



**FULLY EXECUTED**

Contract Number: 4400016179

Original Contract Effective Date: 12/13/2016

Valid From: 01/01/2017 To: 09/30/2024

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

**Purchasing Agent**

Name: Cropper Scott

Phone: 717-346-3819

Fax:

Your SAP Vendor Number with us: 102380

**Supplier Name/Address:**

IBM CORPORATION

P.O. Box 643600

PITTSBURGH PA 15264-3600 US

**Please Deliver To:**

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

Supplier Phone Number: 4433158492

**Contract Name:**

IBM Software & Related Services

**Payment Terms**

NET 30

Solicitation No.:

Issuance Date:

Supplier Bid or Proposal No. (if applicable):

Solicitation Submission Date:

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

Item	Material/Service Desc	Qty	UOM	Price	Per Unit	Total
2	Licenses/Appliances/Subscriptions/SaaS	0.000		0.00	1	0.00
<b>Item Text</b>						
Software: includes, but is not limited to, commercially available licensed software, software appliances, software subscriptions and software as a service (SaaS).						
Agencies must develop and attach the Requirements for Non-Commonwealth Hosted Applications/Services when purchasing SaaS (see Appendix H).						
3	Services/Support/Maintenance	0.000		0.00	1	0.00

**Information:**

Supplier's Signature \_\_\_\_\_

Title \_\_\_\_\_

Printed Name \_\_\_\_\_

Date \_\_\_\_\_



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<b>General Requirements for all Items:</b>						
<b>Header Text</b>	All orders must reference the appropriate software license agreement between the Commonwealth and IBM.					
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	1.13.23 - Contract extended for 6 month per sole source. 1 additional 6 month renewal remaining. rsh					
	7.28.23 - Contract extended for 6 months per sole source. No additional extensions remaining. rsh					
	12.27.2023 - Contract manager contact info has been updated to DGS Commodity Specialist Scott Cropper sdc					
	3.11.24 - Contract extended for 6 months per EP, now expiring 9/30/24 No further information for this Contract					
<b>Information:</b>						



**pennsylvania**  
DEPARTMENT OF GENERAL SERVICES

March 1, 2024

Joel Kelman  
IBM Corporation  
1 New Orchard Road  
Armonk, New York 10504

SUBJECT:           Emergency Procurement:   4400016179  
                          Contract Title:                Software and Related Services  
                          Term of Renewal:             April 1, 2024 – September 30, 2024

Dear Mr. Kelman:

The Commonwealth is considering extending this contract for an additional 6 months (180 days) with zero further renewals. This extension will terminate upon the final approval and release of the new contract.

We are, therefore, requesting your concurrence to renew the above referenced Contract. If you agree to the renewal, please complete the bottom section of this letter, and return it via e-mail to the e-mail address listed below.

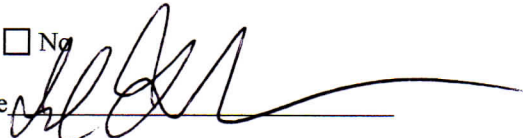
If the Commonwealth renews the contract, the Bureau will issue a revised contract document to reflect the renewed contract period.

Thank you for your immediate response. If you have any questions, please feel free to contact me.

Sincerely,

Scott Cropper  
Commodity Specialist  
[scropper@pa.gov](mailto:scropper@pa.gov)

I acknowledge the renewal of the above referenced contract for the above stated term of renewal, and that all terms and conditions in the contract shall remain in full force and effect.

Yes     No  
Signature   
Title Principal Technology Sales Leader  
Date 3/8/24



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**Purchasing Agent**

Name: Cropper Scott  
Phone: 717-787-4103  
Fax:

Your SAP Vendor Number with us: 102380

**Supplier Name/Address:**  
IBM CORPORATION  
P.O. Box 643600  
PITTSBURGH PA 15264-3600 US

Supplier Phone Number: 4433158492

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the time of the Purchase Order  
unless specified below.

**Contract Name:**  
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**Payment Terms**  
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Solicitation No.: \_\_\_\_\_ Issuance Date: \_\_\_\_\_  
Supplier Bid or Proposal No. (if applicable): \_\_\_\_\_ Solicitation Submission Date: \_\_\_\_\_

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Agencies must develop and attach the Requirements for Non-Commonwealth Hosted Applications/Services when purchasing SaaS (see Appendix H).						
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**Information:**

Supplier's Signature \_\_\_\_\_  
Printed Name \_\_\_\_\_

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Your SAP Vendor Number with us: 102380

**Purchasing Agent**

Name: Hosler Raeden  
Phone: 717-787-4103  
Fax:

**Supplier Name/Address:**

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P.O. Box 643600  
PITTSBURGH PA 15264-3600 US

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<p><b>Information:</b></p>						



August 30, 2023

Joel Kelman  
IBM Corporation  
275 Grandview Avenue, Suite 201  
Camp Hill, PA 17011

Subject: Renewal of Contract: 4400016179  
Contract Title: Software and Related Services (IBM)  
Term of Renewal: January 1, 2022 – September 30, 2023

Dear Mr. Kelman:

The Commonwealth is exercising its option to renew the Software and Related Services (IBM) contract between the Commonwealth of Pennsylvania and IBM Corporation. The contract states in AMENDMENT #1, Section 3. Extension of Contract Term:

“At its option, the Commonwealth may extend the term of the Contract upon the same terms and conditions for two (2) additional six- (6-) month extensions. The Commonwealth will notify Contractor of its election to exercise an extension in writing at least 30 days prior to the expiration of the then current term, except that the Commonwealth's right to exercise any such extension shall not expire unless and until Contractor has given the Commonwealth written notice of the Commonwealth failure to timely exercise its extension and has provided the Commonwealth with 10 business days from the Commonwealth's receipt of the notice to cure the failure.

The Commonwealth is renewing the contract for six (6) months. The new termination date will be March 31, 2024.

The Commonwealth requests your acknowledgement of the contract renewal. Please complete the bottom section of this letter and send it, via email, to the Commodity Specialist listed below on or before the close of business on September 6, 2023.

Thank you for your prompt response. If you have any questions, please do not hesitate to contact me.

Raeden Hosler  
Commodity Specialist  
[rhosler@pa.gov](mailto:rhosler@pa.gov)

I agree to the renewal of the above referenced Contract for the above stated Term of Renewal. All terms and conditions remain the same as in the current contract.

Yes       No



Signature



Title

Principal Technology Sales Leader

Date

8/31/23

(Person signing this renewal agreement must have the power to bind their company by their signature.)



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Your SAP Vendor Number with us: 102380

**Purchasing Agent**

Name: Hosler Raeden

Phone: 717-787-4103

Fax:

**Supplier Name/Address:**

IBM CORPORATION

P.O. Box 643600

PITTSBURGH PA 15264-3600 US

Supplier Phone Number: 4433158492

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**Payment Terms**

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**CONTRACT #4400016179**

**AMENDMENT #1**

This Amendment #1 to Contract No 4400016179 is made by and between IBM CORPORATION (“Contractor”) and the Commonwealth of Pennsylvania, collectively “the Parties.”

**WHEREAS**, the Commonwealth of Pennsylvania, issued Invitation For Bids (“IFB”) No. 6100037605 for the purpose of soliciting proposals from qualified entities to provide Software & Related Services for the Commonwealth of Pennsylvania;

**WHEREAS**, Contractor submitted a proposal in response to IFB 6100037605;

**WHEREAS**, the Commonwealth determined that the proposal submitted by the Contractor for IFB No. 6100037605 was the most advantageous to the Commonwealth taking into consideration all IFB evaluation factors;

**WHEREAS**, the Commonwealth entered into Contract No. 4400016179 (“Contract”) to perform the services required by IFB No. 6100037605 with Contractor as a three year contract with two one (1) year renewal options;

**WHEREAS**, the Commonwealth has exercised all of its renewal options under the Contract;

**WHEREAS**, the Commonwealth and the Contractor have identified the need to extend the Contract to provide services until a new contract is fully approved and implemented;

**WHEREAS**, to that end the Commonwealth intends to exercise the 3-month extension provision of the Contract, extending the term of the Contract to March 31, 2022;

**WHEREAS**, the Commonwealth is further looking to enter into a sole source extension of the Contract for one (1) year with the option of extending the Contract for two additional six (6) month periods at the present terms and conditions; and

**WHEREAS**, the Contractor agrees to the sole source extension.

**NOW, THEREFORE**, in consideration of the foregoing, the Commonwealth, and the Contractor, with the intention of being legally bound, agree to amend the Contract as follows:

1. The Commonwealth is exercising its right under Appendix A, Section 2, Extension of Contract Term, to extend the term of the Contract for three months upon the same terms and conditions, thereby extending the Contract to March 31, 2022.
2. The Contract will then be extended via Sole Source for one year. The Contract will have a date of March 31, 2023.
3. At its option, the Commonwealth may extend the term of the Contract upon the same terms and conditions for two (2), additional six- (6-) month extensions. The Commonwealth will notify Contractor of its election to exercise an extension in



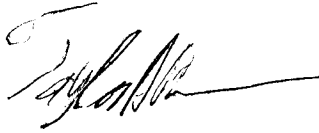
writing at least 30 days prior to the expiration of the then current term, except that the Commonwealth's right to exercise any such extension shall not expire unless and until Contractor has given the Commonwealth written notice of the Commonwealth failure to timely exercise its extension and has provided the Commonwealth with 10 business days from the Commonwealth's receipt of the notice to cure the failure.

4. Contractor shall perform the software & related services in conformity with the Contract.
5. The effective date of this Amendment #1 will be January 1, 2022. This Amendment #1 shall continue in effect for the entire Contract term.
6. Except as expressly modified of this Amendment #1, all other terms and conditions of the Contract remain in effect.

**[Remainder of page intentionally left blank.]**

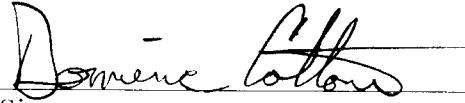
**IN WITNESS WHEREOF**, the parties hereto have signed this Amendment No. 1 to the Contract the day and year first above written. Execution by the Commonwealth will be as described in the Contract Terms and Conditions.

**WITNESS:**



\_\_\_\_\_  
Signature

**CONTRACTOR:**



\_\_\_\_\_  
Signature

Taylor A Brown, Senior Attorney, 10/1/2021\_  
Printed Name/Title/Date

Dominic Cottone, Region Executive, 10/1/2021  
Printed Name/Title/Date

**102380**

SAP Number

**COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF GENERAL SERVICES**

By: To be obtained electronically  
Deputy Secretary for Procurement      Date

**APPROVED AS TO FORM AND LEGALITY:**

To be obtained electronically  
Office of Chief Counsel                      Date

To be obtained electronically  
Office of General Counsel                  Date

To be obtained electronically  
Office of Attorney General                Date

**APPROVED:**

To be obtained electronically  
Comptroller                                      Date



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PITTSBURGH PA 15264-3600 US

Supplier Phone Number: 4433158492

**Please Deliver To:**

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

**Contract Name:**

IBM Software & Related Services

**Payment Terms**

NET 30

Solicitation No.:

Issuance Date:

Supplier Bid or Proposal No. (if applicable):

Solicitation Submission Date:

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

Item	Material/Service Desc	Qty	UOM	Price	Per Unit	Total
2	Licenses/Appliances/Subscriptions/SaaS	0.000		0.00	1	0.00
<b>Item Text</b>						
Software: includes, but is not limited to, commercially available licensed software, software appliances, software subscriptions and software as a service (SaaS).						
Agencies must develop and attach the Requirements for Non-Commonwealth Hosted Applications/Services when purchasing SaaS (see Appendix H).						
3	Services/Support/Maintenance	0.000		0.00	1	0.00

**Information:**

Supplier's Signature \_\_\_\_\_

Title \_\_\_\_\_

Printed Name \_\_\_\_\_

Date \_\_\_\_\_



**FULLY EXECUTED**  
Contract Number: 4400016179  
Original Contract Effective Date: 12/13/2016  
Valid From: 01/01/2017 To: 12/31/2021

**Supplier Name:**  
IBM CORPORATION

Item	Material/Service Desc	Qty	UOM	Price	Per Unit	Total
------	-----------------------	-----	-----	-------	----------	-------

**Item Text**

Services: includes, but is not limited to, installation, implementation, customization, training, support and maintenance.

Agencies must develop and attach a statement of work to POs for services (see Appendix G).

The total cost for services may not exceed 40% of the software cost (i.e. licensing cost, excluding software support and maintenance).

Orders for software support and maintenance made during the term of the contract may extend up to two (2) years past the expiration date of the contract.

---

**General Requirements for all Items:****Header Text**

All orders must reference the appropriate software license agreement between the Commonwealth and IBM.

10.5.2020 - This contract has been renewed for one additional year through 12.31.2021. This is the final renewal remaining on the contract.

7.7.2021 – Contract manager contact info has been updated to DGS commodity specialist Raeden Hosler. rsh

No further information for this Contract

**Information:**



**FULLY EXECUTED**

Contract Number: 4400016179

Original Contract Effective Date: 12/13/2016

Valid From: 01/01/2017 To: 12/31/2021

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

**Purchasing Agent**

Name: Price Christopher

Phone: 717-346-8188

Fax: 717-783-6241

Your SAP Vendor Number with us: 102380

**Supplier Name/Address:**

IBM CORPORATION

P.O. Box 643600

PITTSBURGH PA 15264-3600 US

Supplier Phone Number: 4433158492

**Please Deliver To:**

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

**Contract Name:**

IBM Software & Related Services

**Payment Terms**

NET 30

Solicitation No.:

Issuance Date:

Supplier Bid or Proposal No. (if applicable):

Solicitation Submission Date:

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Software: includes, but is not limited to, commercially available licensed software, software appliances, software subscriptions and software as a service (SaaS).						
Agencies must develop and attach the Requirements for Non-Commonwealth Hosted Applications/Services when purchasing SaaS (see Appendix H).						
3	Services/Support/Maintenance	0.000		0.00	1	0.00

**Information:**

Supplier's Signature \_\_\_\_\_

Title \_\_\_\_\_

Printed Name \_\_\_\_\_

Date \_\_\_\_\_



**FULLY EXECUTED**  
Contract Number: 4400016179  
Original Contract Effective Date: 12/13/2016  
Valid From: 01/01/2017 To: 12/31/2021

**Supplier Name:**  
IBM CORPORATION

Item	Material/Service Desc	Qty	UOM	Price	Per Unit	Total
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**General Requirements for all Items:****Header Text**

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10.5.2020 - This contract has been renewed for one additional year through 12.31.2021. This is the final renewal remaining on the contract.

No further information for this Contract

**Information:**



**FULLY EXECUTED**

Contract Number: 4400016179  
Original Contract Effective Date: 12/13/2016  
Valid From: 01/01/2017 To: 12/31/2020

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

**Purchasing Agent**

Name: Millovich Joseph  
Phone: 717-214-3434  
Fax: 717-783-6241

Your SAP Vendor Number with us: 102380

**Supplier Name/Address:**

IBM CORPORATION  
P.O. Box 643600  
PITTSBURGH PA 15264-3600 US

Supplier Phone Number: 4433158492

**Please Deliver To:**

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

**Contract Name:**

IBM Software & Related Services

**Payment Terms**

NET 30

Solicitation No.: Issuance Date:

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

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

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<b>Item Text</b>						
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Agencies must develop and attach the Requirements for Non-Commonwealth Hosted Applications/Services when purchasing SaaS (see Appendix H).						
3	Services/Support/Maintenance	0.000		0.00	1	0.00

**Information:**

Supplier's Signature \_\_\_\_\_

Title \_\_\_\_\_

Printed Name \_\_\_\_\_

Date \_\_\_\_\_



**FULLY EXECUTED**  
Contract Number: 4400016179  
Original Contract Effective Date: 12/13/2016  
Valid From: 01/01/2017 To: 12/31/2020

**Supplier Name:**  
IBM CORPORATION

Item	Material/Service Desc	Qty	UOM	Price	Per Unit	Total
------	-----------------------	-----	-----	-------	----------	-------

**Item Text**

Services: includes, but is not limited to, installation, implementation, customization, training, support and maintenance.

Agencies must develop and attach a statement of work to POs for services (see Appendix G).

The total cost for services may not exceed 40% of the software cost (i.e. licensing cost, excluding software support and maintenance).

Orders for software support and maintenance made during the term of the contract may extend up to two (2) years past the expiration date of the contract.

---

**General Requirements for all Items:****Header Text**

All orders must reference the appropriate software license agreement between the Commonwealth and IBM.

No further information for this Contract

**Information:**





**FULLY EXECUTED**

Contract Number: 4400016179

Original Contract Effective Date: 12/13/2016

Valid From: 01/01/2017 To: 12/31/2018

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

**Purchasing Agent**

Name: Millovich Joseph

Phone: 717-214-3434

Fax: 717-783-6241

Your SAP Vendor Number with us: 102380

**Supplier Name/Address:**

IBM CORPORATION

P.O. Box 643600

PITTSBURGH PA 15264-3600 US

Supplier Phone Number: 7175477069

**Please Deliver To:**

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

**Contract Name:**

IBM Software & Related Services

**Payment Terms**

NET 30

Solicitation No.:

Issuance Date:

Supplier Bid or Proposal No. (if applicable):

Solicitation Submission Date:

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

Item	Material/Service Desc	Qty	UOM	Price	Per Unit	Total
2	Licenses/Appliances/Subscriptions/SaaS	0.000		0.00	1	0.00
<b>Item Text</b>						
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Agencies must develop and attach the Requirements for Non-Commonwealth Hosted Applications/Services when purchasing SaaS (see Appendix H).						
3	Services/Support/Maintenance	0.000		0.00	1	0.00

**Information:**

Supplier's Signature \_\_\_\_\_

Title \_\_\_\_\_

Printed Name \_\_\_\_\_

Date \_\_\_\_\_



**FULLY EXECUTED**  
Contract Number: 4400016179  
Original Contract Effective Date: 12/13/2016  
Valid From: 01/01/2017 To: 12/31/2018

**Supplier Name:**  
IBM CORPORATION

Item	Material/Service Desc	Qty	UOM	Price	Per Unit	Total
------	-----------------------	-----	-----	-------	----------	-------

**Item Text**

Services: includes, but is not limited to, installation, implementation, customization, training, support and maintenance.

Agencies must develop and attach a statement of work to POs for services (see Appendix G).

The total cost for services may not exceed 40% of the software cost (i.e. licensing cost, excluding software support and maintenance).

Orders for software support and maintenance made during the term of the contract may extend up to two (2) years past the expiration date of the contract.

---

**General Requirements for all Items:****Header Text**

All orders must reference the appropriate software license agreement between the Commonwealth and IBM.

No further information for this Contract

**Information:**



**ORIGINAL**  
**QUOT - Invitation For Bid**

**QUOT Effective Date:**

**06/01/2016**

**Bid Number:**

**6500103552**

**Issuing Office:**

Joseph Millovich  
OA - Office of Information Technology  
613 North Street  
Harrisburg PA 17120-0400 US

**Supplier Name/Address:**

IBM CORPORATION  
P.O. Box 643600  
PITTSBURGH PA 15264-3600 US  
Telephone # 7175477069 Fax #  
Email: jmluchet@us.ibm.com  
Your SAP Vendor Number with us: 102380

**Please Return Quotation to:**

OA - Office of Information Technology  
613 North Street  
Harrisburg PA 17120-0400 US

**Type of Security furnished if required:**

- Certified bank cashier's check
- Irrevocable letter of credit
- Certificate of deposit
- Other as specified by bid
- Bond - If annual bond:

What is the name of the principal on the bond?

