FULLY EXECUTED

Contract Number: 4400030901

Original Contract Effective Date: 03/20/2025

Valid From: 03/01/2025 To: 02/28/2026

All using Agencies of the Commonwealth, Participating Political Subdivision, Authorities, Private Colleges and Universities

Your SAP Vendor Number with us: 553818

Supplier Name/Address:
AVIVE SOLUTIONS INC
185 VALLEY DR
BRISBANE CA 94005-1340 US

Supplier Phone Number: 4158301635

Purchasing Agent
Name: Trevenen Peggy
Phone: 717-703-2943
Fax: 717-214-9505

Please Deliver To:

To be determined at
the time of the Purchase Order
unless specified below.

Contract Name:
AED and Accessories

Payment Terms
NET 30

Solicitation No.: Issuance Date:

Supplier Bid or Proposal No. (if applicable): Solicitation Submission Date:

This contract is comprised of: The above referenced Solicitation, the Supplier's Bid or Proposal, and any documents attached to this Contract or incorporated by reference.

Item	Material/Service Desc	Qty	UOM	Price	Per Unit	Total
1	AED	0.000	Each	0.00	1	0.00

General Requirements for all Items:

Header Text

NASPO Participating Addendum completed for this AED's and Accessories contract.

AED's and AED Accessories are now regulated by the FDA. Agencies with previously-purchased AED's which are not on the FDA-Approved list (https://www.fda.gov/medical-devices/cardiovascular-devices/automated-external-defibrillators-aeds#check) should be transitioning to replace them with FDA-approved products. Additionally, accessories (such as batteries, and replacement pads) may be less available for previously-purchased AEDs.

No further information for this Contract

Information:

Supplier's Signature _____ Title _____

Printed Name _____ Date _____

CONTRACT - STANDARD TERMS and CONDITIONS

I.1 IFB-027.1 COSTARS Program Clause (01/17/2017)

COSTARS Purchasers. Section 1902 of the Commonwealth Procurement Code, 62 Pa.C.S. § 1902 ("Section 1902"), authorizes local public procurement units and state-affiliated entities (together, "COSTARS Members") to participate in Commonwealth procurement contracts that the Department of General Services ("DGS") may choose to make available to COSTARS Members. DGS has identified this Contract as one which will be made available for COSTARS Members' participation.

A. Only those entities registered with DGS are authorized to participate as COSTARS Members in this Contract. A COSTARS Member may be either a local public procurement unit or a state-affiliated entity.

1. A "local public procurement unit" is:

- Any political subdivision (local government unit), such as a municipality, school district, or commission;
- Any public authority (including authorities formed under the Municipality Authorities Act of 1955 or other authorizing legislation, such as the Public Transportation Law or the Aviation Code);
- Any tax-exempt, nonprofit educational institution or organization;
- Any tax-exempt, nonprofit public health institution or organization;
- Any nonprofit fire, rescue, or ambulance company; and
- Any other entity that spends public funds for the procurement of supplies, services, and construction (such as a council of governments, an area government, or an organization that receives public grant funds).

The Department reserves the right to review and determine eligible applicants as local public procurement units on a case-by-case basis.

2. A state-affiliated entity is a Commonwealth authority or other Commonwealth entity that is not a Commonwealth agency. The term includes:

- The Pennsylvania Turnpike Commission;
- The Pennsylvania Housing Finance Agency;
- The Pennsylvania Municipal Retirement System;
- The Pennsylvania Infrastructure Investment Authority;
- The State Public School Building Authority;
- The Pennsylvania Higher Education Facilities Authority, and
- The State System of Higher Education.

The COSTARS Program is not available for use by Executive Agencies and Independent Agencies as defined by the Commonwealth Procurement Code, or any agency or entity using funds appropriated to the Department of General Services through Capital Budget Project Itemization legislation for the procurement of furniture, fixtures, and equipment.

3. A complete list of local public procurement units and state-affiliated entities that have registered with DGS and that are authorized to procure items from the Contract can be found at http://www.costars.state.pa.us/SearchCOMember.aspx.

B. COSTARS Members have the option to purchase from this Contract, from any DGS contract established exclusively for COSTARS Members in accordance with the requirements of Section 1902, from any other cooperative procurement contracts, or from their own procurement contracts established in accordance with the applicable laws governing such procurements. The Contractor understands and acknowledges that there is no guarantee that a COSTARS Member will place an order under this Contract, and that the decision to procure from this Contract is within the sole discretion of each COSTARS Member.

C. DGS is acting as a facilitator for COSTARS Members who may wish to purchase under this Contract. COSTARS Members that participate in this Contract and issue purchase orders ("POs") to Contractors are third party beneficiaries who have the right to sue and be sued for breach of this Contract without joining the Commonwealth or DGS as a party. The Commonwealth will not intervene in any action between a Contractor and a COSTARS Member unless substantial interests of the Commonwealth are involved.

D. COSTARS Members electing to participate in this Contract will order items directly from the Contractor and be responsible for payment directly to the Contractor.

E. Those Contractors electing to permit COSTARS Members to procure from this Contract shall pay the Required Administrative Fee applicable to the Contractor's classification:

Contractor Classification	**Required Administrative Fee**
DGS-verified Small Diverse Business Bidder	$166
DGS Self-Certified Small Business Bidder	$500
All Other Bidders	$1,500

1. Each bidder electing to permit COSTARS Members to participate in the Contract must submit the COSTARS Program Election to Participate form with its bid submittal and pay the applicable Administrative Fee upon Contract award in order to sell the awarded items/services to COSTARS Members. If the bidder is a Department of General Services Self-Certified Small Business or Department of General Services-verified Small Diverse Business, a copy of its active Small Business Contracting Program certificate must be included with the bid submittal.

2. At the beginning of each Contract year and upon any Contract renewal, the Contractor shall submit a check for the required amount, payable to "Commonwealth of PA." The Contractor must pay the Administrative Fee at each contract renewal date to continue to sell the awarded items/services to COSTARS Members.

F. DGS has registered the COSTARS name and logo (together, the "COSTARS Brand") as a trademark with the Pennsylvania Department of State. Therefore, the Contractor may use the COSTARS Brand only as permitted under in this Subsection.

1. The Contractor shall pay the Administrative Fee covering its participation in the program, including without limitation any use of the COSTARS Brand, for each year of the Contract period. The fee is payable upon Contract award and prior to the renewal date for each succeeding Contract period.

2. DGS grants the Contractor a nonexclusive license to use the COSTARS Brand, subject to the following conditions:

   a. The Contractor agrees not to transfer to any third party, including without limitation any of its subcontractors or suppliers, any privileges it may have to use the COSTARS Brand under this Contract.

   b. The Contractor agrees not to use the COSTARS Brand to represent or imply any Commonwealth endorsement or approval of its products or services.

   c. The Contractor is permitted to use the COSTARS Brand in broadcast, or Internet media solely in connection with this Contract and any other Contract with the Commonwealth under which it has agreed to make sales to COSTARS Purchasers. The Contractor may use the COSTARS Brand on business cards, brochures, and other print publications so long as the purpose is to identify the Contractor as a COSTARS vendor, and only so long as the required Contract fee is kept current.

   d. Should this Contract terminate for any reason, the Contractor agrees promptly to remove the COSTARS Brand from any and all print and electronic media and to refrain from using the COSTARS Brand for any purpose whatsoever from the date of Contract termination forward.

   e. The Contractor agrees to defend, indemnify, and hold harmless the Commonwealth of Pennsylvania and DGS from and against all claims, demands, liabilities, obligations, costs, and expenses of any nature whatsoever arising out of or based upon the Contractor's use of the COSTARS Brand.

   f. The Contractor agrees it has no property rights in the use of the COSTARS Brand by virtue of this nonexclusive license. The Contractor expressly waives any claims, including without limitation due process claims that may otherwise be available under the law in the event of any dispute involving these terms of use.

G. The Contractor shall furnish to the DGS COSTARS Program Office a quarterly electronic Contract sales report detailing the previous quarter's Contract purchasing activity, using the form and in the format prescribed by DGS. The Contractor shall submit its completed quarterly report no later than the fifteenth calendar day of the succeeding Contract quarter.

1. The Contractor shall submit the reports through the web-based COSTARS Suppliers' Gateway of the PA Supplier Portal at https://pasupplierportal.state.pa.us/irj/portal/anonymous, Enterprise Applications. If a Contractor does not have access to the Internet, the Contractor shall send the reports, using the form and in the format prescribed by DGS, on compact disc via US Postal Service to the DGS COSTARS Program Office, Bureau of Procurement, 6th Floor Forum Place, 1800 Herr Street, Harrisburg, PA 17103.

2. For each PO received, the Contractor shall include on the report the name and address of each COSTARS-Registered Purchaser that has used the Contract along with the sales date, and dollar volume of sales to the specific Purchaser for the reporting period.

3. DGS may suspend the Contractor's participation in the COSTARS Program for failure to provide the Quarterly Sales Report within the specified time.

H. Additional information regarding the COSTARS Program is available on the DGS COSTARS Website at www.costars.state.pa.us.

1. If the Contractor is aware of any qualified entity not currently registered and wishing to participate in the COSTARS Program, please refer the potential purchaser to the DGS COSTARS Website at www.costars.state.pa.us, where it may register by completing the online registration form and receiving DGS confirmation of its registration. To view a list of currently registered COSTARS member entities, please visit the COSTARS website.

2. Direct all questions concerning the COSTARS Program to:

Department of General Services
COSTARS Program
1800 Herr Street Harrisburg, PA 17103
Telephone: 1-866-768-7827
E-mail GS-PACostars@pa.gov

II.1 IFB-006.1b COSTARS Program Election to Participate (July 2012)

If the bidder is willing to sell the awarded items/services at the same prices and/or discounts, and in accordance with the contractual terms and conditions, to COSTARS members, the bidder should complete and return the COSTARS Program Election to Participate form which is an attachment to this Participating Addendum. If the bidder is asserting that it is a Department of General Services Certified Small Business, the bidder must submit its active certification with the bid response.

II.2 II-IFB-008.1b Lobbying Certification and Disclosure – Electronic Submission. (Oct 2006).

With respect to an award of a federal contract, grant, or cooperative agreement exceeding $100,000 or an award of a federal loan or a commitment providing for the United States to insure or guarantee a loan exceeding $150,000 all recipients must certify that they will not use federal funds for lobbying and must disclose the use of nonfederal funds for lobbying by filing required documentation. Offerors must complete and return the Lobbying Certification Form and the Disclosure of Lobbying Activities Form, which are attached to and made a part of this Participating Addendum. The completed and signed Lobbying Certification Form and the Disclosure of Lobbying Activities Form should be submitted with the Bid Response. Commonwealth agencies will not contract with outside firms or individuals to perform lobbying services, regardless of the source of funds.

II.3 II-IFB-017.1b Reciprocal Limitations Act – Electronic Submittal (February 2007)

This procurement is subject to the Reciprocal Limitations Act. Bidders must complete and submit with the Bid Response the State of Manufacture Chart, which is contained in GSPUR-89 ("Reciprocal Limitations Act Requirements") which is attached to and made part of this Participating Addendum. The completed State of Manufacture Chart should be submitted as part of the Bid Response.

1.2 CONTRACT-001.1c Contract Terms and Conditions – Stand-Alone (Jan 24 2007)

The Contractor and the Commonwealth agree that the following terms and conditions are part of the Contract:

1.3 CONTRACT-002.1d Term of Contract – Contract (March 2007)

a. The term of the Contract shall begin on the Commencement Date (as defined below) and shall end on the Expiration Date identified in the Contract, subject to the other provisions of the Contract.

b. The Commencement Date shall be the later of the "Valid from" date shown on the Contract output form or the Effective Date (as defined below).

c. The Effective Date shall be the Effective Date printed on the Contract output form after the Contract has been fully executed by the Contractor and the Commonwealth (fully executed by the Commonwealth means that it has been signed and approved as required by Commonwealth contracting procedures).

1.4 CONTRACT-002.2b Renewal of Contract Term – Mutual (Oct 2013)

The Contract may be mutually renewed for a maximum of 2 additional 1 year term(s), so long as the Commonwealth provides written notice to the Contractor of its intention to extend the Contract by letter dated not less than 090 days prior to the expiration of the term of the agreement, or any extension thereof, and the Contractor consents to the renewal not less than 060 days prior to the expiration of the term of the agreement or any extension thereof. The renewal may be exercised as individual or multiple year terms(s). Any renewal will be under the same terms, covenants, and conditions. No further document is required to be executed to renew the term of the contract.

1.5 CONTRACT-002.3 Extension of Contract Term (Nov 30 2006)

The Commonwealth reserves the right, upon notice to the Contractor, to extend any single term of the Contract for up to three (3) months upon the same terms and conditions.

1.6 CONTRACT-003.1B Signatures – Contract - Stand Alone (July 2015)

The Contract shall not be a legally binding contract until the fully-executed Contract has been sent to the Contractor.

No Commonwealth employee has the authority to verbally direct the commencement of any work or delivery of any supply under this Contract prior to the Effective Date. The Contractor hereby waives any claim or cause of action for any service or work performed prior to the Effective Date.

The Contract may be signed in counterparts. The Contractor shall sign the Contract and return it to the Commonwealth. After the Contract is signed by the Contractor and returned to the Commonwealth, it will be processed for Commonwealth signatures and approvals. When the Contract has been signed and approved by the Commonwealth as required by Commonwealth contracting procedures, the Commonwealth shall create a Contract output form which shall: 1) clearly indicate "Fully executed" at the top of the form; 2) include a printed Effective Date and 3) include the printed name of the Purchasing Agent indicating that the document has been electronically signed and approved by the Commonwealth. Until the Contractor receives the Contract output form with this information on the Contract output form, there is no legally binding contract between the parties.

The fully-executed Contract may be sent to the Contractor electronically or through facsimile equipment. The electronic transmission of the Contract shall require acknowledgement of receipt of the transmission by the Contractor. Receipt of the electronic or facsimile transmission of the Contract shall constitute receipt of the fully-executed Contract.

The Commonwealth and the Contractor specifically agree as follows:

a. No handwritten signature shall be required in order for the Contract to be legally enforceable.

b. The parties agree that no writing shall be required in order to make the Contract legally binding, notwithstanding contrary requirements in any law. The parties hereby agree not to contest the validity or enforceability of a genuine Contract or acknowledgement issued electronically under the provisions of a statute of frauds or any other applicable law relating to whether certain agreements be in writing and signed by the party bound thereby. Any genuine Contract or acknowledgement issued electronically, if introduced as evidence on paper in any judicial, arbitration, mediation, or administrative proceedings, will be admissible as between the parties to the same extent and under the same conditions as other business records originated and maintained in documentary form. Neither party shall contest the admissibility of copies of a genuine Contract or acknowledgements under either the business records exception to the hearsay rule or the best evidence rule on the basis that the Contract or acknowledgement were not in writing or signed by the parties. A Contract or acknowledgment shall be deemed to be genuine for all purposes if it is transmitted to the location designated for such documents.

c. Each party will immediately take steps to verify any document that appears to be obviously garbled in transmission or improperly formatted to include re-transmission of any such document if necessary.

1.7 CONTRACT-004.1a Definitions (Oct 2013)

As used in this Contract, these words shall have the following meanings:

a. Agency: The department, board, commission, or other agency of the Commonwealth of Pennsylvania listed as the Purchasing Agency. If a COSTARS entity or external procurement activity has issued an order against this contract, that entity shall also be identified as "Agency".

b. Contracting Officer: The person authorized to administer this Contract for the Commonwealth and to make written determinations with respect to the Contract.

c. Days: Unless specifically indicated otherwise, days mean calendar days.

d. Developed Works or Developed Materials: All documents, sketches, drawings, designs, works, papers, files, reports, computer programs, computer documentation, data, records, software, samples, or any other tangible material without limitation authored or prepared by Contractor as the work product covered in the scope of work for the Project.

e. Documentation: All materials required to support and convey information about the services required by this Contract. It includes, but is not necessarily restricted to, written reports and analyses, diagrams, maps, logical and physical designs, system designs, computer programs, flow charts, disks, and/or other machine-readable storage media.

f. Services: All Contractor activity necessary to satisfy the Contract.

1.8 CONTRACT-004.2 Definitions (February 2024)

Capitalized terms used in these Commonwealth standard terms and conditions that are not otherwise defined in these provisions have the meanings specified in the contract to which it is attached.

1.9 CONTRACT-005.1a Purchase Orders (Oct 2013)

Commonwealth agencies may issue Purchase Orders against the Contract. These orders constitute the Contractor's authority to make delivery.All Purchase Orders received by the Contractor up to and including the expiration date of the Contract are acceptable and must be performed in accordance with the Contract. Each Purchase Order will be deemed to incorporate the terms and conditions set forth in the Contract.

Purchase Orders will not include an "ink" signature by the Agency. The electronically-printed name of the purchaser represents the signature of that individual who has the authority, on behalf of the Commonwealth, to authorize the Contractor to proceed.

Purchase Orders may be issued electronically or through facsimile equipment. The electronic transmission of a purchase order shall require acknowledgement of receipt of the transmission by the Contractor. Receipt of the electronic or facsimile transmission of the Purchase Order shall constitute receipt of an order. Orders received by the Contractor after 4:00 p.m. will be considered received the following business day.

a. No handwritten signature shall be required in order for the Contract or Purchase Order to be legally enforceable.

b. The parties agree that no writing shall be required in order to make the Purchase Order legally binding. The parties hereby agree not to contest the validity or enforceability of a Purchase Order or acknowledgement issued electronically under the provisions of a statute of frauds or any other applicable law relating to whether certain agreements be in writing and signed by the party bound thereby. Any Purchase Order or acknowledgement issued electronically, if introduced as evidence on paper in any judicial, arbitration, mediation, or administrative proceedings, will be admissible as between the parties to the same extent and under the same conditions as other business records originated and maintained in documentary form. Neither party shall contest the admissibility of copies of Purchase Orders or acknowledgements under either the business records exception to the hearsay rule or the best evidence rule on the basis that the Purchase Order or acknowledgement were not in writing or signed by the parties. A Purchase Order or acknowledgment shall be deemed to be genuine for all purposes if it is transmitted to the location designated for such documents.

c. Each party will immediately take steps to verify any document that appears to be obviously garbled in transmission or improperly formatted to include re-transmission of any such document if necessary. Purchase Orders under ten thousand dollars ($10,000) in total amount may also be made in person or by telephone using a Commonwealth Purchasing Card. When an order is placed by telephone, the Commonwealth agency shall provide the agency name, employee name, credit card number, and expiration date of the card. Contractors agree to accept payment through the use of the Commonwealth Purchasing Card.

1.10 CONTRACT-006.1 Independent Prime Contractor (Oct 2006)

In performing its obligations under the Contract, the Contractor will act as an independent contractor and not as an employee or agent of the Commonwealth. The Contractor will be responsible for all services in this Contract whether or not Contractor provides them directly. Further, the Contractor is the sole point of contact with regard to all contractual matters, including payment of any and all charges resulting from the Contract.

1.11 CONTRACT-007.01a Supplies Delivery (Nov 30 2006)

All item(s) shall be delivered F.O.B. Destination. The Contractor agrees to bear the risk of loss, injury, or destruction of the item(s) ordered prior to receipt of the items by the Commonwealth. Such loss, injury, or destruction shall not release the Contractor from any contractual obligations. Except as otherwise provided in this contract, all item(s) must be delivered within the time period specified. Time is of the essence and, in addition to any other remedies, the Contract is subject to termination for failure to deliver as specified. Unless otherwise stated in this Contract, delivery must be made within thirty (30) days after the Effective Date.

1.12 CONTRACT-007.02 Estimated Quantities (Nov 30 2006)

It shall be understood and agreed that any quantities listed in the Contract are estimated only and may be increased or decreased in accordance with the actual requirements of the Commonwealth and that the Commonwealth in accepting any bid or portion thereof, contracts only and agrees to purchase only the materials and services in such quantities as represent the actual requirements of the Commonwealth. The Commonwealth reserves the right to purchase materials and services covered under the Contract through a separate competitive procurement procedure, whenever Commonwealth deems it to be in its best interest.

1.13 CONTRACT-008.1a Warranty (Oct 2006)

The Contractor warrants that all items furnished and all services performed by the Contractor, its agents and subcontractors shall be free and clear of any defects in workmanship or materials. Unless otherwise stated in the Contract, all items are warranted for a period of one year following delivery by the Contractor and acceptance by the Commonwealth. The Contractor shall repair, replace, or otherwise correct any problem with the delivered item. When an item is replaced, it shall be replaced with an item of equivalent or superior quality without any additional cost to the Commonwealth.

1.14 CONTRACT-009.1c Patent, Copyright, and Trademark Indemnity (Oct 2013)

The Contractor warrants that it is the sole owner or author of, or has entered into a suitable legal agreement concerning either: a) the design of any product or process provided or used in the performance of the Contract which is covered by a patent, copyright, or trademark registration or other right duly authorized by state or federal law or b) any copyrighted matter in any report, document or other material provided to the Commonwealth under the contract.

The Contractor shall defend any suit or proceeding brought against the Commonwealth on account of any alleged patent, copyright, or trademark infringement in the United States of any of the products provided or used in the performance of the Contract.

This is upon condition that the Commonwealth shall provide prompt notification in writing of such suit or proceeding; full right, authorization, and opportunity to conduct the defense thereof; and full information and all reasonable cooperation for the defense of same.

As principles of governmental or public law are involved, the Commonwealth may participate in or choose to conduct, in its sole discretion, the defense of any such action.

If information and assistance are furnished by the Commonwealth at the Contractor's written request, it shall be at the Contractor's expense, but the responsibility for such expense shall be only that within the Contractor's written authorization.

The Contractor shall indemnify and hold the Commonwealth harmless from all damages, costs, and expenses, including attorney's fees that the Contractor or the Commonwealth may pay or incur by reason of any infringement or violation of the rights occurring to any holder of copyright, trademark, or patent interests and rights in any products provided or used in the performance of the Contract.

If any of the products provided by the Contractor in such suit or proceeding are held to constitute infringement and the use is enjoined, the Contractor shall, at its own expense and at its option, either procure the right to continue use of such infringement products, replace them with non-infringement equal performance products or modify them so that they are no longer infringing.

If the Contractor is unable to do any of the preceding, the Contractor agrees to remove all the equipment or software which are obtained contemporaneously with the infringing product, or, at the option of the Commonwealth, only those items of equipment or software which are held to be infringing, and to pay the Commonwealth: 1) any amounts paid by the Commonwealth towards the purchase of the product, less straight line depreciation; 2) any license fee paid by

the Commonwealth for the use of any software, less an amount for the period of usage; and 3) the pro rata portion of any maintenance fee representing the time remaining in any period of maintenance paid for. The obligations of the Contractor under this paragraph continue without time limit. No costs or expenses shall be incurred for the account of the Contractor without its written consent.

1.15 CONTRACT-009.1d Ownership Rights (Oct 2006)

The Commonwealth shall have unrestricted authority to reproduce, distribute, and use any submitted report, data, or material, and any software or modifications and any associated documentation that is designed or developed and delivered to the Commonwealth as part of the performance of the Contract.

1.16 CONTRACT-010.1a Acceptance (Oct 2006)

No item(s) received by the Commonwealth shall be deemed accepted until the Commonwealth has had a reasonable opportunity to inspect the item(s). Any item(s) which is discovered to be defective or fails to conform to the specifications may be rejected upon initial inspection or at any later time if the defects contained in the item(s) or the noncompliance with the specifications were not reasonably ascertainable upon the initial inspection. It shall thereupon become the duty of the Contractor to remove rejected item(s) from the premises without expense to the Commonwealth within fifteen (15) days after notification. Rejected item(s) left longer than fifteen (15) days will be regarded as abandoned, and the Commonwealth shall have the right to dispose of them as its own property and shall retain that portion of the proceeds of any sale which represents the Commonwealth's costs and expenses in regard to the storage and sale of the item(s). Upon notice of rejection, the Contractor shall immediately replace all such rejected item(s) with others conforming to the specifications and which are not defective. If the Contractor fails, neglects, or refuses to do so, the Commonwealth shall then have the right to procure a corresponding quantity of such item(s), and deduct from any monies due or that may thereafter become due to the Contractor, the difference between the price stated in the Contract and the cost thereof to the Commonwealth.

1.17 CONTRACT-010.2 Product Conformance (March 2012)

The Commonwealth reserves the right to require any and all Contractors to:

1. Provide certified data from laboratory testing performed by the Contractor, or performed by an independent laboratory, as specified by the Commonwealth.

2. Supply published manufacturer product documentation.

3. Permit a Commonwealth representative to witness testing at the Contractor's location or at an independent laboratory.

4. Complete a survey/questionnaire relating to the bid requirements and specifications.

5. Provide customer references.

6. Provide a product demonstration at a location near Harrisburg or the using agency location.

1.18 CONTRACT-010.3 Rejected Material Not Considered Abandoned (Oct 2013)

The Commonwealth shall have the right to not regard any rejected material as abandoned and to demand that the Contractor remove the rejected material from the premises within thirty (30) days of notification. The Contractor shall be responsible for removal of the rejected material as well as proper clean-up. If the Contractor fails or refuses to remove the rejected material as demanded by the Commonwealth, the Commonwealth may seek payment from, or

set-off from any payments due to the Contractor under this or any other Contract with the Commonwealth, the costs of removal and clean-up. This is in addition to all other rights to recover costs incurred by the Commonwealth.

