

**PORT OF PALM BEACH DISTRICT
REQUEST FOR DISCUSSION AND
COMMISSION ACTION**

**NEW BUSINESS
ITEM I-1**

PREPARED BY: Venice Howard Deputy Clerk March 2, 2018

SUBJECT: Authorization To Utilize An Existing Master Agreement between SHI International, Corp. and the Florida Department of Management Services For Granicus Annual Licensing, Maintenance And Support

BACKGROUND INFORMATION: In an effort to streamline the agenda process at the Port of Palm Beach, staff would like to acquire an agenda management system and services from SHI International for Granicus annual licensing, maintenance and support. Currently, the agenda creation is a manual process with many moving parts and is being built in two systems, the Diligent Board Book and CivicPlus. The Granicus Agenda Management System will eliminate manual workflows, allow the creation of agendas in one system and automate the agenda process. The Port of Palm Beach wishes to piggyback on an existing contract between SHI International, Corp. and the Florida Department of Management Services Contract No.: ADSPO16-130651 which was competitively solicited under the terms and conditions as set forth in the solicitation and agreement.

ADDITIONAL INFORMATION ATTACHED: No _____ Yes X

FINANCIAL IMPACT: This project will be funded from the 2017-2018 Renewal and Replacement Budget in the amount of \$5,280.00 and will renew annually.

RECOMMENDATION: Port Staff respectfully requests the Board of Commissioners approve the purchase of Granicus Annual License, Maintenance and Support services from SHI International Corp. on an annual contractual basis, with a startup cost of \$5,280 and each year after.

Respectfully Submitted By:



Manuel Almira, Executive Director

DATE ACTION TAKEN: _____
Approved: _____
Disapproved: _____
Deferred To: _____
Incorporated into Minutes: _____

Motion By: _____
Seconded By: _____
Unanimous: Yes _____ No _____
By: _____

Hi Venice,

Please see the below for your updated Granicus quote and let me know if you have any questions!



Pricing Proposal

Quotation #:	14895921
Description:	Granicus
Created On:	Feb-23-2018
Valid Until:	Mar-09-2018

Palm Beach County Board of County Commissioners

Venice Howard

Phone: 561-383-4124

Fax:

Email: vhoward@portofpalmbeach.com

Inside Account Manager

Kelsi Komoroski

290 Davidson Ave

Somerset, NJ, 08873

Phone: 800-543-0432

Fax: 732-868-6055

Email: Kelsi_Komoroski@shi.com

[Click here](#) to order this quote

All Prices are in US Dollar(USD)

Product	Qty	Your Price	Total
1 Peak Agenda Management Standard Agenda Support Granicus Contract Name: NASPO ValuePoint - Software VAR Contract #: ADSPO16-130651 Subcontract #: 43230000-NASPO-16-ACS-Software VAR	1	\$0.00	\$0.00
2 Peak Agenda Management Standard Cover Page Report Granicus Contract Name: NASPO ValuePoint - Software VAR Contract #: ADSPO16-130651 Subcontract #: 43230000-NASPO-16-ACS-Software VAR	1	\$0.00	\$0.00
3 Peak Agenda Management - Online Training Granicus Contract Name: NASPO ValuePoint - Software VAR Contract #: ADSPO16-130651 Subcontract #: 43230000-NASPO-16-ACS-Software VAR Note: 6 Hours	1	\$0.00	\$0.00
4 Peak Agenda Management Granicus Contract Name: NASPO ValuePoint - Software VAR Contract #: ADSPO16-130651 Subcontract #: 43230000-NASPO-16-ACS-Software VAR Coverage Term: May-31-2018 – May-30-2019	1	\$5,280.00	\$5,280.00
Total			\$5,280.00

Additional Comments

Thank you for choosing SHI International Corp! The pricing offered on this quote proposal is valid through the expiration date listed above. To ensure the best level of service, please provide End User Name, Phone Number, Email Address and applicable Contract Number when submitting a Purchase Order. For any additional information including Hardware, Software and Services Contracts, please contact an SHI Inside Sales Representative at (888) 744-4084.

Venice Howard
Port of Palm Beach District
One East 11th Street, Suite 600
Riviera Beach, FL 33404

Granicus provides technology that empowers government organizations to create better lives for the people they serve. By offering the industry's leading cloud-based solutions for communications, meeting and agenda management, and digital services to more than 3,000 public sector organizations, Granicus helps turn government missions into quantifiable realities. Granicus products connect more than 150 million people, creating a powerful network to enhance government transparency and citizen engagement. By optimizing decision-making processes, Granicus strives to help government realize better outcomes and have a greater impact for the citizens they serve.

As a company, Granicus helps empower some of the most creative people in the world who innovate within complex public sector organizations. We help make policies more effective and to transform the citizen experience so that everything from road closures to fostering programs are better communicated, understood, and ultimately successful.

Granicus was founded in 1999, and in late 2016, merged with Novus and GovDelivery (also founded in 1999). While Granicus had traditionally been focused on innovation in the legislative and rule-making process, GovDelivery led the way in transforming how governments communicate with the public on a day-to-day basis to support everything from flu shot programs to new veteran's benefits. The two companies' missions aligned perfectly to cover the full range of government's mission – to make the rules and laws we live by while delivering services that bring value to the public. This powerful alignment allows our staff of 300+ to bring even more scale and innovation to the clients we serve.

Alex Chacon
Sales Executive
alex.chacon@granicus.com
800-274-5614 x709

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651.726.7309

LONDON
The Beehive, City Place,
West Sussex, RH6 0PA
0800.032.5769

Granicus Platform

GovDelivery Communications Cloud: The GovDelivery Communications Cloud is the only digital communications platform helping government inform, engage, and convert 150 million citizens to action via email, text messaging and social media. Unlike private sector marketing technology, the GovDelivery Communications Cloud is the only platform secure enough to be used exclusively by government and proven to double audiences within the first year.

As the largest provider of communications solutions to government, the GovDelivery Network enables organizations to reach their audiences at an unprecedented pace. The GovDelivery Network is a powerful community of 150 million citizens worldwide, and a captive audience for government communicators.

Meeting and Agenda Suite: The Meeting and Agenda Suite allows government staffers to streamline workflows, promote cross-departmental efficiency and collaboration, and establish meaningful connections with citizens – online, over social networks, and on mobile devices.

Suite of Digital Service: The Granicus’ Suite of Digital Service offerings bring government closer to meeting the needs of citizens. From website content management to streamlining filing for a marriage certificate, the solutions in Granicus’ Digital Services Suite allow government organizations to better meet the daily needs of the people they serve.

 <p>GOVDELIVERY COMMUNICATIONS SUITE</p> <ul style="list-style-type: none"> • GovDelivery Network • Communications Cloud • Connect • Targeted Messaging • Interactive Text • Digital Engagement & Learning Services 	 <p>MEETING AND AGENDA SUITE</p> <ul style="list-style-type: none"> • Legistar • iLegislate • PEAK • Votecast • eComment • Minutes • Granicus Video 	 <p>DIGITAL SERVICES SUITE</p> <ul style="list-style-type: none"> • Civica Website CMS • Boards & Commissions • SpeakUp • Open Data (DKAN) • Learning Platform • Records Management
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Peak Agenda Management

Agenda management is often require a significant commitment from clerical staff. Drafting items, getting items approved, compiling information from various departments, and creating an agenda are integral parts of the pre-meeting process, yet can be very time-consuming. Then, there are live and post-meeting processes that staff must follow to ensure an accurate account of a meeting.

With so many moving parts, steps can be overlooked or items can be inadvertently dropped. Using a completely automated, round-trip agenda management workflow solutions can save staff countless hours while helping them maintain accuracy.

Granicus' Agenda Management solution, *Peak* allows government staff to easily manage the entire agenda creation process from start to finish. From drafting files, through assignment to various departments, to final approval, *Peak* is designed to reduce workloads and create a more efficient method for managing decisions.

- Eliminate manual workflows
- Create and manage items for agendas in one system
- Automate agenda item approvals with electronic approval processes
- Simplify agenda creation—automatically compile files and supporting materials for upcoming meetings
- Organize, store and retrieve electronic documents
- Easily track items and generate historical reports for staff, citizens and council.

Peak Agenda Management – help governments organize, store, and easily retrieve items for agenda creation all in one system.

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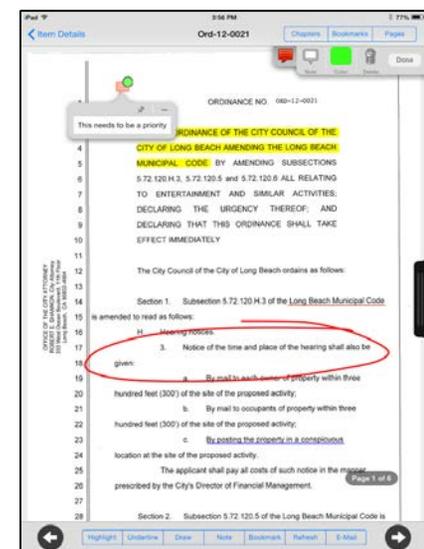
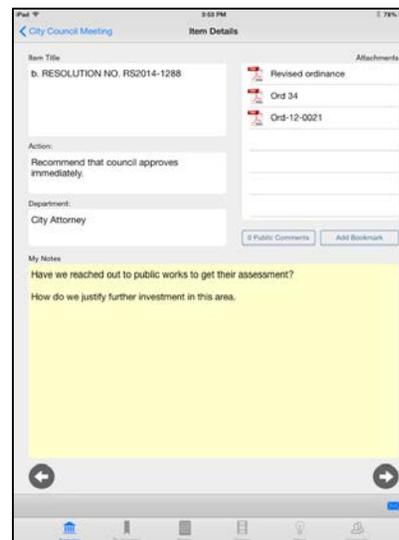
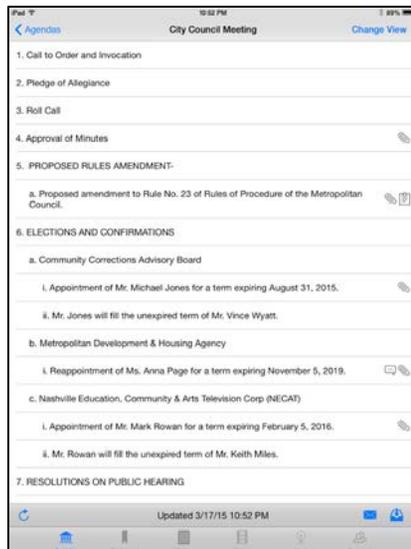
LONDON

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iLegislate®

Granicus' paperless agenda application, iLegislate®, enables governments to review meeting agendas, supporting documents, archived videos other data created over tablets and supported systems. iLegislate is a free app and works with any Granicus suite. Suite integrations increase data access and add functionality such as digital one-touch meeting voting.