**Return Bid by:**

**Bid Endng Date:**  
07/11/2016

**Bid Endng Time:**  
13:00:00

**Expiration Date of Contract (if applicable)**

**Delivery Date:**  
See Items

**Please Deliver To:**

**Procurement Contact:**

**Buyer: Joseph Millovich**  
Phone:  
Fax:

This Invitation For Bids is comprised of: Part I, General Information; Part II, Bid Requirements; Part III, Criteria For Selection; Part IV, IFB Specifications; Part V, Contract Clauses; any documents attached to this Invitation For Bids or incorporated by reference; and any addenda issued by the Issuing Office prior to Bid Opening.

Supplier's Signature \_\_\_\_\_ Title \_\_\_\_\_  
 Printed Name \_\_\_\_\_ Date \_\_\_\_\_

The Bidder has completed and submitted this Bid in accordance with the instructions and requirements and terms and conditions of the Invitation For Bid. The Bidder has attached documents that are required to be submitted with this Bid and those attachments are incorporated by reference and made a part of this Bid. The Bidder, intending to be legally bound hereby, offers and agrees, if this Bid is accepted, to provide the awarded items at the price(s) set forth in this Bid at the time(s) and place(s) specified.

Item	Material/Service Desc	Qty	UOM	Unit Price	Per	Total Line Item Price
1	Lot 1 - Microsoft Bid Package Total	1.000	Each	0.00	1	0.00
2	Lot 2 - IBM Bid Package Total	1.000	Each	0.00	1	0.00
3	Lot 3 - Oracle Bid Package Total	1.000	Each	0.00	1	0.00
4	Lot 4 - SAP Bid Package Total	1.000	Each	0.00	1	0.00

**ALL PRICES ARE F.O.B. DESTINATIONS**

List of Items Continued on Following Page



**Supplier Name:**  
 IBM CORPORATION

Item	Material/Service Desc	Qty	UOM	Unit Price	Per	Total Line Item Price
5	Lot 5 - Third Party Bid Package Total	1.000	Each	0.00	1	0.00

**General Requirements for all Items:**

**Header Text**

- Addendum #1 posted 6.2.16
- Addendum #2 posted 6.8.16
- Addendum #3 posted 6.10.16
- Addendum #4 posted 6.17.16
- Addendum #5 posted 6.20.16
- Addendum #6 posted 6.21.16
- Addendum #7 posted 7.1.16
- Addendum #8 posted 7.7.16
- Addendum #9 posted 7.8.16

\*\*\* No further information for this bid \*\*\*

**Total bid amount >>>>>>>>>>>>>>>>>>>>>>>>>**

0.00

**ALL PRICES ARE F.O.B. DESTINATIONS**



**Supplier Name:**  
IBM CORPORATION

**\*\*\* Attributes Page \*\*\***

**Mandatory** QUESTION #02 - Is the offer in accordance with the "Representations and Authorizations" listed in section "Submission – 001.1" of the attached solicitation document?

**Response:** Y

**Mandatory** QUESTION #01 - Has the submitter read, and does the submitter understand, the "Representations and Authorizations" listed in section "Submission – 001.1" of the attached solicitation document?

**Response:** Y

Commonwealth of Pennsylvania  
 Software IFB  
 Pricing Proposal Response Template  
 Lot 2 - IBM Discount from List

**Instructions:** Please provide a percentage discount from the IBM retail list price for each of the product categories below.

Software Category	Historical Annual License Cost	License Minimum % Discount from List	Net Cost for Evaluation Purposes (automatically calculated)	Historical Annual Support and Maintenance Cost	Support and Maintenance Minimum % Discount from List	Net Cost for Evaluation Purposes (automatically calculated)
Core Middleware	\$ 1,240,382.00	25.00%	\$ 930,286.50	\$ 3,679,962.00	25.00%	\$ 2,759,971.50
Analytics	\$ 412,780.00	25.00%	\$ 309,585.00	\$ 2,166,807.00	25.00%	\$ 1,625,105.25
Core Hardware	\$ 282,322.00	25.00%	\$ 211,741.50	\$ 859,818.00	25.00%	\$ 644,863.50
Security	\$ 50,000.00	25.00%	\$ 37,500.00	\$ 295,653.00	25.00%	\$ 221,739.75
Commerce	\$ 285,184.00	25.00%	\$ 213,888.00	\$ 71,296.00	25.00%	\$ 53,472.00
Other	\$ 89,787.00	25.00%	\$ 67,340.25	\$ 175,746.00	25.00%	\$ 131,809.50
<b>Total</b>			<b>\$ 1,770,341</b>	<b>Total</b>		<b>\$ 5,436,961.50</b>
						<b>TOTAL NET COST FOR EVALUATION PURPOSES (automatically calculated)</b>
						<b>\$ 7,207,302.75</b>

APPENDIX D, COSTARS PROGRAM ELECTION FORM

If awarded a Contract, our firm agrees to sell the awarded items/services at the same prices and/or discounts, and in accordance with the contractual terms and conditions, to registered COSTARS Members who elect to participate in the contract. Our firm also agrees to pay the applicable Administrative Fee (\$1500 or \$500 for a Department of General Services Certified Small Business) at the beginning of each contract year and upon each contract renewal date.

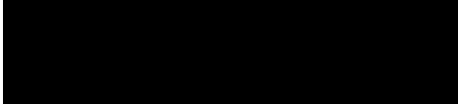
Indicate below which Lot(s) the Bidder elects to sell the awarded items/services to COSTARS members, if awarded a contract:

- Lot 1, Microsoft Software and Services
- Lot 2, IBM Software and Services
- Lot 3, Oracle Software and Services
- Lot 4, SAP Software and Services
- Lot 5, Third-Party Software and Services

If you are a Department of General Services Certified Small Business, you must submit a copy of your active certification with your bid response.

**IBM Corporation**

\_\_\_\_\_  
Corporate or Legal Entity Name



*June 28, 2016*

\_\_\_\_\_  
Signature/Date

John Luchetti / IBM Client Executive

\_\_\_\_\_  
Printed Name/Title

COMMONWEALTH OF PENNSYLVANIA  
OFFICE OF ADMINISTRATION, OFFICE FOR INFORMATION TECHNOLOGY  
INTENT TO PARTICIPATE IN REVERSE AUCTION  
FOR  
SOFTWARE AND RELATED SERVICES

SOLICITATION NO. 6100037605

Instructions: Complete the information below for the individual that will represent your company during the online reverse auction and submit the completed and signed form with your bid response. After you submit the completed form, the person designated below as the contact person will be contacted by OIT who will provide login information and schedule individual training on the features and functions of the mock auction and live auction software.

**Company Name:** IBM Corporation

**Reverse Auction Contact Person:** John Luchetti

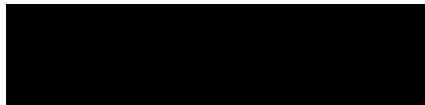
**Address:** 275 Grandview Avenue, Suite 201  
Camp Hill, PA 17011

**Telephone:** 717-547-7069

**Facsimile:** 717-547-7025

**E-mail Address:** jmluchet@us.ibm.com

By submitting this Intent to Participate, I acknowledge that the Contact Person listed above will participate in the online reverse auction for the above-referenced solicitation. All participation in the online reverse auction will be done in accordance with the terms and conditions contained in the Reverse Auction Package and the Invitation for Bid.



**Signature of Authorized Officer**

**Date**

*John Luchetti, IBM Client Executive*

*June 28, 2016*



## DELEGATION OF AUTHORITY

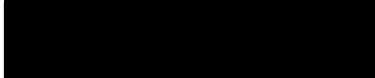
I, Jon J. Bancone, Associate General Counsel, IBM North America Sales & Distribution, do hereby certify that said Associate General Counsel, in accordance with and pursuant to resolutions of the Board of Directors of International Business Machines Corporation ("IBM") duly adopted at a meeting duly held and called on April 25, 1994, and those certain Letters of Authority dated November 15, 1995, and May 6, 2011, has been duly authorized to execute and deliver in the name of and on behalf of IBM any contract or other document or instrument necessary or appropriate in the ordinary course of IBM's business, including, but not limited, to bid documents for the sale of IBM products and services to federal, state and local governments and agencies, purchase orders and sales agreements, and the like, and to delegate this authorization within the IBM organization in the United States, including Puerto Rico; and that said authorization has not been modified, amended or rescinded and continues in full force and effect. So authorized, I hereby delegate said authority to execute and deliver in the name of and on behalf of IBM any such contract or other document or instrument reasonably related to, or performed in accordance with, the job duties, and/or responsibilities of the persons holding the below listed positions in the IBM organization in the United States, including Puerto Rico:

President  
Treasurer  
Vice President  
General Manager  
Partner  
Associate Partner

Position titles that include the words:

Attorney  
Business Operations Manager  
Client Manager  
Client Relationship Representative  
Client Unit Executive  
Contracts & Negotiations  
Counsel  
Customer Fulfillment Manager  
Customer Fulfillment Professional  
Director  
Executive  
IT Architects  
IT Consultants  
IT Specialists  
Program Manager  
Project Manager  
RFS Operations Specialist  
RFS Portfolio Specialist  
Sales Manager  
Sales Representative  
Sales Specialist  
Software Client Leader (SCL)  
Service Delivery Executive  
Service Delivery Manager  
Software Engineer  
System Service Representative

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of said International Business Machines Corporation on this 23 day of May 2013.

  
Jon J. Bancone  
Associate General Counsel  
IBM North America Sales and Distribution

**INVITATION FOR BIDS**

**FOR**

**SOFTWARE & RELATED SERVICES**

**ISSUING OFFICE**

**OFFICE OF ADMINISTRATION, OFFICE FOR INFORMATION TECHNOLOGY**

**IFB NUMBER**

**6100037605**

**DATE OF ISSUANCE**

**June 1, 2016**

**INVITATION FOR BIDS**  
**FOR**  
**SOFTWARE & RELATED SERVICES**  
**TABLE OF CONTENTS**

<b>CALENDAR OF EVENTS</b>	<b>PAGE 3</b>
<b>PART I – GENERAL INFORMATION</b>	<b>PAGE 4</b>
<b>PART II – SPECIFICATIONS</b>	<b>PAGE 21</b>

**APPENDIX A, STANDARD CONTRACT TERMS AND CONDITIONS FOR IT SUPPLIES AND RELATED SERVICES**

**APPENDIX B, PRICING PROPOSAL RESPONSE TEMPLATE**

**APPENDIX C, LOBBYING CERTIFICATION FORM**

**APPENDIX D, COSTARS PROGRAM ELECTION FORM**

**APPENDIX E, SOFTWARE LICENSE REQUIREMENTS AGREEMENT TEMPLATE**

**APPENDIX F, SERVICE LEVEL AGREEMENTS**

**APPENDIX G, STATEMENT OF WORK TEMPLATE**

**APPENDIX H, REQUIREMENTS FOR NON-COMMONWEALTH HOSTED APPLICATIONS/SERVICES TEMPLATE**

**APPENDIX I, QUARTERLY REPORT TEMPLATE**

**APPENDIX J, CURRENT COMMONWEALTH PUBLISHERS**

**APPENDIX K, REVERSE AUCTION PACKAGE**

**APPENDIX K, ATTACHMENT A - REVERSE AUCTION - INTENT TO PARTICIPATE FORM**

**APPENDIX K, ATTACHMENT B – REVERSE AUCTION - INSTRUCTIONS ON CONFIGURING YOUR BROWSER**

**APPENDIX L, IBM SOFTWARE CATEGORIES**

## CALENDAR OF EVENTS

The Commonwealth will make every effort to adhere to the following schedule:

Activity	Responsibility	Date
Pre-bid Conference:  613 North Street Finance Building – Room 503 Harrisburg, PA 17120	Issuing Office/Potential Bidders	<b>June 9, 2016 1:00PM EST</b>
Deadline to submit questions via email to <a href="mailto:RA-OITPurchases@state.pa.us">RA-OITPurchases@state.pa.us</a> with the subject line “IFB 6100037605 Question”	Bidders	<b>June 10, 2016 1:00PM EST</b>
Answers to potential questions posted to the PA eMarketplace portal website ( <a href="http://www.emarketplace.state.pa.us">http://www.emarketplace.state.pa.us</a> ).	Issuing Office	<b>June 21, 2016</b>
Please monitor the PA eMarketplace portal website for all communications regarding this IFB.	Bidders	<b>Ongoing</b>
Bid package must be received by the Issuing Office at:  PASupplierPortal website ( <a href="http://www.pasupplierportal.state.pa.us">http://www.pasupplierportal.state.pa.us</a> ) no later than this date.	Bidders	<b>July 11, 2016 1:00PM EST</b>
Updated Pre-Reverse Auction Bid Sheets sent to bidders	Commonwealth	<b>July 15, 2016</b>
Reverse Auction Training	Capable Bidders	<b>July 19-26, 2016</b>
Bidders must register as a vendor on the reverse auction website and enter their prebid pricing for the auction.	Capable Bidders	<b>July 27, 2016</b>
Reverse Auctions	Capable Bidders	<b>July 28, 2016</b>
Post-Reverse Auction Bid Sheets Due	Reverse Auction Participants	<b>August 2, 2016</b>

## PART I

### GENERAL INFORMATION

**I-1. Purpose:**

This Invitation for Bids ("IFB") provides to those interested in submitting bids for the subject procurement ("Bidder") sufficient information to enable them to prepare and submit bids for the Office of Administration's consideration on behalf of the Commonwealth of Pennsylvania ("Commonwealth") to satisfy a need for Software and related Services. Click-through agreements are not permitted through any Contract resulting from this IFB. The scope of this IFB is as follows:

- A. Lot 1, Microsoft Software and Services – \$27M Annual Agency Spend, \$3M COSTARs spend.
- B. Lot 2, IBM Software and Services - \$9M Annual Agency Spend.
- C. Lot 3, Oracle Software and Services - \$2M Annual Agency Spend.
- D. Lot 4, SAP Software and Services - \$4.5M Annual Agency Spend.
- E. Lot 5, Third-Party Software and Services - \$45M Annual Agency Spend, \$5M COSTARs Spend.

**I-2. Issuing Office:**

The Office of Administration ("Issuing Office") has issued this IFB on behalf of the Commonwealth. The sole point of contact in the Commonwealth for this IFB is Joe Millovich ([RA-OITPurchases@state.pa.us](mailto:RA-OITPurchases@state.pa.us)), 613 North St., Finance Building – Rm. 506, Harrisburg, PA 17120, the Issuing Officer for this IFB. Please refer all inquiries to the Issuing Officer.

The Issuing Officer is the sole point of contact concerning this IFB. Any violation of this condition may be cause for the Issuing Office to reject the offending Bidder's bid. If the Issuing Office later discovers that the Bidder has engaged in any violations of this condition, the Issuing Office may reject the offending Bidder's bid or rescind its contract award. A Bidder must not distribute any part of its bid beyond the Issuing Office. Any Bidder who shares information contained in its bid with other Commonwealth personnel and/or competing Bidder personnel may be cause for the Issuing Office to reject the offending Bidder's bid.

**I-3. Scope and Objectives:**

The Commonwealth intends to purchase Software and Services for use by Commonwealth agencies and COSTARs entities. The Commonwealth seeks Bidders who are software resellers and value added partners capable of providing reseller services which include, but are not limited to, pre-sales assistance, license administration, order fulfillment and vendor management for Software and Services to meet both current and future technology needs of the Commonwealth.

**I-4. Method of Award:**

Awards will be made by lot, as specified below, to capable responsive and responsible Bidders ("Contractors") that meet the requirements specified in Part II:

- A. Lot 1, Microsoft Software and Services – A single award will be made to the Bidder who provides the markup resulting in the lowest cost to the Commonwealth. The Commonwealth's current discount level is set forth in the Commonwealth's Enterprise Agreement ([4400013417](#)) and Select Plus Agreement ([4400011499](#)) for Software and Services.
- B. Lot 2, IBM Software and Services - A single award will be made to the Bidder who provides the lowest total cost based on the highest percentage discount from the IBM retail list price.
- C. Lot 3, Oracle Software and Services - A single award will be made to the Bidder who provides the lowest total cost for the market basket. This is calculated by the multiplying the Bidder's discount against the MSRP list price and historical annual volume for each item in the market basket. The percentage discount bid will apply to all Oracle software and services, and will be fixed regardless of future retail price list changes.
- D. Lot 4, SAP Software and Services - A single award will be made to the Bidder who provides the lowest total cost based on the highest percentage discount from the MSRP list price.
- E. Lot 5, Third-Party Software and Services - Awards will be made to up to three (3) Bidders who provide the lowest market basket cost for Third-Party Software and Services. This will be determined by using a publisher market basket, but will apply to all third-party software and services outside those in Lots 1-4. Each bidder should provide a markup % by publisher and a unit cost for each item. The markup percentage may be a negative number. The markup will be multiplied by the unit cost and the Commonwealth's historical annual volume for each market basket item and summing each resulting dollar markup to calculate the aggregate cost. Only items in the market basket which have been bid on by all suppliers will be considered.

For a listing of third-party software licensors which the Commonwealth has purchased software through the existing contract ([4400007199](#)), refer to Appendix J, Current Commonwealth Publishers.

The Commonwealth, as part of this solicitation, will be utilizing a reverse auction to secure competitive market pricing while maintaining or improving quality. All responsive and responsible bidders will qualify for the reverse auction. Specific information regarding the reverse auction is contained in the Reverse Auction Package, which is attached as Appendix K, Reverse Auction Package. In order to participate in the reverse auction,

Suppliers must agree to the terms and conditions contained with the Reverse Auction Package.

Any Contract resulting from this IFB will not be exclusive for the procurement of Software and Services. The Commonwealth will not cancel existing contracts and reserves the right to enter into new contracts for software and services which are similar in scope.

**I-5. Bid Submission:**

A. Initial bids must be submitted electronically via the PASupplierPortal website on or before the due date specified in the Calendar of Events. Any bid submitted to the Issuing Office in hardcopy format will be rejected. The following documentation must be submitted as part of the bid:

1. Pricing Proposal Response Template (Appendix B)
2. COSTARS Program Election Form (Appendix D), if Applicable
3. Reverse Auction Intent to Participate (Appendix K, Attachment A)
4. Reseller Authorization Letters (if applicable): If a Bidder is submitting a bid as a reseller, it must submit an authorization letter which clearly states the Bidder is authorized to provide the licensor's Software and Services to the Commonwealth for this IFB.
  - a. The authorization letter(s) must reference Commonwealth IFB 6100037605 for Software & Related Services.
  - b. Bidders must submit an authorization letter for each of the lots being bid.
  - c. For Lot 5 – Third Party Software, authorization letters must be submitted for all the software licensors listed in “Appendix B, Pricing Proposal Response Template; Lot 5 -Third Party Software” tab with which a reseller agreement is held.

After the initial bid process, additional steps will be required. Please review Appendix K, Reverse Auction Package and associated attachments for more information.

**Failure to submit the documentation listed above will result in the bid being rejected. The submission of any documentation other than what is listed above may result in the bid being rejected.**

Bidders who submit the above required documentation are eligible to compete in a reverse auction, for the appropriate Lot(s), on the date specified in the Calendar of Events. Responsive Bidders competing in the reverse auction must submit their total cost (in dollars) reflective of the applicable discounts/markups being bid, for the appropriate Lot, via the Pennsylvania Supplier Portal website

([www.pasupplierportal.state.pa.us](http://www.pasupplierportal.state.pa.us)) within the timeslot specified in the Calendar of Events.

