

Instructions

CATEGORIES MUST BE ENTERED IN BIDSTAMP AS LISTED BELOW.

MANAGED PRINT SERVICES, NETWORK DEVICES, NON-NETWORK DEVICES and RELATED SERVICES

- 1) **TAB 2 - BIDStamp PRICE SHEET** - Is an EXAMPLE Price Sheet. You will enter each of the offerings in the white/uncolored rows into the BIDStamp VIS Price Form in accordance with RFO Bid Package 1, Section 3.1.1 Pricing.
Vendor must offer only one price for each product listed. The Price to the DIR Customer shall include all shipping and handling fees. If you do not offer anything in the product lines defined, do not add it to the BidStamp VIS Price Form.
!! IMPORTANT!! For this category only enter "MPS" in the BRAND Column !! IMPORTANT !!
DIR has provided Examples, followed by rows below the Examples in white/uncolored rows, which list specific Products for your pricing and entry into the BIDStamp VIS Price Form.
Example: If you do **not** offer a copier line that falls within the M1 Volume Brand (1 - 30 pages per Minute [PPM]) then do not enter that product row in the BIDStamp VIS Price Form.
Example: If you **do** offer a copier line that falls within the M1 Volume Brand (1 - 30 pages per Minute [PPM]) then add it as a row on the BIDStamp VIS Price Form. Add rows for the lowest-priced product and the highest-price product (if you offer both) in multiple rows for the M1 Volume Band in the BIDStamp VIS Price Form.
PRODUCT PART NUMBER/SKU: A product number/SKU must be entered
Discount range (e.g., 0% - 99%) is not allowed.
- 2) **TAB 3 - ENTIRE PRODUCT OFFERING - MPS** - The discount being offered shall be based upon the Manufacturer's Suggested Retail Price (MSRP).
TAB 3 - ENTIRE PRODUCT OFFERING - MPS - is not entered in the BidStamp VIS; it is entered in the tab titled "3 - Entire Product Offering - MPS" and submitted in BidStamp VIS as an EXCEL spreadsheet Attachment.
- 3) For all Tabs above - Price to DIR Customer shall include all Shipping and Handling or Transport fees.
- 4) For Tabs 3, 4, 5 and 6, DO NOT CREATE COLUMNS WITHIN THE TABS. ENTIRE PRODUCT OFFERINGS SHALL BE COMPLETED ON THE TABS PROVIDED IN THIS BID PACKAGE 2 AND UPLOADED WITH YOUR PROPOSAL AS AN ATTACHMENT.
- 5) **IMPORTANT!!!** For BIDStamp ENTRY: An ERROR will occur if the following fields are left blank: BRAND, Product Number/SKU, MSRP and Discount % off MSRP

DOCUMENT IMAGING SERVICES

- 1) **TAB 2 - BIDStamp PRICE SHEET** - Is an EXAMPLE Price Sheet. You will enter each of the offerings in the white/uncolored rows into the BIDStamp VIS Price Form in accordance with RFO Bid Package 1, Section 3.1.1 Pricing.
Vendor must offer only one price for each product listed. The Price to the DIR Customer shall include all shipping and handling fees. If you do not offer anything in the product lines defined, do not add it to the BidStamp VIS Price Form.
IMPORTANT!! For this category only enter "DIS" in the BRAND Column !! IMPORTANT !!
DIR has provided Examples, followed by rows below the Examples in white/uncolored rows, which list specific Products for your pricing and entry into the BIDStamp VIS Price Form.
Example: If you do **not** offer a Microfilm (Digital Archive Writer), then do not enter that product row in the BIDStamp VIS Price Form.
Example: If you **do** offer a Microfilm (Digital Archive Writer), then add it as a row on the BIDStamp VIS Price Form.
PRODUCT PART NUMBER/SKU: For DIS PRODUCT PART NUMBER/SKU: if Vendor do not have an assigned Product Part Number/SKU, enter "Services". If providing Service/Solution vendor is listed as Manufacture.
Discount range (e.g., 0% - 99%) is not allowed.
- 2) **TAB 4 - ENTIRE PRODUCT OFFERING-DIS** - The discount being offered shall be based upon the Manufacturer's Suggested Retail Price (MSRP).
Vendor will provide a MSRP price list of Services/Solutions being proposed
Discount range (e.g., 0% - 99%) is not allowed.

TAB 4 - ENTIRE PRODUCT OFFERING - DIS - is not entered in the BidStamp VIS; it is entered in the tab titled "4 - Entire Product Offering - DIS" and submitted in BidStamp VIS as an EXCEL spreadsheet Attachment.

3) For all Tabs above - Price to DIR Customer shall include all shipping and handling fees.

4) For Tabs 3, 4, 5 and 6, DO NOT CREATE COLUMNS WITHIN THE TABS. ENTIRE PRODUCT OFFERINGS SHALL BE COMPLETED ON THE TABS PROVIDED IN THIS BID PACKAGE 2 AND UPLOADED WITH YOUR PROPOSAL AS AN ATTACHMENT.

5) **IMPORTANT!!!** For BIDStamp ENTRY: An ERROR will occur if the following fields are left blank: BRAND, Product Number/SKU, MSRP and Discount % off MSRP

ENTERPRISE CONTENT MANAGEMENT PRODUCTS, SOFTWARE, SERVICES, AND RELATED SERVICES

1) **TAB 2 - BIDStamp PRICE SHEET** - Is an EXAMPLE Price Sheet. You will enter each of the offerings in the white/uncolored rows into the BIDStamp VIS Price Form in accordance with RFO Bid Package 1, Section 3.1.1 Pricing.

DIR has provided Examples, followed by rows below the Examples, which list specific Product Categories for your pricing.

IMPORTANT!! For this category only enter "ECM" in the BRAND Column **!! IMPORTANT !!**

PRODUCT PART NUMBER/SKU: A Product Part Number/SKU must be entered

Discount range (e.g., 0% - 99%) is not allowed.

2) **TAB 5 - ENTIRE PRODUCT OFFERING - ECM** - The discount being offered shall be based upon the Manufacturer's Suggested Retail Price (MSRP).

Vendor will provide an MSRP and Discount for EACH item that they wish to offer on their contract. If a product is not listed it may NOT be offered on their contract.

Discount range (e.g., 0% - 99%) is not allowed.

Product/Services detail list Pricing information is not entered in the BidStamp VIS.

TAB 5 - ENTIRE PRODUCT OFFERING - ECM - is not entered in the BidStamp VIS; it is entered in the tab titled "5 - Entire Product Offering - ECM" and submitted in BidStamp VIS as an EXCEL spreadsheet Attachment.

The Entire Product Offering is not entered in the BidStamp VIS; it is entered in "5 - Entire Product Offering - ECM" tab and submitted in BidStamp VIS as an EXCEL spreadsheet in the tab 5 format.

3) For all Tabs above - Price to DIR Customer shall include all Shipping, Handling and Transport fees.

4) For Tabs 3, 4, 5 and 6, DO NOT CREATE COLUMNS WITHIN THE TABS. ENTIRE PRODUCT OFFERINGS SHALL BE COMPLETED ON THE TABS PROVIDED IN THIS BID PACKAGE 2 AND UPLOADED WITH YOUR PROPOSAL AS AN ATTACHMENT.

5) **IMPORTANT!!!** For BIDStamp ENTRY: An ERROR will occur if the following fields are left blank: BRAND, Product Number/SKU, MSRP and Discount % off MSRP

TAB 6 - VOLUME DISCOUNT SHEET - The discount being offered shall be based upon the Manufacturer's Suggested Retail Price (MSRP).

Volume Pricing information is not entered in the BidStamp VIS. If Vendor is proposing Volume Discounts, the service must be listed on the Volume Discount Tab with the associated type or grouped with an associated discount.

For example:

ABC Service, 1-5 Units - 10.00% - (two decimals)

ABC Service, 6-10 Units - 20.00% - (two decimals)

ABC Service, 10+ Units - 30.00% - (two decimals)

All Volume Discounts will be listed on the Volume Discount Tab and will be submitted in the tab 6 EXCEL spreadsheet format as an Attachment.

BID PACKAGE 2 - PRICING SHEET

* For Vendor reference: DIR CUSTOMER PRICE contains 0.75% DIR Administrative Fee and it will be AUTOMATICALLY calculated once all other cells are filled.
 For reference purposes, the formula to calculate DIR Customer Price is: DIR Customer Price = MSRP x (1-DIR Discount%) x (1+0.75%)
 DO NOT make any changes to the format of the grids. Insert additional rows as needed.

Monochrome, B&W MFD	
Volume Band M1	1 - 30 Pages Per Minute (PPM)
Volume Band M2	31 - 49 Pages Per Minute (PPM)
Volume Band M3	50 - 68 Pages Per Minute (PPM)
Volume Band M4	69 - 89 Pages Per Minute (PPM)
Volume Band M5	90 + Pages Per Minute (PPM)
Color and B&W MFD	
Volume Band C1	1 - 30 Pages Per Minute (PPM)
Volume Band C2	31 - 50 Pages Per Minute (PPM)
Volume Band C3	51 + Pages Per Minute (PPM)

MANAGED PRINT SERVICES, NETWORK DEVICES, NON-NETWORK DEVICES and RELATED SERVICES

IMPORTANT!! For this category enter "MPS" in the BRAND Column (See Example)

CATEGORY	BRAND	PRODUCT DESCRIPTION	PRODUCTS/SERVICES SUB DESCRIPTION	PRODUCT PART NUMBER/ SKU	MANUFACTURER "Y" IF APPLICABLE	RESELLER "Y" IF APPLICABLE	MSRP	Discount % off MSRP	UNIT
Volume Band M1 (Lowest Priced)	MPS	Nonac Copier Black and White	2 x 550 Sheet Paper Cassette, an 100-Sheet Stack Bypass, 512mb RAM, UFR II LT Printing, Network ScanGear, 10/100 Base TX Ethernet, USB 2.0 high speed connectivity and a drum unit	MKS345	Y		\$1,000.00	30.00%	Each
Volume Band M3 (Highest Priced)	MPS	Copier Black and White	Includes: PS, PCL, and XPS Controller, 100-sheet Single Pass Duplex Document Feeder, Standard Wireless Connectivity and Web Browser, 4 GB Standard Memory (when UK-219 is installed), 250 GB HDD, Standard USB 2.0 (supports local printing), Two USB 2.0 Host Ports, 6K Starter Toner and 60K Imaging Unit	DKE476		Y	\$2,000.00	35.00%	Each
Volume Band C2 (Lowest Priced)	MPS	Copier Color	Digital Multifunction Copier, Standard Network Print & Scan, Duplexing, 100 Sheet Bypass, 2 x 550 Sheet Cassettes (L,L,L), 9" Wide Color Touch Screen Controls, Scan to File / USB / Email, RADF, Stand	FIE873	Y		\$3,000.00	40.00%	Each

	A	B	C	D	E	F	G	H	I	J
14	Non-MFD	MPS	Scanner	Scanner: Up to 4800 dpi optical resolution; 48 bit internal color depth; 8.5" x 11.7" maximum scan size; easy photo fix technology; advanced digital dust correction; 3-color RGB LEDs, Built-in Kickstand; High-speed usb 2.0 interface; photo scan software; 1 year warranty	JSLE8743	Y		\$4,000.00	45.00%	Each
15	Non-MFD (Lowest Priced)	MPS	3D Printer	Pemium Sparkmaker High-Resolution SLA Resin 3D Printer	DIE594	Y		\$249.66	40.00%	Each
16	Non-MFD (Highest Priced)	MPS	3D Printer	Build Area: 2.36 x 1.77 x 3.94 in. (65 x 40 x 100 mm), XY resolution: 33 microns with patented grayscale software, footprint: 9 x 9.5 x 24.2 in. (22.86 x 24.13 x 61.5 cm), electrical requirement: 110 VAC @ 3A, weight: 35 lbs (16 kg)	SOW09E		Y	\$5,999.00	50.00%	Each
17	Volume Band M1 (Lowest Priced)		Copier Black and White							
18	Volume Band M1 (Highest Priced)		Copier Black and White							
19	Volume Band M3 (Lowest Priced)		Copier Black and White							
20	Volume Band M3 (Highest Priced)		Copier Black and White							
21	Volume Band M5 (Lowest Priced)		Copier Black and White							
22	Volume Band M5 (Highest Priced)		Copier Black and White							
23	Volume Band C2 (Lowest Priced)		Copier Color							
24	Volume Band C2 (Highest Priced)		Copier Color							
25	Non-MFD (Lowest Priced)		Facsimilie							
26	Non-MFD (Highest Priced)		Facsimilie							
27	Non-MFD (Lowest Priced)		Scanner							
28	Non-MFD (Highest Priced)		Scanner							
29	Non-MFD (Highest Priced)		3D Printer							
30	Non-MFD (Lowest Priced)		3D Printer							
31	DOCUMENT IMAGING SERVICES									
32	IMPORTANT!! For this category enter "DIS" in the BRAND Column (See Example)									
33	CATEGORY	BRAND	PRODUCT DESCRIPTION	PRODUCTS/SERVICES SUB DESCRIPTION	PRODUCT PART NUMBER/ SKU	MANUFACTURER "Y" IF APPLICABLE	RESELLER "Y" IF APPLICABLE	MSRP	Discount % off MSRP	UNIT
34	Imaging Services	DIS	Black and White Image Capture	Low (200 DPI)	Service	Y		\$0.03	20.00%	Per Image
35	Imaging Services	DIS	Black and White Image Capture	High (400 DPI)	Service	Y		\$0.04	30.00%	Per Image
36	Imaging Services		Color Image Capture	Medium (300 DPI)						Per Image
37	Imaging Services		Color Image Capture	Preservation >= 600 PPI						Per Image