- Convenient access to meeting agendas and supporting documents
- Reduce paper consumption and move to a paperless environment
- Explore agendas and attachments offline and on-the-go
- Easily take notes and email agenda items
- View indexed, archived meeting videos (with Government Transparency integration)
- Public opinion placed at elected officials' fingertips (with Citizen Participation integration)
- Real-time meeting voting (with Meeting Efficiency integration)



Granicus Deployment Philosophy

Managed Deployments

We tailor a plan that meets your unique business requirements and minimizes any impact to your day-to-day operations. Plus, agencies can track all progress 24/7 with our deployment tracker tool.

Technical validation call

Granicus will perform a review client's network environment, scope any necessary data that needs to be migrated as well as possible integrations with 3rd party systems.

Workflow Assessment & Configuration

Granicus understands that every agency has unique ways of running their public meetings and with departmental workflows. Yet, the end-goal is always the same— to run smoothly and productively. Our experts assess your current processes and configure your solution to easily integrate with the way you work.

Product Training

Online, instructor-led, self-paced or in-person trainings give your staff the comprehensive knowledge they need achieve success quickly. Our training experts also offer specialized guidance for different roles within your organization so everyone has the support they need to perform their jobs effectively—IT, Clerks, Communications, Webmasters, A/V, Elected Officials, and more.

Website Integration & Design

Granicus is committed to ensuring your citizen-facing web portal fits into your website seamlessly. Our customized website integration options are flexible. We work closely with you to configure the right placement, structure, and design for your Granicus content to deliver a positive user experience.

Support

Customer satisfaction is the backbone of our company and client success is how we rate our own success. Granicus goes above and beyond traditional support models by leveraging systems management technology to constantly monitor every component of your solution.

Professional support team is available:

Regular Hours: 8am – 8pm EST Monday through Friday
Urgent After Hours: 8pm – 1am EST Monday through Friday
Emergency on Call: 8am – 8pm EST Saturday and Sunday

Customer Service Portals and On-going Training

Granicus provides on-going support as we build a lasting relationship with your team. Through our Customer Service Portal, we provide many resources designed to help you all become expert Granicus users.

- Knowledge Base: Search articles about Granicus products and services
- Online Training: Regular live and on-demand resources to learn more about your Granicus solutions
- Support Resource Center: Find product-specific downloads, manuals, reference guides, and release notes

Product Upgrades

As a true hosted service, all updates are done automatically with no local intervention or software needed. As a result, all users will always experience the most current version of the system without dependency on updates or manual effort. This eliminates any possibility of “out-of-date” software typically associated with local application installation.

Finally a 97% customer satisfaction rating and a 98.5% client retention rating attest to the strength of Granicus’ reliability and customer care service.

Security

Data Center Security

Having a robust and secure data center implementation is a necessity, not an option. Granicus Data Centers are designed for reliability and redundancy. Our data centers are guided by a “defense-in-depth” security strategy to ensure reliable access of government data. With a 99.98% uptime, we are confident that customer data are always available. A Security Incident Response team/SSAE-16 accreditation ensures all customer data is secure from any tampering.

Data Center Requirements

- Secure - SSAE-16 Accreditation
- Reliable Network
- Data Availability: 99.98% Uptime
- Redundant Backups

Granicus Server Locations

- Ashburn, Virginia
- San Francisco, California
- Vancouver, British Columbia

Architecture & Data Center Redundancy

The Granicus Primary Data Center is architected with redundant systems to ensure that there is no single point of failure and disruptions have no impact on the availability of Granicus applications.

Robust Security Layers

Granicus implements a series of protective layers so that no single solution is relied upon to provide security, including:

- Hosting facilities that meet or exceed Tier III standards to ensure application and data availability and security
- Edge-to-edge security, visibility, and carrier-class threat management and remediation. We utilize industry-leading tools to compare real-time network traffic and flag any anomalies such as: DoS and DDoS attacks, worms or botnets.

Network issues: traffic and routing instability, equipment failures, or misconfigurations

- Hardened, stateful inspection firewall technology
- An Intrusion Detection System (IDS) utilizing signature-, protocol-, and anomaly-based inspection methods

Pilot Program

Anyone in the position of making a buying decision for his or her organization knows how difficult that can be. We all want to make sound decisions based on experience and knowledge. The Peak pilot program is designed to provide just that. We want to give you a chance to not only work with our software, but with our helpful team of experts as well.

Your pilot will begin with a scheduled kick-off call where we will work together to define the goals of the engagement and begin gathering the information we need to custom-configure Peak to your specific needs. During the first 30 days you will be working directly with a dedicated project manager and have the opportunity to confirm that he or she has the right skillset and expertise to ensure your success with Peak. You will also get a good close look at the software, with your custom configurations already in place and functional. After 30 days, when you see how well things are going, we will process an invoice that will not be due for 30 days resulting in a full 60 days to experience the difference and make the decision to move forward.

While you may not be fully rolled out at 60 days, in our experience it is plenty of time for you to see the benefits of the time- and money-saving features of Peak, and make sure the chemistry is right with our support team. We truly want this relationship to last, and our project and support teams will be there for you through it all.

During the pilot period we will work with you on one meeting to keep the project focused on evaluating Peak and our team. Once the subscription begins we will work with you to roll out additional meeting types.

Project Timeline

Once you authorize us to begin a project, our team will move very quickly to get tasks done allowing you the most time possible for your evaluation of Peak as a software product. It is incumbent on you to respond quickly to requests for information so we can keep the project on time. The pilot does not allow for extensions based on delays imposed by your team. You will have an opportunity to evaluate Peak and our professional staff during the pilot period, Some clients do deploy fully in 30 or 60 days and others choose to move more slowly since introducing change can take time. The pace is up to you but the pilot period is designed to allow you to learn enough about Peak and our team to make a decision to move forward.

Task	
<p>Project Kickoff call is done to gather key documents and Workflows Set goals for the rollout. This call typically lasts 45 minutes and sets the formal beginning date for the project. After this call the Peak Project manager will move aggressively to get the project rolled out. This also begins the client evaluation portion of the project where you can begin to examine what working with our organization is like and begin to determine if we are the best choice for your organization. Training dates are set on this call. This will be the beginning date of your annual Peak Subscription once you approve moving forward.</p>	Day 1
<p>Peak is setup and configured for your initial testing. At this point you must spend about 2 hours evaluating the layouts and setup that has been done by your Peak Project Manager and quickly communicate any changes you desire. The Peak Project Manager will walk you through this process. It is important that you do your testing promptly after notification that the setup is complete.</p>	Day 10
<p>Changes to layouts you requested are fully deployed. At this point, you will need to spend about 2 hours reviewing these changes and confirming that no further changes will be required.</p>	Day 15
<p>Training on Agenda Preparation.</p>	Day 16
<p>Training with key staff, item creators and submitters</p>	Day 20-25
<p>You run your first test meeting in Peak. Details on how to execute that can vary by client so your project manager will guide you through that process.</p>	Day 30-40
<p>You have an update call with our team to confirm that based on what you see at this point Peak is the solution you feel will work for your organization. You may not be fully rolled out at this point but you have had 30 days to work with us and examine our feature set. At this point an invoice is sent to you that is due in 30 days.</p>	Day 30
<p>You continue to work with your Peak Project Manager to make adjustments as needed and to help you through your initial meetings using Peak.</p>	Day 30 - 60

You have paid the invoice sent 30 days ago or you have decided not to move forward and you cancel. Work continues as needed to complete the rollout for all the meeting types we have agreed. Your support and project manager remain engaged as needed until rollout is complete.	Day 60
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The purpose of the pilot is to allow you time to examine Peak and determine that it will meet your needs. Our team will continue to work with you on any changes or modification needed after your subscription begins at no added cost but the invoice must be paid by day 60 for the work to continue.



Pricing

Quote Number: Q-21623
Quote Prepared On: 2/7/2018
Quote Valid Through: 3/9/2018
Payment Terms: Net 30

Granicus Contact:
Name: Alex Chacon
Phone: +1 5618662449
Email: alex.chacon@granicus.com

Start Date: 5/31/2018
End Date: 5/30/2019

ONE-TIME FEE

Product Name	Product Description	Invoice Schedule	Quantity	One-Time Total
Peak Agenda Management Standard Agenda Report	Peak Agenda Management Standard Agenda Report is professional service for designing an additonal Peak agenda report.	Milestones	1 Each	\$0.00
Peak Agenda Management Standard Cover Page Report	Peak Agenda Management Standard Cover Page Report is professional service for designing an additonal Peak cover page report.	Milestones	1 Each	\$0.00
Peak Agenda Management - Online Training	Peak Agenda Management - Online Training is for online training for Peak Agenda Management, which allows clients to have online sessions with a Granicus trainer to learn how to use the system.	Milestones	6 Hours	\$0.00
			TOTAL	\$0.00

ANNUAL SUBSCRIPTION FEE

Product Name	Product Description	Invoice Schedule	Quantity	Annual Total
Peak Agenda Management	<p>Peak Agenda Management is a Software-as-a-Service (SaaS) solution that enables government organizations to simplify the agenda management process of the clerk's office. Peak Agenda Management allows clerks to streamline the way they compile and produce agendas for public meetings and includes:</p> <ul style="list-style-type: none"> • Unlimited user accounts • Unlimited meeting bodies and meeting types • Access to one Granicus platform site • Access to one Peak Agenda Management site • Design services for one public view page portal • Design services for one Agenda report template • Design services for one Cover Page report template 	Annual	1 Each	\$5,280.00
			TOTAL	\$5,280.00

NASPO ValuePoint
PARTICIPATING ADDENDUM

Software Value Added Reseller (SVAR)
Administered by the State of Arizona (hereinafter "Lead State")

Participating Addendum No: 43230000-NASPO-16-ACS-Software VAR

SHI International, Corp.
Master Agreement No: ADSPO16-130651
(hereinafter "Contractor")

And

Florida Department of Management Services
(hereinafter "Participating State/Entity")

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I. MASTER AGREEMENT TERMS AND CONDITIONS:

- a. Scope: This Participating Addendum covers the Software Value Added Reseller contract led by the State of Arizona for use by state agencies and other entities located in the Participating State authorized by that state's statutes to utilize State contracts with the prior approval of the state's chief procurement official.
- b. Participation: Use of specific NASPO ValuePoint cooperative contracts by agencies, political subdivisions and other entities (including cooperatives) authorized by an individual state's statutes to use State contracts are subject to the prior approval of the respective State Chief Procurement Official. Issues of interpretation and eligibility for participation are solely within the authority of the State Chief Procurement Official.