1.19 CONTRACT-011.1a Compliance With Law (Oct 2006)

The Contractor shall comply with all applicable federal and state laws and regulations and local ordinances in the performance of the Contract.

1.20 CONTRACT-013.1 Environmental Provisions (Oct 2006)

In the performance of the Contract, the Contractor shall minimize pollution and shall strictly comply with all applicable environmental laws and regulations, including, but not limited to: the Clean Streams Law Act of June 22, 1937 (P.L. 1987, No. 394), as amended 35 P.S. Section 691.601 et seq.; the Pennsylvania Solid Waste Management Act, Act of July 7, 1980 (P.L. 380, No. 97), as amended, 35 P.S. Section 6018.101 et seq.; and the Dam Safety and Encroachment Act, Act of November 26, 1978 (P.L. 1375, No. 325), as amended, 32 P.S. Section 693.1.

1.21 CONTRACT-014.1 Post-Consumer Recycled Content (June 2016)

Except as specifically waived by the Department of General Services in writing, any products which are provided to the Commonwealth as a part of the performance of the Contract must meet the minimum percentage levels for total recycled content as specified by the Environmental Protection Agency in its Comprehensive Procurement Guidelines, which can be found at https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program.

1.22 CONTRACT-014.3 Recycled Content Enforcement (Feb 2009)

The Contractor may be required, after delivery of the Contract item(s), to provide the Commonwealth with documentary evidence that the item(s) was in fact produced with the required minimum percentage of post-consumer and recovered material content.

1.23 CONTRACT-015.1 Compensation (Oct 2006)

The Contractor shall be required to furnish the awarded item(s) at the price(s) quoted in the Purchase Order. All item(s) shall be delivered within the time period(s) specified in the Purchase Order. The Contractor shall be compensated only for item(s) that are delivered and accepted by the Commonwealth.

1.24 CONTRACT-015.2 Billing Requirements (July 2021)

Unless the Contractor has been authorized by the Commonwealth for Evaluated Receipt Settlement or Vendor Self-Invoicing, the Contractor shall include in all of its invoices the following minimum information:

- Vendor name and "Remit to" address, including SAP Vendor number;
- SAP Purchase Order number;
- Delivery Address, including name of Commonwealth agency;
- Description of the supplies/services delivered in accordance with SAP Purchase Order (include purchase order line number if possible);
- Quantity provided;
- Unit price;
- Price extension;

- Total price; and
- Delivery date of supplies or services.

If an invoice does not contain the minimum information set forth in this paragraph, the Commonwealth may return the invoice as improper. If the Commonwealth returns an invoice as improper, the time for processing a payment will be suspended until the Commonwealth receives a correct invoice. The Contractor may not receive payment until the Commonwealth has received a correct invoice.

Contractors are required to establish separate billing accounts with each using agency and invoice them directly. Each invoice shall be itemized with adequate detail and match the line item on the Purchase Order. In no instance shall any payment be made for services to the Contractor that are not in accordance with the prices on the Purchase Order, the Contract, updated price lists or any discounts negotiated by the purchasing agency.

1.25 CONTRACT-016.1 Payment (Oct 2006)

a. The Commonwealth shall put forth reasonable efforts to make payment by the required payment date. The required payment date is: (a) the date on which payment is due under the terms of the Contract; (b) thirty (30) days after a proper invoice actually is received at the "Bill To" address if a date on which payment is due is not specified in the Contract (a "proper" invoice is not received until the Commonwealth accepts the service as satisfactorily performed); or (c) the payment date specified on the invoice if later than the dates established by (a) and (b) above. Payment may be delayed if the payment amount on an invoice is not based upon the price(s) as stated in the Contract. If any payment is not made within fifteen (15) days after the required payment date, the Commonwealth may pay interest as determined by the Secretary of Budget in accordance with Act No. 266 of 1982 and regulations promulgated pursuant thereto. Payment should not be construed by the Contractor as acceptance of the service performed by the Contractor. The Commonwealth reserves the right to conduct further testing and inspection after payment, but within a reasonable time after performance, and to reject the service if such post payment testing or inspection discloses a defect or a failure to meet specifications. The Contractor agrees that the Commonwealth may set off the amount of any state tax liability or other obligation of the Contractor or its subsidiaries to the Commonwealth against any payments due the Contractor under any contract with the Commonwealth.

b. The Commonwealth shall have the option of using the Commonwealth purchasing card to make purchases under the Contract or Purchase Order. The Commonwealth's purchasing card is similar to a credit card in that there will be a small fee which the Contractor will be required to pay and the Contractor will receive payment directly from the card issuer rather than the Commonwealth. Any and all fees related to this type of payment are the responsibility of the Contractor. In no case will the Commonwealth allow increases in prices to offset credit card fees paid by the Contractor or any other charges incurred by the Contractor, unless specifically stated in the terms of the Contract or Purchase Order.

1.26 CONTRACT-016.2 Automated Clearing House (ACH) Payments (February 2024)

a. **Payment Method.** The Commonwealth shall make contract payments through the Automated Clearing House (ACH). Within 10 days of award of the contract or purchase order, the Contractor must submit or must have submitted its ACH information within its user profile in the Commonwealth's procurement system (SRM).

b. **Unique Identifier.** The Contractor must submit a unique invoice number with each invoice submitted. The Commonwealth shall list the Contractor’s unique invoice number on its ACH remittance advice to enable the Contractor to properly apply the state agency’s payment to the invoice submitted.

c. **ACH Information in SRM**. The Contractor shall ensure that the ACH information contained in SRM is accurate and complete. The Contractor’s failure to maintain accurate and complete information may result in delays in payments.

1.27 CONTRACT-017.1 Taxes (Dec 5 2006)

The Commonwealth is exempt from all excise taxes imposed by the Internal Revenue Service and has accordingly registered with the Internal Revenue Service to make tax free purchases under Registration No. 23-23740001-K. With the exception of purchases of the following items, no exemption certificates are required and none will be issued: undyed diesel fuel, tires, trucks, gas guzzler emergency vehicles, and sports fishing equipment. The Commonwealth is also exempt from Pennsylvania state sales tax, local sales tax, public transportation assistance taxes and fees and vehicle rental tax. The Department of Revenue regulations provide that exemption certificates are not required for sales made to governmental entities and none will be issued. Nothing in this paragraph is meant to exempt a construction contractor from the payment of any of these taxes or fees which are required to be paid with respect to the purchase, use, rental, or lease of tangible personal property or taxable services used or transferred in connection with the performance of a construction contract.

1.28 CONTRACT-018.1 Assignment of Antitrust Claims (Oct 2006)

The Contractor and the Commonwealth recognize that in actual economic practice, overcharges by the Contractor's suppliers resulting from violations of state or federal antitrust laws are in fact borne by the Commonwealth. As part of the consideration for the award of the Contract, and intending to be legally bound, the Contractor assigns to the Commonwealth all right, title and interest in and to any claims the Contractor now has, or may acquire, under state or federal antitrust laws relating to the products and services which are the subject of this Contract.

1.29 CONTRACT-019.1 Indemnification (February 2024)

a. **Contractor Obligations.** The Contractor shall indemnify the Commonwealth against all third-party claims, suits, demands, losses, damages, costs, and expenses, including without limitation, litigation expenses, attorneys' fees, and liabilities, arising out of or in connection with any activities performed by the Contractor or its employees and agents that are related to this contract.

b. **Commonwealth Attorneys Act.** The Commonwealth shall provide the Contractor with prompt notice of any claim or suit of which it learns. Pursuant to the Commonwealth Attorneys Act (71 P.S. Section 732-101, et seq.), the Office of Attorney General (OAG) has the sole authority to represent the Commonwealth in actions brought against the Commonwealth. The OAG may, however, in its sole discretion and under any terms as it deems appropriate, delegate its right of defense. If OAG delegates the defense to the Contractor, the Commonwealth will cooperate with all reasonable requests of Contractor made in the defense of such suits.

c. **Settlement.** Notwithstanding the above, neither party may enter into a settlement of any claim or suit without the other party's written consent, which will not be unreasonably withheld. The Commonwealth may, in its sole discretion, allow the Contractor to control the defense and any related settlement negotiations.

1.30 CONTRACT-020.1 Audit Provisions (Oct 2006)

The Commonwealth shall have the right, at reasonable times and at a site designated by the Commonwealth, to audit the books, documents, and records of the Contractor to the extent that the books, documents, and records relate to costs or pricing data for the Contract. The Contractor agrees to maintain records which will support the prices charged and costs incurred for the Contract. The Contract shall preserve books, documents and records that relate to costs or pricing data for the Contract for a period of three (3) years from the date of final payment. The Contractor shall give full and free access to all records to the Commonwealth and/or their authorized representatives.

1.31 CONTRACT-021.1 Default (Oct 2013)

a. The Commonwealth may, subject to the Force Majeure provisions of this Contract, and in addition to its other rights under the Contract, declare the Contractor in default by written notice thereof to the Contractor, and terminate (as provided in the Termination Provisions of this Contract) the whole or any part of this Contract or any Purchase Order for any of the following reasons:

1) Failure to begin work within the time specified in the Contract or Purchase Order or as otherwise specified;

2) Failure to perform the work with sufficient labor, equipment, or material to ensure the completion of the specified work in accordance with the Contract or Purchase Order terms;

3) Unsatisfactory performance of the work;

4) Failure to deliver the awarded item(s) within the time specified in the Contract or Purchase Order or as otherwise specified;

5) Improper delivery;

6) Failure to provide an item(s) which is in conformance with the specifications referenced in the Contract or Purchase Order;

7) Delivery of a defective item;

8) Failure or refusal to remove material, or remove and replace any work rejected as defective or unsatisfactory;

9) Discontinuance of work without approval;

10) Failure to resume work, which has been discontinued, within a reasonable time after notice to do so;

11) Insolvency or bankruptcy;

12) Assignment made for the benefit of creditors;

13) Failure or refusal within 10 days after written notice by the Contracting Officer, to make payment or show cause why payment should not be made, of any amounts due for materials furnished, labor supplied or performed, for equipment rentals, or for utility services rendered;

14) Failure to protect, to repair, or to make good any damage or injury to property;

15) Breach of any provision of the Contract;

16) Failure to comply with representations made in the Contractor's bid/proposal; or

17) Failure to comply with applicable industry standards, customs, and practice.

b. In the event that the Commonwealth terminates this Contract or any Purchase Order in whole or in part as provided in Subparagraph a. above, the Commonwealth may procure, upon such terms and in such manner as it determines, items similar or identical to those so terminated, and the Contractor shall be liable to the Commonwealth for any reasonable excess costs for such similar or identical items included within the terminated part of the Contract or Purchase Order.

c. If the Contract or a Purchase Order is terminated as provided in Subparagraph a. above, the Commonwealth, in addition to any other rights provided in this paragraph, may require the Contractor to transfer title and deliver immediately to the Commonwealth in the manner and to the extent directed by the Contracting Officer, such partially completed items, including, where applicable, reports, working papers and other documentation, as the Contractor has specifically produced or specifically acquired for the performance of such part of the Contract or Purchase Order as has been terminated. Except as provided below, payment for completed work accepted by the Commonwealth shall be at the Contract price. Except as provided below, payment for partially completed items including, where applicable, reports and working papers, delivered to and accepted by the Commonwealth shall be in an amount agreed upon by the Contractor and Contracting Officer. The Commonwealth may withhold from amounts otherwise due the Contractor for such completed or partially completed works, such sum as the Contracting Officer determines to be necessary to protect the Commonwealth against loss.

d. The rights and remedies of the Commonwealth provided in this paragraph shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

e. The Commonwealth's failure to exercise any rights or remedies provided in this paragraph shall not be construed to be a waiver by the Commonwealth of its rights and remedies in regard to the event of default or any succeeding event of default.

f. Following exhaustion of the Contractor's administrative remedies as set forth in the Contract Controversies Provision of the Contract, the Contractor's exclusive remedy shall be to seek damages in the Board of Claims.

1.32 CONTRACT-022.1 Force Majeure (Oct 2006)

Neither party will incur any liability to the other if its performance of any obligation under this Contract is prevented or delayed by causes beyond its control and without the fault or negligence of either party. Causes beyond a party's control may include, but aren't limited to, acts of God or war, changes in controlling law, regulations, orders or the requirements of any governmental entity, severe weather conditions, civil disorders, natural disasters, fire, epidemics and quarantines, general strikes throughout the trade, and freight embargoes.

The Contractor shall notify the Commonwealth orally within five (5) days and in writing within ten (10) days of the date on which the Contractor becomes aware, or should have reasonably become aware, that such cause would prevent or delay its performance. Such notification shall (i) describe fully such cause(s) and its effect on performance, (ii) state whether performance under the contract is prevented or delayed and (iii) if performance is delayed, state a reasonable estimate of the duration of the delay. The Contractor shall have the burden of proving that such cause(s) delayed or prevented its performance despite its diligent efforts to perform and shall produce such supporting documentation as the Commonwealth may reasonably request. After receipt of such notification, the Commonwealth may elect to cancel the Contract, cancel the Purchase Order, or to extend the time for performance as reasonably necessary to compensate for the Contractor's delay.

In the event of a declared emergency by competent governmental authorities, the Commonwealth by notice to the Contractor, may suspend all or a portion of the Contract or Purchase Order.

1.33 CONTRACT-023.1a Termination Provisions (Oct 2013)

The Commonwealth has the right to terminate this Contract or any Purchase Order for any of the following reasons. Termination shall be effective upon written notice to the Contractor.

a. **TERMINATION FOR CONVENIENCE**: The Commonwealth shall have the right to terminate the Contract or a Purchase Order for its convenience if the Commonwealth determines termination to be in its best interest. The Contractor shall be paid for work satisfactorily completed prior to the effective date of the termination, but in no event shall the Contractor be entitled to recover loss of profits.

b. **NON-APPROPRIATION**: The Commonwealth's obligation to make payments during any Commonwealth fiscal year **succeeding** the current fiscal year shall be subject to availability and appropriation of funds. When funds (state and/or federal) are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal year period, the Commonwealth shall have the right to terminate the Contract or a Purchase Order. The Contractor shall be reimbursed for the reasonable value of any nonrecurring costs incurred but not amortized in the price of the supplies or services delivered under the Contract. Such reimbursement shall not include loss of profit, loss of use of money, or administrative or overhead costs. The reimbursement amount may be paid from any appropriations available for that purpose.

c. **TERMINATION FOR CAUSE**: The Commonwealth shall have the right to terminate the Contract or a Purchase Order for Contractor default under the Default Clause upon written notice to the Contractor. The Commonwealth shall also have the right, upon written notice to the Contractor, to terminate the Contract or a Purchase Order for other cause as specified in the Contract or by law. If it is later determined that the Commonwealth erred in terminating the Contract or a Purchase Order for cause, then, at the Commonwealth's discretion, the Contract or Purchase Order shall be deemed to have been terminated for convenience under the Subparagraph a.

1.34 CONTRACT-024.1 Contract Controversies (Oct 2011)

a. In the event of a controversy or claim arising from the Contract, the Contractor must, within six months after the cause of action accrues, file a written claim with the contracting officer for a determination. The claim shall state all grounds upon which the Contractor asserts a controversy exists. If the Contractor fails to file a claim or files an untimely claim, the Contractor is deemed to have waived its right to assert a claim in any forum. At the time the claim is filed, or within sixty (60) days thereafter, either party may request mediation through the Commonwealth Office of General Counsel Dispute Resolution Program.

b. If the Contractor or the contracting officer requests mediation and the other party agrees, the contracting officer shall promptly make arrangements for mediation. Mediation shall be scheduled so as to not delay the issuance of the final determination beyond the required 120 days after receipt of the claim if mediation is unsuccessful. If mediation is not agreed to or if resolution is not reached through mediation, the contracting officer shall review timely-filed claims and issue a final determination, in writing, regarding the claim. The final determination shall be issued within 120 days of the receipt of the claim, unless extended by consent of the contracting officer and the Contractor. The contracting officer shall send his/her written determination to the Contractor. If the contracting officer fails to issue a final determination within the 120 days (unless extended by consent of the parties), the claim shall be deemed denied. The contracting officer's determination shall be the final order of the purchasing agency.

c. Within fifteen (15) days of the mailing date of the determination denying a claim or within 135 days of filing a claim if, no extension is agreed to by the parties, whichever occurs first, the Contractor may file a statement of claim with the Commonwealth Board of Claims. Pending a final judicial resolution of a controversy or claim, the Contractor shall proceed diligently with the performance of the Contract in a manner consistent with the determination of the contracting officer and the Commonwealth shall compensate the Contractor pursuant to the terms of the Contract.

1.35 CONTRACT-025.1 Assignability and Subcontracting (Oct 2013)

a. Subject to the terms and conditions of this paragraph, this Contract shall be binding upon the parties and their respective successors and assigns.

b. The Contractor shall not subcontract with any person or entity to perform all or any part of the work to be performed under this Contract without the prior written consent of the Contracting Officer, which consent may be withheld at the sole and absolute discretion of the Contracting Officer.

c. The Contractor may not assign, in whole or in part, this Contract or its rights, duties, obligations, or responsibilities hereunder without the prior written consent of the Contracting Officer, which consent may be withheld at the sole and absolute discretion of the Contracting Officer.

d. Notwithstanding the foregoing, the Contractor may, without the consent of the Contracting Officer, assign its rights to payment to be received under the Contract, provided that the Contractor provides written notice of such assignment to the Contracting Officer together with a written acknowledgement from the assignee that any such payments are subject to all of the terms and conditions of this Contract.

e. For the purposes of this Contract, the term "assign" shall include, but shall not be limited to, the sale, gift, assignment, pledge, or other transfer of any ownership interest in the Contractor provided, however, that the term shall not apply to the sale or other transfer of stock of a publicly traded company.

f. Any assignment consented to by the Contracting Officer shall be evidenced by a written assignment agreement executed by the Contractor and its assignee in which the assignee agrees to be legally bound by all of the terms and conditions of the Contract and to assume the duties, obligations, and responsibilities being assigned.

g. A change of name by the Contractor, following which the Contractor's federal identification number remains unchanged, shall not be considered to be an assignment hereunder. The Contractor shall give the Contracting Officer written notice of any such change of name.

1.36 CONTRACT-026.1 Other Contractors (Oct 2006)

The Commonwealth may undertake or award other contracts for additional or related work, and the Contractor shall fully cooperate with other contractors and Commonwealth employees, and coordinate its work with such additional work as may be required. The Contractor shall not commit or permit any act that will interfere with the performance of work by any other contractor or by Commonwealth employees. This paragraph shall be included in the Contracts of all contractors with which this Contractor will be required to cooperate. The Commonwealth shall equitably enforce this paragraph as to all contractors to prevent the imposition of unreasonable burdens on any contractor.

1.37 CONTRACT-027.1 Nondiscrimination/Sexual Harassment (February 2024)

a. **Representations.** The Contractor represents that it is presently in compliance with and will remain in compliance with all applicable federal, state, and local laws, regulations, and policies relating to nondiscrimination and sexual harassment for the term of the contract. The Contractor shall, upon request and within the time periods requested by the Commonwealth, furnish all necessary employment documents and records, including EEO-1 reports, and permit access to its books, records, and accounts by the Commonwealth for the purpose of ascertaining compliance with provisions of this Nondiscrimination/Sexual Harassment Clause.

b. **Nondiscrimination/Sexual Harassment Obligations.** The Contractor shall not:

i. in any manner discriminate in the hiring of any employee(s) for the manufacture of supplies, performance of work, or any other activity required under this contract or any subcontract, by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of the Pennsylvania Human Relations Act (“PHRA”) and applicable federal laws, against any citizen of this Commonwealth who is qualified and available to perform the work to which the employment relates.

ii. in any manner discriminate by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of the PHRA and applicable federal laws, against or intimidate any employee involved in the manufacture of supplies, the performance of work, or any other activity required under this contract.

iii. in any manner discriminate by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of the PHRA and applicable federal laws, in the provision of services under this contract.

iv. in any manner discriminate by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of PHRA and applicable federal laws, against any subcontractor or supplier who is qualified to perform the work to which this contract relates.

v. in any manner discriminate against employees by reason of participation in or decision to refrain from participating in labor activities protected under the Public Employee Relations Act, Pennsylvania Labor Relations Act or National Labor Relations Act, as applicable and to the extent determined by entities charged with such Acts' enforcement and shall comply with any provision of law establishing organizations as employees' exclusive representatives.

c. **Establishment of Contractor Policy**. The Contractor shall establish and maintain a written nondiscrimination and sexual harassment policy that complies with the applicable law and these Nondiscrimination/Sexual Harassment provisions and shall inform its employees in writing of the policy. The policy must contain a provision that states that sexual harassment will not be tolerated and employees who practice it will be disciplined. For the entire period of the contract, the Contractor shall: (1) post its written nondiscrimination and sexual harassment policy or these Nondiscrimination/Sexual Harassment provisions conspicuously in easily accessible and well-lighted places customarily frequented by employees at or near where the contracted services are performed; or (2) provide electronic notice of the policy or this clause to its employees not less than annually.

d. **Notification of Violations**. The Contractor's obligations pursuant to these provisions are ongoing from the effective date and through the termination date of the contract. Accordingly, the Contractor shall notify the Commonwealth if, at any time during the term of this contract, it becomes aware of any actions or occurrences that would result in violation of these provisions.

e. **Cancellation or Termination of Contract**. The Commonwealth may cancel or terminate this contract and all money due or to become due under this contract may be forfeited for a violation of the terms and conditions of these Nondiscrimination/Sexual Harassment provisions. In addition, the agency may proceed with debarment or suspension and may place the Contractor in the Contractor Responsibility File.

f. **Subcontracts**. The Contractor shall include these Nondiscrimination/Sexual Harassment provisions in its contracts with all subcontractors providing goods or services under this contract. The incorporation of these provisions in the Contractor's subcontracts does not create privity of contract between the Commonwealth and any subcontractor, and no third-party beneficiaries are created by those provisions. If the Contractor becomes aware of a subcontractor's violation of this clause, the Contractor shall use its best efforts to ensure the subcontractor's compliance with these provisions.