	A	B	C	D	E	F	G	H	I	J
38	Imaging Services		Index Field - Type 1	Up to 15 Characters						Per Document
39	Imaging Services		Index Field - Type 2	31-45 Characters						Per Document
40	Imaging Services		Delivery Media	Microfilm (Digital Archive Writer)						Per Image
41	Imaging Services		Delivery Media	Microfilm (Digital Archive Writer)						Per Roll
42	Imaging Services		Microfilm Conversion	Conversion of microfilm to digital Images						Per Image
43	Imaging Services		Microfiche Conversion	Conversion of microfiche to digital Images						Per Image

	A	B	C	D	E	F	G	H	I	J
44	ENTERPRISE CONTENT MANAGEMENT PRODUCTS, SOFTWARE, SERVICES, AND RELATED SERVICES									
45	IMPORTANT!! For this category enter "ECM" in the BRAND Column (See Example)									
46	CATEGORY	BRAND	PRODUCT DESCRIPTION	PRODUCTS/SERVICES SUB DESCRIPTION	PRODUCT PART NUMBER/ SKU	MANUFACTURER "Y" IF APPLICABLE	RESELLER "Y" IF APPLICABLE	MSRP	Discount % off MSRP	UNIT
47	Software	ECM	Digital Enterprise Mid Level Enterprise Content Management Software. Gartner Majic Quadrant rated. The solution can be hosted on premise or in the cloud, depending on the user's needs.	Software is a document management solution (DMS) that is suitable for companies of all sizes and in a wide range of industries such as accounting and financial services, manufacturing and health care.	SOFTWARE123	Y		\$6,500.00	25.00%	Perpetual
48	Software	ECM	Mary Jane ECM offers integration with Salesforce, which gives users the ability to drag and drop and manage files from either system.	The system is accessible using mobile apps that can be used from a smartphone or tablet.	TABLET123	Y		\$2,000.00	33.00%	Annual Term
49	Software									
50	Software									
51	Software									

BID PACKAGE 2 - ENTIRE PRODUCT OFFERING MPS

You should list every product that will be offered on a contract. If it is not listed here it will not be included in the contract. BE SURE TO DETAIL YOUR PRODUCT DESCRIPTION.

* For Vendor reference: DIR CUSTOMER PRICE contains 0.75% DIR Administrative Fee and it will be AUTOMATICALLY calculated once all other cells are filled.
For reference purposes, the formula to calculate DIR Customer Price is: DIR Customer Price = MSRP x (1- DIR Discount%) x (1+0.75%)

DO NOT make any changes to the format of the grids. Insert additional rows as needed.

MANAGED PRINT SERVICES, NETWORK DEVICES, NON-NETWORK DEVICES and RELATED SERVICES

Monochrome, B&W MFD	
Volume Band M1	1 - 30 Pages Per Minute (PPM)
Volume Band M2	31 - 49 Pages Per Minute (PPM)
Volume Band M3	50 - 68 Pages Per Minute (PPM)
Volume Band M4	69 - 89 Pages Per Minute (PPM)
Volume Band M5	90 + Pages Per Minute (PPM)
Color and B&W MFD	
Volume Band C1	1 - 30 Pages Per Minute (PPM)
Volume Band C2	31 - 50 Pages Per Minute (PPM)
Volume Band C3	51 + Pages Per Minute (PPM)

MANAGED PRINT SERVICES, NETWORK DEVICES, NON-NETWORK DEVICES and RELATED SERVICES

CATEGORY	SUBCATEGORY	MODEL	PRODUCT PART NUMBER/SKU	Per Mo-24 Month	Per Mo-36 Month	Per Mo-48 Month	Per Mo-60 Month	PRODUCT DESCRIPTION	MSRP	DIR CUSTOMER DISCOUNT% OFF MSRP	DIR CUSTOMER PRICE*
Managed Print Services and Network Devices, Non-Network Devices and Related Services	EXAMPLE: Volume Band M1 (Lowest Model)	Copier Black and White	C0989					Includes: PS, PCL, and XPS Controller, 100-sheet Single Pass Duplex Document Feeder, Standard Wireless Connectivity and Web Browser, 1 GB Standard Memory (when UK-219 is installed), 50 GB HDD, Standard USB 2.0 (supports local printing), Two USB 2.0 Host Ports, 4K Starter Toner and 60K Imaging Unit	\$1,000.00	15.00%	\$856.38
Managed Print Services and Network Devices, Non-Network Devices and Related Services	EXAMPLE: Volume Band M1 (Highest Model)	Copier Black and White	VEA-3823					Includes: PS, PCL, and XPS Controller, 500-sheet Single Pass Duplex Document Feeder, Standard Wireless Connectivity and Web Browser, 2 GB Standard Memory (when UK-219 is installed), 250 GB HDD, Standard USB 2.0 (supports local printing), Two USB 2.0 Host Ports, 6K Starter Toner and 60K Imaging Unit	\$1,000.00	15.00%	\$856.38
Managed Print Services and Network Devices, Non-Network Devices and Related Services	EXAMPLE: Volume Band M3 (Lowest Model)	Copier Black and White	BW 7777	\$1,500.00	\$1,300.00	\$1,000.00	\$800.00	Includes: PS, PCL, and XPS Controller, 1000-sheet Single Pass Duplex Document Feeder, Standard Wireless Connectivity and Web Browser, 6 GB Standard Memory (when UK-419 is installed), 500 GB HDD, Standard USB 2.0 (supports local printing), Four USB 5.0 Host Ports, 12K Starter Toner and 120K Imaging Unit	\$45,000.00	15.00%	\$38,536.88

Managed Print Services and Network Devices, Non-Network Devices and Related Services	EXAMPLE: Volume Band M3 (Highest Model)	Copier Black and White	L - 246978	\$3,800.00	\$2,800.00	\$2,300.00	\$2,000.00	Digital MFP Copier, Standard Network Print & Scan, LED Print Heads, RADF, 1x530 Sheet Cassette L,L,L, Duplexing, 100 Sheet Bypass, 2GB HD, 320GB FIPS, 140-2 SED	\$225,000.00	20.00%	\$181,350.00
Managed Print Services and Network Devices, Non-Network Devices and Related Services	EXAMPLE: Volume Band C2 (Lowest Model)	Copier Color	CL 9999	\$2,000.00	\$1,050.00	\$1,000.00	\$900.00	Digital MFP Color Copier, Standard Network Print & Scan, LED Print Head, 1x530 Sheet Cassette S-R to LG, 100 Sheet Bypass, 2GB HD, 320GB FIPS, 140-2 SED, RADF, Duplexing	\$100,000.00	25.00%	\$75,562.50
Managed Print Services and Network Devices, Non-Network Devices and Related Services	EXAMPLE: Volume Band C2 (Highest Model)	Copier Color	L - 367894	\$4,000.00	\$2,100.00	\$2,000.00	\$1,800.00	Lease of L-36 Base model includes 8.5" W-VGA Color Touch Panel, 1 GHz multitasking controller, 80 GB hard drive with document filing system, retractable QWERTY keyboard, PCLc / PCL 6 / PostScript network printing, Scan single-pass dual-sided color scanning, network scanning, 100-sheet doublesided single-pass feeder, auto duplexing, one 500-sheet paper drawer and 100-sheet bypass tray, developer and drum cartridges. Toner cartridges sold separately	\$200,000.00	45.00%	\$110,825.00
Managed Print Services and Network Devices, Non-Network Devices and Related Services	EXAMPLE: Non-MFD	3D Printer	586-3D	\$139.58	\$93.00	\$69.79	\$55.83	1 form 2 3D printer, resin tank, build platform, finish kit, per-form software, 1 year warranty.	\$3,350.00	20.00%	\$2,700.10
Managed Print Services and Network Devices, Non-Network Devices and Related Services	EXAMPLE: Non-MFD	Scanner	S-7870					SCANNER I1350 DESKTOP SCANNER, Color, Sheet Fed (Flatbed accessory available), 3000 pages per day, 600DPI Optical, 25PPM B&W/Color (1st 10 sheets @ 40PPM), USB 2.0/3.0, 50 Sheet ADF (A4), EasyTouch & Capture SW, WARRANTY 3YR	\$40,000.00	10.00%	\$36,270.00
CATEGORY	SUBCATEGORY	BRAND	SKU / PART NUMBER	Per Mo-24 Month	Per Mo-36 Month	Per Mo-48 Month	Per Mo-60 Month	PRODUCT DESCRIPTION	MSRP	DIR CUSTOMER DISCOUNT% OFF MSRP	DIR CUSTOMER PRICE*

Service Level Agreement (SLA) Projects/SOW may have no MSRP but must offer a % discount off of original quoted price

MANAGED PRINT SERVICES	SUBCATEGORY	BRAND	PRODUCT PART NUMBER/SKU		PRODUCT DESCRIPTION	MSRP	DIR CUSTOMER DISCOUNT% OFF MSRP	DIR CUSTOMER PRICE*
Managed Print Services and Network Devices, Non-Network Devices and Related Services	EXAMPLE: MPS	N/A	Project		Agency Growth Project		40.00%	Per SLA or SOW

MANAGED PRINT SERVICES, NETWORK DEVICES, NON-NETWORK DEVICES RELATED SERVICES

RELATED SERVICES	SUBCATEGORY	BRAND	PRODUCT PART NUMBER/SKU		PRODUCT DESCRIPTION	MSRP	DIR CUSTOMER DISCOUNT% OFF MSRP	DIR CUSTOMER PRICE*
RELATED SERVICES	EXAMPLE: Training	N/A	4847		Copier Training per hour	\$25.00	40.00%	\$15.11
								\$0.00
								\$0.00
								\$0.00
								\$0.00
								\$0.00

MANAGED PRINT SERVICES, NETWORK DEVICES, NON-NETWORK DEVICES ACCESSORIES

ACCESSORIES	SUBCATEGORY	BRAND	PRODUCT PART NUMBER/SKU	Per Mo-24 Month	Per Mo-36 Month	Per Mo-48 Month	Per Mo-60 Month	PRODUCT DESCRIPTION	MSRP	DIR CUSTOMER DISCOUNT% OFF MSRP	DIR CUSTOMER PRICE*
EXAMPLE ACCESSORY	Document Feeder	Nonac	12345	\$14.00	\$12.00	\$10.00	\$8.00	Width : 51 mm to 216 mm (2" to 8.5") Length : 89 mm to 356 mm (3.5" to 14.0"), Thickness : 35 to 128g/m ² (9 to 32 lb bond), Capacity (80g/m ² paper) : 50 sheets or stacked to a height of 6.0 mm (0.2") (including curling)	\$895.00	60.00%	\$360.69
EXAMPLE ACCESSORY	Power Surge	John Doe Power Surge Co	3857					AMPS 15, Sentury, Plastic, Surge Strip, PN: 100190, Receptacles 6, Surge Suppression: Yes, Length Inches: 12; # OF Wires: 3, Color: Beige, Joules/Discharge Current: 270, Cord Length Feet: 15	\$95.00	45.00%	\$52.64
											\$0.00
											\$0.00

**STATE OF TEXAS
DEPARTMENT OF INFORMATION RESOURCES**

CONTRACT FOR PRODUCTS AND RELATED SERVICES

VENDOR NAME

1. Introduction

A. Parties

This Contract for products and related services is entered into between the State of Texas, acting by and through the Department of Information Resources (hereinafter "DIR") with its principal place of business at 300 West 15th Street, Suite 1300, Austin, Texas 78701, and *VENDOR NAME* (hereinafter "Vendor"), with its principal place of business at *VENDOR ADDRESS*.

B. Compliance with Procurement Laws

This Contract is the result of compliance with applicable procurement laws of the State of Texas. DIR issued a solicitation on the Comptroller of Public Accounts' Electronic State Business Daily, Request for Offer (RFO) DIR-TSO-TMP-419, on December 7, 2018, for Managed Print Services; Printers, Copiers, 3D Printers; Scanning, Plotting and Facsimile Equipment and Related Services; Document Imaging Services/Solutions; Enterprise Content Management Products, Software and Services. *DIR subsequently issued a BAFO opportunity on BAFO DATE.* Upon execution of this Contract, a notice of award for DIR-TSO-TMP-419 shall be posted by DIR on the Electronic State Business Daily.

C. Order of Precedence

For purchase transactions under this Contract, the order of precedence shall be as follows: this Contract; Appendix A, Standard Terms and Conditions For Products and Related Services Contracts; Appendix B, Vendor's Historically Underutilized Businesses Subcontracting Plan; Appendix C, Pricing Index; Appendix D, Software License Agreement; Appendix E, Service Level Support Agreement; Appendix F, Master Operating Lease Agreement; Appendix G, Master Lease Agreement; Appendix H, Declared Disaster Equipment Recovery Program Agreement; Exhibit 1, Vendor's Response to RFO DIR-TSO-TMP-419, including all addenda; and Exhibit 2, RFO DIR-TSO-TMP-419, including all addenda; are incorporated by reference and constitute the entire agreement between DIR and Vendor governing purchase transactions. For Lease transactions under this Contract the order of precedence shall be as follows: this Contract; Appendix F, Master Operating Lease Agreement; Appendix G, Master Lease Agreement, as applicable depending on the type of lease; Appendix A, Standard Terms and Conditions For Products and Related Services Contracts; Appendix B, Vendor's Historically Underutilized

Vendor Contract No. _____

Businesses Subcontracting Plan; Appendix C, Pricing Index; Appendix D, Software License Agreement; Appendix E, Service Level Support Agreement; Appendix H, Declared Disaster Equipment Recovery Program Agreement; Exhibit 1, Vendor's Response to RFO DIR-TSO-TMP-419, including all addenda; and Exhibit 2, RFO DIR-TSO-TMP-419, including all addenda; are incorporated by reference and constitute the entire agreement between DIR and Vendor governing lease transactions. In the event of a conflict between the documents listed in this paragraph related to purchases, the controlling document shall be this Contract, then Appendix A, then Appendix B, then Appendix C, then Appendix D, then Appendix E, then Appendix F, Appendix G, Appendix H, then Exhibit 1, and finally Exhibit 2. In the event of a conflict between the documents listed in this paragraph related to lease transactions, the controlling document shall be this Contract, then Appendix F or Appendix G, depending on the type of lease transaction, then Appendix A, then Appendix B, then Appendix C, then Appendix D, then Appendix H, then Exhibit 1, and finally Exhibit 2. In the event and to the extent any provisions contained in multiple documents address the same or substantially the same subject matter but do not actually conflict, the more recent provisions shall be deemed to have superseded earlier provisions.