II. PARTICIPATING STATE MODIFICATIONS OR ADDITIONS TO MASTER AGREEMENT:

These modifications or additions apply only to actions and relationships within the Participating State. The following changes are modifying or supplementing the Master Agreement terms and conditions.

- a. Participating Addendum: As used in this document, "Participating Addendum" (whether or not capitalized) shall, unless the context requires otherwise, include this document and all incorporated Exhibits, which set forth the entire understanding of the Parties and supersedes all prior agreements. All modifications to this Participating Addendum must be in writing and signed by all Parties.

All Exhibits attached and listed below are incorporated in their entirety into, and form part of this Participating Addendum. The Participating Addendum Exhibits shall have priority in the order listed:

- 1) Exhibit A: Contract Conditions, Florida General
- 2) Exhibit B: Contract Conditions, Florida Special
- 3) Exhibit C: NASPO ValuePoint Master Agreement Number

If a conflict exists among any of the Participating Addendum documents, the documents shall have priority in the order listed below:

- 1) The Addendum
- 2) Florida Special Contract Conditions, Exhibit B
- 3) Florida General Contract Conditions, Exhibit A
- 4) NASPO ValuePoint Master Agreement Number, Exhibit C

- b. **Subcontractors:** All contractors, dealers, and resellers authorized in the Participating State, as shown on the dedicated Contractor (cooperative contract) website, are approved to provide sales and service support to participants in the NASPO ValuePoint Master Agreement. If resellers/partners are utilized by Florida customers, at least one must be a Florida based business. The contractor's dealer participation will be in accordance with the terms and conditions set forth in the aforementioned Master Agreement.
- c. **Orders:** Upon execution of this Participating Addendum, customers in the Participating State, may purchase products and services under the Master Agreement using this State of Florida alternate contract source number 43230000-NASPO-16-ACS-Software VAR.

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

- d. **Amendments:** No oral modifications to this Participating Addendum are permitted. All modifications to this Participating Addendum must be in writing and signed by both parties.

Notwithstanding the order listed in section II (b), amendments executed after the Participating Addendum is executed may expressly change the provisions of the Participating Addendum. If they do so expressly, then the most recent amendment will take precedence over anything else that is part of the Participating Addendum.

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

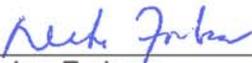
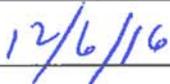
Participating State:	Contractor: SHI International Corp.
Signature: 	Signature: 
Name: Debra Forbess	Name: Natalie Slowik
Title: Director of Administration	Title: Senior Manager - Contracts & RFPs
Date: 	Date: 11/28/16

EXHIBIT A
FLORIDA GENERAL CONTRACT CONDITIONS

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These General Contract Conditions supersede and replace in their entirety all General Contract Conditions, Form PUR 1000, which is incorporated by reference in Rule 60A-1.002, Florida Administrative Code (F.A.C.)

SECTION 1. DEFINITIONS.

The following definition applies in addition to the definitions in Chapter 287, Florida Statutes, (F.S.) and Rule Chapter 60A-1, F.A.C.:

1.1 Customer.

The agency or eligible user that purchases commodities or contractual services pursuant to the Contract.

SECTION 2. CONTRACT TERM AND TERMINATION.

2.1 Initial Term.

The initial term will begin on the date set forth in the Master Agreement or on the date the Participating Addendum is signed by all Parties, whichever is later.

2.2 Renewal.

Upon written agreement, the Department and the Contractor may renew the Participating Addendum in whole or in part only as set forth in the Contract, and in accordance with section 287.057(13), F.S., and Rule 60A-1.048, F.A.C.

2.3 Suspension of Work and Termination.

2.3.1 Suspension of Work.

The Department may, at its sole discretion, suspend any or all activities under the Contract, at any time, when it is in the best interest of the State of Florida to do so. A Customer may, at its sole discretion, suspend a resulting contract or purchase order, at any time, when in the best interest of the Customer to do so. The Department or Customer will provide the Contractor written notice outlining the particulars of suspension. Examples of the reason for suspension include, but are not limited to, budgetary constraints, declaration of emergency, or other such circumstances. After receiving a suspension notice, the Contractor must comply with the notice and will cease the activities associated with any resulting contract or purchase order. Within 90 days, or any longer period agreed to by the Contractor, the Department or Customer will either (1) issue a notice authorizing resumption of work, at which time activity will resume, or (2) terminate the Contract or a resulting contract or purchase order. Suspension of work will not entitle the Contractor to any additional compensation.

2.3.2 Termination for Convenience.

The Contract may be terminated by the Department in whole or in part at any time, in the best interest of the State of Florida. If the Contract is terminated before performance is completed, the Contractor will be paid only for that work satisfactorily performed for which costs can be substantiated. Such payment, however, may not exceed an amount which is the same percentage of the Contract price as the amount of work satisfactorily performed. All work in progress will become the property of the Customer and will be turned over promptly by the Contractor.

2.3.3 Termination for Cause.

If the Department determines that the performance of the Contractor is not satisfactory, the Department may, at its sole discretion, (a) immediately terminate the Contract, (b) notify the Contractor of the deficiency with a requirement that the deficiency be corrected within a specified time, otherwise the Contract will terminate at the end of such time, or (c) take other action deemed appropriate by the Department.

SECTION 3. PAYMENT AND FEES.

3.1 Pricing.

The Contractor will not exceed the pricing set forth in the Contract.

3.2 Price Decreases.

The following price decrease terms will apply to the Contract:

- (a) Quantity Discounts. Contractor may offer additional discounts for one-time delivery of large single orders.
- (b) Preferred Pricing. Consistent with the goals of section 216.0113, F.S., Contractor acknowledges and recognizes that the Department wants to take advantage of any improvements in pricing over the course of the Contract period. To that end, the pricing indicated in this Contract is a maximum guarantee under the terms of this clause. Contractor's pricing will not exceed, on an aggregate basis, the pricing offered under comparable contracts for public entities. Comparable contracts are those which are similar in size, scope and terms. The Contractor shall submit to the Department a completed Preferred Pricing affidavit form annually.
- (c) Sales Promotions. In addition to decreasing prices for the balance of the Contract term due to a change in market conditions, a Contractor may conduct sales promotions involving price reductions for a specified lesser period. A Contractor must submit documentation identifying

the proposed (1) starting and ending dates of the promotion, (2) commodities or contractual services involved, and (3) promotional prices compared to then-authorized prices.

3.3 Payment Invoicing.

The Contractor will be paid upon submission of properly certified invoices to the Customer after delivery and acceptance of commodities or contractual services is confirmed by the Customer. Invoices must contain detail sufficient for an audit and contain the Contract Number and the Contractor's Federal Employer Identification Number.

3.4 Purchase Order.

A Customer may use purchase orders to buy commodities or contractual services pursuant to the Contract. The Contractor must provide commodities or contractual services pursuant to purchase orders. The purchase order period of performance survives the expiration of the Contract. The duration of purchase orders must not exceed the expiration of the Contract by more than 12 months.

3.5 Travel.

Travel expenses are not reimbursable unless specifically authorized by the Customer in writing, and may be reimbursed only in accordance with section 112.061, F.S.

3.6 Annual Appropriation.

Pursuant to section 287.0582, F.S., if the Contract binds the State of Florida or an agency for the purchase of services or tangible personal property for a period in excess of one fiscal year, the State of Florida's performance and obligation to pay under the Contract is contingent upon an annual appropriation by the Legislature.

3.7 Transaction Fees.

The State of Florida, through the Department of Management Services, has instituted MyFloridaMarketPlace, a statewide eProcurement system pursuant to section 287.057(22), Florida Statutes. All payments issued by Customers to registered Vendors for purchases of commodities or contractual services will be assessed Transaction Fees as prescribed by rule 60A-1.031, Florida Administrative Code, or as may otherwise be established by law. Vendors must pay the Transaction Fees and agree to automatic deduction of the Transaction Fees, when automatic deduction becomes available. Vendors will submit any monthly reports required pursuant to the rule. All such reports and payments will be subject to audit. Failure to comply with the payment of the Transaction Fees or reporting of transactions will constitute grounds for declaring the Vendor in default and subject the Vendor to exclusion from business with the State of Florida.

3.8 Taxes.

The State of Florida is not required to pay any taxes, including customs and tariffs, on commodities or contractual services purchased under the Contract.

3.9 Return of Funds.

Contractor will return any overpayments due to unearned funds or funds disallowed pursuant to the terms of the Contract that were disbursed to the Contractor by the Department or Customer. The Contractor must return any overpayment within 40 calendar days after either discovery by the Contractor, its independent auditor, or notification by the Department or Customer of the overpayment.

SECTION 4. CONTRACT MANAGEMENT.

4.1 Composition and Priority.

The Contractor agrees to provide commodities or contractual services to the Customer within the manner and at the location specified in the Contract and any attachments to the Contract. Additionally, the terms of the Contract supersede the terms of any and all prior or contemporaneous agreements between the Parties.

