, Non-Disclosure Agreements (NDA) for release to review submitted SSP's, WISP 's, or written IT policies will not be considered.
 - 3.2.3.2. Submitted SSP's, WISP's, or written IT policies are deleted and not retained after AZRamp Authorization is granted.
 - 3.2.3.3. Procedures for submission of documents considered confidential or proprietary are identified within this RFP.
 - 3.2.3.4. Special secure transfer of documents related to this AZRamp review process may be made by contacting: AsetAssurance@azdoa.gov to make special arrangements for the transfer of these documents.



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- 3.2.4. If applicable to this Solicitation, Contractor shall complete and submit with the Offer an unedited and signed State of Arizona Health Insurance Portability and Accountability Act (HIPAA) Business Associate Addendum (BAA).
- 3.2.5. All contract awards are contingent on the successful completion of the AZRamp 125 Low Impact (public information) or the AZRamp 325 Moderate (Confidential, PII, or PHI) Impact Control spreadsheet titled "Arizona Infrastructure Security Controls 2017 (Excel)," to be determined by the Enterprise Security, Privacy & Risk Compliance team. Low (Column E) and Moderate (Column F) Impact controls spreadsheet can be located here: <https://azdohs.gov/file/4356>.
- 3.3. The State reserves the right to conduct risk assessments, vulnerability assessments, black-box penetration tests or hire a third party to conduct risk assessments, vulnerability assessments, and black-box penetration tests of the Contractor's environment. Contractor will be alerted in advance and arrangements made for an agreeable time. Contractor shall respond to all flaws deemed serious by the State when discovered by providing an acceptable timeframe to resolve the issue and/or implement a compensating control(s).
- 3.4. Upon request, Contractor shall submit copies of system logs from Contractor's environment to the State of AZ security team in the format requested to be added to the State SIEM (Security Information Event Monitor) or IDS (Intrusion Detection System).
- 3.5. Contractor shall comply with all applicable State and Federal laws and regulations, including, but not limited to, the following (please note that the links are provided for convenience only and may change):
- 3.5.1. State of Arizona statewide policies, standards and procedures: <https://azdohs.gov/information-technology-it-policies-standards-and-procedures>;
- 3.5.2. Federal Information Security Modernization Act of 2014 (FISMA): <https://csrc.nist.gov/topics/laws-and-regulations/laws/fisma>;
- 3.5.3. OMB Circular A-130: <https://www.federalregister.gov/documents/2016/07/28/2016-17872/revision-of-omb-circular-no-a-130-managing-information-as-a-strategic-resource>;
- 3.5.4. National Cyber Strategy of the United States of America: <https://www.cisa.gov/executive-order-strengthening-cybersecurity-federal-networks-and-critical-infrastructure>;
- 3.5.5. Health Insurance Portability and Accountability Act (HIPAA) including Business Associate Agreement/ Health Information Technology for Economic and Clinical Health Act (HITECH): <https://www.hhs.gov/hipaa/index.html>;



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- 3.5.6. Tax Information Security Guidelines For Federal, State and Local Agencies: Safeguards for Protecting Federal Tax Returns and Return Information (I.R.S. Publication 1075): <https://www.irs.gov/pub/irs-pdf/p1075.pdf>;
- 3.5.7. Criminal Justice Information Services Security Policy (CJIS): <https://www.fbi.gov/services/cjis/cjis-security-policy-resource-center>;
- 3.5.8. Centers for Medicare & Medicaid Services (CMS), Minimum Acceptable Risk Standards for Exchanges (MARS-E): <https://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/2-MARS-E-v2-0-Minimum-Acceptable-Risk-Standards-for-Exchanges-11102015.pdf>;
- 3.5.9. A.R.S. Title 41, Chapter 41. Arizona Department of Homeland Security;
- 3.5.10. A.R.S. §18-104 - Arizona Department of Administration, Arizona Strategic Enterprise Technology (ADOA-ASET), Powers and duties of the agency: <https://www.azleg.gov/arsDetail/?title=18>;
- 3.5.11. A.R.S. §18-105 - Statewide Information Security and Privacy Office (SISPO): <https://www.azleg.gov/viewdocument/?docName=http%3A/www.azleg.gov/ars/18/00105.htm>;
- 3.5.12. A.R.S. §18-551 - Definitions Information Security Including PII: <https://www.azleg.gov/ars/18/00551.htm>;
- 3.5.13. A.R.S. §18-552 - Notification of security system breaches; requirements; enforcement; civil penalty; preemption; exceptions: <https://www.azleg.gov/ars/18/00552.htm>;
- 3.5.14. Arizona Executive Order 2008-10 – Mitigating Cyber Security Threats: <https://aset.az.gov/node/192>;
- 3.5.15. SIPC Memorandum of Understanding (MOU): <https://www.sipc.org/about-sipc/>;
- 3.5.16. State Environmental policies: <https://azdeq.gov/LawsAndRules>;
- 3.5.17. Family Education Rights Privacy Act (FERPA): <https://www2.ed.gov/policy/gen/guid/fpco/ferpa/index.html?src=rn>;
- 3.5.18. Driver's Privacy Protection Act (DPPA): <https://azdot.gov/motor-vehicles/driver-services/driver-license-information/motor-vehicle-records>;
- 3.5.19. Incident Response Reporting program and system: <https://aset.az.gov/sites/default/files/P8240%20Incident%20Response%20Planning%20Sept2018%200.pdf>;
- 3.5.20. Privacy Incident Reporting policy and standards: <https://aset.az.gov/sites/default/files/STANDARD%208240%20INCIDENT%20RESPONSE%20PLANNING.pdf>;
- 3.5.21. State of Arizona Library, Archives and Public Records, Records Management Division, General Retention Schedules <https://azlibrary.gov/arm/policies>; and

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- 3.5.22. Payment Card Industry (PCI) Security Standards including but not limited to Supplemental Documents, Information Supplements and Validation Requirements: <https://www.pcisecuritystandards.org>.

End of Addendum B to the Special Terms and Conditions.



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STATE OF ARIZONA UNIFORM TERMS AND CONDITIONS Version 10.1

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 item the Solicitation which requires the Offeror to submit as part of the Offer.
 - 1.2. "Contract" means the combination of the Solicitation, including the Uniform and Special Instructions to Offerors, the Uniform and Special Terms and Conditions, and the Specifications and Statement or Scope of Work; the Offer and any Best and Final Offers; and any Solicitation Amendments or Contract Amendments.
 - 1.3. "Contract Amendment" means a written document signed by the Procurement Officer that is issued for the purpose of making changes in the Contract.
 - 1.4. "Contractor" means any person who has a Contract with the State.
 - 1.5. "Data" means recorded information, regardless of form or the media on which it may be recorded. The term may include technical data and computer software. The term does not include information incidental to contract administration, such as financial, administrative, cost or pricing, or management information.
 - 1.6. "Days" means calendar days unless otherwise specified.
 - 1.7. "Exhibit" means any item labeled as an Exhibit in the Solicitation or placed in the Exhibits section of the Solicitation generally containing maps, schematics, examples of reports, or other documents that will be used to perform the requirements of the Scope of Work after contract award.
 - 1.8. "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.
 - 1.9. "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.
 - 1.10. "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.
 - 1.11. "Services" means the furnishing of labor, time or effort by a Contractor or Subcontractor which



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does not involve the delivery of a specific end product other than required reports and performance, but does not include employment agreements or collective bargaining agreements.

- 1.12. "State" means any department, commission, council, board, bureau, committee, institution, agency, government corporation or other establishment or official of the executive branch or corporation commission of the State of Arizona that executes the Contract.
- 1.13. "State Fiscal Year" means the period beginning with July 1 and ending June 30.
- 1.14. "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 Materials or any Services required for the performance of the Contract.
- 1.15. "Subcontractor" means a person who contracts to perform work or render Services to a Contractor or to another Subcontractor as a part of a Contract with the State.

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, as accepted by the State and as they may be amended, the following shall prevail in the order set forth below:
 - 2.3.1. Special Terms and Conditions;
 - 2.3.2. Uniform Terms and Conditions;
 - 2.3.3. Statement or Scope of Work;
 - 2.3.4. Specifications;
 - 2.3.5. Attachments;
 - 2.3.6. Exhibits; then
 - 2.3.7. Any other documents referenced or included in the Solicitation including, but not limited to, any Bid or Offer documents provided by the Contractor that do not fall into one of the above categories.



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- 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.
- 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 Parol 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 any and all Data and other "records" relating to the acquisition and performance of the Contract for a period of five (5) 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 Orders No. 2023-01, 2009-09, and any and all other applicable Federal and State laws, rules and regulations, including the Americans with Disabilities Act.
- 3.3. Audit. Pursuant to A.R.S. § 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. The Contractor agrees to permit access to its facilities, Subcontractor facilities, and the Contractor's processes or services, at reasonable times for inspection of the facilities or Materials covered under this Contract as required under A.R.S. § 41-2547. The State shall also have the right to test, at its own cost, the Materials to be supplied under this Contract. Neither inspection of the Contractor's facilities nor Materials testing shall constitute final acceptance of the Materials or Services. If the State determines



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non-compliance of the Materials, the Contractor shall be responsible for the payment of all costs incurred by the State for testing and inspection.

- 3.5. Notices. Notices to the Contractor required by this Contract shall be made by the State to the person indicated on the Offer and Acceptance form submitted by the Contractor unless otherwise stated in the Contract. Notices to the State required by the Contract shall be made by the Contractor to the Solicitation Contact Person indicated on the Solicitation, stated in the Contract, or listed on the State's eProcurement system. An authorized Procurement Officer and an authorized Contractor representative may change their respective person to whom notice shall be given by written notice to the other and an amendment to the Contract shall not be necessary.
- 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. Continuous Improvement. Contractor shall recommend continuous improvements on an on-going basis in relation to any Materials and Services offered under the Contract, with a view to reducing State costs and improving the quality and efficiency of the provision of Materials or Services. State may require Contractor to engage in continuous improvements throughout the term of the Contract.
- 3.8. Other Contractors. State may undertake on its own or award other contracts to the same or other suppliers for additional or related work. In such cases, the Contractor shall cooperate fully with State employees and such other suppliers 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 as State instructs regarding the necessary transfer of its work product, Materials, Services, or records to State or the other suppliers. Contractor shall not commit or permit any act that interferes with the State's or other suppliers' performance of their work, provided that, State shall enforce the foregoing section equitably among all its suppliers so as not impose an unreasonable burden on any one of them.
- 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



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as and when it was delivered to State.

3.9.2. "Government Purpose Rights" are:

- 3.9.2.1. 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;
- 3.9.2.2. the right to release or disclose that work product to third parties for any State government purpose; and
- 3.9.2.3. 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.

3.9.3. "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.

3.9.4. Joint Developments. The Contractor and State 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.

3.9.5. 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 Purchase 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:

- 3.9.5.1. any derivative works of such pre-existing Materials or elements thereof that are created pursuant to the Contract are part of that work product;
- 3.9.5.2. any elements of derivative work of such pre-existing Materials that was not created pursuant to the Contract are not part of that work product; and
- 3.9.5.3. 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.



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3.9.6. Developments Outside Of Contract. Unless expressly stated otherwise in the Contract, this Section 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. Property of the State. If there are any materials that are not covered by Section 3.9 above created under this Contract, including but not limited to, reports and other deliverables, these materials 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.

3.11. Federal Immigration and Nationality Act. 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, 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 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 or debarment of the contractor.

3.12. 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.

3.13. Offshore Performance of Work involving Data is Prohibited. Any Services that are described in the specifications or scope of work that directly serve the State of Arizona or its clients and involve access to Data shall be performed within the defined territories of the United States.

3.14. Certifications Required by State Law.

3.14.1. If Contractor is a Company as defined in A.R.S. § 35-393, Contractor certifies that it is not currently engaged in a boycott of Israel as described in A.R.S. §§ 35-393 *et seq.* and will refrain from any such boycott for the duration of this Contract.

3.14.2. Contractor further certifies that it shall comply with A.R.S. § 35-394, regarding use of the forced labor of ethnic Uyghurs, as applicable.

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 Materials or Services, the Contractor shall submit a



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complete and accurate invoice for payment from the State within thirty (30) days.

- 4.2. **Delivery.** Unless stated otherwise in the Contract, per A.R.S. § 47-2319, all prices shall be F.O.B. ("free on board") Destination and shall include all freight delivery and unloading at the destination.
- 4.3. **Firm, Fixed Price.** Unless stated otherwise in the Special Terms and Conditions of the Contract, all prices shall be firm-fixed-prices.
- 4.4. **Applicable Taxes**
- 4.4.1. **Payment of Taxes.** The Contractor shall be responsible for paying all applicable taxes.
- 4.4.2. **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.
- 4.4.3. **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.
- 4.4.4. **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.
- 4.5. **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.
- 4.6. **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 Materials or Services are not funded, the State may take any of the following actions:
- 4.6.1. Accept a decrease in price offered by the Contractor;
- 4.6.2. Cancel the Contract; or
- 4.6.3. 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 Services or Materials, the revision of payment terms, or the substitution of Services 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 as described in Arizona State Procurement Office Standard Procedure 002. 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. The Contractor shall not assign any right nor delegate any duty under this Contract without the prior written approval of the Procurement Officer. The State shall not unreasonably withhold approval.

6. Risk and Liability

- 6.1. Risk of Loss. The Contractor shall bear all loss of conforming Materials covered under this Contract until received by authorized personnel at the location designated in the purchase 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). 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 claims, actions, liabilities, damages, losses, or expenses (including court costs, attorneys' fees, and costs of 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. This



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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 for Claims arising solely 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 judgment costs where this indemnification is applicable. In consideration of the award of this contract, the Contractor agrees to waive all rights of subrogation Insurance and Indemnification Guidelines for State of Arizona Contracts Professional Service Contracts against the State of Arizona, its officers, officials, agents, and employees for losses arising from the work performed by the Contractor for the State of Arizona. This indemnity shall not apply if the Contractor or Subcontractor(s) is/are an agency, board, commission or university of the State of Arizona.

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 paragraph shall not apply.

6.4. Force Majeure.

6.4.1. Except for payment of sums due, neither the Contractor nor State 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, lockouts, injunctions-



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intervention-acts, 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, Materials, or Services 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 the Contractor or State 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.



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7.2. Quality. Unless otherwise modified elsewhere in the Special Terms and Conditions, the Contractor warrants that, for one (1) year after acceptance by the State of the Materials, they shall be:

- 7.2.1. Of a quality to pass without objection in the trade under the Contract description;
- 7.2.2. Fit for the intended purposes for which the Materials are used;
- 7.2.3. Within the variations permitted by the Contract and are of even kind, quantity, and quality within each unit and among all units;
- 7.2.4. Adequately contained, packaged, and marked as the Contract may require; and
- 7.2.5. Conform to the written promises or affirmations of fact made by the Contractor.