2. Term of Contract

The initial term of this Contract shall be two (2) years commencing on the last date of approval by DIR and Vendor, with one (1) optional two-year renewal and one (1) optional one-year renewal. Prior to expiration of each term, the contract will renew automatically under the same terms and conditions unless either party provides notice to the other party 60 days in advance of the renewal date stating that the party wishes to discuss modification of terms or not renew. Additionally, the parties by mutual agreement may extend the term for up to ninety (90) additional calendar days.

3. Product and Service Offerings

A. Products

Products available under this Contract are limited to Managed Print Services, Printers, Copiers, 3D Printers, Scanning, Plotting and Facsimile Equipment and Related Services; Document Imaging Services/Solutions; Enterprise Content Management Products, Software and Services as specified in Appendix C, Pricing Index. Vendor may incorporate changes to their product offering; however, any changes must be within the scope of products awarded based on the posting described in Section 1.B above. Vendor may not add a manufacturer's product line which was not included in the Vendor's response to the solicitation described in Section 1.B above.

B. Services

Services available under this Contract are limited to Managed Print Services, Printers, Copiers, 3D Printers, Scanning, Plotting and Facsimile Equipment and Related Services; Document Imaging Services/Solutions; Enterprise Content Management Products, Software and Services as specified in Appendix C, Pricing Index. Vendor may

Vendor Contract No. _____

incorporate changes to their service offering; however, any changes must be within the scope of services awarded based on the posting described in Section 1.B above.

4. Pricing

Pricing to the DIR Customer shall be as set forth in Appendix A, Section 8, Pricing, Purchase Orders, Invoices and Payment, and as set forth in Appendix C, Pricing Index, and shall include the DIR Administrative Fee.

5. DIR Administrative Fee

A) The administrative fee to be paid by the Vendor to DIR based on the dollar value of all sales to Customers pursuant to this Contract is three quarters of one percent .75%. Payment will be calculated for all sales, net of returns and credits. For example, the administrative fee for sales totaling \$100,000 shall be \$750.00.

B) All prices quoted to Customers shall include the administrative fee. DIR reserves the right to change this fee upwards or downwards during the term of this Contract, upon written notice to Vendor without further requirement for a formal contract amendment. Any change in the administrative fee shall be incorporated in the price to the Customer.

6. Notification

All notices under this Contract shall be sent to a party at the respective address indicated below.

If sent to the State:

Kelly Parker, CTPM, CTCM
 Director, Cooperative Contracts
 Department of Information Resources
 300 W. 15th St., Suite 1300
 Austin, Texas 78701
 Phone: (512) 475-1647
 Facsimile: (512) 475-4759
 Email: kelly.parker@dir.texas.gov

If sent to the Vendor:

Vendor Representative
Company Name
Address
City, State Zip
 Phone: () -
 Facsimile: () -
 Email:

Vendor Contract No. _____

7. Software License, Service and Leasing Agreements**A. Software License Agreement**

1) Customers acquiring software licenses under the Contract shall hold, use and operate such software subject to compliance with the Software License Agreement set forth in Appendix D of this Contract. No changes to the Software License Agreement terms and conditions may be made unless previously agreed to between Vendor and DIR. Customers may not add, delete or alter any of the language in Appendix D; provided however, that a Customer and Vendor may agree to additional terms and conditions that do not diminish a term or condition in the Software License Agreement, or in any manner lessen the rights or protections of Customer or the responsibilities or liabilities of Vendor. Order Fulfiler shall make the Software License Agreement terms and conditions available to all Customers at all times.

2) Compliance with the Software License Agreement is the responsibility of the Customer. DIR shall not be responsible for any Customer's compliance with the Software License Agreement. If DIR purchases software licenses for its own use under this Contract, it shall be responsible for its compliance with the Software License Agreement terms and conditions.

B. Shrink/Click-wrap License Agreement

Regardless of any other provision or other license terms which may be issued by Vendor after the effective date of this Contract, and irrespective of whether any such provisions have been proposed prior to or after the issuance of a Purchase Order for products licensed under this Contract, or the fact that such other agreement may be affixed to or accompany software upon delivery (shrink-wrap), the terms and conditions set forth in this Contract shall supersede and govern the license terms between Customers and Vendor. **It is the Customer's responsibility to read the Shrink/Click-wrap License Agreement and determine if the Customer accepts the license terms as amended by this Contract. If the Customer does not agree with the license terms, Customer shall be responsible for negotiating with the reseller to obtain additional changes in the Shrink/Click-wrap License Agreement language from the software publisher.**

C. Service Agreement

Services provided under this Contract shall be in accordance with the Service Level Support Agreement as set forth in Appendix E of this Contract. No changes to the Service Agreement terms and conditions may be made unless previously agreed to by Vendor and DIR.

D. Conflicting or Additional Terms

In the event that conflicting or additional terms in Vendor Software License Agreements, Shrink/Click Wrap License Agreements, Service Agreements or linked or supplemental documents amend or diminish the rights of DIR Customers or the State,

Vendor Contract No. _____

such conflicting or additional terms shall not take precedence over the terms of this Contract.

In the event of a conflict, any linked documents may not take precedence over the printed or referenced documents comprising this contract; provided further that any update to such linked documents shall only apply to purchases or leases of the associated Vendor product or service offering after the effective date of the update; and, provided further, that, if Vendor has responded to a solicitation or request for pricing, no update of such linked documents on or after the initial date of Vendor's initial response shall apply to that purchase unless Vendor directly informs Customer of the update before the purchase is consummated.

In the event that different or additional terms or conditions would otherwise result from accessing a linked document, agreement to said linked document shall not be effective until reviewed and approved in writing by Customer's authorized signatory.

Vendor shall not without prior written agreement from Customer's authorized signatory, require any document that: 1) diminishes the rights, benefits, or protections of the Customer, or that alters the definitions, measurements, or method for determining any authorized rights, benefits, or protections of the Customer; or 2) imposes additional costs, burdens, or obligations upon Customer, or that alters the definitions, measurements, or method for determining any authorized costs, burdens, or obligations upon Customer.

If Vendor attempts to do any of the foregoing, the prohibited documents will be void and inapplicable to the contract between DIR and Vendor or Vendor and Customer, and Vendor will nonetheless be obligated to perform the contract without regard to the prohibited documents, unless Customer elects instead to terminate the contract, which in such case may be identified as a termination for cause against Vendor.

The foregoing requirements apply to all contracts, including, but not limited to, contracts between Customer and a reseller who attempts to pass through documents and obligations from its Manufacturer or Publisher.

8. Authorized Exceptions to Appendix A, Standard Terms and Conditions for Product and Related Services Contracts.

No exceptions have been agreed to by DIR and Vendor.

Vendor Contract No. _____

This Contract is executed to be effective as of the date of last signature.

VENDOR NAME

Authorized By: _____

Name: _____

Title: _____

Date: _____

The State of Texas, acting by and through the Department of Information Resources

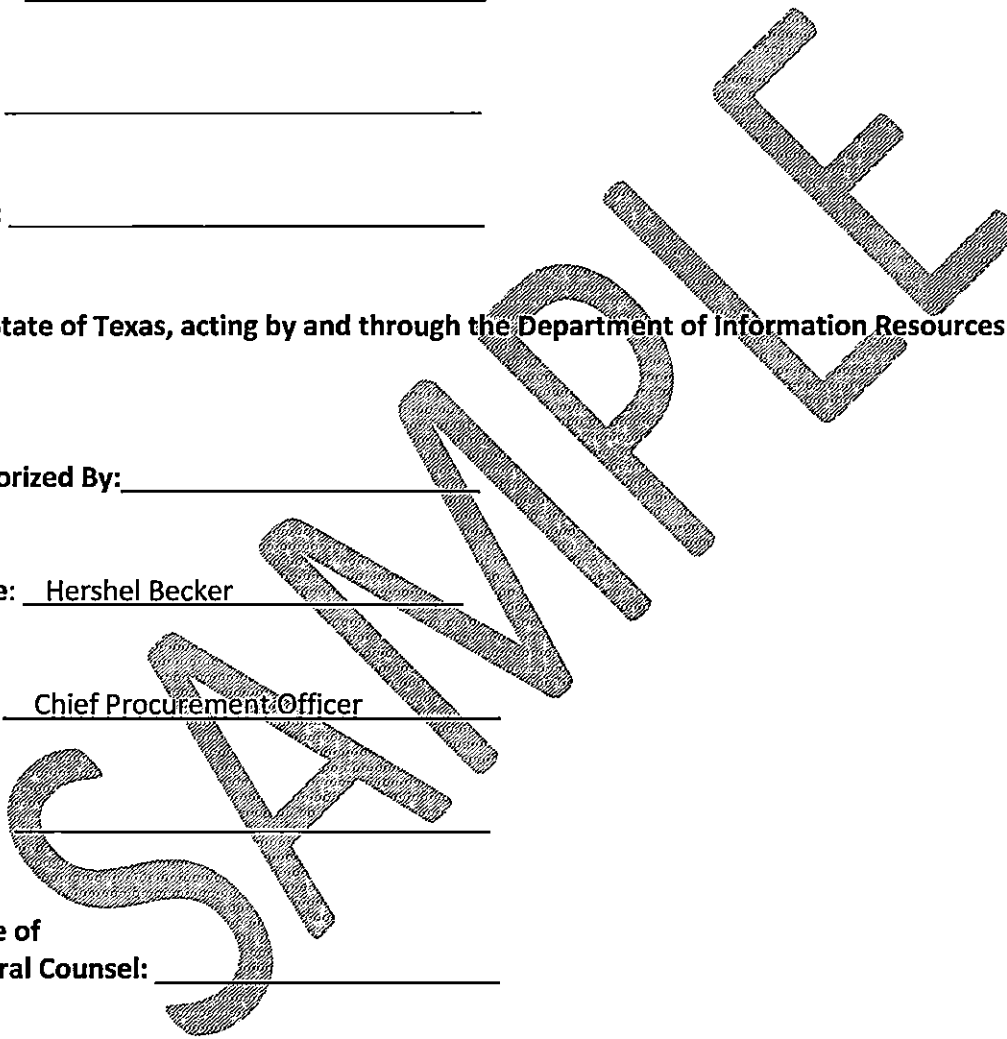
Authorized By: _____

Name: Hershel Becker

Title: Chief Procurement Officer

Date: _____

Office of
General Counsel: _____



RFO: DIR-TSO-TMP-419 Bid Package 4
Managed Print Services, Printers, Copiers, 3D Printers, Scanning, Plotting and Facsimile
Equipments and Related Services; Document Imaging Services/Solutions; Enterprise
Content Management Products, Software and Services
Appendix A Standard Terms and Conditions For Product and Related Services Contracts

Table of Contents

1.	Contract Scope	1
2.	No Quantity Guarantees.....	1
3.	Definitions.....	1
4.	General Provisions	2
	A. Entire Agreement.....	2
	B. Modification of Contract Terms and/or Amendments.....	2
	C. Invalid Term or Condition	2
	D. Assignment	3
	E. Survival	3
	F. Choice of Law.....	3
	G. Limitation of Authority.....	3
	H. Proof of Financial Stability	3
5.	Intellectual Property Matters.....	3
	A. Definitions.....	3
	B. Ownership.....	4
	C. Further Actions.....	5
	D. Waiver of Moral Rights.....	5
	E. Confidentiality.....	5
	F. Injunctive Relief.....	6
	G. Return of Materials Pertaining to Work Product.....	6
	H. Vendor License to Use.....	6
	I. Third-Party Underlying and Derivative Works.....	6
	J. Agreement with Subcontracts.....	6
	K. License to Customer.....	6
	L. Vendor Development Rights.....	7
6.	Product Terms and Conditions	7
	A. Electronic and Information Resources Accessibility Standards, As Required by 1 TAC Chapters 206 and 213 (Applicable to State Agency and Institution of Higher Education Purchases Only).....	7
	B. Purchase of Commodity Items (Applicable to State Agency Purchases Only)	7
7.	Contract Fulfillment and Promotion	8

RFO: DIR-TSO-TMP-419 Bid Package 4

Managed Print Services, Printers, Copiers, 3D Printers, Scanning, Plotting and Facsimile Equipments and Related Services; Document Imaging Services/Solutions; Enterprise Content Management Products, Software and Services

Appendix A Standard Terms and Conditions For Product and Related Services Contracts