4.2 Notices.

All notices required under the Contract must be delivered to the designated Contract Manager by certified mail, return receipt requested, by reputable air courier service, email, or by personal delivery, or as otherwise identified by the Department.

4.3 Department's Contract Manager.

The Department's Contract Manager, is primarily responsible for the Department's oversight of the Contract. In the event that the Department changes the Contract Manager, the Department will notify the Contractor. Such a change does not require an amendment to the Contract.

4.4 Contractor's Contract Manager.

The Contractor's Contract Manager is primarily responsible for the Contractor's oversight of the Contract performance. In the event that the Contractor changes its Contract Manager, the Contractor will notify the Department. Such a change does not require an amendment to the Contract.

4.5 Diversity Reporting.

The State of Florida supports its diverse business community by creating opportunities for woman-, veteran-, and minority-owned small business enterprises to participate in procurements and contracts. The Department encourages supplier diversity through certification of woman-, veteran-, and minority-owned small business enterprises, and provides advocacy, outreach, and networking through regional business events. For additional information, please contact the Office of Supplier Diversity (OSD) at osdinfo@dms.myflorida.com.

Upon request, the Contractor will report to the Department its spend with business enterprises certified by the OSD. These reports must include the time period covered, the name and Federal Employer Identification Number of each business enterprise utilized during the period, commodities and contractual services provided by the business enterprise, and the amount paid to the business enterprise on behalf of each Customer purchasing under the Contract.

4.6 RESPECT.

Subject to the agency determination provided for in Section 413.036, F.S., the following statement applies:

IT IS EXPRESSLY UNDERSTOOD AND AGREED THAT ANY ARTICLES THAT ARE THE SUBJECT OF, OR REQUIRED TO CARRY OUT, THIS CONTRACT SHALL BE PURCHASED FROM A NONPROFIT AGENCY FOR THE BLIND OR FOR THE SEVERELY HANDICAPPED THAT IS QUALIFIED PURSUANT TO CHAPTER 413, FLORIDA STATUTES, IN THE SAME MANNER AND UNDER THE SAME PROCEDURES SET FORTH IN SECTION 413.036(1) AND (2), FLORIDA STATUTES; AND FOR PURPOSES OF THIS CONTRACT THE PERSON, FIRM, OR OTHER BUSINESS ENTITY CARRYING OUT THE PROVISIONS OF THIS CONTRACT SHALL BE DEEMED TO BE SUBSTITUTED FOR THE STATE AGENCY INSOFAR AS DEALINGS WITH SUCH QUALIFIED NONPROFIT AGENCY ARE CONCERNED.

Additional information about the designated nonprofit agency and the commodities or contractual services it offers is available at <http://www.respectofflorida.org>.

4.7 PRIDE.

Subject to the agency determination provided for in Sections 946.515 and 287.042(1), F.S., the following statement applies:

IT IS EXPRESSLY UNDERSTOOD AND AGREED THAT ANY ARTICLES WHICH ARE THE SUBJECT OF, OR REQUIRED TO CARRY OUT, THIS CONTRACT SHALL BE PURCHASED FROM THE CORPORATION IDENTIFIED UNDER CHAPTER 946, F.S., IN THE SAME MANNER AND UNDER THE SAME PROCEDURES SET FORTH IN SECTION 946.515(2) AND (4), F.S.; AND FOR PURPOSES OF THIS CONTRACT THE PERSON, FIRM, OR OTHER BUSINESS ENTITY

CARRYING OUT THE PROVISIONS OF THIS CONTRACT SHALL BE DEEMED TO BE SUBSTITUTED FOR THIS AGENCY INSOFAR AS DEALINGS WITH SUCH CORPORATION ARE CONCERNED.

Additional information about PRIDE and the commodities or contractual services it offers is available at <http://www.pride-enterprises.org>.

SECTION 5. COMPLIANCE WITH LAWS.

5.1 Conduct of Business.

The Contractor must comply with all laws, rules, codes, ordinances, and licensing requirements that are applicable to the conduct of its business, including those of federal, state, and local agencies having jurisdiction and authority. For example, the Contractor must comply with Section 274A of the Immigration and Nationality Act, the Americans with Disabilities Act, Health Insurance Portability and Accountability Act, and all prohibitions against discrimination on the basis of race, religion, sex, creed, national origin, handicap, marital status, or veteran's status.

Pursuant to subsection 287.058(1), F.S., the provisions of subparagraphs 287.058(1)(a)-(c), F.S., are hereby incorporated by reference, to the extent applicable.

5.2 Governing Law and Venue.

The laws of the State of Florida govern the Contract. The Parties submit to the jurisdiction of the courts of the State of Florida exclusively for any legal action related to the Contract. Further, the Contractor hereby waives any and all privileges and rights relating to venue it may have under Chapter 47, F.S., and any and all such venue privileges and rights it may have under any other statute, rule, or case law, including, but not limited to those based on convenience. The Contractor hereby submits to venue in the county chosen by the Department.

5.3 Department of State Registration.

The Contractor and any subcontractors that assert corporate status must provide the Department with conclusive evidence, per section 607.0127, F.S., of a certificate of status, not subject to qualification, if a Florida business entity, or of a certificate of authorization if a foreign business entity and maintain such status or authorization through the life of the Contract and any resulting contract or purchase order.

5.4 Convicted and Discriminatory Vendor Lists.

In accordance with sections 287.133 and 287.134, F.S., an entity or affiliate who is on the Convicted Vendor List or the Discriminatory Vendor List may not perform work as a contractor, supplier, subcontractor, or consultant under the Contract. The Contractor must notify the Department if it or any of its suppliers, subcontractors or consultants have been placed on the Convicted Vendor List or the Discriminatory Vendor List during the term of the Contract.

5.5 Contractor Certification.

If the Contract exceeds \$1,000,000.00 in total, not including renewal years, Contractor certifies that it is not listed on either the Scrutinized Companies with Activities in Sudan List, the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or the Scrutinized Companies that Boycott Israel List created pursuant to sections 215.473, F.S. and 215.4725 F.S, respectively. Pursuant to section 287.135(5), F.S., and 287.135(3), F.S., Contractor agrees the Department may immediately terminate the Contract for cause if the Contractor is found to have submitted a false certification or if Contractor is placed on the Scrutinized Companies with Activities in Sudan List, the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or the Scrutinized Companies that Boycott Israel List, or is engaged in a boycott of Israel during the term of the Contract.

5.6 Cooperation with Inspector General.

Pursuant to subsection 20.055(5), F.S., Contractor, and any subcontractor to the Contractor, understand and will comply with their duty to cooperate with the Inspector General in any investigation, audit, inspection, review, or hearing. Upon request of the Inspector General or any other authorized State official, the Contractor must provide any type of information the Inspector General deems relevant to the Contractor's integrity or responsibility. Such information may include, but will not be limited to, the Contractor's business or financial records, documents, or files of any type or form that refer to or relate to the Contract. The Contractor will retain such records for five years after the expiration of the Contract, or the period required by the General Records Schedules maintained by the Florida Department of State (available at: <http://dos.myflorida.com/library-archives/records-management/general-records-schedules/>), whichever is longer. The Contractor agrees to reimburse the State of Florida for the reasonable costs of investigation incurred by the Inspector General or other authorized State of Florida official for investigations of the Contractor's compliance with the terms of this or any other agreement between the Contractor and the State of Florida which results in the suspension or debarment of the Contractor. Such costs will include, but will not be limited to: salaries of investigators, including overtime; travel and lodging expenses; and expert witness and documentary fees.

5.7 Inspection.

Section 215.422, F.S., provides that agencies have five working days to inspect and approve commodities or contractual services. Items may be tested for compliance with specifications. Items delivered not conforming to specifications may be rejected and returned at the Contractor's expense.

SECTION 6. MISCELLANEOUS.

6.1 Notice of Legal Actions.

The Contractor must notify the Department of any legal actions filed against it for a violation of any laws, rules, codes, ordinances or licensing requirements within 30 days of the action being filed. The Contractor must notify the Department of any legal actions filed against it for a breach of a contract of similar size and scope to this Contract within 30 days of the action being filed. Failure to notify the Department of a legal action within 30 days of the action will be grounds for termination for cause of the Contract.

6.2 Subcontractors.

The Contractor will not subcontract any work under the Contract without prior written consent of the Department. The Contractor is fully responsible for satisfactory completion of all subcontracted work. The Department supports diversity in its procurements and contracts, and requests that Contractor offer subcontracting opportunities to certified woman-, veteran-, and minority-owned small businesses. The Contractor may contact the OSD at osdhelp@dms.myflorida.com for information on certified small business enterprises available for subcontracting opportunities.

6.3 Assignment.

The Contractor will not sell, assign or transfer any of its rights, duties or obligations under the Contract without the prior written consent of the Department. In the event of any assignment, the Contractor remains secondarily liable for performance of the Contract. The Department may assign the Contract to another state agency.

6.4 Independent Contractor.

The Contractor and its employees, agents, representatives, and subcontractors are not employees or agents of the Department and are not entitled to the benefits of State of Florida employees. The Department will not be bound by any acts or conduct of the Contractor or its employees, agents, representatives, or subcontractors. The Contractor agrees to include this provision in all of its subcontracts under the Contract.

6.5 Risk of Loss.

Until acceptance, risk of loss or damage will remain with the Contractor. The Contractor will be responsible for filing, processing, and collecting all damage claims. To assist the Contractor with damage claims, the Customer will: record any evidence of visible damage on all copies of the delivering carrier's Bill of Lading; report damages to the carrier and the Contractor; and provide the Contractor with a copy of the carrier's Bill of Lading and damage inspection report. When a Customer or the Department rejects a commodity, Contractor will remove the commodity from the premises within 10 days after notification of rejection, and the risk of loss will remain with the Contractor. Commodities not removed by the Contractor within 10 days will be deemed abandoned by the Contractor and the Customer or the Department will have the right to dispose of it as its own property. Contractor will reimburse the Customer or the Department for costs and expenses incurred in storing or effecting removal or disposition of rejected commodities.