7.3. Conformity to Requirements.

7.3.1. Contractor warrants that, unless expressly provided otherwise elsewhere in the Contract, the Materials and Services will for one (1) year after acceptance and in each instance:

- 7.3.1.1. Conform to the requirements of the Contract, which by way of reminder include without limitation all descriptions, specifications, and drawings identified in the Scope of Work and any and all Contractor affirmations included as part of the Contract;
- 7.3.1.2. Be free from defects of material and workmanship;
- 7.3.1.3. Conform to or perform in a manner consistent with current industry standards; and
- 7.3.1.4. Be fit for the intended purpose or use described in the Contract.

7.3.2. Mere delivery or performance does not substitute for express acceptance by the State. Where inspection, testing, or other acceptance assessment of Materials or Services cannot be done until after installation or invoicing, the forgoing warranty will not begin until State's explicit acceptance of the Materials or Services.

7.4. Inspection/Testing. The warranties set forth in this Section 7 [Warranties] are not affected by inspection or testing of or payment for the Materials or Services by the State.

7.5. 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



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warrants that its key personnel will maintain any and all certifications relevant to their work, and Contractor shall provide individual evidence of certification to State's authorized representatives upon request.

7.6. Compliance With Applicable Laws. The Materials and Services supplied under this Contract shall comply with all applicable federal, state, and local laws and policies (including, but not limited to, information technology policies, standards, and procedures available on the State's website and/or the website of any department, commission, council, board, bureau, committee, institution, agency, government corporation or other establishment or official of the executive branch or corporation commission of the State of Arizona). Federal requirements may be incorporated into this Contract, if required, pursuant to A.R.S. § 41-2637. Contractor shall maintain any and all applicable license and permit requirements. This requirement includes, but is not limited to, any and all Arizona state statutes that impact state contracts, regardless of whether those statutory references have been removed during the course of contract negotiations; this is notice to Contractors that the State does not have the authority to modify Arizona state law by contract.

7.7. Intellectual Property. Contractor warrants that the Materials and Services do not and will not infringe or violate any patent, trademark, copyright, trade secret, or other intellectual property rights or laws, except only to the extent the Specifications do not permit use of any other product and Contractor is not and cannot reasonably be expected to be aware of the infringement or violation.

7.8. Licenses and Permits. Contractor warrants that it will maintain all licenses required to fully perform its duties under the Contract and all required permits valid and in force.

7.9. 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 5.3 [Assignment and Delegation] that expressly recognizes the event.

7.10. Performance in Public Health Emergency. Contractor warrants that it will:

7.10.1. Have in effect, promptly after commencement, a plan for continuing performance in the event of a declared public health emergency that addresses, at a minimum:

7.10.1.1. Identification of response personnel by name;

7.10.1.2. Key succession and performance responses in the event of sudden and significant decrease in workforce; and

7.10.1.3. Alternative avenues to keep sufficient product on hand or in the



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supply chain.

- 7.10.2. Provide a copy of its current plan to State within three (3) business days after State's written request. If Contractor claims relief under paragraph 6.4 [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.
- 7.10.3. A request from the State related to this paragraph 7.10 does not necessarily indicate that there has been an occurrence of force majeure, and the Contractor will not be entitled to any additional compensation or extension of time by virtue of having to implement a plan.
- 7.10.4. Failure to have or implement an appropriate plan will be a material breach of contract.

7.11. **Lobbying**

- 7.11.1. **Prohibition.** Contractor warrants that it will not engage in lobbying activities, as defined in 40 Code of Federal Regulations (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 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. Contractor shall implement and maintain adequate controls to assure compliance with above. Contractor shall obtain an equivalent warranty from all Subcontractors and shall include an equivalent no-lobbying provision in all Subcontracts.
- 7.11.2. **Exception.** This paragraph 7.11 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.

- 7.12. **Covered Telecommunications or Services.** Contractor warrants that the Materials and Services rendered under this Agreement will not require Contractor to use for the State, or provide to the State to use, "covered telecommunications equipment or Services" as a substantial or essential component of any system, or as critical technology as part of any system, within the meaning of Federal Acquisition Regulation ("FAR") Section 52.204-25.



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7.13. Debarment, Suspension, U.S. Government Restricted Party Lists. Contractor warrants that it is not, and its Subcontractors are not, on the U.S. government's Denied Parties List, the Unverified List, the Entities List, the Specially Designated Nationals and Blocked Parties List, and neither the Contractor nor any Subcontractors are presently debarred, suspended, proposed for debarment or otherwise declared ineligible for award of federal contracts or participation in federal assistance programs or activities.

7.14. False Statements. Contractor represents and warrants that all statements and information Contractor prepared and submitted in response to the Solicitation or as part of the Contract documents are current, complete, true, and accurate. If the Procurement Officer determines that Contractor submitted an Offer or Bid with a false statement, or makes material misrepresentations during the performance of the Contract, the Procurement Officer may determine that Contractor has materially breached the Contract and may void the submitted Offer or Bid and any resulting Contract.

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

7.15.1. Survival of Warranty. All representations and warranties made by Contractor under the Contract will survive the expiration or earlier termination of the Contract.

7.15.2. 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.

7.15.3. 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 purchase orders received by the Contractor prior to the expiration or termination hereof, unless otherwise directed in writing by the Procurement Officer, including, without limitation, all purchase 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 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.



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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 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 fully comply with the Contract. The delivery of Materials or Services or a portion of the Materials or Services that do not fully 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.



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- 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 with the purpose of influencing the outcome of the procurement or securing the 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 (3) 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, in whole or in part at any time when in the best interest of the State, without penalty or recourse. Upon receipt of the written notice, the Contractor shall stop all work, as directed in the notice, notify all 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 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 or Services accepted before the effective date of the termination. The cost principles and procedures provided in A.R.S. § 41-2543 and A.A.C. Title 2, Chapter 7, Article 7, 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 the failure of the Contractor to comply with any 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. The Procurement Officer shall provide written notice of the 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.



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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 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 (A.R.S. Title 41).

END OF ATTACHMENT B: UNIFORM TERMS AND CONDITION

	Attachment C <u>Boycott of Israel Disclosure</u> PARTICIPATING ADDENDUM Software Value Added Reseller (SVAR)	Arizona Department of Administration State Procurement Office 100 N 15th Avenue Phoenix, AZ 85007
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Boycott of Israel Disclosure

Please note that if any of the following apply to this Solicitation, Contract, or Contractor, then the Offeror shall select the “Exempt Solicitation, Contract, or Contractor” option below:

- The Solicitation or Contract has an estimated value of less than \$100,000;
- Contractor is a sole proprietorship;
- Contractor has fewer than ten (10) employees; OR
- Contractor is a non-profit organization.

Pursuant to A.R.S. §35-393.01, public entities are prohibited from entering into contracts “unless the contract includes a written certification that the company is not currently engaged in, and agrees for the duration of the contract to not engage in, a boycott of goods or services from Israel.”

Under A.R.S. §35-393:

1. "Boycott" means engaging in a refusal to deal, terminating business activities or performing other actions that are intended to limit commercial relations with entities doing business in Israel or in territories controlled by Israel, if those actions are taken either:
 - (a) Based in part on the fact that the entity does business in Israel or in territories controlled by Israel.
 - (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 an organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, Limited Liability Company or other entity or business association, including a wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate, that engages in for-profit activity and that has ten or more full-time employees.
3. "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.

The certification below does not include boycotts prohibited by 50 United States Code Section 4842 or a regulation issued pursuant to that section. See A.R.S. §35-393.03.

In compliance with A.R.S. §§35-393 *et seq.*, all offerors must select one of the following:

- X The Company submitting this Offer **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 *et seq.* I understand that my entire response will become public record in accordance with A.A.C. R2-7-C317.

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- ☐ The Company submitting this Offer **does** participate in a boycott of Israel as described in A.R.S. §§35-393 *et seq.*
- ☐ **Exempt Solicitation, Contract, or Contractor.**

Indicate which of the following statements applies to this Contract:

- ☐ Solicitation or Contract has an estimated value of less than \$100,000;
- ☐ Contractor is a sole proprietorship;
- ☐ Contractor has fewer than ten (10) employees; and/or
- ☐ Contractor is a non-profit organization.

CDW Government LLC

Company Name



Signature of Person Authorized to Sign

JH
JH

625 W Adams St

Address

Dario Bertocchi

Printed Name

Chicago, IL 60661

City

State

Zip

Vice President, Contracting
Operations

Title

END OF ATTACHMENT C: BOYCOTT OF ISRAEL

	Attachment D <u>Annual Forced Labor of Ethnic Uyghurs</u> <u>Ban Certification for Off-Contract</u> <u>Purchases</u> PARTICIPATING ADDENDUM Software Value Added Reseller (SVAR)	Arizona Department of Administration State Procurement Office 100 N 15th Avenue Phoenix, AZ 85007
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**Annual Forced Labor of Ethnic Uyghurs Ban Certification for
Off-Contract Purchases**

Pursuant to A.R.S. § 35-394, written certification is required to show that the entity (hereinafter called the “Contractor”) entering into a contract with a public entity does not use the forced labor, or any goods or services produced by the forced labor, of ethnic Uyghurs in the People’s Republic of China.

The purpose of this certification is to cover instances in which state agencies have multiple off-contract purchases from the same supplier over the course of a single fiscal year. **Instead of asking suppliers to sign a certification each time there is an off-contract purchase, this form may be signed once, but cover the whole fiscal year. To comply with this law, a copy of the current year’s certification must be included with the documentation for each off-contract purchase with the Purchase Order Terms and Conditions.** To remain compliant with the law, this form must be completed by the supplier **prior to each fiscal year.**

Please note that if any of the following apply to the Contractor, then the Contractor shall select the “Exempt Contractor” option below:

- Contractor is a sole proprietorship;
- Contractor has fewer than ten (10) employees; OR
- Contractor is a non-profit organization.

Under A.R.S. § 35-394, all state Contractors must select one of the following:

X The Contractor does not use, and agrees not to use during the current fiscal year or term of the contract (whichever is longer), any of the following:

- Forced labor of ethnic Uyghurs in the People’s Republic of China;
- Any goods or services produced by the forced labor of ethnic Uyghurs in the People’s Republic of China; or
- Any Contractors, Subcontractors, or suppliers that use the forced labor or any goods or services produced by the forced labor of ethnic Uyghurs in the People’s Republic of China.

☐ The Contractor does participate in the use of forced labor of ethnic Uyghurs in the People’s Republic of China as described in A.R.S. § 35-394.

☐ Exempt Contractor: Select all statements that apply to the Contractor:

- ☐ Contractor is a sole proprietorship;
- ☐ Contractor has fewer than ten (10) employees; and/or

	Attachment D <u>Annual Forced Labor of Ethnic Uyghurs</u> <u>Ban Certification for Off-Contract</u> <u>Purchases</u> PARTICIPATING ADDENDUM Software Value Added Reseller (SVAR)	Arizona Department of Administration State Procurement Office 100 N 15th Avenue Phoenix, AZ 85007
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☐ Contractor is a non-profit organization.

Certification is valid through the end of the current fiscal year (June 30) after the date of signature.

CDW Government LLC Company Name	 Signature of Person Authorized to Sign	
625 W Adams St Address	Dario Bertocchi Printed Name	
Chicago, IL 60661 City State Zip	Vice President, Contracting Operations Title	



Attachment E
Statement of Work
PARTICIPATING ADDENDUM
Software Value Added Reseller (SVAR)

Arizona Department of Administration
State Procurement Office
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Statement of Work

1.0 Purpose

1.1 The Arizona Department of Administration, State Procurement Office (the State), as authorized under A.R.S. § 41-2501 is seeking to establish one or more “statewide” Participating Addendums (PA’s) to provide the State’s software acquiring needs for COTS, Software as a Service, maintenance and support services.

The State anticipates awarding contract(s) with the intent to secure service coverage statewide. Whether or not it actually enters into any contracts, how many contracts it enters into, and how the work is awarded between those contracts are all at the State’s discretion. Furthermore, the State will use any awarded contracts on an as-needed basis, with no guarantee as to its actual spending under them.

The State reserves the right to accept any item or combination of items specified in the solicitation, unless the Offeror expressly restricts an item or combination of items in its Proposal, and conditions its response on receiving all items for which it provided a proposal. In the event of such restriction, the State will evaluate if an award on such basis will result with the best value and in the best interest for the State. The State may otherwise determine at its sole discretion that such restriction is non-responsive and deem the Offeror ineligible for further evaluation.

1.2 Lead State, Solicitation Number and Lead State Contract Administrator (PSCA)

The State of Arizona, State Procurement Office (SPO) is the Lead State and issuing office for this document and all subsequent addenda relating to it.

The Lead State Contract Administrator (PSCA) identified below is the single point of contact for this Participating Addendum. The Lead State Contract Administrator (PSCA) designated by the State of Arizona, State Procurement Office is:

Rana K Schultz, MBA Statewide IT Procurement Manager
State of Arizona, State Procurement Office
100 N. 15th Avenue, Suite 305
Phoenix, Arizona 85007
Phone: (602) 542-2927

1.3 NASPO ValuePoint Background Information

NASPO ValuePoint (formerly known as WSCA-NASPO) is a cooperative purchasing program of all 50 states, the District of Columbia and the territories of the United States. The Program is facilitated by the NASPO Cooperative Purchasing Organization LLC, a nonprofit subsidiary of the National Association of State Procurement Officials (NASPO), doing business as NASPO ValuePoint. NASPO is a non-profit association dedicated to strengthening the procurement community through education, research, and communication. It is made up of the directors of the central purchasing offices in each of

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the 50 states, the District of Columbia and the territories of the United States. NASPO ValuePoint facilitates administration of the cooperative group contracting consortium of state chief procurement officials for the benefit of state departments, institutions, agencies, and political subdivisions and other eligible entities (i.e., colleges, school districts, counties, cities, some nonprofit organizations, etc.) for all states, the District of Columbia, and territories of the United States. For more information consult the following websites: www.naspovaluepoint.org and www.naspo.org.

1.4 Definitions – all capitalized terms in this document have the meaning as defined in AAC R2-7-101. Any capitalized term not defined in AAC R2-7-101 has the meaning defined below.

"Appliance" means a separate and discrete hardware device with integrated software (firmware), specifically designed to provide a specific computing resource. For the purposes of this solicitation only an "Appliance" which is the sole means of obtaining the Software product is allowable.

"Attachment" means any item the Solicitation requires an Offeror to submit as part of the Offer.

