

**NASPO Value Point Computer Equipment,
Peripherals & Related Services**

**State of Arizona
State Procurement Office**
1400 W Washington St, Suite 3100
Phoenix, AZ 85007

**State of Arizona Participating
Addendum**

**Contract No. CTR071717
Contractor: IBM Corporation**

In accordance with A.R.S. §41-2632, AAC R2-7-1002, Cooperative Purchasing, the following document shall relay all additional requirements for the State of Arizona in its use and participation in the NASPO Value Point contract for Computer Equipment, Peripherals & Related Services, as awarded by the State of Minnesota, Lead State, for this competitively procured contract.

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



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

IBM	
Contractor company name	Signature of person authorized to sign Contract
100 S Mill Road Suite 910	Nicole Kane, Technology Sales Leader
Address	Printed name and title
Tempe, AZ, 85281	Nicole Kane, Technology Sales Leader
City, State, ZIP	Contact name and title
	nicole.watches@ibm.com 415-629-8165
	Contact email address Contact phone number

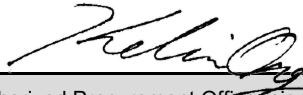
CERTIFICATION: By signature in the above, Contractor certifies that it:

1. Will not discriminate against any employee or applicant for employment in violation of Federal Executive Order 11246, [Arizona] State Executive Order Nos. 2023-09, 2023-01, 2009-9, and A.R.S. §§ 41-1461 through 41-1465;
2. Has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the Contract; failure to provide a valid signature affirming the stipulations required by this clause may void the Contract;
3. Has not signed the Contract with a false statement, which will void the Contract and may subject Contractor to legal penalties under law;
4. Complies with A.R.S. § 18-132 when offering electronics or information technology products, services, or maintenance;
5. Did not and will not involve collusion or other anti-competitive practices; and
6. Is not debarred from, or otherwise prohibited from, participating in any contract awarded by any federal entity, or state or local government.

CONTRACT EXECUTION BY PROCUREMENT AUTHORITY

The Contractor is now bound to sell the Materials or Services listed in the attached Contract, including all terms, conditions, and specifications as stated herein. The Contract shall henceforth be referred to as Contract No. CTR071717 with an effective date of 7/14/2025. The Contractor is cautioned not to commence any billable work or to provide any Material or Service under this Contract until Contractor receives an Order or written notice to proceed from the State.

State of Arizona Contract Executed this 15th day of July 20 25


Authorized Procurement Officer signature



1. Introduction

The State of Arizona, its Agencies, Boards and Commissions (State), as well as authorized Cooperative Members, have an ongoing requirement for the products and services as described herein. This NASPO Value Point Participating Addendum (PA) is developed by and for the State of Arizona. This PA is based on the award of a competitively solicited procurement, performed in concert with NASPO Value Point and the State of Minnesota.

2. Background

In 2023, the State of Minnesota competitively solicited offers from national and regional Contractors for the provision of computer hardware and associated services. Specifically, the solicitation included three product Bands: Band 1, Personal Computing Devices – Windows Operating Systems: Desktops, Laptops, Tablets; and Band 2, Personal Computing Devices – Non-Windows Operating Systems: Desktops, Laptops, Tablets; and Band 3, Servers and Storage. The Contractor is awarded the following Band(s): Band 3, Servers and Storage. The result of this procurement was the award of twenty-two (22) Master contracts that were awarded beginning in July 2023. Per the procedure outlined on the NASPO Value Point website and other materials, an interested participating state, must develop a Participating Addendum (PA) with the Contractors of their choosing.

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

3. State of Arizona Requirements

The State of Arizona shall engage various Contractors through the PA process and award. For this particular PA, the Contractor shall be: **IBM Corporation**. As per award, the Contractor shall provide the following equipment as specified in the Master Agreement **23012: Band 3**, Servers and Storage, including accessories/peripherals and associated services.

4. Participating Addendum Allowances and Restrictions

This PA shall allow and restrict the following:

- A. Any network equipment that may include, routers, switches, security components, telephony, cabling other networking devices is not allowed as a separate purchase. The network component must be a part of the total equipment solution.
- B. The only allowable software is operating system software and is subject to equipment configuration limits. Commercial off-the shelf (COTS) application software is not allowed;
- C. Software must be pre-loaded or provided as an electronic link with the initial purchase, exception is noted immediately below;
 - C1. Software such as middleware which is not installed on the equipment but is related to storage and server equipment purchased, is allowed and may be procured after the initial purchase of the equipment,
- D. Services must be related to the equipment. No additional professional services, such as consulting, regardless of length of engagement, is allowed;
- E. Wireless phone and internet service is not allowed;



- F. Cellular equipment and accessories are not allowed;
 - G. Cloud services including acquisitions structured as managed on-site services are not allowed;
 - H. Managed Print Services is not allowed
 - I. Hosting Services are not allowed;
 - J. Software training, or any other training other than equipment operation training, is not allowed;
-
- K. Employee Purchase Programs are not allowed in this PA; and
 - L. Trade-In and Recycle Programs or offerings are not allowed in this PA.