- B.** The following documentation must be completed by the apparent low Bidder(s) and sent via email to the Issuing Officer within ten (10) days of the Commonwealth's posting the notice of award:
1. Appendix C, Lobbying Certification Form
  2. Appendix D, COSTARS Program Election Form (if applicable)

**Failure to submit the documentation listed above to the Issuing Officer may result in the bid being rejected.**

**I-6. Bidder Eligibility:**

Bidders must meet the minimum qualifications below for each Lot they wish to bid on in order to be eligible to submit a bid for this IFB. By submitting a bid, you certify that all requirements are met.

- A.** Lot 1, Microsoft Software and Services:  
Resellers must be certified as a Licensing Solutions Provider (LSP).
- B.** Lot 2, IBM Software and Services:  
Bidder can be the original publisher, or a reseller. Resellers must be an IBM software Value Plus – Authorized Products reseller. The Bidder must be capable of providing all software in the IBM product portfolio.
- C.** Lot 3, Oracle Software and Services:  
Bidder can be the original publisher, or a reseller. Resellers must be an Oracle Partner Network Platinum Level Partner. The Bidder must be capable of providing all software in the Oracle portfolio.
- D.** Lot 4, SAP Software and Services:  
Bidder can be the original publisher, or a reseller. Resellers must be an SAP Platinum Partner.
- E.** Lot 5, Third - Party Software and Services:  
Bidder must have a reseller agreement with all eight (8) required publishers and least 15 of the 17 of the other publishers listed in Appendix B, Pricing Proposal Response Template; Lot 5 -Third Party Software Tab, as of the bid due date. Additionally, the bidder must be able to provide 90% of the publishers listed in Appendix J, Current Commonwealth Publishers.

**I-7. Terms and Conditions:**

The terms and conditions of Appendix A, Standard Contract Terms and Conditions For IT Supplies and Related Services shall govern any Contract resulting from this IFB. The terms and conditions of this IFB are not negotiable. The Issuing Office will reject any bid that is



conditioned on the negotiation of the terms and conditions set out in Appendix A, Standard Contract Terms and Conditions For IT Supplies and Related Services, or to other provisions of the IFB.

**I-8. Term of Contract:**

Any contract resulting from this IFB will commence on the effective date, as defined in Appendix A, Standard Contract Terms and Conditions For IT Supplies and Related Services, and will end in two (2) years, with three (3) optional renewal years. Renewals may be executed in single or multiple year terms.

**I-9. Information Technology Policies:**

This IFB is subject to the Information Technology Policies ("ITP") issued by the Office of Administration, Office for Information Technology ("OA-OIT"). ITP's may be found at <http://www.oa.pa.gov/Policies/Pages/itp.aspx>

All bids must be submitted on the basis that all ITPs are applicable to this procurement. It is the responsibility of the Bidder to read and be familiar with the ITPs. Notwithstanding the foregoing, if the Bidder believes that any ITP is not applicable to this procurement, it must list all such ITPs in its bid, and explain why it believes the ITP is not applicable. The Issuing Office may, in its sole discretion, accept or reject any request that an ITP not be considered to be applicable to the procurement. The Bidder's failure to list an ITP will result in its waiving its right to do so later, unless the Issuing Office, in its sole discretion, determines that it would be in the best interest of the Commonwealth to waive the pertinent ITP.

**I-10. Prime Contractor Responsibilities:**

The Contractor will be required to assume responsibility for all services offered in its bid whether it produces them itself or by subcontract. The Contractor will be the sole point of contact with regard to contractual and purchase order matters.

**I-11. Pre-bid Conference:**

There will be a pre-bid conference for this IFB on Thursday, June 9, 2016 at 1:00PM EST at the location specified in the Calendar of Events. If there are any questions after the Pre-bid Conference, please forward them to the Issuing Officer in accordance with Part I, Section I-12.

**I-12. Questions and Answers:**

If a Bidder has any questions regarding this IFB, the Bidder must submit the questions by email (with the subject line "IFB 6100037605 Question") to the email address specified in the Calendar of Events. If the Bidder has questions, they must be submitted via email no later than the date and time specified in the Calendar of Events. The Bidder shall not attempt to contact the Issuing Officer by any other means. The Issuing Officer will post the answers to the PA eMarketplace portal website. A Bidder who submits a question after the deadline date for receipt of questions indicated on the Calendar of Events assumes the risk that its bid will not be responsive or competitive because the Commonwealth is not able to respond before the bid receipt date or in sufficient time for the Bidder to prepare a

responsive or competitive bid. When submitted after the deadline date for receipt of questions indicated on the Calendar of Events, the Issuing Officer may respond to questions of an administrative nature by directing the questioning Bidder to specific provisions in the IFB. To the extent that the Issuing Office decides to respond to a non-administrative question after the deadline date for receipt of questions indicated on the Calendar of Events, the answer will be provided to all Bidders through an addendum.

All questions and responses as posted on the PA eMarketplace portal website are considered as an addendum to, and part of, this IFB. Each Bidder shall be responsible to monitor the PA eMarketplace portal website for new or revised IFB information. The Issuing Office shall not be bound by any verbal information nor shall it be bound by any written information that is not either contained within the IFB or formally issued as an addendum by the Issuing Office. The Issuing Office does not consider questions to be a protest of the specifications or of the solicitation.

**I-13. Addenda to IFB:**

If the Issuing Office deems it necessary to revise any part of this IFB before the due date, the Issuing Office will post an addendum to the PA eMarketplace portal website. Answers to the questions asked during the questions and answer period will also be posted to the PA eMarketplace portal website as an addendum to the IFB.

**I-14. Electronic Version of IFB:**

This IFB is being made available by electronic means. The Bidder acknowledges and accepts full responsibility to ensure that no changes are made to the IFB. In the event of a conflict between a version of the IFB in the Bidder's possession and the Issuing Office's version of the IFB, the Issuing Office's version shall govern.

**I-15. Response Date:**

A Bidder's electronic bid must be submitted via the PASupplierPortal website on or before the due date specified in the Calendar of Events. Any bid submitted to the Issuing Office in hardcopy format will be rejected.

**I-16. Incurring Costs:**

The Issuing Office is not liable for any costs the Bidder incurs in preparation and submission of its bid, in participating in the IFB process, or in anticipation of award of a contract or purchase order.

**I-17. Confidential Information:**

The Commonwealth is not requesting, and does not require, confidential proprietary information or trade secrets to be included as part of bids for this IFB. Accordingly, Bidders should not label bid submissions as confidential or proprietary or trade secret protected. Bid submissions, including submissions presented within ten (10) days of award, that display such labeling may be rejected.

**I-18. Resources:**

The Contractor must provide all services, supplies, facilities, and other support necessary to complete the identified work.

**I-19. COSTARS Participation:**

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

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

1. A "local public procurement unit" is:

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

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

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

The term does not include any court or other officer or agency of the unified judicial system, the General Assembly and its officers and agencies, any

State-related institution, or any Commonwealth executive or independent agencies, boards, or commissions not listed above. Statewide "row" offices, including the Auditor General, Attorney General, and State Treasurer are not State-affiliated entities under the *Commonwealth Procurement Code*.

However, elements of the court system, the General Assembly, and independent agencies, boards, or commissions have been deemed eligible for COSTARS membership as entities that spend public funds for the procurement of supplies, services, and construction.

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

- B. COSTARS Members have the option to purchase from this Contract, from any DGS contract established exclusively for COSTARS Members in accordance with the requirements of Section 1902, from any other cooperative procurement contracts, or from their own procurement contracts established in accordance with the applicable laws governing such procurements. The Contractor understands and acknowledges that there is no guarantee that a COSTARS Member will place an order under this Contract, and that the decision to procure from this Contract is within the sole discretion of each COSTARS Member.
- C. DGS is acting as a facilitator for COSTARS Members who may wish to purchase under this Contract. COSTARS Members that participate in this Contract and issue POs to Contractors are third party beneficiaries who have the right to sue and be sued for breach of this Contract without joining the Commonwealth or DGS as a party. The Commonwealth will not intervene in any action between a Contractor and a COSTARS Member unless substantial interests of the Commonwealth are involved.
- D. COSTARS Members electing to participate in this Contract will order items directly from the Contractor and be responsible for payment directly to the Contractor.
- E. Those Contractors electing to permit COSTARS Members to procure from this Contract shall pay the Required Administrative Fee applicable to the Contractor's classification:

<b>Contractor Classification</b>	<b>Required Administrative Fee</b>
Department of General Services Certified Small Business Bidder	\$500
All Other Bidders	\$1,500

1. Each bidder electing to permit COSTARS Members to participate in the Contract must submit the COSTARS Program Election to Participate form with its bid submittal and pay the applicable fee upon contract award.
  2. At the beginning of each Contract year and upon any Contract renewal, the Contractor shall submit a check for the required amount, payable to "Commonwealth of PA." The Contractor must pay the Administrative Fee at each contract renewal date to continue to sell the awarded items/services to COSTARS Members. If the bidder is a Department of General Services-Certified Small Business, a copy of its active certification must be included with the Administrative Fee for each contract year and upon each renewal.
- F. DGS has registered the COSTARS name and logo (together, the "COSTARS Brand") as a trademark with the Pennsylvania Department of State. Therefore, the Contractor may use the COSTARS Brand only as permitted under in this Subsection.
1. The Contractor shall pay the Administrative Fee covering its participation in the program, including without limitation any use of the COSTARS Brand, for each year of the Contract period. The fee is payable upon Contract award and prior to the renewal date for each succeeding Contract period.
  2. DGS grants the Contractor a nonexclusive license to use the COSTARS Brand, subject to the following conditions:
    - a. The Contractor agrees not to transfer to any third party, including without limitation any of its subcontractors or suppliers, any privileges it may have to use the COSTARS Brand under this Contract.
    - b. The Contractor agrees not to use the COSTARS Brand to represent or imply any Commonwealth endorsement or approval of its products or services.
    - c. The Contractor is permitted to use the COSTARS Brand in broadcast, or Internet media solely in connection with this Contract and any other Contract with the Commonwealth under which it has agreed to make sales to COSTARS Purchasers. The Contractor may use the COSTARS Brand on business cards, brochures, and other print publications so long as the purpose is to identify the Contractor as a COSTARS vendor, and only so long as the required Contract fee is kept current.
    - d. Should this Contract terminate for any reason, the Contractor agrees promptly to remove the COSTARS Brand from any and all print and

electronic media and to refrain from using the COSTARS Brand for any purpose whatsoever from the date of Contract termination forward.

- e. The Contractor agrees to defend, indemnify, and hold harmless the Commonwealth of Pennsylvania and DGS from and against all claims, demands, liabilities, obligations, costs, and expenses of any nature whatsoever arising out of or based upon the Contractor's use of the COSTARS Brand.
  - f. The Contractor agrees it has no property rights in the use of the COSTARS Brand by virtue of this nonexclusive license. The Contractor expressly waives any claims, including without limitation due process claims that may otherwise be available under the law in the event of any dispute involving these terms of use.
- G.** The Contractor shall furnish to the DGS COSTARS Program Office a quarterly electronic Contract sales report detailing the previous quarter's Contract purchasing activity, using the form and in the format prescribed by DGS. The Contractor shall submit its completed quarterly report no later than the fifteenth calendar day of the succeeding Contract quarter.
- 1. The Contractor shall submit the reports via the web-based COSTARS Suppliers' Gateway at [www.dgs.state.pa.us/costars](http://www.dgs.state.pa.us/costars). If a Contractor does not have access to the Internet, the Contractor shall send the reports, using the form and in the format prescribed by DGS, on compact disc via US Postal Service to the DGS COSTARS Program Office, Bureau of Procurement, 6th Floor Forum Place, 555 Walnut Street, Harrisburg, PA 17101-1914.
  - 2. For each PO received, the Contractor shall include on the report the name and address of each COSTARS-Registered Purchaser that has used the Contract along with the sales date, and dollar volume of sales to the specific Purchaser for the reporting period.
  - 3. DGS may suspend the Contractor's participation in the COSTARS Program for failure to provide the Quarterly Sales Report within the specified time.
- H.** Additional information regarding the COSTARS Program is available on the DGS COSTARS Website at [www.dgs.state.pa.us/costars](http://www.dgs.state.pa.us/costars).
- 1. If the Contractor is aware of any qualified entity not currently registered and wishing to participate in the COSTARS Program, please refer the potential purchaser to the DGS COSTARS Website at [www.dgs.state.pa.us/costars](http://www.dgs.state.pa.us/costars), where it may register by completing the online registration form and receiving DGS confirmation of its registration. To

view a list of currently-registered COSTARS member entities, please visit the COSTARS website.

2. Direct all questions concerning the COSTARS Program to:

Department of General Services  
COSTARS Program  
555 Walnut Street, 6th Floor  
Harrisburg, PA 17101  
Telephone: 1-866-768-7827  
E-mail [GS-PACostars@state.pa.us](mailto:GS-PACostars@state.pa.us)

**I-20. External Procurement Activity:**

Section 1902 of the *Commonwealth Procurement Code*, 62 Pa.C.S. Section 1902, permits external procurement activities to participate in cooperative purchasing agreements for the procurement of services, supplies or construction.

**A. Definitions:**

The following words and phrases have the meanings set forth in this provision:

1. External procurement activity: The term, as defined in 62 Pa. C. S. Section 1901, means a 'buying organization not located in the Commonwealth [of Pennsylvania] which if located in this Commonwealth would qualify as a public procurement unit [under 62 Pa. C.S. Section 1901]. An agency of the United States is an external procurement activity.'
2. Participating addendum: A bilateral agreement executed by the Contractor and an external procurement activity that clarifies the operation of the Contract for the external procurement activity concerned. The terms and conditions in any participating addendum shall affect only the procurements of the purchasing entities under the jurisdiction of the external procurement activity signing the participating addendum.
3. Public procurement unit: The term, as defined in 62 Pa. C. S. Section 1901, means a 'local public procurement unit or purchasing agency.'
4. Purchasing agency: The term, as defined in 62 Pa. C. S. Section 103, means a 'Commonwealth agency authorized by this part or any other law to enter into contracts for itself or as the agent of another Commonwealth agency.'

**B. General:**

A participating addendum shall incorporate the terms and conditions of the Contract resulting from this IFB. The Contractor shall not be required to enter into any participating addendum.

**C. Additional Terms:**

1. A participating addendum may include additional terms that are required by the law governing the external procurement activity.
2. A participating addendum may include new, mutually agreed upon terms that clarify ordering procedures specific to a participating external procurement activity.
3. The construction and effect of any participating addendum shall be governed by and construed in accordance with the laws governing the external procurement activity.
4. If an additional term requested by the external procurement activity will result in an increased cost to the Contractor, the Contractor shall adjust its pricing up or down accordingly.

**D. Prices:**

1. Price adjustment for any costs affecting the percent markup that the Contractor will or will not incur or that differ from costs incurred or not incurred in the fulfillment of this Contract, the Contractor shall adjust its pricing up or down accordingly. These costs may include, but not be limited to:
  - a. State and local taxes;
  - b. Unemployment and workers compensation fees;
  - c. E-commerce transaction fees; and
  - d. Costs associated with additional terms, established pursuant to the Contract.
2. The Contractor's pricing for an external procurement activity shall be firm and fixed for the duration of the initial term of the Contract. After the initial term of the Contract, if the Contract is renewed, the Contractor's pricing may be adjusted up or down based on market conditions only with the mutual agreement of both the Contractor and any external procurement activity.

**E. Usage Reports on External Procurement Activities:**

The Contractor shall furnish to the Contracting Officer an electronic quarterly usage report, preferably in spreadsheet format no later than the fifteenth calendar day of the succeeding calendar quarter. Reports shall be e-mailed to the Contracting Officer for the Contract. Each report shall indicate the name and address of the



Contractor, contract number, period covered by the report, the name of the external procurement activity that has used the Contract and the total volume of sales to the external procurement activity for the reporting period.

- F. Electronic Copy of Participating Addendum:**  
The Contractor, upon request of the Contracting Officer, shall submit one electronic copy of the participating addendum to the Contracting Officer within ten days after request.

**I-21. Protest Procedures:**

- A. Who May File the Protest:**  
Any Bidder or prospective Bidder who is aggrieved in connection with the IFB or award of the contract solicitation or award of a contract may file a protest. Protests relating to cancellation of invitations for bids and protests relating to the rejection of all bids are not permitted. A Bidder is a person that submits a bid in response to the IFB. A prospective Bidder is a person that has not submitted a bid in response to the IFB.
- B. Time for Filing:**
1. If a protest is submitted by a prospective Bidder, the protest must be filed before bid opening time or proposal receipt date.
  2. If a protest is filed by a Bidder, the protest must be filed within seven days after the protesting Bidder knew or should have known of the facts giving rise to the protest except that in no event may a protest be filed later than seven (7) days after the date the contract or purchase order was awarded. Date of filing is the date of receipt of protest.
  3. Untimely filed protests shall be disregarded.
- C. Form of Protest:**
1. A protest must be in writing and filed with the agency head (or designee) of the purchasing agency.
  2. A protest must state all grounds upon which the protesting party asserts that the solicitation or award was improper. Issues not raised by the protesting party in the protest are deemed waived and may not be raised on appeal.
  3. The protesting party may submit with the protest any documents or information deemed relevant.

- D.** Notice of Protest:  
If award has been made, the agency head (or designee) shall notify the successful Bidder or contractor of the protest. If the protest is received before award and substantial issues are raised by the protest, all Bidders who appear to have a substantial and reasonable prospect of winning the award shall be notified and may file their agreement/disagreement with the purchasing agency within three (3) days after receipt of notice of the protest.
- E.** Stay of Procurement:  
The head of the purchasing agency (or designee) shall immediately decide, upon receipt of the protest, whether or not the solicitation or award shall be stayed, or if the protest is timely received after the award, whether the performance of the contract should be suspended. The Issuing Office shall not proceed further with the IFB or with the award of the contract, and shall suspend performance under the contract if awarded, unless the agency head of the purchasing agency makes a written determination that the protest is clearly without merit or that award of the contract/purchase order without delay is necessary to protect the substantial interests of the Commonwealth.
- F.** Procedures:
- 1.** Contracting Officer Response:  
Within fifteen (15) days of the receipt of a protest, the contracting officer may submit a written response to the head of the purchasing agency (or designee). The response may include any documents or information that the contracting officer deems relevant to the protest.
  - 2.** Protesting Party Reply:  
Within ten (10) days of the date of the contracting officer response, the protesting party may file a written reply.
  - 3.** Review:  
The head of the purchasing agency (or designee) shall:
    - a.** Review the protest and any response or reply.
    - b.** Request and review any additional documents or information he deems necessary to render a decision.
    - c.** Give the protesting party and the contracting officer reasonable opportunity to review and address any additional documents or information requested by the agency head.
    - d.** In his or her sole discretion, conduct a hearing.

- e. Within sixty (60) days of the receipt of the protest, issue a written determination stating the reasons for the decision.
- f. If additional time is required to investigate the protest, inform the protesting party of the additional time needed to render a determination and obtain the protesting party's consent.

**G.** "Clearly Without Merit" Determinations:

If the head of the purchasing agency (or designee) determines, upon receipt, that the protest is clearly without merit and does not stay the procurement, the head of the purchasing agency (or designee) shall immediately issue the decision as required by subsection H. Decision.

**H.** Settlement:

The Issuing Office has the authority to settle and resolve bid protests.