"Best and Final Offer (BAFO)" means a revision to an Offer submitted after negotiations are completed that contains the Offeror's most favorable terms for price, service, and products to be delivered.

"Commercial Off the Shelf" ("COTS") for the purposes of this solicitation means non-developmental software which has been created for specific uses and is available to the general public in the commercial marketplace. COTS products are designed to be implemented easily into existing systems without the need for customization.

"End-User License Agreement (EULA)" is a legal contract between the manufacturer (publisher) and the end User of an application that details how the software can and cannot be used.

"eProcurement (Electronic Procurement)" means conducting all or some of the procurement function over the Internet. Point, click, buy and ship Internet technology is replacing paper-based procurement and supply management business processes. Elements of eProcurement also include Invitation for Bids, Request for Proposals, and Request for Quotations.

"Excluded Software Publishers" means a Software Publisher who is unwilling to do business with a Reseller.

"Exhibit" means any document or object labeled as an Exhibit in the Solicitation or placed in the Exhibits section of the Solicitation.

"Lead State Contract Administrator" ("PSCA") means the Procurement Officer for the Master Agreement.

"Master Agreement" ("MPA") means the contractual agreement executed between the winning (awarded) contractor (s) and the Lead State conducting the procurement on behalf of NASPO ValuePoint.



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“Non-perpetual license” or Subscription License” is a temporary license that provides the right to use a particular licensed product until the end of the license-agreement term.

“Participating State Contract Administrator” (“PSCA”) means the Procurement Officer for the Participating State.

“Perpetual license” means a license which is everlasting and valid if the software is being used in accordance with the license-agreement requirements.

“Person” means any corporation, business, individual, union, committee, club, or other organization or group of individuals

“Publisher” means a software manufacturer (e.g., Microsoft)

“Reseller” means a Software Value-Added Reseller who is awarded under this solicitation, and who has a fully-executed (MPA and PA-s) contract.

“Reseller Cost” means the price that the Reseller pays the Publisher or Distributor to purchase software on behalf of the Participating State. Reseller Cost should not include any administrative or other mark-up costs.

“Software” means the computer program, including media and associated documentation.

“Software Licensing” means allowing an individual or group to use a piece of software.

“Software Maintenance and Support” means any software upgrades, annual updates, patches and fixes needed to improve functionality and keep the software in working order.

“Solicitation Amendment” means a change to the Solicitation issued by the Procurement Officer.

“Transition” means the transfer of processes, procedures and data from one supplier to another on behalf of the State of Arizona.

“Volume License Agreements (VLAs)” means an agreement with a Software Publisher wherein the Participating State’s total expected purchasing over a period of time is considered in establishing the discount level.

2. Reseller - SVAR

2.1 Software Value-Added Reseller (‘Reseller’ – “SVAR”)

2.1.1 Software Value-Added Reseller (‘Reseller’ – “SVAR”) shall be a large account reseller authorized to sell products direct from Key Software Publishers or authorized Distributors.

2.1.2 SVAR shall do the following:

2.1.2.1 Provide Commercial Off-the-Shelf-Software (COTS).

2.1.2.2 Honor existing Volume or Enterprise license agreements.

2.1.2.3 Offer maintenance and support packages on licenses already owned by the Participating State and other Purchasing Entities.

2.1.2.4 Advise the PSCA, each PSCA, and other Purchasing Entities of SVAR’s channel partner status with Key Software Publishers.

2.1.2.5 Retain or enhance reseller certifications with software publishers - At a minimum, maintain Reseller certification levels held at time of award.

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Note: If Reseller's certification or reseller status is withdrawn or reduced, Reseller is required to immediately notify, in writing, the Lead State Contract Administrator (PSCA), each PSCA and other Purchasing Entities explaining:

- The change;
- The impact on their costs to obtain the product;
- Limitations on the products or services they may provide; and,
- The reasons for the change.

Failure to provide the required notification, regarding significant negative changes in their reseller status, may be grounds for suspension or cancellation of the MPA and PA's.

2.1.2.6 Provide Pre-Sale Advisement - There shall be no charge for these services:

2.1.2.6.1 Advise the Purchasing Entity in making strategic software application decisions by providing evaluation copies, product comparisons, needs analysis, product information and application recommendations.

2.1.2.6.2 Act as liaison between the Purchasing Entity and individual publishers in identifying best approaches and cost savings opportunities for the Purchasing Entity.

2.1.1.6.3 Examples of such advice would be:

- In selecting appropriate software;
- In explaining Volume License Agreements with complicated rules;
- In determining the most cost-effective buying strategies;
- In ensuring that Participating States and other Purchasing Entities are in compliance with licensing requirements; and,
- In finding software options to meet a specific need, for example, a flow-charting package.

2.1.2.7 Reseller shall negotiate to reduce Reseller Cost, to pass on savings to the Participating State and other Purchasing Entities.

2.1.2.8 Provide assistance in explaining and developing Volume License and Enterprise Agreements.

2.1.2.9 Provide Software Installation Assistance.

2.1.2.9.1 Provide, at no additional cost, assistance or advice in basic installation or implementation of COTS product.

2.1.2.9.2 If the Purchasing Entity encounters difficulty in downloading or installing the software, the Reseller must provide assistance within eight (8) business hours of being informed of the problem.

2.1.2.10 Provide Software De-Installation Assistance.

2.1.2.11 Provide Tracking, Management, Usage Monitoring and Reporting of Licenses

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- 2.1.2.11.1 Reseller shall have in place a product license inventory and asset management system, which will include an accurate inventory record of product licenses purchased under this Contract.
- 2.1.2.11.2 Reseller must also have the capability tracking maintenance renewal and other significant due dates.
- 2.1.2.11.3 At a minimum, this system shall be able to provide this information by Participating State and Purchasing Entity.
- 2.1.2.11.4 Reseller shall work with Participating State, other Purchasing Entities, publishers, previous and subsequent contract software resellers, and hardware computer contractors to ensure the most comprehensive record of licenses is created, maintained, and the information transferrable.
- 2.1.2.11.5 States may choose to award multiple PA's under this Agreement. Details on how licenses are to be tracked and managed under multiple awards will be determined by that awarding State.
- 2.1.2.11.6 As may be required by a Participating State, or other Purchasing Entity, Reseller shall work with NASPO ValuePoint computing equipment contractors, or a Participating State's comparable computer hardware contractor, to see that any software acquired under those contracts can be tracked through this contract.
- 2.1.2.12 Notify Participating State and Purchasing Entities of publisher publicly announced changes pertinent to User licensing.

2.1.3 SVAR shall Develop and Maintain Website

- 2.1.3.1 *For Participating States***, Reseller shall develop and support a website specific to that State, with content approved from the PSCA or PSCA as appropriate based on content.
 - 2.1.3.1.1 This web site information shall be available through the Internet without the use of additional software or licenses.
 - 2.1.3.1.2 Website should be User friendly to allow for quick and easy access and use.
 - 2.1.3.1.3 Website shall be available 24 x 7, except for scheduled maintenance.
 - 2.1.3.1.4 Website shall be ADA compliant.
 - 2.1.3.1.5 No costs or expenses associated with providing this information shall be charged to the States.
 - 2.1.3.1.6 Universal Resource Locator (URL) for the website must be supplied to the PSCA and the PSCA within sixty (60) days of the execution of the PA.



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2.1.3.1.7 The website will include contract information, product information/catalog, the capability to generate online reports, and other pertinent information as may be reasonably requested by States, such as copies of VLAs.

2.1.3.1.8 *Publisher Notifications and Other Industry Information.*

In the event that a publisher publicly announces changes that are pertinent to User licensing, the Reseller shall assist Users by posting the information on the state websites.

2.1.3.1.9 Reseller shall provide, at no additional cost, training on how to use their website and how to use this contract in obtaining quotes and placing orders. Online training should be available on the website, but supplementary electronic (e.g. Webinars, emails), telephone or on-site training should be provided, as needed, during standard working hours.

2.1.3.2 Contract and General Information.

The website shall provide contract and ordering information to include, at a minimum:

2.1.3.2.1 The contract number(s) (MPA and PA);

2.1.3.3.2 The Reseller primary contact and contacts to whom incidents are to be escalated:

- Name(s and titles
- Areas of responsibility for each contact name;
- Phone number(s); and,
- Email address(es).

2.1.3.3.3 Information on use of website,

2.1.3.3.4 Quote and ordering information; and,

2.1.3.3.5 Notifications regarding publishers and products, such as pending key product changes or upgrades.

2.1.3.3 Online Catalog

2.1.3.3.1 Reseller shall provide COTS software, and software maintenance of new or existing licensed software, under this contract. Information on approved products, customized by participating State, will be available through an online catalog and through Reseller's representatives either through email or telephone inquiry during the standard working hours of the Participating State. The online catalog shall provide an expansive list of products allowed per the contracts, particularly those products of itemized publishers.

2.1.3.3.2 The website shall provide contract and ordering information to include, at a minimum: publishers, product names, standard product pricing, and product descriptions (photos optional or links to access product literature). Regardless of the number and types of links to the Reseller's electronic



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catalog, the Reseller shall ensure that all eligible agencies purchasing under one PA are accessing the same current base version of the product catalog. Online information shall include purchases of Volume or Enterprise License Agreement software as well as individual COTS software licenses.

2.1.3.3.3 Online catalog shall be restricted to just software. Non-authorized products or groups of products shall not be on the website. Reseller shall not use this proposed website to cross sell or cross advertise other products and or services the Reseller may be able to offer.

2.1.3.4 *Product Searching Capability.*

At a minimum, the online catalog should be searchable by Purchasing Entity and their VLAs, Software Publisher, Product name, OEM product number, and software description (e.g., GIS, Security). The online category can be modified as Users' needs dictate, such as including products obtained through a distributor (non-itemized publisher products) that are frequently purchased.

2.1.3.5 *Online Product Quotes.*

Product price displayed online is a 'not-to-exceed' product price quote based on contract rate and real time Reseller Cost. For high dollar purchases, or quantity purchases, Purchasing Entity should request a quote by contacting Reseller representative off-line. The online pricing should allow for overrides when a quote with a negotiated better price has been offered and is being placed online. Website should have capability to track all quotes by Purchasing Entity and be easily accessible for viewing by quote number. Website shall include a shopping cart feature that allows Purchasing Entities to provide shipping instructions. Purchasing Entities can place orders on the web either via credit card or purchase order. Specifics regarding an individual state's requirements for placing an order may be included in that State's Participating Addendum (PA).

2.1.3.6 *User Differentiation.*

Catalog should be designed so as to provide a means to identify the Participating State (state agency or other eligible Purchasing Entity). This method used must not require any administrative tasks on the part of the PSCA for the MPA, the PSCA for the individual PSCA. Website should allow Users to develop personal lists and profiles, including an option to securely store and maintain procurement card information. Catalog should have the capability of being used as a 'Punch Out' to an individual state's electronic purchasing system.

2.1.3.7 *Online Reports.*

Website shall have capability to provide order history, as well as order status and order tracking.

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2.1.3.8 *Other.*

Other information may be added to the website as may be required by State (such as copies of volume license agreements) or enhancements that may be proposed by reseller and approved by State.

2.2 COTS Products

2.2.1 Software which requires little or no services

	IN SCOPE Offerings		OUT OF SCOPE Offerings
LICENSING TYPE	COTS	Individual Licensing Volume Licensing Enterprise Licensing	Custom/Customized
LICENSING PERIOD	Perpetual	Subscription	<i>none</i>
Delivery	Shrink-Wrap	Download	<i>none</i>
HOSTING as part of delivery & use.	On Premise	Off Premise	<i>Managed Service</i> <i>Managed Services means the proactive management of an IT (Information Technology) asset or object, by a third party typically known as a MSP, on behalf of a Eligible Agency and CoOp</i> <i>mspalliance.com/definition-of-managed-services/</i>

2.2.1.1 Most Current Version

Purchase orders shall be deemed to reference a manufacturer's most recent release model or version of the product at the time of the order, unless the Purchasing Entity specifically requests in writing an earlier model or version and the Reseller is willing to provide such model or version.

2.2.1.2 Licenses and Maintenance Agreements

2.2.1.2.1 *Volume License Agreements (VLA) and Enterprise License Agreements (ELA)*

The Reseller will honor existing Participating State's VLA's or ELA's with publishers and include those licenses as part of the Reseller's license tracking service. Following an executed PA with a Participating State, and if so required by the Participating State, the Purchasing Entity and/or an individual publisher, the Reseller will identify itself to software publishers as Reseller for that Participating State or Purchasing Entity. If so required by the Publisher and



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Participating State, Reseller will execute a change of channel partner agreement with the Publisher. Resellers will sell additional seats consistent with Purchasing Entities' Enterprise or Volume Agreements. Reseller will work with Participating State, Purchasing Entity(ies) and Publishers as needed to establish new VLAs or ELAs. The Reseller will work with the Publisher and Participating State as necessary to ensure the Participating State receives timely and pertinent license information, such as: license or agreement renewals, or opportunities based on actual volume. Reseller will work directly with Purchasing Entity(ies) in establishing, signing and maintaining enrollment agreements. If Reseller is sole SVAR contractor in a State, Reseller will aggregate all enrollments together for Master Agreement reporting purposes. If a PSCA elects to have multiple SVAR contractors, Reseller's responsibilities will be delineated in that State's PA. Resellers shall monitor and be able to report on the current levels of software ordered towards any of the Participating State's VLA required sales levels to ensure the Participating State does not fall short and thereby incur Publisher penalties. The Reseller shall be responsible for providing license usage information to the Publishers, if such information is required by the Publishers, in a timely manner (e.g., for 'true up' assessments).

2.2.1.2.2 *Individual Software Licenses.*

Purchasing Entities can purchase individual COTS licenses, such as perpetual and non-perpetual licenses, through the Reseller.

2.2.1.3 *Software Maintenance and Support Agreements.*

Purchasing Entities can purchase maintenance agreements, including upgrade protection, through the Reseller. Resellers will sell software maintenance agreements, even if the software was not purchased under this agreement, such as on-going support for a User's existing perpetual license. As requested, Reseller will explain what product support or services are included in a publisher's maintenance agreement.

2.2.1.3.1 *Software Maintenance and Support.*

Reseller to provide needed services to support maintenance products such maintenance agreements, software upgrades, annual updates, patches and fixes needed to improve functionality and keep the software in working order. Such services may include providing recommendations on most cost-effective or appropriate long-term maintenance plan. Reseller will provide such support, not only to maintenance packages purchases under this agreement, but in support of any existing and current agreements.