5. Leasing and Rental Options

Leasing and rental options are allowable for the acquisition of the awarded equipment, if the Contractor provides this option. A Master Lease or Master Rental Agreement will not be negotiated by the State. Each Eligible Agency or Ordering Entity who chooses to pursue either method, shall be responsible for the review, possible negotiations, and signature on any leasing or rental documents. Additionally, it shall be clear that the Eligible Agency or Ordering Entity has the final financial responsibility. The following shall apply to all State agencies, boards and commissions. All cooperative members shall seek guidance from their internal Finance Department for applicability:

- A. Capital and operating lease agreements, as well as straight rental agreements, between the Contractor and any Eligible Agency or Ordering Entity are allowable under this Contract.
 - 1. Capital leases are those agreements which transfer title or ownership of the leased property at the end of the lease or contain a provision for a bargain purchase option; and
 - 2. Operating leases are those agreements where agencies do not obtain title to or ownership of, only the temporary possession and use of, the leased property.
- B. In the event of a conflict between the provisions of a lease agreement and Contract terms and conditions, the Contract terms and conditions shall prevail.
- C. Any State entity entering into a lease agreement as allowed herein shall follow the policies outlined in the State of Arizona Accounting Manual. Any questions as to the State's policy should be directed to the ADOA General Accounting Office. Inquiries can be sent via email to gaopolicy@azdoa.gov.
- D. To ensure compliance with Article 9, Section 5 of the State of Arizona Constitution, installment purchase agreements, or those agreements where title to the property is transferred to the lessee at the inception of the agreement, shall be prohibited under this contract.

6. Configuration Limits – Please see Configuration Dollar Limits in Master Agreement

7. Reporting

At a minimum the Contractor shall provide sales reports as outlined in the Master Agreement and sample Participating Addendum, as provided by NASPO Value Point. Sales reports will only be requested as needed by either the State or any Ordering Entity. More importantly for this PA, is Contractor's compliance to Item 8, Administrative Fee and Usage Reports as stated in the Special Terms and Conditions of this document.

8. ePEAT

The State of Arizona has not waived this requirement. At a minimum the Contractor shall be ePEAT Bronze

compliant. IBM maintains ePEAT Bronze for those products that are ePEAT eligible.

9. Utilization of Partners

The Contractor may offer partners to provide additional services in support of this contract. The partners may provide the following:

- A. Marketing and Sales;
- B. Product Fulfillment;
- C. Customer Service;
- D. Expediting Services; and
- E. Administrative Services;
 - E1. Purchase Order Acceptance, and
 - E2. Accounts Receivable

If the Contractor chooses to allow partners to provide administrative services as noted above, Contractor has the responsibility to vet or ensure the partners capabilities including their financial systems and business processes to accept and process contract obligation and financial documents timely and accurately. The ultimate responsibility for the performance of these partners, rests with the Contractor. The State or any Ordering Entity shall not be obligated or forced to utilize a partner or partners.

Contractor may provide up to ten (10) partners. The list of approved and the services each Partner may provides will be clearly noted on the Contractor's web page for this contract. Contractor may remove and add partners within the contract term, as long as the State receives timely notification of these changes. All notifications shall be in writing. At a minimum, the notification shall include:

- A. The name of the Partner;
- B. Address;
- C. Contact Name(s);
- D. Phone and Email Contact Information; and
- E. Description of the Services they will provide.



Scope of Work

1400 W Washington St., Ste 3100
Phoenix, AZ 85007

Contract No; **CTR071717**
Description: **Computer Hardware Including Peripherals and Associated Services**

10. Current Product and Pricing Schedules

The Contractor is responsible to ensure that any changes made to the Product and Pricing Schedules are current and are accurate. It is required that the Contractor provide a Product and Pricing Schedule update to the State for each update provided to the NASPO Value Point Lead State. Notification regarding any changes shall be made in writing within thirty (30) days of when notification was provided to the NASPO Value Point Lead State.

11. Website Ordering or Punch-Out Capabilities

The State reserves the right to work with the Contractor at a later date, to initiate and implement a web enabled ordering mechanism, including a punch-out feature into the State's e-procurement system, Arizona Procurement Portal.

12. Ordering Instruments

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

Any credit card processing fees that may be imposed by the Contractor shall be listed as a separate line item on any invoice. The imposition of processing fees should be carefully considered by the Contractor and should not exceed the following:

- A. For transactions of \$25,000.00 or less, the Contractor may not charge a credit card fee; and
- B. For transactions greater than \$25,000.00, the Contractor may charge a credit card fee that shall not exceed 2.5%.

Contract No: CTR071717
Description: Computer Hardware including Peripherals and Associated Services

1. Purpose

In accordance with Arizona Revised Statutes (A.R.S.) § 41-2632, and Arizona Administrative Code (A.A.C.) R2-7-1003, Purchasing from a Cooperative Contract, the State of Arizona establishes this contract with Contractor to provide the Materials or Services described herein.

2. Term of Contract

This Participating Addendum shall become effective as of the date of the last signature below and shall terminate upon the expiration or termination of the Master Agreement, as amended, unless the Participating Addendum is terminated sooner in accordance with the terms set forth herein.

3. Contract Extensions

The Contract term is for the stated period subject to additional successive periods of twelve (12) months per extension with a maximum aggregate including all extensions not to exceed five (5) years.

4. Master Contract and Participating Addendum Order of Precedence

As stated in the Participating Addendum of record, as posted on the NASPO Value Point website, the contract order of precedence for this PA is as follows:

- 4.1 State of Arizona Participating Addendum;
- 4.2 Minnesota NASPO ValuePoint Master Agreement
- 4.3 Contractor Terms and Conditions - The following terms and conditions apply to orders pursuant to this Participating Addendum: <https://www.ibm.com/contracts/sled/naspo-ce-terms-and-conditions>
- 4.4 The Solicitation including all Addendums; and
- 4.5 Contract Vendors response to the Solicitation

5. Non-Exclusive Contract

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

6. Eligible Agencies

This Contract shall be for the use of all State of Arizona departments, agencies, commissions and boards. In addition, eligible State Purchasing Cooperative members may participate at their discretion. In order to participate in this contract, a cooperative member shall have entered into a Cooperative Purchasing Agreement with the Department of Administration, State Procurement Office as required by Arizona Revised Statutes § 41-2632.