**I.** Decision:

The head of the purchasing agency (or designee) shall promptly, but in no event later than sixty (60) days from the filing of the protest, issue a written decision. The decision shall:

1. State the reasons for the decision.
2. If the protest is denied, inform the protesting party of its right to file an appeal in Commonwealth Court within fifteen (15) days of the mailing date of the decision.
3. If it is determined that the solicitation or award was contrary to law, enter an appropriate order.

The agency head (or designee) shall send a copy of the decision to the protesting party and any other person determined by the agency head (or designee) to be affected by the decision.

**I-22. Bidder's Representation and Authorization:**

**A.** Each Bidder, by making its Bid, understands, represents, and acknowledges that:

1. The Bidder has read and understands the terms and conditions of the IFB and the Bid is made in accordance with those terms and conditions.
2. The item(s) offered in the Bid will be in conformance with the specifications referenced on the IFB without exceptions.

3. The price(s) and amount of the Bid have been arrived at independently and without consultation, communication, or agreement with any other contractor, bidder, or potential bidder.
4. Neither the price(s) nor the amount of the bid, and neither the approximate price(s) nor the approximate amount of the Bid, have been disclosed to any other firm or person who is a bidder or potential bidder, and they will not be disclosed before Bid opening.
5. No attempt has been made or will be made to induce any firm or person to refrain from bidding on the contract, or to submit a bid higher than the Bid, or to submit any intentionally high or noncompetitive bid or other form of complementary bid.
6. The Bid is made in good faith and not pursuant to any agreement or discussion with, or inducement from, any firm or person to submit a complementary or other noncompetitive bid.
7. To the best of the knowledge of the person signing the Bid for the Bidder, the Bidder, its affiliates, subsidiaries, officers, directors, and employees are not currently under investigation by any governmental agency and have not in the last four years been convicted or found liable for any act prohibited by State or Federal law in any jurisdiction, involving conspiracy or collusion with respect to bidding on any public contract, except as disclosed by the Bidder in its Bid.
8. Neither the bidder, nor any subcontractors, nor any suppliers are under suspension or debarment by the Commonwealth, or any governmental entity, instrumentality, or authority, and if the bidder cannot so certify, then it shall submit, along with the Bid, a written explanation of why such certification cannot be made.
9. To the best of the knowledge of the person signing the Bid for the Bidder, and except as otherwise disclosed by the Bidder in its Bid, the Bidder has no outstanding, delinquent obligations to the Commonwealth including, but not limited to, any state tax liability not being contested on appeal or other obligation of the Bidder that is owed to the Commonwealth.
10. The Bidder has not, under separate contract with the Department of General Services, made any recommendations to the Department of General Services concerning: the IFB, the need for the item(s) described in the IFB, or the specifications for the item(s) described in the IFB.
11. All information provided by, and representations made by, the Bidder in the Bid are material and important and will be relied upon by the Commonwealth in awarding the contract. Any misstatement shall be

treated as fraudulent concealment from the Commonwealth of the true facts relating to the submission of the Bid. A misrepresentation shall be punishable under Section 4904 of Title 18 P.C.S.A.

- B. Each Bidder, by making its Bid, authorizes all Commonwealth agencies to release to the Commonwealth information related to liabilities to the Commonwealth including, but not limited to taxes, unemployment compensation, and workers' compensation liabilities.
- C. If an award is made to the Bidder, the Bidder agrees that it intends to be legally bound to the contract which is formed between the Commonwealth and the Bidder.

**I-23. Bidding Reference Material:**

[Registration Guide](#)

[Bidding Guide](#)

[Attaching Documents](#)

[Electronic Bidding Portal](#)

**PART II**  
**SPECIFICATIONS**

**II-1. Definitions:**

- A. Software:** includes, but is not limited to, commercially available licensed software, software appliances, software subscriptions and software as a service.
- B. Services:** includes, but is not limited to, installation, implementation, customization, training, support and maintenance.
- C. Reseller Services:** includes, but is not limited to, resale of licensed Software and Services, pre-sales assistance, license administration, order fulfillment, and vendor management for Software and Services.

**II-2. Requirements:**

**A. Reseller Services:**

The Contractor shall provide Reseller Services to the Commonwealth.

**1. Pre-sales Assistance:**

- a.** The Contractor must provide a quote for Software and Services, when requested by the Commonwealth in accordance with the Commonwealth software procurement process, at any time during the term of the Contract.
- b.** The Contractor must provide a quote for Services, when requested by the Commonwealth, at any time during the term of the Contract. The total cost for Services may not exceed 40% of the Software cost (i.e. licensing cost, excluding Software support and maintenance). Orders for Software support and maintenance made during the term of the contract may extend up to two (2) years past the expiration date of the Contract.
- c.** The Commonwealth will develop a statement of work ("SOW") for Services utilizing Appendix G, Statement of Work Template, which will be attached to the associated purchase order. All SOWs for Services purchased through any Contract resulting from this IFB will be governed by the Standard Contract Terms and Conditions for IT Supplies and Related Services.
- d.** All quotes must comply with Commonwealth policies.
  - 1)** At a minimum, all quotes shall include: Contract number, licensor contract number (if applicable), service period (if applicable), licensor product ID, licensor product title, line

item descriptions, renewal terms and related purchase order number(s) when standalone Services are procured. The Commonwealth's contract management team must approve the quote format before any quotes may be issued.

- 2) No additional terms and conditions may be attached to a quote or linked to in a quote.
- e. The Contractor must honor all quotes for ninety (90) days.
- f. The Contractor must initiate the on-boarding process with the Office of Administration, Office for Information Technology, as permitted by OIT policy, when there is a request for Software and/or Services from a licensor who does not currently have a software agreement with the Commonwealth. Before issuing a quote, the Contractor must verify that the licensor has a signed software agreement with the Commonwealth. Licensor's without a software license agreement with the Commonwealth, must be agreed to by the licensor and the Commonwealth prior a purchase order being issued. Appendix E, Software License Requirements Agreement Template, will be the basis for the license agreement.
- g. The Contractor must develop a reseller agreement which must include a requirement that the licensor enter into a software agreement with the Commonwealth.

**2. License Administration:**

- a. The Contractor shall be responsible for license administration services, which include but are not limited to, reporting, tracking of license/agreement numbers and assisting agencies with enrollment/activation procedures, if applicable.
- b. The Contractor must maintain a copy of all license agreements between the Commonwealth and its licensors.
- c. The Contractor must maintain a current and accurate list of all licensor product titles which are available to the Commonwealth.

**3. Order Fulfillment:**

- a. The Contractor must be capable of accepting orders via the Commonwealth's purchasing credit card (Pcard) in addition to SRM purchase orders, the Commonwealth's standard order type.

- b. The Contractor shall be responsible for tracking all orders from initial request through receipt of the Software or Service.
- c. The Contractor delivery methods must adhere to Section 9 - Delivery of Appendix A, Standard Contract Terms and Conditions for IT Supplies and Related Services. The Contractor must ensure delivery or drop-shipment of Software to any location requested by the Commonwealth and/or its contractors acting on behalf of the Commonwealth. If the Software is defective, or if the incorrect Software is delivered, the Contractor must accept returns, without charge to the Commonwealth.

4. Vendor Management:

- a. The Contractor shall be responsible for providing vendor management services, which includes, but is not limited to, obtaining product information from its licensors, negotiation assistance for software agreement(s), and advocating on behalf of the Commonwealth with its licensors.
- b. The Contractor must notify the Commonwealth of all name changes of its licensors.

**II-3. Personnel:**

**A. Account Manager:**

The Contractor must provide a dedicated account manager who will be the main point of contact for the Commonwealth. The Commonwealth will consider the account manager to be the sole point of contact with regard to contractual and purchase order matters. The account manager must be an employee of the Contractor and must be authorized to make binding decisions on behalf of the Contractor.

The account manager's responsibilities will include, but will not be limited to: providing administrative, supervisory and technical direction to the account representatives; monitoring work performance for accuracy, timeliness, efficiency, and adherence to contract requirements; coordinating the resolution of contract problems and the implementation and completion of problem escalation procedures.

**B. Account Representatives:**

The Contractor must provide a sufficient number of account representatives to facilitate agency requests, which include, but are not limited to, providing quotes for Software and/or Services, reporting, providing recommendations on Software and Services, and tracking order fulfillment. Account representatives will be the main point of contact for all agency requests.



**C. Replacement of Personnel:**

After key personnel are assigned and approved by the Commonwealth, the Contractor may not divert or replace personnel without written approval of the Commonwealth and in accordance with the following procedures.

1. The Contractor must provide notice of proposed diversion or replacement to the Commonwealth at least sixty (60) calendar days in advance and provide the name, qualifications and background check of the person who will replace the diverted or removed staff. The Commonwealth will notify the Contractor within ten (10) calendar days of the diversion notice whether the proposed diversion is acceptable and if the replacement is approved.
2. Advance notification is not required for changes in key personnel due to resignations, death and disability, dismissal for cause or dismissal as a result of termination of a subcontract or any other cause that is beyond the control of the Contractor. However, the Commonwealth must approve the replacement staff. Replacement of key personnel whose availability changes for reasons beyond the control of the Contractor must occur 1) on a temporary basis within one (1) week of the availability change and 2) on a permanent basis no longer than thirty (30) calendar days from the availability change.
3. The Commonwealth may request that the Contractor remove one or more of its staff persons from the contract at any time, with thirty (30) calendar days written notice. In the event that a staff person is removed from the contract, the Contractor will have ten (10) days to fill the vacancy with a staff person acceptable in terms of experience and skills, subject to the Commonwealth approval.

**II-4. Stand Alone Services:**

- A. The Commonwealth may purchase standalone Services if the standalone Services relate to a prior Software purchase and total services (including previously purchased) spend does not exceed 40% of the Software cost.
- B. The Commonwealth will develop a statement of work ("SOW") for Services utilizing Appendix G, Statement of Work Template, which will be attached to the associated purchase order. All SOWs for Services purchased through any Contract resulting from this IFB will be governed by the IT Terms and Conditions which can be found at [http://www.portal.state.pa.us/portal/server.pt/community/procurement\\_forms](http://www.portal.state.pa.us/portal/server.pt/community/procurement_forms).

**II-5. Volume Orders:**

- A. The Contractor must be capable of fulfilling large volume orders.
- B. The Contractor is encouraged to offer higher discounts for large volume purchases.

**II-6. Service Level Agreements (SLA):**

The Contractor must meet the SLAs as described in Appendix F, Service Level Agreements.

**II-7. Software as a Service (SaaS) for Non-Commonwealth Hosted Software:**

In addition to Appendix E, Software License Requirements Agreement Template, for all Software or Services not hosted by the Commonwealth, the requirements as described in Appendix H, Requirements for Non-Commonwealth Hosted Applications/Services Template, must be adhered to by the SaaS and/or hosting provider. The agency will develop a SOW and provide a completed Appendix H, Requirements for Non-Commonwealth Hosted Applications/Services Template to the Contractor along with the request for a quote.

**II-8. Reports and Project Controls:**

**A.** Meetings: The account manager and/or account representative must meet monthly with the Commonwealth for the first six (6) months of the Contract. Thereafter, the Contractor should hold Quarterly Business Reviews with OA's OIT and staff from high spend agencies.

**B.** Quarterly Reports: The Contractor must utilize Appendix I, Quarterly Report Template, to provide quarterly report to the Commonwealth. The final report template shall be agreed upon by the awardee Bidders and the Commonwealth. The report should include at a minimum:

1. Sales report which includes, at a minimum:

**a. Agency Information:** Identifying information for the purchasing agency.

1) **Maintenance/Services Information:** Detailed description of the maintenance/services being performed.

2) **Product and License Information:** Detailed information about the product purchased including the publisher, title, version and manufacturer part number.

3) **Order Information and Invoice Information:** Detailed breakout of the total cost of the order, including per unit cost. This includes the quantity provided as well as the reseller's cost basis and contracted mark up or discount off of list, depending on the Lot.

4) **Invoice Information:** Invoice information for the associated order.

2. Problem and response report which includes, at a minimum: Agency Information, Product and License Information, Maintenance/Services Information and Problem/Response Information.
3. Service level report which includes, at a minimum: Agency Information and Service Level Tracking.
4. Outstanding issues summary report which includes, at a minimum: Agency Information and Outstanding Issue Summary.

The Contractor must provide quarterly reports to the Commonwealth no later than fifteen (15) business days after the end of a quarter. A quarter is defined by the Commonwealth as follows:

- Quarter 1: January through March
- Quarter 2: April through June
- Quarter 3: July through September
- Quarter 4: October through December

The business hours of the Commonwealth are as follows: 7:30 am to 5:00 pm Eastern Time, Monday through Friday, excluding state holidays. Contractor staff must be available to the Commonwealth during business hours.

- C. Additional Reports:  
Additional reports may be added or removed by the Commonwealth at any time.

**1. TERM OF CONTRACT**

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

The Effective Date shall be: a) the Effective Date printed on the Contract after the Contract has been fully executed by the Contractor and the Commonwealth (signed and approved as required by Commonwealth contracting procedures) or b) the “Valid from” date printed on the Contract, whichever is later.

**2. EXTENSION OF CONTRACT TERM**

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

**3. COMMENCEMENT OF PERFORMANCE**

a. General. The Contractor shall not commence performance and the Commonwealth shall not be liable to pay the Contractor for any supply furnished or work performed or expenses incurred, until both of the following have occurred:

- 1) the Effective Date has occurred; and
- 2) the Contractor has received a Purchase Order or other written notice to proceed signed by the Contracting Officer.

b. Prohibition Prior to Effective Date. No Commonwealth employee has the authority to verbally direct the commencement of any Service or delivery of any Supply under this Contract prior to the date performance may commence. The Contractor hereby waives any claim or cause of action for any Service performed or Supply delivered prior to the date performance may commence.

**4. ELECTRONIC SIGNATURES**

(a) The Contract and/or Purchase Orders may be electronically signed by the Commonwealth.

- (i) Contract. “Fully Executed” at the top of the first page of the Contract output indicates that the signatures of all the individuals required to bind the Commonwealth to the terms of the Contract have been obtained. If the Contract output form does not have “Fully Executed” at the top of the first page, the Contract has not been fully executed.

- (ii) Purchase Orders. The electronically-printed name of the Purchasing Agent on the Purchase Order indicates that all approvals required by Commonwealth contracting procedures have been obtained.

The Commonwealth and the Contractor specifically agree as follows:

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

## **5. DEFINITIONS**

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

- a. Agency: The department, board, commission or other agency of the Commonwealth of Pennsylvania listed as the Purchasing Agency on a purchase order. If a COSTARS entity or external procurement activity has issued an order against this contract, that entity shall also be identified as “Agency”.
- b. Contracting Officer: The person authorized to administer this Contract for the Commonwealth and to make written determinations with respect to the Contract.
- c. Days: Unless specifically indicated otherwise, days mean calendar days.
- d. Developed Materials: All documents, sketches, drawings, designs, works, papers, files, reports, computer programs, computer documentation, data, records, software, samples or any other tangible material without limitation authored or

prepared by Contractor as the work product covered in the scope of work for the Project.

- e. Documentation: All materials required to support and convey information about the Supplies and Services required by this Contract. It includes, but is not necessarily restricted to, written reports and analyses, diagrams, maps, logical and physical designs, system designs, computer programs, flow charts, disks, and/or other machine-readable storage media.
- f. Expiration Date: The last valid date of this Contract, as indicated in the Contract documents to which these Terms are attached.
- g. Reseller Services: All Contractor activity necessary to satisfy the Contract.
- h. Services: Reseller Services and Software Services collectively.
- i. Software Licensor: An entity which sells software through the Contractor and enters into a software license agreement directly with the Commonwealth.
- j. Software Services: All Software Licensor activity necessary to satisfy a Statement of Work.
- k. Statement of Work: A document attached to a purchase order from the Contractor which details the Software Services which will be provided by a Software Licensor.
- l. Supplies: All tangible and intangible property including, but not limited to appliances, materials and equipment, software, software-as-a-service and software subscriptions provided by or through the Contractor to satisfy the Contract.

## **6. PURCHASE ORDERS**

- a. The Agency may issue Purchase Orders against the Contract. These orders constitute the Contractor's authority to make delivery. All Purchase Orders received by the Contractor up to and including the expiration date of the Contract are acceptable and must be performed in accordance with the Contract. Each Purchase Order will be deemed to incorporate the terms and conditions set forth in the Contract.
- b. Purchase Orders may be issued electronically or through facsimile equipment. The electronic transmission of a purchase order shall require acknowledgement of receipt of the transmission by the Contractor. Receipt of the electronic or facsimile transmission of the Purchase Order shall constitute receipt of an order. Orders received by the Contractor after 4:00 p.m. will be considered received the following business day.

- c. Purchase Orders under ten thousand dollars (\$10,000) in total amount may also be made in person or by telephone using a Commonwealth Purchasing Card. When an order is placed by telephone, the Commonwealth agency shall provide the agency name, employee name, credit card number, and expiration date of the card. Contractors agree to accept payment through the use of the Commonwealth Purchasing Card.

## **7. INDEPENDENT PRIME CONTRACTOR**

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

## **8. SUBCONTRACTS**

The Contractor may subcontract any portion of the Reseller Services described in this Contract to third parties selected by Contractor and approved in writing by the Commonwealth, whose approval shall not be unreasonably withheld. Notwithstanding the above, if Contractor has disclosed the identity of Subcontractor(s) together with the scope of work to be subcontracted in its bid/proposal, award of the Contract is deemed approval of all named Subcontractors and a separate approval is not required. The existence of any subcontract shall not change the obligations of Contractor to the Commonwealth under this Contract. Upon request of the Commonwealth, the Contractor must provide the Commonwealth with a copy of the subcontract agreement between the Contractor and the subcontractor in accordance with the provisions of Section 22c. The Commonwealth reserves the right, for good cause, to require that the Contractor remove a subcontractor from the project. The Commonwealth will not be responsible for any costs incurred by the Contractor in replacing the subcontractor if good cause exists.

## **9. OTHER CONTRACTORS**

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

## **10. DELIVERY**

- a. Supplies Delivery: All Supplies shall be delivered F.O.B. Destination. The Contractor shall work with Agency to provide software via any method available

and as requested by the Agency including, but not limited to: compact disc (CD), electronic download, original Software Licensor media, etc. The Contractor agrees to bear the risk of loss, injury, or destruction of the item(s) ordered prior to receipt of the items by the Commonwealth. Such loss, injury, or destruction shall not release the Contractor from any contractual obligations. Except as otherwise provided in this contract, all item(s) must be delivered within the time period specified. Time is of the essence and, in addition to any other remedies, the Contract is subject to termination for failure to deliver as specified. Unless otherwise stated in this Contract, delivery must be made within ten (10) days after a Purchase Order is issued to the Contractor.

- b. Delivery of Reseller Services: The Contractor shall proceed with all due diligence in the performance of the Services with qualified personnel, in accordance with the criteria set forth in the Contract.
- c. Delivery of Software Services: Software Services shall be performed by the Software Licensor (including its subcontractors, agents, etc. as approved by the Commonwealth) pursuant to a Statement of Work attached to a purchase order from the Contractor.

## **11. PRODUCT CONFORMANCE**

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

- a. Provide certified data from laboratory testing performed by the Contractor, or performed by an independent laboratory, as specified by the Commonwealth.
- b. Supply published manufacturer product Documentation.
- c. Permit a Commonwealth representative to witness testing at the Contractor's location or at an independent laboratory.
- d. Complete a survey/questionnaire relating to the bid requirements and specifications.
- e. Provide customer references.
- f. Provide a product demonstration at a location near Harrisburg or the using agency location.