6.6 Safety Standards.

All manufactured items and fabricated assemblies subject to operation under pressure, operation by connection to an electric source, or operation involving connection to a manufactured, natural, or LP gas source shall be constructed and approved in a manner acceptable to the appropriate State of Florida inspector. Acceptability customarily requires, at a minimum, an identification marking of the appropriate safety standard organization, where such approvals of listings have been established for the type of device offered and furnished, for example: the American Society of Mechanical Engineers for pressure vessels; the Underwriters Laboratories, and National Electrical Manufacturers' Association for electrically operated assemblies; and the American Gas Association for gas-operated assemblies. In addition, all items furnished must meet all applicable requirements of the Occupational Safety and Health Act and State of Florida and federal requirements relating to clean air and water.

6.7 Ombudsman.

A Vendor Ombudsman has been established within the Department of Financial Services. The duties of this office are found in section 215.422, F.S., which include disseminating information relative to prompt payment and assisting contractors in receiving their payments in a timely manner from a Customer. The Vendor Ombudsman may be contacted at (850) 413-5516.

6.8 Time is of the Essence.

Time is of the essence regarding each and every obligation of the Contractor. Each obligation is deemed material, and a breach of any such obligation (including a breach resulting from untimely performance) is a material breach.

6.9 Waiver.

The delay or failure by the Department or Customer to exercise or enforce any rights under the Contract will not constitute waiver of such rights.

6.10 Modification and Severability.

The Contract may only be modified by written agreement between the Department and the Contractor. Should a court determine any provision of the Contract is invalid, the remaining provisions will not be affected, and the rights and obligations of the Parties will be construed and enforced as if the Contract did not contain the provision held invalid.

SECTION 7. WORKERS' COMPENSATION AND GENERAL LIABILITY INSURANCE, AND INDEMNIFICATION**7.1 Workers' Compensation Insurance.**

To the extent required by law, the Contractor must be self-insured against, or must secure and maintain during the life of the contract, Worker's Compensation Insurance for all its employees connected with the work of this project, and in case any work is subcontracted, the Contractor must require the subcontractor similarly to provide Worker's Compensation Insurance for all of the latter's employees unless such employees engaged in work under the resulting contract are covered by the

Contractor's insurance program. Self-insurance or insurance coverage must comply with the Florida Worker's Compensation law. In the event hazardous work is being performed by the Contractor under the resulting contract or purchase order and any class of employees performing the hazardous work is not protected under Worker's Compensation statutes, the Contractor must provide, and cause each subcontractor to provide adequate insurance satisfactory to the Department for the protection of employees not otherwise protected.

7.2 General Liability Insurance

The Contractor must secure and maintain Commercial General Liability Insurance including bodily injury, property damage, product-liability, personal & advertising injury and completed operations. This insurance must provide coverage for all claims that may arise from the services, and operations completed under the Contract and any resulting contract or purchase order, whether such services or operations are by the Contractor or anyone directly or indirectly employed by them. Such insurance must include a Hold Harmless Agreement in favor of the State of Florida and also include the State of Florida as an Additional Named Insured for the entire length of the Contract and any resulting contract or purchase order. The Contractor is responsible for determining the minimum limits of liability necessary to provide reasonable financial protections to the Contractor and the State of Florida under the Contract and any resulting contract or purchase order.

All insurance policies must be with insurers licensed or eligible to transact business in the State of Florida. The insurance must not be canceled for any reason except after thirty (30) days written notice to the Department's Contract Manager.

The Contractors must submit insurance certificates evidencing such insurance coverage prior to execution of a contract with the Department.

The Contractor must require its insurance carrier to add the Department to the insurance policies as an additional insured, as provided below:

Florida Department of Management Services
c/o Division of State Purchasing
4050 Esplanade Way, Suite 36060
Tallahassee, Florida 32399-0950

7.3 Indemnification.

The terms and conditions of Section 14, Indemnification, of the Master Agreement shall govern for purchases made under the Participating Addendum.

SECTION 8. PUBLIC RECORDS, TRADE SECRETS, DOCUMENT MANAGEMENT AND INTELLECTUAL PROPERTY.

8.1 Public Records.

The Department may unilaterally cancel this Contract for refusal by the Contractor to comply with this section by not allowing public access to all documents, papers, letters or other material made or received by the Contractor in conjunction with the Contract, unless the records are exempt from section 24(a) of Article I of the State Constitution and section 119.07(1), F.S.

Solely for the purposes of this section, the contract manager is the agency custodian of public records, unless another is designated per (e), below.

If, under a resulting contract or purchase order, the Contractor is providing services and is acting on behalf of a public agency, as provided by section 119.0701, Florida Statutes. The Contractor shall:

- (a) Keep and maintain public records required by the public agency to perform the service;

- (b) Upon request from the public agency's custodian of public records, provide the public agency with a copy of the requested records or allow the records to be inspected or copied within reasonable time and at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law;
- (c) Ensure that public records that are exempt or confidential and exempt from public records disclosure are not disclosed except as authorized by law for the duration of the contract term and following the completion of the contract if the contractor does not transfer the records to the public agency;
- (d) Upon completion of the contract, transfer, at no cost, to the public agency all public records in possession of the Contractor or keep and maintain public records required by the public agency to perform the service. If the contractor transfers all public records to the public agency upon completion of the contract, the contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the contractor keeps and maintains public records upon completion of the contract, the contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the public agency, upon request from the public agency's custodian of public records, in a format that is compatible with the information technology systems of the public agency; and
- (e) **IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT THE TELEPHONE NUMBER, EMAIL ADDRESS AND MAILING ADDRESS PROVIDED IN THE RESULTING CONTRACT OR PURCHASE ORDER.**

8.2 Protection of Trade Secrets or Confidential Information.

If the Contractor considers any portion of materials made or received in the course of performing the Contract ("contract-related materials") to be trade secret under section 812.081, F.S., or otherwise confidential under Florida or federal law, the Contractor must clearly designate that portion of the materials as "confidential" when submitted to the Department.

If the Department receives a public records request for contract-related materials designated by the Contractor as "confidential," the Department will provide only the portions of the contract-related materials not designated as "confidential." If the requester asserts a right to examine contract-related materials designated as "confidential," the Department will notify the Contractor. The Contractor will be responsible for responding to and resolving all claims for access to contract-related materials it has designated "confidential."

If the Department is served with a request for discovery of contract-related materials designated "confidential," the Department will promptly notify the Contractor about the request. The Contractor will be responsible for filing the appropriate motion or objection in response to the request for discovery. The Department will provide materials designated "confidential" only if the Contractor fails to take appropriate action, within timeframes established by statute and court rule, to protect the materials designated as "confidential" from disclosure.

The Contractor will protect, defend, and indemnify the Department for claims, costs, fines, and attorney's fees arising from or relating to its designation of contract-related materials as "confidential."

8.3 Document Management.

The Contractor must retain sufficient documentation to substantiate claims for payment under the Contract and all other records, electronic files, papers and documents that were made in relation to this Contract. Contractor must retain all documents related to the Contract for five years after expiration of the Contract, or, if longer, the period required by the General Records Schedules

maintained by the Florida Department of State available at: <http://dos.myflorida.com/library-archives/records-management/general-records-schedules/>.

8.4 Intellectual Property.

Unless specifically addressed in the Contract, intellectual property rights to all property created or otherwise developed by the Contractor for the Department will be owned by the State of Florida through the Department at the completion of the Contract.

Any inventions or discoveries developed in the course of or as a result of services performed under the Contract which are patentable pursuant to 35 U.S.C. §101 are the sole property of the state of Florida. Contractor must inform the Department of any inventions or discoveries developed or made in connection with the Contract and will be referred to the Florida Department of State for a determination on whether patent protection will be sought for the invention or discovery. The State of Florida will be the sole owner of any and all patents resulting from any invention or discovery made in connection with this contract.

Contractor must notify the Department of State of any publications, artwork, or other copyrightable works developed in connection with the Contract. All copyrights created or developed in connection with the Contract are the sole property of the State of Florida.

SECTION 9. DATA SECURITY AND SERVICES.

9.1 Duty to Provide Secure Data.

The Contractor will maintain the security of State of Florida Data including, but not limited to, a secure area around any display of such Data or Data that is otherwise visible. The Contractor will also comply with all HIPAA requirements and any other state and federal rules and regulations regarding security of information as applicable.

9.2 Warranty of Security.

Unless otherwise agreed in writing, the Contractor and its subcontractors will not perform any of its value added services from outside of the United States, and the Contractor will not allow any State of Florida Data to be sent by any medium, transmitted or accessed outside of the United States.

Notwithstanding any provision of this Contract to the contrary, the Contractor must notify the Department as soon as possible, in accordance with the requirements of section 501.171, F.S., and in all events within one (1) business day in the event Contractor discovers any Data is breached, any unauthorized access of Data occurs (even by persons or companies with authorized access for other purposes), any unauthorized transmission of Data or any credible allegation or suspicion of a material violation of the above. This notification is required whether the event affects one agency/customer or the entire population. The notification must be clear and conspicuous and include a description of the following:

- (a) The incident in general terms.
 - (b) The type of information that was subject to the unauthorized access and acquisition.
 - (c) The type and number of entities who were, or potentially have been affected by the breach.
 - (d) The actions taken by the Contractor to protect the Data from further unauthorized access.
- However, the description of those actions in the written notice may be general so as not to further increase the risk or severity of the breach.

9.3 Remedial Measures.

Upon becoming aware of an alleged security breach, Contractor's Contract Manager must set up a conference call with the Department's Contract Manager. The conference call invitation must contain a brief description of the nature of the event. When possible, a 30-minute notice will be given to allow Department personnel to be available for the call. If the designated time is not practical for the

Department, an alternate time for the call will be scheduled. All available information must be shared on the call. The Contractor must answer all questions based on the information known at that time and answer additional questions as additional information becomes known. The Contractor must provide the Department with final documentation of the incident including all actions that took place. If the Contractor becomes aware of a security breach or security incident outside of normal business hours, the Contractor must notify the Department's Contract Manager and in all events, within one business day.