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2.2.1.3.2 *Software Updates.*

- 2.2.1.3.2.1 Users are eligible to receive, from the Publisher, all new releases and updates of the software, at no additional charge, while under a maintenance agreement. A “Release” means any collection of enhancements or updates which the Publisher generally makes available to its installed base of Eligible Agency and CoOps of such programs. The Reseller shall assist the Purchasing Entity to obtain such releases or updates for their Users from the Publisher.
- 2.2.1.3.2.2 Should a User not want to receive the next upgrade, the User shall so notify the respective Publisher.

2.2.1.3.3 *License Confirmations*

For licenses ordered under the contract by Purchasing Entity(ies), Reseller shall be able to provide:

- (i) Certified Licensing Confirmation Certificates for all software licenses;
- (ii) Reseller’s certified license confirmation certificates in the name of such Licensee; or,
- (iii) Written confirmation from the Reseller or Publisher accepting the Eligible Participating State’s contract or purchase order as proof of license.

The form of “Proof of License” provided must be acceptable proof to the Publisher, and in the format requested by the Purchasing Entity. The Proof of License shall be provided as an electronic file and/or a hardcopy document, as required by the Purchasing Entity. Reseller will retain an electronic file of Participating State’s Proof of Licenses and provide copies to the Participating State as requested.

2.2.1.3.4 *Transitioning License Tracking Information at Contract Termination*

The license information data acquired and retained by Reseller will be stored as sortable data fields so the license information can be transferred to the Participating State upon contract termination. Reseller will work with States and Participating Entities, or their designees, to ensure that the License information data has been successfully transferred in a usable format.

2.2.1.4 *Leases*

Lease purchase and term leases are allowable only for Purchasing States whose rules and regulations permit leasing of software. Individual Purchasing Entities may enter into a lease agreement for the products



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covered in this Participating Addendum, if they have the legal authority to enter into these types of Agreements without going through a competitive process. No lease agreements will be reviewed or evaluated as part of this RFP evaluation process.

2.2.1.5 *Software Publishers, Categories.*

The identified software product needs under this solicitation have been divided into three tiers:

- Tier 1 Key Itemized Publishers
- Tier 2 Other Itemized Publishers
- Tier 3 Non-Itemized Publishers.

See descriptions and chart which follow. As indicated, it is most desirable for Reseller to have a direct reseller agreement with the itemized software publishers. If a direct reseller agreement is not already in place between itemized software publishers and the Reseller, the Reseller is expected to enter into a direct reseller agreement and submit a rate for that itemized publisher that is better than the rate for a Non-Itemized Publisher. Over the life of this contract, product needs or volumes may change and new publishers may be added by amendment to the itemized publishers' lists.

2.2.1.5.1 *Itemized Highest Volume Publishers (Highest Volume, Itemized Lines).*

The products of the publishers in this category represent the highest tier of sales volume identified for this solicitation, of those publishers who sell through resellers. This category is the one most likely to include a Participating State's enterprise or high volume agreements with a publisher. Resellers shall be certified direct resellers for publishers in this category. The preferred pricing that a Reseller receives based on their reseller certification status, in conjunction with the anticipated considerable volume of purchases through these Contracts, is the expected foundation for a very competitive base Reseller Cost, with further reductions of Reseller Cost as they are achieved through ongoing Reseller negotiations. A percentage rate above or below Reseller Cost is to be provided for each itemized publisher. Specific requirements may be required for some publishers in this category in an individual State's PA.

2.2.1.5.2 *Other Itemized Publishers (High Volume, Itemized Lines).*

The products of the publishers in this category represent a high level of sales volume as identified for this solicitation. This category may include a Participating State's high volume agreements or VLAs with a publisher. It is desirable for Resellers to be certified direct resellers for publishers in this category. A percentage rate above or below Reseller Cost is to be provided for each itemized publisher.



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2.2.1.5.3 Non-Itemized Publishers (all other distributed software purchases).
This category is defined to include all other distributed computer software not specifically itemized. Enterprise or Volume Licensing Agreements are not anticipated in this category. New or existing software products can be added to this category at any time during the term of the Contract without the written consent of the PSCA and may be itemized in the online catalog, if volume justifies the addition. There should be one percentage rate above or below Reseller cost covering all products in this category.

<u>KEY ITEMIZED PUBLISHERS</u> Certification as Direct Reseller.	<u>OTHER ITEMIZED PUBLISHERS</u> Certification as direct reseller desirable. If not certified, the percentage rate should be no greater than Non-Itemized rate	<u>NON-ITEMIZED PUBLISHER</u> One 'not to exceed' rate
ADOBE	AI SQUARED	
CITRIX	AIRWATCH MOBILE DEVICE MANAGEMENT VMWARE	
MICROSOFT	ALLIANCE ENTERPRISES	
NOVELL	APPLE	
SYMANTEC	ATTACHMATE – MICROFOCUS	
VMWARE	AUTODESK	
	AUTONOMY – HP	
	BAKBONE – DELL	
	BARRACUDA	
	BOMGAR REMOTE SOFTWARE	
	CA TECHNOLOGIES	
	CISCO	
	COMPUTRONIX USA	
	COMPUWARE	
	COREL	
	DOUBLETAKE	
	EMC	
	ENCHOICE	
	ESET	
	ESRI	
	FREEDOM SCIENTIFIC	
	GUARDIAN EDGE – SYMANTEC	
	GW MICRO	
	IBM	



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	ICM CONVERSIONS	
	INFOR	
	INTERMEDIX EMSYSTEMS	
	HP	
	HUMANWARE	
	INFORMATION BUILDERS	
	KRONOS SOFTWARE	
	LANDESK	
	LASERFISCHE	
	LIQUIDWARE STATUSPHERE	
	MICROFOCUS INC	
	MINJET	
	MPS	
	MQSOFTWARE – BMC SOFTWARE	
	NCIRCLE	
	NETOP	
	NUANCE	
	ORACLE	
	OSAM	
	PASSPORT	
	PATCHLINK	
	PROOFPOINT	
	RSA SECURITY	
	REFERENCIA SYSTEMS	
	SAP AMERICA	
	SAS	
	SOLUTIONS SOFTWARE	
	SOPHOS	
	SPLUNK SOFTWARE	
	STASEEKER NETWORK INFRASTRUCTURE MONITORING	
	STELLENT – ORACLE	
	SUNGUARD	
	SYBASE	
	TECHSMITH	
	TREND MICRO	

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	TRUSTWARE	
	ULTRABAC	
	VORMETRIC	
	WEBSense	

2.2.1.6 *Software Publishers, General Representation.*

2.2.1.6.1 *Excluded Software Publishers.*

The Reseller must agree that there are no software publishers with whom they will refuse to do business if the Software Publisher is willing to do business with them. Resellers shall advise the PSCA or designee of any Excluded Software Publishers and provide explanations for the non-representation.

2.2.1.6.2 *Expanded Representation.*

The Reseller is expected to continue to work towards reseller certifications with publishers not currently represented, particularly with those publishers whose sales volume merit classification into the itemized publisher lines. Similarly, Reseller is expected to continue to work towards a higher certification level with current publishers

2.2.1.7 *Price Quote, General.*

Pricing is submitted in the MPA as a percentage of Reseller Cost. Individual PA's will use the MPA pricing as a base and may negotiate an adjusted rate. Any negotiated PA rates, exclusive of taxes or any individual state's administrative fee, shall not exceed the MPA rates. As requested by Purchasing Entity, for example on a high volume single order, Reseller shall negotiate to reduce Reseller Cost, to pass on savings to the Participating State. Firm individual order quotes shall be provided to Purchasing Entity prior to order submittal. All quotes shall explicitly cite the State Contract Number.

2.2.1.7.1 For pricing negotiations, discussions will begin after 90 days of service for the following year's renewal For multi-year price negotiations with the State or Purchasing Entity, the following timeline shall apply:

1. For a 3 year agreement, negotiations for the next 3 year term will begin at the start of Year 2 and quotes shall be valid for a period of 6 months.
2. For a 5 year agreement, negotiations for the next 5 year term will begin at the start of Year 3 of 5 and quotes shall be valid for at least 12 months.



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2.2.1.7.2 Telephone or Email Quote Support.

Reseller shall accept requests for quotes by telephone, fax, email, or online. Reseller shall accept collect telephone calls and/or provide and maintain a toll-free number for eligible agency use. Reseller shall provide an email address for receipt of requests for price quotes. Reseller shall provide written quotes by fax, email or online as requested by the Participating State.

2.2.1.7.3 Quoted Delivery Method.

The quote must clearly indicate the method of delivery, whether via media, download, or **3.3 Services** below.

2.2.1.7.4 Timely Quotes.

Reseller agrees to work with publishers and distributors to obtain quotes and deliver software in a timely fashion. Expected response should be within twenty-four (24) hours but no more than three (3) business days. If, after three (3) business days, the Reseller has been unable to obtain the quote or assurances that they can obtain the software, the Reseller shall contact the Participating State or other Purchasing Entity with a status report. The Reseller and the Participating State/Purchasing Entity will mutually agree as to whether the Reseller shall continue to pursue a quote and within what timeframe, or whether the Reseller will provide the Participating State/Purchasing Entity with a written statement that the Reseller cannot supply the software. If the Reseller has been unable to obtain a quote within ten (10) days of the request for quote, the Reseller shall provide a written statement (email is sufficient) to Participating State/Purchasing Entity, and the PSCA as may be required under the PA, that the Reseller cannot supply the software, and the reason why.

2.2.1.7.5 Guaranteed 90 Day Quote.

Reseller is required to honor all quotes for ninety (90) calendar days. If it is known that a price adjustment will occur during the ninety (90) calendar days following the quote, the Reseller may provide two quotes, based upon the date that the order is received. If negotiating a multi-year agreement with the State or Purchasing Entity, then the

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quote must be valid for a longer term as defined in the request for the State or Purchasing Entity.

2.2.1.7.6 *Sales Promotion.*

The Reseller may conduct sales promotions involving specific products or groups of products for specified time periods. If electing to exercise this provision, the Reseller shall submit a formal request for approval to the PSCA. The request should include: the product or product groups, the promotional price as compared to the standard price and the Participating Addendum price for the product or product groups, and the start and end dates of the sales promotion. PSCA's approval shall be in the form of an amendment to the MPA. Upon approval, the Reseller shall provide conspicuous notice of the promotion to all Participating Entities.

2.2.1.7.7 A Participating State or other Participating Entity may allow the Contractor to charge a credit card fee in their Participating Addendum.

2.2.1.8 *Product Delivery and Returns*

2.2.1.8.1 Media. The Reseller shall work with Participating State or other Purchasing Entity to provide media via any method available and as requested by the Participating State including, but not limited to: original Publisher media, CD copies of master media duplicated by the Reseller, electronic downloads, etc. In cases where original publisher's media is not available, the Reseller shall provide CD's copied from master disks of the software purchased under any volume or enterprise license agreement.

2.2.1.8.2 Delivery Period. Reseller to provide delivery no longer than five (5) business days after receipt of a valid order unless conditions arise that are outside the control of the Reseller. If delivery cannot be within this time frame, Reseller is to notify Purchasing Entity of delay and anticipated ship date. If this delayed delivery is unacceptable to Purchasing Entity, the order can be cancelled without penalty.

2.2.1.8.3 Product Returns. Unopened software can be returned with no restocking fee up to 30 days from date of receipt, if allowed by the software publisher. If the software publisher has a shorter timeframe for returns or requires a restocking fee, this must be stated on the quote. If that information is not provided to the Participating State by the Reseller, Reseller is responsible for the restocking fee. If delivered software is

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defective, or if the incorrect product was delivered, the Reseller must agree to accept returns. If delivered software is defective, the Reseller is responsible for return shipping and packaging costs and for restocking charges if applicable. The Reseller must agree that any defective or incorrectly delivered media will be replaced by overnight delivery at the Reseller's expense if requested by the Participating State or Purchasing Entity. If overnight delivery is not requested, all replacement products must be received by the Participating State or Purchasing Entity within seven (7) days of initial notification.

2.2.1.8.4 Shipping Charges. Items covered under this contract are FOB Destination and shipping charges are not to be included on any invoice unless the Purchasing Entity has ordered expedited shipment. For expedited shipment, Purchasing Entity would submit their order including related shipping charges, which may not exceed the cost of delivery by the carrier.

2.3 Services

	IN SCOPE		OUT OF SCOPE
SOFTWARE & LICENSING TYPE	COTS	Volume Licensing	Custom/Customized
LICENSING PERIOD	Perpetual	Subscription	Not Applicable
Delivery	Shrink-Wrap	Download	Not Applicable
Hosting as part of delivery & use	On-Premise	Off-Premise	Managed Services
SERVICES	Basic Installation, Training and Maintenance <i>Means that activity which <u>does not require</u> Consulting, Engineering, Design or any other type of service specific to a Purchasing Entity requiring description of tasks and deliverables and agreement by the parties (Statement of Work).</i>		Consulting, engineering, design, staff augmentation, etc., any type of service specific to a Purchasing Entity requiring description of tasks and deliverables and agreement by the parties

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2.3.1 In Scope Services:

Basic Installation, Configuration, Implementation, Training and Maintenance/Support Services. Including but not limited to services that are performed to assist the State or Purchasing Entity in implementing and configuring COTS or other software applications ordered under this Agreement. **For clarification and definition purposes Consulting does not mean Staff Augmentation, it means specialized implementation and configuration services detailed in a Statement of Work for a short amount of time.** Maintenance packages and Training are considered to be within the Scope of this Solicitation. This Participating Addendum is intended for the acquisition of distributed, commercial off the shelf software and services related to such. NO Consulting Engineering, Consulting projects, or Staff Augmentation are allowed under this agreement.

2.3.2 Any Services performed under this Participating Addendum shall have a detailed statement of work, change notice, and an acceptance certificate for milestone payments.

2.3.2.1 Template attachments are attached as follows are SAMPLES ONLY:

2.3.2.1.1 **ATTACHMENT 1 TO EXHIBIT E - Statement of Work**
Template/SAMPLE (to be filled out and attached to a Task Order).

2.3.2.1.2 **ATTACHMENT 2 TO EXHIBIT E - Change Notice**
Template/SAMPLE (to be filled out and signed by both parties and attached to a Task Order/Revised Purchase Order).

2.3.2.1.3 **ATTACHMENT 3 TO EXHIBIT E - Acceptance Certificate**
Template/SAMPLE (to be signed at milestone Delivery of in a project plan). Acceptance is NOT deemed upon delivery. A formal project plan and milestone payment schedule must accompany any Task Order that is tied to a new purchase/implementation project.

2.4 Training.

2.4.1 Training shall be available in the form of tutorials for basic installation and web-based training for software operation, basic phone support.

2.4.2 Provision of information on how to access a Software Publisher's "Help Desk" (either telecom or web-based) for basic use questions.