A.	Service, Sales and Support of the Contract.....	8
B.	Use of Order Fulfillers	8
	1) Designation of Order Fulfillers	8
	2) Changes in Order Fulfiller List	8
	3) Order Fulfiller Pricing to Customer	8
C.	Product Warranty and Return Policies.....	9
D.	Customer Site Preparation	9
E.	Internet Access to Contract and Pricing Information	9
	1) Vendor Webpage	9
	2) Accurate and Timely Contract Information	9
	3) Webpage Compliance Checks	10
	4) Webpage Changes.....	10
	5) Use of Access Data Prohibited	10
	6) Responsibility for Content	10
F.	DIR Logo	10
G.	Vendor and Order Fulfiller Logo	10
H.	Trade Show Participation.....	10
I.	Orientation Meeting	11
J.	Performance Review Meetings	11
K.	DIR Cost Avoidance	11
8.	Pricing, Purchase Orders, Invoices, and Payments.....	11
	A. Manufacturer’s Suggested Retail Price (MSRP) or List Price.....	11
	B. Customer Discount.....	11
	C. Customer Price.....	11
	D. Shipping and Handling Fees	12
	E. Tax-Exempt.....	12
	F. Travel Expense Reimbursement	12
	G. Changes to Prices.....	12
	H. Purchase Orders	12
	I. Invoices	13
	J. Payments	13
9.	Contract Administration.....	13
	A. Contract Managers	13
	1) State Contract Manager.....	13
	2) Vendor Contract Manager.....	13
	B. Reporting and Administrative Fees	14
	1) Reporting Responsibility	14
	2) Detailed Monthly Report	14
	3) Historically Underutilized Businesses Subcontract Reports.....	14
	4) DIR Administrative Fee	14
	5) Accurate and Timely Submission of Reports	15

RFO: DIR-TSO-TMP-419 Bid Package 4
Managed Print Services, Printers, Copiers, 3D Printers, Scanning, Plotting and Facsimile
Equipments and Related Services; Document Imaging Services/Solutions; Enterprise
Content Management Products, Software and Services
Appendix A Standard Terms and Conditions For Product and Related Services Contracts

C.	Records and Audit.....	15
D.	Contract Administration Notification	16
10.	Vendor Responsibilities	16
A.	Indemnification.....	16
1)	INDEPENDENT CONTRACTOR.....	16
2)	ACTS OR OMISSIONS	16
3)	INFRINGEMENTS	17
4)	PROPERTY DAMAGE.....	17
B.	Taxes/Worker’s Compensation/UNEMPLOYMENT INSURANCE	18
C.	Vendor Certifications.....	18
D.	Ability to Conduct Business in Texas.....	20
E.	Equal Opportunity Compliance	20
F.	Use of Subcontractors	20
G.	Responsibility for Actions	21
H.	Confidentiality	21
I.	Security of Premises, Equipment, Data and Personnel.....	21
J.	Background and/or Criminal History Investigation.....	21
K.	Limitation of Liability.....	21
L.	Overcharges	22
M.	Prohibited Conduct	22
N.	Required Insurance Coverage	22
O.	Use of State Property	23
P.	Immigration.....	23
Q.	Public Disclosure	24
R.	Product and/or Services Substitutions	24
S.	Secure Erasure of Hard Disk Products and/or Services.....	24
T.	Deceptive Trade Practices; Unfair Business Practices	24
U.	Drug Free Workplace Policy	24
V.	Accessibility of Public Information	25
W.	Vendor Reporting Requirements	25
11.	Contract Enforcement	25
A.	Enforcement of Contract and Dispute Resolution	25
B.	Termination.....	25
1)	Termination for Non-Appropriation	25
2)	Absolute Right	26
3)	Termination for Convenience	26
4)	Termination for Cause	26
5)	Immediate Termination or Suspension	27
6)	Customer Rights Under Termination.....	27
7)	Vendor or Order Fulfiller Rights Under Termination.....	27
C.	Force Majeure	27

RFO: DIR-TSO-TMP-419 Bid Package 4
Managed Print Services, Printers, Copiers, 3D Printers, Scanning, Plotting and Facsimile
Equipments and Related Services; Document Imaging Services/Solutions; Enterprise
Content Management Products, Software and Services
Appendix A Standard Terms and Conditions For Product and Related Services Contracts

12. Notification	28
A. Notices	28
B. Handling of Written Complaints.....	28
13. Captions	28

The following terms and conditions shall govern the conduct of DIR and Vendor during the term of the Contract.

1. Contract Scope

Note: NO EXCEPTIONS OR REVISIONS WILL BE CONSIDERED

The Vendor shall provide the products and related services specified in Section 3 of the Contract for purchase by Customers. In addition, DIR and Vendor may agree to provisions that allow Vendor and/or Order Fulfiller to lease the products offered under the Contract. Terms used in this document shall have the meanings set forth below in Section 3.

2. No Quantity Guarantees

Note: NO EXCEPTIONS OR REVISIONS WILL BE CONSIDERED

The Contract is not exclusive to the Vendor. Customers may obtain products and related services from other sources during the term of the Contract. DIR makes no express or implied warranties whatsoever that any particular quantity or dollar amount of products and related services will be procured through the Contract.

3. Definitions

A. **Customer** - any Texas state agency, unit of local government, institution of higher education as defined in Section 2054.003, Texas Government Code, the Electric Reliability Council of Texas, the Lower Colorado River Authority, a private school, as defined by Section 5.001, Education Code, a private or independent institution of higher education, as defined by Section 61.003, Education Code, a volunteer fire department, as defined by Section 152.001, Tax Code, and those state agencies purchasing from a DIR contract through an Interagency Agreement, as authorized by Chapter 771, Texas Government Code, any local government as authorized through the Interlocal Cooperation Act, Chapter 791, Texas Government Code, and the state agencies and political subdivisions of other states as authorized by Section 2054.0565, Texas Government Code and, except for telecommunications services under Chapter 2170, Texas Government Code, assistance organizations as defined in Section 2175.001, Texas Government Code to mean:

- 1) A non-profit organization that provides educational, health or human services or assistance to homeless individuals;
- 2) A nonprofit food bank that solicits, warehouses, and redistributes edible but unmarketable food to an agency that feeds needy families and individuals;
- 3) Texas Partners of the Americas, a registered agency with the Advisory Committee on Voluntary Foreign Aid, with the approval of the Partners of the Alliance Office of the Agency for International Development;
- 4) A group, including a faith-based group, that enters into a financial or non-financial agreement with a health or human services agency to provide services to that agency's clients;
- 5) A local workforce development board created under Section 2308.253;
- 6) A nonprofit organization approved by the Supreme Court of Texas that provides free legal services for low-income households in civil matters;
- 7) The Texas Boll Weevil Eradication Foundation, Inc., or an entity designated by the commissioner of agriculture as the foundation's successor entity under Section 74.1011, Texas Agriculture Code;
- 8) A nonprofit computer bank that solicits, stores, refurbishes and redistributes used computer equipment to public school students and their families; and
- 9) A nonprofit organization that provides affordable housing.

B. **Compliance Check** – an audit of Vendor's compliance with the Contract may be performed by, but not limited to, a third party auditor, DIR Internal Audit department, or DIR contract

- management staff or their designees.
- C. **Contract** – the document executed between DIR and Vendor into which this Appendix A is incorporated.
 - D. **CPA** – refers to the Texas Comptroller of Public Accounts.
 - E. **Day** - shall mean business days, Monday through Friday, except for State and Federal holidays, unless otherwise specified as calendar days. If the Contract calls for performance on a day that is not a business day, then performance is intended to occur on the next business day.
 - F. **Order Fulfiller** – the party, either Vendor or a party that may be designated by Vendor, who is fulfilling a Purchase Order pursuant to the Contract.
 - G. **Purchase Order** - the Customer's fiscal form or format, which is used when making a purchase (e.g., formal written Purchase Order, Procurement Card, Electronic Purchase Order, or other authorized instrument).
 - H. **State** – refers to the State of Texas.

4. **General Provisions**

A. **Entire Agreement**

The Contract, Appendices, and Exhibits constitute the entire agreement between DIR and the Vendor. No statement, promise, condition, understanding, inducement or representation, oral or written, expressed or implied, which is not contained in the Contract, Appendices, or its Exhibits shall be binding or valid.

B. **Modification of Contract Terms and/or Amendments**

1) The terms and conditions of the Contract shall govern all transactions by Customers under the Contract. The Contract may only be modified or amended upon mutual written agreement of DIR and Vendor.

2) Customers shall not have the authority to modify the terms of the Contract; however, additional Customer terms and conditions that do not conflict with the Contract and are acceptable to Order Fulfiller may be added in a Purchase Order and given effect. No additional term or condition added in a Purchase Order issued by a Customer can conflict with or diminish a term or condition of the Contract. Pre-printed terms and conditions on any Purchase Order issued by Customer hereunder will have no force and effect. In the event of a conflict between a Customer's Purchase Order and the Contract, the Contract term shall control.

3) Customers and Vendor will negotiate and enter into written agreements regarding statements of work, service level agreements, remedies, acceptance criteria, information confidentiality and security requirements, and other terms specific to their Purchase Orders under the Contract with Vendors.

C. **Invalid Term or Condition**

1) To the extent any term or condition in the Contract conflicts with the applicable State and/or United States law or regulation, such Contract term or condition is void and unenforceable. By executing a contract which contains the conflicting term or condition, DIR makes no representations or warranties regarding the enforceability of such term or condition and DIR does not waive the applicable State and/or United States law or regulation which conflicts with the Contract term or condition.

2) If one or more terms or conditions in the Contract, or the application of any term or condition to any party or circumstance, is held invalid, unenforceable, or illegal in any respect by a final judgment or order of the State Office of Administrative Hearings or a court of competent jurisdiction, the remainder of the Contract and the application of the term or condition to other

parties or circumstances shall remain valid and in full force and effect.

D. Assignment

DIR or Vendor may assign the Contract without prior written approval to: i) a successor in interest (for DIR, another state agency as designated by the Texas Legislature), or ii) a subsidiary, parent company or affiliate, or iii) as necessary to satisfy a regulatory requirement imposed upon a party by a governing body with the appropriate authority. Assignment of the Contract under the above terms shall require written notification by the assigning party and, for Vendor, a mutually agreed written Contract amendment. Any other assignment by a party shall require the written consent of the other party and a mutually agreed written Contract amendment.

E. Survival

All applicable software license agreements, warranties or service agreements that were entered into between Vendor and a Customer under the terms and conditions of the Contract shall survive the expiration or termination of the Contract All Purchase Orders issued and accepted by Vendor or Order Fulfiller shall survive expiration or termination of the Contract for the term of the Purchase Order, unless the Customer terminates the Purchase Order sooner. However, regardless of the term of the Purchase Order, no Purchase Order shall survive the expiration or termination of the Contract for more than five years, unless Customer makes an express finding and justification for the longer term. The finding and justification must either be included in the Purchase Order, or referenced in it and maintained in Customer's procurement record. Rights and obligations under this Contract which by their nature should survive, including, but not limited to the DIR Administrative Fee; and any and all payment obligations invoiced prior to the termination or expiration hereof; obligations of confidentiality; and, indemnification, will remain in effect after termination or expiration hereof.

F. Choice of Law

The laws of the State shall govern the construction and interpretation of the Contract. Exclusive venue for all actions will be in state court, Travis County, Texas. Nothing in the Contract or its Appendices shall be construed to waive the State's sovereign immunity.

G. Limitation of Authority

Vendor shall have no authority to act for or on behalf of the Texas Department of Information Resources or the State except as expressly provided for in this Contract; no other authority, power or use is granted or implied. Vendor may not incur any debts, obligations, expenses, or liabilities of any kind on behalf of the State or DIR.

H. Proof of Financial Stability

Either DIR or Customer may require Vendor to provide proof of financial stability prior to or at any time during the contract term.

5. Intellectual Property Matters

A. Definitions

1)“ Work Product” means any and all deliverables produced by Vendor for Customer under a Statement of Work issued pursuant to this Contract, including any and all tangible or intangible items or things that have been or will be prepared, created, developed, invented or conceived at any time following the effective date of the Contract, including but not limited to any (i) works of authorship (such as manuals, instructions, printed material, graphics, artwork, images, illustrations, photographs, computer programs, computer software, scripts, object code, source code or other programming code, HTML code, flow charts, notes, outlines, lists, compilations,

manuscripts, writings, pictorial materials, schematics, formulae, processes, algorithms, data, information, multimedia files, text web pages or web sites, other written or machine readable expression of such works fixed in any tangible media, and all other copyrightable works), (ii) trademarks, service marks, trade dress, trade names, logos, or other indicia of source or origin, (iii) ideas, designs, concepts, personality rights, methods, processes, techniques, apparatuses, inventions, formulas, discoveries, or improvements, including any patents, trade secrets and know-how, (iv) domain names, (v) any copies, and similar or derivative works to any of the foregoing, (vi) all documentation and materials related to any of the foregoing, (vii) all other goods, services or deliverables to be provided to Customer under the Contract or a Statement of Work, and (viii) all Intellectual Property Rights in any of the foregoing, and which are or were created, prepared, developed, invented or conceived for the use or benefit of Customer in connection with this Contract or a Statement of Work, or with funds appropriated by or for Customer or Customer's benefit: (a) by any Vendor personnel or Customer personnel, or (b) any Customer personnel who then became personnel to Vendor or any of its affiliates or subcontractors, where, although creation or reduction-to-practice is completed while the person is affiliated with Vendor or its personnel, any portion of same was created, invented or conceived by such person while affiliated with Customer.

2) "Intellectual Property Rights" means the worldwide legal rights or interests evidenced by or embodied in: (i) any idea, design, concept, personality right, method, process, technique, apparatus, invention, discovery, or improvement, including any patents, trade secrets, and know-how; (ii) any work of authorship, including any copyrights, moral rights or neighboring rights; (iii) any trademark, service mark, trade dress, trade name, or other indicia of source or origin; (iv) domain name registrations; and (v) any other proprietary or similar rights. The Intellectual Property Rights of a party include all worldwide legal rights or interests that the party may have acquired by assignment or license with the right to grant sublicenses.

3) "Statement of Work" means a document signed by Customer and Vendor describing a specific set of activities and/or deliverables, which may include Work Product and Intellectual Property Rights, that Vendor is to provide Customer, issued pursuant to the Contract.