9.4 Indemnification (Breach of Warranty of Security).

The Contractor agrees to defend, indemnify and hold harmless the Department, Customer, the State of Florida, its officers, directors, and employees for any claims, suits or proceedings related to a breach of the Warranty of Security. The Contractor will include credit monitoring services at its own cost for those individuals affected or potentially affected by a breach of this warranty for a two year period of time following the breach.

9.5 Annual Certification.

The Contractor is required to submit an annual certification demonstrating compliance with the Warranty of Security to the Department by December 31 of each Contract year.

SECTION 10. GRATUITIES AND LOBBYING.

10.1 Gratuities.

The Contractor will not, in connection with this Contract, directly or indirectly (1) offer, give, or agree to give anything of value to anyone as consideration for any State of Florida officer or employee's decision, opinion, recommendation, vote, other exercise of discretion, or violation of a known legal duty, or (2) offer, give, or agree to give to anyone anything of value for the benefit of, or at the direction or request of, any State of Florida officer or employee.

10.2 Lobbying.

In accordance with sections 11.062 and 216.347, F.S., Contract funds are not for the purpose of lobbying the Legislature, the judicial branch, or the Department. Pursuant to subsection 287.058(6), F.S., the Contract does not prohibit the Contractor from lobbying the executive or legislative branch concerning the scope of services, performance, term, or compensation regarding the Contract, after the Contract execution and during the Contract's term.

SECTION 11. CONTRACT MONITORING.

11.1 Performance Standards.

The Contractor agrees to perform all tasks and provide deliverables as set forth in the Statement of Work and attachments to the Contract. The Department and the Customer will be entitled at all times, upon request, to be advised as to the status of work being done by the Contractor and of the details thereof. Coordination must be maintained by the Contractor with representatives of the Customer, the Department, or of other agencies involved in the Contract on behalf of the Department.

11.2 Performance Deficiency.

The Department or Customer may, in its sole discretion, notify the Contractor of the deficiency to be corrected, which correction must be made within a time-frame specified by the Department or Customer. The Contractor must provide the Department or Customer with a corrective action plan describing how the Contractor will address all issues of contract non-performance, unacceptable performance, and failure to meet the minimum performance levels, deliverable deficiencies, or contract non-compliance.

11.3 Financial Consequences of Non-Performance.

If the corrective action plan is unacceptable to the Department or Customer, or fails to remedy the performance deficiencies, the Contractor will be assessed a non-performance retainage equivalent to

10% of the total invoice amount or as specified in the Contract. The retainage will be applied to the invoice for the then-current billing period. The retainage will be withheld until the Contractor resolves the deficiency. If the deficiency is subsequently resolved, the Contractor may invoice the Customer for the retained amount during the next billing period. If the Contractor is unable to resolve the deficiency, the funds retained will be forfeited.

11.4 Liquidated Damages.

The Contractor will promptly notify the Department or Customer upon becoming aware of any circumstances that may reasonably be expected to jeopardize the timely and successful completion (or delivery) of any commodity or contractual service. The Contractor will use commercially reasonable efforts to avoid or minimize any delays in performance and will inform the Department or Customer of the steps the Contractor is taking or will take to do so, and the projected actual completion (or delivery) time. If the Contractor believes a delay in performance by the Department or Customer has caused or will cause the Contractor to be unable to perform its obligations on time, the Contractor will promptly so notify the Department or Customer and use commercially reasonable efforts to perform its obligations on time notwithstanding the Department or Customer's delay. The Contractor acknowledges that untimely performance or other material noncompliance will damage the Department or Customer, but by their nature such damages may be difficult to ascertain. Accordingly, any liquidated damages provisions stated in the solicitation will apply to this Contract. Liquidated damages are not intended to be a penalty and are solely intended to compensate for damages.

11.5 Force Majeure, Notice of Delay, and No Damages for Delay.

The Contractor will not be responsible for delay resulting from its failure to perform if neither the fault nor the negligence of the Contractor or its employees or agents contributed to the delay and the delay is due directly to acts of God, wars, acts of public enemies, strikes, fires, floods, or other similar cause wholly beyond the Contractor's control, or for any of the foregoing that affect subcontractors or suppliers if no alternate source of supply is available to the Contractor. In case of any delay the Contractor believes is excusable, the Contractor will notify the Department or Customer in writing of the delay or potential delay and describe the cause of the delay either (1) within 10 days after the cause that creates or will create the delay first arose, if the Contractor could reasonably foresee that a delay could occur as a result, or (2) if delay is not reasonably foreseeable, within five days after the date the Contractor first had reason to believe that a delay could result. The foregoing will constitute the Contractor's sole remedy or excuse with respect to delay. Providing notice in strict accordance with this paragraph is a condition precedent to such remedy. No claim for damages will be asserted by the Contractor. The Contractor will not be entitled to an increase in the Contract price or payment of any kind from the Department or Customer for direct, indirect, consequential, impact or other costs, expenses or damages, including but not limited to costs of acceleration or inefficiency, arising because of delay, disruption, interference, or hindrance from any cause whatsoever. If performance is suspended or delayed, in whole or in part, due to any of the causes described in this paragraph, after the causes have ceased to exist the Contractor will perform at no increased cost, unless the Department or Customer determines, in its sole discretion, that the delay will significantly impair the value of the Contract to the State of Florida or to Customers, in which case the Department or Customer may (1) accept allocated performance or deliveries from the Contractor, provided that the Contractor grants preferential treatment to Customers with respect to commodities or contractual services subjected to allocation, or (2) purchase from other sources (without recourse to and by the Contractor for the related costs and expenses) to replace all or part of the commodity or contractual services that are the subject of the delay, which purchases may be deducted from the Contract quantity, or (3) terminate the Contract in whole or in part.

SECTION 12. CONTRACT AUDITS.

12.1 Performance or Compliance Audits.

The Department may conduct, or cause to have conducted, either or both performance and compliance audits of the Contractor and subcontractors as determined by the Department. The Department may conduct an audit and review all the Contractor's and subcontractor's data and records that directly relate to the Contract. To the extent necessary to verify the Contractor's claims for payment under the Contract, the Contractor's agreements or contracts with subcontractors, partners or agents of the Contractor, pertaining to this Contract, may be inspected by the Department upon 15 days' notice, during normal working hours and in accordance with the Contractor's facility access procedures where facility access is required. Release statements from its subcontractors, partners or agents are not required for the Department or its designee to conduct compliance and performance audits on any of the Contractor's contracts relating to this Contract. The State of Florida's Chief Financial Officer and the Office of the Auditor General also have authority to perform audits and inspections.

12.2 Payment Audit.

Records of costs incurred under terms of the Contract will be maintained. Records of costs incurred will include the Contractor's general accounting records, together with supporting documents and records of the Contractor and all subcontractors performing work, and all other records of the Contractor and subcontractors considered necessary by the Department, State of Florida's Chief Financial Officer or the Office of the Auditor General for audit.

SECTION 13. BACKGROUND SCREENING AND SECURITY.

13.1 Background Check.

The Department may require the Contractor and its employees, agents, representatives and subcontractors to provide fingerprints and be subject to such background checks as directed by the Department. The cost of the background checks will be borne by the Contractor. The Department may require the Contractor to exclude the Contractor's employees, agents, representatives or subcontractors based on the background check results. In addition, the Contractor must ensure that all persons have a responsibility to self-report to the Contractor within three calendar days any arrest for any Disqualifying Offense. The Contractor must notify the Contract Manager within 24 hours of all details concerning any reported arrest. The Contractor will ensure that all background screening will be refreshed upon the request of the Department for each person during the term of the Contract.

13.2 E-Verify.

In accordance with Executive Order 11-116, the Contractor agrees to utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired during the term of the Contract for the services specified in the Contract. The Contractor must also include a requirement in subcontracts that the subcontractor must utilize the E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the Contract term. In order to implement this provision, the Contractor must provide a copy of its DHS Memorandum of Understanding (MOU) to the Contract Manager within five days of Contract execution. If the Contractor is not enrolled in DHS E-Verify System, it will do so within five days of notice of Contract award, and provide the Contract Manager a copy of its MOU within five days of Contract execution. The link to E-Verify is provided below. <http://www.uscis.gov/e-verify>. Upon each Contractor or subcontractor new hire, the Contractor must provide a statement within five days to the Contract Manager identifying the new hire with its E-Verify case number.

13.3 Disqualifying Offenses.

If at any time it is determined that a person has a criminal misdemeanor or felony record regardless of adjudication (e.g., adjudication withheld, a plea of guilty or nolo contendere, or a guilty verdict) within the last six years from the date of the court's determination for the crimes listed below, or their equivalent in any jurisdiction, the Contractor is required to immediately remove that person from any position with access to State of Florida Data or directly performing services under the Contract. The disqualifying offenses are as follows:

- (a) Computer related or information technology crimes
- (b) Fraudulent practices, false pretenses and frauds, and credit card crimes
- (c) Forgery and counterfeiting
- (d) Violations involving checks and drafts
- (e) Misuse of medical or personnel records
- (f) Felony theft

13.4 Communications and Confidentiality.

The Contractor agrees that it will make no statements, press releases, or publicity releases concerning the Contract or its subject matter or otherwise disclose or permit to be disclosed any of the data or other information obtained or furnished in compliance with the Contract, or any particulars thereof, during the period of the Contract, without first notifying the Department's Contract Manager or the Department designated contact person and securing prior written consent. The Contractor must maintain confidentiality of all confidential data, files, and records related to the services and commodities provided pursuant to the Contract and must comply with all state and federal laws, including, but not limited to sections 381.004, 384.29, 392.65, and 456.057, F.S. The Contractor's confidentiality procedures must be consistent with the most recent version of the Department security policies, protocols, and procedures. The Contractor must also comply with any applicable professional standards with respect to confidentiality of information.

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EXHIBIT B
FLORIDA SPECIAL CONTRACT CONDITIONS

This Exhibit contains the Special Contract Conditions. If a conflict exists between the Special Contract Conditions and the General Contract Conditions, the Special Contract Conditions shall take precedence over the General Contract Conditions unless the conflicting term in the General Contract Conditions is required by Florida law, in which case the General Contract Conditions term will take precedence.