1.38 CONTRACT-028.1 Contractor Integrity (February 2024)

a. **Definitions**. For purposes of these Contractor Integrity Provisions, the following definitions apply:

i. "Affiliate" means two or more entities where (a) a parent entity owns more than 50% of the voting stock of each of the entities; (b) a common shareholder or group of shareholders owns more than 50% of the voting stock of each of the entities; or (c) the entities have a common proprietor or general partner.

ii. "Contractor" means the individual or entity, that has entered into this contract with the Commonwealth.

iii. "Contractor Related Parties" means any Affiliates of the Contractor and the Contractor's executive officers, Pennsylvania officers and directors, or owners of five percent or more interest in the Contractor.

iv. "Financial Interest" means ownership of more than a five percent interest in any business or holding a position as an officer, director, trustee, partner, employee, or holding any position of management.

v. "Gratuity" means tendering, giving, or providing anything of more than nominal monetary value including, but not limited to, cash, travel, entertainment, gifts, meals, lodging, loans, subscriptions, advances, deposits of money, services, employment, or contracts of any kind. The exceptions set forth in the Governor's Code of Conduct, Executive Order 1980-18, as may be amended, 4 Pa. Code §7.153(b), apply.

vi. "Non-bid Basis" means a contract awarded or executed by the Commonwealth with Contractor without seeking bids or proposals from any other potential bidder or offeror.

b. **Representations and Warranties.**

i. Contractor Representation and Warranties. The Contractor represents, to the best of its knowledge and belief, and warrants that within the last five years neither the Contractor nor Contractor Related Parties have:

1. been indicted or convicted of a crime involving moral turpitude or business honesty or integrity in any jurisdiction;

2. been suspended, debarred, or otherwise disqualified from entering into any contract with any governmental agency;

3. had any business license or professional license suspended or revoked;

4. had any sanction or finding of fact imposed as a result of a judicial or administrative proceeding related to fraud, extortion, bribery, bid rigging, embezzlement, misrepresentation or anti-trust; and

5. been, and are not currently, the subject of a criminal investigation by any federal, state, or local prosecuting or investigative agency or civil anti-trust investigation by any federal, state, or local prosecuting or investigative agency.

ii. Contractor Explanation. If the Contractor cannot make the representations and warranties set forth above at the time of its submission of its bid or proposal or if this contract is awarded on a non-bid basis at the time of the execution of the contract, the Contractor shall submit a written explanation outlining the reasons why it cannot make those representations and warranties. The Commonwealth may, based on its evaluation of the explanation provided, determine whether it is in the Commonwealth's best interest to execute the contract.

iii. Further Representations. By submitting any bills, invoices, or requests for payment pursuant to this contract, the Contractor further represents that it has not violated any of these Contractor Integrity Provisions during the term of the contract.

iv. Notice. The Contractor shall immediately notify the Commonwealth, in writing, if at any time during the term of the contract it becomes aware of any event that would cause the Contractor's certification or explanation to change. The Contractor acknowledges that the Commonwealth may, in its sole discretion, terminate the contract for cause if it learns that any of the certifications made in these provisions are currently false or misleading due to intervening factual circumstances or were false or misleading or should have been known to be false or misleading when entering into the contract.

c. **Contractor Responsibilities**. During the term of this contract, the Contractor shall:

i. maintain the highest standards of honesty and integrity.

ii. take no action in violation of any applicable laws, regulations, or other requirements applicable to the Contractor that govern Commonwealth contracting and procurement.

iii. establish and implement a written business integrity policy that includes, at a minimum, the requirements of these provisions as they relate to the Contractor's activity with the Commonwealth and Commonwealth employees and ensure that its employees comply with the policy.

iv. not accept, agree to give, offer, confer, agree to confer, or promise to confer, directly or indirectly, any gratuity or pecuniary benefit to any person, or to influence or attempt to influence any person in violation of any federal or state law, regulation, executive order, statement of policy, management directive, or bulletin applicable to the provision of goods or services under this contract.

v. not have a financial interest in any other contractor, subcontractor, or supplier providing services, labor, or material under this contract, unless the financial interest is disclosed to the Commonwealth in writing and the Commonwealth consents to Contractor's financial interest. The Contractor must disclose the financial interest to the Commonwealth at the time of bid or proposal submission, or if no bids or proposals are solicited, no later than the date the Contractor signs the contract. The Commonwealth shall be deemed to have consented if the required disclosure is received and all of the required Commonwealth signatures are affixed.

vi. comply with the requirements of the Lobbying Disclosure Act (65 Pa.C.S. §13A01 et seq.) regardless of the method of award.

vii. comply with the requirements of Section 1641 of the Pennsylvania Election Code (25 P.S. §3260a) if this contract was awarded on a Non-bid Basis.

viii. immediately notify the Commonwealth contracting officer or the Office of the State Inspector General, inwriting, when the Contractor has reason to believe that any breach of ethical standards as set forth in law, the Governor's Code of Conduct, or these Contractor Integrity Provisions has occurred or may occur, including, but not limited to, contact by a Commonwealth officer or employee, which, if acted upon, would violate the ethical standards.

d. **Investigations.** If a State Inspector General investigation is initiated, the Contractor shall:

i. reimburse the Commonwealth for the reasonable costs of investigation incurred by the Office of the State Inspector General for investigations of the Contractor's compliance with the terms of this or any other agreement between the Contractor and the Commonwealth that results in the suspension or debarment of the Contractor. The Contractor shall not be responsible for investigative costs for investigations that do not result in the Contractor's suspension or debarment.

ii. cooperate with the Office of the State Inspector General in its investigation of any alleged Commonwealth agency or employee breach of ethical standards and any alleged Contractor non-compliance with these Contractor Integrity Provisions and make identified Contractor employees available for interviews at reasonable times and places.

iii. upon the inquiry or request of an Inspector General, provide, or if appropriate, make promptly available for inspection or copying, any information of any type or form deemed relevant by the Office of the State Inspector General to Contractor's integrity and compliance with these provisions. This information may include, but is not limited to, Contractor's business or financial records, documents or files of any type or form that refer to or concern this contract.

e. **Termination.** For violation of any of these Contractor Integrity Provisions, the Commonwealth may terminate this and any other contract with the Contractor, claim liquidated damages in an amount equal to the value of anything received in breach of these Contractor Integrity provisions, claim damages for all additional costs and expenses incurred in obtaining another contractor to complete performance under this contract, and debar and suspend the Contractor from doing business with the Commonwealth. These rights and remedies are cumulative, and the use or non-use of any one does not preclude the use of all or any other. These rights and remedies are in addition to those the Commonwealth may have under law, statute, regulation, or contract.

f. **Subcontracts**. The Contractor shall include these Contractor Integrity Provisions in its contracts with all subcontractors providing goods or services under this contract. The incorporation of this provision in the

Contractor's subcontracts does not create privity of contract between the Commonwealth and any subcontractor, and no third-party beneficiaries are created by the inclusion of these provisions. If the Contractor becomes aware of a subcontractor's violation of these provisions, the Contractor shall use its best efforts to ensure the subcontractor's compliance with these provisions.

1.39 CONTRACT-029.1 Contractor Responsibility (February 2024)

a. **Definitions.** For the purpose of these provisions, the term "Contractor" means as any person, including, but not limited to, a bidder, offeror, loan recipient, grantee or lessor, who has furnished or performed or seeks to furnish or perform, goods, supplies, services, leased space, construction or other activity, under a contract, grant, lease, purchase order or reimbursement agreement with the Commonwealth. The term also includes a permittee, licensee, or any agency, political subdivision, instrumentality, public authority, or other public entity in the Commonwealth.

b. **Contractor Representations.**

i. The Contractor represents for itself and its subcontractors required to be disclosed or approved by the Commonwealth, that as of the date of its execution of this contract, that neither the Contractor, nor any such subcontractors, are under suspension or debarment by the Commonwealth or any governmental entity, instrumentality, or authority and, if the Contractor cannot make this representation, the Contractor shall submit, along with its contract, a written explanation of why such certification cannot be made.

ii. The Contractor represents that as of the date of its execution of this contract it has no tax liabilities or other Commonwealth obligations, or has filed a timely administrative or judicial appeal if such liabilities or obligations exist, or is subject to a duly approved deferred payment plan if such liabilities exist.

c. **Notification.** The Contractor shall notify the Commonwealth if, at any time during the term of this contract, it becomes delinquent in the payment of taxes, or other Commonwealth obligations, or if it or, to the best of its knowledge, any of its subcontractors are suspended or debarred by the Commonwealth, the federal government, or any other state or governmental entity. The Contractor shall provide this notification within 15 days of the date of suspension or debarment.

d. **Default.** The Contractor's failure to notify the Commonwealth of its suspension or debarment by the Commonwealth, any other state, or the federal government constitutes an event of default of the contract with the Commonwealth.

e. **Reimbursement.** The Contractor shall reimburse the Commonwealth for the reasonable costs of investigation incurred by the Office of State Inspector General for investigations of the Contractor's compliance with the terms of this contract or any other agreement between the Contractor and the Commonwealth that results in the suspension or debarment of the Contractor. These costs include, but are not limited to, salaries of investigators, including overtime; travel and lodging expenses; and expert witness and documentary fees. The Contractor shall not be responsible for investigative costs for investigations that do not result in the Contractor's suspension or debarment.

f. **Suspension and Debarment List.** The Contractor may obtain a current list of suspended and debarred Commonwealth contractors by visiting the eMarketplace website at http://www.emarketplace.state.pa.us and clicking the Debarment list tab.

1.40 CONTRACT-029.2 Offset (February 2024)

The Commonwealth may set off the amount of any state tax liability or other obligation of the Contractor, or its subsidiaries, owed to the Commonwealth against any payments due the Contractor under any contract between the Commonwealth and Contractor.

1.41 CONTRACT-030.1 Americans with Disabilities Act (February 2024)

a. **No Exclusion**. Pursuant to the Americans with Disabilities Act, 42 U.S. Code § 12101, et seq., no qualified individual with a disability may, on the basis of the disability, be excluded from participation in this contract or from activities provided for under this contract.

b. **Compliance.** For all goods and services provided pursuant to this contract, the Contractor shall comply with Title II of the Americans with Disabilities Act, the "General Prohibitions Against Discrimination" set forth in 28 C. F. R. § 35.130, and all other regulations promulgated under Title II of the Americans with Disabilities Act that apply to state and local governments.

c. **Indemnification**. The Contractor shall indemnify the Commonwealth against all third-party claims, suits, demands, losses, damages, costs, and expenses, including without limitation, litigation expenses, attorneys' fees, and liabilities, arising out of or in connection with the Contractor's failure or its employee's or agent's failure to comply with the provisions of paragraph a, as determined by the Commonwealth in its sole discretion.

1.42 CONTRACT-032.1 Covenant Against Contingent Fees (Oct 2006)

The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure the Contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty, the Commonwealth shall have the right to terminate the Contract without liability or in its discretion to deduct from the Contract price or consideration, or otherwise recover the full amount of such commission, percentage, brokerage, or contingent fee.

1.43 CONTRACT-033.1 Applicable Law and Forum (February 2024)

This contract is governed by and must be interpreted and enforced in accordance with the laws of the Commonwealth of Pennsylvania (without regard to any conflict of laws provisions) and the decisions of the Pennsylvania courts. The Contractor consents to the jurisdiction of any court of the Commonwealth of Pennsylvania and any federal courts in Pennsylvania, and waives any claim or defense that such forum is not convenient or proper. Any Pennsylvania court or tribunal has in personam jurisdiction over the Contractor, and the Contractor consents to service of process in any manner authorized by Pennsylvania law. This provision may not be interpreted as a waiver or limitation of the Commonwealth's rights or defenses.

1.44 CONTRACT-034.1c Integration – Contract (Nov 30 2006)

This Contract, including all referenced documents, and any Purchase Order constitutes the entire agreement between the parties. No agent, representative, employee, or officer of either the Commonwealth or the Contractor has authority to make, or has made, any statement, agreement or representation, oral or written, in connection with the Contract, which in any way can be deemed to modify, add to or detract from, or otherwise change or alter its terms and conditions. No negotiations between the parties, nor any custom or usage, shall be permitted to modify or contradict any of the terms and conditions of the Contract. No modifications, alterations, changes, or waiver to the Contract or any of its terms shall be valid or binding unless accomplished by a written amendment signed by both parties.

1.45 CONTRACT-034.3 Controlling Terms and Conditions (Aug 2011)

The terms and conditions of this Contract shall be the exclusive terms of agreement between the Contractor and the Commonwealth. All quotations requested and received from the Contractor are for obtaining firm pricing only. Other

terms and conditions or additional terms and conditions included or referenced in the Contractor's quotations, invoices, business forms, or other documentation shall not become part of the parties' agreement and shall be disregarded by the parties, unenforceable by the Contractor and not binding on the Commonwealth.

1.46 CONTRACT-035.1a Changes (Oct 2006)

The Commonwealth reserves the right to make changes at any time during the term of the Contract or any renewals or extensions thereof: 1) to increase or decrease the quantities resulting from variations between any estimated quantities in the Contract and actual quantities; 2) to make changes to the services within the scope of the Contract; 3) to notify the Contractor that the Commonwealth is exercising any Contract renewal or extension option; or 4) to modify the time of performance that does not alter the scope of the Contract to extend the completion date beyond the Expiration Date of the Contract or any renewals or extensions thereof. Any such change shall be made by the Contracting Officer by notifying the Contractor in writing. The change shall be effective as of the date of the change, unless the notification of change specifies a later effective date. Such increases, decreases, changes, or modifications will not invalidate the Contract, nor, if performance security is being furnished in conjunction with the Contract, release the security obligation. The Contractor agrees to provide the service in accordance with the change order. Any dispute by the Contractor in regard to the performance required by any notification of change shall be handled through Contract Controversies Provision.

1.47 CONTRACT-037.1a Confidentiality (Oct 2013)

a) The Contractor agrees to protect the confidentiality of the Commonwealth's confidential information. The Commonwealth agrees to protect the confidentiality of Contractor's confidential information. In order for information to be deemed confidential, the party claiming confidentiality must designate the information as "confidential" in such a way as to give notice to the other party (notice may be communicated by describing the information, and the specifications around its use or disclosure, in the SOW). Neither party may assert that information owned by the other party is such party's confidential information. The parties agree that such confidential information shall not be copied, in whole or in part, or used or disclosed except when essential for authorized activities under this Contract and, in the case of disclosure, where the recipient of the confidential information has agreed to be bound by confidentiality requirements no less restrictive than those set forth herein. Each copy of such confidential information shall be marked by the party making the copy with any notices appearing in the original. Upon termination or cancellation of this Contract or any license granted hereunder, the receiving party will return to the disclosing party all copies of the confidential information in the receiving party's possession, other than one copy, which may be maintained for archival purposes only, and which will remain subject to this Contract's security, privacy, data retention/destruction and confidentiality provisions (all of which shall survive the expiration of this Contract). Both parties agree that a material breach of these requirements may, after failure to cure within the time frame specified in this Contract, and at the discretion of the non-breaching party, result in termination for default pursuant to the DEFAULT provision of this Contract, in addition to other remedies available to the non-breaching party.

(b) Insofar as information is not otherwise protected by law or regulation, the obligations stated in this Section do not apply to information:

(1) already known to the recipient at the time of disclosure other than through the contractual relationship;

(2) independently generated by the recipient and not derived by the information supplied by the disclosing party.

(3) known or available to the public, except where such knowledge or availability is the result of unauthorized disclosure by the recipient of the proprietary information;

(4) disclosed to the recipient without a similar restriction by a third party who has the right to make such disclosure; or

(5) required to be disclosed by law, regulation, court order, or other legal process.

There shall be no restriction with respect to the use or disclosure of any ideas, concepts, know-how, or data processing techniques developed alone or jointly with the Commonwealth in connection with services provided to the Commonwealth under this Contract.

(c) The Contractor shall use the following process when submitting information to the Commonwealth it believes to be confidential and/or proprietary information or trade secrets:

(1) Prepare an un-redacted version of the appropriate document, and

(2) Prepare a redacted version of the document that redacts the information that is asserted to be confidential or proprietary information or a trade secret, and

(3) Prepare a signed written statement that states:

(i) the attached document contains confidential or proprietary information or trade secrets;

(ii) the Contractor is submitting the document in both redacted and un-redacted format in accordance with 65 P.S. § 67.707(b); and

(iii) the Contractor is requesting that the document be considered exempt under 65 P.S. § 67.708(b)(11) from public records requests.

(4) Submit the two documents along with the signed written statement to the Commonwealth.

1.48 CONTRACT-037.2a Sensitive Information (Sept 2009)

The Contractor shall not publish or otherwise disclose, except to the Commonwealth and except matters of public record, any information or data obtained hereunder from private individuals, organizations, or public agencies, in a publication whereby the information or data furnished by or about any particular person or establishment can be identified, except with the consent of such person or establishment. The parties shall not use or disclose any information about a recipient receiving services from, or otherwise enrolled in, a Commonwealth program affected by or benefiting from services under this Contract for any purpose not connected with the parties' Contract responsibilities except with the written consent of such recipient, recipient's attorney, or recipient's parent or guardian pursuant to applicable state and federal law and regulations.

Contractor will be responsible to remediate any improper disclosure of information. Such remediation may include, but not be limited to, credit monitoring for individuals for whom information has been released and reimbursement of any costs incurred by individuals for whom information has been released. Costs for which Contractor is responsible under this paragraph are not subject to any limitation of liability set out in this Contract or Purchase Order.

1.49 CONTRACT-045.1 Insurance - General (Dec 12 2006)

The Contractor is required to have in place during the term of the Contract and any renewals or extensions thereof, the following types of insurance, issued by companies acceptable to the Commonwealth and authorized to conduct such business under the laws of the Commonwealth of Pennsylvania:

A. **Worker's Compensation Insurance** for all of the Contractor's employees and those of any subcontractor, engaged in work at the site of the project as required by law.

B. **Public Liability and Property Damage Insurance** to protect the Commonwealth, the Contractor, and any and all subcontractors from claims for damages for personal injury (including bodily injury), sickness or

disease, accidental death and damage to property including the loss of use resulting from any property damage, which may arise from the activities performed under the Contract or the failure to perform under the Contract, whether such performance or non-performance be by the Contractor, by any subcontractor, or by anyone directly or indirectly employed by either. The minimum amounts of coverage shall be $250,000 per person and $1,000,000 per occurrence for bodily injury, including death, and $250,000 per person and $1,000,000 per occurrence for property damage. Such policies shall be occurrence rather than claims-made policies and shall not contain any endorsements or any other form designated to limit and restrict any action by the Commonwealth, as an additional insured, against the insurance coverage in regard to work performed for the Commonwealth.

Prior to commencement of the work under the Contract and at each insurance renewal date during the term of the Contract, the Contractor shall provide the Commonwealth with current certificates of insurance. These certificates or policies shall name the Commonwealth as an additional insured and shall contain a provision that the coverage's afforded under the policies will not be cancelled or changed until at least thirty (30) days written notice has been given to the Commonwealth.

The Commonwealth shall be under no obligation to obtain such certificates from the Contractor(s). Failure by the Commonwealth to obtain the certificates shall not be deemed a waiver of the Contractor's obligation to obtain and furnish certificates. The Commonwealth shall have the right to inspect the original insurance policies.

1.50 CONTRACT-046.1 Manufacturer's Price Reduction (Oct 2006)

If, prior to the delivery of the awarded item(s) by the Contractor, a price reduction is announced by the original equipment manufacturer, a comparative price reduction will be given to the Commonwealth by the Contractor.

1.51 CONTRACT-051.1 Notice (Dec 2006)

Any written notice to any party under this Contract shall be deemed sufficient if delivered personally, or by facsimile, telecopy, electronic or digital transmission (provided such delivery is confirmed), or by a recognized overnight courier service (e.g., DHL, Federal Express, etc.) with confirmed receipt, or by certified or registered United States mail, postage prepaid, return receipt requested, and sent to following:

a. If to the Contractor: the Contractor's address as recorded in the Commonwealth's Supplier Registration system.

b. If to the Commonwealth: the address of the Issuing Office as set forth on the Contract.

1.52 CONTRACT-052.1 Right to Know Law (February 2024)

a. **Applicability.** The Pennsylvania Right-to-Know Law, 65 P.S. §§ 67.101-3104, ("RTKL") applies to this contract.

b. **Contractor Assistance.** If the Commonwealth needs the Contractor's assistance in any matter arising out of the RTKL related to this contract, the Commonwealth shall notify the Contractor that it requires the Contractor's assistance, and the Contractor shall provide to the Commonwealth:

i. access to, and copies of, any document or information in the Contractor's possession (Requested Information) arising out of this contract that the Commonwealth reasonably believes is a public record under the RTKL, within ten calendar days after receipt of written notification; and

ii. any other assistance as the Commonwealth may reasonably request, in order to comply with the RTKL with respect to this contract.

c. **Trade Secret or Confidential Proprietary Information**. If the Contractor considers the Requested Information to include a Trade Secret or Confidential Proprietary Information, as those terms are defined by the RTKL, or other information that the Contractor considers exempt from production under the RTKL, the Contractor shall notify the Commonwealth and provide, within seven calendar days of receipt of the written notice a written statement, signed by a representative of the Contractor, that explains why the requested material is exempt from public disclosure under the RTKL. If the Commonwealth determines that the Requested Information is clearly not exempt from disclosure, the Contractor shall provide the Requested Information to the Commonwealth within five business days of receipt of written notice of the Commonwealth's determination.

d. **Reimbursement.**

i. Commonwealth Reimbursement. If the Contractor fails to provide the Requested Information and the Commonwealth is ordered to produce the Requested Information, the Contractor shall reimburse the Commonwealth for any damages, penalties, or costs that the Commonwealth may incur as a result of the Contractor's failure, including any statutory damages assessed against the Commonwealth.

ii. Contractor Reimbursement. The Commonwealth will reimburse the Contractor for any costs that the Contractor incurs as a direct result of complying with these provisions only to the extent allowed under the fee schedule established by the Office of Open Records or as otherwise provided by the RTKL.

e. **Challenges of Commonwealth Release.** The Contractor may file a legal challenge to any Commonwealth decision to release a record to the public with the Office of Open Records, or in the Pennsylvania Courts, however, the Contractor shall reimburse the Commonwealth for any legal expenses incurred by the Commonwealth as a result of the challenge, including any damages, penalties or costs that the Commonwealth may incur as a result of the Contractor's legal challenge, regardless of the outcome.

f. **Waiver.** As between the parties, the Contractor waives all rights or remedies that may be available to it as a result of the Commonwealth's disclosure of Requested Information pursuant to the RTKL.

g. **Survival.** The Contractor's obligations contained in this Section survive the termination or expiration of this contract.

1.53 CONTRACT-053.1 Enhanced Minimum Wage Provisions (February 2024)

a. **Enhanced Minimum Wage.** Contractor shall pay no less than $15.00 per hour to its employees for all hours worked directly performing the services called for in this contract/lease, and for an employee's hours performing ancillary services necessary for the performance of the services or lease when the employee spends at least 20% of their time performing ancillary services in a given work week.

b. **Adjustment.** Beginning July 1, 2023, and annually thereafter, the minimum wage rate will be increased by an annual cost-of-living adjustment using the percentage change in the Consumer Price Index for All Urban Consumers (CPI-U) for Pennsylvania, New Jersey, Delaware, and Maryland. The Commonwealth will publish applicable adjusted amount in the Pennsylvania Bulletin by March 1 of each year to be effective the following July 1.

c. **Exceptions.** These Enhanced Minimum Wage Provisions do not apply to employees

i. Exempt from minimum wage under the Minimum Wage Act of 1968;

ii. covered by a collective bargaining agreement;

iii. required to be paid a higher wage under another state or federal law governing the services, including the Prevailing Wage Act and Davis-Bacon Act; or iv. required to be paid a higher wage under any state or local policy or ordinance.

d. **Notice.** The Contractor shall: (1) post this Enhanced Minimum Wage Provision for the entire period of the contract conspicuously in easily-accessible and well-lighted places customarily frequented by employees at or near where the contracted services are performed; or (2) for the entire period of the contract, provide electronic notice of this clause to its employees not less than annually.

e. **Records.** Contractor must maintain and, upon request and within the time periods requested by the Commonwealth, provide to the Commonwealth all employment and wage records necessary to document compliance with these Enhanced Minimum Wage Provisions.

f. **Sanctions.** Contractor's failure to comply with these Enhanced Minimum Wage Provisions may result in the imposition of sanctions, which may include, but are not limited to, termination of the contract or lease, nonpayment, debarment, or referral to the Office of General Counsel for appropriate civil or criminal referral.

g. **Subcontractors.** The Contractor shall include these Enhanced Minimum Wage Provisions in its subcontracts under this contact or lease to ensure that these provisions are binding on its subcontractors.

1.54 CONTRACT-054.1 Worker Protection and Investment (February 2024)

The Contractor shall comply with all applicable Pennsylvania state labor laws and worker safety laws including, but not limited to, the following:

a. Construction Workplace Misclassification Act;

b. Employment of Minors Child Labor Act;

c. Minimum Wage Act;

d. Prevailing Wage Act;

e. Equal Pay Law;

f. Employer to Pay Employment Medical Examination Fee Act;

g. Seasonal Farm Labor Act;

h. Wage Payment and Collection Law;

i. Industrial Homework Law;

j. Construction Industry Employee Verification Act;

k. Act 102: Prohibition on Excessive Overtime in Healthcare;

l. Apprenticeship and Training Act; and

m. Inspection of Employment Records Law.

1.55 CONTRACT-055.1 Data Breach or Loss (February 2024)

To the extent the Contractor receives, provides, stores, manages, maintains, and/or transmits personal information including, but limited to, personal health information, pursuant to this Contract, the Contractor shall comply with all applicable data protection, data security, data privacy and data breach notification laws, including but not limited to the *Breach of Personal Information Notification Act,* Act of December 22, 2005, P.L. 474, No. 94, as amended, 73 P.S. §§ 2301-2329. Further, to the extent the Contractor maintains, stores, or manages computerized data on behalf of

the Commonwealth that constitutes personal information, as defined in the *Breach of Personal Information Notification Act,* Act of December 22, 2005, P.L. 474, No. 94, as amended, 73 P.S. §§ 2301-2329, the Contractor shall comply with the then current version of the following IT Policies (ITPs): *ITP-SEC019, Policy and Procedures for Protecting Commonwealth Electronic Data*; *ITP-SEC024, IT Security Incident Reporting Policy*; *ITP-SEC025, Proper Use and Disclosure of Personally Identifiable Information (PII)*; and *ITP-SEC031, Encryption Standards*.

PARTICIPATING ADDENDUM
TO THE
NASPO VALUEPOINT COOPERATIVE PURCHASING ORGANIZATION
AUTOMATIC EXTERNAL DEFIBRILLATOR AND ACCESSORIES
CONTRACT NO. SW0300

This participating addendum for automated external defibrillator (AED) and accessories is between the Commonwealth of Pennsylvania (Commonwealth), acting through the Department of General Services ("Agency"), with its principal offices located at 515 North Office Building, Harrisburg, Pennsylvania 17125-0001, and Avive Solutions, Inc., with its principal offices located at 185 Valley Drive, Brisbane, California 94005-1340, pursuant to AED and Accessories Contract No. SW0300 (Master Agreement) between the Contractor and the State of Oklahoma on behalf of the NASPO ValuePoint Cooperative Purchasing Organization (NASPO ValuePoint).

The Commonwealth is entering into this participating addendum to procure AED and accessories from the Contractor under the Master Agreement. DGS is authorized under Sections 1902 and 1908 of the Commonwealth Procurement Code, 62 Pa. C.S. §§ 1902, 1908, to undertake this type of contractual arrangement on behalf of the Commonwealth.

The parties, intending to be legally bound, agree as follows:

1. **Order of Precedence.** To the extent that there is a conflict between the contract documents, the order of precedence shall be:

   a. The participating addendum contained herein.
   b. The Commonwealth of Pennsylvania Terms and Conditions (Exhibit A).
   c. The Master Agreement (Exhibit B).

2. **Effective Date and Term.** This participating addendum shall become effective on the date the Commonwealth sends the fully executed and approved Participating Addendum to the Contractor ("Effective Date"). This participating addendum shall terminate or expire upon the earlier of (a) expiration or termination of the Master Agreement, or (b) termination of this participating addendum in accordance with its terms. If the Master Agreement is renewed or extended, this participating addendum will automatically renew or extend for a term consistent with the term of the Master Agreement.