4) "Third Party IP" means the Intellectual Property Rights of any third party that is not a party to this Contract, and that is not directly or indirectly providing any goods or services to Customer under this Contract.

5) "Vendor IP" shall mean all tangible or intangible items or things, including the Intellectual Property Rights therein, created or developed by Vendor (a) prior to providing any Services or Work Product to Customer and prior to receiving any documents, materials, information or funding from or on behalf of Customer relating to the Services or Work Product, or (b) after the Effective Date of the Contract if such tangible or intangible items or things were independently developed by Vendor outside Vendor's provision of Services or Work Product for Customer hereunder and were not created, prepared, developed, invented or conceived by any Customer personnel who then became personnel to Vendor or any of its affiliates or subcontractors, where, although creation or reduction-to-practice is completed while the person is affiliated with Vendor or its personnel, any portion of same was created, invented or conceived by such person while affiliated with Customer.

B. Ownership.

As between Vendor and Customer, the Work Product and Intellectual Property Rights therein are and shall be owned exclusively by Customer, and not Vendor. Vendor specifically agrees that the Work Product shall be considered "works made for hire" and that the Work Product shall, upon

creation, be owned exclusively by Customer. To the extent that the Work Product, under applicable law, may not be considered works made for hire, Vendor hereby agrees that the Contract effectively transfers, grants, conveys, assigns, and relinquishes exclusively to Customer all right, title and interest in and to all ownership rights in the Work Product, and all Intellectual Property Rights in the Work Product, without the necessity of any further consideration, and Customer shall be entitled to obtain and hold in its own name all Intellectual Property Rights in and to the Work Product. Vendor acknowledges that Vendor and Customer do not intend Vendor to be a joint author of the Work Product within the meaning of the Copyright Act of 1976. Customer shall have access, during normal business hours (Monday through Friday, 8AM to 5PM) and upon reasonable prior notice to Vendor, to all Vendor materials, premises and computer files containing the Work Product. Vendor and Customer, as appropriate, will cooperate with one another and execute such other documents as may be reasonably appropriate to achieve the objectives herein. No license or other right is granted hereunder to any Third Party IP, except as may be incorporated in the Work Product by Vendor.

C. Further Actions.

Vendor, upon request and without further consideration, shall perform any acts that may be deemed reasonably necessary or desirable by Customer to evidence more fully the transfer of ownership and/or registration of all Intellectual Property Rights in all Work Product to Customer to the fullest extent possible, including but not limited to the execution, acknowledgement and delivery of such further documents in a form determined by Customer. In the event Customer shall be unable to obtain Vendor's signature due to the dissolution of Vendor or Vendor's unreasonable failure to respond to Customer's repeated requests for such signature on any document reasonably necessary for any purpose set forth in the foregoing sentence, Vendor hereby irrevocably designates and appoints Customer and its duly authorized officers and agents as Vendor's agent and Vendor's attorney-in-fact to act for and in Vendor's behalf and stead to execute and file any such document and to do all other lawfully permitted acts to further any such purpose with the same force and effect as if executed and delivered by Vendor, provided however that no such grant of right to Customer is applicable if Vendor fails to execute any document due to a good faith dispute by Vendor with respect to such document. It is understood that such power is coupled with an interest and is therefore irrevocable. Customer shall have the full and sole power to prosecute such applications and to take all other action concerning the Work Product, and Vendor shall cooperate, at Customer's sole expense, in the preparation and prosecution of all such applications and in any legal actions and proceedings concerning the Work Product.

D. Waiver of Moral Rights.

Vendor hereby irrevocably and forever waives, and agrees never to assert, any Moral Rights in or to the Work Product which Vendor may now have or which may accrue to Vendor's benefit under U.S. or foreign copyright or other laws and any and all other residual rights and benefits which arise under any other applicable law now in force or hereafter enacted. Vendor acknowledges the receipt of equitable compensation for its assignment and waiver of such Moral Rights. The term "Moral Rights" shall mean any and all rights of paternity or integrity of the Work Product and the right to object to any modification, translation or use of the Work Product, and any similar rights existing under the judicial or statutory law of any country in the world or under any treaty, regardless of whether or not such right is denominated or referred to as a moral right.

E. Confidentiality.

All documents, information and materials forwarded to Vendor by Customer for use in and preparation of the Work Product shall be deemed the confidential information of Customer, and subject to the license granted by Customer to Vendor under sub-paragraph H. hereunder. Vendor shall not use, disclose, or permit any person to use or obtain the Work Product, or any portion thereof, in any manner without the prior written approval of Customer.

F. Injunctive Relief.

The Contract is intended to protect Customer's proprietary rights pertaining to the Work Product, and the Intellectual Property Rights therein, and any misuse of such rights would cause substantial and irreparable harm to Customer's business. Therefore, Vendor acknowledges and stipulates that a court of competent jurisdiction may immediately enjoin any material breach of the intellectual property, use, and confidentiality provisions of this Contract, upon a request by Customer, without requiring proof of irreparable injury as same should be presumed.

G. Return of Materials Pertaining to Work Product.

Upon the request of Customer, but in any event upon termination or expiration of this Contract or a Statement of Work, Vendor shall surrender to Customer all documents and things pertaining to the Work Product, including but not limited to drafts, memoranda, notes, records, drawings, manuals, computer software, reports, data, and all other documents or materials (and copies of same) generated or developed by Vendor or furnished by Customer to Vendor, including all materials embodying the Work Product, any Customer confidential information, or Intellectual Property Rights in such Work Product, regardless of whether complete or incomplete. This section is intended to apply to all Work Product as well as to all documents and things furnished to Vendor by Customer or by anyone else that pertain to the Work Product.

H. Vendor License to Use.

Customer hereby grants to Vendor a non-transferable, non-exclusive, royalty-free, fully paid-up license to use any Work Product solely as necessary to provide the Services to Customer. Except as provided in this Section, neither Vendor nor any Subcontractor shall have the right to use the Work Product in connection with the provision of services to its other customers without the prior written consent of Customer, which consent may be withheld in Customer's sole discretion.

I. Third-Party Underlying and Derivative Works.

To the extent that any Vendor IP or Third Party IP are embodied or reflected in the Work Product, or are necessary to provide the Services, Vendor hereby grants to the Customer, or shall obtain from the applicable third party for Customer's benefit, the irrevocable, perpetual, non-exclusive, worldwide, royalty-free right and license, for Customer's internal business purposes only, to (i) use, execute, reproduce, display, perform, distribute copies of, and prepare derivative works based upon such Vendor IP or Third Party IP and any derivative works thereof embodied in or delivered to Customer in conjunction with the Work Product, and (ii) authorize others to do any or all of the foregoing. Vendor agrees to notify Customer on delivery of the Work Product or Services if such materials include any Third Party IP. On request, Vendor shall provide Customer with documentation indicating a third party's written approval for Vendor to use any Third Party IP that may be embodied or reflected in the Work Product.

J. Agreement with Subcontracts.

Vendor agrees that it shall have written agreement(s) that are consistent with the provisions hereof related to Work Product and Intellectual Property Rights with any employees, agents, consultants, contractors or subcontractors providing Services or Work Product pursuant to the Contract, prior to their providing such Services or Work Product, and that it shall maintain such written agreements at all times during performance of this Contract, which are sufficient to support all performance and grants of rights by Vendor. Copies of such agreements shall be provided to the Customer promptly upon request.

K. License to Customer.

Vendor grants to Customer, a perpetual, irrevocable, royalty free license, solely for the Customer's internal business purposes, to use, copy, modify, display, perform (by any means), transmit and

prepare derivative works of any Vendor IP embodied in or delivered to Customer in conjunction with the Work Product. The foregoing license includes the right to sublicense third parties, solely for the purpose of engaging such third parties to assist or carryout Customer's internal business use of the Work Product. Except for the preceding license, all rights in Vendor IP remain in Vendor.

L. Vendor Development Rights.

To the extent not inconsistent with Customer's rights in the Work Product or as set forth herein, nothing in this Contract shall preclude Vendor from developing for itself, or for others, materials which are competitive with those produced as a result of the Services provided hereunder, provided that no Work Product is utilized, and no Intellectual Property Rights of Customer therein are infringed by such competitive materials. To the extent that Vendor wishes to use the Work Product, or acquire licensed rights in certain Intellectual Property Rights of Customer therein in order to offer competitive goods or services to third parties, Vendor and Customer agree to negotiate in good faith regarding an appropriate license and royalty agreement to allow for such.

6. Product Terms and Conditions

Note: NO EXCEPTIONS OR REVISIONS WILL BE CONSIDERED

A. Electronic and Information Resources Accessibility Standards, As Required by 1 TAC Chapters 206 and 213 (Applicable to State Agency and Institution of Higher Education Purchases Only)

1) Effective September 1, 2006 state agencies and institutions of higher education shall procure products which comply with the State Accessibility requirements for Electronic and Information Resources specified in 1 TAC Chapters 206 and 213 when such products are available in the commercial marketplace or when such products are developed in response to a procurement solicitation.

2) Upon request, but not later than thirty (30) calendar days after request, Vendor shall provide DIR with a completed Voluntary Product Accessibility Template (VPAT) of the specified product or a URL to the VPAT for reviewing compliance with the State Accessibility requirements (based on the federal standards established under Section 508 of the Rehabilitation Act).

B. Purchase of Commodity Items (Applicable to State Agency Purchases Only)

1) Texas Government Code, §2157.068 requires State agencies to buy commodity items, as defined in 6.B.2, below, in accordance with contracts developed by DIR, unless the agency obtains an exemption from DIR or a written certification that a commodity is not on DIR contract (for the limited purpose of purchasing from a local government purchasing cooperative).

2) Commodity items are commercially available software, hardware and technology services that are generally available to businesses or the public and for which DIR determines that a reasonable demand exists in two or more state agencies. Hardware is the physical technology used to process, manage, store, transmit, receive or deliver information. Software is the commercially available programs that operate hardware and includes all supporting documentation, media on which the software may be contained or stored, related materials, modifications, versions, upgrades, enhancements, updates or replacements. Technology services are the services, functions and activities that facilitate the design, implementation, creation, or use of software or hardware. Technology services include seat management, staffing augmentation, training, maintenance and subscription services. Technology services do not include telecommunications services. Seat management is services through which a state agency transfers its responsibilities to a vendor to manage its personal computing needs, including all

necessary hardware, software and technology services.

3) Vendor agrees to coordinate all State agency commodity item sales through existing DIR contracts. Institutions of higher education are exempt from this Subsection 6.B.

7. Contract Fulfillment and Promotion

A. Service, Sales and Support of the Contract

Vendor shall provide service, sales and support resources to serve all Customers throughout the State. It is the responsibility of the Vendor to sell, market, and promote products and services available under the Contract. Vendor shall use its best efforts to ensure that potential Customers are made aware of the existence of the Contract. All sales to Customers for products and services available under the Contract shall be processed through the Contract.

B. Use of Order Fulfillers

DIR agrees to permit Vendor to utilize designated Order Fulfillers to provide service, sales and support resources to Customers. Such participation is subject to the following conditions:

1) Designation of Order Fulfillers

a) Vendor may designate Order Fulfillers to act as the distributors for products and services available under the Contract. In designating Order Fulfillers, Vendor must be in compliance with the State's Policy on Utilization of Historically Underutilized Businesses. In addition to the required Subcontracting Plan, Vendor shall provide DIR with the following Order Fulfller information: Order Fulfller name, Order Fulfller business address, Order Fulfller CPA Identification Number, Order Fulfller contact person email address and phone number.

b) DIR reserves the right to require the Vendor to rescind any such Order Fulfller participation or request that Vendor name additional Order Fulfllers should DIR determine it is in the best interest of the State.

c) Vendor shall be fully liable for its Order Fulfllers' performance under and compliance with the terms and conditions of the Contract. Vendor shall enter into contracts with Order Fulfllers and use terms and conditions that are consistent with the terms and conditions of the Contract.

d) Vendor shall have the right to qualify Order Fulfllers and their participation under the Contract provided that: i) any criteria is uniformly applied to all potential Order Fulfllers based upon Vendor's established, neutrally applied criteria, ii) the criteria is not based on a particular procurement, and iii) all Customers are supported under the different criteria.

e) Vendor shall not prohibit Order Fulfller from participating in other procurement opportunities offered through DIR.

2) Changes in Order Fulfller List

Vendor may add or delete Order Fulfllers throughout the term of the Contract upon written authorization by DIR. Prior to adding or deleting Order Fulfllers, Vendor must make a good faith effort in the revision of its Subcontracting Plan in accordance with the State's Policy on Utilization of Historically Underutilized Businesses. Vendor shall provide DIR with its updated Subcontracting Plan and the Order Fulfller information listed in Section 7.B.1.a above.

3) Order Fulfller Pricing to Customer

Order Fulfller pricing to the Customer shall comply with the Customer price as stated within Appendix A, Section 8, Pricing, Purchase Orders, Invoices and Payment, and as set forth in Appendix C, Pricing Index, and shall include the DIR Administrative Fee. This pricing shall

only be offered by Order Fulfillers to Customers for sales that pass through the Contract.

C. Product Warranty and Return Policies

Order Fulfiller will adhere to the Vendor's then-currently published policies concerning product warranties and returns. Product warranty and return policies for Customers will not be more restrictive or more costly than warranty and return policies for other similarly situated Customers for like products.

D. Customer Site Preparation

Customers shall prepare and maintain its site in accordance with written instructions furnished by Order Fulfiller prior to the scheduled delivery date of any product or service and shall bear the costs associated with the site preparation.