2.5 Eligible Agency and CoOp Service and Representation.

2.5.1 *Dedicated Representation and Timely Response.* Reseller shall provide a dedicated representative for each Participating State. Such representative will become familiar with

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the State and its cooperative partners, provide a single point as needed for quote assistance, offer software recommendations, track and report on renewal deadlines, and serve as a contact point for the PSCA. **Reseller must commit to returning phone calls or responding to emails within one (1) business day. Out of office or automatic responses do not count as a response.**

2.5.2 Problem Escalation. The Reseller must provide an incident escalation path for each State, showing on that State's website, the name, contact information, and role of individuals to whom problems should be escalated if the problems are not resolved by primary assigned contacts.

2.5.3 Product purchasing trends.

The Reseller will speak with PSCA and sourcing team quarterly to review usage and discuss possible revisions of the categorization of publishers based upon actual sales volume or other changes.

2.5.4 Contract Reviews.

2.5.4.1 Reseller is expected to conduct **quarterly reviews** of all sales volumes and report sales figures and savings from Publisher's list price, by Publisher and by PA, as well as observed trends or purchasing patterns, and **to present the information to the PSCA.**

2.5.4.2 At the discretion of the individual participating states, an equivalent review, limited to that state, will be presented to the PSCA.

2.5.4.3 All awardees under this contract shall meet once a year with the PSCA and Sourcing Team to review usage and discuss possible revisions of the categorization of publishers based upon actual sales volume, and to discuss any service concerns, industry trends, and the effectiveness of the contract.

2.5.4.3.1 Reseller is expected to **conduct a Eligible Agency and CoOp satisfaction survey** and an audit prior to this discussion and be prepared to discuss the results, and provide reports, at this review. At a minimum, the audit will report address quoting and billing accuracy, and any Reseller Cost that exceeds a Publisher's List price for that item.

2.5.4.3.2 Based on historical sales volume information, Reseller should be prepared to discuss potential cost savings opportunities which could be passed through to Participating States.

2.5.4.3.2 In a renewal year, the annual review will take place prior to contract extensions.

2.6. Interactions with Software Publishers

2.6.1 Best Interests of Participating State. Reseller would represent the best interests of the Participating State and other Participating Entities in negotiating or otherwise working with Publishers for such items as: maximizing cost savings with best use of volume or

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enterprise license agreements, better pricing on individual volume buys, taking advantage of publishers' specials, promotions, coupons or other savings opportunities.

2.6.1.1 SVAR shall make every effort to provide updates to the Purchasing Entity on requests that include volume licensing, enterprise licensing and any volume buy.

Such communications shall include: Pricing, discounts, rebates, specials, promotions, coupons, or any other savings that will achieve the State's or Purchasing Entity's savings goals.

2.6.1.2 SVAR shall include all cost savings in a report quarterly to Procurement officer.

2.6.2 *Liaison with Publisher.* A State may establish, in their individual PA, a requirement for Reseller to arrange with the software publisher or software publisher's designee for implementation, customization, training, support, maintenance and other software related services. The provision of said Services must be detailed in an Order containing a Statement of Work agreed by the Participating State and the applicable parties that incorporates the terms and conditions of this Contract.

2.6.3 Subcontractors/Distributor Use/Substitutions

2.6.3.1 The use of a Subcontractor is only permitted with the approval of the State of Arizona in writing.

2.6.3.2 The use of a secondary distribution channel or other VAR is only permitted by pre-approval, in writing, by the State of Arizona and pricing shall not be increased due to the use of such distribution channels (no additional markups allowed).

2.7 Reporting

2.7.1 Standard Reports

Individual participating states may require their own standard reports, such as report on savings. Reseller shall provide these reports at the intervals, and in the format, as reasonably requested by the States. Reseller shall advise of standard reports which they can provide, and work with participating states on additional standard reports.

2.7.1.1 Standard Reports shall include:

1. Inventory
2. Utilization (where applicable)
 - 2.1 Savings
 - 2.2 Spend by Publisher
 - 2.3 Spend by Category
3. Statewide Software Purchasing
 - 3.1 PCard (if used)
 - 3.2 Purchase Order
 - 3.3 Expensed (users personal Credit Card)



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- 3.4 Employee purchase
- 4. Service Level Reports
 - 4.1 Time (response time)
 - 4.2 Escalation
 - 4.3 Priority
 - 4.4 Missed targets
 - 4.5 Vendor Performance Reports

2.7.2 Online Reports

The SVAR shall be able to provide online, real time, reporting capabilities using website established for the state. These reports may include Back Order or Current Order Status reports. In addition, the system shall be able to provide the ability for the User agency to create custom reports. The requesting Participating State shall be able to select specific fields and create a necessary report for their specific needs. Data Fields shall include, but not be limited to, purchasing entity, Purchase Order Number, Order date, Invoice date, Publisher, Publisher Part Number, Software Reseller's Part Number, Description, Quantity Shipped, Unit actual price, Extended Price, Sales Tax and order total. Reports shall be able to be shown online as well as emailed to the requesting Participating State, if requested. Examples of Reseller's standard and online reports shall be submitted with the offer.

2.7.3 Custom Reports

Participating State and SVAR may mutually agree to include terms and conditions and pricing for the development and provision of customized reports as an optional service in a Participating Addendum.

2.8 Other Value-Added Services

SVAR may propose other Value-Added Services, e.g., key escrow, in their response. Such services from an awarded Offeror, if consistent with this Statement of Work, recommended by the Evaluation Team, and accepted by the PSCA, would be added to the final awarded contract.

2.9 Service Level Requirements: Out of office or Auto replies do not count as a response.

2.9.1 The Contractor agrees to provide quotes on a priority basis. Priorities are defined as a matter of importance to the State or Purchasing Entity in which a response is requested / needed within a certain matter of time and shall be defined at the time of requesting a quote. Service levels and priorities shall be as defined below:

- 2.9.1.1 Priority 1 – Urgent Project Request –Needs response within 1- 2 hours of call/email for a request for quote.
- 2.9.1.2 Priority 2 – Maintenance Critical – Needs response within 2 – 4 hours of call/request for quote.
- 2.9.1.3 Priority 3 – Low Maintenance / New Purchase – Needs response within 8 working hours of call/email for a request for quote and will have a request timeline.

2.9.2 The Contractor shall provide services and quotes in Arizona time zones and hours of support should be similar to 7am to 6pm AZ Time Monday through Friday.

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- 2.9.3 Times for Weekend and Emergencies shall be on a case/case need. Supplier will provide afterhours number for support.

2.10 Escalation Process for violations of SLA in 2.9

- 2.10.1 Any Eligible Agency will be required to fill out a Vendor Performance Report and submit to the State for any SVAR, noting performance on a quarterly basis and provide to the State Procurement Officer for reviews. Vendor Performance Reports are currently available at: <https://spointra.az.gov/resources/standard-forms-and-documents>.
- 2.10.2 A performance discussion will take place between the Reseller representatives and the Procurement Officer. The Reseller will be provided notice, and a plan will be developed to improve on the problem areas within two (2) months.
- 2.10.3 If after the two months, the minimum service levels, reporting requirements and other contract requirements as applicable are not met, the Reseller will be placed on probation, and given three (3) months to improve their overall service score.
- 2.10.4 Root Cause analysis and Performance Improvement plans shall be delivered to the Procurement Officer on request and within 2 business days of such request.
- 2.10.5 If within the three (3) month probationary period performance has not improved, the Reseller will be required to provide a 10% rebate on the task order(s) or purchase order(s) in aggregative if applicable that was deemed a performance issue and shall be given back to the Eligible Agency and CoOp. This amount approximates the damages caused to the State due to each performance issue; this amount is not a penalty, but rather is a settlement in advance between the parties regarding the potential damages to the State for each performance issue. Contractor agrees that the amounts of damages listed in this section are fair and reasonable liquidated damages, and agrees that the State may reduce any future payments by the amount of damages listed herein or otherwise charge the Contractor for these amounts, immediately upon notice to Contractor.

2.11 TRANSITION PLANNING

- 2.11.1 Suppliers shall provide all available reports, data, purchase records and asset reports to the State to ease the transition planning and go live efforts of an awarded Supplier (s).
- 2.11.2 Suppliers shall provide all documentation on processes and procedures to the State as it pertains to the State's account.
- 2.11.3 Suppliers shall cooperate with any transition planning as required by the State.

3.0 PRICING

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- 3.1 Participating State Modifications or Additions to Master Agreement: (These modifications or additions apply only to actions and relationships within the Participating Entity.) The following changes are modifying or supplementing the Master Agreement terms and conditions.
- 3.2 Pricing: Pricing associated with Markup/Markdowns for the resultant Addendum shall be in accordance with Attachment 4 Price List to Exhibit D Statement of Work.
- 3.2.1 Professional Services: Shall be priced as follows and in Attachment 5 to Exhibit D Statement of Work Rate Card:
- 3.2.1.1 Professional Services: The available Professional Services, as defined herein are more fully described and priced in accordance with Exhibit D.
- 3.2.1.2 Professional Services shall be subject to the applicable Task Order Process as described in Section EE of Exhibit B.
- 3.2.1.3 All Professional Services should be facilitated by the Contractor on behalf of the Eligible Agency and CoOp.
- 3.2.1.4 A direct agreement between the 3rd Party and the Eligible Agency and CoOp shall not be allowed.
- 3.2.2 The pricing sheet attachment 4 Price List must be filled out as instructed in the spreadsheet. If the pricing is not completed as instructed you may not be susceptible for award.
- 3.3 Direct Negotiations: In the event that the Eligible Agency or CoOp negotiates and agrees with a Publisher directly, Contractor shall pass through the negotiated rates and terms to the Eligible Agency or CoOp through the resultant Addendum at no additional or separate VAR markup. This includes any VAR/Distributor that this Contractor has engaged with to provide the products requested.
- 3.4 Purchasing Card (PCARD) Purchases: The Contractor shall accept Purchasing Cards as a form of payment without charging a fee for the purchase. If a PCARD is used for a payment, then the Supplier shall provide reporting for PCARD payments. All pricing will flow down to the publisher.
- 3.5 Milestone Payment. All payments under a Task Order for any consulting related to any software purchase shall have a project plan with milestones. All consulting, implementation, configuration and other software services are contingent upon receipt and acceptance by the State or any agency/cooperative of all Deliverables.
- 3.5.1 Any defect that has not been resolved in any sprint shall be completed prior to any final milestone. If any project milestone or testing milestone is missed the milestone payment for that task shall be credited back to the State Agency / Cooperative or to the next milestone as defined in the Project Plan.
- 3.5.2 Upon receipt of a fully executed Order, A milestone payment plan shall be agreed to in writing. An example of a payment plan is outlined below.

3.5.2.1 **EXAMPLE MILESTONE PAYMENT PLAN**

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Upon receipt of a fully executed Order, milestone payments totaling \$00.00 shall be made per the schedule below:

Milestone #	Name	Payment
1	Demonstration and Accessibility of All Sprint 1 Features in Company Environment	\$00.00
2	Demonstration and Accessibility of All Sprint 2 Features in Company Environment	\$00.00
3	Demonstration and Accessibility of All Sprint 3 Features in Company Environment	\$00.00
4	Completion of Supplier System and Performance Testing without Priority 1 Defects	\$00.00
5	Completion of Company Core Testing	\$00.00
6	Completion of Company User Acceptance Testing and delivery of Source Code (if applicable) for _____ Software.	\$00.00
	Milestone Total	\$00.00

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ATTACHMENT 1 TO EXHIBIT E - Statement of Work Template SAMPLE
 (Completed SOW must be filled out and attached to a Task Order).

Statement Of Work (SAMPLE ONLY)

Enter - Project Name

DATE, VERSION

(ENTER DATE FINALIZED OR REVISED AND VERSION IF APPLICABLE)

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- 1. SOW Period of Performance:**

- 2. SOW Effective Date:**

- 3. Consultant's Project Manager Information:**

Name
Address

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Phone
 Fax
 email

4. Company Project Manager Information:

Name
 Address
 Phone
 Fax
 email

5. SOW Introduction:

This Statement of Work [titled, dated] ("SOW") is issued pursuant to Schedule number _____(GP)_____, Participating Addendum for Consulting Services number _____(GP)_____, ("Agreement"), by and between having an office at ("COMPANY"), and [enter company's legal name - GP] ("Consultant").

6. High Level Project Description:

[Enter Project Overview]

7. COMPANY SOW Requirements:

[Enter specific SOW purpose, objectives, methods, POA, required end results, to include information security or data privacy requirements, etc.]

[For additional detail, refer to Exhibit A – Project Requirements Document]

8. SOW Deliverables, Milestones, and Acceptance Criteria:

[Enter specific Consultant Deliverables required, their associated milestones, and the specific criteria by which each deliverable or service will be accepted]

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[For additional detail, refer to Exhibit B – Project Plan for Consulting or Development]

[For additional detail, refer to Exhibit C – Service Level Agreement]

9. Project Assumptions:

[Enter specific assumptions by which successful execution of the project will be contingent and or undertaken]

10. Project Dependencies:

[Enter specific dependencies by which successful execution of the project will be delivered and or achieved]

11. COMPANY Responsibilities:

[Enter specific responsibilities COMPANY will have under this SOW such as process approvals, COMPANY resource requirements, telecom, computing; data, system, or facility access, etc.]

12. Consultant's Resources, Hours & Rates:

The following table includes the Consultant resource requirements for this SOW and the role/skill categories in accordance with Consultant's current rate card or negotiated rates:

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Lin e#	Skill	Role	Start Date	End Date	City	Servic e Origin/ Locati on of Resou rce	Qt y	Rate/ Hr.	Tota l Hou rs	Tot al Pri ce
1.	i.e. Web	Program mer	00/00/ 00	00/00/ 00	Phoe nix		2	\$	100 0	\$
2.	i.e. Business Analyst/Mg mt.	Project Manager	00/00/ 00	00/00/ 00	NY		1	\$	500	\$
3.										
4.										
5.										

13. Exception Rates:

[Specify and justify any rate not in compliance with Consultant's current rate card or negotiated rates]

14. Travel & Expenses:

14.1 All Travel & Expense requests (required in writing) will be reviewed and approved in advance by the COMPANY Project Manager. Travel and Expenses will be reimbursed to Consultant in accordance with COMPANY's Travel and Expense Policy.

14.2 The total estimated Travel & Expense during the Period of Performance for this SOW is **Not-to-Exceed** amount of: \$ 0. Funds for Travel and Expenses cannot be allocated towards development or maintenance charges.