3. **Master Agreement.** The Master Agreement is attached as Exhibit B to this participating addendum. To the extent language contained in Exhibit B requires the Commonwealth to pay late payment fees or overdue account charges, such language is excluded from this Contract. Except as set forth in this participating addendum, DGS and Contractor shall be bound by the terms and conditions as stated in the Master Agreement (Exhibit B).

4. **Participating Addendum Terms.** DGS and Contractor agree to be bound by the Commonwealth Terms and Conditions, attached as Exhibit A.

5. **Software Requirements – Commonwealth.**

   a. **Embedded Software Licenses.** Any software included in the Supplies at the time of delivery (the "Embedded Software"), which includes any subsequent updates, patches or fixes, is licensed as part of the Supplies and not sold separately. Contractor hereby grants to the Commonwealth a non-exclusive, royalty-free, fully-paid, perpetual license to use the Embedded Software only in the operation of the Supply in which it was delivered. The Commonwealth shall not be required to accept and comply with any additional license agreement or terms (including, but not limited to any clickthrough, open source or freeware terms) for any Embedded Software, except as set forth in subsection b below.

   b. **Commercially Available Software Licenses.** The Contractor may not offer Supplies which require commercially available software, which includes freeware and open-source software, for its use, unless and until the Commonwealth has entered into a software license agreement with the software licensor. The Contractor must inform any such software licensor that the software licensor must enter into a software license agreement with the Commonwealth with terms that are acceptable to the Commonwealth.

   c. **Clickthrough License Terms.** No license terms and conditions (including, but not limited to, any terms of service, end user licenses agreements) shall be binding or controlling and the terms and conditions of this Contract or any fully executed software license agreement shall govern any licenses provided for Commercially Available or Embedded Software. Any clickthrough terms and conditions that are included with any such software provided with the Supplies are null and void and not binding on the Commonwealth.

6. Software Requirements – COSTARS.

   a. **Embedded Software Licenses.** Any software included in the Supplies at the time of delivery (the "Embedded Software"), which includes any subsequent updates, patches or fixes, is licensed as part of the Supplies and not sold separately. Contractor shall grant to the COSTARS member a non-exclusive, royalty-free, fully-paid, perpetual license to use the Embedded Software only in the operation of the Supply in which it was delivered. The COSTARS member shall not be required to accept and comply with any additional license agreement or terms (including, but not limited to any clickthrough, open source or freeware terms) for any Embedded Software, except as set forth in subsection 2 below.

   b. **Commercially Available Software Licenses.** The Contractor shall not

provide Supplies which require commercially available software, which includes freeware and open-source software, for its use, unless and until the COSTARS member has entered into a software license agreement with the software licensor. The Contractor shall inform the COSTARS member when the proposed solution requires licensed software and shall inform the software licensor that it must enter into a software license agreement with the COSTARS member. The COSTARS member shall enter into a separate agreement with the appropriate Licensor which will be negotiated outside of this procurement and any resulting contract. All license terms shall be subject to the standard approval processes established for the COSTARS member, either by policy or statute. COSTARS members are strongly encouraged to discuss individual projects with their legal counsel to ensure full compliance with all statutory and contract requirements. The Commonwealth is not responsible for negotiating or executing any license agreements on behalf of COSTAR members.

c. **Clickthrough License Terms.** No license terms and conditions (including, but not limited to, any terms of service, end user licenses agreements) shall be binding or controlling and the terms and conditions of this Contract or any fully executed software license agreement shall govern any licenses provided for Commercially Available or Embedded Software. Any clickthrough terms and conditions that are included with any such software provided with the Supplies are null and void and not binding on the COSTARS member.

7. **COSTARS Program.** COSTARS Program members shall be eligible to utilize this Participating Addendum under the same terms and conditions as the Commonwealth. Information related to the COSTARS Program is incorporated in the COSTARS Program Clause contained in Section I.1 IFB-027.1 of Exhibit A.

8. **Required Forms.** In accordance with Pennsylvania statutes and policies, the Contractor must provide the following completed and executed certifications:

   a. Reciprocal Limitations Act Requirements, GSPUR-89;
   b. Iran Free Procurement Certification Form, BOP-1701;
   c. Lobbying Certification and Disclosure Form, BOP-1307; and
   d. Worker Protection and Investment Certification, BOP-2201.

9. **Electronic Signatures.** This agreement may be electronically signed in accordance with the Electronic Transactions Act, 73 P.S. § 2260.301, *et seq.*

The parties, through their authorized representatives, have signed this participating addendum on the dates indicated below.

AVIVE SOLUTIONS, INC.



Jan 24, 2024

Signature Date

Mark Peters | Vice President of Sales

Printed Name and Title

SAP Number

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF GENERAL SERVICES

To be obtained electronically

Deputy Secretary (or Designee) Date

PENNSYLVANIA DEPARTMENT OF TREASURY:

To be obtained electronically

Treasurer (or Designee) Date

APPROVED AS TO FORM AND LEGALITY:

To be obtained electronically

Office of Chief Counsel Date

To be obtained electronically

Office of General Counsel Date

To be obtained electronically

Office of Attorney General Date

Procurement Master Agreement

Automated External Defibrillator (AED) & Accessories

Issued by

The State of Oklahoma

In collaboration with

NASPO Value Point

The Manufacturer identified below is hereby notified that a contract is being awarded in connection with solicitation number EV00000354, Oklahoma Statewide SW0300, which opened November 17, 2023.

Now, Therefore, in consideration of the foregoing and mutual promises set forth herein, the receipt and sufficiency of which are hereby acknowledged the parties have caused the Master Agreement to be duly executed and agree to terms contained herein.

STATE OF OKLAHOMA
by and through the
OFFICE OF MANAGEMENT AND
ENTERPRISE SERVICES

By: Amanda L. Otis
Amanda L. Otis (Feb 16, 2024 10:09 CST)

Name: Amanda Otis

Title: State Purchasing Director

Date: 02/16/2024

Avive Solutions, Inc.

By: Micah Bongberg
Micah Bongberg (Feb 15, 2024 16:19 PST)

Name: Micah Bongberg

Title: Chief Commercial Officer

Date: 02/15/2024

Reviewed & approved by

OMES Legal: Tim Tuck
Tim Tuck (Feb 16, 2024 10:06 CST)

Date: 02/16/2024

NASPO ValuePoint

OKLAHOMA Office of Management & Enterprise Services

Procurement Master Contract

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Procurement Master Contract

Contract Summary

This State of Oklahoma Statewide Contract ("Contract") is entered into between the state of Oklahoma by and through the Office of Management and AVIVE SOLUTIONS INC. ("Supplier") and is effective as of the date of last signature to this Contract. The initial Contract term, which begins on the effective date of the Contract, is two (2) years and there are three (3) additional one-year period options to renew the Contract.

Purpose

The purpose of this contract is to have established a competitive contract for use by participating entities to obtain FDA approved Automatic External Defibrillator (AED) Units and Accessories. As more particularly described in certain Contract Documents found herein. This contract will be made available to all levels of state, local and county government agencies as well as other public agencies authorized to utilize this contract. A contract may be awarded to one or more AED manufacturers.

This Contract memorializes the agreement of the parties with respect to negotiated terms of the Contract that is being awarded to manufacturer.

Now, therefore, in consideration of the foregoing and the mutual promises set forth herein, the receipt and sufficiency of which are hereby acknowledged the parties agree as follows:

1. The parties agree that Supplier has not yet begun performance of work under this Contract. Upon full execution of this Contract, Supplier may begin work. Issuance of a purchase order is required prior to payment to a Supplier.

2. The following Contract Documents are attached hereto and incorporated herein:

    2.1. Exhibit A, NASPO ValuePoint Master Terms and Conditions
    2.2. Exhibit B, Scope of Work
    2.3. Exhibit C, Cost

3. Any reference to a Contract Document refers to such Contract Document as it may have been amended. If and to the extent any provision is in multiple documents and addresses the same or substantially the same subject matter but does not create an actual conflict, the more recent provision is deemed to supersede earlier versions.

Procurement Master Contract

EXHIBIT A: NASPO VALUEPOINT MASTER AGREEMENT TERMS AND CONDITIONS

Definitions:

1.1 **Acceptance** means acceptance of goods and services as set forth in Section IX of this Master Agreement.

1.2 **Contractor** means a party to this Master Agreement, whether a person or entity, that delivers goods or performs services under the terms set forth in this Master Agreement.

1.3 **Embedded Software** means one or more software applications which permanently reside on a computing device.

1.4 **Intellectual Property** means any and all patents, copyrights, service marks, trademarks, trade secrets, trade names, patentable inventions, or other similar proprietary rights, in tangible or intangible form, and all rights, title, and interest therein.

1.5 **Lead State** means the State centrally administering any resulting Master Agreement(s) who is a party to this Master Agreement.

1.6 **Master Agreement** means the underlying agreement executed by and between the Lead State, acting in cooperation with NASPO ValuePoint, and the Contractor, as now or hereafter amended.

1.7 **NASPO ValuePoint** is a division of the National Association of State Procurement Officials ("NASPO"), a 501(c)(3) corporation. NASPO ValuePoint facilitates administration of the NASPO 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. NASPO ValuePoint is identified in the Master Agreement as the recipient of reports and may perform contract administration functions relating to collecting and receiving reports, as well as other contract administration functions as assigned by the Lead State.

1.8 **Order** or **Purchase Order** means any purchase order, sales order, contract or other document used by a Purchasing Entity to order the Products.

1.9 **Participating Addendum** means a bilateral agreement executed by a Contractor and a Participating Entity incorporating this Master Agreement and any additional Participating Entity-specific language or

other requirements (*e.g.*, ordering procedures specific to the Participating Entity, entity-specific terms and conditions, etc.).

1.10 **Participating Entity** means a state (as well as the District of Columbia and US territories), city, county, district, other political subdivision of a State, or a nonprofit organization under the laws of some states properly authorized to enter into a Participating Addendum, that has executed a Participating Addendum.

1.11 **Participating State** means a state that has executed a Participating Addendum or has indicated an intent to execute a Participating Addendum.

1.12 **Product** or **Products and Services** means any equipment, software (including embedded software), documentation, service, or other deliverable supplied or created by the Contractor pursuant to this Master Agreement. The term Product includes goods and services.

1.13 **Purchasing Entity** means a state (as well as the District of Columbia and US territories), city, county, district, other political subdivision of a State, or a nonprofit organization under the laws of some states if authorized by a Participating Addendum, that issues a Purchase Order against the Master Agreement and becomes financially committed to the purchase.

I. Term of Master Agreement

2.1 **Initial Term.** The initial term of this Master Agreement is for two (2) years. The term of this Master Agreement may be amended beyond the initial term for three (3) additional years at the Lead State's discretion and by mutual agreement and upon review of requirements of Participating Entities, current market conditions, and Contractor performance. The Lead State may, prior to execution, adjust the effective date or duration of the initial term or renewal period of any Master Agreement for the purpose of making the Master Agreement coterminous with others.

2.2 **Amendment Limitations.** The terms of this Master Agreement will not be waived, altered, modified, supplemented, or amended in any manner whatsoever without prior written agreement of the Lead State and Contractor.

2.3 **Amendment Term.** The term of the Master Agreement may be amended past the initial term and stated renewal periods for a reasonable period if in the judgment of the Lead State a follow-on competitive procurement will be unavoidably delayed (despite good faith efforts) beyond the planned date of execution of the follow-on master agreement. This subsection will not be deemed to limit the authority of a Lead State under its state law to otherwise negotiate contract extensions.

II. Order of Precedence

3.1 **Order.** Any Order placed under this Master Agreement will consist of the following documents:

3.1.1 A Participating Entity's Participating Addendum ("PA");

3.1.2 NASPO ValuePoint Master Agreement, including all attachments thereto;

3.1.3 A Purchase Order or Scope of Work/Specifications issued against the Master Agreement;

3.1.4 The Solicitation or, if separately executed after award, the Lead State's bilateral agreement that integrates applicable provisions;

3.1.5 Contractor's response to the Solicitation, as revised (if permitted) and accepted by the Lead State.

3.2 **Conflict.** These documents will be read to be consistent and complementary. Any conflict among these documents will be resolved by giving priority to these documents in the order listed above. Contractor terms and conditions that apply to this Master Agreement are only those that are expressly accepted by the Lead State and must be in writing and attached to this Master Agreement as an Exhibit or Attachment.

3.3 **Participating Addenda.** Participating Addenda will not be construed to diminish, modify, or otherwise derogate any provisions in this Master Agreement between the Lead State and Contractor. Participating Addenda will not include a term of agreement that exceeds the term of the Master Agreement.

III. Participants and Scope

4.1 **Requirement for a Participating Addendum.** Contractor may not deliver Products under this Master Agreement until a Participating Addendum acceptable to the Participating Entity and Contractor is executed.

4.2 **Applicability of Master Agreement.** NASPO ValuePoint Master Agreement Terms and Conditions are applicable to any Order by a Participating Entity (and other Purchasing Entities covered by their Participating Addendum), except to the extent altered, modified, supplemented or amended by a Participating Addendum, subject to Section III. For the purposes of illustration and not limitation, this authority may apply to unique delivery and invoicing requirements, confidentiality requirements, defaults on Orders, governing law and venue relating to Orders by a Participating Entity, indemnification, and insurance requirements. Statutory or constitutional requirements relating

to availability of funds may require specific language in some Participating Addenda in order to comply with applicable law. The expectation is that these alterations, modifications, supplements, or amendments will be addressed in the Participating Addendum or, with the consent of the Purchasing Entity and Contractor, may be included in the ordering document (*e.g.*, purchase order or contract) used by the Purchasing Entity to place the Order.

4.3 **Authorized Use.** Use of specific NASPO ValuePoint Master Agreements by state agencies, political subdivisions and other Participating Entities is subject to applicable state law and the approval of the respective State Chief Procurement Official. Issues of interpretation and eligibility for participation are solely within the authority of the respective State Chief Procurement Official.

4.4 **Obligated Entities.** Obligations under this Master Agreement are limited to those Participating Entities who have signed a Participating Addendum and Purchasing Entities within the scope of those Participating Addenda. States or other entities permitted to participate may use an informal competitive process to determine which Master Agreements to participate in through execution of a Participating Addendum. Participating Entities incur no financial obligations on behalf of other Purchasing Entities.

4.5 **Notice of Participating Addendum.** Contractor shall email a fully executed PDF copy of each Participating Addendum to pa@naspovaluepoint.org to support documentation of participation and posting in appropriate databases.

4.6 **Eligibility for a Participating Addendum.** Eligible entities who are not states may under some circumstances sign their own Participating Addendum, subject to the consent of the Chief Procurement Official of the state where the entity is located. Coordinate requests for such participation through NASPO ValuePoint. Any permission to participate through execution of a Participating Addendum is not a determination that procurement authority exists; the entity must ensure that they have the requisite procurement authority to execute a Participating Addendum.

4.7 **Prohibition on Resale.** Subject to any specific conditions included in the solicitation or Contractor's proposal as accepted by the Lead State, or as explicitly permitted in a Participating Addendum, Purchasing Entities may not resell Products purchased under this Master Agreement. Absent any such condition or explicit permission, this limitation does not prohibit: payments by employees of a Purchasing Entity for Products; sales of Products to the general public as surplus property; and fees associated with inventory transactions with other governmental or nonprofit entities and consistent with a Purchasing Entity's laws and regulations. Any sale or transfer permitted by this subsection must be consistent with license rights granted for use of intellectual property.

4.8 **Individual Customers.** Except as may otherwise be agreed to by the Purchasing Entity and Contractor, each Purchasing Entity shall follow the terms and conditions of the Master Agreement and applicable Participating Addendum and will have the same rights and responsibilities for their purchases as the Lead State has in the Master Agreement and as the Participating Entity has in the Participating Addendum, including but not limited to any indemnity or right to recover

any costs as such right is defined in the Master Agreement and applicable Participating Addendum for their purchases. Each Purchasing Entity will be responsible for its own charges, fees, and liabilities. The Contractor will apply the charges and invoice each Purchasing Entity individually.

4.9 **Release of Information.** Throughout the duration of this Master Agreement, Contractor must secure from the Lead State prior approval for the release of information that pertains to the potential work or activities covered by the Master Agreement. This limitation does not preclude publication about the award of the Master Agreement or marketing activities consistent with any proposed and accepted marketing plan.

4.10 **No Representations.** The Contractor shall not make any representations of NASPO ValuePoint, the Lead State, any Participating Entity, or any Purchasing Entity's opinion or position as to the quality or effectiveness of the services that are the subject of this Master Agreement without prior written consent.

IV. NASPO ValuePoint Provisions

5.1 **Applicability.** NASPO ValuePoint is not a party to the Master Agreement. The terms set forth in Section V are for the benefit of NASPO ValuePoint as a third-party beneficiary of this Master Agreement.

5.2 Administrative Fees

5.2.1 **NASPO ValuePoint Fee.** Contractor shall pay to NASPO ValuePoint, or its assignee, a NASPO ValuePoint Administrative Fee of one-quarter of one percent (0.25% or 0.0025) no later than sixty (60) days following the end of each calendar quarter. The NASPO ValuePoint Administrative Fee must be submitted quarterly and is based on all sales of products and services under the Master Agreement (less any charges for taxes or shipping). The NASPO ValuePoint Administrative Fee is not negotiable. This fee is to be included as part of the pricing submitted with a vendor's response to the Lead State's solicitation.

5.2.2 **State Imposed Fees.** Some states may require an additional fee be paid by Contractor directly to the state on purchases made by Purchasing Entities within that state. For all such requests, the fee rate or amount, payment method, and schedule for such reports and payments will be incorporated into the applicable Participating Addendum. Unless agreed to in writing by the state,

Contractor may not adjust the Master Agreement pricing to include the state fee for purchases made by Purchasing Entities within the jurisdiction of the state. No such agreement will affect the NASPO ValuePoint Administrative Fee percentage or the prices paid by Purchasing Entities outside the jurisdiction of the state requesting the additional fee.

5.3 NASPO ValuePoint Summary and Detailed Usage Reports

5.3.1 **Sales Data Reporting.** In accordance with this section, Contractor shall report to NASPO ValuePoint all Orders under this Master Agreement for which Contractor has invoiced the ordering entity or individual, including Orders invoiced to Participating Entity or Purchasing Entity employees for personal use if such use is permitted by this Master Agreement and the applicable Participating Addendum ("Sales Data"). Contractor is responsible for reporting all sales made under this contract, whether those sales are made by distributors or the manufacturer directly. Timely and complete reporting of Sales Data is a material requirement of this Master Agreement. Reporting requirements, including those related to the format, contents, frequency, or delivery of reports, may be updated by NASPO ValuePoint with reasonable notice to Contractor and without amendment to this Master Agreement. NASPO ValuePoint shall have exclusive ownership ofany media on which reports are submitted and shall have a perpetual, irrevocable, non-exclusive, royalty free, and transferable right to display, modify, copy, and otherwise use reports, data, and information provided under this section.

5.3.2 **Summary Sales Data.** "Summary Sales Data" is Sales Data reported as cumulative totals by state. Contractor shall, using the reporting tool or template provided by NASPO ValuePoint, report Summary Sales Data to NASPO ValuePoint for each calendar quarter no later than thirty (30) days following the end of the quarter. If Contractor has no reportable Sales Data for the quarter, Contractor shall submit a zero-sales report.

5.3.3 **Detailed Sales Data.** "Detailed Sales Data" is Sales Data that includes for each Order all information required by the Solicitation or by NASPO ValuePoint, including customer information, Order information, and line-item details. Contractor shall, using the reporting tool or template provided by NASPO ValuePoint, report Detailed Sales Data to NASPO ValuePoint for

each calendar quarter no later than thirty (30) days following the end of the quarter. Detailed Sales Data shall be reported in the format provided in the Solicitation or provided by NASPO ValuePoint. The total sales volume of reported Detailed Sales Data shall be consistent with the total sales volume of reported Summary Sales Data.

5.3.4 **Sales Data Crosswalks.** Upon request by NASPO ValuePoint, Contractor shall provide to NASPO ValuePoint tables of customer and Product information and specific attributes thereof for the purpose of standardizing and analyzing reported Sales Data ("Crosswalks"). Customer Crosswalks must include a list of existing and potential Purchasing Entities and identify for each the appropriate customer type as defined by NASPO ValuePoint. Product Crosswalks must include Contractor's part number or SKU for each Product in Offeror's catalog and identify for each the appropriate Master Agreement category (and subcategory, if applicable), manufacturer part number, product description, eight-digit UNSPSC Class Level commodity code, and (if applicable) EPEAT value and Energy Star rating. Crosswalk requirements and fields may be updated by NASPO ValuePoint with reasonable notice to Contractor and without amendment to this Master Agreement. Contractor shall work in good faith with NASPO ValuePoint to keep Crosswalks updated as Contractor's customer lists and product catalog change.

5.3.5 **Executive Summary.** Contractor shall, upon request by NASPO ValuePoint, provide NASPO ValuePoint with an executive summary that includes but is not limited to a list of states with an active Participating Addendum, states with which Contractor is in negotiations, and any Participating Addendum roll-out or implementation activities and issues. NASPO ValuePoint and Contractor will determine the format and content of the executive summary.

5.4 NASPO ValuePoint Cooperative Program Marketing, Training, and Performance Review

5.4.1 **Staff Education.** Contractor shall work cooperatively with NASPO ValuePoint personnel. Contractor shall present plans to NASPO ValuePoint for the education of Contractor's contract administrator(s) and sales/marketing workforce regarding the Master Agreement contract, including the competitive nature of NASPO ValuePoint procurements, the master agreement and

participating addendum process, and the manner in which eligible entities can participate in the Master Agreement.

5.4.2 **Onboarding Plan.** Upon request by NASPO ValuePoint, Contractor shall, as Participating Addendums are executed, provide plans to launch the program for the Participating Entity. Plans will include time frames to launch the agreement and confirmation that the Contractor's website has been updated to properly reflect the scope and terms of the Master Agreement as available to the Participating Entity and eligible Purchasing Entities.

5.4.3 **Annual Contract Performance Review.** Contractor shall participate in an annual contract performance review with the Lead State and NASPO ValuePoint, which may at the discretion of the Lead State be held in person and which may include a discussion of marketing action plans, target strategies, marketing materials, Contractor reporting, and timeliness of payment of administration fees.

5.4.4 **Use of NASPO ValuePoint Logo.** The NASPO ValuePoint logos may not be used by Contractor in sales and marketing until a separate logo use agreement is executed with NASPO ValuePoint.

5.4.5 **Most Favored Customer.** Contractor shall, within thirty (30) days of their effective date, notify the Lead State and NASPO ValuePoint of any contractual most-favored-customer provisions in third- party contracts or agreements that may affect the promotion of this Master Agreement or whose terms provide for adjustments to future rates or pricing based on rates, pricing in, or Orders from this Master Agreement. Upon request of the Lead State or NASPO ValuePoint, Contractor shall provide a copy of any such provisions.

5.5 **Cancellation.** In consultation with NASPO ValuePoint, the Lead State may, in its discretion, cancel the Master Agreement or not exercise an option to renew, when utilization of Contractor's Master Agreement does not warrant further administration of the Master Agreement. The Lead State may also exercise its right to not renew the Master Agreement if the Contractor fails to record or report revenue for three consecutive quarters, upon 60-calendar day written notice to the Contractor. Cancellation based on nonuse or under-utilization will not occur sooner than [two years] after execution of the Master Agreement. This subsection does not limit the discretionary right of either the Lead

State or Contractor to cancel the Master Agreement or terminate for default subject to the terms herein. This subsection also does not limit any right of the Lead State to cancel the Master Agreement under applicable laws.

5.6 **Additional Agreement with NASPO.** Upon request by NASPO ValuePoint, awarded Contractor shall enter into a direct contractual relationship with NASPO ValuePoint related to Contractor's obligations to NASPO ValuePoint under the terms of the Master Agreement, the terms of which shall be the same or similar (and not less favorable) than the terms set forth in the Master Agreement.

V. Pricing, Payment & Leasing

6.1 **Pricing.** The prices contained in this Master Agreement or offered under this Master Agreement represent the not-to-exceed price to any Purchasing Entity.

6.1.1 All prices and rates must be guaranteed for the initial term of the Master Agreement.

6.1.2 Following the initial term of the Master Agreement, any request for a price or rate adjustment must be for an equal guarantee period and must be made at least 30 days prior to the effective date.

6.1.3 Requests for a price or rate adjustment must include sufficient documentation supporting the request. Any adjustment or amendment to the Master Agreement will not be effective unless approved in writing by the Lead State.

6.1.4 No retroactive adjustments to prices or rates will be allowed.

6.2 **Payment.** Unless otherwise agreed upon in a Participating Addendum or Order, Payment after Acceptance will be made within thirty (30) days following the date the entire order is delivered or the date a correct invoice is received, whichever is later. After 45 days the Contractor may assess overdue account charges up to a maximum rate of one percent per month on the outstanding balance, unless a different late payment amount is specified in a Participating Addendum or Order, or otherwise prescribed by applicable law. Payments will be remitted in the manner specified in the Participating Addendum or Order. Payments may be made via a purchasing card with no additional charge.

6.3 **Leasing or Alternative Financing Methods**. The procurement and other applicable laws of some Purchasing Entities may permit the use of leasing or alternative financing methods for the acquisition of

Products under this Master Agreement. Where the terms and conditions are not otherwise prescribed in an applicable Participating Addendum, the terms and conditions for leasing or alternative financing methods are subject to negotiation between the Contractor and Purchasing Entity.