E. Internet Access to Contract and Pricing Information

1) Vendor Webpage

Within thirty (30) calendar days of the effective date of the Contract, Vendor will establish and maintain a webpage specific to the products and services awarded under the Contract that are clearly distinguishable from other, non-DIR Contract offerings on the Vendor's website. The webpage must include:

- a) the products and services awarded;
- b) description of product and service awarded
- c) a current price list or mechanism (for example, a services calculator or product builder) to obtain specific contracted pricing;
- d) discount percentage (%) off MSRP or List Price;
- e) designated Order Fulfillers;
- f) contact information (name, telephone number and email address) for Vendor and designated Order Fulfillers;
- g) instructions for obtaining quotes and placing Purchase Orders;
- h) warranty policies;
- i) return policies;
- j) the DIR Contract number with a hyperlink to the Contract's DIR webpage;
- k) a link to the DIR "Cooperative Contracts" webpage; and
- l) the DIR logo in accordance with the requirements of this Section.

If Vendor does not meet the webpage requirements listed above, DIR may cancel the contract without penalty.

2) Accurate and Timely Contract Information

Vendor warrants and represents that the website information specified in the above paragraph will be accurately and completely posted, maintained and displayed in an objective and timely manner. Vendor, at its own expense, shall correct any non-conforming or inaccurate information posted at Vendor's website within ten (10) business days after written notification by DIR.

3) Webpage Compliance Checks

Periodic compliance checks of the information posted for the Contract on Vendor's webpage will be conducted by DIR. Upon request by DIR, Vendor shall provide verifiable documentation that pricing listed upon this webpage is compliant with the pricing as stated in the Contract.

4) Webpage Changes

Vendor hereby consents to a link from the DIR website to Vendor's webpage in order to facilitate access to Contract information. The establishment of the link is provided solely for convenience in carrying out the business operations of the State. DIR reserves the right to suspend, terminate or remove a link at any time, in its sole discretion, without advance notice, or to deny a future request for a link. DIR will provide Vendor with subsequent notice of link suspension, termination or removal. Vendor shall provide DIR with timely written notice of any change in URL or other information needed to access the site and/or maintain the link.

5) Use of Access Data Prohibited

If Vendor stores, collects or maintains data electronically as a condition of accessing Contract information, such data shall only be used internally by Vendor for the purpose of implementing or marketing the Contract and shall not be disseminated to third parties or used for other marketing purposes. The Contract constitutes a public document under the laws of the State and Vendor shall not restrict access to Contract terms and conditions including pricing, i.e., through use of restrictive technology or passwords.

6) Responsibility for Content

Vendor is solely responsible for administration, content, intellectual property rights, and all materials at Vendor's website. DIR reserves the right to require a change of listed content if, in the opinion of DIR, it does not adequately represent the Contract.

F. DIR Logo

Vendor and Order Fulfiller may use the DIR logo in the promotion of the Contract to Customers with the following stipulations: (i) the logo may not be modified in any way, (ii) when displayed, the size of the DIR logo must be equal to or smaller than the Order Fulfiller logo, (iii) the DIR logo is only used to communicate the availability of products and services under the Contract to Customers, and (iv) any other use of the DIR logo requires prior written permission from DIR.

G. Vendor and Order Fulfiller Logo

If DIR receives Vendor's or Order Fulfiller's prior written approval, DIR may use the Vendor's and Order's Fulfiller's name and logo in the promotion of the Contract to communicate the availability of products and services under the Contract to Customers. Use of the logos may be on the DIR website or on printed materials. Any use of Vendor's and Order Fulfiller's logo by DIR must comply with and be solely related to the purposes of the Contract and any usage guidelines communicated to DIR from time to time. Nothing contained in the Contract will give DIR any right, title, or interest in or to Vendor's or Order Fulfiller's trademarks or the goodwill associated therewith, except for the limited usage rights expressly provided by Vendor and Order Fulfiller.

H. Trade Show Participation

At DIR's discretion, Vendor and Order Fulfillers may be required to participate in no more than two DIR sponsored trade shows each calendar year. Vendor understands and agrees that participation, at the Vendor's and Order Fulfiller's expense, includes providing a manned booth display or similar presence. DIR will provide four months advance notice of any required participation. Vendor and Order Fulfillers must display the DIR logo at all trade shows that potential Customers will attend. DIR reserves the right to approve or disapprove of the location or the use of the DIR logo in or on the Vendor's or Order Fulfiller's booth.

I. Orientation Meeting

Within thirty (30) calendar days from execution of the Contract, Vendor and Order Fulfillers will be required to attend an orientation meeting to discuss the content and procedures of the Contract to include reporting requirements. DIR, at its discretion, may waive the orientation requirement for Vendors who have previously held DIR contracts. The meeting will be held in the Austin, Texas area at a date and time mutually acceptable to DIR and the Vendor or by teleconference, at DIR's discretion. DIR shall bear no cost for the time and travel of the Vendor or Order Fulfillers for attendance at the meeting.

J. Performance Review Meetings

DIR may require the Vendor to attend periodic meetings to review the Vendor's performance under the Contract, at DIR's discretion. The meetings may be held within the Austin, Texas area at a date and time mutually acceptable to DIR and the Vendor or by teleconference. DIR shall bear no cost for the time and travel of the Vendor for attendance at the meeting.

K. DIR Cost Avoidance

As part of the performance measures reported to state leadership, DIR must provide the cost avoidance the State has achieved through the Contract. Upon request by DIR, Vendor shall provide DIR with a detailed report of a representative sample of products sold under the Contract. The report shall contain: product part number, product description, list price and price to Customer under the Contract.

8. Pricing, Purchase Orders, Invoices, and Payments

Note: NO EXCEPTIONS OR REVISIONS WILL BE CONSIDERED

A. Manufacturer's Suggested Retail Price (MSRP) or List Price

Note: NO EXCEPTIONS OR REVISIONS WILL BE CONSIDERED

MSRP is defined as the product sales price list published in some form by the manufacturer or publisher of a product and available to and recognized by the trade. A price list especially prepared for a given solicitation is not acceptable.

B. Customer Discount

Note: NO EXCEPTIONS OR REVISIONS WILL BE CONSIDERED

The minimum Customer discount for all products and services will be the percentage off MSRP as specified in Appendix C, Pricing Index.

C. Customer Price

Note: NO EXCEPTIONS OR REVISIONS WILL BE CONSIDERED FOR SECTION C1

1) The price to the Customer shall be calculated as follows:

Customer Price = (MSRP or List Price – Customer Discount as set forth in Appendix C, Pricing Index) x (1 + DIR Administrative Fee, as set forth in the Contract).

2) Customers purchasing products and services under this Contract may negotiate more advantageous pricing or participate in special promotional offers. In such event, a copy of such better offerings shall be furnished to DIR upon request.

3) If pricing for products or services available under this Contract is provided by the Vendor at a lower price to: (i) an eligible Customer who is not purchasing those products or services under this Contract or (ii) to any other customer under the same terms and conditions provided for

the State for the same commodities and services under this contract, then the available Customer Price in this Contract shall be adjusted to that lower price. This requirement applies to products or services quoted by Vendor or its resellers for a quantity of one (1) under like terms and conditions, and does not apply to volume or special pricing purchases. Vendor shall notify DIR within ten (10) days and this Contract shall be amended to reflect the lower price.

D. Shipping and Handling Fees

Note: NO EXCEPTIONS OR REVISIONS WILL BE CONSIDERED

The price to the Customer under this Contract shall include all shipping and handling fees. Shipments will be Free On Board Customer's Destination. No additional fees shall be charged to the Customer for standard shipping and handling. If the Customer requests expedited or special delivery, Customer will be responsible for any charges for expedited or special delivery.

E. Tax-Exempt

Note: NO EXCEPTIONS OR REVISIONS WILL BE CONSIDERED

As per Section 151.309, Texas Tax Code, Customers under this Contract are exempt from the assessment of State sales, use and excise taxes. Further, Customers under this Contract are exempt from Federal Excise Taxes, 26 United States Code Sections 4253(i) and (j). Customers shall provide evidence of tax-exempt status to Vendor upon request.

F. Travel Expense Reimbursement

Note: NO EXCEPTIONS OR REVISIONS WILL BE CONSIDERED

Pricing for services provided under this Contract are exclusive of any travel expenses that may be incurred in the performance of those services. Travel expense reimbursement may include personal vehicle mileage or commercial coach transportation, hotel accommodations, parking and meals; provided, however, the amount of reimbursement by Customers shall not exceed the amounts authorized for state employees as adopted by each Customer; and provided, further, that all reimbursement rates shall not exceed the maximum rates established for state employees under the current State Travel Management Program (<http://www.window.state.tx.us/procurement/prog/stmp/>). Travel time may not be included as part of the amounts payable by Customer for any services rendered under this Contract. The DIR administrative fee specified in the Contract is not applicable to travel expense reimbursement. Anticipated travel expenses must be pre-approved in writing by Customer. Customer reserves the right not to pay travel expenses which are not pre-approved in writing by the Customer.

G. Changes to Prices

Subject to the requirements of this section, Vendor may change the price of any product or service at any time, based upon changes to the MSRP, but discount levels shall remain consistent with the discount levels specified in this Contract.

Vendor may revise its pricing (but not its discount rate, if any, and not the products or services on its contract pricing list) by posting a revised pricing list. Such revised pricing lists are subject to review by DIR. If DIR finds that a product's or service's price has been increased unreasonably, DIR may request Vendor to reduce its pricing for the product or service to the level published before the revision. Vendor must reduce its pricing, or remove the product from its pricing list. Failure to do so will constitute an act of default by Vendor.

H. Purchase Orders

Note: NO EXCEPTIONS OR REVISIONS WILL BE CONSIDERED

All Customer Purchase Orders will be placed directly with the Vendor or Order Fulfiller.

Accurate Purchase Orders shall be effective and binding upon Vendor or Order Fulfiller when accepted by Vendor or Order Fulfiller. Customer and Vendor may work together to include specific requirements as to what constitutes a valid Purchase Order.

Vendors will be required to comply with the disclosure requirements of Section 2252.908, Texas Government Code, as enacted by House Bill 1295, 84th Regular Session, when execution of a contract requires an action or vote by the governing body of a governmental entity before the contract may be signed.

I. Invoices

Note: NO EXCEPTIONS OR REVISIONS WILL BE CONSIDERED

1) Invoices shall be submitted by the Vendor or Order Fulfiller directly to the Customer and shall be issued in compliance with Chapter 2251, Texas Government Code. All payments for products and/or services purchased under the Contract and any provision of acceptance of such products and/or services shall be made by the Customer to the Vendor or Order Fulfiller. For Customers that are not subject to Chapter 2251, Texas Government Code, Customer and Vendor will agree to acceptable terms.

2) Invoices must be timely and accurate. Each invoice must match Customer's Purchase Order and include any written changes that may apply, as it relates to products, prices and quantities. Invoices must include the Customer's Purchase Order number or other pertinent information for verification of receipt of the product or services by the Customer.

3) The administrative fee as set forth in the Contract shall not be broken out as a separate line item when pricing or invoice is provided to Customer.

J. Payments

Note: NO EXCEPTIONS OR REVISIONS WILL BE CONSIDERED

Customers shall comply with Chapter 2251, Texas Government Code, in making payments to Order Fulfiller. The statute states that payments for goods and services are due thirty (30) calendar days after the goods are provided, the services completed, or a correct invoice is received, whichever is later. Payment under the Contract shall not foreclose the right to recover wrongful payments. For Customers that are not subject to Chapter 2251, Texas Government Code, Customer and Vendor will agree to acceptable terms.

9. Contract Administration

Note: NO EXCEPTIONS OR REVISIONS WILL BE CONSIDERED FOR A,C-D

A. Contract Managers

Note: NO EXCEPTIONS OR REVISIONS WILL BE CONSIDERED

DIR and the Vendor will each provide a Contract Manager to support the Contract. Information regarding the Contract Manager will be posted on the Internet website designated for the Contract.

1) State Contract Manager

DIR shall provide a Contract Manager whose duties shall include but not be limited to: i) advising DIR and Vendor of Vendor's compliance with the terms and conditions of the Contract, ii) periodic verification of product pricing, and iii) verification of monthly reports submitted by Vendor.

2) Vendor Contract Manager

Vendor shall identify a specific Contract Manager whose duties shall include but not be limited to: i) supporting the marketing and management of the Contract, ii) facilitating dispute

resolution between a Order Fulfiller and a Customer, and iii) advising DIR of Order Fulfillers performance under the terms and conditions of the Contract. DIR reserves the right to require a change in Vendor's then-current Contract Manager if the assigned Contract Manager is not, in the reasonable opinion of DIR, adequately serving the needs of the State.

B. Reporting and Administrative Fees

1) Reporting Responsibility

a) Vendor shall be responsible for reporting all products and services purchased through Vendor and Order Fulfillers under the Contract. Vendor shall file the monthly reports, subcontract reports, and pay the administrative fees in accordance with the due dates specified in this section.

b) DIR shall have the right to verify required reports and to take any actions necessary to enforce its rights under this section, including but not limited to compliance checks of Vendor's applicable Contract. Vendor will provide all required documentation at no cost.

2) Detailed Monthly Report

Vendor shall electronically provide DIR with a detailed monthly report in the format required by DIR showing the dollar volume of any and all sales under the Contract for the previous calendar month period. Reports are due on the fifteenth (15th) calendar day of the month following the month of the sale. If the 15th calendar day falls on a weekend or state or federal holiday, the report shall be due on the next business day. The monthly report shall include, per transaction: the detailed sales for the period, Customer name, invoice date, invoice number, description, quantity, MSRP or List Price, unit price, extended price, Customer Purchase Order number, contact name, Customer's complete billing address, the estimated administrative fee for the reporting period, subcontractor name, EPEAT designation (if applicable), configuration (if applicable), contract discount percentage, actual discount percentage, negotiated contract price (if fixed price is offered instead of discount off of MSRP), and other information as required by DIR. Each report must contain all information listed above per transaction or the report will be rejected and returned to the Vendor for correction in accordance with this section. Vendor shall report in a manner required by DIR which is subject to change dependent upon DIR's business needs. Failure to do so may result in contract termination.