Membership in the State Purchasing Cooperative is open to all Arizona political subdivisions, including cities,

counties, school districts, and special districts. Membership is also available to non-profit organizations, other state governments, the federal government and tribal nations. For reference, “non-profit organizations” are defined in A.R.S. § 41-2631(4) as any nonprofit corporation as designated by the IRS under Section 501(c)(3) through 501(c)(6) of the tax code.



Special Terms and Conditions

State of Arizona
State Procurement Office
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Contract No: CTR071717
Description: Computer Equipment, Peripherals & Related Services

7. Estimated Quantities

The State anticipates considerable activity resulting from contract(s) that will be awarded as a result of this solicitation; however, no commitment of any kind is made concerning quantities actually acquired and that fact should be taken into consideration by each potential Contractor.

8. Administrative Fee and Usage Reports

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

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

Submission of Reports and Fees. "Contractor shall pay State an administrative fee against all Contract sales to Co-Op Buyers, as provided for under A.R.S. § 41-2633. Starting on January 1st, 2025, the Administrative Fee increased to Two percent (2%). After January 1st, 2025, the Administrative Fee going forward will be Two Percent (2%). Rates are set in accordance with SPO Technical Bulletin (TB) 007, available on the SPO website, which may be revised at the State's sole discretion as part of Arizona state procurement policy. For convenience (though note that this link may change over time) TB 007 may be found here:

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

Usage Reports and any questions are to be submitted by email to the state's designated usage report email address: coop@azdoa.gov

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The Administrative Fee shall be a part of the Contractor's unit prices and is not to be charged directly to the customer in the form of a separate line item. Statewide contracts shall not have separate prices for State Agency customers and State Purchasing Cooperative customers.

Contractor's failure to remit administrative fees in a timely manner consistent with the contract's requirements may result in the State exercising any recourse available under the contract or as provided for by law.

9. Licenses

The Contractor shall maintain in current status, all federal, state and local licenses and permits required for the operation of the business conducted by the Contractor.

10. Authorization to Purchase

Authorization for the purchase of equipment or services shall be made only upon the issuance of a Purchase Order or a government/commercial procurement card/credit card. The Purchase Order will indicate the contract number and the dollar amount of funds authorized. The Contractor shall only be authorized to perform up to the amount on the Purchase Order or the accepted quotation document. The State shall not have any legal obligation to pay for goods or services in excess of the amount indicated on the Purchase Order or accepted quotation document. No further obligation for payment shall exist unless:

- 10.1 The Purchase Order is changed or modified with an official Change Order, and/or
- 10.2 An additional Purchase Order is issued for the purchase of good and services under this Contract.

11. Invoicing

All billing notices or invoices shall be sent to the agency whose address appears on the contract release order/purchase order as the 'bill to address' and should contain, at a minimum, the information listed below.

- 10.1 The contract number, as applicable, the Task Order number, and the contract release/purchase order number;
- 10.2 Name and address of the contractor;
- 10.3 The Contractor's remittance address;
- 10.4 Contractor's representative to contact concerning billing questions;
- 10.5 Contractual payment terms;
- 10.6 Applicable taxes; and
- 10.7 Description of work products delivered.

12. Compliance with Applicable Laws

The Materials and services supplied under this Contract shall comply with all applicable Federal, state and local laws, and the Contractor shall maintain all applicable licenses and permit requirements. Contractor represents and warrants to the State that Contractor has the skill and knowledge possessed by members of its trade or



profession and Contractor will apply that skill and knowledge with care and diligence so Contractor and Contractor's employees and any authorized subcontractors shall perform the Services described in this Contract.

Illicit Code is defined as any harmful or hidden programs or data intentionally incorporated therein that destroys or impairs the Software, thereby inhibiting or preventing the State from using the Licensed Software as warranted. Contractor uses commercially available software to detect existence of Illicit Code prior to distributing such Licensed Software; however, Contractor cannot guarantee that any Licensed Software is free of illicit codes and other defects. During the term of a Licensed Software warranty period, or during the term of any Software defect, if it is determined that Illicit Code is present, then Contractor will use commercially reasonable efforts to correct the affected Software and if it cannot do so in a reasonable period of time, replace the affected Software as Contractor's sole and exclusive remedy.

13. Price Adjustment

Price Adjustments will be provided in accordance with NASPO ValuePoint Master Agreement Exhibit B-Section 2 Product and Service Schedule (PSS).

14. Payment Procedures

The State will make payments only to the entity to whom the purchase order was issued. The entities to whom a purchase order may be issued are 1) IBM Corporation or 2) only those IBM Business Partners who have been approved to receive and fulfill such orders. IBM Business Partners will be listed on the IBM NASPO web page in accordance with Scope of Work Paragraph 9 above.

15. Order Process

The award of a Contract shall be in accordance with the Arizona Procurement Code. Any attempt to represent any material and/or service not specifically awarded as being under contract with the State is a violation of the Contract and the Arizona Procurement Code. Any such action is subject to the legal and contractual remedies available to the State inclusive of, but not limited to, contract cancellation, suspension and/or debarment of the Contractor.

16. Offshore Performance of Work Prohibited

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

17. First Party Limitation of Liability-

First Party Liability Limitation

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

Provisos. This paragraph limits liability for first party direct damages relating to the Work regardless of the legal theory under which the liability is asserted. This paragraph does not limit liability arising from any:

- (i) Indemnified Claim against which Contractor has indemnified State Indemnitees under paragraph 6.2;
- (ii) claim against which Contractor has indemnified State Indemnitees under paragraph 6.3; or
- (iii) provision of the Contract calling for liquidated damages or specifying amounts or percentages as being at-risk or subject to deduction for performance deficiencies.