VI. Ordering

7.1 **Order Numbers.** Master Agreement order and purchase order numbers must be clearly shown on all acknowledgments, packing slips, invoices, and on all correspondence.

7.2 **Quotes.** Purchasing Entities may define entity-specific or project-specific requirements and informally compete the requirement among companies having a Master Agreement on an "as needed" basis. This procedure may also be used when requirements are aggregated or other firm commitments may be made to achieve reductions in pricing. This procedure may be modified in Participating Addenda and adapted to the Purchasing Entity's rules and policies. The Purchasing Entity may in its sole discretion determine which Master Agreement Contractors should be solicited for a quote. The Purchasing Entity may select the quote that it considers most advantageous, cost, and other factors considered.

7.3 **Applicable Rules.** Each Purchasing Entity will identify and utilize its own appropriate purchasing procedure and documentation. Contractor is expected to become familiar with the Purchasing Entities' rules, policies, and procedures regarding the ordering of supplies and/or services contemplated by this Master Agreement.

7.4 **Required Documentation.** Contractor shall not begin work without a valid Purchase Order or other appropriate commitment document under the law of the Purchasing Entity.

7.5 **Term of Purchase.** Orders may be placed consistent with the terms of this Master Agreement and applicable Participating Addendum during the term of the Master Agreement and Participating Addendum.

7.5.1 Orders must be placed pursuant to this Master Agreement prior to the termination date thereof, but may have a delivery date or performance period up to 120 days past the then-current termination date of this Master Agreement.

7.5.2 Notwithstanding the previous, Orders must also comply with the terms of the applicable Participating Addendum, which may further restrict the period during which Orders may be placed or delivered.

7.5.3 Financial obligations of Purchasing Entities payable after the current applicable fiscal year are contingent upon agency funds for that purpose being appropriated, budgeted, and otherwise made available.

7.5.4 Notwithstanding the expiration, cancellation or termination of this Master Agreement, Contractor shall perform in accordance with the terms of any Orders then outstanding at the time of such expiration or termination. Contractor shall not honor any Orders placed after the expiration, cancellation, or termination of this Master Agreement, or in any manner inconsistent with this Master Agreement's terms.

7.5.5 Orders for any separate indefinite quantity, task order, or other form of indefinite delivery order arrangement priced against this Master Agreement may not be placed after the expiration or termination of this Master Agreement, notwithstanding the term of any such indefinite delivery order agreement.

7.6 **Order Form Requirements.** All Orders pursuant to this Master Agreement, at a minimum, must include:

7.6.1 The services or supplies being delivered;

7.6.2 A shipping address and other delivery requirements, if any;

7.6.3 A billing address;

7.6.4 Purchasing Entity contact information;

7.6.5 Pricing consistent with this Master Agreement and applicable Participating Addendum and as may be adjusted by agreement of the Purchasing Entity and Contractor;

7.6.6 A not-to-exceed total for the products or services being ordered; and

7.6.7 The Master Agreement number or the applicable Participating Addendum number, provided the Participating Addendum references the Master Agreement number.

7.7 **Communication.** All communications concerning administration of Orders placed must be furnished solely to the authorized purchasing agent within the Purchasing Entity's purchasing office, or to such other individual identified in writing in the Order.

7.8 **Contract Provisions for Orders Utilizing Federal Funds**. Pursuant to Appendix II to Title 2 Code of Federal Regulations (CFR) Part 200, Contract Provisions for Non-Federal Entity Contracts Under Federal

Awards, Orders funded with federal funds may have additional contractual requirements or certifications that must be satisfied at the time the Order is placed or upon delivery. These federal requirements may be proposed by Participating Entities in Participating Addenda and Purchasing Entities for incorporation in Orders placed under this Master Agreement.

VII. Shipping and Delivery

8.1 **Shipping Terms.** All deliveries will be F.O.B. destination, freight pre-paid, with all transportation and handling charges paid by the Contractor.

8.1.1 Notwithstanding the above, responsibility and liability for loss or damage will remain the Contractor's until final inspection and acceptance when responsibility will pass to the Purchasing Entity except as to latent defects, fraud, and Contractor's warranty obligations.

8.2 **Minimum Shipping.** The minimum shipment amount, if any, must be contained in the Master Agreement. Any order for less than the specified amount is to be shipped with the freight prepaid and added as a separate item on the invoice. Any portion of an Order to be shipped without transportation charges that is back ordered will be shipped without charge.

8.3 **Inside Deliveries.** To the extent applicable, all deliveries will be "Inside Deliveries" as designated by a representative of the Purchasing Entity placing the Order. Inside Delivery refers to a delivery to a location other than a loading dock, front lobby, or reception area. Specific delivery instructions will be noted on the order form or Purchase Order. Costs to repair any damage to the building interior (*e.g.*, scratched walls, damage to the freight elevator, etc.) caused by Contractor or Contractor's carrier will be the responsibility of the Contractor. Immediately upon becoming aware of such damage, Contractor shall notify the Purchasing Entity placing the Order.

8.4 **Packaging.** All products must be delivered in the manufacturer's standard package. Costs must include all packing and/or crating charges. Cases must be of durable construction, in good condition, properly labeled and suitable in every respect for storage and handling of contents. Each shipping carton must be marked with the commodity, brand, quantity, item code number and the Purchasing Entity's Purchase Order number.

IX. Inspection and Acceptance

9.1 **Laws and Regulations.** Any and all Products offered and furnished must comply fully with all applicable Federal, State, and local laws and regulations.

9.2 **Applicability.** Unless otherwise specified in the Master Agreement, Participating Addendum, or ordering document, the terms of this Section IX will apply. This section is not intended to limit rights and remedies under the applicable commercial code.

9.3 **Inspection.** All Products are subject to inspection at reasonable times and places before Acceptance. Contractor shall provide right of access to the Lead State, or to any other authorized agent or official of the Lead State or other Participating or Purchasing Entity, at reasonable times, to monitor and evaluate performance, compliance, and/or quality assurance requirements under this Master Agreement.

9.3.1 Products that do not meet specifications may be rejected. Failure to reject upon receipt, however, does not relieve the contractor of liability for material (nonconformity that substantial impairs value) latent or hidden defects subsequently revealed when goods are put to use.

9.3.2 Acceptance of such goods may be revoked in accordance with the provisions of the applicable commercial code, and the Contractor is liable for any resulting expense incurred by the Purchasing Entity related to the preparation and shipping of Product rejected and returned, or for which Acceptance is revoked.

9.4 **Failure to Conform.** If any services do not conform to contract requirements, the Purchasing Entity may require the Contractor to perform the services again in conformity with contract requirements, at no increase in Order amount. When defects cannot be corrected by re-performance, the Purchasing Entity may require the Contractor to take necessary action to ensure that future performance conforms to contract requirements and reduce the contract price to reflect the reduced value of services performed.

9.5 **Acceptance Testing.** Purchasing Entity may establish a process, in keeping with industry standards, to ascertain whether the Product meets the standard of performance or specifications prior to Acceptance by the Purchasing Entity.

9.5.1 The Acceptance Testing period will be thirty (30) calendar days, unless otherwise specified, starting from the day after the

Product is delivered or, if installed by Contractor, the day after the Product is installed and Contractor certifies that the Product is ready for Acceptance Testing.

9.5.2 If the Product does not meet the standard of performance or specifications during the initial period of Acceptance Testing, Purchasing Entity may, at its discretion, continue Acceptance Testing on a day-to-day basis until the standard of performance is met.

9.5.3 Upon rejection, the Contractor will have fifteen (15) calendar days to cure. If after the cure period, the Product still has not met the standard of performance or specifications, the Purchasing Entity may, at its option: (a) declare Contractor to be in breach and terminate the Order; (b) demand replacement Product from Contractor at no additional cost to Purchasing Entity; or, (c) continue the cure period for an additional time period agreed upon by the Purchasing Entity and the Contractor.

9.5.4 Contractor shall pay all costs related to the preparation and shipping of Product returned pursuant to the section.

9.5.5 No Product will be deemed Accepted and no charges will be paid until the standard of performance or specification is met.

X. Warranty

10.1 **Applicability.** Unless otherwise specified in the Master Agreement, Participating Addendum, or ordering document, the terms of this Section X will apply.

10.2 **Warranty.** The Contractor warrants for a period of one year from the date of Acceptance that: (a) the Product performs according to all specific claims that the Contractor made in its response to the solicitation, (b) the Product is suitable for the ordinary purposes for which such Product is used, (c) the Product is suitable for any special purposes identified in the solicitation or for which the Purchasing Entity has relied on the Contractor's skill or judgment, (d) the Product is designed and manufactured in a commercially reasonable manner, and (e) the Product is free of defects.

10.3 **Breach of Warranty.** Upon breach of the warranty set forth above, the Contractor will repair or replace (at no charge to the Purchasing Entity) the Product whose nonconformance is discovered and made known to the Contractor. If the repaired and/or replaced Product proves to be inadequate, or fails of its essential purpose, the Contractor

will refund the full amount of any payments that have been made.

10.4 **Rights Reserved.** The rights and remedies of the parties under this warranty are in addition to any other rights and remedies of the parties provided by law or equity, including, without limitation, actual damages, and, as applicable and awarded under the law, to a prevailing party, reasonable attorneys' fees and costs.

10.5 **Warranty Period Start Date.** The warranty period will begin upon Acceptance, as set forth in Section IX.

XI. Product Title

11.1 **Conveyance of Title.** Upon Acceptance by the Purchasing Entity, Contractor shall convey to Purchasing Entity title to the Product free and clear of all liens, encumbrances, or other security interests.

11.2 **Embedded Software.** Transfer of title to the Product must include an irrevocable and perpetual license to use any Embedded Software in the Product. If Purchasing Entity subsequently transfers title of the Product to another entity, Purchasing Entity shall have the right to transfer the license to use the Embedded Software with the transfer of Product title. A subsequent transfer of this software license will be at no additional cost or charge to either Purchasing Entity or Purchasing Entity's transferee.

11.3 **License of Pre-Existing Intellectual Property.** Contractor grants to the Purchasing Entity a nonexclusive, perpetual, royalty-free, irrevocable, license to use, publish, translate, reproduce, transfer with any sale of tangible media or Product, perform, display, and dispose of the Intellectual Property, and its derivatives, used or delivered under this Master Agreement, but not created under it ("Pre-existing Intellectual Property"). The Contractor shall be responsible for ensuring that this license is consistent with any third-party rights in the Pre-existing Intellectual Property.

XII. Indemnification

12.1 **General Indemnification.** The Contractor shall defend, indemnify and hold harmless NASPO, NASPO ValuePoint, the Lead State, Participating Entities, and Purchasing Entities, along with their officers and employees, from and against third-party claims, damages or causes of action including reasonable attorneys' fees and related costs for any death, injury, or damage to tangible property arising from any act, error, or omission of the Contractor, its employees or subcontractors or volunteers, at any tier, relating to performance under this Master Agreement.

12.2 **Intellectual Property Indemnification.** The Contractor shall defend, indemnify and hold harmless NASPO, NASPO ValuePoint, the Lead State, Participating Entities, Purchasing Entities, along with their officers and employees ("Indemnified Party"), from and against claims, damages or causes of action including reasonable attorneys' fees and related costs arising out of the claim that the Product or its use infringes Intellectual Property rights of another person or entity ("Intellectual Property Claim").

12.2.1 The Contractor's obligations under this section will not extend to any combination of the Product with any other product, system or method, unless the Product, system or method is:

12.2.1.1 provided by the Contractor or the Contractor's subsidiaries or affiliates;

12.2.1.2 specified by the Contractor to work with the Product;

12.2.1.3 reasonably required to use the Product in its intended manner, and the infringement could not have been avoided by substituting another reasonably available product, system or method capable of performing the same function; or

12.2.1.4 reasonably expected to be used in combination with the Product.

12.2.2 The Indemnified Party shall notify the Contractor within a reasonable time after receiving notice of an Intellectual Property Claim. Even if the Indemnified Party fails to provide reasonable notice, the Contractor shall not be relieved from its obligations unless the Contractor can demonstrate that it was prejudiced in defending the Intellectual Property Claim resulting in increased expenses or loss to the Contractor. If the Contractor promptly

and reasonably investigates and defends any Intellectual Property Claim, it shall have control over the defense and settlement of the Intellectual Property Claim. However, the Indemnified Party must consent in writing for any money damages or obligations for which it may be responsible.

12.2.3 The Indemnified Party shall furnish, at the Contractor's reasonable request and expense, information and assistance necessary for such defense. If the Contractor fails to vigorously pursue the defense or settlement of the

Intellectual Property Claim, the Indemnified Party may assume the defense or settlement of the Intellectual Property Claim and the Contractor shall be liable for all costs and expenses, including reasonable attorneys' fees and related costs, incurred by the Indemnified Party in the pursuit of the Intellectual Property Claim.

12.2.4 Unless otherwise set forth herein, Section 12.2 is not subject to any limitations of liability in this Master Agreement or in any other document executed in conjunction with this Master Agreement.

XIII. Insurance

13.1 **Term.** Contractor shall, during the term of this Master Agreement, maintain in full force and effect, the insurance described in this section. A Participating Entity may negotiate alternative Insurance requirements in their Participating Addendum.

13.2 **Class.** Contractor shall acquire such insurance from an insurance carrier or carriers licensed to conduct business in each Participating Entity's state and having a rating of A-, Class VII or better, in the most recently published edition of A.M. Best's Insurance Reports. Failure to buy and maintain the required insurance may result in this Master Agreement's termination or, at a Participating Entity's option, result in termination of its Participating Addendum.

13.3 **Coverage.** Coverage must be written on an occurrence basis. The minimum acceptable limits will be as indicated below:

13.3.1 Contractor shall maintain Commercial General Liability insurance covering premises operations, independent contractors, products and completed operations, blanket contractual liability, personal injury (including death), advertising liability, and property damage, with a limit of not less than $1 million per occurrence and $2 million general aggregate;

13.3.2 Contractor must comply with any applicable State Workers Compensation or Employers Liability Insurance requirements.

13.4 **Notice of Cancellation.** Contractor shall pay premiums on all insurance policies. Contractor shall provide notice to a Participating Entity who is a state within five (5) business days after Contractor is first aware of expiration, cancellation or nonrenewal of such policy or is first aware that cancellation is threatened or expiration, nonrenewal or expiration

otherwise may occur.

13.5 **Notice of Endorsement.** Prior to commencement of performance, Contractor shall provide to the Lead State a written endorsement to the Contractor's general liability insurance policy or other documentary evidence acceptable to the Lead State that (1) provides that written notice of cancellation will be delivered in accordance with the policy provisions, and (2) provides that the Contractor's liability insurance policy will be primary, with any liability insurance of any Participating State as secondary and noncontributory.

13.6 **Participating Entities.** Contractor shall provide to Participating States and Participating Entities the same insurance obligations and documentation as those specified in Section XIII, except the endorsement is provided to the applicable Participating State or Participating Entity.

13.7 **Furnishing of Certificates.** Contractor shall furnish to the Lead State copies of certificates of all required insurance in a form sufficient to show required coverage within thirty (30) calendar days of the execution of this Master Agreement and prior to performing any work. Copies of renewal certificates of all required insurance will be furnished within thirty (30) days after any renewal date to the applicable state Participating Entity. Failure to provide evidence of coverage may, at the sole option of the Lead State, or any Participating Entity, result in this Master Agreement's termination or the termination of any Participating Addendum.

13.8 **Disclaimer.** Insurance coverage and limits will not limit Contractor's liability and obligations under this Master Agreement, any Participating Addendum, or any Purchase Order.

XIV. General Provisions

14.1 Records Administration and Audit

14.2 The Contractor shall maintain books, records, documents, and other evidence pertaining to this Master Agreement and Orders placed by Purchasing Entities under it to the extent and in such detail as will adequately reflect performance and administration of payments and fees. Contractor shall permit the Lead State, a Participating Entity, a Purchasing Entity, the federal government (including its grant awarding entities and the U.S. Comptroller General), and any other duly authorized agent of a governmental agency, to audit, inspect, examine, copy and/or transcribe Contractor's books, documents, papers and records directly pertinent to this Master Agreement or orders placed by a Purchasing Entity under it for the purpose of making audits, examinations, excerpts, and transcriptions. This

right will survive for a period of six (6) years following termination of this Agreement or final payment for any order placed by a Purchasing Entity against this Master Agreement, whichever is later, or such longer period as is required by the Purchasing Entity's state statutes, to assure compliance with the terms hereof or to evaluate performance hereunder.

14.2.1 Without limiting any other remedy available to any governmental entity, the Contractor shall reimburse the applicable Lead State, Participating Entity, or Purchasing Entity for any overpayments inconsistent with the terms of the Master Agreement or Orders or underpayment of fees found as a result of the examination of the Contractor's records.

14.2.2 The rights and obligations herein exist in addition to any quality assurance obligation in the Master Agreement that requires the Contractor to self-audit contract obligations and that permits the Lead State to review compliance with those obligations.

14.3 Confidentiality, Non-Disclosure, and Injunctive Relief

14.3.1 **Confidentiality.** Contractor acknowledges that it and its employees or agents may, in the course of providing a Product under this Master Agreement, be exposed to or acquire information that is confidential to Purchasing Entity or Purchasing Entity's clients.

14.3.1.1 Any and all information of any form that is marked as confidential or would by its nature be deemed confidential obtained by Contractor or its employees or agents in the performance of this Master Agreement, including but not necessarily limited to (1) any Purchasing Entity's records, (2) personnel records, and (3) information concerning individuals, is confidential information of Purchasing Entity ("Confidential Information").

14.3.1.2 Any reports or other documents or items (including software) that result from the use of the Confidential Information by Contractor shall be treated in the same manner as the Confidential Information.

14.3.1.3 Confidential Information does not include information that (1) is or becomes (other than by

disclosure by Contractor) publicly known; (2) is furnished by Purchasing Entity to others without restrictions similar to those imposed by this Master Agreement; (3) is rightfully in Contractor's possession without the obligation of nondisclosure prior to the time of its disclosure under this Master Agreement; (4) is obtained from a source other than Purchasing Entity without the obligation of confidentiality, (5) is disclosed with the written consent of Purchasing Entity; or (6) is independently developed by employees, agents or subcontractors of Contractor who can be shown to have had no access to the Confidential Information.

14.3.2 **Non-Disclosure.** Contractor shall hold Confidential Information in confidence, using at least the industry standard of confidentiality, and shall not copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give, or disclose Confidential Information to third parties or use Confidential Information for any purposes whatsoever other than what is necessary to the performance of Orders placed under this Master Agreement.

14.3.2.1 Contractor shall advise each of its employees and agents of their obligations to keep Confidential Information confidential. Contractor shall use commercially reasonable efforts to assist Purchasing Entity in identifying and preventing any unauthorized use or disclosure of any Confidential Information.

14.3.2.2 Without limiting the generality of the foregoing, Contractor shall advise Purchasing Entity, applicable Participating Entity, and the Lead State immediately if Contractor learns or has reason to believe that any person who has had access to Confidential Information has violated or intends to violate the terms of this Master Agreement, and Contractor shall at its expense cooperate with Purchasing Entity in seeking injunctive or other equitable relief in the name of Purchasing Entity or

Contractor against any such person.

14.3.2.3 Except as directed by Purchasing Entity, Contractor will not at any time during or after the term of this Master Agreement disclose, directly or indirectly, any Confidential Information to any person, except in accordance with this Master Agreement, and that upon termination of this Master Agreement or at Purchasing Entity's request, Contractor shall turn over to Purchasing Entity all documents, papers, and other matter in Contractor's possession that embody Confidential Information.

14.3.2.4 Notwithstanding the foregoing, Contractor may keep one copy of such Confidential Information necessary for quality assurance, audits, and evidence of the performance of this Master Agreement.

14.3.3 **Injunctive Relief.** Contractor acknowledges that Contractor's breach of Section 14.2 would cause irreparable injury to the Purchasing Entity that cannot be inadequately compensated in monetary damages. Accordingly, Purchasing Entity may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal remedies that may be available. Contractor acknowledges and agrees that the covenants contained herein are necessary for the protection of the legitimate business interests of Purchasing Entity and are reasonable in scope and content.

14.3.4 **Purchasing Entity Law.** These provisions will be applicable only to extent they are not in conflict with the applicable public disclosure laws of any Purchasing Entity.

14.3.5 **NASPO ValuePoint.** The rights granted to Purchasing Entities and Contractor's obligations under this section will also extend to NASPO ValuePoint's Confidential Information, including but not limited to Participating Addenda, Orders or transaction data relating to Orders under this Master Agreement that identify the entity/customer, Order dates, line-item descriptions and volumes, and prices/rates. This provision does not apply to disclosure to

the Lead State, a Participating State, or any governmental entity exercising an audit, inspection, or examination pursuant to this Master Agreement. To the extent permitted by law, Contractor shall notify the Lead State of the identity of any entity seeking access to the Confidential Information described in this subsection.

14.3.6 **Public Information.** This Master Agreement and all related documents are subject to disclosure pursuant to the Lead State's public information laws.

14.4 Assignment/Subcontracts

14.4.1 Contractor shall not assign, sell, transfer, subcontract or sublet rights, or delegate responsibilities under this Master Agreement, in whole or in part, without the prior written approval of the Lead State.

14.4.2 The Lead State reserves the right to assign any rights or duties, including written assignment of contract administration duties, to NASPO ValuePoint and other third parties.

14.5 **Changes in Contractor Representation.** The Contractor must, within ten (10) calendar days, notify the Lead State in writing of any changes in the Contractor's key administrative personnel managing the Master Agreement. The Lead State reserves the right to approve or reject changes in key personnel, as identified in the Contractor's proposal. The Contractor shall propose replacement key personnel having substantially equal or better education, training, and experience as was possessed by the key person proposed and evaluated in the Contractor's proposal.

14.6 **Independent Contractor.** Contractor is an independent contractor. Contractor has no authorization, express or implied, to bind the Lead State, Participating States, other Participating Entities, or Purchasing Entities to any agreements, settlements, liability or understanding whatsoever, and shall not to hold itself out as agent except as expressly set forth herein or as expressly set forth in an applicable Participating Addendum or Order.

14.7 **Cancellation.** Unless otherwise set forth herein, this Master Agreement may be canceled by either party upon sixty (60) days' written notice prior to the effective date of the cancellation. Further, any Participating Entity may cancel its participation upon thirty (30) days' written notice, unless otherwise limited or stated in the Participating Addendum. Cancellation

may be in whole or in part. Any cancellation under this provision will not affect the rights and obligations attending Orders outstanding at the time of cancellation, including any right of a Purchasing Entity to indemnification by the Contractor, rights of payment for Products delivered and accepted, rights attending any warranty or default in performance in association with any Order, and requirements for records administration and audit. Cancellation of the Master Agreement due to Contractor default may be immediate.

14.8 **Force Majeure.** Neither party to this Master Agreement shall be held responsible for delay or default caused by fire, riot, unusually severe weather, other acts of God, or acts of war which are beyond that party's reasonable control. The Lead State may terminate this Master Agreement upon determining such delay or default will reasonably prevent successful performance of the Master Agreement.

14.9 Defaults and Remedies

14.9.1 The occurrence of any of the following events will be an event of default under this Master Agreement:

14.9.1.1 Nonperformance of contractual requirements;

14.9.1.2 A material breach of any term or condition of this Master Agreement;

14.9.1.3 Any certification, representation or warranty by Contractor in response to the solicitation or in this Master Agreement that proves to be untrue or materially misleading;

14.9.1.4 Institution of proceedings under any bankruptcy, insolvency, reorganization or similar law, by or against Contractor, or the appointment of a receiver or similar officer for Contractor or any of its property, which is not vacated or fully stayed within thirty (30) calendar days after the institution or occurrence thereof; or

14.9.1.5 Any default specified in another section of this Master Agreement.

14.9.2 Upon the occurrence of an event of default, the Lead State shall issue a written notice of default, identifying the nature of the default, and providing a period of fifteen (15) calendar days in which Contractor shall have an opportunity to cure the default. The Lead State shall not be required to

provide advance written notice or a cure period and may immediately terminate this Master Agreement in whole or in part if the Lead State, in its sole discretion, determines that it is reasonably necessary to preserve public safety or prevent immediate public crisis. Time allowed for cure will not diminish or eliminate Contractor's liability for damages, including liquidated damages to the extent provided for under this Master Agreement.

14.9.3 If Contractor is afforded an opportunity to cure and fails to cure the default within the period specified in the written notice of default, Contractor shall be in breach of its obligations under this Master Agreement and the Lead State shall have the right to exercise any or all of the following remedies:

14.9.3.1 Any remedy provided by law;

14.9.3.2 Termination of this Master Agreement and any related Contracts or portions thereof;

14.9.3.3 Assessment of liquidated damages as provided in this Master Agreement;

14.9.3.4 Suspension of Contractor from being able to respond to future bid solicitations;

14.9.3.5 Suspension of Contractor's performance; and

14.9.3.6 Withholding of payment until the default is remedied.

14.9.4 Unless otherwise specified in the Participating Addendum, in the event of a default under a Participating Addendum, a Participating Entity shall provide a written notice of default as described in this section and shall have all of the rights and remedies under this paragraph regarding its participation in the Master Agreement, in addition to those set forth in its Participating Addendum. Unless otherwise specified in an Order, a Purchasing Entity shall provide written notice of default as described in this section and have all of the rights and remedies under this paragraph and any applicable Participating Addendum with respect to an Order placed by the Purchasing Entity. Nothing in these Master Agreement Terms and Conditions will be construed to limit the rights and remedies available to a Purchasing Entity under the applicable commercial code.