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15. Total SOW Value:

15.1 The Total [Time and Materials (T&M) or Firm-Fixed Price (FFP)] SOW Value over the Period of Performance of this SOW includes:

Total

- | | |
|--|----------------|
| 1. [Consulting Services or Development]: | \$00.00 |
| 2. Travel & Expenses: | \$0 |
| 3. Hardware: | \$0 |
| 4. Software: | \$0 |
| 5. Other: | <u>\$0</u> |
| 6. Total Not-to-Exceed SOW Value: | \$00.00 |

15.2 Once the Total Not-to-Exceed SOW Value has been reached, regardless of whether priced under Time and Materials (T&M) or Firm-Fixed Price (FFP), Consultant shall be required to request and execute a SOW/Schedule Amendment in the event that the SOW requirements have not been fulfilled and additional monies are required, justified, and approved in advance by the Project Manager and State Procurement Officer.

16. Billing Terms:

Consultant charges shall be billed [specify i.e. in accordance with COMPANY's terms] and shall be billed monthly in arrears of services rendered.

17. Payment Terms:

17.1 Consultant shall invoice COMPANY for services and or deliverables rendered and payments shall be made Net 30 days after COMPANY Project Manager's receipt and approval of invoice, and shall be paid [specify i.e. only through COMPANY's ERP, PCARD, CHECK Etc.].

17.2 Any disputed amounts shall not affect payment of any non-disputed charges and expenses. COMPANY and Consultant agree to cooperate in good faith to resolve any payment disputes within thirty (30) days.

18. Status Reports:

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Consultant shall provide status reports to the COMPANY designated project manager, describing activities during the preceding period, including: the current status of activities (with an explanatory narrative when appropriate); resources used since the last report, with a cumulative total to date; and identification of any problems and actions being resolved or outstanding. The COMPANY designated project manager may at its sole discretion require specific form, format, frequency, method, and related status meetings as otherwise specified herein.

19. SOW Exhibits:

- Exhibit A: Project Requirements Document (As Required)
- Exhibit B: Project Plan (Consulting or Development) (As Required)
- Exhibit C: Service Level Agreement (As Required)
- Exhibit D: Project Change Request (As Required)
- Exhibit E: Identification of COMPANY Furnished Equipment, Services, Data (As Required)

Exhibit A - Project Requirements Document

[To be provided by requestor and or business partner sponsor]

Exhibit B – Project Plan

[To be provided by requestor and or business partner sponsor]

Exhibit C - Service Level Agreement

[To be provided by requestor and or business partner sponsor]

Exhibit D – Change Control Process

[To be provided by requestor and or business partner sponsor]

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Exhibit E - Identification of COMPANY Furnished Equipment, Services, Data

[To be provided by requestor and or business partner sponsor]

	Attachment E <u>Statement of Work</u> <u>Attachment 2 to Exhibit E</u> <u>Change Notice SAMPLE</u> PARTICIPATING ADDENDUM Software Value Added Reseller (SVAR) Lead by the State of Arizona	Arizona Department of Administration State Procurement Office 100 N 15th Avenue Phoenix, AZ 85007
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ATTACHMENT 2 TO EXHIBIT E - Change Notice Template (SAMPLE ONLY)

(To be filled out and signed by both parties and attached to a Task Order/Revised Purchase Order).

Project Change Request Form			
Project Name	(Enter Project Title)	Change Title	(Enter Change Request title)
Initiated By	(Enter changer requester)	Priority (L M H)	(Enter Low Medium High)
Date	(Enter change registration date)	Change Number	(Enter Change request ID)
Change Request Details			
Description			
(Enter Description of Change Request)			
Justification			
(Enter justification for change request)			
Impact			
COST	(Enter cost impact)		
SCHEDULE	(Enter schedule impact)		
RESOURCES	(Enter resource additions or subtractions and reason)		
OTHER	(Enter any other impact considerations)		
Management Approval			
Approval Date		Name	(Enter approver name)
Decision	☐ Accepted	Reason for decision	
	☐ Rejected		
Comments	(Enter additional comments)		



Attachment E
Statement of Work
Attachment 3 to Exhibit E
Acceptance Certificate SAMPLE
PARTICIPATING ADDENDUM
Software Value Added Reseller (SVAR)
Lead by the State of Arizona

Arizona Department of Administration
State Procurement Office
100 N 15th Avenue
Phoenix, AZ 85007

**ATTACHMENT 3 TO EXHIBIT E STATEMENT OF WORK ACCEPTANCE CERTIFICATE
(SAMPLE ONLY)**

State of Arizona		
Department of Administration		Agency, Coop, Department
100 N. 15 th Avenue		
Phoenix, AZ 85007		

State of Arizona (Agency, CoOp, Department)

CERTIFICATE OF FINAL ACCEPTANCE

Project #: _____ Contractor: _____

Project: _____ Address: _____

Location: _____

_____ Contr. Work: _____

Date of Final Acceptance: _____ Contract/PO #: _____

Signing of the Final Acceptance form shall certify that the work contained in the project plan has been inspected by the parties listed below, and that all deliverables on the milestone payment plan have been completed. The contractor has fulfilled all project obligations and that the warranties have been accepted. Contractor may be authorized to receive final payment in full, including all retainage so long as there are no disputed charges.

Authorized Signatures:

_____	_____	_____
Using Agency	Representative	Date
_____	_____	_____
Project Manager	Representative	Date



Attachment E
Statement of Work
Attachment 3 to Exhibit E
Acceptance Certificate SAMPLE
PARTICIPATING ADDENDUM
Software Value Added Reseller (SVAR)
Lead by the State of Arizona

Arizona Department of Administration
State Procurement Office
100 N 15th Avenue
Phoenix, AZ 85007

Technology Manager

Representative

Date



Attachment F
Conformance Statement

Arizona Department of Administration
State Procurement Office
100 N 15th Avenue
Phoenix, AZ 85007

Attachment F – Conformance Statements

If taking exceptions, the relevant subsequent pages titled “Attachment Supplements” must be completed. Attach additional pages as needed.

STATE WILL NOT CONSIDER ANY EXCEPTIONS UNLESS DESIGNATED ON THIS FORM.

IF NEITHER BOX IS CHECKED UNDER ANY SECTION BELOW, THE CONTRACTOR’S RESPONSE TO THAT SECTION WILL BE CONSIDERED “YES” AND STATE WILL INTERPRET THE CONTRACT AS IF THERE WERE NO EXCEPTIONS TAKEN.

CONFORMANCE TO THE SCOPE OF WORK

Check one of the following:



YES – Contractor acknowledges that it has read and understands the Scope of Work and Participation Section of the Participating Addendum and attests that Contractor complies with all.



NO – Contractor acknowledges that it has read and understands the Scope of Work and Participation Section of the Participating Addendum and attests that Contractor complies with all EXCEPT FOR the exceptions listed in **Attachment Supplement 1 – Conformance Statements - Exceptions to Scope of Work and Participation.**

CONFORMANCE TO THE CONTRACT TERMS AND CONDITIONS

Check one of the following:



YES – Contractor acknowledges that it has read and understands the Special Terms and Conditions and the Uniform Terms and Conditions, along with their respective Exhibits and Appendices of the Participating Addendum and attests that Contractor complies with all.



NO – Contractor acknowledges that it has read and understands the Special Terms and Conditions and the Uniform Terms and Conditions, along with their respective Exhibits and Appendices of the Participating Addendum and attests that its Contractor complies with all EXCEPT FOR the exceptions listed in **Attachment Supplement 2– Conformance Statements - Exceptions to Contract Terms and Conditions.**

CDW Government LLC

Company name

Signature of person authorized to sign



Attachment F
Conformance Statement

Arizona Department of Administration
State Procurement Office
100 N 15th Avenue
Phoenix, AZ 85007

**Attachment Supplement 1 – Conformance Statements -
Exceptions to Scope of Work and Participation**

Article / paragraph or exhibit reference	CONTRACT language (Copy and paste from Solicitation)	Alternate language and Rationale
Scope of Work		
X	See attached “Exceptions Tracker”	See attached “Exceptions Tracker”
X	See attached “Exceptions Tracker”	See attached “Exceptions Tracker”
X	See attached “Exceptions Tracker”	See attached “Exceptions Tracker”

CDW Government LLC

Company name

Signature of person authorized to sign

JH
JH



Attachment F
Conformance Statement

Arizona Department of Administration
State Procurement Office
100 N 15th Avenue
Phoenix, AZ 85007

**Attachment Supplement 2 – Conformance Statements - Exceptions to
Contract Terms and Conditions**

Article / paragraph or exhibit reference	CONTRACT language (Copy and paste from Solicitation)	Alternate language and Rationale
Special Terms and Conditions		
X	See attached “Exceptions Tracker”	See attached “Exceptions Tracker”
X	See attached “Exceptions Tracker”	See attached “Exceptions Tracker”
X	See attached “Exceptions Tracker”	See attached “Exceptions Tracker”
Uniform Terms and Conditions		
X	See attached “Exceptions Tracker”	See attached “Exceptions Tracker”
X	See attached “Exceptions Tracker”	See attached “Exceptions Tracker”
X	See attached “Exceptions Tracker”	See attached “Exceptions Tracker”

CDW Government LLC

Company name

Signature of person authorized to sign

JH

Request for Mini Proposal Software Value Added Reseller – General Software Conformance Statements

Article / paragraph or exhibit Mini Proposal language (Copy and paste from Solicitation)

reference

Mini Proposal Instructions to Offerors

x	x	
Scope of Work		Final Agreed Response
Statement of Work, Section 2.1.2.1	Provide Commercial Off-the-Shelf-Software (COTS).	This contract allows COTS and SaaS software to be purchased. SaaS is called out in Statement of Work 1.1.
Statement of Work, Section 1.4 Definitions	"Reseller Cost" means the price that the Reseller pays the Publisher or Distributor to purchase software on behalf of the Participating State. Reseller Cost should not include any administrative or other mark-up costs.	CDW-G's Reseller Cost definition was accepted by the State on 01/21/2022. CDW-G confirmed our acquisition cost will not include management costs or markup of any kind. As stated in the solicitation, any additional fees at the Participating Entity- level will be negotiated during the PA (Participating Addendum) process and will be applied to Reseller's pricing as agreed to by the Reseller and the Participating Entity.
Statement of Work, 2.1.3.1 Services	For Participating States, Reseller shall develop and support a website specific to that State, with content approved from the PSQA or PSQA as appropriate based on content.	Alternate language: Reseller shall develop and support a website specific to that State, with content approved from the PSQA or PSQA as appropriate based on content, subject to the information made available by the Publisher, Reseller will make all commercially reasonable efforts to act as a liaison to provide such information in a timely manner, when available.
Statement of Work, 2.2.1.5 Software Publishers, Categories		State accepts the final submitted pricing from CDW from email dated 13dec2023 and named: NASPO SVAR State of Arizona Pricing Sheet CDWG revised pricing 12.13.23.xlsx
Statement of Work, 2.2.1.5 Software Publishers, Categories		The SVAR contracts can only be used to purchase software that falls under the corresponding award category. Microsoft can only be sold by Resellers awarded the Microsoft category and not by those awarded only the General category.
Statement of Work, Section 2.2.1.7.1	2.2.1.7.1 For pricing negotiations, discussions will begin after 90 days of service for the following year's renewal For multi-year price negotiations with the State or Purchasing Entity, the following timeline shall apply: 1. For a 3 year agreement, negotiations for the next 3 year term will begin at the start of Year 2 and quotes shall be valid for a period of 6 months. For a 5 year agreement, negotiations for the next 5 year term will begin at the start of Year 3 of 5 and quotes shall be valid for at least 12 months.	The State would like CDW to initiate negotiations at the dates listed. If the publisher refuses to negotiate at that time, CDW just needs to inform the State of this so the State has time to make optional plans. The key here is CDW informs the State and the Publisher that they are attempting to start renewal negotiations. CDW-G concurs, with the understanding the validity of pricing beyond 30 days is subject to the Publisher's consent.
Statement of Work, Section 2.2.1.7.5	Guaranteed 90 Day Quote. Reseller is required to honor all quotes for ninety (90) calendar days. If it is known that a price adjustment will occur during the ninety (90) calendar days following the quote, the Reseller may provide two quotes, based upon the date that the order is received. If negotiating a multi-year agreement with the State or Purchasing Entity, then the quote must be valid for a longer term as defined in the request for the State or Purchasing Entity.	CDW will make a good faith effort to work with Publishers on a 90 day quote, and guarantee a thirty (30) day quote.
Statement of Work, Section 2.3.1 Services	Basic Installation, Configuration, Implementation, Training and Maintenance/Support Services. Including but not limited to services that are performed to assist the State or Purchasing Entity in implementing and configuring COTS or other software applications ordered under this Agreement. For clarification and definition purposes Consulting does not mean Staff Augmentation, it means specialized implementation and configuration services detailed in a Statement of Work for a short amount of time. Maintenance packages and Training are considered to be within the Scope of this Solicitation. This Participating Addendum is intended for the acquisition of distributed, commercial off the shelf software and services related to such. NO Consulting Engineering, Consulting projects, or Staff Augmentation are allowed under this agreement.	Basic Installation, Configuration, Implementation, Training and Maintenance/Support Services. Including but not limited to services that are performed to assist the State or Purchasing Entity in implementing and configuring COTS or other software applications ordered under this Agreement. For clarification and definition purposes Consulting does not mean Staff Augmentation, it means specialized implementation and configuration services detailed in a Statement of Work for a short amount of time. Maintenance packages and Training are considered to be within the Scope of this Solicitation. This Participating Addendum is intended for the acquisition of distributed, commercial off the shelf software and services related to such. NO Consulting Engineering, Consulting projects, or Staff Augmentation are allowed under this agreement.
Statement of Work, Section 2.6 Interactions with Software Publishers		Rescind as this is addressed in row 16.
Special Terms and Conditions		
Special Terms and Conditions, 3.5 Click-through Terms and Conditions	Click-through Terms and Conditions. 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 System, 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.	CDW understands the State's obligation to review applicable governing EULAs & therefore accepts the original language.
Special Terms and Conditions, 3.6.2 Usage Information	Usage Information. Additionally, any and all information (including, but not limited to, documentation or Data) related to Eligible Agency and Co-Op Buyer usage retained solely within the Contractor's system (for example, related to punch-out or Contractor catalog sales) shall be considered public information or information that can be shared with and distributed by the State freely and for any purpose under the State's government purpose rights detailed in Section 3 of the Uniform Terms and Conditions [Ownership of Intellectual Property]. Any modifications to this Contract notwithstanding, the State shall have free use of any and all information related to Eligible Agency or Co-Op Buyer purchasing. Upon request by the State, Contractor shall promptly provide the State with any usage information, requested and shall not attempt to limit the State's use in any way.	State can accept the following as the entire clause: Usage Information. Additionally, any and all information (including, but not limited to, documentation or Data) related to Eligible Agency and Co-Op Buyer usage retained solely within the Contractor's system (for example, related to punch-out or Contractor catalog sales) shall be considered public information or information that can be shared with and distributed by the State freely and for any purpose under the State's government purpose rights detailed in Section 3 of the Uniform Terms and Conditions [Ownership of Intellectual Property]. Any modifications to this Contract notwithstanding, the State shall have free use of any and all information related to Eligible Agency or Co-Op Buyer purchasing. Upon request by the State, Contractor shall promptly provide the State with any usage information retained solely within the Contractor's system requested and shall not attempt to limit the State's use in any way. Contractor shall also make all commercially reasonable efforts to coordinate usage information requests with Publishers.
Special Terms and Conditions, 3.9 Order Cancellations	Order Cancellations. State may cancel Orders within a reasonable period after issuance, and at its discretion. The same method used for ordering will be used for cancellation	Order Cancellations. State may cancel Orders within a reasonable period after issuance, but prior to shipment or delivery, and at its discretion. The same method used for ordering will be used for cancellation. After shipment or delivery, should the State wish to cancel an Order, Contractor shall undertake all commercially reasonable efforts with Publisher to facilitate the Order cancellation.
Special Terms and Conditions, 3.10.3 Administrative Fee	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 the State to its remedies under Contract Terms and Conditions Section 8 and its right to terminate for default under Section 9. Method of calculation, payment procedures, and other details are provided on the State Procurement Office website: https://spo.az.gov/suppliers/usage-reporting	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 beginning on January 1, 2024, is one and a half (1.5%) percent, and is scheduled to increase to two (2%) percent on January 1, 2025. Rates are set in accordance with SPO Technical Bulletin (TB) 007, available on the SPO website, which may be revised at the State's sole discretion as part of Arizona state procurement policy. For convenience (though note that this link may change over time) TB 007 may be found here: https://spo.az.gov/suppliers/usage-reporting . Failure to remit the administrative fees is a material breach of contract, and will entitle the State to its remedies under Contract Terms and Conditions Section 8 and its right to terminate for default under Section 9. Method of calculation, payment procedures, and other details are provided on the State Procurement Office website: https://spo.az.gov/suppliers/usage-reporting
Special Terms and Conditions, 3.10.4 Quarterly usage report	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 the State to its remedies under Contract Terms and Conditions Section 8 and its right to terminate for default under Section 9. Contractor shall submit the report using the forms and following the instructions on the State Procurement Office website: https://spo.az.gov/suppliers/usage-reporting .	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, provided Contractor is unable to cure such failure within a reasonable period of time , and will entitle the State to its remedies under Contract Terms and Conditions Section 8 and its right to terminate for default under Section 9. Contractor shall submit the report using the forms and following the instructions on the State Procurement Office website: https://spo.az.gov/suppliers/usage-reporting .