Special Contract Conditions are as follows:

Section 1 Scope

All products and services offered under this addendum must be in compliance with the Master Agreement scope. Failure to adhere to Master Agreement scope, may result in addendum termination and the reimbursement of procurement costs in accordance to 60A-1.006 F.A.C..

Section 2 Information Technology (IT) Standards

Pursuant to sections 282.0051 and 282.318, F.S., the Agency for State Technology (AST) has established information technology standards for security, project management and oversight. State agencies shall ensure compliance with AST standards as established in Rule Chapter 74-1 and 74-2, F.A.C, as applicable.

Section 3 Delays and Complaints

Delivery delays and service complaints will be monitored on a continual basis. Documented inability to perform under the conditions of the contract, via the established Complaint to Vendor process (PUR 7017 form), may result in default proceedings and cancellation.

Section 4 Monthly Transaction Fee Report

The Contractor is required to submit monthly Transaction Fee Reports electronically through MFMP VIP. All such reports and payments shall be subject to audit. Failure to comply with the payment of the Transaction Fees or reporting of transactions shall constitute grounds for declaring the Contractor in default and subject the Contractor to exclusion from business with the State of Florida.

For information on how to submit Transaction Fee Reports online, please reference the detailed fee reporting instructions and Vendor training presentations available online through MFMP U on the MyFloridaMarketPlace website (located at <http://dms.myflorida.com/mfmp>). Assistance is also available from the MyFloridaMarketPlace Customer Service Desk at feeprocessing@myfloridamarketplace.com or 866-FLA-EPRO (866-352-3776) between the hours of 8:00 AM to 6:00 PM, Eastern Time.

Section 5 Quarterly Sales Reports

Each Contractor shall submit a sales report to the Department on a Quarterly basis.

Contract Sales Reports must include the Contractor's name, the dates of Quarter covered, each Customer's name, services provided, and the amount paid by the Customer.

Initiation and submission of the Contract Sales Reports are to be the responsibility of the Contractor. The Contractor will submit the completed Sales Report forms by email to the Department Contract Manager no later than the due date indicated in Section 10. Submission of these reports is considered a material requirement of this Contract and the Contractor.

Failure to provide quarterly sales reports, including those indicating no sales, within thirty (30) calendar days following the end of each quarter (January, April, July and October) is considered as Non-Performance by the Contractor. Exceptions may be made if a delay in submitting reports is attributable to circumstances that are clearly beyond the control of the Contractor. The burden of proof of unavoidable delay shall rest with the Contractor and shall be supplied in a written form and submitted to the Department.

The Department reserves the right to request additional sales information as needed.

Section 6 Quarterly Reporting Timeframes

Quarterly reporting timeframes coincide with the State Fiscal Year as follows:

- Quarter 1 - (July-September) – Due by October 10
- Quarter 2 - (October-December) – Due by January 10
- Quarter 3 - (January-March) – Due by April 10
- Quarter 4 - (April-June) – Due by July 10

Section 7 Business Review Meetings

The Department reserves the right to schedule business review meetings as frequently as necessary. The Department will provide the format for the Contractor's agenda. Prior to the meeting, the Contractor shall submit the completed agenda to the Department for review and acceptance. The Contractor shall address the agenda items and any of the Department's additional concerns at the meeting. Failure to comply with this section may result in the Contractor being found in default and contract termination.

Section 8 Contract Revisions

Notwithstanding General Contract Conditions the following types of revisions can be made to the Contract upon written authorization by the Department:

- a. Contractor's Information and Contacts
- b. Contract Manager
- c. Contract Report Forms

Only the above-listed provisions can be made without a formal Contract amendment. Florida General Contract Conditions, section 6.10, applies to all other modifications to the Contract.

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Master Agreement

Section 2: Scope of Work

State of Arizona
State Procurement Office
100 North 15th Avenue, Suite 201
Phoenix, AZ 85007

Contract No: ADSPO16-130651
Description: Software Value-Added Reseller (SVAR) Services

2.1 Software Value-Added Reseller ('Reseller' – "SVAR")

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

2.1.2 SVAR shall do the following:

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

2.1.2.2 Honor existing Volume or Enterprise license agreements.

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

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

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

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

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

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

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

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

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

2.1.1.6.3 Examples of such advice would be:

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

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



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Description: **Software Value-Added Reseller (SVAR) Services**

- 2.1.2.8 Provide assistance in explaining and developing Volume License and Enterprise Agreements.
- 2.1.2.9 Provide Software Installation Assistance.
 - 2.1.2.9.1 Provide, at no additional cost, assistance or advice in basic installation or implementation of COTS product.
 - 2.1.2.8.2 If the Purchasing Entity encounters difficulty in downloading or installing the software, the Reseller must provide assistance within eight (8) business hours of being informed of the problem.
- 2.1.2.10 Provide Software De-Installation Assistance.
- 2.1.2.11 Provide Tracking, Management, Usage Monitoring and Reporting of Licenses
 - 2.1.2.11.1 Reseller shall have in place a product license inventory and asset management system, which will include an accurate inventory record of product licenses purchased under this Contract.
 - 2.1.2.11.2 Reseller must also have the capability tracking maintenance renewal and other significant due dates.
 - 2.1.2.11.3 At a minimum, this system shall be able to provide this information by Participating State and Purchasing Entity.
 - 2.1.2.11.4 Reseller shall work with Participating State, other Purchasing Entities, publishers, previous and subsequent contract software resellers, and hardware computer contractors to ensure the most comprehensive record of licenses is created, maintained, and the information transferrable.
 - 2.1.2.11.5 States may choose to award multiple PA's under this Agreement. Details on how licenses are to be tracked and managed under multiple awards will be determined by that awarding State.
 - 2.1.2.11.6 As may be required by a Participating State, or other Purchasing Entity, Reseller shall work with NASPO ValuePoint computing equipment contractors, or a Participating State's comparable computer hardware contractor, to see that any software acquired under those contracts can be tracked through this contract.
- 2.1.2.12 Notify Participating State and Purchasing Entities of publisher publicly announced changes pertinent to User licensing.
- 2.1.3 SVAR shall Develop and Maintain Website
 - 2.1.3.1 *For Participating States*, Reseller shall develop and support a website specific to that State, with content approved from the LSCA or PSCA as appropriate based on content.
 - 2.1.3.1.1 This web site information shall be available through the Internet without the use of additional software or licenses.



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- 2.1.3.1.2 Website should be User friendly to allow for quick and easy access and use.
- 2.1.3.1.3 Website shall be available 24 x 7, except for scheduled maintenance.
- 2.1.3.1.4 Website shall be ADA compliant.
- 2.1.3.1.5 No costs or expenses associated with providing this information shall be charged to the States.
- 2.1.3.1.6 Universal Resource Locator (URL) for the website must be supplied to the PSCA and the LSCA within sixty (60) days of the execution of the PA.
- 2.1.3.1.7 The website will include contract information, product information/catalog, the capability to generate online reports, and other pertinent information as may be reasonably requested by States, such as copies of VLAs.
- 2.1.3.1.8 *Publisher Notifications and Other Industry Information.* In the event that a publisher publicly announces changes that are pertinent to User licensing, the Reseller shall assist Users by posting the information on the state websites.
- 2.1.3.1.9 Reseller shall provide, at no additional cost, training on how to use their website and how to use this contract in obtaining quotes and placing orders. Online training should be available on the website, but supplementary electronic (e.g. Webinars, emails), telephone or on-site training should be provided, as needed, during standard working hours.
- 2.1.3.2 *Contract and General Information.* The website shall provide contract and ordering information to include, at a minimum:
 - 2.1.3.2.1 The contract number(s) (MPA and PA);
 - 2.1.3.3.2 The Reseller primary contact and contacts to whom incidents are to be escalated:
 - Name(s) and titles
 - Areas of responsibility for each contact name;
 - Phone number(s); and,
 - Email address(es).
 - 2.1.3.3.3 Information on use of website,
 - 2.1.3.3.4 Quote and ordering information; and,
 - 2.1.3.3.5 Notifications regarding publishers and products, such as pending key product changes or upgrades.
- 2.1.3.3 *Online Catalog*
 - 2.1.3.3.1 Reseller shall provide COTS software, and software maintenance of new or existing licensed software, under this contract. Information on approved products, customized by Participating State, will be available through an online catalog and through Reseller's representatives either through email or telephone inquiry during the standard working hours of the Participating State. The online catalog shall provide an expansive list



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of products allowed per the contracts, particularly those products of itemized publishers.

- 2.1.3.3.2 The website shall provide contract and ordering information to include, at a minimum: publishers, product names, standard product pricing, and product descriptions (photos optional or links to access product literature). Regardless of the number and types of links to the Reseller's electronic catalog, the Reseller shall ensure that all eligible agencies purchasing under one PA are accessing the same current base version of the product catalog. Online information shall include purchases of Volume or Enterprise License Agreement software as well as individual COTS software licenses.
- 2.1.3.3.3 Online catalog shall be restricted to just software. Non-authorized products or groups of products shall not be on the website. Reseller shall not use this proposed website to cross sell or cross advertise other products and or services the Reseller may be able to offer.
- 2.1.3.4 *Product Searching Capability.* At a minimum, the online catalog should be searchable by Purchasing Entity and their VLAs, Software Publisher, Product name, OEM product number, and software description (e.g., GIS, Security). The online category can be modified as Users' needs dictate, such as including products obtained through a distributor (non-itemized publisher products) that are frequently purchased.
- 2.1.3.5 *Online Product Quotes.* Product price displayed online is a 'not-to-exceed' product price quote based on contract rate and real time Reseller Cost. For high dollar purchases, or quantity purchases, Purchasing Entity should request a quote by contacting Reseller representative off-line. The online pricing should allow for overrides when a quote with a negotiated better price has been offered and is being placed online. Website should have capability to track all quotes by Purchasing Entity and be easily accessible for viewing by quote number. Website shall include a shopping cart feature that allows Purchasing Entities to provide shipping instructions. Purchasing Entities can place orders on the web either via credit card or purchase order. Specifics regarding an individual state's requirements for placing an order may be included in that State's Participating Addendum (PA).
- 2.1.3.6 *User Differentiation.* Catalog should be designed so as to provide a means to identify the Participating State (state agency or other eligible Purchasing Entity). This method used must not require any administrative tasks on the part of the LSCA for the MPA, the PSCA for the individual PSCA. Website should allow Users to develop personal lists and profiles, including an option to securely store and maintain procurement card information. Catalog should have the capability of being used as a 'Punch Out' to an individual state's electronic purchasing system.
- 2.1.3.7 *Online Reports.* Website shall have capability to provide order history, as well as order status and order tracking.
- 2.1.3.8 *Other.* Other information may be added to the website as may be required by State (such as copies of volume license agreements) or enhancements that may be proposed by Reseller and approved by State.