The Parties agree that neither Party shall be liable, regardless of the form of action, for consequential, incidental, indirect, exemplary, or special damages, or lost profits, business, value, revenue, goodwill, or anticipated savings.

18. Access Constraints and Requirements

Contractor access to State facilities and resources shall be properly authorized by State personnel, based on business need and will be restricted to least possible privilege. Upon approval of access privileges, the Contractor shall maintain strict adherence to all policies, standards, and procedures that are applicable to Contractor in its role as the provider of information technology Materials or Services under this Contract. Policies / Standards, ADOA / ASET Policies / Procedures, and Arizona Revised Statutes (ARS) 28-447 Public Records, 28-449 Information Requests for Public Records, 38-421 Stealing, Destroying, Altering or Secreting a Public Record; Classification, 13-2408 Securing the Proceeds of an Offense, Classification, 13-2316 Computer Tampering, Venue; Forfeiture: Classification,

Contractor or, its subcontractors agree to comply with policies, standards, and procedures listed above. Contractor or subcontractor who intentionally commits an unlawful breach or harmful access (physical or virtual) will be subject to prosecution under all applicable state and/ or federal laws.

19. Section 508 Compliance

Where applicable, Contractor will comply with Section 13, Accessibility Standards of NASPO ValuePoint Master Agreement No. 23012

20. Health Insurance Portability and Accountability Act of 1996

The Contractor warrants that it is familiar with the requirements of HIPAA, as amended by the Health Information Technology for Economic and Clinical Health Act (HITECH Act) of 2009, and accompanying regulations. In the event that the Contractor will act as a Business Associate as defined in the regulations, Contractor will discuss the requirement to enter into a Business Associate Agreement (BAA) for that specific transaction. Such BAA will be in effect for the term of the transaction and will not apply to the PA as a whole.

21. Indemnification

General Indemnity. Contractor shall indemnify the Indemnified Party by defending (to the extent permitted by a state's Attorney General) the Indemnified Party from any claims or causes of action (and paying all related damages and settlement payments, including attorney's fees, that a court finally awards or are included in a settlement approved by Contractor) for bodily injury (including death) and damage to real or tangible personal property brought by a third party alleging Contractor's intentional, willful, or negligent acts or omissions and actions. The Indemnified Party will promptly (i) notify Contractor in writing of the claim, (ii) supply information requested by Contractor and (iii) allow Contractor to control, and reasonably cooperate in, the defense and settlement, including mitigation efforts.

"Indemnified Party" means the State of Arizona and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees.

The indemnification obligations of this section do not apply in the event the claim or cause of action is the result of the Indemnified Party's sole negligence. This clause will not be construed to bar any legal remedies the Contractor may have for the Indemnified Party's failure to fulfill its obligation under this Contract.

22. Intellectual Property Indemnification

Intellectual Property Indemnification. Notwithstanding Paragraph 34.a of Exhibit A in the Master Agreement, the Contractor shall indemnify the Indemnified Party by defending (to the extent permitted by the Attorney General) the Indemnified Party, at the Contractor's expense, from any action or claim (and paying all related damages and settlement payments, including attorney's fees, that a court finally awards or are included in a settlement approved by contractor) brought against the Indemnified Party by a third party alleging that all or part of a Contractor-product infringes upon a patent or copyright of others, provided that the Indemnified Party promptly (i) notifies Contractor in writing of the claim, (ii) supplies information requested by Contractor, and (iii) allows Contractor to control, and reasonably cooperates in, the defense and settlement, including mitigation efforts. If such a claim or action arises, or in the Contractor's or the Indemnified Party's opinion is likely to arise, the Contractor may, at its discretion, either to (i) enable the Indemnified Party to continue to use the product, (ii) replace the product with one that is at least functionally equivalent or (iii) modify the allegedly infringing works or documents as necessary and appropriate to remedy the infringement claim.

23. Insurance

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

The Insurance Requirements herein are minimum requirements for this Contract and in no way limit the indemnity covenants contained in this Contract. The State of Arizona in no way warrants that the minimum limits contained herein are sufficient to protect the Contractor from liabilities that arise out of the performance of the work under this Contract by the Contractor, its agents, representatives, employees or subcontractors, and the Contractor is free to purchase additional insurance.

Minimum Scope and Limits of Insurance

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

Commercial General Liability (CGL) – Occurrence Form

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

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

The policy shall be endorsed, as required by this written agreement, to include the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees as additional insureds with respect to liability arising out of the activities performed by or on behalf of the Contractor.

Policy shall contain a waiver of subrogation endorsement, as required by this written agreement, in favor of the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.

Business Automobile Liability

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

- Combined Single Limit (CSL) \$1,000,000

Policy shall be endorsed, as required by this written agreement, to include the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees as additional insureds with respect to liability arising out of the activities performed by, or on behalf of, the Contractor involving automobiles owned, hired and/or non-owned by the Contractor.

Policy shall contain a waiver of subrogation endorsement as required by this written agreement in favor of the State

of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.

Workers' Compensation and Employers' Liability

- | | |
|---------------------------|-------------|
| • Workers' Compensation | Statutory |
| • Employers' Liability | |
| ○ Each Accident | \$1,000,000 |
| ○ Disease – Each Employee | \$1,000,000 |
| ○ Disease – Policy Limit | \$1,000,000 |

Policy shall contain a waiver of subrogation endorsement, as required by this written agreement, in favor of the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor. However, waiver of subrogation does not apply in instances of gross negligence on the part of the State, where gross negligence is defined to mean carelessness that is reckless disregard for the safety of others and/or a failure to use the slightest degree of care.