## **12. ACCEPTANCE**

- a. Supplies: No Supplies received by the Commonwealth shall be deemed accepted until the Commonwealth has had a reasonable opportunity to inspect the Supplies. Any Supplies which is discovered to be defective or fails to conform to the specifications may be rejected upon initial inspection or at any later time if the



defects contained in the Supplies or the noncompliance with the specifications were not reasonably ascertainable upon the initial inspection. It shall thereupon become the duty of the Contractor to remove rejected item(s) from the premises without expense to the Commonwealth within thirty (30) days after notification. Rejected Supplies left longer than thirty (30) days will be regarded as abandoned, and the Commonwealth shall have the right to dispose of them as its own property and shall retain that portion of the proceeds of any sale which represents the Commonwealth's costs and expenses in regard to the storage and sale of the Supplies. Upon notice of rejection, the Contractor shall immediately replace all such rejected Supplies with others conforming to the specifications and which are not defective. If the Contractor fails, neglects or refuses to do so, the Commonwealth shall then have the right to procure a corresponding quantity of such Supplies, and deduct from any monies due or that may thereafter become due to the Contractor, the difference between the price stated in the Contract and the cost thereof to the Commonwealth.

- b. Reseller Services: Acceptance of Services, including Developed Works shall occur in accordance with an Approval Plan (Plan) submitted by the Contractor and approved by the Commonwealth. Upon approval of the Plan by the Commonwealth, the Plan becomes part of this Contract. For contracts where the development of software, the configuration of software, or the modification of software is the deliverable, the Plan must include an Acceptance Test Plan. The Acceptance Test Plan will provide for a Final Acceptance Test, and may provide for Interim Milestone Acceptance Tests. Each Acceptance Test will be designed to demonstrate that the Developed Works conform with the functional specification for the Developed Works, if any, and/or the requirements of this Contract. Contractor shall notify the Commonwealth when the deliverable is completed and ready for acceptance testing. The Commonwealth will not unreasonably delay commencement of acceptance testing.
- c. Software Services: Acceptance of Software Services shall occur in accordance with applicable statement of work and software license agreement between the Commonwealth and the Software Licensor.

### **13. REJECTED MATERIAL NOT CONSIDERED ABANDONED**

The Commonwealth shall have the right to not regard any rejected material as abandoned and to demand that the Contractor remove the rejected material from the premises within thirty (30) days of notification. The Contractor shall be responsible for removal of the rejected material as well as proper clean-up. If the Contractor fails or refuses to remove the rejected material as demanded by the Commonwealth, the Commonwealth may seek payment from, or set-off from any payments due to the Contractor under this or any other Contract with the Commonwealth, the costs of removal and clean-up. This is in addition to all other rights to recover costs incurred by the Commonwealth.

**14. ESTIMATED QUANTITIES**

It shall be understood and agreed that any quantities listed in the Contract are estimated only and may be increased or decreased in accordance with the actual requirements of the Commonwealth and that the Commonwealth in accepting any bid/proposal or portion thereof, contracts only and agrees to purchase only the materials and services in such quantities as represent the actual requirements of the Commonwealth.

**15. MANUFACTURER'S PRICE REDUCTION**

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

**16. SPECIAL REQUIREMENTS**

The Commonwealth reserves the right to purchase Supplies, Reseller Services and Software Services within the scope of this Contract through other procurement methods whenever the Commonwealth deems it to be in its best interest.

**17. WARRANTIES**

- a. The Contractor warrants that all Supplies furnished and all Reseller Services performed by the Contractor, its agents and subcontractors shall be free and clear of any defects in workmanship or materials and conform in all material respects to the functional specifications and requirements of the Contract. Unless otherwise stated in the Contract, all Supplies are warranted for a period of one (1) year following delivery by the Contractor and acceptance by the Commonwealth. The Contractor shall repair, replace or otherwise correct any problem with the delivered Supplies. When an item is replaced, it shall be replaced with an item of equivalent or superior quality without any additional cost to the Commonwealth.
- b. The Contractor hereby represents and warrants to the Commonwealth that the Contractor will not cause, or take any action that may directly or indirectly cause a disruption of the Commonwealth's operations.
- c. Contractor warrants that it has the necessary legal rights, including licenses to third party products, tools or materials, to perform the Reseller Services and deliver the Supplies and Developed Materials under this Contract.
- d. THE FOREGOING EXPRESS WARRANTIES ARE THE CONTRACTOR'S SOLE AND EXCLUSIVE WARRANTIES AND NO OTHER WARRANTIES, EXPRESS OR IMPLIED, SHALL APPLY, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

- e. All warranties shall survive final acceptance.

**18. COMPENSATION**

- a. Compensation for Supplies: The Contractor shall be required to furnish the awarded Supplies to the Commonwealth at the price(s) quoted in the Purchase Order. All Supplies shall be delivered within the time period(s) specified in the Purchase Order. The Contractor shall be compensated only for Supplies that are delivered and accepted by the Commonwealth.
- b. Compensation for Reseller Services: The Contractor shall be required to perform the specified Reseller Services at the rates quoted in the Contract. All Reseller Services shall be performed within the time period(s) specified in the Contract. The Contractor shall be compensated only for work performed to the satisfaction of the Commonwealth. The Contractor shall not be allowed or paid travel or per diem expenses except as specifically set forth in the Contract.
- c. Compensation for Software Services: The Contractor shall be required to resell Software Services to the Commonwealth at the price(s) quoted in the Purchase Order. All Software Services shall be delivered within the time period(s) specified in the Purchase Order. The Contractor shall be compensated only for Software Services that are delivered and accepted by the Commonwealth.

**19. BILLING REQUIREMENTS**

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

- a. Vendor name and “Remit to” address, including SAP Vendor number;
- b. Bank routing information, if ACH;
- c. SAP Purchase Order number;
- d. Delivery Address, including name of Commonwealth agency;
- e. Description of the Supplies/Services delivered in accordance with SAP Purchase Order (include purchase order line number if possible);
- f. Quantity provided;
- g. Unit price;
- h. Price extension;

- i. Total price; and
- j. Delivery date of Supplies or Services.

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

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

## **20. PAYMENT**

- a. The Commonwealth shall put forth reasonable efforts to make payment by the required payment date. The required payment date is: (a) the date on which payment is due under the terms of the Contract; (b) thirty (30) days after a proper invoice actually is received at the “Bill To” address if a date on which payment is due is not specified in the Contract (a “proper” invoice is not received until the Commonwealth accepts the Service as satisfactorily performed); or (c) the payment date specified on the invoice if later than the dates established by (a) and (b) above. Payment may be delayed if the payment amount on an invoice is not based upon the price(s) as stated in the Contract. If any payment is not made within fifteen (15) days after the required payment date, the Commonwealth may pay interest as determined by the Secretary of Budget in accordance with Act No. 266 of 1982, 72 P. S. § 1507, (relating to interest penalties on Commonwealth accounts) and accompanying regulations 4 Pa. Code §§ 2.31—2.40. Payment should not be construed by the Contractor as acceptance of the Service performed by the Contractor. The Commonwealth reserves the right to conduct further testing and inspection after payment, but within a reasonable time after performance, and to reject the Service if such post payment testing or inspection discloses a defect or a failure to meet specifications. The Contractor agrees that the Commonwealth may set off the amount of any state tax liability or other obligation of the Contractor or its subsidiaries to the Commonwealth against any payments due the Contractor under any contract with the Commonwealth.
- b. The Commonwealth shall have the option of using the Commonwealth purchasing card to make purchases under the Contract or Purchase Order. The Commonwealth’s purchasing card is similar to a credit card in that there will be a small fee which the Contractor will be required to pay and the Contractor will receive payment directly from the card issuer rather than the Commonwealth. Any and all fees related to this type of payment are the responsibility of the Contractor.

In no case will the Commonwealth allow increases in prices to offset credit card fees paid by the Contractor or any other charges incurred by the Contractor, unless specifically stated in the terms of the Contract or Purchase Order.

- c. The Commonwealth will make contract payments through Automated Clearing House (ACH).
  - 1) Within 10 days of award of the contract or purchase order, the Contractor must submit or must have already submitted their ACH information within their user profile in the Commonwealth's procurement system (SRM).
  - 2) The Contractor must submit a unique invoice number with each invoice submitted. The unique invoice number will be listed on the Commonwealth of Pennsylvania's ACH remittance advice to enable the Contractor to properly apply the state agency's payment to the invoice submitted.
  - 3) It is the responsibility of the Contractor to ensure that the ACH information contained in SRM is accurate and complete. Failure to maintain accurate and complete information may result in delays in payments.

## **21. TAXES**

The Commonwealth is exempt from all excise taxes imposed by the Internal Revenue Service and has accordingly registered with the Internal Revenue Service to make tax free purchases under Registration No. 237400001-K. With the exception of purchases of the following items, no exemption certificates are required and none will be issued: undyed diesel fuel, tires, trucks, gas guzzler emergency vehicles, and sports fishing equipment. The Commonwealth is also exempt from Pennsylvania state sales tax, local sales tax, public transportation assistance taxes and fees and vehicle rental tax. The Department of Revenue regulations provide that exemption certificates are not required for sales made to governmental entities and none will be issued. Nothing in this paragraph is meant to exempt a construction contractor from the payment of any of these taxes or fees which are required to be paid with respect to the purchase, use, rental, or lease of tangible personal property or taxable services used or transferred in connection with the performance of a construction contract.

## **22. CONFIDENTIALITY**

- a. The Contractor agrees to protect the confidentiality of the Commonwealth's confidential information. The Commonwealth agrees to protect the confidentiality of Contractor's confidential information. In order for information to be deemed confidential, the party claiming confidentiality must designate the information as "confidential" in such a way as to give notice to the other party (notice may be communicated by describing the information, and the specifications around its use or disclosure, in the applicable document). Neither party may assert that information owned by the other party is such party's confidential information. The

parties agree that such confidential information shall not be copied, in whole or in part, or used or disclosed except when essential for authorized activities under this Contract and, in the case of disclosure, where the recipient of the confidential information has agreed to be bound by confidentiality requirements no less restrictive than those set forth herein. Each copy of such confidential information shall be marked by the party making the copy with any notices appearing in the original. Upon expiration or termination of this Contract, the receiving party will return to the disclosing party all copies of the confidential information in the receiving party's possession, other than one copy, which may be maintained for archival purposes only, and which will remain subject to this Contract's security, privacy, data retention/destruction and confidentiality provisions (all of which shall survive the expiration or termination of this Contract). Both parties agree that a material breach of these requirements may, after failure to cure within the period specified in this Contract, and at the discretion of the non-breaching party, result in termination for default pursuant to Section 25.c (DEFAULT), in addition to other remedies available to the non-breaching party.

- b. Insofar as information is not otherwise protected by law or regulation, the obligations stated in this Section do not apply to information:
- 1) already known to the recipient at the time of disclosure other than through the contractual relationship and not otherwise subject to any obligation of non-disclosure or confidentiality;
  - 2) independently generated by the recipient and not derived from the information supplied by the disclosing party;
  - 3) known or available to the public, except where such knowledge or availability is the result of unauthorized disclosure by the recipient of the proprietary information;
  - 4) disclosed to the recipient without a similar restriction by a third party who has the right to make such disclosure; or
  - 5) required to be disclosed by the recipient by law, regulation, court order, or other legal process.

Except as expressly set forth in this Contract or a Statement of Work, nothing in this Contract shall be construed as granting to or conferring upon Contractor, any right, title, or interest in any physical or intellectual property that is now owned or subsequently owned by the Commonwealth or any third party. Except as expressly set forth in this Contract or a Statement of Work, nothing in this Contract shall be construed as granting to or conferring upon the Commonwealth, any right, title, or interest in any physical or intellectual property that is now owned or subsequently owned by the Contractor.

- c. The Contractor shall use the following process when submitting information to the Commonwealth it believes to be confidential and/or proprietary information or trade secrets:
  - 1) Prepare an un-redacted version of the appropriate document, and
  - 2) Prepare a redacted version of the document that redacts the information that is asserted to be confidential or proprietary information or a trade secret, and
  - 3) Prepare a signed written statement that states:
    - a) the attached document contains confidential or proprietary information or trade secrets;
    - b) the Contractor is submitting the document in both redacted and un-redacted format in accordance with 65 P.S. § 67.707(b); and
    - c) the Contractor is requesting that the document be considered exempt under 65 P.S. § 67.708(b)(11) from public records requests.
  - 4) Submit the two documents along with the signed written statement to the Commonwealth.

**23. SENSITIVE INFORMATION**

- a. The Contractor shall not publish or otherwise disclose, except to the Commonwealth or the Contractor's subcontractors and except matters of public record (which is to be determined entirely in the discretion of the Commonwealth), any information or data obtained hereunder from private individuals, organizations, or public agencies.
- b. The parties shall not use or disclose any information about a recipient receiving services from, or otherwise enrolled in, a Commonwealth program affected by or benefiting from Services under this Contract for any purpose not connected with the parties' Contract responsibilities except with consent pursuant to applicable state and federal law and regulations. All documents associated with direct disclosures of this kind must be announced to and open for inspection by the Commonwealth.
- c. Rights and obligations of the parties under this Section 22 survive the expiration or termination of this Contract

**24. COMMONWEALTH HELD HARMLESS**

- a. The Contractor shall hold the Commonwealth harmless from and indemnify the Commonwealth against any and all third party claims, demands and actions based upon or arising out of any activities performed by the Contractor and its employees and agents under this Contract, provided the Commonwealth gives Contractor prompt notice of any such claim of which it learns. Pursuant to the *Commonwealth Attorneys Act* (71 P.S. §§ 732-101—732-506), the Office of Attorney General (OAG) has the sole authority to represent the Commonwealth in actions brought against the Commonwealth. The OAG may, however, in its sole discretion and under such terms as it deems appropriate, delegate its right of defense. If OAG delegates the defense to the Contractor, the Commonwealth will cooperate with all reasonable requests of Contractor made in the defense of such suits.
- b. Notwithstanding the above, neither party shall enter into any settlement without the other party's written consent, which shall not be unreasonably withheld. The Commonwealth may, in its sole discretion, allow the Contractor to control the defense and any related settlement negotiations.

**25. LIMITATION OF LIABILITY**

- a. The Contractor's liability to the Commonwealth under the Contract shall be limited to the greater of \$250,000 or the value of the Contract (including any amendments). This limitation will apply, except as otherwise stated in this Section 25, regardless of the form of action, whether in contract or in tort, including negligence. This limitation does not, however, apply to damages for:
  - 1) bodily injury;
  - 2) death;
  - 3) intentional injury;
  - 4) damage to real property or tangible personal property for which the Contractor is legally liable;
  - 5) the Contractor's indemnity of the Commonwealth for patent, copyright, trade secret, or trademark protection; or
  - 6) the Contractor's indemnity of the Commonwealth for data breach.
- b. Notwithstanding anything to the contrary contained in the Contract, the Contractor shall not be liable to the Commonwealth for indirect, consequential, special, incidental or punitive damages.



**26. DEFAULT**

- a. The Commonwealth may, subject to the Force Majeure provisions of this Contract, and in addition to its other rights under the Contract, declare the Contractor in default by written notice thereof to the Contractor, and terminate (as provided in the Termination Provisions of this Contract) the whole or any part of this Contract or any Purchase Order for any of the following reasons:
- 1) Failure to begin work within the time specified in the Contract or Purchase Order or as otherwise specified;
  - 2) Failure to perform the work with sufficient labor, equipment, or material to insure the completion of the specified work in accordance with the Contract or Purchase Order terms;
  - 3) Unsatisfactory performance of the work as detailed in the specifications referenced in the Contract or a Purchase Order;
  - 4) Failure to deliver the item(s) or perform the work within the time specified in the Contract or a Purchase Order or as otherwise specified;
  - 5) Improper delivery;
  - 6) Failure to provide an item(s) or perform the work that conforms with the specifications referenced in the Contract or a Purchase Order;
  - 7) Delivery of a defective item;
  - 8) Failure or refusal to remove material, or remove and replace any work rejected as defective or unsatisfactory;
  - 9) Discontinuance of work without approval;
  - 10) Failure to resume work, which has been discontinued, within a reasonable time after notice to do so;
  - 11) Insolvency or bankruptcy;
  - 12) Assignment made for the benefit of creditors;
  - 13) Failure or refusal within 10 days after written notice by the Contracting Officer, to make payment or show cause why payment should not be made, of any amounts due for materials furnished, labor supplied or performed, for equipment rentals, or for utility services rendered;

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- 14) Failure to protect, to repair, or to make good any damage or injury to property;
  - 15) Breach of any provision of the Contract;
  - 16) Failure to comply with representations made in the Contractor's bid/proposal; or
  - 17) Failure to comply with applicable industry standards, customs, and practice.
- b. In the event that the Commonwealth terminates this Contract or any Purchase Order in whole or in part as provided in Subparagraph a. above, the Commonwealth may procure, upon such terms and in such manner as it determines, Supplies and/or Reseller Services similar or identical to those so terminated, and the Contractor shall be liable to the Commonwealth for any reasonable excess costs for such similar or identical items included within the terminated part of the Contract or Purchase Order.
- c. If the Contract or a Purchase Order is terminated as provided in Subparagraph a. above, the Commonwealth, in addition to any other rights provided in this paragraph, and subject to other provisions of this Contract or any Purchase Order Statement of Work, may require the Contractor to transfer title and deliver immediately to the Commonwealth in the manner and to the extent directed by the Contracting Officer, such partially completed items, including, where applicable, reports, working papers and other Documentation, as the Contractor has specifically produced or specifically acquired for the performance of such part of the Contract or Purchase Order as has been terminated. Except as provided below, payment for completed work accepted by the Commonwealth shall be at the Contract price. Except as provided below, payment for partially completed items including, where applicable, reports and working papers, delivered to and accepted by the Commonwealth shall be in an amount agreed upon by the Contractor and Contracting Officer. The Commonwealth may withhold from amounts otherwise due the Contractor for such completed or partially completed works, such sum as the Contracting Officer determines to be necessary to protect the Commonwealth against loss.
- d. The rights and remedies of the Commonwealth provided in this paragraph shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.
- e. The Commonwealth's failure to exercise any rights or remedies provided in this paragraph shall not be construed to be a waiver by the Commonwealth of its rights and remedies in regard to the event of default or any succeeding event of default.

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

## **27. FORCE MAJEURE**

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

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

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

## **28. TERMINATION PROVISIONS**

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

- a. **TERMINATION FOR CONVENIENCE:** The Commonwealth shall have the right to terminate the Contract or a Purchase Order issued against the Contract, in whole or in part, without cause by giving Contractor thirty (30) days prior written notice (Notice of Termination) whenever the Commonwealth shall determine that such termination is in the best interest of the Commonwealth (Termination for Convenience). Any such termination shall be effected by delivery to the Contractor of a Notice of Termination specifying the extent to which performance under this Contract is terminated either in whole or in part and the date on which such termination becomes effective.

In the event of termination hereunder, Contractor shall receive payment for the following:

- 1) all Services performed and all Supplies delivered consistent with the terms of the Contract prior to the effective date of termination;
- 2) all actual and reasonable costs incurred by Contractor as a result of the termination of the Contract; and

In no event shall the Contractor be paid for any loss of anticipated profit (by the Contractor or any subcontractor), loss of use of money, or administrative or overhead costs.

Failure to agree on any termination costs shall be a dispute handled in accordance with Section 29, Contract Controversies, of this Contract.