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2.2 COTS Products

2.2.1 Software which requires little or no services

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

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

2.2.1.2 Licenses and Maintenance Agreements

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

The Reseller will honor existing Participating State's VLA's or ELA's with publishers and include those licenses as part of the Reseller's license tracking service. Following an executed PA with a Participating State, and if so required by the Participating State, the Purchasing Entity and/or an individual publisher, the Reseller will identify itself to software publishers as Reseller for that Participating State or Purchasing Entity. If so required by the Publisher and Participating State, Reseller will execute a change of channel partner agreement with the Publisher. Resellers will sell additional seats consistent with Purchasing Entities' Enterprise or Volume Agreements. Reseller will work with Participating State, Purchasing Entity(ies) and Publishers as needed to establish new VLAs or ELAs. The Reseller will work with the Publisher and Participating State as necessary to ensure the Participating State receives timely and pertinent license information, such as: license or agreement renewals, or opportunities based on actual volume.

Reseller will work directly with Purchasing Entity(ies) in establishing, signing and maintaining enrollment agreements. If Reseller is sole SVAR contractor in a State, Reseller will aggregate all enrollments together for



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Master Agreement reporting purposes. If a PSCA elects to have multiple SVAR contractors, Reseller's responsibilities will be delineated in that State's PA. Resellers shall monitor and be able to report on the current levels of software ordered towards any of the Participating State's VLA required sales levels to ensure the Participating State does not fall short and thereby incur Publisher penalties. The Reseller shall be responsible for providing license usage information to the Publishers, if such information is required by the Publishers, in a timely manner (e.g., for 'true up' assessments)

2.2.1.2.2 *Individual Software Licenses.* Purchasing Entities can purchase individual COTS licenses, such as perpetual and non-perpetual licenses, through the Reseller.

2.2.1.3 Software Maintenance and Support Agreements.

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

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

2.2.1.3.2 *Software Updates.*

2.2.1.3.2.1 Users are eligible to receive, from the Publisher, all new releases and updates of the software, at no additional charge, while under a maintenance agreement. A "Release" means any collection of enhancements or updates which the Publisher generally makes available to its installed base of customers of such programs. The Reseller shall assist the Purchasing Entity to obtain such releases or updates for their Users from the Publisher.

2.2.1.3.2.2 Should a User not want to receive the next upgrade, the User shall so notify the respective Publisher.

2.2.1.3.3 *License Confirmations*

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



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

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

2.2.1.3.4 *Transitioning License Tracking Information at Contract Termination*

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

2.2.1.4 Leases

Lease purchase and term leases are allowable only for Purchasing States whose rules and regulations permit leasing of software. Individual Purchasing Entities may enter into a lease agreement for the products covered in this Master Agreement, if they have the legal authority to enter into these types of agreements without going through a competitive process. No lease agreements will be reviewed or evaluated as part of this RFP evaluation process.

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

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

The products of the publishers in this category represent the highest tier of sales volume identified for this solicitation, of those publishers who sell through resellers. This category is the one most likely to include a Participating State's enterprise or high volume agreements with a publisher. Resellers shall be certified direct resellers for publishers in this



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category. The preferred pricing that a Reseller receives based on their reseller certification status, in conjunction with the anticipated considerable volume of purchases through these Contracts, is the expected foundation for a very competitive base Reseller Cost, with further reductions of Reseller Cost as they are achieved through ongoing Reseller negotiations. A percentage rate above or below Reseller Cost is to be provided for each itemized publisher. Specific requirements may be required for some publishers in this category in an individual State's PA.

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

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

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



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	COMPUWARE	
	COREL	
	DOUBLETAKE	
	EMC	
	ENCHOICE	
	ESET	
	ESRI	
	FREEDOM SCIENTIFIC	
	GUARDIAN EDGE – SYMANTEC	
	GW MICRO	
	IBM	
	ICM CONVERSIONS	
	INFOR	
	INTERMEDIX EMSYSTEMS	
	HP	
	HUMANWARE	
	INFORMATION BUILDERS	
	KRONOS SOFTWARE	
	LANDESK	
	LASERFISCHE	
	LIQUIDWARE STATUSPHERE	
	MICROFOCUS INC	
	MINJET	
	MPS	
	MQSOFTWARE – BMC SOFTWARE	
	NCIRCLE	
	NETOP	
	NUANCE	
	ORACLE	
	OSAM	
	PASSPORT	
	PATCHLINK	
	PROOFPOINT	
	RSA SECURITY	
	REFERENCIA SYSTEMS	
	SAP AMERICA	
	SAS	
	SOLUTIONS SOFTWARE	
	SOPHOS	
	SPLUNK SOFTWARE	
	STASEEKER NETWORK INFRASTRUCTURE MONITORING	
	STELLENT – ORACLE	



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	SUNGUARD	
	SYBASE	
	TECHSMITH	
	TREND MICRO	
	TRUSTWARE	
	ULTRABAC	
	VORMETRIC	
	WEBSense	

2.2.1.6 Software Publishers, General Representation.

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

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

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

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

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

2.2.1.7.3 Timely Quotes. Reseller agrees to work with publishers and distributors to obtain quotes and deliver software in a timely fashion. Expected response should be within twenty-four (24) hours but no more than three (3) business days. If, after three (3) business days, the Reseller has been unable to obtain the quote or assurances that



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they can obtain the software, the Reseller shall contact the Participating State or other Purchasing Entity with a status report. The Reseller and the Participating State/Purchasing Entity will mutually agree as to whether the Reseller shall continue to pursue a quote and within what timeframe, or whether the Reseller will provide the Participating State/Purchasing Entity with a written statement that the Reseller cannot supply the software. If the Reseller has been unable to obtain a quote within ten (10) days of the request for quote, the Reseller shall provide a written statement (email is sufficient) to Participating State/Purchasing Entity, and the LSCA as may be required under the PA, that the Reseller cannot supply the software, and the reason why.

2.2.1.7.4 *Guaranteed 30 Day Quote.* Reseller is required to honor all quotes for thirty (30) calendar days. If it is known that a price adjustment will occur during the thirty (30) calendar days following the quote, the Reseller may provide two quotes, based upon the date that the order is received.

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

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

2.2.1.8 Product Delivery and Returns

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

2.2.1.8.2 Delivery Period. Reseller to provide delivery no longer than ten (10) business days after receipt of a valid order unless conditions arise that are outside the control of the Reseller. If delivery cannot be within this time frame, Reseller is to notify Purchasing Entity of delay and anticipated



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ship date. If this delayed delivery is unacceptable to Purchasing Entity, the order can be cancelled without penalty.

2.2.1.8.3 Product Returns. Unopened software can be returned with no restocking fee up to 30 days from date of receipt, if allowed by the software publisher. If the software publisher has a shorter timeframe for returns or requires a restocking fee, this must be stated on the quote. If that information is not provided to the Participating State by the Reseller, Reseller is responsible for the restocking fee. If delivered software is defective, or if the incorrect product was delivered, the Reseller must agree to accept returns. If delivered software is defective, the Reseller is responsible for return shipping and packaging costs and for restocking charges if applicable. The Reseller must agree that any defective or incorrectly delivered media will be replaced by overnight delivery at the Reseller's expense if requested by the Participating State or Purchasing Entity. If overnight delivery is not requested, all replacement products must be received by the Participating State or Purchasing Entity within seven (7) days of initial notification.

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

2.3 Services

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

2.3.1 In Scope Services:
Basic Installation, Maintenance packages and Training (3.4) are considered to be within the Scope of this Solicitation. This Master Agreement is intended for the acquisition of distributed, commercial off the shelf software



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2.3.2 (RESERVED)

2.3.3 A Participating State may include a statement in their Participating Addendum allowing state employees to purchase software licenses.

2.3.4 Individual Participating Addendums may further limit the Scope of this Solicitation.

2.3.5 This Master Agreement is not intended for the purchase of custom software applications.

2.4 Training.

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

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

2.5 Customer Service and Representation.

2.5.1 *Dedicated Representation and Timely Response.* Reseller shall provide a dedicated representative for each Participating State. Such representative will become familiar with the State and its cooperative partners, provide a single point as needed for quote assistance, offer software recommendations, track and report on renewal deadlines, and serve as a contact point for the LSCA. **Reseller must commit to returning phone calls or responding to emails within two (2) business days.**

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

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

2.5.4 *Contract Reviews.*

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

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

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

2.5.4.3.1 Reseller is expected to **conduct a customer satisfaction survey** and an audit prior to this discussion and be prepared to discuss the results, and



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provide reports, at this review. At a minimum, the audit will report address quoting and billing accuracy, and any Reseller Cost that exceeds a Publisher's List price for that item.

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

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

2.6. Interactions with Software Publishers

2.6.1 *Best Interests of Participating State.* Reseller would represent the best interests of the Participating State and other Participating Entities in negotiating or otherwise working with Publishers for such items as: maximizing cost savings with best use of volume or enterprise license agreements, better pricing on individual volume buys, taking advantage of publishers' specials, promotions, coupons or other savings opportunities.

2.6.2 *Liaison with Publisher.* A State may establish, in their individual PA, a requirement for Reseller to arrange with the software publisher or software publisher's designee for implementation, customization, training, support, maintenance and other software related services. **The provision of said services must be under a separate agreement between the Participating State and the applicable parties.**

2.7 Reporting

2.7.1 Standard Reports

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

2.7.2 Online Reports

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

2.7.3 Custom Reports



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

2.8 Other Value-Added Services

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