This requirement shall not apply to each Contractor or subcontractor that is exempt under A.R.S. § 23-901, and when such Contractor or subcontractor executes the appropriate waiver form (Sole Proprietor or Independent Contractor).

Additional Insurance Requirements

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

The Contractor's policies, as applicable, shall stipulate that the insurance afforded the Contractor shall be primary and that any insurance carried by the Department, its agents, officials, employees or the State of Arizona shall be excess and not contributory insurance, as provided by A.R.S. § 41-621 (E). For clarity, primary and non-contributory requirements apply for Commercial General Liability and Automobile Liability Insurance policies only.

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

Notice of Cancellation

Applicable to all insurance policies required within the Insurance Requirements of this Contract, Contractor's insurance shall not be permitted to expire, be suspended, be canceled, or be materially changed for any reason without thirty (30) days prior written notice to the State of Arizona. Within two (2) business days of receipt, Contractor must provide notice to the State of Arizona if they receive notice of a policy that has been or will be suspended, canceled, materially changed for any reason, has expired, or will be expiring. Such notice shall be sent directly to the Department and shall be mailed, emailed, hand delivered or sent by facsimile transmission to (State Representative's Name, Address & Fax Number).

Acceptability of Insurers

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

Verification of Coverage

Contractor shall furnish the State of Arizona with certificates of insurance (valid ACORD form or equivalent

approved by the State of Arizona) evidencing that Contractor has the insurance as required by this Contract. An authorized representative of the insurer shall sign the certificates.

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

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

All certificates required by this Contract shall be sent directly to the Department. The State of Arizona project/contract number and project description shall be noted on the certificate of insurance.

Subcontractors

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

Approval and Modifications

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

Exceptions

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



24. Compliance Requirements for A.R.S. § 41-4401, Government Procurement: e-Verify Requirement

The Contractor warrants compliance with all Federal immigration laws and regulations relating to employees and warrants its compliance with Section A.R.S. § 23-214, Subsection A. (That subsection reads: "After December 31, 2007, every employer, after hiring an employee, shall verify the employment eligibility of the employee through the E-Verify program.")

A breach of a warranty regarding compliance with immigration laws and regulations shall be deemed a material breach of the Contract and the Contractor may be subject to penalties up to and including termination of the Contract.

Failure to comply with a State audit process to randomly verify the employment records of Contractors and subcontractors shall be deemed a material breach of the Contract and the Contractor may be subject to penalties up to and including termination of the Contract.

The State Agency retains the legal right to inspect the papers of any employee who works on the Contract to ensure that the Contractor or subcontractor is complying with the warranty under paragraph One (1).

24. Negotiated Uniform Terms and Conditions

The following terms and conditions have been negotiated, and based on contract order of precedence shall be placed in the Special Terms and Conditions for greater clarity and position.

- 24.1 Property of the State - See Master Agreement Exhibit A, Paragraph 20 Title of Product
- 24.2 Ownership of Intellectual Property- See Master Agreement Exhibit A, Paragraph 20 Title of Product
- 24.3 Payments - See Master Agreement Exhibit A, Paragraph 23 Payment
- 24.4 Delivery - See Master Agreement Exhibit A, Paragraph 18 Shipping and Delivery
- 24.5 Risk of Loss

Contractor shall bear all risk of loss to Materials while in pre-production, production, storage, transit, staging, assembly, installation, testing, and commissioning, if and as those duties are within the scope of the Work, until they have been accepted as conforming by State in the particular location and situation specified in the Order, or as specified generally elsewhere in the Contract if the Order does not provide particulars, provided that, risk of loss for nonconforming Materials will remain with Contractor notwithstanding acceptance to the extent the loss stems from the nonconformance.

- 24.6 Warranties - See Master Agreement Exhibit A, Paragraph 21 and Exhibit C, Paragraphs 2 and 6
- 24.7 Nonconforming Tender - See Master Agreement Exhibit A, Paragraph 44 Defaults and Remedies



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- 24.8 Right of Offset. The parties agree the State shall not be entitled to offset against any sums due the Contractor, any expenses or costs incurred by the State, or damages assessed by the State concerning the Contractor's non-conforming performance or failure to perform the Contract, including expenses, costs and damages described in the Uniform Terms and Conditions.
- 24.9 Arbitration - The parties to this Contract agree to resolve all disputes arising out of or relating to this Contract through arbitration, after exhausting applicable administrative review, to the extent required by A.R.S. § 12-1518, except as may be required by other applicable statutes (A.R.S. Title 41).



Uniform Terms and Conditions

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Phoenix, AZ 85007

Contract No. CTR071717
Description:: Computer Equipment, Peripherals & Related Services

1. Definition of Terms

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

- 1.1. "Attachment" means any item the Solicitation requires the Offeror to submit as part of the Offer.
- 1.2. "Contract" means, for the purpose of this Participating Addendum, the Master Agreement, as defined therein and as modified by this Participating Addendum, and any Amendments to either the Master Agreement or the Participating Addendum.
- 1.3. "Contract Amendment" means a written document signed by the Procurement Officer that is issued for the purpose of making changes in the Contract.
- 1.4. "Contractor" The entity identified on the State of Arizona Participating Addendum signature block who has entered into the Contract with the State.
- 1.5. "Days" means calendar days unless otherwise specified.
- 1.6. "Exhibit" means any item labeled as an Exhibit in the Solicitation or placed in the Exhibits section of the Solicitation.
- 1.7. "Gratuity" means a payment, loan, subscription, advance, deposit of money, services, or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value is received.
- 1.8. "Materials" means all property, including equipment, supplies, printing, insurance and leases of property but does not include Project Materials, land, a permanent interest in land or real property or leasing space.
- 1.9. "Procurement Officer" means the person, or his or her designee, duly authorized by the State to enter into and administer Contracts and make written determinations with respect to the Contract.
- 1.10. "Services" means the furnishing of labor, time or effort by a contractor or subcontractor as defined in the applicable Statement of Work, but does not include employment agreements or collective bargaining agreements.
- 1.11. "Subcontract" means any mutually executed contract between the Contractor and another party or between a subcontractor and another party delegating or assigning, in whole or in part, the making or furnishing of any material or any service required for the performance of the Subcontract.
- 1.12. "State" means the State of Arizona and Department or Agency of the State that executes the Contract.
- 1.13. "State Fiscal Year" means the period beginning with July 1 and ending June 30.