Special Terms and Conditions 4.2 Contractor's Best Pricing	Contractor's Best Pricing. Contractor warrants that, for the term of the Contract, the prices and discounts set out in the Attachments titled Pricing, including any subsequent agreed amendment to it (the "Contract Pricing"), shall be equal to or better than the lowest prices and largest discounts, both separately and in combination, at which Contractor sells equivalent services, items of equipment, and materials. That price-plus-discount equivalence ("Contractor's Best Pricing") is intended to be irrespective of whether or not those other sales have special purchase terms, conditions, rebates, or allowances. If Contractor's Best Pricing for equivalent services, items of equipment, and materials is better than the Contract Pricing, then Contractor agrees to adjust the Contract Pricing to match the Contractor's Best Pricing for all sales related to the Contractor made after the date when the Contractor's Best Pricing was first better than the Contract Pricing. For clarification of intent, that date is intended to be the date when the difference first occurred, which might have been before the difference was first identified. If the difference occurred before it was identified, then Supplier agrees to charge less than the Contract Pricing until the extended difference that would have been realized (i.e. if the Contractor's Best Pricing had been applied when it should have been) has been settled.	Subject to applicable law, CDW+G warrants that it will make best efforts with respect to the pricing extended through this contract, which shall be equal to or better than, that offered to similarly situated customers at which CDW+G sells equivalent services, items of equipment and materials, given equivalent or reasonably-equivalent quantity of purchase, at the same time and under similar terms and conditions.
Special Terms and Conditions, 4.4.4	State expects Contractors to use Lean Six Sigma principles to reduce costs in their supply chain, and not simply pass new costs on to the State. If a price increase is requested, State will ask for evidence that Lean Six Sigma principles and tools have been used by Contractor to attempt to reduce costs in advance of any request for a price increase under the Contract.	State expects Contractors to make commercially reasonable efforts to reduce costs in their supply chain, and not simply pass new costs on to the State. If a price increase is requested, State will ask for evidence that Contractor has attempted to reduce costs in advance of any request for a price increase under the Contract.
Special Terms and Conditions, 4.5 Price Reductions	Price Reductions. Price reductions shall be immediately passed along to State and may be submitted in writing to State for consideration at any time during the Contract period. The contractor shall offer State a price reduction on the Contract product(s) concurrent with a published price reduction made to other customers. The State at its own discretion may accept a price reduction. The price reduction request shall be in writing and include documentation showing the actual reduction of cost. Sales promotions requests shall include differences in pricing, begin, and end date of promotion along with the products covered.	1. Price reductions, when offered by Contractor, shall be immediately passed along to the State and may be submitted in writing to the State for consideration at any time during the Contract period. The contractor will make commercially reasonable efforts to offer the Lead State a price reduction on the Contract product(s) concurrent with a published price reduction made to other customers, upon request, for same products and quantities, under same terms and conditions, purchased within the same timeframe. The State at its own discretion may accept a price reduction, when offered by contractor. The price reduction request shall be in writing and include documentation showing the actual reduction of cost. Sales promotions, as and when offered by contractor, requests shall include difference in pricing, begin, and end date of promotion along with the products covered, subject to any confidentiality provisions by the software publishers. This exception was previously accepted by the State in the Master Agreement Exceptions Document
Special Terms and Conditions, 4.9.5 Recovery of Overpayment	Recovery of Overpayment. If applicable, Eligible Agency or Co-Op Buyer determines that an overpayment has been made to Contractor on any prior invoice, it shall inform Contractor of the amount and date of the overpayment and may deduct the overpaid amount from amounts then or thereafter due to Contractor.	Recovery of Overpayment. If applicable, Eligible Agency or Co-Op Buyer determines that an overpayment has been made to Contractor on any prior invoice, it shall inform Contractor of the amount and date of the overpayment and may deduct the overpaid amount from amounts then or thereafter due to Contractor or the parties will determine an agreeable solution for the Eligible Agency.
Special Terms and Conditions, 4.9.6 Purchasing Card	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 (also called a p-card) are the responsibility of the Contractor. Unless otherwise stated in the Contract, there will be no additional fees or increase in prices associated with this method of payment.	Purchasing Card. Applicable Eligible Agency or Co-Op Buyer may pay invoices for some or all Orders using a purchasing card at the time of purchase . Any and all fees related to payment using a purchasing card (also called a p-card) are the responsibility of the Contractor. Unless otherwise stated in the Contract, there will be no additional fees or increase in prices associated with this method of payment.
Special Terms and Conditions, 6.2.1 Contractor Indemnification (Not Public Agency)	Contractor Indemnification (Not Public Agency). 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 claims, actions, liabilities, damages, losses, or expenses (including court costs, attorneys' fees, and costs of 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. 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 for Claims arising solely 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 judgment 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 Arizona, its officers, officials, agents, and employees for losses arising from the work performed by the Contractor for the State of Arizona. This indemnity shall not apply if the Contractor or Subcontractor(s) is/are an agency, board, commission or university of the State of Arizona.	To the fullest extent permitted by law, Reseller 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 claims, actions, liabilities, damages, losses, or expenses (including court costs, attorneys' fees, and costs of claim processing, investigation and litigation) (hereinafter referred to as "Claims") brought by an unaffiliated third party 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 Reseller or any of its owners, officers, directors, agents, employees or subcontractors. 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 Reseller 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 for Claims arising solely from the negligent or willful acts or omissions of the Indemnitee, be indemnified by Reseller from and against any and all claims. It is agreed that Reseller shall be responsible for primary loss investigation, defense, and judgment costs where this indemnification is applicable. In consideration of the award of this contract, the Reseller 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 Reseller for the State of Arizona. This indemnification shall survive the termination of the above listed contract with the Reseller. This indemnity shall not apply if the Reseller or sub-contractor(s) is/are an agency, board, commission or university of the State of Arizona.
Special Conditions, 6.3 Patent and Copyright Indemnification	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 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: State shall provide reasonable and timely notification to Contractor of any claim for which Contractor may be liable under this paragraph; 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; State may elect to participate in such action at its own expense; and 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.	[CONTRACTOR/VENDOR (NOT PUBLIC AGENCY)]. With respect to Materials-or Services provided or proposed by a Reseller Indemnitor for performance under the Contract, Reseller shall indemnify, defend and hold harmless State Indemnitees against any third-party claims for liability, costs, and expenses, including, but not limited to reasonable 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 Reseller of any claim for which Reseller may be liable under this paragraph; 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. Indemnity protections related to the Software shall be passed through to State in accordance with the terms of Section 11.4 Pass-Through Indemnity.
Special Conditions, 8.16 Returns	Returns. State may, at its discretion, return for full credit and with no restocking charges, any delivered Materials unused in the original packaging within thirty (30) days after receipt, regardless of acceptance. If State elects to return delivered Materials, then State shall pay delivery costs to return the products to the place from which Contractor shipped them. However, 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 any costs associated with returning the Materials and may, at its discretion, either have those billed directly to Contractor, offset them under paragraph 8.5 [Right of Offset] of the Uniform Terms and Conditions, or take any other appropriate actions under the Contract.	Unless noted as non-cancelable or non-returnable on Reseller's quote , 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 delivery costs to return the products to the place from which Contractor shipped them. However, 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 any costs associated with returning the Materials and may, at its discretion, either have those billed directly to Contractor, offset them under paragraph 8.5 [Right of Offset] of the Uniform Terms and Conditions, or take any other appropriate actions under the Contract. Certain orders may carry return restrictions from the manufacturer/publisher. Where applicable, CDW-G will notify the Eligible Agency in advance.
Special Terms and Conditions 9.8	Acceptance of Services. State has the right to accept Services subject to acceptance criteria. State may apply acceptance criteria to the Contract or a specific Order, which may include, but are not limited to, accuracy, completeness, conformance to requirements, or quality. State shall not pay Contractor for unaccepted Services, and State may, at its discretion, withhold or make partial payment for any rejected Services, while Contractor is in the process of re-performing or otherwise curing the grounds for State's rejection.	State has the right to make acceptance of Services subject to mutually-agreed acceptance criteria. In the absence of express acceptance criteria, the State shall be deemed to have accepted upon delivery. State may apply 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.
Special Terms and Conditions 11.6.1 Redress of Infringement	Replace, License, or Modify. If Contractor becomes aware that any Materials or Services infringe, or are likely to be infringing, on any third party's intellectual property rights, then Contractor shall, at its sole cost and expense and in consultation with State, either: replace any infringing items with non-infringing ones; obtain for State the right to continue using the infringing items; or modify the infringing items so that they become non-infringing, so long as they continue to function as specified following the modification.	Replace, License, or Modify. If Contractor becomes aware that any Materials or Services infringe, or are likely to be infringing, on any third party's intellectual property rights, then Contractor shall, at its sole cost and expense and in consultation with State, either: replace any infringing items with non-infringing ones; obtain for State the right to continue using the infringing items; or modify the infringing items so that they become non-infringing, so long as they continue to function as specified following the modification.
Special Terms and Conditions 11.6.2 Cancellation Option	Cancellation Option. In every case under 15.6.1, if none of those options can reasonably be accomplished, or if the continued use of the infringing items is impracticable, State may cancel the relevant Order or terminate the Contract, and Contractor shall take back the infringing items. If State does cancel the Order or terminate the Contract, Contractor shall refund to State: for any software created for State under the Contract, the amount State paid to Contractor for creating it; for all other Materials, the net book value of the product provided according to generally accepted accounting principles; and for Services, the amount paid by State or an amount equal to twelve (12) months of charges, whichever is less.	Cancellation Option. In every case under ~~11.6.1~~ 15.6.1, if none of those options can reasonably be accomplished, or if the continued use of the infringing items is impracticable, State may cancel the relevant Order or terminate the Contract, and Contractor shall take back the infringing items. If State does cancel the Order or terminate the Contract, Contractor shall refund to State: ~~for any software created for State under the Contract, the amount State paid to Contractor for creating it; for all other Materials, the net book value of the product provided according to generally accepted accounting principles; and for Services, the amount paid by State or an amount equal to twelve (12) months of charges, whichever is less.~~