- b. **NON-APPROPRIATION:** The Commonwealth's obligation to make payments during any Commonwealth fiscal year succeeding the current fiscal year shall be subject to availability and appropriation of funds. When funds (state and/or federal) are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal year period, the Commonwealth shall have the right to terminate the Contract or a Purchase Order in whole or in part. The Contractor shall be reimbursed for the reasonable value of any nonrecurring costs incurred but not amortized in the price of the Supplies or Services delivered under the Contract. Such reimbursement shall not include loss of profit, loss of use of money, or administrative or overhead costs. The reimbursement amount may be paid from any appropriations available for that purpose
- c. **TERMINATION FOR CAUSE:** The Commonwealth, in addition to its other rights under this Contract, shall have the right to terminate the Contract or a Purchase Order issued from the Contract, in whole or in part, by providing written notice of default if the Contractor materially fails to perform its obligations under the Contract and does not cure such failure within 30 days or, if a cure within such period is not practical, commence a good faith effort to cure such failure to perform within the specified period or such longer period as the Commonwealth may specify in the written notice specifying such failure, and diligently and continuously proceed to complete the cure. The Contracting Officer shall provide any notice of default or written cure notice for Contract terminations. The Commonwealth shall also have the right, upon written notice to the Contractor, to terminate the Contract or a Purchase Order for other cause as specified in the Contract or by law.
  - 1) Subject to Section 25, Limitation of Liability, in the event the Commonwealth terminates this Contract in whole or in part as provided in this subsection, the Commonwealth may procure Services or Supplies similar to those so terminated, and the Contractor, in addition to liability for any liquidated damages, shall be liable to the Commonwealth for the

difference between the Contract price for the terminated portion of the Services or Supplies and the actual and reasonable cost (but in no event greater than the fair market value) of producing substitute equivalent services for the terminated Services or Supplies, provided that the Contractor shall continue the performance of this Contract to the extent not terminated under the provisions of this Section 28.

- 2) Except with respect to defaults of subcontractors, the Contractor shall not be liable for any excess costs if the failure to perform the Contract arises out of causes beyond the control of the Contractor. Such causes may include, but are not limited to, acts of God or of the public enemy, fires, floods, epidemics, quarantine restrictions, strikes, work stoppages, freight embargoes, acts of terrorism and unusually severe weather. The Contractor shall notify the Contracting Officer promptly in writing of its inability to perform because of a cause beyond the control of the Contractor.
- 3) Nothing in this subsection shall abridge the Commonwealth's right to suspend, debar or take other administrative action against the Contractor.
- 4) If it is later determined that the Commonwealth erred in terminating the Contract or a Purchase Order for cause, then, at the Commonwealth's discretion, the Contract or Purchase Order shall be deemed to have been terminated for convenience under Subparagraph a.

## **29. CONTRACT CONTROVERSIES**

- a. In the event of a controversy or claim arising from the Contract, the Contractor must, within six months after the cause of action accrues, file a written claim with the contracting officer for a determination. The claim shall state all grounds upon which the Contractor asserts a controversy exists. If the Contractor fails to file a claim or files an untimely claim, the Contractor is deemed to have waived its right to assert a claim in any forum. At the time the claim is filed, or within sixty (60) days thereafter, either party may request mediation through the Commonwealth Office of General Counsel Dispute Resolution Program.
- b. If the Contractor or the contracting officer requests mediation and the other party agrees, the contracting officer shall promptly make arrangements for mediation. Mediation shall be scheduled so as to not delay the issuance of the final determination beyond the required 120 days after receipt of the claim if mediation is unsuccessful. If mediation is not agreed to or if resolution is not reached through mediation, the contracting officer shall review timely-filed claims and issue a final determination, in writing, regarding the claim. The final determination shall be issued within 120 days of the receipt of the claim, unless extended by consent of the contracting officer and the Contractor. The contracting officer shall send his/her written determination to the Contractor. If the contracting officer fails to issue a final determination within the 120 days (unless extended by consent of the parties),

the claim shall be deemed denied. The contracting officer's determination shall be the final order of the purchasing agency.

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

### **30. ASSIGNABILITY AND SUBCONTRACTING**

- a. Subject to the terms and conditions of this Paragraph, this Contract shall be binding upon the parties and their respective successors and assigns.
- b. The Contractor shall not subcontract with any person or entity to perform all or any part of the work to be performed under this Contract without the prior written consent of the Contracting Officer, which consent may be withheld at the sole and absolute discretion of the Contracting Officer.
- c. The Contractor may not assign, in whole or in part, this Contract or its rights, duties, obligations, or responsibilities hereunder without the prior written consent of the Contracting Officer, which consent may be withheld at the sole and absolute discretion of the Contracting Officer.
- d. Notwithstanding the foregoing, the Contractor may, without the consent of the Contracting Officer, assign its rights to payment to be received under the Contract, provided that the Contractor provides written notice of such assignment to the Contracting Officer together with a written acknowledgement from the assignee that any such payments are subject to all of the terms and conditions of this Contract.
- e. For the purposes of this Contract, the term "assign" shall include, but shall not be limited to, the sale, gift, assignment, pledge, or other transfer of any ownership interest in the Contractor provided, however, that the term shall not apply to the sale or other transfer of stock of a publicly traded company.
- f. Any assignment consented to by the Contracting Officer shall be evidenced by a written assignment agreement executed by the Contractor and its assignee in which the assignee agrees to be legally bound by all of the terms and conditions of the Contract and to assume the duties, obligations, and responsibilities being assigned.
- g. A change of name by the Contractor, following which the Contractor's federal identification number remains unchanged, shall not be considered to be an

assignment hereunder. The Contractor shall give the Contracting Officer written notice of any such change of name.

**31. AUDIT PROVISIONS**

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

**32. ASSIGNMENT OF ANTITRUST CLAIMS**

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

**33. PATENT, COPYRIGHT, TRADEMARK, AND TRADE SECRET PROTECTION**

- a. The Contractor shall hold the Commonwealth harmless from any suit or proceeding which may be brought by a third party against the Commonwealth, its departments, officers or employees for the alleged infringement of any United States patents, copyrights, or trademarks, or for a misappropriation of trade secrets arising out of performance of this Contract, including all work, Services, materials, reports, studies, and computer programs provided by the Contractor, and in any such suit or proceeding will satisfy any final award for such infringement, including costs. The Commonwealth agrees to give Contractor prompt notice of any such claim of which it learns. Pursuant to the *Commonwealth Attorneys Act* 71 P.S. § 732-10—732-506, the Office of Attorney General (OAG) has the sole authority to represent the Commonwealth in actions brought against the Commonwealth. The OAG may, however, in its sole discretion and under the terms it deems appropriate, delegate its right of defense. If OAG delegates the defense to the Contractor, the Commonwealth will cooperate with all reasonable requests of Contractor made in the defense of such suits. No settlement which prevents the Commonwealth from continuing to use the Developed Materials as provided herein shall be made without the Commonwealth's prior written consent. In all events, the Commonwealth shall have the right to participate in the defense of any such suit or proceeding through counsel of its own choosing. It is expressly agreed by the Contractor that, in the event it requests that the Commonwealth to provide support to the Contractor in

defending any such claim, the Contractor shall reimburse the Commonwealth for all expenses (including attorneys' fees, if such are made necessary by the Contractor's request) incurred by the Commonwealth for such support. If OAG does not delegate the defense of the matter, the Contractor's obligation to indemnify ceases. The Contractor will, at its expense, provide whatever cooperation OAG requests in the defense of the suit.

- b. The Contractor agrees to exercise reasonable due diligence to prevent claims of infringement on the rights of third parties. The Contractor certifies that, in all respects applicable to this Contract, it has exercised and will continue to exercise due diligence to ensure that all works produced under this Contract do not infringe on the patents, copyrights, trademarks, trade secrets or other proprietary interests of any kind which may be held by third parties. The Contractor also agrees to certify that work produced for the Commonwealth under this contract shall be free and clear from all claims of any nature.
- c. If the defense of the suit is delegated to the Contractor, the Contractor shall pay all damages and costs awarded therein against the Commonwealth. If information and assistance are furnished by the Commonwealth at the Contractor's written request, it shall be at the Contractor's expense, but the responsibility for such expense shall be only that within the Contractor's written authorization.
- d. If, in the Contractor's opinion, the products, materials, reports, studies, or computer programs furnished hereunder are likely to or do become subject to a claim of infringement of a United States patent, copyright, or trademark, or for a misappropriation of trade secret, then without diminishing the Contractor's obligation to satisfy any final award, the Contractor may, at its option and expense, substitute functional equivalents for the alleged infringing products, materials, reports, studies, or computer programs or, at the Contractor's option and expense, obtain the rights for the Commonwealth to continue the use of such products, materials, reports, studies, or computer programs.
- e. If any of the products, materials, reports, studies, or computer programs provided by the Contractor are in such suit or proceeding held to constitute infringement and the use or publication thereof is enjoined, the Contractor shall, at its own expense and at its option, either procure the right to publish or continue use of such infringing products, materials, reports, studies, or computer programs, replace them with non-infringing items, or modify them so that they are no longer infringing.
- f. If the Contractor is unable to do any of the preceding, the Contractor agrees to pay the Commonwealth:
  - 1) any amounts paid by the Commonwealth less a reasonable amount based on the acceptance and use of the deliverable;
  - 2) any license fee less an amount for the period of usage of any software; and



- 3) the prorated portion of any Service fees representing the time remaining in any period of Service for which payment was made.
- g. The obligations of the Contractor under this Section continue without time limit and survive the termination of this Contract.
- h. Notwithstanding the above, the Contractor shall have no obligation for:
  - 1) modification of any product, Service, or deliverable provided by the Commonwealth;
  - 2) any material provided by the Commonwealth to the Contractor and incorporated into, or used to prepare, a product, Service, or deliverable;
  - 3) use of the product, Service, or deliverable in other than its specified operating environment;
  - 4) the combination, operation, or use of the product, Service, or deliverable with other products, Services, or deliverables not provided by the Contractor as a system or the combination, operation, or use of the product, service, or deliverable, with any products, data, or apparatus that the Contractor did not provide;
  - 5) infringement of a non-Contractor product alone;
  - 6) the Commonwealth's distribution, marketing or use beyond the scope contemplated by the Contract; or
  - 7) the Commonwealth's failure to use corrections or enhancements made available to the Commonwealth by the Contractor at no charge.
- i. The obligation to indemnify the Commonwealth, under the terms of this Section 33, shall be the Contractor's sole and exclusive obligation for the infringement or misappropriation of intellectual property.

**34. OWNERSHIP RIGHTS**

The Commonwealth shall have unrestricted authority to reproduce, distribute, and use any submitted report, data, or material, and any software or modifications and any associated Documentation that is designed or developed and delivered to the Commonwealth as part of the performance of the Contract except as otherwise set forth in a Statement of Work attached to a Purchase Order issued under this Contract or an applicable software license agreement.

**35. NONDISCRIMINATION/SEXUAL HARASSMENT CLAUSE**

The Contractor agrees:

- a. In the hiring of any employee(s) for the manufacture of supplies, performance of work, or any other activity required under the contract or any subcontract, the Contractor, each subcontractor, or any person acting on behalf of the Contractor or subcontractor shall not, by reason of gender, race, creed, or color, discriminate against any citizen of this Commonwealth who is qualified and available to perform the work to which the employment relates.
- b. Neither the Contractor nor any subcontractor nor any person on their behalf shall in any manner discriminate against or intimidate any employee involved in the manufacture of supplies, the performance of work, or any other activity required under the contract on account of gender, race, creed, or color.
- c. The Contractor and each subcontractor shall establish and maintain a written sexual harassment policy and shall inform their employees of the policy. The policy must contain a notice that sexual harassment will not be tolerated and employees who practice it will be disciplined.
- d. The Contractor and each subcontractor shall not discriminate by reason of gender, race, creed, or color against any subcontractor or supplier who is qualified to perform the work to which the contract relates.
- e. The Contractor and each subcontractor shall, within the time periods requested by the Commonwealth, furnish all necessary employment documents and records and permit access to their books, records, and accounts by the contracting agency and the Bureau of Small Business Opportunities (BSBO), for purpose of ascertaining compliance with provisions of this Nondiscrimination/Sexual Harassment Clause. Within fifteen (15) days after award of any contract, the Contractor shall be required to complete, sign and submit Form STD-21, the "Initial Contract Compliance Data" form. If the contract is a construction contract, then the Contractor shall be required to complete, sign and submit Form STD-28, the "Monthly Contract Compliance Report for Construction Contractors", each month no later than the 15th of the month following the reporting period beginning with the initial job conference and continuing through the completion of the project. Those contractors who have fewer than five employees or whose employees are all from the same family or who have completed the Form STD-21 within the past 12 months may, within the 15 days, request an exemption from the Form STD-21 submission requirement from the contracting agency.
- f. The Contractor shall include the provisions of this Nondiscrimination/Sexual Harassment Clause in every subcontract so that those provisions applicable to subcontractors will be binding upon each subcontractor.

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

### **36. CONTRACTOR INTEGRITY PROVISIONS**

It is essential that those who seek to contract with the Commonwealth of Pennsylvania (“Commonwealth”) observe high standards of honesty and integrity. They must conduct themselves in a manner that fosters public confidence in the integrity of the Commonwealth procurement process.

In furtherance of this policy, Contractor agrees to the following:

- a. Contractor shall maintain the highest standards of honesty and integrity during the performance of this contract and shall take no action in violation of state or federal laws or regulations or any other applicable laws or regulations, or other requirements applicable to Contractor or that govern contracting with the Commonwealth.
- b. Contractor shall establish and implement a written business integrity policy, which includes, at a minimum, the requirements of these provisions as they relate to Contractor employee activity with the Commonwealth and Commonwealth employees, and which is distributed and made known to all Contractor employees.
- c. Contractor, its affiliates, agents and employees shall not influence, or attempt to influence, any Commonwealth employee to breach the standards of ethical conduct for Commonwealth employees set forth in the *Public Official and Employees Ethics Act*, 65 Pa.C.S. §§1101 *et seq.*; the *State Adverse Interest Act*, 71 P.S. §776.1 *et seq.*; and the [Governor’s Code of Conduct, Executive Order 1980-18](#), 4 Pa. Code §7.151 *et seq.*, or to breach any other state or federal law or regulation.
- d. Contractor, its affiliates, agents and employees shall not offer, give, or agree or promise to give any gratuity to a Commonwealth official or employee or to any other person at the direction or request of any Commonwealth official or employee.
- e. Contractor, its affiliates, agents and employees shall not offer, give, or agree or promise to give any gratuity to a Commonwealth official or employee or to any other person, the acceptance of which would violate the [Governor’s Code of Conduct, Executive Order 1980-18](#), 4 Pa. Code §7.151 *et seq.* or any statute, regulation, statement of policy, management directive or any other published standard of the Commonwealth.
- f. Contractor, its affiliates, agents and employees shall not, directly or indirectly, offer, confer, or agree to confer any pecuniary benefit on anyone as consideration

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for the decision, opinion, recommendation, vote, other exercise of discretion, or violation of a known legal duty by any Commonwealth official or employee.

- g. Contractor, its affiliates, agents, employees, or anyone in privity with him or her shall not accept or agree to accept from any person, any gratuity in connection with the performance of work under the contract, except as provided in the contract.
- h. Contractor shall not have a financial interest in any other contractor, subcontractor, or supplier providing services, labor, or material on this project, unless the financial interest is disclosed to the Commonwealth in writing and the Commonwealth consents to Contractor's financial interest prior to Commonwealth execution of the contract. Contractor shall disclose the financial interest to the Commonwealth at the time of bid or proposal submission, or if no bids or proposals are solicited, no later than Contractor's submission of the contract signed by Contractor.
- i. Contractor, its affiliates, agents and employees shall not disclose to others any information, documents, reports, data, or records provided to, or prepared by, Contractor under this contract without the prior written approval of the Commonwealth, except as required by the *Pennsylvania Right-to-Know Law*, 65 P.S. §§ 67.101-3104, or other applicable law or as otherwise provided in this contract. Any information, documents, reports, data, or records secured by Contractor from the Commonwealth or a third party in connection with the performance of this contract shall be kept confidential unless disclosure of such information is:
  - 1) Approved in writing by the Commonwealth prior to its disclosure; or
  - 2) Directed by a court or other tribunal of competent jurisdiction unless the contract requires prior Commonwealth approval; or
  - 3) Required for compliance with federal or state securities laws or the requirements of national securities exchanges; or
  - 4) Necessary for purposes of Contractor's internal assessment and review; or
  - 5) Deemed necessary by Contractor in any action to enforce the provisions of this contract or to defend or prosecute claims by or against parties other than the Commonwealth; or
  - 6) Permitted by the valid authorization of a third party to whom the information, documents, reports, data, or records pertain: or
  - 7) Otherwise required by law.
- j. Contractor certifies that neither it nor any of its officers, directors, associates, partners, limited partners or individual owners has been officially notified of,

charged with, or convicted of any of the following and agrees to immediately notify the Commonwealth agency contracting officer in writing if and when it or any officer, director, associate, partner, limited partner or individual owner has been officially notified of, charged with, convicted of, or officially notified of a governmental determination of any of the following:

- 1) Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property.
- 2) Commission of fraud or a criminal offense or other improper conduct or knowledge of, approval of or acquiescence in such activities by Contractor or any affiliate, officer, director, associate, partner, limited partner, individual owner, or employee or other individual or entity associated with:
  - (a) obtaining;
  - (b) attempting to obtain; or
  - (c) performing a public contract or subcontract.

Contractor's acceptance of the benefits derived from the conduct shall be deemed evidence of such knowledge, approval or acquiescence.

- 3) Violation of federal or state antitrust statutes.
- 4) Violation of any federal or state law regulating campaign contributions.
- 5) Violation of any federal or state environmental law.
- 6) Violation of any federal or state law regulating hours of labor, minimum wage standards or prevailing wage standards; discrimination in wages; or child labor violations.
- 7) Violation of the Act of June 2, 1915 (P.L.736, No. 338), known as the *Workers' Compensation Act, 77 P.S. 1 et seq.*
- 8) Violation of any federal or state law prohibiting discrimination in employment.
- 9) Debarment by any agency or department of the federal government or by any other state.
- 10) Any other crime involving moral turpitude or business honesty or integrity.

Contractor acknowledges that the Commonwealth may, in its sole discretion, terminate the contract for cause upon such notification or when the Commonwealth otherwise learns that Contractor has been officially notified, charged, or convicted.

- k. If this contract was awarded to Contractor on a non-bid basis, Contractor must, (as required by Section 1641 of the *Pennsylvania Election Code*) file a report of political contributions with the Secretary of the Commonwealth on or before February 15 of the next calendar year. The report must include an itemized list of all political contributions known to Contractor by virtue of the knowledge possessed by every officer, director, associate, partner, limited partner, or individual owner that has been made by:
- 1) Any officer, director, associate, partner, limited partner, individual owner or members of the immediate family when the contributions exceed an aggregate of one thousand dollars (\$1,000) by any individual during the preceding year; or
  - 2) Any employee or members of his immediate family whose political contribution exceeded one thousand dollars (\$1,000) during the preceding year.

To obtain a copy of the reporting form, Contractor shall contact the Bureau of Commissions, Elections and Legislation, Division of Campaign Finance and Lobbying Disclosure, Room 210, North Office Building, Harrisburg, PA 17120.