2. Contract Interpretation

- 2.1. Arizona Law. The Arizona law applies to this Contract including, where applicable, the Uniform Commercial Code as adopted by the State of Arizona and the Arizona Procurement Code, Arizona Revised Statutes (A.R.S.) Title 41, Chapter 23, and its implementing rules, Arizona Administrative Code (A.A.C.) Title 2, Chapter 7.
- 2.2. Implied Contract Terms. Each provision of law and any terms required by law to be in this Contract are a part of this Contract as if fully stated in it.
- 2.3. Contract Order of Precedence. In the event of a conflict in the provisions of the Contract, as accepted by the State and as they may be amended, the following shall prevail in the order set forth below:
 - 2.3.1. Special Terms and Conditions;
 - 2.3.2. Uniform Terms and Conditions;
 - 2.3.3. Statement or Scope of Work;



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- 2.4. Relationship of Parties. The Contractor under this Contract is an independent Contractor. Neither party to this Contract shall be deemed to be the employee or agent of the other party to the Contract.
- 2.5. Severability. If any part of this Contract is held invalid or unenforceable, by any court of competent jurisdiction, that part will be deemed deleted from this Contract and both parties will make reasonable efforts to negotiate language that achieves the same or similar objectives. The remaining Contract will continue in full force and effect.
- 2.6. No Parole Evidence. This Contract is intended by the parties as a final and complete expression of their agreement. No course of prior dealings between the parties and no usage of the trade shall supplement or explain any terms used in this document and no other understanding either oral or in writing shall be binding.
- 2.7. No Waiver. Either party's failure to insist on strict performance of any term or condition of the Contract shall not be deemed a waiver of that term or condition even if the party accepting or acquiescing in the nonconforming performance knows of the nature of the performance and fails to object to it.

3. Contract Administration and Operation

- 3.1. Records. Under A.R.S. § 35-214 and § 35-215, the Contractor shall retain and shall contractually require each subcontractor to retain all data and other "records" relating to the acquisition and performance of the Contract for a period of five years after the completion of the Contract. All records shall be subject to inspection and audit by the State at reasonable times. Upon request, the Contractor shall produce a legible copy of any or all such records.
- 3.2. Non-Discrimination. The Contractor shall comply with State Executive Order No. 2009-09 and all other applicable Federal and State laws, rules and regulations, including the Americans with Disabilities Act.
- 3.3. Audit. Pursuant to ARS § 35-214, at any time during the term of this Contract and five (5) years thereafter, the Contractor's or any subcontractor's books and records shall be subject to audit by the State and, where applicable, the Federal Government, to the extent that the books and records relate to the performance of the Contract or Subcontract.
- 3.4. Facilities Inspection and Materials Testing. The Contractor agrees to permit access to its facilities, Subcontractor facilities, and the Contractor's processes or services, at reasonable times for inspection of the facilities or Materials covered under this Contract as required under A.R.S. § 41-2547. The State shall also have the right to test, at its own cost, the Materials to be supplied under this Contract. Neither inspection of the Contractor's facilities nor Materials testing shall constitute final acceptance of the Materials or Services. If the State determines material non-compliance of the Materials, the Contractor shall be responsible for the payment of all costs incurred by the State for testing and inspection, subject to limitation of liability section 15.7.
- 3.5. Notices. Notices to the Contractor required by this Contract shall be made by the State to the person indicated on the Offer and Acceptance form submitted by the Contractor unless otherwise stated in the Contract. Notices to the State required by the Contract shall be made by the Contractor to the Solicitation Contact Person indicated on the Solicitation cover sheet, unless otherwise stated in the Contract. An authorized Procurement Officer and an authorized Contractor representative may change their respective person to whom notice shall be given by written notice to the other and an amendment to the Contract shall not be necessary.
- 3.6. Advertising, Publishing and Promotion of Contract. The Contractor shall not use, advertise or promote information for commercial benefit concerning this Contract without the prior written approval of the Procurement Officer.
- 3.7. Property of the State. See Master Agreement Exhibit A Paragraph 20 Title of Product.



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- 3.8. Ownership of Intellectual Property. See Master Agreement Exhibit A Section 20 'Title of Product'.
- 3.9. Federal Immigration and Nationality Act. Contractor shall comply with all federal, state and local immigration laws and regulations relating to the immigration status of their employees during the term of the contract. Further, Contractor shall flow down this requirement to all Subcontractors utilized during the term of the contract. The State shall retain the right to perform random audits of Contractor and Subcontractor records or to inspect papers of any employee thereof to ensure compliance. Should the State determine that the Contractor or any Subcontractors be found noncompliant, the State may pursue all remedies allowed by law, including, but not limited to: suspension of work, termination of the contract for default and suspension or debarment of the contractor.
- 3.10. E-Verify Requirements. In accordance with A.R.S. § 41-4401, Contractor warrants compliance with all Federal immigration laws and regulations relating to employees and warrants its compliance with Section A.R.S. § 23-214, Subsection A.
- 3.11. Offshore Performance of Work Prohibited. Any services that are described in the specifications or scope of work that directly serve the State of Arizona or its clients and involve access to secure or sensitive data or personal client data shall be performed within the defined territories of the United States. Unless specifically stated otherwise in the specifications, this paragraph does not apply to indirect or 'overhead' services, redundant back-up services or services that are incidental to the performance of the contract. This provision applies to work performed by subcontractors at all tiers.