Special Terms and Conditions 11.6.3 Exceptions	Exceptions. Contractor will not be liable for any claim of infringement based solely on any of the following by a State Indemnitee: modification or use of Materials other than as contemplated by the Contract or expressly authorized or proposed by a Contractor Indemnitee; operation of Materials with any operating software other than that supplied by Contractor or authorized or proposed by a Contractor Indemnitee; or combination or use with other products in a manner not contemplated by the Contract or expressly authorized or proposed by a Contractor Indemnitee.	Exceptions. Contractor will not be liable for any claim of infringement based solely on any of the following by a State Indemnitee: modification or use of Materials/Services other than as contemplated by the Contract or expressly authorized or proposed by a Contractor Indemnitee; operation of Materials/Services with any operating software other than that supplied by Contractor or authorized or proposed by a Contractor Indemnitee; or combination or use with other products in a manner not contemplated by the Contract or expressly authorized or proposed by a Contractor Indemnitee.
Special Terms and Conditions 11.11 Cloud Applications	Cloud Applications. The following are required for Contractor of any cloud solution that hosts State data outside of the State's network or transmits and/or receives State data.	Cloud Applications. The following are required for Contractor, to the extent Contractor is acting in a role of a Cloud Service Provider of any cloud solution that hosts State data outside of the State's network or transmits and/or receives State data.
Addendum A to the Special Terms and Conditions 1.1	Indemnification Clause. 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 claims, actions, liabilities, damages, losses, or expenses (including court costs, attorneys' fees, and costs of 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. 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 for Claims arising solely 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 judgment 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 Arizona, its officers, officials, agents, and employees for losses arising from the work performed by the Contractor for the State of Arizona. 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	As agreed during BAFO, language reads: Indemnification Clause. 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 claims, actions, liabilities, damages, losses, or expenses (including court costs, attorneys' fees, and costs of claim processing, investigation and litigation) (hereinafter referred to as "Claims") brought by an unaffiliated third party 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. 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 for Claims arising solely 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 judgment 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 Arizona, its officers, officials, agents, and employees for losses arising from the work performed by the Contractor for the State of Arizona. 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
Addendum A to the Special Terms and Conditions 1.2.1	Contractor and subcontractors shall procure and maintain, until all of their obligations have been discharged, including any warranty periods under this Contract, insurance against claims for injury to persons or damage to property arising from, or in connection with, the performance of the work hereunder by the Contractor, its agents, representatives, employees or subcontractors.	Exception withdrawn
Addendum A to the Special Terms and Conditions 1.3 Minimum Scope and Limits of Insurance	.	Exception withdrawn
Addendum A to the Special Terms and Conditions 1.3 Minimum Scope and Limits of Insurance continued from above	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 involving automobiles owned, hired and/or non-owned by the Contractor. 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. Workers' Compensation and Employers' Liability • Workers' Compensation Statutory • Employers' Liability o Each Accident \$1,000,000 o Disease – Each Employee \$1,000,000 o Disease – Policy Limit \$1,000,000 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. 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 or Independent Contractor).	Exception withdrawn
Addendum A to the Special Terms and Conditions 1.5 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. Within two (2) business days of receipt, Contractor must provide 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 Representative's Name, Address & Fax Number).	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. To the extent Contractor has not replaced, or does not anticipate replacing, such coverages with like kind coverage, within two (2) business days of such receipt, Contractor must provide 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 Representative's Name, Address & Fax Number).
Addendum A to the Special Terms and Conditions 1.8 Subcontractors	Contractor's certificate(s) shall include all subcontractors as insureds 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.	~~Contractor's certificate(s) shall include all subcontractors as insureds under its policies or~~ Contractor shall be responsible for ~~ensuring and/or verifying~~ requesting 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.
Addendum A to the Special Terms and Conditions 1.9	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 necessary. Such action will not require a formal Contract amendment but may be made by administrative action.	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 necessary. Such action will ~~not~~ require a formal Contract amendment but may be made by administrative action.
Addendum B to the Special Terms and Conditions Uniform Terms and Conditions	Addendum B to the Special Terms and Conditions, Warranties and Requirements Related to Arizona Information Technology Statewide Policies, Standards, and Procedures	CDW retracts proposed modification.
Uniform Terms and Conditions, 3.11	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, 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 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 or debarment of the contractor.	State rejects and requests original language be accepted. CDW's edits will limit the State's audit rights which are statutorily mandated.
Uniform Terms and Conditions, 3.13 Offshore Performance of Work Involving Data is Prohibited	Offshore Performance of Work Involving Data is Prohibited. Any Services that are described in the specifications or scope of work that directly serve the State of Arizona or its clients and involve access to Data shall be performed within the defined territories of the United States.	Any Services that are described in the specifications or scope of work that directly serve the State of Arizona or its clients and involve access to Data shall be performed within the defined territories of the United States. Unless specifically stated otherwise in the Scope of Work, this paragraph does not apply to indirect or overhead services, redundant back-up services, maintenance and support services delivered by the Publishers, or services that are incidental to performance under the Contract. This provision applies to work performed by Subcontractors at all tiers.
Uniform terms and Conditions, section 4.3	Firm, Fixed Price. Unless stated otherwise in the Special Terms and Conditions of the Contract, all prices shall be firm-fixed-prices.	Firm, Fixed Price. Unless stated otherwise in the Special Terms and Conditions of the Contract or the Pricing Sheet, all prices shall be firm-fixed-prices.

Uniform terms and Conditions, section 6.2.1	Contractor/Vendor Indemnification (Not Public Agency).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 claims, actions, liabilities, damages, losses, or expenses (including court costs, attorneys' fees, and costs of 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. 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 for Claims arising solely 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 judgment costs where this indemnification is applicable. In consideration of the award of this contract, the Contractor agrees to waive all rights of subrogation Insurance and indemnification Guidelines for State of Arizona Contracts Professional Service Contracts against the State of Arizona, its officers, officials, agents, and employees for losses arising from the work performed by the Contractor for the State of Arizona. This indemnity shall not apply if the Contractor or Subcontractor(s) is/are an agency, board, commission or university of the State of Arizona.	Contractor/Vendor Indemnification (Not Public Agency).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 claims, actions, liabilities, damages, losses, or expenses (including court costs, attorneys' fees, and costs of claim processing, investigation and litigation) (hereinafter referred to as "Claims") brought by an unaffiliated third party 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. 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 for Claims arising solely 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 judgment costs where this indemnification is applicable. In consideration of the award of this contract, the Contractor agrees to waive all rights of subrogation Insurance and indemnification Guidelines for State of Arizona Contracts Professional Service Contracts against the State of Arizona, its officers, officials, agents, and employees for losses arising from the work performed by the Contractor for the State of Arizona. This indemnity shall not apply if the Contractor or Subcontractor(s) is/are an agency, board, commission or university of the State of Arizona.
Uniform terms and Conditions, section 7.3	Conformity to Requirements. Contractor warrants that, unless expressly provided otherwise elsewhere in the Contract, the Materials and Services will for one (1) year after acceptance and in each instance: Conform to the requirements of the Contract, which by way of reminder include without limitation all descriptions, specifications, and drawings identified in the Scope of Work and any and all Contractor affirmations included as part of the Contract; Be free from defects of material and workmanship; Conform to or perform in a manner consistent with current industry standards; and Be fit for the intended purpose or use described in the Contract. Mere delivery or performance does not substitute for express acceptance by the State. Where inspection, testing, or other acceptance assessment of Materials or Services cannot be done until after installation or invoicing, the forgoing warranty will not begin until State's explicit acceptance of the Materials or Services.	Conformity to Requirements. Contractor warrants that, unless expressly provided otherwise elsewhere in the Contract, the ~~Materials and~~ Services will for ~~one (1) year~~ ninety (90) days after acceptance and in each instance: Conform to the requirements of the Contract, which by way of reminder include without limitation all descriptions, specifications, and drawings identified in the Scope of Work and any and all Contractor affirmations included as part of the Contract; Be free from defects of material and workmanship; Conform to or perform in a manner consistent with current industry standards; and be fit for the intended purpose or use described in the Contract. Mere delivery or performance does not substitute for express acceptance by the State. Where inspection, testing, or other acceptance assessment of Materials or Services cannot be done until after installation or invoicing, the forgoing warranty will not begin until State's explicit acceptance of the ~~Materials or~~ Services. Publisher warranties related to the Software, which are intended for the end user, shall be passed through to State. Contractor will assist the State in the facilitation of its warranty claims with the Publisher.
Uniform Terms and Conditions 7.7	Intellectual Property. Contractor warrants that the Materials and Services do not and will not infringe or violate any patent, trademark, copyright, trade secret, or other intellectual property rights or laws, except only to the extent the Specifications do not permit use of any other product and Contractor is not and cannot reasonably be expected to be aware of the infringement or violation.	Contractor warrants that the ~~Materials and~~ Services do not and will not infringe or violate any patent, trademark, copyright, trade secret, or other intellectual property rights or laws, except only to the extent the Specifications do not permit use of any other product and Contractor is not and cannot reasonably be expected to be aware of the infringement or violation. Publisher warranties related to the Software, which are intended for the end user, shall be passed through to State. Contractor will assist the State in the facilitation of its warranty claims with the Publisher.

NASPO VALUEPOINT SOFTWARE VALUE-ADDED RESELLER (SVAR)
STATE OF ARIZONA SOLICITATION #BPM002338
MANDATORY COST PROPOSAL FORM FOR ALL PUBLISHERS EXCEPT MICROSOFT AND ORACLE

	PUBLISHERS	Original - Master Agreement. MAXIMUM MARKUP ON RESELLER'S INVOICED COST	MINIMUM DISCOUNT OFF MANUFACTURER'S SUGGESTED RETAIL PRICE (MSRP)
	Tier I Publishers (Key Itemized Publishers)		
1	ADOBE	2.50%	
2	CA TECHNOLOGIES	0.75%	
3	CISCO	2.50%	
4	COMMVAULT	2.50%	
5	IBM	1.75%	
6	RED HAT	2.50%	
7	SPLUNK	1.50%	
8	TABLEAU	0.75%	
9	VEEAM	2.50%	
10	VMWARE	2.50%	
	Tier II Publishers (Other Itemized Publishers)		
11	AUTODESK	3.70%	
12	BARRACUDA NETWORKS	3.00%	
13	BMC SOFTWARE	3.00%	
14	CHECK POINT SOFTWARE	3.00%	
15	CHERWELL	0.75%	
16	CITRIX	1.50%	
17	CHATSWORTH PRODUCTS (CPI)	0.75%	
18	CROWDSTRIKE	3.00%	
19	DELL	2.25%	
20	DELPHIX	0.75%	
21	DOCUSIGN	3.00%	
22	DYNATRACE	0.75%	
23	FORCEPOINT	3.00%	
24	FORTINET	3.00%	
25	GOOGLE	2.00%	
26	INFORMATICA	0.75%	
27	IVANTI	3.00%	
28	KNOWBE4	3.00%	
29	MCAFEE	1.50%	
30	MICRO FOCUS	2.00%	
31	MULESOFT	0.75%	
32	NETMOTION	3.00%	
33	OKTA	3.00%	
34	OPENTEXT	0.75%	
35	PROGRESS SOFTWARE	0.75%	
36	PROOFPOINT	3.00%	
37	QUEST SOFTWARE	3.00%	
38	RAPID7	0.75%	
39	RSA SECURITY	3.00%	
40	SALESFORCE	2.70%	
41	SAP	0.75%	
42	SOLARWINDS	2.00%	
43	SOPHOS	3.00%	
44	SPILLMAN	2.00%	
45	SYMANTEC	3.00%	
46	TENABLE	3.00%	
47	TREND MICRO	3.00%	
48	VARONIS	3.00%	

49	VERITAS	3.00%	
50	ZOHO	0.25%	
	Non-itemized Publishers		
51	All other publishers	3.45%	
		HOURLY RATE	
52	Reseller Services		
53	- Asset management	no charge	
54	- Solutions architect	no charge	
55	- Senior solutions architect	no charge	
56	- Program engagement manager	\$210.00	
57	- Project leader	no charge	
58	- Project manager	\$190.00	
59	- Senior project manager	\$205.00	
60	All other in-scope reseller services	no charge	
A	Average Tier I Publishers Markup/Discount:	1.98%	
B	Average Tier II Publishers Markup/Discount:	2.19%	
C	Non-itemized Publishers Markup/Discount	3.45%	

*For additional information on the services represented herein please refer to Attachment 4_Supplement 1 of 1_Supplemental Information for Pricing.

*To the extent required as Mandatory

Asset Management: As described in Section 2-A Scope of Work 2.3.4, provides customer support, explaining and helping determine the best acquisition method for their needs, including multi-program cost analysis comparisons.

Solutions and Senior Solutions architect: As described in Section 2-A Scope of Work 2.3.4, provides analysis and recommendations on software infrastructure and how to maximize software spend through the appropriate licensing program and vendor selection

Project Leader: As described in Section 2-A Scope of Work 2.3.4, leads in providing consultation, acting as a liaison, negotiating costs, and

*Price Sheet is reflective of a State of Arizona 1.50% fee, valid from 1/1/2024 to 12/31/24. Prices in this sheet shall increase by 0.50% on 1/1/2025.

NASPO VALUEPOINT SOFTWARE VALUE-ADDED RESELLER (SVAR)
STATE OF ARIZONA SOLICITATION #BPM002338
OPTIONAL SERVICES COST PROPOSAL FORM FOR ALL PUBLISHERS EXCEPT MICROSOFT AND ORACLE

	OPTIONAL SERVICES	MAXIMUM MARKUP ON RESELLER'S INVOICED COST	MINIMUM DISCOUNT OFF MANUFACTURER'S SUGGESTED RETAIL PRICE (MSRP)
	Optional Discount- and/or Markup-based Services		
1	Publisher Delivered Services	25.00%	
2	Third Party Delivered Services	25.00%	
		HOURLY RATE	
	Optional Fixed Rate-based Services		
6	Associate Consulting Engineer	\$125.00	
7	Consulting Engineer	\$185.00	
8	Senior Consulting Engineer	\$205.00	
9	Technical Lead/ Principal Consulting Engineer	\$225.00	
10	Enterprise Consulting Architect	\$225.00	
11	Business Consulting Architect	\$225.00	
12	Project Administrator	\$145.00	
13	Project Manager	\$190.00	
14	Senior Project Manager	\$205.00	
15	Enterprise Project Manager, PMO Lead	\$210.00	
16	Program Manager	\$210.00	
17	Technical Architect	\$295.00	
18	ServiceNow Engagement Manager	\$213.00	
19	ServiceNow Program Manager	\$221.00	
20	ServiceNow Advisory Services	\$234.00	
21	ServiceNow Principal Consultant	\$276.00	
22	ServiceNow Organizational Change Management Consultant	\$276.00	
23	ServiceNow Integration Expert	\$225.00	
24	ServiceNow Quality Assurance Expert	\$187.00	
25	ServiceNow Solution Architect	\$225.00	
26	ServiceNow Technical Consultant	\$200.00	
27	ServiceNow Trainer	\$225.00	
28	Digital Velocity Head of E&O	\$270.00	
29	Digital Velocity O-CTO - Principal Consultant	\$250.00	
30	Digital Velocity Hybrid Cloud Architect	\$230.00	
31	Digital Velocity Hybrid Cloud Engineer	\$194.00	
32	Digital Velocity DevOps Architect	\$230.00	
33	Digital Velocity DevOps Engineer	\$200.00	
34	Digital Velocity Enterprise Architect	\$230.00	
35	Digital Velocity Senior Software Engineer	\$200.00	
36	Digital Velocity Solutions Architect	\$230.00	
37	Digital Velocity Solutions Engineer	\$200.00	
38	Digital Velocity Technical Program Consultant	\$200.00	
39	Digital Velocity Technical Project Manager	\$175.00	
40	IT Asset Management Project-Based Engagement	Custom SOW	
41	IT Asset Management Maturity Assessment	Custom SOW	
42	IT Asset Management Technology Solutions	Custom SOW	
43	IT Asset Management Ongoing Solutions	Custom SOW	

*For additional information on the services represented herein please refer to Attachment 4_Supplement 1 of 1_Supplemental Information for Pricing.

*Price Sheet is reflective of a State of Arizona 1.50% fee, valid from 1/1/2024 to 12/31/24. Prices in this sheet shall increase by 0.50% on 1/1/2025.

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