- l. Contractor shall comply with requirements of the *Lobbying Disclosure Act*, 65 Pa. C.S. § 13A01 *et seq.*, and the regulations promulgated pursuant to that law. Contractor employee activities prior to or outside of formal Commonwealth procurement communication protocol are considered lobbying and subjects the Contractor employees to the registration and reporting requirements of the law. Actions by outside lobbyists on Contractor's behalf, no matter the procurement stage, are not exempt and must be reported.
- m. When Contractor has reason to believe that any breach of ethical standards as set forth in law, the Governor's Code of Conduct, or in these provisions has occurred or may occur, including but not limited to contact by a Commonwealth officer or employee which, if acted upon, would violate such ethical standards, Contractor shall immediately notify the Commonwealth contracting officer or Commonwealth Inspector General in writing.
- n. Contractor, by submission of its bid or proposal and/or execution of this contract and by the submission of any bills, invoices or requests for payment pursuant to the contract, certifies and represents that it has not violated any of these contractor integrity provisions in connection with the submission of the bid or proposal, during any contract negotiations or during the term of the contract.

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- o. Contractor shall cooperate with the Office of Inspector General in its investigation of any alleged Commonwealth employee breach of ethical standards and any alleged Contractor non-compliance with these provisions. Contractor agrees to make identified Contractor employees available for interviews at reasonable times and places. Contractor, upon the inquiry or request of the Office of Inspector General, shall provide, or if appropriate, make promptly available for inspection or copying, any information of any type or form deemed relevant by the Inspector General to Contractor's integrity and compliance with these provisions. Such information may include, but shall not be limited to, Contractor's business or financial records, documents or files of any type or form that refers to or concern this contract.
- p. For violation of any of these Contractor Integrity Provisions, the Commonwealth may terminate this and any other contract with Contractor, claim liquidated damages in an amount equal to the value of anything received in breach of these provisions, claim damages for all additional costs and expenses incurred in obtaining another contractor to complete performance under this contract, and debar and suspend Contractor from doing business with the Commonwealth. These rights and remedies are cumulative, and the use or non-use of any one shall not preclude the use of all or any other. These rights and remedies are in addition to those the Commonwealth may have under law, statute, regulation, or otherwise.
- q. For purposes of these Contractor Integrity Provisions, the following terms shall have the meanings found in this Subparagraph.
  - 1) "Confidential information" means information that a) is not already in the public domain; b) is not available to the public upon request; c) is not or does not become generally known to Contractor from a third party without an obligation to maintain its confidentiality; d) has not become generally known to the public through an act or omission of Contractor; or e) has not been independently developed by Contractor without the use of confidential information of the Commonwealth.
  - 2) "Consent" means written permission signed by a duly authorized officer or employee of the Commonwealth, provided that where the material facts have been disclosed, in writing, by pre-qualification, bid, proposal, or contractual terms, the Commonwealth shall be deemed to have consented by virtue of execution of this contract.
  - 3) "Contractor" means the individual or entity that has entered into this contract with the Commonwealth, including those directors, officers, partners, managers, and owners having more than a five percent interest in Contractor.
  - 4) "Financial interest" means:

- a) Ownership of more than a five percent interest in any business; or
  - b) Holding a position as an officer, director, trustee, partner, employee, or holding any position of management.
- 5) “Gratuity” means tendering, giving or providing anything of more than nominal monetary value including, but not limited to, cash, travel, entertainment, gifts, meals, lodging, loans, subscriptions, advances, deposits of money, services, employment, or contracts of any kind. The exceptions set forth in the [Governor’s Code of Conduct, Executive Order 1980-18](#), the 4 Pa. Code §7.153(b), shall apply.
- 6) “Immediate family” means a spouse and any unemancipated child.
- 7) “Non-bid basis” means a contract awarded or executed by the Commonwealth with Contractor without seeking bids or proposals from any other potential bidder or offeror.
- 8) “Political contribution” means any payment, gift, subscription, assessment, contract, payment for services, dues, loan, forbearance, advance or deposit of money or any valuable thing, to a candidate for public office or to a political committee, including but not limited to a political action committee, made for the purpose of influencing any election in the Commonwealth of Pennsylvania or for paying debts incurred by or for a candidate or committee before or after any election.

**37. CONTRACTOR RESPONSIBILITY PROVISIONS**

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

- a. The Contractor certifies, in writing, for itself and its subcontractors required to be disclosed or approved by the Commonwealth, that as of the date of its execution of this Bid/Contract, that neither the Contractor, nor any such subcontractors, are under suspension or debarment by the Commonwealth or any governmental entity, instrumentality, or authority and, if the Contractor cannot so certify, then it agrees to submit, along with its Bid/Contract, a written explanation of why such certification cannot be made.
- b. The Contractor also certifies, in writing, that as of the date of its execution of this Bid/Contract it has no tax liabilities or other Commonwealth obligations, or has



filed a timely administrative or judicial appeal if such liabilities or obligations exist, or is subject to a duly approved deferred payment plan if such liabilities exist.

- c. The Contractor's obligations pursuant to these provisions are ongoing from and after the effective date of the Contract through the termination date thereof. Accordingly, the Contractor shall have an obligation to inform the Commonwealth if, at any time during the term of the Contract, it becomes delinquent in the payment of taxes, or other Commonwealth obligations, or if it or, to the best knowledge of the Contractor, any of its subcontractors are suspended or debarred by the Commonwealth, the federal government, or any other state or governmental entity. Such notification shall be made within 15 days of the date of suspension or debarment.
- d. The failure of the Contractor to notify the Commonwealth of its suspension or debarment by the Commonwealth, any other state, or the federal government shall constitute an event of default of the Contract with the Commonwealth.
- e. The Contractor agrees to reimburse the Commonwealth for the reasonable costs of investigation incurred by the Office of State Inspector General for investigations of the Contractor's compliance with the terms of this or any other agreement between the Contractor and the Commonwealth that results in the suspension or debarment of the Contractor. Such costs shall include, but shall not be limited to, salaries of investigators, including overtime; travel and lodging expenses; and expert witness and documentary fees. The Contractor shall not be responsible for investigative costs for investigations that do not result in the Contractor's suspension or debarment.
- f. The Contractor may obtain a current list of suspended and debarred Commonwealth contractors by either searching the Internet at <http://www.dgs.state.pa.us/> or contacting the:

Department of General Services  
Office of Chief Counsel  
603 North Office Building  
Harrisburg, PA 17125  
Telephone No: (717) 783-6472  
FAX No: (717) 787-9138

**38. AMERICANS WITH DISABILITIES ACT**

- a. Pursuant to federal regulations promulgated under the authority of *The Americans With Disabilities Act*, 28 C.F.R. § 35.101 et seq., the Contractor understands and agrees that it shall not cause any individual with a disability to be excluded from participation in this Contract or from activities provided for under this Contract on the basis of the disability. As a condition of accepting this contract, the Contractor agrees to comply with the "General Prohibitions Against Discrimination," 28 C.F.R. § 35.130, and all other regulations promulgated under Title II of *The*

*Americans With Disabilities Act* which are applicable to all benefits, services, programs, and activities provided by the Commonwealth of Pennsylvania through contracts with outside contractors.

- b. The Contractor shall be responsible for and agrees to indemnify and hold harmless the Commonwealth of Pennsylvania from all losses, damages, expenses, claims, demands, suits, and actions brought by any party against the Commonwealth of Pennsylvania as a result of the Contractor's failure to comply with the provisions of subparagraph a above.

**39. RIGHT TO KNOW LAW**

- a. The Pennsylvania *Right-to-Know Law*, 65 P.S. §§ 67.101-3104, ("RTKL") applies to this Contract. For the purpose of these provisions, the term "the Commonwealth" shall refer to the contracting Commonwealth agency.
- b. If the Commonwealth needs the Contractor's assistance in any matter arising out of the RTKL related to this Contract, it shall notify the Contractor using the legal contact information provided in this Contract. The Contractor, at any time, may designate a different contact for such purpose upon reasonable prior written notice to the Commonwealth.
- c. Upon written notification from the Commonwealth that it requires the Contractor's assistance in responding to a request under the RTKL for information related to this Contract that may be in the Contractor's possession, constituting, or alleged to constitute, a public record in accordance with the RTKL ("Requested Information"), the Contractor shall:
  - 1) Provide the Commonwealth, within ten (10) calendar days after receipt of written notification, access to, and copies of, any document or information in the Contractor's possession arising out of this Contract that the Commonwealth reasonably believes is Requested Information and may be a public record under the RTKL; and
  - 2) Provide such other assistance as the Commonwealth may reasonably request, in order to comply with the RTKL with respect to this Contract.
- d. If the Contractor considers the Requested Information to include a request for a Trade Secret or Confidential Proprietary Information, as those terms are defined by the RTKL, or other information that the Contractor considers exempt from production under the RTKL, the Contractor must notify the Commonwealth and provide, within seven (7) calendar days of receiving the written notification, a written statement signed by a representative of the Contractor explaining why the requested material is exempt from public disclosure under the RTKL.

- e. The Commonwealth will rely upon the written statement from the Contractor in denying a RTKL request for the Requested Information unless the Commonwealth determines that the Requested Information is clearly not protected from disclosure under the RTKL. Should the Commonwealth determine that the Requested Information is clearly not exempt from disclosure, the Contractor shall provide the Requested Information within five (5) business days of receipt of written notification of the Commonwealth's determination.
- f. If the Contractor fails to provide the Requested Information within the time period required by these provisions, the Contractor shall indemnify and hold the Commonwealth harmless for any damages, penalties, costs, detriment or harm that the Commonwealth may incur as a result of the Contractor's failure, including any statutory damages assessed against the Commonwealth.
- g. The Commonwealth will reimburse the Contractor for any costs associated with complying with these provisions only to the extent allowed under the fee schedule established by the Office of Open Records or as otherwise provided by the RTKL if the fee schedule is inapplicable.
- h. The Contractor may file a legal challenge to any Commonwealth decision to release a record to the public with the Office of Open Records, or in the Pennsylvania Courts, however, the Contractor shall indemnify the Commonwealth for any legal expenses incurred by the Commonwealth as a result of such a challenge and shall hold the Commonwealth harmless for any damages, penalties, costs, detriment or harm that the Commonwealth may incur as a result of the Contractor's failure, including any statutory damages assessed against the Commonwealth, regardless of the outcome of such legal challenge. As between the parties, the Contractor agrees to waive all rights or remedies that may be available to it as a result of the Commonwealth's disclosure of Requested Information pursuant to the RTKL.
- i. The Contractor's duties relating to the RTKL are continuing duties that survive the expiration of this Contract and shall continue as long as the Contractor has Requested Information in its possession.

#### **40. INFORMATION TECHNOLOGY POLICIES**

Contractor shall comply with the IT standards and policies issued by the Governor's Office of Administration, Office for Information Technology (OA/OIT) (located at: <http://www.oa.pa.gov/Policies/Pages/itp.aspx#>), including the accessibility standards set out in IT Policy ACC001, *IT Accessibility Policy*. The Contractor shall ensure that Reseller Services procured under this Contract comply with the applicable standards. In the event such standards change during Contractor's performance, and the Commonwealth requests that Contractor comply with the changed standard, then any incremental costs incurred by Contractor to comply with such changes shall be paid for pursuant to a change order to the Contract.

**41. VIRUS, MALICIOUS, MISCHIEVOUS OR DESTRUCTIVE PROGRAMMING**

- a. Notwithstanding any other provision in this Contract to the contrary, if the Contractor or any of its employees, subcontractors or consultants introduces a virus or malicious, mischievous or destructive programming into the Commonwealth's software or computer networks and has failed to comply with the Commonwealth software security standards, and provided further that the Commonwealth can demonstrate that the virus or malicious, mischievous or destructive programming was introduced by the Contractor or any of its employees, subcontractors or consultants, the Contractor shall be liable for any damage to any data and/or software owned or licensed by the Commonwealth. The Contractor shall be liable for any damages incurred by the Commonwealth including, but not limited to, the expenditure of Commonwealth funds to eliminate or remove a computer virus or malicious, mischievous or destructive programming that result from the Contractor's failure to take proactive measures to keep virus or malicious, mischievous or destructive programming from originating from the Contractor, its servants, agents or employees through appropriate firewalls and maintenance of anti-virus software and software security updates (such as operating systems security patches, etc.). In the event of destruction or modification of software, the Contractor shall eliminate the virus, malicious, mischievous or destructive programming, restore the Commonwealth's software, and be liable to the Commonwealth for any resulting damages. The Contractor shall be responsible for reviewing Commonwealth software security standards in effect at the commencement of the Contract and complying with those standards. The Contractor's liability shall cease if the Commonwealth has not fully complied with its own software security standards.
- b. The Contractor shall perform a security scan on any software or computer program developed by the Contractor or its subcontractors in a country other than the United States of America that may come in contact with the Commonwealth's software or computer networks. Contractor shall perform such security scan prior to introducing any such software or computer program into a Commonwealth development environment, test environment or production environment. The results of these security scans will be provided to the Commonwealth prior to installing into any Commonwealth development environment, test environment or production environment. The Commonwealth may perform, at its discretion, additional security scans on any software or computer program prior to installing in a Commonwealth environment as listed above.
- c. The Commonwealth may, at any time, audit, by a means deemed appropriate by the Commonwealth, any computing devices being used by representatives of the Contractor to provide Reseller Services to the Commonwealth that will be connected to a Commonwealth network for the sole purpose of determining whether those devices have anti-virus software with current virus signature files and the current minimum operating system patches or workarounds have been installed. Devices found to be out of compliance will immediately be disconnected

and will not be permitted to connect or reconnect to the Commonwealth network until the proper installations have been made. The Commonwealth shall not install any software or monitoring tools on the Contractor's equipment without the Contractor's written consent to do so.

- d. The Contractor may use the anti-virus software used by the Commonwealth to protect Contractor's computing devices used in the course of providing Reseller Services to the Commonwealth. It is understood that the Contractor may not install the software on any computing device not being used to provide Reseller Services to the Commonwealth, and that all copies of the software will be removed from all devices upon termination of this Contract.
- e. Neither the Commonwealth nor the Issuing Agency will be responsible for any damages to the Contractor's computers, data, software, etc. caused as a result of the installation of the Commonwealth's anti-virus software or monitoring software on the Contractor's computers.

#### **42. BACKGROUND CHECKS**

- a. The Contractor must, at its expense, arrange for a background check for each of its employees, as well as the employees of any of its subcontractors, who will have access to Commonwealth facilities, either through on-site access or through remote access. Background checks are to be conducted via the Request for Criminal Record Check form and procedure found at <http://www.psp.pa.gov/Pages/Request-a-Criminal-History-Record.aspx#>. The background check must be conducted prior to initial access and on an annual basis thereafter.
- b. Before the Commonwealth will permit access to the Contractor, the Contractor must provide written confirmation that the background checks have been conducted. If, at any time, it is discovered that a Contractor employee has a criminal record that includes a felony or misdemeanor involving terroristic behavior, violence, use of a lethal weapon, or breach of trust/fiduciary responsibility or which raises concerns about building, system or personal security or is otherwise job-related, the Contractor shall not assign that employee to any Commonwealth facilities, shall remove any access privileges already given to the employee and shall not permit that employee remote access unless the Commonwealth consents to the access, in writing, prior to the access. The Commonwealth may withhold its consent in its sole discretion. Failure of the Contractor to comply with the terms of this Section 42 on more than one occasion or Contractor's failure to appropriately address any single failure to the satisfaction of the Commonwealth may result in the Contractor being deemed in default of its Contract.
- c. The Commonwealth specifically reserves the right of the Commonwealth to conduct background checks over and above that described herein.

- d. Access to certain Capitol Complex buildings and other state office buildings is controlled by means of card readers and secured visitors' entrances. Commonwealth contracted personnel who have regular and routine business in Commonwealth worksites may be issued a photo identification or access badge subject to the requirements of the contracting agency and DGS set forth in Enclosure 3 of Commonwealth Management Directive 625.10 Amended, *Card Reader and Emergency Response Access to Certain Capitol Complex Buildings and Other State Office Buildings*. The requirements, policy and procedures include a processing fee payable by the Contractor for contracted personnel photo identification or access badges.

#### **43. ENVIRONMENTAL PROVISIONS**

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

#### **44. POST-CONSUMER RECYCLED CONTENT**

- a. Except as specifically waived by the Department of General Services in writing, any products which are provided to the Commonwealth as a part of the performance of the Contract must meet the minimum percentage levels for total recycled content as specified on the Department of General Services website at [www.dgs.state.pa.us](http://www.dgs.state.pa.us) on the date of submission of the bid, proposal or contract offer.
- b. Recycled Content Enforcement: The Contractor may be required, after delivery of the Contract item(s), to provide the Commonwealth with documentary evidence that the item(s) was in fact produced with the required minimum percentage of post-consumer and recovered material content.

#### **45. HAZARDOUS SUBSTANCES**

The Contractor shall provide information to the Commonwealth about the identity and hazards of hazardous substances supplied or used by the Contractor in the performance of the Contract. The Contractor must comply with Act 159 of October 5, 1984, known as the *Worker and Community Right to Know Act* (the "Act") and the regulations promulgated pursuant thereto at 4 Pa. Code § 301.1 *et seq.*

- a. Labeling. The Contractor shall insure that each individual product (as well as the carton, container or package in which the product is shipped) of any of the following substances (as defined by the Act and the regulations) supplied by the

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Contractor is clearly labeled, tagged or marked with the information listed in Paragraphs (1) through (4):

- 1) Hazardous substances:
  - a) The chemical name or common name,
  - b) A hazard warning, and
  - c) The name, address and telephone number of the manufacturer.
- 2) Hazardous mixtures:
  - a) The common name, but if none exists, then the trade name,
  - b) The chemical or common name of special hazardous substances comprising .01% or more of the mixture,
  - c) The chemical or common name of hazardous substances consisting 1.0% or more of the mixture,
  - d) A hazard warning, and
  - e) The name, address and telephone number of the manufacturer.
- 3) Single chemicals:
  - a) The chemical name or the common name,
  - b) A hazard warning, if appropriate, and
  - c) The name, address and telephone number of the manufacturer.
- 4) Chemical Mixtures:
  - a) The common name, but if none exists, then the trade name,
  - b) A hazard warning, if appropriate,
  - c) The name, address, and telephone number of the manufacturer, and
  - d) The chemical name or common name of either the top five substances by volume or those substances consisting of 5.0% or more of the mixture.

A common name or trade name may be used only if the use of the name more easily or readily identifies the true nature of the hazardous substance, hazardous mixture, single chemical, or mixture involved.

Container labels shall provide a warning as to the specific nature of the hazard arising from the substance in the container.

The hazard warning shall be given in conformity with one of the nationally recognized and accepted systems of providing warnings, and hazard warnings shall be consistent with one or more of the recognized systems throughout the workplace. Examples are:

- NFPA 704, Identification of the Fire Hazards of Materials.
- National Paint and Coatings Association: Hazardous Materials Identification System.
- American Society for Testing and Materials, Safety Alert Pictorial Chart.
- American National Standard Institute, Inc., for the Precautionary Labeling of Hazardous Industrial Chemicals.

Labels must be legible and prominently affixed to and displayed on the product and the carton, container, or package so that employees can easily identify the substance or mixture present therein.

- b. Material Safety Data Sheet. The Contractor shall provide Material Safety Data Sheets (MSDS) with the information required by the Act and the regulations for each hazardous substance or hazardous mixture. The Commonwealth must be provided an appropriate MSDS with the initial shipment and with the first shipment after an MSDS is updated or product changed. For any other chemical, the Contractor shall provide an appropriate MSDS, if the manufacturer, importer, or supplier produces or possesses the MSDS. The Contractor shall also notify the Commonwealth when a substance or mixture is subject to the provisions of the Act. Material Safety Data Sheets may be attached to the carton, container, or package mailed to the Commonwealth at the time of shipment.