4. Costs and Payments

- 4.1. Payments. Payments shall comply with the requirements of A.R.S. Titles 35 and 41, Net 30 days. Upon receipt and acceptance of goods or services, the Contractor shall submit a complete and accurate invoice for payment from the State within thirty (30) days.
- 4.2. Delivery. Unless stated otherwise in the Contract, all prices shall be F.O.B. Destination and shall include all freight delivery and unloading at the destination.
- 4.3. Applicable Taxes.
- 4.3.1. Payment of Taxes. The Contractor shall be responsible for paying all applicable taxes.
- 4.3.2. State and Local Transaction Privilege Taxes. The State of Arizona is subject to all applicable state and local transaction privilege taxes. Transaction privilege taxes apply to the sale and are the responsibility of the seller to remit. Failure to collect such taxes from the buyer does not relieve the seller from its obligation to remit taxes.



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

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

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

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

4.5.1. Accept a decrease in price offered by the contractor;

4.5.2. Cancel the Contract; or

4.5.3. Cancel the contract and re-solicit the requirements.

5. Contract Changes

5.1. Amendments. This Contract is issued under the authority of the Procurement Officer who signed this Contract. The Contract may be modified only through a Contract Amendment within the scope of the Contract. Changes to the Contract, including the addition of work or materials, the revision of payment terms, or the substitution of work or materials, directed by a person who is not specifically authorized by the procurement officer in writing or made unilaterally by the Contractor are violations of the Contract and of applicable law. Such changes, including unauthorized written Contract Amendments shall be void and without effect, and the Contractor shall not be entitled to any claim under this Contract based on those changes.

5.2. Subcontracts. The Contractor shall not enter into any Subcontract under this Contract for the performance of this contract without the advance written approval of the Procurement Officer, such approval shall not be unreasonably withheld. The Contractor shall clearly list any proposed subcontractors and the subcontractor's proposed responsibilities. The Subcontract shall incorporate by reference the terms and conditions of this Contract as applicable to the Subcontractor.

5.3. Assignment and Delegation. The Contractor shall not assign any right nor delegate any duty under this Contract without the prior written approval of the Procurement Officer. The State shall not unreasonably withhold approval. IBM may assign rights to receive payments, which approval the State shall not unreasonably withhold.

6. Risk and Liability

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

6.2. Indemnification

Contractor/Vendor Indemnification (Not Public Agency)

General Indemnity. Contractor shall indemnify the Indemnified Party by defending (to the extent permitted by a state's Attorney General) the Indemnified Party from any claims or causes of action (and paying all related damages and settlement payments, including attorney's fees, that a court finally awards or are included in a settlement approved by Contractor) for bodily injury (including death) and damage to real or tangible personal property brought by a third party alleging Contractor's intentional, willful, or negligent acts or omissions and actions. The Indemnified Party will promptly (i) notify Contractor in writing of the claim, (ii) supply information requested by Contractor and (iii) allow Contractor to control, and reasonably cooperate in, the defense and settlement, including mitigation efforts.

"Indemnified Party" means the State of Arizona and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees.

The indemnification obligations of this section do not apply in the event the claim or cause of action is the result of the Indemnified Party's sole negligence. This clause will not be construed to bar any legal remedies the Contractor may have for the Indemnified Party's failure to fulfill its obligation under this Contract.

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6.2.1. Reserved.

6.3. Indemnification - Patent and Copyright.

Notwithstanding Paragraph 34.a of Exhibit A, the Contractor shall indemnify the Indemnified Party by defending (to the extent permitted by the Attorney General) the Indemnified Party, at the Contractor's expense, from any action or claim (and paying all related damages and settlement payments, including attorney's fees, that a court finally awards or are included in a settlement approved by contractor) brought against the Indemnified Party by a third party alleging that all or part of a Contractor-product infringes upon a patent or copyright of others, provided that the Indemnified Party promptly (i) notifies Contractor in writing of the claim, (ii) supplies information requested by Contractor, and (iii) allows Contractor to control, and reasonably cooperates in, the defense and settlement, including mitigation efforts. If such a claim or action arises, or in the Contractor's or the Indemnified Party's opinion is likely to arise, the Contractor may, at its discretion, either to (i) enable the Indemnified Party to continue to use the product, (ii) replace the product with one that is at least functionally equivalent or (iii) modify the allegedly infringing works or documents as necessary and appropriate to remedy the infringement claim.

6.4. Force Majeure.

6.4.1 Except for payment of sums due, neither party shall be liable to the other nor deemed in default under this Contract if and to the extent that such party's performance of this Contract is prevented by reason of force majeure. The term "*force majeure*" means an occurrence that is beyond the control of the party affected and occurs without its fault or negligence. Without limiting the foregoing, force majeure includes acts of God; acts of the public enemy; war; riots; strikes; mobilization; labor disputes; civil disorders; fire; flood; lockouts; injunctions-intervention-acts; or failures or refusals to act by government authority; and other similar occurrences beyond the control of the party declaring force majeure which such party is unable to prevent by exercising reasonable diligence.

6.4.2. Force Majeure shall not include the following occurrences:

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

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

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

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

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

6.5. Third Party Antitrust Violations. See Master Agreement, Exhibit A, Paragraph 37.



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7. Warranties - See Master Agreement, Exhibit A, Paragraph 21 and Exhibit C, Paragraphs 2 and 6.