14.10 **Waiver of Breach.** Failure of the Lead State, Participating Entity, or

Purchasing Entity to declare a default or enforce any rights and remedies will not operate as a waiver under this Master Agreement, any Participating Addendum, or any Purchase Order. Any waiver by the Lead State, Participating Entity, or Purchasing Entity must be in writing. Waiver by the Lead State or Participating Entity of any default, right or remedy under this Master Agreement or Participating Addendum, or by Purchasing Entity with respect to any Purchase Order, or breach of any terms or requirements of this Master Agreement, a Participating Addendum, or Purchase Order will not be construed or operate as a waiver of any subsequent default or breach of such term or requirement, or of any other term or requirement under this Master Agreement, any Participating Addendum, or any Purchase Order.

14.11 **Debarment.** The Contractor certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in public procurement or contracting by any governmental department or agency. This certification represents a recurring certification made at the time any Order is placed under this Master Agreement. If the Contractor cannot certify this statement, attach a written explanation for review by the Lead State.

14.12 No Waiver of Sovereign Immunity

14.12.1 In no event will this Master Agreement, any Participating Addendum or any contract or any Purchase Order issued thereunder, or any act of the Lead State, a Participating Entity, or a Purchasing Entity be a waiver of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the Constitution of the United States or otherwise, from any claim or from the jurisdiction of any court.

14.12.2 This section applies to a claim brought against the Participating Entities who are states only to the extent Congress has appropriately abrogated the state's sovereign immunity and is not consent by the state to be sued in federal court. This section is also not a waiver by the state of any form of immunity, including but not limited to sovereign immunity and immunity based on the Eleventh Amendment to the Constitution of the United States.

14.13 Governing Law and Venue

14.13.1 The procurement, evaluation, and award of the Master

Agreement will be governed by and construed in accordance with the laws of the Lead State sponsoring and administering the procurement. The construction and effect of the Master Agreement after award will be governed by the law of the state serving as Lead State. The construction and effect of any Participating Addendum or Order against the Master Agreement will be governed by and construed in accordance with the laws of the Participating Entity's or Purchasing Entity's state.

14.13.2 Unless otherwise specified in the RFP, the venue for any protest, claim, dispute or action relating to the procurement, evaluation, and award is in the state serving as Lead State. Venue for any claim, dispute or action concerning the terms of the Master Agreement will be in the state serving as Lead State. Venue for any claim, dispute, or action concerning any Order placed against the Master Agreement or the effect of a Participating Addendum will be in the Purchasing Entity's state.

14.13.3 If a claim is brought in a federal forum, then it must be brought and adjudicated solely and exclusively within the United States District Court for (in decreasing order of priority): the Lead State for claims relating to the procurement, evaluation, award, or contract performance or administration if the Lead State is a party; a Participating State if a named party; the state where the Participating Entity or Purchasing Entity is located if either is a named party.

14.14 **Assignment of Antitrust Rights.** Contractor irrevocably assigns to a Participating Entity who is a state any claim for relief or cause of action which the Contractor now has or which may accrue to the Contractor in the future by reason of any violation of state or federal antitrust laws (15 U.S.C. § 1-15 or a Participating Entity's state antitrust provisions), as now in effect and as may be amended from time to time, in connection with any goods or services provided in that state for the purpose of carrying out the Contractor's obligations under this Master Agreement or Participating Addendum, including, at the Participating Entity's option, the right to control any such litigation on such claim for relief or cause of action.

15 **Survivability**. Unless otherwise explicitly set forth in a Participating Addendum or Order, the terms of this Master Agreement as they apply to the Contractor, Participating Entities, and Purchasing Entities, including but not limited to pricing and the reporting of sales and

payment of administrative fees to NASPO ValuePoint, shall survive expiration of this Master Agreement and shall continue to apply to all Participating Addenda and Orders until the expiration thereof.

Procurement Master Contract

EXHIBIT B: SCOPE OF WORK

I. Master Agreement Objectives:

A. The objective of this Contract is to maintain a full catalog offering and best value pricing for both semi and fully automated AED Units and associated accessories.

B. Master Agreement awards will only be made to manufacturers. Manufacturers should include, as a part of their response, information of approved distributors through which Participating Entities can purchase products offered in the Master Agreement. All approved distributors must be identified using the provided form in Attachment L, Approved Distributor List and maintained with the Lead State throughout the life of the contract.

II. Master Agreement Deliverables:

A. AED Units that are approved by the FDA:

Category I: Fully Automated

Category II: Semi-automated

B. AED Accessories

A list of the most used consumables and accessories have been identified below:

i. Batteries

ii. Adult Pads (electrodes)

iii. Pediatric Pads (electrodes)

iv. Carrying Cases

v. Wall Mount Kits

vi. Fast Response Kits

C. Value-Add products and services.

III. Contractor Responsibilities

A. Contractor Point of Contact for National Cooperative.

All Contractors must identify a single point of contact, along with a direct phone line and email address they can be reached. This single point of contact shall be the primary contact for both the Lead State and any Participating Entities wishing to sign a Participating Addendum or regarding the resulting Master Agreement.

B. Ordering/Invoicing

1. There is no guaranteed minimum or maximum amount for orders. Each Purchasing Entity can order products as needed.

2. The Contractor(s) must be capable of:

   a. Accepting verbal orders via telephone with use of State(s) purchasing card (P-card);

   b. Accepting P-card and Purchase Orders online;

   c. Providing the Purchasing Entity using a Purchase Order with a printable order confirmation after the order is placed, and a printable itemized invoice and receipt.

   d. Accepting payments by check, electronic fund transfer, or with State(s) P- card. The contractor will be solely responsible for the credit card user- handling fee associated with credit card purchases.

3. Ordering instructions for entities must be described, outlined, and returned with the RFP response.

C. Delivery

1. All deliveries will be F.O.B. Destination (including Alaska, Hawaii, and all U.S. Territories), freight pre-paid, with all transportation and handling charges paid by the Contractor. Responsibility and liability for loss or damage shall remain the Contractor's until final inspection and acceptance when responsibility will pass to the Purchasing Entity except as to latent defects, fraud, and Contractor's warranty obligations. Any portion of an Order to be shipped without transportation charges and that is back ordered will be shipped without charge.

2. All deliveries will be "Inside Deliveries" as designated by a representative of the Purchasing Entity placing the Order, unless explicitly specified otherwise. Inside Delivery refers to a delivery to a location other than a loading dock, front lobby, or reception area, such as directly to point of use or designated location. Specific delivery instructions will be noted on the order form or Purchase Order. Any damage to the building interior, scratched walls, damage to the freight elevator, etc., will be the responsibility of the Contractor. If damage does occur, it is the responsibility of the Contractor to immediately notify the Purchasing Entity placing the Order.

3. All products must be delivered in the manufacturer's standard package. Costs shall include all packing and/or crating charges. Cases shall be of durable construction, good condition, properly labeled and suitable in every respect for storage and handling of contents. Each shipping carton shall be marked with the commodity, brand, quantity, item code number and the Purchasing Entity's Purchase Order number.

4 Products returned because of quality problems, duplicated shipments, etc. will be sent back to the Contractor within 30 calendar days at the Contractor's expense, with no restocking charge and shall be replaced with specified products or the Purchasing Entity will be credited or refunded for the full purchase price.

D. Inspection and Acceptance

All Products are subject to inspection at reasonable times and places before Acceptance. Contractor shall provide right of access to the Lead State, or to any other authorized agent

or official of the Lead State or other Participating or Purchasing Entity, at reasonable times, to monitor and evaluate performance, compliance, and/or quality assurance requirements under the Master Agreement resulting from this RFP. Products that do not meet specifications may be rejected. Failure to reject upon receipt, however, does not relieve the contractor of liability for material, latent, or hidden defects subsequently revealed when goods are used. A material defect includes a nonconformity that substantially impairs value.

Acceptance of such goods may be revoked in accordance with the provisions of the applicable commercial code, and the Contractor is liable for any resulting expense incurred by the Purchasing Entity related to the preparation and shipping of Product rejected and returned, or for which Acceptance is revoked.

Acceptance Testing is the process for ascertaining that the Product meets the standard of performance prior to Acceptance by the Purchasing Entity. If Acceptance Testing is prescribed, this subsection applies to applicable Products purchased under this Master Agreement, including any additional, replacement, or substitute Product(s) and any Product(s) which are modified by or with the written approval of Contractor after Acceptance by the Purchasing Entity. The

Acceptance Testing period shall be thirty (30) calendar days, unless another time is identified in the Master Agreement or the Participating Addendum, starting from the day after the Product is delivered or, if installed, the day after the Product is installed and Contractor certifies that the Product is ready for Acceptance Testing. If the Product does not meet the standard of performance during the initial period of Acceptance Testing, Purchasing Entity may, at its discretion, continue Acceptance Testing on a day-to-day basis until the standard of performance is met. Upon rejection, the Contractor will have fifteen (15) calendar days to cure the standard of performance issue(s). If after the cure period, the Product still has not met the standard of performance, the Purchasing Entity may, at its option: (a) declare Contractor to be in breach and terminate the Order; (b) demand replacement Product from Contractor at no additional cost to Purchasing Entity; or, (c) continue the cure period for an additional time period agreed upon by the Purchasing Entity and the Contractor. Contractor shall pay all costs related to the preparation and shipping of Product returned pursuant to the section. No Product shall be deemed Accepted and no charges shall be paid until the standard of performance is met. The warranty period shall begin upon Acceptance.

E. Product Warranty

Contractor shall include a basic warranty for all AED Units purchased that lasts for a duration of no less than one year from time of Acceptance at no additional cost to Purchasing Entities. Warranties must guarantee the safe and effective operation of devices for the duration of the warranty. The cost for repair or replacement of devices under warranty must be covered by the Contractor. In the event that an AED Unit must be repaired or replaced, the Contractor shall provide the Purchasing Entity with a loaner unit and ensure there is no gap in coverage for that location.

F. Guarantee of Equipment

Contractors shall guarantee that the equipment offered is standard new equipment and that no attachment or part has been substituted or applied contrary to the Contractor's recommendations and standard practice. Products furnished under the terms of the Master Agreement will be guaranteed against any defect due to faulty material and/or workmanship. Products must meet all federal, state, and local standards for quality and safety requirements and must be FDA approved. All equipment delivered must be first quality manufactured workmanship and finish. Contractor shall immediately notify all Participating Entities of AED recalls and provide product replacements. No remanufactured or refurbished equipment may be provided under a Master Agreement resulting from this RFP.

G. Software Updates

Contractor must provide and facilitate updates required for each AED unit to maintain full functionality over the unit's anticipated life and the methodology for performing or accessing the updates.

H. Customer Service

24/7 Call Support: Technical support via Telephone, for all items offered must always be available and must be provided for a period of no less than 3 years after purchase and acceptance.

I. Product Training

Product Documentation: All product documentation, manuals, and specifications must be provided at no additional cost.

Web/Video Training: Contractor must provide online or multimedia training at no additional cost.

IV. Additional Requirements

A. Distributors

Contractor shall ensure the Lead State Contract Administrator is provided with up-to-date information regarding the status of approved distributors. Contractor shall notify the Lead State Contract Administrator via email in the event of a change in its distributor list. Distributors may provide the products nationally or locally. The Participating Entity may have additional procedures regarding their usage of distributors within their Participating Addendum.

B. Sustainability

The Contractor should promote corporate and local sustainability practices by aiming to reduce adverse effects on human health and the environment for the entire product lifecycle, including energy, water, safety, delivery, storage, packaging, and training.

C. Cost

1. Discounts to Remain Firm or Greater

The percentage discount from the Contractor's submitted price schedule shall not decrease for all updates or revisions of Contractor's price schedule during the life of the Master Agreement and any subsequent Master Agreement renewals; however, Contractor may increase the discount at any time. New items or replacement products are to be discounted at the same (or greater) rate as similar products or replaced items.

2. Price Negotiation During Contract Term

Contractor is expected to continuously negotiate with its suppliers to obtain improved discounts and extend improved pricing to Participating Entities. During the term of the Master Agreement Contractor must agree to negotiate in good faith to establish ceiling prices or other more favorable terms and conditions between the Contractor and its suppliers that are applicable to future orders during the term of the Master Agreement.

3. Price Lists and Updates

Contractor must furnish a physical and/or an electronic copy (at Lead State's option) of the price list(s) and periodic updates to the State of Oklahoma Lead State Administrator. Contractor must also furnish physical and/or electronic copies, at a Participating Entity's option, to all Purchasing Entities for which account numbers have been established. Contractor must distribute price lists as they become effective and in a timely manner. Price lists may be updated no more than once a quarter and price updates must be approved by the Lead State before becoming effective. Updated price lists may include new items but may not increase the price of items which previously appeared unless the price increase is requested in accordance with Section D below. Updates must be simultaneous for the entire line of products. All price lists, website access, and ordering capabilities must be supplied to the Participating Entities at no additional cost. Contractor must not add new replacement products for the purpose of a price increase. Stock keeping units (SKUs) shall be consistent and Contractor shall document discontinued items in writing when submitting replacement products.

4. Price List Access

At any time during the life of the Master Agreement issued under this RFP and for a three (3) year period from the end date of the Master Agreement, the Lead State reserves the right to request from the Contractor access to and/or a copy of the applicable price list used for the Master Agreement's pricing basis for pricing verification. Failure to provide the requested price list within three (3) business days following the Lead State's request may result in termination of the Master Agreement.

D. Price Changes

1. Price decreases or discount increases are permitted and encouraged at anytime. Price reductions announced must be applied at the time of the announcement for the products that have not yet been delivered to the Participating Entities.

2. All discounts offered must remain firm or increase during the term of a Master Agreement issued under this RFP.

3. The Contractor or Lead State may request price adjustments no sooner than 12 months from the Master Agreement execution date and no more than once per contract year. Contractors must submit a request to the Lead State at least thirty (30) days prior to the end of the current term. Requests must be in writing and must be received 30 days prior to the contract renewal date.

    a. If the Contractor or state fails to request a price adjustment 30 days before the Master Agreement renewal date, the adjustment will be effective 30 days after the state or Contractor receives their written request.

    b. Price adjustments will be made in accordance with the percentage change in the U.S. Department of Labor Consumer Price Index (CPI-U)

    c. The price adjustment rate will be determined by comparing the percentage difference between the CPI in effect for the base year six-month average (January through June); and each (January through June six-month average) thereafter. The percentage difference between those two CPI issues will be the price adjustment rate. No retroactive price adjustments will be allowed. All price adjustments must be approved by the Lead State prior to the implementation of the adjusted pricing. Approval shall be in the form of a contract amendment issued by the Lead State.

    d. Approval for all price increases is dependent upon full compliance with the terms of the Master Agreement including reporting requirements.

V. Optional Services and Product Support:

Offerors may propose optional value-add services. Services included in this section are considered in addition to the minimum requirements set forth in this scope of work.

A. Service Plan

1. Offerors may propose a service agreement to provide maintenance and repair on their proposed devices. Offerors Service Agreement will should include, but is not limited to, the following services:

- Semi-annual physical inspection of AED's
- Battery replacement program
- Data tracking of serial numbers, expiration dates, etc.
- Additional software enhancements and/or updates
- Hardware updates
- Assurance of compliance of the AED unit with local, state, and federal regulations.

2. Offerors must be aware of local requirements for the States in which they will be servicing

3. All work performed under a Service Agreement must meet the specifications for that device.

4. Offerors may submit additional information on any additional types of service agreements they may offer, to provide maintenance and repair on their devices, i.e., standard service agreement or premier service agreement. No pricing information should be included in the technical response.

B. Product Training

1. Optional On-site Training: Offerors shall provide on-site training, as requested. The cost for on-site training should be reflected in the Offerors' cost proposal

(Attachment H, Value-Add) as a separate rate.

C. Extended Warranty

Offerors may propose an extended warranty past the term of the basic warranty provided under the Master Agreement. Offerors must include a complete description of the coverage provided under the extended warranty in their cost proposal.

D. Additional Value-Add Options

Offerors may include in their Proposal additional Value-Add options not specifically requested in the scope of work. Value-Add options should not deviate from the nature of products and services requested in the scope of work and should include a thorough description of the option and how it brings value to the State. Examples include battery replacement plans, unconventional training options, alternative maintenance plans, and other services not specified.

Award of Value-Add options is subject to the approval of the Lead State.

Procurement Master Contract

Exhibit C – Cost

Exhibit C - Cost

Request for Proposals for
AED Units and Accessories
Issued by the **State of Oklahoma**
Solicitation Number EV00000354

OKLAHOMA
Office of Management
& Enterprise Services

Offeror Name: Avive Solutions						
Validity Period:	**01/01/2024-12/31/2024**					
Category I: AED Units - Fully Automated						
Item Number	**Product Description**	**UOM**	**QTY per UOM**	**List Price**	**% Discount**	**Net Price**
Avie AED with Connect Installed (Ite	One (1) Avive AED with Connect Installed. Comes equipped with one (1) single-use Avive AED Pad Cartridge that can be used on adults or children, one (1) medical-grade Avive USB Power Adapter, and one (1) one-meter (3.3 foot) Avive USB Charging Cable.	EA	1	$ 1,899.99	15.00%	$ 1,614.99

[Add additional rows as needed.]

Estimated Delivery Time: 1-2 weeks for order < 100 AED units. 3-4 weeks for orders of 100+ AEDs

Exhibit C - Cost

Request for Proposals for
AED Units and Accessories
Issued by the **State of Oklahoma**
Solicitation Number EV00000354

OKLAHOMA
Office of Management
& Enterprise Services

Offeror Name:Avive Solutions						
Validity Period:	**Start/End 01/01/2024 - 12/31/2024**					
Category II: AED Units - Semi Automated						
Item Number	**Product Description**	**UOM**	**QTY per UOM**	**List Price**	**% Discount**	**Net Price**
	AED only comes in fully-automatic version; semi-automatic section intentionally left blank					$ -

[Add additional rows as needed.]

Exhibit C - Cost

Request for Proposals for
AED Units and Accessories
Issued by the **State of Oklahoma**
Solicitation Number EV00000354

OKLAHOMA
Office of Management
& Enterprise Services

Offeror Name:Avive Solutions						
Validity Period:	**Start/End 01-01-2024 - 12-31-2024**					
AED Accessories						
Item Number	**Product Description**	**UOM**	**QTY per UOM**	**List Price**	**% Discount**	**Net Price**
ACC01	One (1) single-use Avive AED Pad Cartridge. Each cartridge contains two (2) adhesive electrode pads and can be used on either adults or children for analysis and defibrillation.			$119.99	20.00%	$ 95.99
ACC08	One (1) Avive Training Cartridge. The Avive Training Cartridge contains two (2) pads that can be used for training purposes. NOTE: The Avive Training Cartridge is FOR TRAINING PURPOSES ONLY AND WILL NOT DELIVER DEFIBRILLATION THERAPY.			$99.99	30%	$ 69.99
ACC03	One (1) Avive AED Charge Stand. This wall mount stand comes with one (1) 2-meter (6.6 foot) Avive USB Charging Cable and one (1) medical-grade Avive USB Power Adapter. Wall screws and wall anchors are included.			$99.99	10%	$ 89.99
ACC05	One (1) medical-grade Avive USB Power Adaptor to charge your Avive Connect AED. Compatible with the Avive USB Charging Cable (not included). Input 100-240 VAC, 50-60 Hz.			$24.99	10%	$ 22.49
ACC07	One (1) one-meter (3.3 foot) Avive USB Charging Cable. Compatible with the Avive USB Power Adapter (not included).			$9.99	10%	$ 8.99
ACC02	One (1) compact, high-quality CPR/AED rescue kit containing: one (1) one-way face shield, one (1) pair of nitrile gloves (not made with natural rubber latex), one (1) set of emergency shears, one (1) medical prep razor, one (1) absorbent dry towel, one (1) antiseptic towelette, and one (1) biohazard bag.			$28.99	20%	$ 23.19
ACC11	One (1) Avive Hard Carrying Case, designed to keep your Avive Connect AED safe in the harshest conditions.			$219.99	20%	$ 175.99
ACC04	One (1) vinyl, multi-configurable wall sign measuring 14.75" x 9" with pre-drilled holes (screws are not included) to help drive awareness to your AED's location.			$14.99	10%	$ 13.49
PKG07	Includes one (1) compact wall cabinet with door-activated alarm and one (1) Semi-Rigid Carrying Case (ACC09) to securely store your Avive Connect AED.			$249.99	25%	$ 187.49
PKG08	Includes one (1) compact wall cabinet with door-activated alarm and one (1) Avive AED Charge Stand (ACC03) to securely store your Avive Connect AED.			$249.99	30%	$ 174.99
ACC09	Includes one (1) ultra-compact Semi-Rigid Carrying Case measuring approximately 8.9"x7.5"x4.5". Designed to securely store your Avive Connect AED, an Avive CPR/AED Rescue Kit, and a spare Avive AED Pad Cartridge or Avive Training Cartridge (not included).			$149.99	30%	$ 104.99

[Add additional rows as needed.]

Estimated Delivery Time: 1-2 weeks for order < 100 units. 3-4 weeks for orders of 100+ units

Exhibit C - Cost

Request for Proposals for
AED Units and Accessories
Issued by the **State of Oklahoma**
Solicitation Number EV00000354

OKLAHOMA
Office of Management & Enterprise Services

Offeror Name: Avive Solutions						
Validity Period:	**01-01-2024 - 12-31-2024**					
Value-Add						
Value-Add: Examples include battery replacement plans, unconventional training options, alternative maintenance plans, and other services not specified.						
Item Number or Service	**Product/Service Description**	**UOM**	**QTY per UOM**	**List Price**	**% Discount**	**Net Price**
AED01L LIFESaver Plan	One (1) Avive AED with Connect. Comes equipped with one (1) single-use Avive AED Pad Cartridge that can be used on either adults or children, one (1) medical-grade Avive USB Power Adapter, one (1) Avive USB Charging Cable, and full access to REALConnect Services.	1	1	$449.99 down payment + $449.99/year for 5 years	12.00%	$395.12 down payment + $395.12/year for 5 years
	The LIFESaver plan includes replacement electrode pads if they					
	are used during an emergency or expire during the term of the					
	LIFESaver plan for no extra cost. (pad replacemeny offered up to					
	one set of pads per AED per year of uninterupted payments					
	One (1) Avive AED with Connect. Comes equipped with one					
	single-use Avive AED Pad cartidge that can be used on either					
	adults or children,one medical grade Avive USB Power					
	and full access to RealConnect Program Management					

AED Trade-in Credit	*Trade-in credit is applied against the cost of a new AED purchase. Trade-in Credits offered on a one-to-one basis (one trade-in credit offered per device traded in for every one new Avive Connect AED purchased). Credits are based on the type of AED traded in and market rates, but typically range from $100-$500 per AED. Additional trade-in credits may apply on a case-by-case basis so long as they are agreed to in writing between the Parties.*	1	1		varies	approx. $1255.75-$855.75 depending on value of trade-in offered
REALConnect Services included in first year of purchase for item AED01 and during term of LIFESaver Plan purchase (item AED01L)	REALConnect Services are an online portal used to manage and oversee maintenance aspects of the Avive Connect AED. The Avive Connect AED can share data wirelessly by WiFi, cellular, Bluetooth, and GPS. Data includes health and status information like the location and readinesss status of all AEDs. Notifications can be sent for AED use, temperature alerts, and similar conditions to help AED owners ensure their program is functioning properly. REALConnect Services include up to one electrode pad replacement per AED per year due to expiration or AED use for each AED unit on active, uninterrupted services. REALConnect Services are included in the first year of purhcase (for item AED01). After the first year, owners can optionally renew REALConnect Services. and during active, ongoing subscription to LIFESaver Subscriptions (AED01L).	1	1%			

AED uses rechargeable batteries so there is NO on-going cost of replacement batteries
Dual Language at NO extra cost
Every device is equipted with Child Mode at no extra cost
Universal Pads: AED uses the same set of pads for adults and pediatric patients, so only one set of pads is necessary for adults and while in child mode

Request for Proposals for
AED Units and Accessories
Issued by the **State of Oklahoma**
Solicitation Number EV00000354

OKLAHOMA
Office of Management & Enterprise Services

Attachment H
COST & DELIVERY TIME PROPOSAL INSTRUCTIONS

H.1	Read and review the complete RFP for Automated External Defibrillator (AED) Units and Accessories to identify the categories of requested cost and estimation for AED Units and supplies.
H.2	Each category has it's own cost schedule and tab. At the bottom of this Cost Proposal spreadsheet, select the tab for the category(s) for which you are submitting a proposal, ensuring a tab is filled out for every category of response as well as the estimated delivery times of any proposed items.
H.3	Write your company name and price validity period in the appropriate lines of each Category Spreadsheet you are proposing.
H.4	Fill in the white boxes with the required information for each category you are proposing, this document will serve as your full-line catalog offering. Offeror must provide a whole number discount (e.g. 10%, not 10.3%) for each item listed. If not bidding, mark "No Bid" for that Category. Offeror must provide separate pricing for AED accessories (on the appropriate tab) that are compatible with the AED units being proposed.
H.5	All AED catalog offerings are considered for the purpose of this solicitation. Value-add items/services can be added on the Value-Add tab but will not be scored. Listed value-add items may be considered for addition to the contract to those offeror's awarded a master agreement.
H.6	All discounts offered must include all anticipated charges, including but not limited to, freight and delivery, warehousing, transaction fees, overhead, profits, and NASPO Administrative Fee (0.25%). The proposed discount as awarded will be the minimum discount; higher discounts may be negotiated between the ordering Participating Entity and the Contractor, but the discount may not ever drop below the discount offered in this proposal.
H.7	Completed Cost Proposals must be included in your proposal, sealed separately and labeled per instruction in the RFP Summary section III.3. Failure to include a completed Cost Schedule with your submittal will cause your submittal to be deemed non-responsive.
H.8	The Value-Add tab of this Cost Schedule Spreadsheet is for entering any value-add discount off of normal rates for services your company may wish to include in its Master Agreement if awarded. These optional services you list under the Value-Add category will not be evaluated in the cost equation for scoring in this solicitation, but they will be made part of the Master Agreement(s) resulting from this solicitation as value-add service options. If your company does not wish to provide one or more of the services listed in this Category, leave those lines blank. If there are any additional service options you would include that aren't listed, write them in the blank lines provided along with the discount to be applied to that service. Value-added services not listed on this submittal form will not be allowed under this Master Agreement without prior written approval from the Lead State Procurement Officer.