3) Historically Underutilized Businesses Subcontract Reports

a) Vendor shall electronically provide each Customer with Vendor's relevant Historically Underutilized Business Subcontracting Report, pursuant to the Contract, as required by Chapter 2161, Texas Government Code. Reports shall also be submitted to DIR.

b) Reports shall be due in accordance with the CPA rules.

4) DIR Administrative Fee

a) The Vendor shall pay an administrative fee to DIR to defray the DIR costs of negotiating, executing, and administering the Contract. The maximum administrative fee is set by the Texas Legislature in the biennial General Appropriations Act. DIR will review Vendor monthly sales reports, close the sales period, and notify the Vendor of the administrative fee no later than the fourteenth (14th) day of the second month following the date of the reported sale. Vendor shall pay the administrative fee by the twenty-fifth (25th) calendar day of the second month following the date of the reported sale. For example, Vendor reports January sales by February 15th; DIR closes January sales and notifies Vendor of administrative fee by March 14th; Vendor submits administrative fee for January sales by March 25th.

b) DIR may change the amount of the administrative fee upon thirty (30) calendar days

written notice to Vendor without the need for a formal contract amendment.

c) Vendor shall reference the DIR Contract number, reporting period, and administrative fee amount on any remittance instruments.

5) Accurate and Timely Submission of Reports

a) The reports and administrative fees shall be accurate and timely and submitted in accordance with the due dates specified in this section. Vendor shall correct any inaccurate reports or administrative fee payments within three (3) business days upon written notification by DIR. Vendor shall deliver any late reports or late administrative fee payments within three (3) business days upon written notification by DIR. If Vendor is unable to correct inaccurate reports or administrative fee payments or deliver late reports and fee payments within three (3) business days, Vendor must contact DIR and provide a corrective plan of action, including the timeline for completion of correction. The corrective plan of action shall be subject to DIR approval.

b) Should Vendor fail to correct inaccurate reports or cure the delay in timely delivery of reports and payments within the corrective plan of action timeline, DIR reserves the right to require an independent third party audit of the Vendor's records as specified in C.3 of this Section, at Vendor's expense. DIR will select the auditor (and all payments to auditor will require DIR approval).

Failure to timely submit three (3) reports or administrative fee payments within any rolling twelve (12) month period may, at DIR's discretion, result in the addition of late fees of \$100/day for each day the report or payment is due (up to \$1000/month) or suspension or termination of Vendor's Contract..

C. Records and Audit

Note: NO EXCEPTIONS OR REVISIONS WILL BE CONSIDERED IN SUBPARAGRAPH ONE (1)

1) Acceptance of funds under the Contract by Vendor and/or Order Fulfiller acts as acceptance of the authority of the State Auditor's Office, or any successor agency or designee, to conduct an audit or investigation in connection with those funds. Vendor further agrees to cooperate fully with the State Auditor's Office or its successor or designee in the conduct of the audit or investigation, including providing all records requested. Vendor will ensure that this clause concerning the authority to audit funds received indirectly by subcontractors through Vendor or directly by Order Fulfillers and the requirement to cooperate is included in any subcontract or Order Fulfiller contract it awards pertaining to the Contract. Under the direction of the Legislative Audit Committee, a Vendor that is the subject of an audit or investigation by the State Auditor's Office must provide the State Auditor's Office with access to any information the State Auditor's Office considers relevant to the investigation or audit.

2) Vendor and Order Fulfillers shall maintain adequate records to establish compliance with the Contract until the later of a period of seven (7) years after termination of the Contract or until full, final and unappealable resolution of all Compliance Check or litigation issues that arise under the Contract. Such records shall include per transaction: the Order Fulfiller's company name if applicable, Customer name, invoice date, invoice number, description, part number, manufacturer, quantity, MSRP or list price, unit price, extended price, Customer Purchase Order number, contact name, Customer's complete billing address, the calculations supporting each administrative fee owed DIR under the Contract, Historically Underutilized Businesses Subcontracting reports, and such other documentation as DIR may request.

3) Vendor and/or Order Fulfillers shall grant access to all paper and electronic records, books,

documents, accounting procedures, practices, customer records including but not limited to contracts, agreements, purchase orders and statements of work, and any other items relevant to the performance of the Contract to the DIR Internal Audit department or DIR Contract Management staff, including the compliance checks designated by the DIR Internal Audit department, DIR Contract Management staff, the State Auditor's Office, and of the United States, and such other persons or entities designated by DIR for the purposes of inspecting, Compliance Checking and/or copying such books and records. Vendor and/or Order Fulfillers shall provide copies and printouts requested by DIR without charge. DIR shall provide Vendor and/or Order Fulfillers ten (10) business days' notice prior to inspecting, Compliance Checking, and/or copying Vendor's and/or Order Fulfiller's records. Vendor's and/or Order Fulfillers records, whether paper or electronic, shall be made available during regular office hours. Vendor and/or Order Fulfiller personnel familiar with the Vendor's and/or Order Fulfiller's books and records shall be available to the DIR Internal Audit department, or DIR Contract Management staff and designees as needed. Vendor and/or Order Fulfiller shall provide adequate office space to DIR staff during the performance of Compliance Check. If Vendor is found to be responsible for inaccurate reports, DIR may invoice for the reasonable costs of the audit, which Vendor must pay within thirty (30) calendar days of receipt.

4) For procuring State Agencies whose payments are processed by the Texas Comptroller of Public Accounts, the volume of payments made to Order Fulfillers through the Texas Comptroller of Public Accounts and the administrative fee based thereon shall be presumed correct unless Vendor can demonstrate to DIR's satisfaction that Vendor's calculation of DIR's administrative fee is correct.

D. Contract Administration Notification

1) Prior to execution of the Contract, Vendor shall provide DIR with written notification of the following: i) Vendor Contract Administrator name and contact information, ii) Vendor sales representative name and contact information, and iii) name and contact information of Vendor personnel responsible for submitting reports and payment of administrative fees specified herein.

2) Upon execution of the Contract, DIR shall provide Vendor with written notification of the following: i) DIR Contract Administrator name and contact information, and ii) DIR Cooperative Contracts E-Mail Box information.

10. Vendor Responsibilities

Note: NO EXCEPTIONS OR REVISIONS WILL BE CONSIDERED IN C-M, O-S, V-W

A. Indemnification

1) INDEPENDENT CONTRACTOR

VENDOR AGREES AND ACKNOWLEDGES THAT DURING THE EXISTENCE OF THIS CONTRACT, IT IS FURNISHING PRODUCTS AND SERVICES IN THE CAPACITY OF AN INDEPENDENT CONTRACTOR AND THAT VENDOR IS NOT AN EMPLOYEE OF THE CUSTOMER OR THE STATE OF TEXAS.

2) ACTS OR OMISSIONS

Vendor shall indemnify and hold harmless the State of Texas and Customers, AND/OR THEIR OFFICERS, AGENTS, EMPLOYEES, REPRESENTATIVES, CONTRACTORS, ASSIGNEES, AND/OR DESIGNEES FROM ANY AND ALL LIABILITY, ACTIONS, CLAIMS, DEMANDS, OR SUITS, AND ALL RELATED COSTS, ATTORNEY FEES, AND EXPENSES arising out of, or resulting from any acts or omissions of the Vendor or its agents, employees, subcontractors, Order Fulfillers, or suppliers of subcontractors in the execution or

performance of the Contract and any Purchase Orders issued under the Contract. THE DEFENSE SHALL BE COORDINATED BY VENDOR WITH THE OFFICE OF THE ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND VENDOR MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE ATTORNEY GENERAL. VENDOR AND THE CUSTOMER AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM.

3) INFRINGEMENTS

a) Vendor shall indemnify and hold harmless the State of Texas and Customers, AND/OR THEIR EMPLOYEES, AGENTS, REPRESENTATIVES, CONTRACTORS, ASSIGNEES, AND/OR DESIGNEES from any and all third party claims involving infringement of United States patents, copyrights, trade and service marks, and any other intellectual or intangible property rights in connection with the PERFORMANCES OR ACTIONS OF VENDOR PURSUANT TO THIS CONTRACT. VENDOR AND THE CUSTOMER AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM. VENDOR SHALL BE LIABLE TO PAY ALL COSTS OF DEFENSE INCLUDING ATTORNEYS' FEES. THE DEFENSE SHALL BE COORDINATED BY VENDOR WITH THE OFFICE OF THE ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND VENDOR MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE ATTORNEY GENERAL.

b) Vendor shall have no liability under this section if the alleged infringement is caused in whole or in part by: (i) use of the product or service for a purpose or in a manner for which the product or service was not designed, (ii) any modification made to the product without Vendor's written approval, (iii) any modifications made to the product by the Vendor pursuant to Customer's specific instructions, (iv) any intellectual property right owned by or licensed to Customer, or (v) any use of the product or service by Customer that is not in conformity with the terms of any applicable license agreement.

c) If Vendor becomes aware of an actual or potential claim, or Customer provides Vendor with notice of an actual or potential claim, Vendor may (or in the case of an injunction against Customer, shall), at Vendor's sole option and expense: (i) procure for the Customer the right to continue to use the affected portion of the product or service, or (ii) modify or replace the affected portion of the product or service with functionally equivalent or superior product or service so that Customer's use is non-infringing.

4) PROPERTY DAMAGE

IN THE EVENT OF LOSS, DAMAGE, OR DESTRUCTION OF ANY PROPERTY OF CUSTOMER OR THE STATE DUE TO THE NEGLIGENCE, MISCONDUCT, WRONGFUL ACT OR OMISSION ON THE PART OF THE VENDOR, ITS EMPLOYEES, AGENTS, REPRESENTATIVES, OR SUBCONTRACTORS, THE VENDOR SHALL PAY THE FULL COST OF EITHER REPAIR, RECONSTRUCTION, OR REPLACEMENT OF THE PROPERTY, AT THE CUSTOMER'S SOLE ELECTION. SUCH COST SHALL BE DETERMINED BY THE CUSTOMER AND SHALL BE DUE AND PAYABLE BY THE VENDOR NINETY (90) CALENDAR DAYS AFTER THE DATE OF THE VENDORS RECEIPT FROM THE CUSTOMER OF A WRITTEN NOTICE OF THE AMOUNT DUE.

B. Taxes/Worker's Compensation/UNEMPLOYMENT INSURANCE

1) VENDOR AGREES AND ACKNOWLEDGES THAT DURING THE EXISTENCE OF THIS CONTRACT, VENDOR SHALL BE ENTIRELY RESPONSIBLE FOR THE LIABILITY AND PAYMENT OF VENDOR'S AND VENDOR'S EMPLOYEES' TAXES OF WHATEVER KIND, ARISING OUT OF THE PERFORMANCES IN THIS CONTRACT. VENDOR AGREES TO COMPLY WITH ALL STATE AND FEDERAL LAWS APPLICABLE TO ANY SUCH PERSONS, INCLUDING LAWS REGARDING WAGES, TAXES, INSURANCE, AND WORKERS' COMPENSATION. THE CUSTOMER AND/OR THE STATE SHALL NOT BE LIABLE TO THE VENDOR, ITS EMPLOYEES, AGENTS, OR OTHERS FOR THE PAYMENT OF TAXES OR THE PROVISION OF UNEMPLOYMENT INSURANCE AND/OR WORKERS' COMPENSATION OR ANY BENEFIT AVAILABLE TO A STATE EMPLOYEE OR EMPLOYEE OF ANOTHER GOVERNMENTAL ENTITY CUSTOMER.

2) VENDOR AGREES TO INDEMNIFY AND HOLD HARMLESS CUSTOMERS, THE STATE OF TEXAS AND/OR THEIR EMPLOYEES, AGENTS, REPRESENTATIVES, CONTRACTORS, AND/OR ASSIGNEES FROM ANY AND ALL LIABILITY, ACTIONS, CLAIMS, DEMANDS, OR SUITS, AND ALL RELATED COSTS, ATTORNEYS' FEES, AND EXPENSES, RELATING TO TAX LIABILITY, UNEMPLOYMENT INSURANCE AND/OR WORKERS' COMPENSATION IN ITS PERFORMANCE UNDER THIS CONTRACT. VENDOR SHALL BE LIABLE TO PAY ALL COSTS OF DEFENSE INCLUDING ATTORNEYS' FEES. THE DEFENSE SHALL BE COORDINATED BY VENDOR WITH THE OFFICE OF THE ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND VENDOR MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE ATTORNEY GENERAL. VENDOR AND THE CUSTOMER AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM.