8. State's Contractual Remedies

- 8.1. Right to Assurance. If the State in good faith has reason to believe that the Contractor does not intend to, or is unable to perform or continue performing under this Contract, the Procurement Officer may demand in writing that the Contractor give a written assurance of intent to perform. Failure by the Contractor to provide written assurance within the number of Days specified in the demand may, at the State's option, be the basis for terminating the Contract under the Uniform Terms and Conditions or other rights and remedies available by law or provided by the contract.
- 8.2. Stop Work Order.
- 8.2.1. The State may, at any time, by written order to the Contractor, require the Contractor to stop all or any part, of the work called for by this Contract for period(s) of days indicated [up to a maximum of 10 business days] by the State after the order is delivered to the Contractor. The order shall be specifically identified as a stop work order issued under



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this clause. Upon receipt of the order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage.

- 8.2.2. If a stop work order issued under this clause is canceled or the period of the order or any extension expires, the Contractor shall resume work. The Procurement Officer shall make an equitable adjustment in the delivery schedule or Contract price, or both, and the Contract shall be amended in writing accordingly.
- 8.3. Non-exclusive Remedies. The rights and the remedies of the State under this Contract are not exclusive.
- 8.4. Nonconforming Tender. Materials or services supplied under this Contract shall fully comply with the material provisions of Contract. The delivery of materials or services or a portion of the materials or services that do not fully comply with the material provisions may constitute a breach of contract. On delivery of nonconforming materials or services, the State may terminate the Contract for default under applicable termination clauses in the Contract, exercise any of its rights and remedies under the Uniform Commercial Code, or pursue any other right or remedy available to it.
- 8.5. Right of Offset. The State shall be entitled to offset against any sums due the Contractor, any expenses or costs incurred by the State, or damages assessed by the State concerning the Contractor's non-conforming performance or failure to perform the Contract, including expenses, costs and damages described in the Uniform Terms and Conditions.

9. Contract Termination

- 9.1. Cancellation for Conflict of Interest. Pursuant to A.R.S. § 38-511, the State may cancel this Contract within three (3) years after Contract execution without penalty or further obligation if any person significantly involved in initiating, negotiating, securing, drafting or creating the Contract on behalf of the State is or becomes at any time while the Contract or an extension of the Contract is in effect an employee of or a consultant to any other party to this Contract with respect to the subject matter of the Contract. The cancellation shall be effective when the Contractor receives written notice of the cancellation unless the notice specifies a later time. If the Contractor is a political subdivision of the State, it may also cancel this Contract as provided in A.R.S. § 38-511.
- 9.2. Gratuities. The State may, by written notice, terminate this Contract, in whole or in part, if the State determines that employment or a Gratuity was corruptly offered or made by the Contractor or a representative of the Contractor to any officer or employee of the State for the purpose of influencing the outcome of the procurement or securing the Contract, an amendment to the Contract, or favorable treatment concerning the Contract, including the making of any determination or decision about contract performance.
- 9.3. Suspension or Debarment. The State may, by written notice to the Contractor, immediately terminate this Contract if the State determines that the Contractor has been debarred, suspended or otherwise lawfully prohibited from participating in any public procurement activity. Submittal of an offer or execution of a contract shall attest that the contractor is not currently suspended or debarred. If the contractor becomes suspended or debarred, the contractor shall immediately notify the State.
- 9.4. Termination for Convenience. The State reserves the right to terminate the Contract, in whole or in part at any time when in the best interest of the State, without penalty or recourse provided a minimum of 30 days written notice provided to Contractor. Upon receipt of the written notice, the Contractor shall stop all work, as directed in the notice, notify all subcontractors of the effective date of the termination and minimize all further costs to the State. In the event of termination under this paragraph, all documents, data and reports prepared by the Contractor under the Contract shall become the property of and be delivered to the State upon demand in accordance with section 3.8 Ownership of Intellectual Property above, the State's payment obligations, and other such data & records terms within this Contract. The Contractor shall be entitled to receive just and equitable compensation for work in progress, work completed and materials delivered before the effective date of the termination.



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9.5. Termination for Default.

9.5.1. In addition to the rights reserved in the contract, the State may terminate the Contract in whole or in part due to the failure of the Contractor to comply with any material term or condition of the Contract, to acquire and maintain all required insurance policies, bonds, licenses and permits, or to make satisfactory progress in performing the Contract. The Procurement Officer shall provide thirty days written notice of the termination and the reasons for it to the Contractor.

9.5.3. The State may, upon termination of this Contract, procure, on terms and in the manner that it deems appropriate, materials or services to replace those under this Contract.

9.6. Continuation of Performance Through Termination. The Contractor shall continue to perform, in accordance with the requirements of the Contract, up to the date of termination, as directed in the termination notice.

10. Contract Claims

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

11. Arbitration

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

12. Comments Welcome

The State Procurement Office periodically reviews the Uniform Terms and Conditions and welcomes any comments you may have. Please submit your comments to: State Procurement Administrator, State Procurement Office, 1400 W Washington St., Suite 3100, Phoenix, Arizona, 85007.

13. **Protection of State Cybersecurity Interests.** The Contractor shall comply with State Executive Order No. 2023-10, which includes, but is not limited to, a prohibition against (a) downloading and installing of TikTok on all State-owned and State-leased information technology; and (b) accessing TikTok through State information technology.

14. **Certifications Required by State Law.** If Contractor is a Company as defined in A.R.S. § 35-393, Contractor certifies that it is not currently engaged in a boycott of Israel as described in A.R.S. §§ 35-393 et seq. and will refrain from any such boycott for the duration of this Contract. Contractor further certifies that it shall comply with A.R.S. § 35-394, regarding use of the forced labor of ethnic Uyghurs, as applicable.