Request for Proposals for
AED Units and Accessories
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Solicitation Number EV00000354

OKLAHOMA
Office of Management
& Enterprise Services

Offeror Name: Avive Solutions						
Validity Period:	**01/01/2024-12/31/2024**					
Category I: AED Units - Fully Automated						
Item Number	**Product Description**	**UOM**	**QTY per UOM**	**List Price**	**% Discount**	**Net Price**
Avie AED with Connect Installed (Iter	One (1) Avive AED with Connect Installed. Comes equipped with one (1) single-use Avive AED Pad Cartridge that can be used on adults or children, one (1) medical-grade Avive USB Power Adapter, and one (1) one-meter (3.3 foot) Avive USB Charging Cable.	EA	1	$ 1,899.99	15.00%	$ 1,614.99

[Add additional rows as needed.]

Estimated Delivery Time: 1-2 weeks for order < 100 AED units. 3-4 weeks for orders of 100+ AEDs

Request for Proposals for
AED Units and Accessories
Issued by the **State of Oklahoma**
Solicitation Number EV00000354

OKLAHOMA
Office of Management
& Enterprise Services

Offeror Name:Avive Solutions						
Validity Period:	**Start/End 01/01/2024 - 12/31/2024**					
Category II: AED Units - Semi Automated						
Item Number	**Product Description**	**UOM**	**QTY per UOM**	**List Price**	**% Discount**	**Net Price**
	AED only comes in fully-automatic version; semi-automatic section intentionally left blank					$ -

[Add additional rows as needed.]

Request for Proposals for
AED Units and Accessories
Issued by the **State of Oklahoma**
Solicitation Number EV00000354

OKLAHOMA
Office of Management
& Enterprise Services

Offeror Name:Avive Solutions						
Validity Period:	**Start/End 01-01-2024 - 12-31-2024**					
AED Accessories						
Item Number	**Product Description**	**UOM**	**QTY per UOM**	**List Price**	**% Discount**	**Net Price**
ACC01	One (1) single-use Avive AED Pad Cartridge. Each cartridge contains two (2) adhesive electrode pads and can be used on either adults or children for analysis and defibrillation.			$119.99	20.00%	$ 95.99
ACC08	One (1) Avive Training Cartridge. The Avive Training Cartridge contains two (2) pads that can be used for training purposes. NOTE: The Avive Training Cartridge is FOR TRAINING PURPOSES ONLY AND WILL NOT DELIVER DEFIBRILLATION THERAPY.			$99.99	30%	$ 69.99
ACC03	One (1) Avive AED Charge Stand. This wall mount stand comes with one (1) 2-meter (6.6 foot) Avive USB Charging Cable and one (1) medical-grade Avive USB Power Adapter. Wall screws and wall anchors are included.			$99.99	10%	$ 89.99
ACC05	One (1) medical-grade Avive USB Power Adaptor to charge your Avive Connect AED. Compatible with the Avive USB Charging Cable (not included). Input 100-240 VAC, 50-60 Hz.			$24.99	10%	$ 22.49
ACC07	One (1) one-meter (3.3 foot) Avive USB Charging Cable. Compatible with the Avive USB Power Adapter (not included).			$9.99	10%	$ 8.99
ACC02	One (1) compact, high-quality CPR/AED rescue kit containing: one (1) one-way face shield, one (1) pair of nitrile gloves (not made with natural rubber latex), one (1) set of emergency shears, one (1) medical prep razor, one (1) absorbent dry towel, one (1) antiseptic towelette, and one (1) biohazard bag.			$28.99	20%	$ 23.19
ACC11	One (1) Avive Hard Carrying Case, designed to keep your Avive Connect AED safe in the harshest conditions.			$219.99	20%	$ 175.99
ACC04	One (1) vinyl, multi-configurable wall sign measuring 14.75" x 9" with pre-drilled holes (screws are not included) to help drive awareness to your AED's location.			$14.99	10%	$ 13.49
PKG07	Includes one (1) compact wall cabinet with door-activated alarm and one (1) Semi-Rigid Carrying Case (ACC09) to securely store your Avive Connect AED.			$249.99	25%	$ 187.49
PKG08	Includes one (1) compact wall cabinet with door-activated alarm and one (1) Avive AED Charge Stand (ACC03) to securely store your Avive Connect AED.			$249.99	30%	$ 174.99
ACC09	Includes one (1) ultra-compact Semi-Rigid Carrying Case measuring approximately 8.9"x7.5"x4.5". Designed to securely store your Avive Connect AED, an Avive CPR/AED Rescue Kit, and a spare Avive AED Pad Cartridge or Avive Training Cartridge (not included).			$149.99	30%	$ 104.99

[Add additional rows as needed.]

Estimated Delivery Time: 1-2 weeks for order < 100 units. 3-4 weeks for orders of 100+ units

Request for Proposals for
AED Units and Accessories
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Solicitation Number EV00000354

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Offeror Name: Avive Solutions						
Validity Period:	**01-01-2024 - 12-31-2024**					
Value-Add						
Value-Add: Examples include battery replacement plans, unconventional training options, alternative maintenance plans, and other services not specified.						
Item Number or Service	**Product/Service Description**	**UOM**	**QTY per UOM**	**List Price**	**% Discount**	**Net Price**
AED01L LIFESaver Plan	One (1) Avive AED with Connect. Comes equipped with one (1) single-use Avive AED Pad Cartridge that can be used on either adults or children, one (1) medical-grade Avive USB Power Adapter, one (1) Avive USB Charging Cable, and full access to REALConnect Services.	1	1	$539.99	12.00%	475.00**
	The LIFESaver plan includes replacement electrode pads if they are used during an emergency or expire during the term of the LIFESaver plan for no extra cost. (pad replacemeny offered up to one set of pads per AED per year of uninterupted payments					
	One (1) Avive AED with Connect. Comes equipped with one single-use Avive AED Pad cartidge that can be used on either adults or children,one medical grade Avive USB Power and full access to RealConnect Program Management					
	****Additional Terms** **Avive LIFESaver Plan** For the sake of clarity, the 'Avive LIFESaver Plan' is a 5-year product where the customer will be invoiced for the annual service total on this order on years 2, 3, 4, and 5 from the effective date.					
AED Trade-in Credit	*Trade-in credit is applied against the cost of a new AED purchase. Trade-in Credits offered on a one-to-one basis (one trade-in credit offered per device traded in for every one new Avive Connect AED purchased). Credits are based on the type of AED traded in and market rates, but typically range from $100-$500 per AED. Additional trade-in credits may apply on a case-by-case basis so long as they are agreed to in writing between the Parties.*	1	1		varies	approx. $1255.75-$855.75 depending on value of trade-in offered
REALConnect Services included in first year of purchase for item AED01 and during term of LIFESaver Plan purchase (item AED01L)	REALConnect Services are an online portal used to manage and oversee maintenance aspects of the Avive Connect AED. The Avive Connect AED can share data wirelessly by WiFi, cellular, Bluetooth, and GPS. Data includes health and status information like the location and readinesss status of all AEDs. Notifications can be sent for AED use, temperature alerts, and similar conditions to help AED	1	1%			

AED uses rechargeable batteries so there is NO on-going cost of replacement batteries
Dual Language at NO extra cost
Every device is equipted with Child Mode at no extra cost
Universal Pads: AED uses the same set of pads for adults and pediatric patients, so only one set of pads is necessary for adults and while in child mode

The Avive Connect AED®

AEDs Redefined



Avive®

AED Ownership Made Simple

Two Easy Ways to Buy

At Avive, we uniquely provide a fully featured AED, advanced technology platform and comprehensive response system, all for a great price. Choose between our LIFESaver™ Plan and enjoy uninterrupted benefits throughout active membership, or make a One-Time purchase which give you access to Avive's REALConnect™ Services for one year.



1

LIFESaver Plan

- $475/year (min 5 year term)
- REALConnect Services (during active membership)

$475/year*

or

2

One-Time Purchase

- Buy AED outright
- REALConnect Services (1 year)
- $199.99/year Renewal

$1,614.99*

*Pricing is subject to change and other restrictions may apply. Contact Avive for more details.
**One Avive Pad Cartridge post-use replacement available annually per Avive Connect AED™ actively enrolled in uninterruped REALConnect Services. Post Use Incident Report required. Other restrictions may apply.



Benefits of Avive's REALConnect Services

- Automates device maintenance with daily health checks
- View on your desktop or mobile device using a customizable dashboard
- Get remote software updates
- Connect wirelessly using cellular, Wi-Fi, Bluetooth and GPS
- Quick data retrieval using an on-screen QR code post incident
- Pad replacement included upon expiration or upon use**

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The Avive Connect AED®

The Future of Saving Lives



The Avive Connect AED takes proven defibrillation technology and expands its benefits to the masses with first-of-its-kind capabilities.

At Avive, we are committed to providing a fully-featured AED, advanced platform technology, and comprehensive response system, all for a great price.

Feature Highlights

01 Cellular, Wi-Fi, Bluetooth, & GPS Technologies

Powered by REALConnect™, the Avive Connect AED uses wireless communication for daily AED monitoring and notifications, AED location tracking, Lost Mode™, and much more.

02 Rechargeable Battery

Keep ownership costs down with Avive's EverCharge™ Battery. Your Connect AED is capable of providing therapy for up to 8.5 months, and powering the screen and connectivity for up to 5 months depending on usage, connectivity, and charging strategy. No more battery replacements required - ever!

03 Modern Touchscreen Technology

An approachable high-resolution touchscreen interface is designed to remove intimidation and hesitation involved with bystander response.

04 AllRescue™ Technology

Integrated English and Spanish audio and visual instructions, Child mode button to respond to patients between 1 and 8 years old, and Avive's universal electrode pads save time during an emergency and money during ownership.

05 Quick Data Retrieval

The Avive Connect AED's Rapid Incident Reporting™ can share vital information with first responders and physicians to support patient care. No more cumbersome event downloads, special cables and CD-ROM software, or additional costs required to access critical information.

06 Dynamic Training

Install the Avive Training Cartridge and seamlessly train on real-world scenarios. Dynamic in sync visuals and simulated scenarios with the Avive Connect AED increase familiarity with the device.

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The Avive Connect AED

Technical Specifications

Defibrillator	
Model	Avive AED® with Avive Connect®
Type	Fully Automatic
Defibrillation Waveform	Bi-Phasic Truncated Exponential (BTE) non-escalating energy. Waveform dynamically adjusts to optimize energy delivery for a wide range of patient impedances.
Selected Energy	Adult 150 Joules, Pediatric 50 Joules
Patient Impedance Range	25 Ohms to 200 Ohms
Audible Instructions (Emergency)	Detailed audio instructions and visual indicators guide untrained and trained responders through the rescue.
CPR Guidance	Real-time guidance via audio and visual instructions.
CPR Coaching	Continuous detailed coaching during CPR with an audible metronome, audio instructions, and countdown, all designed to encourage high performance compressions.
Indicators	Audio to convey functionality status, Status Light to indicate functionality status, Stand Back Light and audio instructions to indicate when not to touch patient during rescue scenario.
Patient Analysis	
Measures the patient's electrocardiogram (ECG) and uses a patented machine learning algorithm [Rhythm Recognition Detector] to determine if defibrillation is appropriate. The Rhythm Recognition Detector has been trained using numerous databases of adult and pediatric ECGs recorded from real patients.	
Sensitivity/Specificity: The performance of the Rhythm Recognition Detector exceeds sensitivity and specificity recommendations of the American Heart Association.[1]	
Physical Specifications (with Avive Pad Cartridge Installed)	
Dimensions	5.63 in x 6.30 in x 2.60 in (143 mm x 160 mm x 66 mm)
Weight	2.1 lbs (953 grams)
Environmental	
Temperature	• Operating temperature: 32°F to 122°F (0°C to 50°C) • Battery charging: 32°F to 113°F (0°C to 45°C) • Short-term storage temperature (up to 14 days): -4°F to 140°F (-20°C to°60 C) • Long-term storage temperature: 41°F to 104°F (5°C to 40°C)
Humidity (Operating and Storage)	5-95% non-condensing
Dust / Water Resistance	IP 54 (with Avive Pad Cartridge™ installed) - dust protected, splash and spray proof
Altitude	-280 ft to 15,000 ft (-85 m to 4572 m)

Endnotes

1 Shen et al. Development of a Convolutional Neural Network for Shockable Arrhythmia Classification within a Next Generation Automated External Defibrillator. Journal of American College of Cardiology. 2020 Mar, 75 (11_Supplement_1) 3468

Pad Cartridge Specifications		
Model	Avive AED Pad Cartridge™	
Electrode Type	Pre-connected, single-use combined ECG / defibrillation pad. Electrode Placement: Adult: Anterior-Lateral; Pediatric: Anterior-Posterior	
Electrode Cable Length	53 in (1.3 m) each	
Shelf Life	2 years (see use-by-date on the Pad Cartridge)	
Training Cartridge		
Avive AED Training Cartridge (Optional)	When the Avive AED Training Cartridge is installed, there's no electrical connection between the training pads and the device, converting the device into Training Mode. In Training Mode, the device provides audio instructions as if it were being used in an emergency, however, the device will not actually analyze a heart rhythm or deliver defibrillation therapy. Audio instructions are for user training only. Use the Avive Connect AED to facilitate Training Mode.	
Battery		
Battery Type	Lithium Ion, Rechargeable, not user replaceable	
Time to Full Battery Charge	< 5 hours	
Capacity (Fully Charged, typical)	≥ 75 shocks at 150J or 2.5 hours of continuous operation	
Low Battery	From a fully charged AED battery at nominal conditions: ≥ 8.5 Months until Low Battery At Low Battery the AED can deliver < 10 shocks at 150J or < 20 minutes of continuous operation The screen and connectivity battery will last ≤ 5 months at nominal conditions.	
Device Readiness Tests		
Automatic	Daily: Battery Status, Basic Circuitry Functionality, Pad Readiness Weekly: All Daily, plus partial energy charge and discharge cycle Monthly: All Daily, plus full energy charge and discharge cycle	
User-Initiated	Functionality Status: Press and hold the power button for 5 seconds, and the device will share its status.	
Status Light	Functionality Status	Green Light - AED is ready to use Red Light - AED needs attention
	Charging State	Battery Charging - blinks once every second Battery Fully Charged - blinks twice every 10 seconds Battery Not Charging - blinks once every 10 seconds
Connectivity		
Wireless Communication Methods	Bluetooth connection to the Avive App, and cellular and Wi-Fi connection to the cloud-based REALConnect Platform.	
Location	GPS based device tracking	
Event Recording		
Type	Internal Memory	
Memory	At least one hour of ECG and event / incident recording stored on AED, and unlimited event storage in cloud-based REALConnect Platform	
Display		
Visual Touchscreen	High-resolution color touchscreen	
Visual Prompts	InSync image and motion graphics during emergency mode	

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Connectivity Redefines AEDs

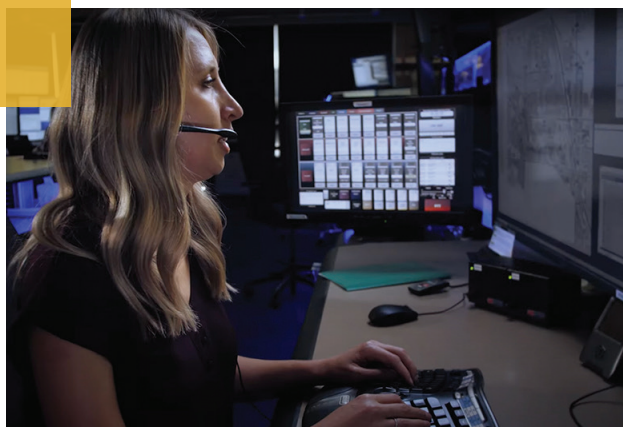
Our Innovative Network of Response



The Avive Connect AED's® powerful combination of cellular, Wi-Fi, Bluetooth, and GPS connectivity enable Avive's novel REALConnect™ technology.

Designed to wirelessly automate AED maintenance and streamline ownership, improve response to cardiac arrest emergencies, and much more, REALConnect redefines what should be expected of an AED.

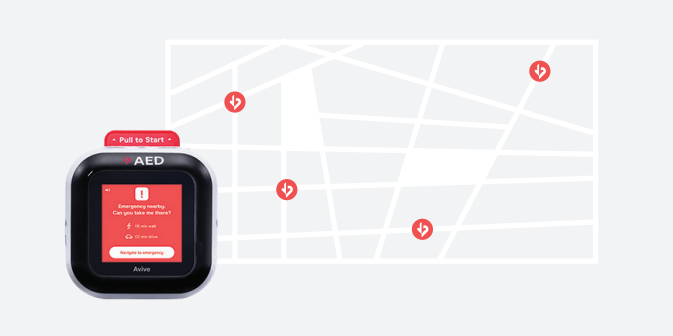
Less than 2 in 10 Sudden Cardiac Arrest victims receive a shock from an AED before EMS arrives.[1] It's time to change that.





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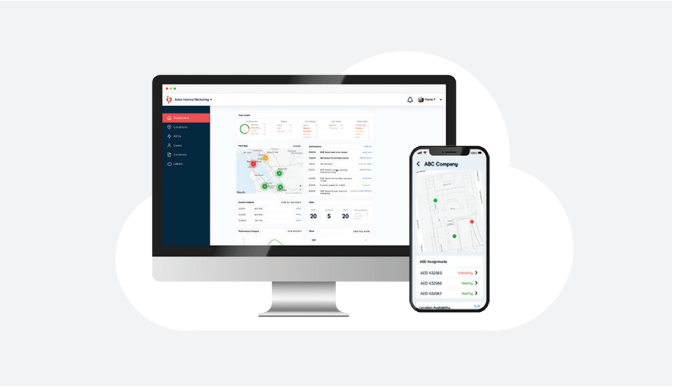
It's about delivery.

Intelligent Response™ enables 911 to dispatch Avive Connect AEDs to nearby suspected Sudden Cardiac Arrest victims, notifying people when and where it is needed to save a life.

Quick Data Retrieval Supports Patient Care

The Avive Connect AED's Rapid Incident Reporting™ can share vital information with first responders and physicians to support patient care. No more cumbersome event downloads, special cables, CD-ROM software, or additional costs required to access critical information.





Connectivity Makes AED Maintenance Simple

The REALConnect Platform performs daily wireless monitoring to give AED managers complete visibility into their fleet of devices. Quick notifications help save time and money while providing unparalleled insight advantage.

- Daily Remote Monitoring of AED Readiness
- Fast Notifications
- Remote Software Updates

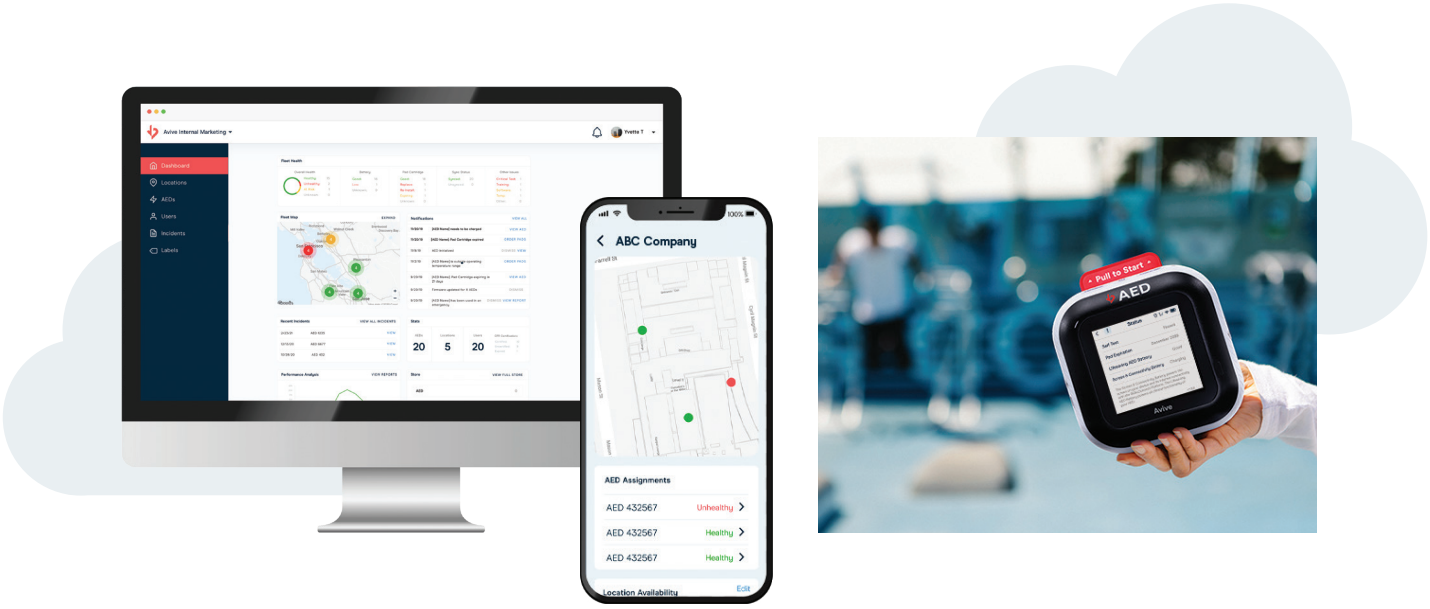
1 Source: "Understanding Sudden Cardiac Arrest Drives Bystander Action" Sudden Cardiac Arrest Foundation. 14 Dec. 2022, https://www.sca-aware.org/index.php/blog/scafoundation/understanding-sudden-cardiac-arrest-drives-bystander-action.

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REALConnect™ AED Program Management

Finally, REAL AED Remote Monitoring



The REALConnect Platform uses daily wireless monitoring to provide AED managers with complete visibility of their fleet of devices. Its quick notifications help save time and money while providing unparalleled program visibility.

Many of today's AEDs require manual maintenance, making management expensive, time-consuming, and inaccurate. Even the most well-run programs require tremendous manual effort, costing organizations countless hours and dollars to ensure data integrity.

However, with Avive's REALConnect Platform, owning, using, and managing AEDs is simplified. Whether you have one for your home or one-thousand for your business, the Avive REALConnect helps with compliance and provides peace of mind.

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The REALConnect Platform gives you access to:

01 Battery Life

Receive daily battery status updates for every AED in your fleet, on your REALConnect Platform, whether you're 50 feet away or 500 miles away. Your Connect AED® is capable of delivering therapy up to 8.5 months, and powers the screen and connectivity for up to 5 months depending on usage, network conditions, and charging strategy.

02 Daily Pad Cartridge Condition Checks

Get daily Avive AED Pad Cartridge functional status updates, easy access to expiration dates and replacement options.

03 Daily AED GPS Location Tracking

With GPS Tracking, you will know where your AED is located. This feature allows you to see where your AED is so you know your facilities are protected.

04 Lost Mode™

With the REALConnect Platform, you can enable Lost Mode to help track down your Avive Connect AED® if it is misplaced or stolen.

05 Monitoring & Custom Labels

The REALConnect Platform allows you to easily customize your settings and create labels to manage your fleet of AEDs. Get notifications to be informed of the health status of your AEDs – know whether or not an AED fails a self-test, a device gets too cold or too hot, or even if it goes missing.

06 Remote Software Updates

Just like most of the technology we use today, the Avive Connect AED may require occasional software updates. Unlike other AEDs that require manual, in-person updates on a unit-by-unit basis, the Avive Connect AED receives updates from the cloud, just like a smartphone.

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Cardiac Arrest Incident Data

At Your Fingertips

Avive's® Rapid Incident Reporting enables the quick transfer of valuable emergency data from the Avive Connect AED® to the people who need it, when they need it.

When EMS arrives on scene, first responders can seamlessly access valuable cardiac arrest data at a summary level from the Avive Connect AED. In addition, the device also displays an Incident ID which can be used by downstream providers, providing access to detailed data prior to EMS arrival at the hospital. Incident Reports which include ECG recordings, shock data, and usage time stamps, are immediately sent to the cloud post event.