C. Vendor Certifications

Note: NO EXCEPTIONS OR REVISIONS WILL BE CONSIDERED

Vendor certifies on behalf of Vendor and its designated Order Fulfillers that they:

- (i) have not given, offered to give, and do not intend to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the Contract;
- (ii) are not currently delinquent in the payment of any franchise tax owed the State and are not ineligible to receive payment under §231.006 of the Texas Family Code and acknowledge the Contract may be terminated and payment withheld if this certification is inaccurate;
- (iii) neither they, nor anyone acting for them, have violated the antitrust laws of the United States or the State, nor communicated directly or indirectly to any competitor or any other person engaged in such line of business for the purpose of obtaining an unfair price advantage;
- (iv) have not received payment from DIR or any of its employees for participating in the preparation of the Contract;
- (v) under Section 2155.004, Texas Government Code, the vendor certifies that the individual or business entity named in this bid or contract is not ineligible to

receive the specified contract and acknowledges that this contract may be terminated and payment withheld if this certification is inaccurate;

- (vi) to the best of their knowledge and belief, there are no suits or proceedings pending or threatened against or affecting them, which if determined adversely to them will have a material adverse effect on the ability to fulfill their obligations under the Contract;
- (vii) Vendor and its principals are not suspended or debarred from doing business with the federal government as listed in the *System for Award Management (SAM)* maintained by the General Services Administration;
- (viii) as of the effective date of the Contract, are not listed in the prohibited vendors list authorized by Executive Order #13224, "*Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism*", published by the United States Department of the Treasury, Office of Foreign Assets Control;
- (ix) Vendor represents and warrants that, for its performance of this contract, it shall purchase products and materials produced in the State of Texas when available at the price and time comparable to products and materials produced outside the state, to the extent that such is required under Texas Government Code, Section 2155.4441;
- (x) agrees that all equipment and materials used in fulfilling the requirements of this contract are of high-quality and consistent with or better than applicable industry standards, if any. All Works and Services performed pursuant to this Contract shall be of high professional quality and workmanship and according consistent with or better than applicable industry standards, if any;
- (xi) to the extent applicable to this scope of this Contract, Vendor hereby certifies that it is in compliance with Subchapter Y, Chapter 361, Health and Safety Code related to the Computer Equipment Recycling Program and its rules, 30 TAC Chapter 328;
- (xii) agree that any payments due under this contract will be applied towards any debt, including but not limited to delinquent taxes and child support that is owed to the State of Texas;
- (xiii) are in compliance Section 669.003, Texas Government Code, relating to contracting with executive head of a state agency;
- (xiv) represent and warrant that the provision of goods and services or other performance under the Contract will not constitute an actual or potential conflict of interest and certify that they will not reasonably create the appearance of impropriety, and, if these facts change during the course of the Contract, certify they shall disclose the actual or potential conflict of interest and any circumstances that create the appearance of impropriety;
- (xv) under Section 2155.006, and Section 2261.053, Texas Government Code, are not ineligible to receive the specified contract and acknowledge that this contract may be terminated and payment withheld if this certification is inaccurate;
- (xvi) have complied with the Section 556.0055, Texas Government Code, restriction on lobbying expenditures. In addition, they acknowledge the applicability of §2155.444 and §2155.4441, Texas Government Code, in fulfilling the terms of the Contract; and
- (xvii) represent and warrant that the Customer's payment and their receipt of

appropriated or other funds under this Agreement are not prohibited by Sections 556.005 or Section 556.008, Texas Government Code; and

- (xviii) to the extent applicable to this scope of this contract, Vendor hereby certifies that it is authorized to sell and provide warranty support for all products and services listed in Appendix C of this contract; and
- (xix) represent and warrant that in accordance with Section 2270.002 of the Texas Government Code, by signature hereon, Vendor does not boycott Israel and will not boycott Israel during the term of this Contract.

During the term of the Contract, Vendor shall, for itself and on behalf of its Order Fulfillers, promptly disclose to DIR all changes that occur to the foregoing certifications, representations and warranties. Vendor covenants to fully cooperate in the development and execution of resulting documentation necessary to maintain an accurate record of the certifications, representations and warranties.

In addition, Vendor understands and agrees that if Vendor responds to certain Customer pricing requests or Statements of Work, then, in order to contract with the Customer, Vendor may be required to comply with additional terms and conditions or certifications that an individual customer may require due to state and federal law (e.g., privacy and security requirements).

D. Ability to Conduct Business in Texas

Note: NO EXCEPTIONS OR REVISIONS WILL BE CONSIDERED

Vendor and its Order Fulfiller shall be authorized and validly existing under the laws of its state of organization, and shall be authorized to do business in the State of Texas in accordance with Texas Business Organizations Code, Title 1, Chapter 9.

E. Equal Opportunity Compliance

Note: NO EXCEPTIONS OR REVISIONS WILL BE CONSIDERED

Vendor agrees to abide by all applicable laws, regulations, and executive orders pertaining to equal employment opportunity, including federal laws and the laws of the State in which its primary place of business is located. In accordance with such laws, regulations, and executive orders, the Vendor agrees that no person in the United States shall, on the grounds of race, color, religion, national origin, sex, age, veteran status or handicap, be excluded from employment with or participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity performed by Vendor under the Contract. If Vendor is found to be not in compliance with these requirements during the term of the Contract, Vendor agrees to take appropriate steps to correct these deficiencies. Upon request, Vendor will furnish information regarding its nondiscriminatory hiring and promotion policies, as well as specific information on the composition of its principals and staff, including the identification of minorities and women in management or other positions with discretionary or decision-making authority.

F. Use of Subcontractors

Note: NO EXCEPTIONS OR REVISIONS WILL BE CONSIDERED

If Vendor uses any subcontractors in the performance of this Contract, Vendor must make a good faith effort in the submission of its Subcontracting Plan in accordance with the State's Policy on Utilization of Historically Underutilized Businesses (HUB). A revised Subcontracting Plan approved by DIR's HUB Office shall be required before Vendor can engage additional subcontractors in the performance of this Contract. A revised Subcontracting Plan approved by DIR's HUB Office shall be required before Vendor can remove subcontractors currently engaged in the performance of this Contract. Vendor shall remain solely responsible for the performance of

its obligations under the Contract.

G. Responsibility for Actions

Note: NO EXCEPTIONS OR REVISIONS WILL BE CONSIDERED

- 1) Vendor is solely responsible for its actions and those of its agents, employees, or subcontractors, and agrees that neither Vendor nor any of the foregoing has any authority to act or speak on behalf of DIR or the State.
- 2) Vendor, for itself and on behalf of its subcontractors, shall report to DIR promptly when the disclosures under Certification Statement of Exhibit A to the RFO and/or Section 10.C. (xiii), Vendor Certifications of this Appendix A to the Contract change. Vendor covenants to fully cooperate with DIR to update and amend the Contract to accurately disclose the status of conflicts of interest.

H. Confidentiality

Note: NO EXCEPTIONS OR REVISIONS WILL BE CONSIDERED

- 1) Vendor acknowledges that DIR and Customers that are governmental bodies as defined by Texas Government Code, Section 552.003 are subject to the Texas Public Information Act. Vendor also acknowledges that DIR and Customers that are governmental bodies will comply with the Public Information Act, and with all opinions of the Texas Attorney General's office concerning this Act.
- 2) Under the terms of the Contract, DIR may provide Vendor with information related to Customers. Vendor shall not re-sell or otherwise distribute or release Customer information to any party in any manner.

I. Security of Premises, Equipment, Data and Personnel

Note: NO EXCEPTIONS OR REVISIONS WILL BE CONSIDERED

Vendor and/or Order Fulfiller may, from time to time during the performance of the Contract, have access to the personnel, premises, equipment, and other property, including data, files and /or materials (collectively referred to as "Data") belonging to the Customer. Vendor and/or Order Fulfiller shall use their best efforts to preserve the safety, security, and the integrity of the personnel, premises, equipment, Data and other property of the Customer, in accordance with the instruction of the Customer. Vendor and/or Order Fulfiller shall be responsible for damage to Customer's equipment, workplace, and its contents when such damage is caused by its employees or subcontractors. If a Vendor and/or Order Fulfiller fails to comply with Customer's security requirements, then Customer may immediately terminate its Purchase Order and related Service Agreement.

J. Background and/or Criminal History Investigation

Note: NO EXCEPTIONS OR REVISIONS WILL BE CONSIDERED

Prior to commencement of any services, background and/or criminal history investigation of the Vendor and/or Order Fulfiller's employees and subcontractors who will be providing services to the Customer under the Contract may be performed by the Customer.. Should any employee or subcontractor of the Vendor and/or Order Fulfiller who will be providing services to the Customer under the Contract not be acceptable to the Customer as a result of the background and/or criminal history check, then Customer may immediately terminate its Purchase Order and related Service Agreement or request replacement of the employee or subcontractor in question.

K. Limitation of Liability

Note: NO EXCEPTIONS OR REVISIONS WILL BE CONSIDERED

For any claims or cause of action arising under or related to the Contract: i) to the extent permitted by the Constitution and the laws of the State, none of the parties shall be liable to the other for punitive, special, or consequential damages, even if it is advised of the possibility of such damages; and ii) Vendor's liability for damages of any kind to the Customer shall be limited to the total amount paid to Vendor under the Contract during the twelve months immediately preceding the accrual of the claim or cause of action. However, this limitation of Vendor's liability shall not apply to claims of bodily injury; violation of intellectual property rights including but not limited to patent, trademark, or copyright infringement; indemnification requirements under this Contract; and violation of State or Federal law including but not limited to disclosures of confidential information and any penalty of any kind lawfully assessed as a result of such violation.

L. Overcharges

Note: NO EXCEPTIONS OR REVISIONS WILL BE CONSIDERED

Vendor hereby assigns to DIR any and all of its claims for overcharges associated with this contract which arise under the antitrust laws of the United States, 15 U.S.C.A. Section 1, et seq., and which arise under the antitrust laws of the State of Texas, Tex. Bus. and Comm. Code Section 15.01, et seq.

M. Prohibited Conduct

Note: NO EXCEPTIONS OR REVISIONS WILL BE CONSIDERED

Vendor represents and warrants that, to the best of its knowledge as of the date of this certification, neither Vendor nor any Order Fulfiller, subcontractor, firm, corporation, partnership, or institution represented by Vendor, nor anyone acting for such Order Fulfiller, subcontractor, firm, corporation or institution has: (1) violated the antitrust laws of the State of Texas under Texas Business & Commerce Code, Chapter 15, or the federal antitrust laws; or (2) communicated its response to the Request for Offer directly or indirectly to any competitor or any other person engaged in such line of business during the procurement for the Contract.

N. Required Insurance Coverage

As a condition of this Contract with DIR, Vendor shall provide the listed insurance coverage within 5 business days of execution of the Contract if the Vendor is awarded services which require that Vendor's employees perform work at any Customer premises and/or use employer vehicles to conduct work on behalf of Customers. In addition, when engaged by a Customer to provide services on Customer premises, the Vendor shall, at its own expense, secure and maintain the insurance coverage specified herein, and shall provide proof of such insurance coverage to the related Customer within five (5) business days following the execution of the Purchase Order. Vendor may not begin performance under the Contract and/or a Purchase Order until such proof of insurance coverage is provided to, and approved by, DIR and the Customer. All required insurance must be issued by companies that have an A rating and a Financial Size Category Class of VII from A.M. Best and are licensed in the State of Texas and authorized to provide the corresponding coverage. The Customer and DIR will be named as Additional Insureds on all required coverage. Required coverage must remain in effect through the term of the Contract and each Purchase Order issued to Vendor there under. The minimum acceptable insurance provisions are as follows:

1) Commercial General Liability

Commercial General Liability must include \$1,000,000 per occurrence for Bodily Injury and Property Damage, with a separate aggregate limit of \$2,000,000; Medical Expense per person of \$5,000; Personal Injury and Advertising Liability of \$1,000,000; Products/Completed Operations Aggregate Limit of \$2,000,000; and Damage to Premises Rented: \$50,000. Agencies may require additional Umbrella/Excess Liability insurance. The policy shall contain the following provisions:

- a) Blanket contractual liability coverage for liability assumed under the Contract;
- b) Independent Contractor coverage;
- c) State of Texas, DIR and Customer listed as an additional insured; and
- d) Waiver of Subrogation

2) Workers' Compensation Insurance

WORKERS' COMPENSATION INSURANCE AND EMPLOYERS' LIABILITY COVERAGE MUST INCLUDE LIMITS CONSISTENT WITH STATUTORY BENEFITS OUTLINED IN THE TEXAS WORKERS' COMPENSATION ACT (ART. 8308-1.01 ET SEQ. TEX. REV. CIV. STAT) AND MINIMUM POLICY LIMITS FOR EMPLOYERS' LIABILITY OF \$1,000,000 BODILY INJURY PER ACCIDENT, \$1,000,000 BODILY INJURY DISEASE PER EMPLOYEE AND \$1,000,000 PER DISEASE POLICY LIMIT.

3) Business Automobile Liability Insurance

Business Automobile Liability Insurance must cover all owned, non-owned and hired vehicles with a minimum combined single limit of \$500,000 per occurrence for bodily injury and property damage. The policy shall contain the following endorsements in favor of DIR and/or Customer:

- a) Waiver of Subrogation; and
- b) Additional Insured.

O. Use of State Property

Note: NO EXCEPTIONS OR REVISIONS WILL BE CONSIDERED

Vendor is prohibited from using the Customer's equipment, the customer's location, or any other resources of the Customer or the State for any purpose other than performing services under this Agreement. For this purpose, equipment includes, but is not limited to, copy machines, computers and telephones using State long distance services. Any charges incurred by Vendor using the Customer's equipment for any purpose other than performing services under this Agreement must be fully reimbursed by Vendor to the Customer immediately upon demand by the Customer. Such use shall constitute breach of contract and may result in termination of the contract and other remedies available to DIR and Customer under the contract and applicable law.

P. Immigration

Note: NO EXCEPTIONS OR REVISIONS WILL BE CONSIDERED

The Vendor shall comply with all requirements related to federal immigration laws and regulations, to include but not be limited to, the Immigration and Reform Act of 1986, the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 ("IIRIRA") and the Immigration Act of 1990 (8 U.S.C.1101, et seq.) regarding employment verification and retention of verification forms for any individual(s) who will perform any labor or services under this Contract.

Pursuant to Executive Order No. RP-80, issued by the Governor of Texas on December 3, 2014, and as subsequently clarified, the Vendor shall, as a condition of this Contract, also comply with the United States Department of Homeland Security's E-Verify system to determine the eligibility of:

- all persons 1) to whom the E-Verify system applies, and 2) who are hired by the Vendor during the term of this Contract to perform duties within Texas; and