Avive makes accessing valuable incident data simple and fast. No more cumbersome downloads, special cables, CD-ROM software, or additional expense required to access lifesaving data.

"I think a major unmet need in the whole industry has been getting data from AEDs to providers. Getting data from the field is so important and often under-appreciated until you have it and you realize just how valuable it is."

Dr. Benjamin Abella | Director, Center for Resuscitation Science, UPenn

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3 Easy Ways to Access Your Avive AED Incident Data

1 On Your Avive Connect AED

After the emergency, access event data at anytime. Navigate to your **Home screen** > **Your Device** > **Use History** > then select the date to view the Incident ID and QR Code for a rescue attempt.

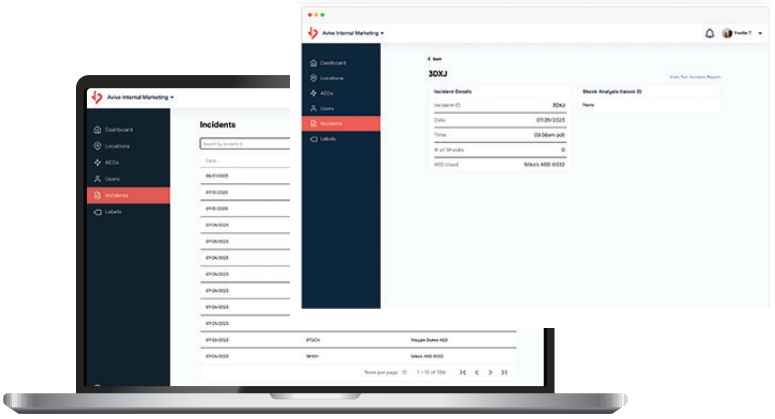


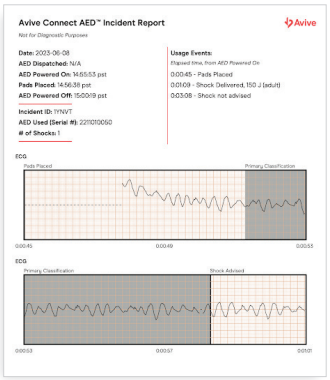
2 On Your REALConnect™ Platform

Any Administrator or Manager assigned to an AED will have access to its incident data on the REALConnect Platform. Simply login to your REALConnect Platform and search for the event data with the Incident ID.

Go to the **"Incidents"** tab in REALConnect and search for your report with the Incident ID.

Once you click on an incident, you can download the full ECG report by selecting **"View Full Incident Report"** in the top right. Your report will automatically download as a PDF document.





3 Online

Healthcare providers can log in to view a patient's full Incident Report by visiting **avive.life/Event-Data** and searching with the Incident ID from any emergency. Easily download a PDF of the Incident Report on the REALConnect Platform and quickly share with any provider.

To learn more about how to retrieve data from your device, visit **help.avive.life**

avive.life | sales@avive.life

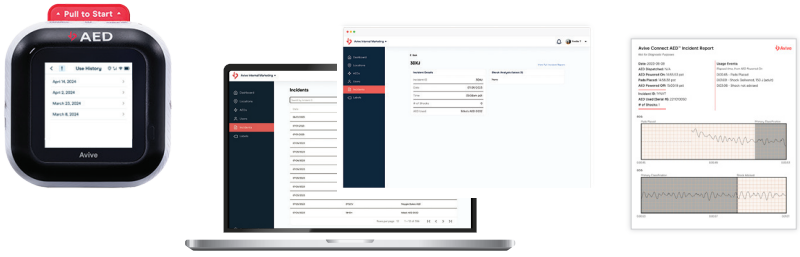
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Data Storage & Access

Avive's Rapid Incident Reporting™

Avive's Rapid Incident Reporting enables the quick transfer of valuable emergency data from the Avive Connect AED® to the people who need it, when they need it.

Incident reports do not contain personally identifiable data or any protected health information, but they do include ECG recordings, shock data, and AED usage time stamps. Immediately after an event, incident reports are sent to the cloud and stored securely both on the device and online.



1 On Your Avive Connect AED

The Avive Connect AED stores up to 30 incident reports on the device itself. Once the device reaches 30 incidents, the oldest report is deleted and then replaced by the newest one.

To access full incident reports from your device, simply click on the incidents listed in Use History, scan the QR code, and then download.

2 On Your REALConnect Platform™

All incident reports generated throughout the life of your device will be stored in the REALConnect Platform. However, if a user returns the device the incidents previously tied to that device will no longer show in the platform.

To view and download incident reports in REALConnect, navigate to the Incident List page and select the one you'd like to view. Administrators (with permission) have access to all incidents within their organization, but users with managerial permissions will only see incidents from the AEDs that are assigned to them.

3 Avive Public Incident Report Viewer

Available Online. A REALConnect login is required to access the online Public Incident Report Viewer and find an incident. The user can search for an event and download a report by typing in the exact Incident ID.

To learn more about how to retrieve data from your device or on the REALConnect Platform, visit **help.avive.life** or **call us at 1 (800) 489-4428.**

avive.life

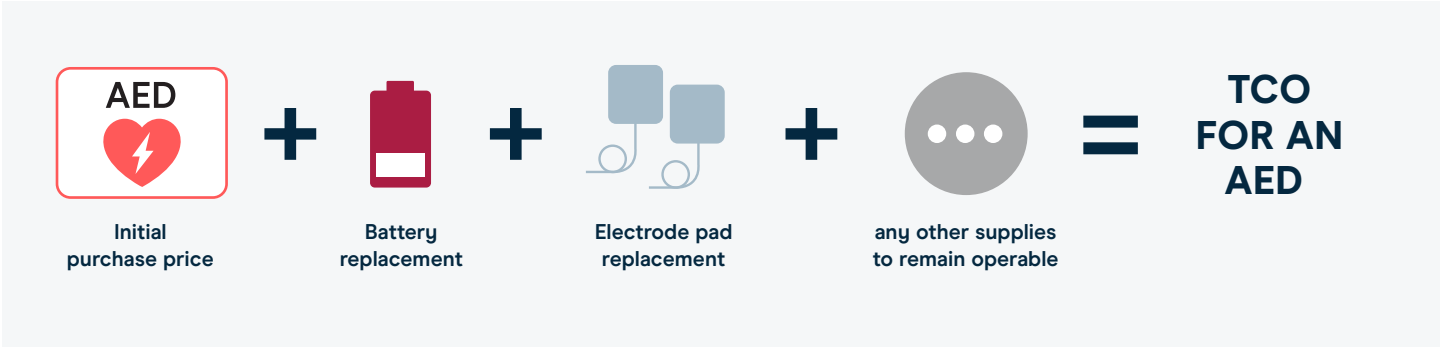
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Total Cost of Ownership

FDA-Approved AED Unit Plus Accessories

AEDs generally cost between $1,275 – $3,400 for the upfront purchase of the device. However, it's important to note that the upfront purchase of the device is not the only expense that you'll incur for each of your AED units.

Instead, you need to look at the Total Cost of Ownership (TCO) for each unit when evaluating which AED model you want to purchase.



What is the TCO?

The total cost of buying a new, functional, FDA-approved AED unit, in full PLUS the cost of any accessories the AED may require to remain operable over a duration of time. It's the most accurate way to look at all the AED costs you can expect, not just what you will pay upfront!

The TCO includes the cost of replacing key components of your device after they expire — such as the battery and electrode pads — to ensure your AED is ready to use in an emergency. You might be surprised at how expensive AED disposables can be!

If the AED manufacturer is recommending or requiring you to purchase additional accessories, you should take it seriously, as it could be part of your AED's warranty or your AED indemnification policy.

After including any recommendations or requirements from the AED manufacturer, and any AED accessories you might need for your specific environment, you should have the initial purchase price for an AED.

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The Avive Connect AED®

When taking into consideration the cost of additional supplies, you'll find that the Avive Connect AED is well worth the investment over time.

We keep our TCO low, making our AED affordable and accessible. The Avive Connect AED is fully automatic and loaded with unique features and functionality.

- Connect using cellular, Wi-Fi, Bluetooth, and GPS
- The industry's only integrated rechargeable battery that never needs to be replaced
- Universal electrode pads - no need to purchase separate adult and child pads
- Toggle between Adult and Child mode for the appropriate patient
- Remote software updates - no need to purchase software update accessory kits
- Engage in English or Spanish audio and visual instructions

Our end goal is to get more AEDs into the hands of more people to save more lives.

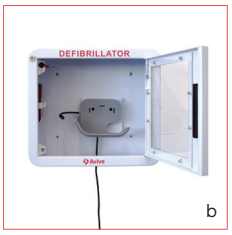
www.avive.life | sales@avive.life

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Storage & Signs



a



b

a **Avive AED Wall Cabinet w/Semi-Rigid Carrying Case**
Item# PKG07

b **Avive AED Wall Cabinet w/Charge Stand**
Item# PKG08



c


d

c **Avive Flexible Wall Sign**
Item# ACC04

d **Avive Connect AED Charge Stand**
Item# ACC03

Portability & Rescue Products


e



f


g

e **Avive Semi-Rigid Carrying Case**
Item# ACC09

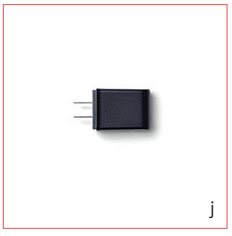
f **Avive Connect AED Hard Carrying Case**
Item# ACC11

g **Avive Rescue Kit**
Item# ACC02

Replacement Accessories


h


i


j

h **Avive AED Pad Cartridge**
Item# ACC01

i **Avive USB Charging Cable**
Item# ACC07

j **Avive USB Power Adapter**
Item# ACC05

Training Product


k


k


l

k **Avive AED Training Cartridge**
Item# ACC08

l **Avive AED Training Pad Replacements**
Item# ACC12

Pricing is subject to change and other restrictions may apply. Contact Avive for more details.

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For more information, contact:

Avive®

WORKER PROTECTION AND INVESTMENT CERTIFICATION FORM

A. Pursuant to Executive Order 2021-06, *Worker Protection and Investment* (October 21, 2021), the Commonwealth is responsible for ensuring that every worker in Pennsylvania has a safe and healthy work environment and the protections afforded them through labor laws. To that end, contractors and grantees of the Commonwealth must certify that they are in compliance with Pennsylvania's Unemployment Compensation Law, Workers' Compensation Law, and all applicable Pennsylvania state labor and workforce safety laws including, but not limited to:

1. Construction Workplace Misclassification Act
2. Employment of Minors Child Labor Act
3. Minimum Wage Act
4. Prevailing Wage Act
5. Equal Pay Law
6. Employer to Pay Employment Medical Examination Fee Act
7. Seasonal Farm Labor Act
8. Wage Payment and Collection Law
9. Industrial Homework Law
10. Construction Industry Employee Verification Act
11. Act 102: Prohibition on Excessive Overtime in Healthcare
12. Apprenticeship and Training Act
13. Inspection of Employment Records Law

B. Pennsylvania law establishes penalties for providing false certifications, including contract termination; and three-year ineligibility to bid on contracts under 62 Pa. C.S. § 531 (Debarment or suspension).

CERTIFICATION

I, the official named below, certify I am duly authorized to execute this certification on behalf of the contractor/grantee identified below, and certify that the contractor/grantee identified below is compliant with applicable Pennsylvania state labor and workplace safety laws, including, but not limited to, those listed in Paragraph A, above. I understand that I must report any change in the contractor/grantee's compliance status to the Purchasing Agency immediately. I further confirm and understand that this Certification is subject to the provisions and penalties of 18 Pa. C.S. § 4904 (Unsworn falsification to authorities).

	08/30/2024
Signature	***Date*** Aug 30, 2024
Mark Peters	
Name (Printed)	
VP of Sales	
Title of Certifying Official (Printed)	
Avive Solutions, Inc.	
Contractor/Grantee Name (Printed)	

RECIPROCAL LIMITATIONS ACT
REQUIREMENTS

Please Complete Applicable Portion of Pages 3 & 4 and Return with Bid.

NOTE: These Requirements Do Not Apply To Bids Under $10,000.00

I. REQUIREMENTS

A. The Reciprocal Limitations Act requires the Commonwealth to give preference to those bidders offering supplies produced, manufactured, mined or grown in Pennsylvania as against those bidders offering supplies produced, manufactured, mined or grown in any state that gives or requires a preference to supplies produced, manufactured, mined or grown in that state. The amount of the preference shall be equal to the amount of the preference applied by the other state for that particular supply.

The following is a list of states which have been found by the Department of General Services to have applied a preference for in-state supplies and the amount of the preference:

	STATE	PREFERENCE	
1.	Alaska	7%	(applies only to timber, lumber, and manufactured lumber products originating in the state)
2.	Arizona	5%	(construction materials produced or manufactured in the state only)
3.	Hawaii	10%	
4.	Illinois	10%	for coal only
5.	Iowa	5%	for coal only
6.	Louisiana	4%	meat and meat products
		4%	catfish
		10%	milk & dairy products
		10%	steel rolled in Louisiana
		7%	all other products
7.	Montana	5%	for residents *
		3%	for non-residents*
			*offering in-state goods, supplies, equipment and materials
8.	New Mexico	5%	
9.	New York	3%	for purchase of food only
10.	Oklahoma	5%	
11.	Virginia	4%	for coal only
12.	Washington	5%	(fuels mined or produced in the state only)
13.	Wyoming	5%	

B. The Reciprocal Limitations Act requires the Commonwealth to give preference to those bidders offering printing performed in Pennsylvania as against those bidders offering printing performed in any state that gives or requires a preference to printing performed in that state. The amount of the preference shall be equal to the amount of the preference applied by the other state for that particular category of printing.

The following is a list of states which have been found by the Department of General Services to have applied a preference for in-state printing and the amount of the preference:

	STATE	PREFERENCE
1.	Hawaii	15%
2.	Idaho	10%
3.	Louisiana	3%
4.	Montana	8%
5.	New Mexico	5%
6.	Wyoming	10%

C. The Reciprocal Limitations Act, also requires the Commonwealth to give resident bidders a preference against a nonresident bidder from any state that gives or requires a preference to bidders from that state or exclude bidders from states that exclude nonresident bidders. The amount of the preference shall be equal to the amount of the preference applied by the state of the nonresident bidder. The following is a list of the states which have been found by the Department of General Services to have applied a preference for in-state bidders and the amount of the preference:

	STATE	PREFERENCE	
1.	Alaska	5%	(supplies only)
2.	Arizona	5%	(construction materials from Arizona resident dealers only)
3.	California	5%	(for supply contracts only in excess of $100,000.00)
4.	Connecticut	10%	(for supplies only)
5.	Montana	3%	
6.	New Mexico	5%	(for supplies only)
7.	South Carolina	2%	(under $2,500,000.00)
		1%	(over $2,500,000.00) This preference does not apply to construction contracts nor where the price of a single unit exceeds $10,000.
8.	West Virginia	2.5%	(for the construction, repair or improvement of any buildings
9.	Wyoming	5%	

	STATE	PROHIBITION
1.	New Jersey	For supply procurements or construction projects restricted to Department of General Services Certified Small Businesses, New Jersey bidders shall be excluded from award even if they themselves are Department of General Services Certified Small Businesses.

D. The Reciprocal Limitations Act also requires the Commonwealth not to specify, use or purchase supplies which are produced, manufactured, mined or grown in any state that prohibits the specification for, use, or purchase of such items in or on its public buildings or other works, when such items are not produced, manufactured, mined or grown in such state. The following is a list of the states which have been found by the Department of General Services to have prohibited the use of out-of-state supplies:

	STATE	PROHIBITION
1.	Alabama	Only for printing and binding involving ”messages of the Governor to the Legislature“, all bills, documents and reports ordered by and for the use of the Legislature or either house thereof while in session; all blanks, circulars, notices and forms used in the office of or ordered by the Governor, or by any state official, board, commission, bureau or department, or by the clerks of the supreme court . . ./and other appellate courts/; and all blanks and forms ordered by and for the use of the Senate and Clerk or the House of Representatives, and binding the original records and opinions of the Supreme Court . . . /and other appellate courts/
2.	Georgia	Forest products only
3.	Indiana	Coal
4.	Michigan	Printing
5.	New Mexico	Construction
6.	Ohio	Only for House and Senate bills, general and local laws, and joint resolutions; the journals and bulletins of the Senate and house of Representatives and reports, communications, and other documents which form part of the journals; reports, communications, and other documents ordered by the General Assembly, or either House, or by the executive department or elective state officers; blanks, circulars, and other work for the use of the executive departments, and elective state officers; and opinions of the Attorney General.
7.	Rhode Island	Only for food for state institutions.

*If the bid discloses that the bidder is offering to supply one of the above-listed products that is manufactured, mined, or grown in the listed state, it shall be rejected. Contractors are prohibited from supplying these items from these states.

II. CALCULATION OF PREFERENCE

In calculating the preference, the amount of a bid submitted by a Pennsylvania bidder shall be reduced by the percentage preference which would be given to a nonresident bidder by its state of residency (as found by the Department of General Services in Paragraph C_above). Similarly, the amount of a bid offering Pennsylvania goods, supplies, equipment or materials shall be reduced by the percentage preference which would be given to another bidder by the state where the goods, supplies, equipment or materials are produced, manufactured, mined or grown (as found by the Department of General Services in Paragraphs A and B above).

THIS FORM MUST BE COMPLETED AND RETURNED WITH THE BID

III. STATE OF MANUFACTURE

All bidders must complete the following chart by listing the name of the manufacturer and the state (or foreign country) of manufacture for each item. If the item is domestically produced, the bidder must indicate the state in the United States where the item will be manufactured. **This chart must be completed and submitted with the bid or no later than two (2) business days after notification from the** Issuing Office **to furnish the information. Failure to complete this chart and provide the required information prior to the expiration of the second business day after notification shall result in the rejection of the bid.**

ITEM NUMBER	NAME OF MANUFACTURER	STATE (OR FOREIGNCOUNTRY) OF MANUFACTURE
Avive AED & Accessories	Avive	California

IV. BIDDER'S RESIDENCY

A. In determining whether the bidder is a nonresident bidder from a state that gives or requires a preference to bidders from that state, the address given on the first page of this invitation to bid shall be used by the Commonwealth. If that address is incorrect, or if no address is given, the correct address should be provided in the space below:

Correct Address: ____

____

____

____

B. In order to claim the preference provided under Section I.B., Pennsylvania resident bidders must complete the following or have such information on file with the Issuing Office:

1. Address of bidder's bona fide establishment in Pennsylvania at which it was transacting business on the date when bids for this contract/requisition were first solicited: ____

2. **a.** If the bidder is a corporation:

(1) The corporation ☐ is or ☐ is not incorporated under the laws of the Commonwealth of Pennsylvania.

(a) If the bidder is incorporated under the laws of the Commonwealth of Pennsylvania, provide date of incorporation: ____

(b) If the bidder is not incorporated under the laws of the Commonwealth of Pennsylvania, it must have a certificate of authority to do business in the Commonwealth of Pennsylvania from the Pennsylvania Department of State as required by the Pennsylvania Business Corporation Law (15 P.S. §2001). Provide date of issuance of certificate of authority: ____

(2) The corporation ☐ is or ☐ is not conducting business in Pennsylvania under an assumed or fictitious name. If the bidder is conducting business under an assumed or fictitious name, it must register the fictitious name with the Secretary of the Commonwealth and the office of the prothonotary of the county wherein the registered office of such corporation is located as required by the Fictitious Corporate Name Act, as amended 15 P.S. §51 et seq. Corporate bidders conducting business under an assumed or fictitious name must provide date of registry of the assumed or fictitious name: ____

b. If the bidder is a partnership:

(1) The partnership ☐ is or ☐is not conducting business in Pennsylvania under an assumed or fictitious name. If the bidder is conducting business under an assumed or fictitious name, it must file with the Secretary of the Commonwealth and the office of the prothonotary the county wherein the principal place of business is located as required by the Fictitious Name Act of May 24, 1945, P.L. 967, as amended 54 P.S. §28.1. Partnerships conducting business under an assumed or fictitious name must provide the date of filing of the assumed or fictitious name with the Secretary of the Commonwealth: ____

(2) The partnership ☐is or ☐ is not a limited partnership formed under the laws of any jurisdiction other than the Commonwealth of Pennsylvania. If the bidder is an Out-of-state limited partnership, it must register with the Pennsylvania Department of State as required by the Act of July 10, 1981, P.L. 237, as amended, 59 Pa. C.S.A. §503. Out-of-state limited partnerships must provide the date of registry with the Pennsylvania Department of State: ____

c. If the bidder is an individual:

He or she ☐ is or ☐ is not conducting business under an assumed or fictitious name. If the bidder is conducting business under an assumed or fictitious name, he or she must file with the Secretary of the Commonwealth and the office of the prothonotary in the county wherein the principal place of business is located as required by the Fictitious Name Act of May 24, 1945, P.L. 967, as amended, 54 P.S. §28.1. Individuals conducting business under an assumed or fictitious name must provide the date of filing of the assumed or fictitious name with the Secretary of the Commonwealth: ____

pennsylvania
DEPARTMENT OF GENERAL SERVICES
BUREAU OF PROCUREMENT

LOBBYING CERTIFICATION FORM

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

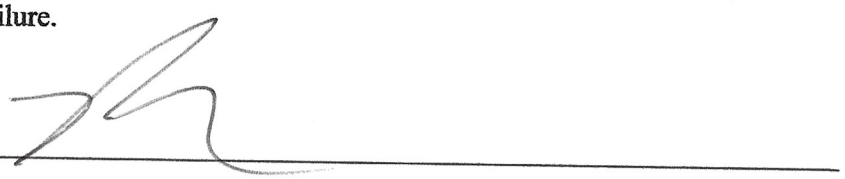
(1) No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, Disclosure of Lobbying Activities, which can be found at:

http://www.whitehouse.gov/sites/default/files/omb/assets/omb/grants/sflllin.pdf

(3) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed under *Section 1352, Title 31, U. S. Code.* Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than **$100,000** for such failure.

SIGNATURE: 

TITLE: VP of Sales DATE: Aug 30, 2024

BOP-1307
Revised 11/7/2013

pennsylvania
DEPARTMENT OF GENERAL SERVICES
BUREAU OF PROCUREMENT

IRAN FREE PROCUREMENT CERTIFICATION FORM

(Pennsylvania's Procurement Code Sections 3501-3506, 62 Pa.C.S. §§ 3501-3506)

To be eligible for an award of a contract with a Commonwealth entity for goods or services worth at least $1,000,000 or more, a vendor must either: a) certify it is **not** on the current list of persons engaged in investment activities in Iran created by the Pennsylvania Department of General Services ("DGS") pursuant to Section 3503 of the Procurement Code and is eligible to contract with the Commonwealth under Sections 3501-3506 of the Procurement Code; or b) demonstrate it has received an exception from the certification requirement for that solicitation or contract pursuant to Section 3503(e).

To comply with this requirement, please insert your vendor or financial institution name and complete **one** of the options below. Please note: Pennsylvania law establishes penalties for providing false certifications, including civil penalties equal to the greater of $250,000 or twice the amount of the contract for which the false certification was made; contract termination; and three-year ineligibility to bid on contracts. (Section 3503 of the Procurement Code.)

OPTION #1 - CERTIFICATION

I, the official named below, certify I am duly authorized to execute this certification on behalf of the vendor/financial institution identified below, and the vendor/financial institution identified below is **not** on the current list of persons engaged in investment activities in Iran created by DGS and is eligible to contract with the Commonwealth of Pennsylvania Sections 3501-3506 of the Procurement Code.

Vendor Name/Financial Institution (Printed) Avive Solutions, Inc.	
By (Authorized Signature) 	
Printed Name and Title of Person Signing Mark Peters, VP of Sales	*Date Executed* Aug 30, 2024

OPTION #2 – EXEMPTION

Pursuant to Procurement Code Section 3503(e), DGS may permit a vendor/financial institution engaged in investment activities in Iran, on a case-by-case basis, to enter into a contract for goods and services.

If you have obtained a written exemption from the certification requirement, please fill out the information below, and attach the written documentation demonstrating the exemption approval.

Vendor Name/Financial Institution (Printed)	
By (Authorized Signature)	
Printed Name and Title of Person Signing	*Date Executed*

ELECTION TO PARTICIPATE FORM

COSTARS PROGRAM

If awarded a Contract, our firm agrees to sell the awarded items/services at the same prices and/or discounts, and in accordance with the contractual terms and conditions, to registered COSTARS Members who elect to participate in the contract.

Our firm also agrees to pay the applicable Administrative Fee at the beginning of each contract year and/or upon each contract renewal date:

$166 for a Department of General Services-verified Small Diverse Business or Small, Veteran Business Enterprise

$500 for a Department of General Services Self-Certified Small Business

$1,500 for all other businesses

If you are a Department of General Services Self-Certified Small Business or Department of General Services-verified Small Diverse Business,
***you must submit a copy of your active Small Business Contracting Program certificate with your bid response**.*

Corporate or Legal Entity Name:	Avive Solutions, Inc.
Signature:	Mark Peters, VP of Sales
Date:	Sept 23, 2024
Contract Description:	Automated External Defibrillators & accessories

Rev. 09-21-2022