#### **46. COVENANT AGAINST CONTINGENT FEES**

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



the Contract price or consideration, or otherwise recover the full amount of such commission, percentage, brokerage or contingent fee.

**47. APPLICABLE LAW**

This Contract shall be governed by and interpreted and enforced in accordance with the laws of the Commonwealth of Pennsylvania (without regard to any conflict of laws provisions) and the decisions of the Pennsylvania courts. The Contractor consents to the jurisdiction of any court of the Commonwealth of Pennsylvania and any federal courts in Pennsylvania, waiving any claim or defense that such forum is not convenient or proper. The Contractor agrees that any such court shall have in personam jurisdiction over it, and consents to service of process in any manner authorized by Pennsylvania law.

**48. COMPLIANCE WITH LAW**

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

**49. INTEGRATION**

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

**50. ORDER OF PRECEDENCE**

In the event there is a conflict among the documents comprising this Contract, the Commonwealth and the Contractor agree on the following order of precedence: the Contract; the solicitation; and the Contractor's response to the solicitation.

**51. CHANGES**

The Commonwealth reserves the right to make changes at any time during the term of the Contract or any renewals or extensions thereof: 1) to increase or decrease the quantities resulting from variations between any estimated quantities in the Contract and actual quantities; 2) to make changes to the Reseller Services within the scope of the Contract; 3) to notify the Contractor that the Commonwealth is exercising any Contract renewal or extension option; or 4) to modify the time of performance that does not alter the scope of the Contract to extend the completion date beyond the Expiration Date of the Contract or

any renewals or extensions thereof. Any such change shall be made by the Contracting Officer by notifying the Contractor in writing. The change shall be effective as of the date of the change, unless the notification of change specifies a later effective date. Such increases, decreases, changes, or modifications will not invalidate the Contract, nor, if performance security is being furnished in conjunction with the Contract, release the security obligation. The Contractor agrees to provide the service in accordance with the change order. Any dispute by the Contractor in regard to the performance required by any notification of change shall be handled through Contract Controversies Provision.

**52. NOTICE**

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

- a. If to the Contractor: the Contractor's address as recorded in the Commonwealth's Supplier Registration system.
- b. If to the Commonwealth: the address of the Contracting Officer as set forth on the Contract.

**53. INSTALLMENT PURCHASES**

- a. Installment purchase options. To the extent that the Contractor offers the Commonwealth or any purchasing agency ("Purchaser") the option to pay for any items covered by the Contract in installments over time, Appendix 1, Installment Purchase Terms and Conditions, in addition to the other terms and conditions of the Contract, shall govern the Installment Purchase. If a Purchaser desires to purchase items on an installment basis, the Purchaser shall indicate its Installment Purchase election on the Purchase Order issued to the Contractor ("Installment Purchase PO"). By issuing an Installment Purchase PO, the Purchaser explicitly agrees to these Installment Purchase Terms and Conditions. Any items covered by an Installment Purchase shall be called "Installment Items" in these Installment Purchase Terms and Conditions.
- b. Assignments. The Contractor may assign, without DGS or Purchaser consent, any Installment Purchase PO to a third party ("Initial Assignee") who will fund the purchase of the Installment Items. The Initial Assignee may take title to, and assume the right to receive all payments for, the Installment Items. The Contractor shall notify the Purchaser of any Installment Purchase PO assignment in its acknowledgment of the Installment Purchase PO to the Purchaser, providing the Purchaser with a copy of the assignment agreement between the Contractor and the Initial Assignee.

- c. **Installment Items.** Notwithstanding any provisions to the contrary in the Contract, in the event of an assignment to an Initial Assignee, the Initial Assignee shall be bound only to the Contractor's obligations specified in these Installment Purchase Terms and Conditions. An Initial Assignee shall not be responsible for any of the Contractor's additional representations, warranties, covenants or obligations under the Contract Documents. By issuing an Installment Purchase PO, the Purchaser waives any claims it may have under the Installment Purchase against the Initial Assignee for any loss, damage or expense caused by, defect in, or use or maintenance of any Installment Item. The Purchaser acknowledges that the Initial Assignee is not the supplier of the Installment Items and is not responsible for their selection or installation. After the ordering Purchaser executes, and the Initial Assignee receives, an acceptance certificate, the form of which can be found on the Forms page of the Department of General Services' webpage (<http://www.dgs.pa.gov>), if any portion of the Installment Items is unsatisfactory for any reason, the ordering Purchaser, nevertheless, shall continue to make payments under the applicable Installment Purchase Terms and Conditions and shall make any claim against the Contractor or the manufacturer, not against the Initial Assignee or any subsequent assignee of the Initial Assignee.
- d. **Acceptance.** After a Purchaser executes and the Initial Assignee receives an acceptance certificate ("Acceptance Certificate"), the form of which can be found on the Forms page of the Department of General Services' webpage (<http://www.dgs.pa.gov>):
- 1) The Purchaser shall, regardless of whether any portion of the Installment Items is unsatisfactory for any reason, nevertheless, continue to make payments under the applicable Installment Purchase and shall make any claim relating to the Installment Items against the Contractor or the manufacturer, not against the Initial Assignee or any subsequent assignee; and
  - 2) The rights of the Initial Assignee and any subsequent assignee to receive payments are absolute and unconditional and shall not be affected by any defense or right of set-off;
  - 3) If the Contractor delivers the Installment Items in more than one delivery, unless otherwise specified in the Installment Purchase PO, the Purchaser will provide separate Acceptance Certificates for each delivery of the items, and the Purchaser will make separate payments for the Installment Items corresponding to the amount of Installment Items delivered and accepted 30 days prior to the payment due date.

#### **54. CONTROLLING TERMS AND CONDITIONS**

The terms and conditions of this Contract shall be the exclusive terms of agreement between the Contractor and the Commonwealth. All quotations requested and received

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

**55. AGENCY-SPECIFIC SENSITIVE AND CONFIDENTIAL COMMONWEALTH DATA (IF APPLICABLE)**

- a. Contractor and/or Software Licensor understands that its level of access may allow it to view or access highly sensitive and confidential Commonwealth and third party data. This data is subject to various state and federal laws and policies that vary from agency to agency, and from program to program within an agency. If applicable, prior to deployment of the Licensed Products on any Commonwealth agency facilities, the Contractor and/or Software Licensor must receive and sign off on particular instructions and limitations as dictated by that Commonwealth agency, including but not limited to, as necessary, HIPAA Business Associate Agreements, a sample of which is attached hereto as Attachment 2 to this Contract's Appendix E, *Software License Requirements Agreement Template*. This sign-off document (a sample of which is attached hereto as Attachment 3 to this Contract's Appendix E, *Software License Requirements Agreement Template*), will include a description of the nature of the data which may be implicated based on the nature of the Contractor's and/or Software Licensor's access, and will incorporate the Business Associate Agreement if it is applicable.
- b. Contractor and/or Software Licensor hereby certifies and warrants that, after being informed by the Commonwealth agency of the nature of the data which may be implicated and prior to the installation of the Licensed Products), the Contractor and/or Software Licensor is and shall remain compliant with all applicable state and federal law and policy regarding the data's protection, and with the requirements memorialized in every completed and signed sign-off document. Every sign-off document completed by a Commonwealth agency and signed by at least one signatory of the Licensor authorized to bind the Contractor and/or Software Licensor is valid and is hereby integrated and incorporated by reference into this Contract via Purchase Orders issued under this Contract.
- c. This Section 55 does not require a Commonwealth agency to exhaustively list the law to which implicated data is subject; the Commonwealth agency is obligated only to list the nature of the data implicated by the Contractor's and/or Software Licensor's access, to refer the Contractor and/or Software Licensor to its privacy and security policies, and to specify requirements that are not otherwise inherent in compliance with law and policy.
- d. The requirements of this Section 55 are in addition to and not in lieu of other requirements of this Contract, its Exhibits, Appendices and Attachments, having to do with data privacy and security, including but not limited to the requirement that

the Licensor comply with this Contract's Appendix H, *Requirements for Non-Commonwealth Hosting Applications/Services Template*, and all applicable Commonwealth ITPs, which can be found at <http://www.oa.pa.gov/Policies/Pages/itp.aspx>.

- e. Contractor and/or Software Licensor shall conduct additional background checks, in addition to those required in Section 42, Background Checks, as may be required by a Commonwealth agency in its sign-off documents. The Contractor and/or Software Licensor shall educate and hold its agents, employees, contractors and subcontractors to standards at least as stringent as those contained in this Agreement. The Contractor and/or Software Licensor shall provide information regarding its agents, employees, contractors and subcontractors to the Commonwealth upon request.

## **56. FEDERAL REQUIREMENTS**

If applicable, the Contractor and/or Software Licensor must receive and sign off on particular federal requirements that a Commonwealth agency may be required to include when utilizing federal funds to procure the **Supplies and Services**. This sign-off document (a sample of which is attached as Attachment 3 to this Contract's Appendix E, *Software License Requirements Agreement Template*, in addition to any applicable requirements of Section 55, Agency-Specific Sensitive and Confidential Commonwealth Data, will include a description of the required federal provisions, along with the applicable forms necessary for the Contractor and/or Software Licensor execute, as necessary. The sign-off document, along with attachments, must be attached to the Purchase Order. The Commonwealth agency will inform the Contractor and/or Software Licensor whether one or both parties must execute the sign-off document as required by the federal government.

## **APPENDIX 1**

### **INSTALLMENT PURCHASE TERMS AND CONDITIONS**

#### **A. TERM OF INSTALLMENT PURCHASE**

The Contractor may provide any Installment Items under the Contract for any term up to 60 months, including a Fair Market Value Option for Lease/Purchases. The Purchaser shall identify the term selected on the Installment Purchase PO. The Installment Purchase term shall commence on the date the Purchaser accepts the Installment Items by executing the Acceptance Certificate, and the term shall continue for the length specified on the Installment Purchase PO. The form of the Acceptance Certificate can be found on the Forms page of the Department of General Services' webpage (<http://www.dgs.pa.gov>).

If the Contractor delivers the Installment Item in more than one delivery, unless otherwise specified in the Installment Purchase PO, the Purchaser will provide separate Acceptance Certificates for each delivery of the Installment Items, and the Purchaser will make periodic payments for the Installment Items corresponding to the amount of the Installment Items delivered and accepted 30 days prior to the payment due date.

To the extent that there is a conflict between the other terms and conditions of the Contract and these Installment Purchase Terms and Conditions, these Installment Purchase Terms and Conditions shall prevail to the extent that the Purchaser has elected an Installment Purchase option.

#### **B. PAYMENTS**

1. Full Term Intention. The Purchaser shall pay the applicable monthly or annual payment for the Installment Items. The Purchaser shall continue payment for the full Installment Purchase term, unless the Purchaser terminates the Installment Purchase, either for Contractor default as set forth in the Default provision of the Contract or for non-appropriation of funds as specified in this Section.
2. Non-appropriation. The Purchaser's obligation is payable only and solely from funds allotted for the purpose of the Installment Purchase. If sufficient funds are not appropriated for continuation of performance under any Installment Purchase for any fiscal year subsequent to the one in which the Purchaser issued the Installment Purchase PO, the Purchaser may return the Installment Items to the Contractor/Initial Assignee (as applicable), and thereafter the Contractor/Initial Assignee shall release the Purchaser of all further obligations under the Installment Purchase, provided:
  - a. The Purchaser delivers unencumbered title to the Installment Items to the Contractor or Initial Assignee (if applicable);
  - b. The Purchaser returns the Installment Items to the Contractor/Initial Assignee in good condition, reasonable wear and tear excepted; and

- c. The Purchaser gives 30 days written notice of the failure of appropriations to the Contractor/Initial Assignee, along with a certification that the Installment Items are not being replaced by similar items from another vendor. In the event the Purchaser returns the Installment Items for failure of appropriations, the Purchaser shall pay all amounts then due under the Installment Purchase through the end of the fiscal year for which sufficient funds were appropriated for the Installment Purchase.

### **C. TITLE**

Title to the Installment Items shall pass to the Purchaser at the time and place of delivery to the Purchaser of each unit of equipment, except as otherwise set forth in the Contract or PO. The Contractor or Initial Assignee shall have a purchase money security interest in the Installment Items until payment of all installments as set forth in the payment schedule are made, or if the Purchaser prepays its installments, upon payment of the agreed amount between the Contractor and the Purchaser as set forth in Section I of this Appendix.

- a. Upon payment of the final installment or other concluding payment option, neither the Contractor nor its assignee shall have any further interest in the Installment Items.
- b. The Installment Items shall remain personal property and shall not become a fixture or affixed to real property without consent of the Contractor/assignee.
- c. At the request of the Contractor or Initial Assignee, the Purchaser will join the Contractor/assignee in executing one or more UCC-1 financing statements.
- d. The Purchaser will keep the Installment Items free and clear of all encumbrances except the Contractor's/assignee's security interest.

### **D. USE AND LOCATION OF, AND ALTERATION TO INSTALLMENT ITEM**

The Purchaser shall keep the Installment Items within the confines of the Commonwealth of Pennsylvania and shall inform the Contractor/Initial Assignee upon request of the location of the Installment Items. The Purchaser, at its own cost and expense, shall maintain the Installment Items in good operating condition and will not use or deal with the Installment Items in any manner which is inconsistent with the terms of the Contract or any applicable laws and regulations. The Purchaser agrees not to misuse, abuse or waste the Installment Items and the Purchaser will not allow the Installment Item to deteriorate, except for ordinary wear and tear resulting from their intended use. No alterations, changes or modifications to the Installment Items shall be made without the approval of the Contractor/Initial Assignee.

### **E. RISK OF LOSS**

1. The Purchaser, after acceptance of the installment Items, shall assume and bear the risk of loss or damage to, or theft of, the Installment Items (including all component parts from

any cause other than action or inaction of the Contractor/assignee. The loss or damage of the Installment Items shall not impair any obligation of the Purchaser under these Installment Purchase Terms and Conditions, which shall continue in full force and effect. In the event that all or part of the Installment Items shall, as a result of the above-mentioned causes, become, in the Purchaser's reasonable determination, lost, stolen, destroyed, rendered unusable, or irreparably damaged, then the Purchaser shall notify the Contractor/assignee in writing. At its option, the Purchaser shall elect either:

- a. to replace the equipment with like equipment, or
  - b. to pay pro rata to the Contractor/assignee all payments then currently due according to the payment schedule, plus the pro rata principal portion of any remaining installments. The "pro rata principal portion of remaining installment payments" is that percentage of the principal portion of remaining installment payments as of the date of payment that the cost of the units of the equipment lost, stolen, destroyed, or rendered irreparably unusable or damaged bears to the total cost of the equipment determined by the amounts set forth in the Installment Purchase PO.
2. The Purchaser assumes all risks and liabilities for injury to or death of any person, or damage to any property, arising out of the Purchaser's possession, use, operation, condition, or storage of any Installment Items, as more fully set forth in Paragraph 1 of Section G, below.
  3. The Purchaser agrees to insure the Installment Items as provided under Paragraph 2 of Subsection G, below.

#### **F. WARRANTIES**

1. The Purchaser shall have the benefit of any and all manufacturer or supplier warranties for the Installment Items during the Installment Purchase term.
2. The Contractor/Initial Assignee and any subsequent assignee warrants that neither the Contractor/Initial Assignee or subsequent assignee, nor anyone acting or claiming through these parties by assignment or otherwise, will interfere with the Purchaser's quiet enjoyment of the Installment Items so long as no event of default as defined in Section J shall have occurred and be continuing.

#### **G. LIABILITY**

1. The Purchaser assumes all risks and liabilities for injury to or death of any person or damage to any property, arising out of the Purchaser's possession, use, operation, condition, or storage of any Installment Item, whether such injury or death be of agents or employees of the Purchaser or of third parties, and whether such property damage be to the Purchaser's property or the property of others; provided, however, that the damage or injury results from the action or inaction of the Purchaser, its agents or employees, and



provided that judgment has been obtained against the Purchaser, its agents or employees. This provision shall not be construed to limit the governmental immunity of any Purchaser.

2. The Purchaser shall, during the Installment Purchase term, either self-insure or purchase insurance to cover the risks it has assumed under Paragraph 1 of this section, including but not limited to risks of public liability and property damage.

## **H. ASSIGNMENT**

1. The Purchaser shall not assign any Installment Purchase PO or other interest in the Installment Item without the prior written consent of the Contractor or its assignee. The Contractor may assign, and/or grant security interests in whole or in part in, the Installment Purchase PO and Installment Item to an Initial Assignee, who in turn may further assign and/or grant a security interest in an Installment Purchase to a subsequent assignee without the Purchaser's consent. Any other Contractor assignment shall require the Purchaser's prior written consent. Upon written notice to the Purchaser, the Contractor may assign payments under any Installment Purchase to a third party.
2. The Contractor may assign, without Purchaser consent, any Installment Purchase PO to a third party ("Initial Assignee") who will fund the purchase of the Installment Item. The Initial Assignee may take title to, and assume the right to receive all rental payments for, the Installment Item. The Contractor shall notify the Purchaser of any Installment Purchase PO assignment in its acknowledgment of the Installment Purchase PO to the Purchaser, providing the Purchaser with a copy of the assignment agreement between the Contractor and the Initial Assignee.
3. Notwithstanding any provisions to the contrary in the Contract, in the event of an assignment to an Initial Assignee, the Initial Assignee shall be bound only to the Contractor's obligations specified in these Leasing Terms and Conditions. An Initial Assignee shall not be responsible for any of the Contractor's additional representations, warranties, covenants or obligations under the Contract Documents. By issuing an Installment Purchase PO, the Purchaser waives any claims it may have under the Installment Purchase against the Initial Assignee for any loss, damage or expense caused by, defect in, or use or maintenance of any Installment Item. The Purchaser acknowledges that the Initial Assignee is not the supplier of the Installment Item and is not responsible for their selection or installation. After the ordering Purchaser executes, and the Initial Assignee receives, an Acceptance Certificate, if any portion of the Installment Item is unsatisfactory for any reason, the ordering Purchaser shall, nevertheless, continue to make payments under the applicable Installment Purchase terms and shall make any claim against the Contractor or the manufacturer, not against the Initial Assignee or any subsequent assignee of the Initial Assignee.
4. After a Purchaser executes and the Initial Assignee receives an Acceptance Certificate:
  - a. The Purchaser shall, regardless of whether any portion of the Installment Item is unsatisfactory for any reason, nevertheless, continue to make payments under the

applicable Installment Purchase and shall make any claim relating to the Installment Item against the Contractor or the manufacturer, not against the Initial Assignee or any subsequent assignee; and

- b. The rights of the Initial Assignee and any subsequent assignee to receive rental payments are absolute and unconditional and shall not be affected by any defense or right of set-off.

## 5. Warranty Disclaimer

IN THE EVENT THE CONTRACTOR ASSIGNS AN INSTALLMENT PURCHASE TO AN INITIAL ASSIGNEE, SUCH INITIAL ASSIGNEE AND ANY SUBSEQUENT ASSIGNEE MAKE NO WARRANTY (OTHER THAN A WARRANTY OF QUIET ENJOYMENT OF THE INSTALLMENT ITEM), EXPRESS OR IMPLIED, AS TO ANY MATTER WHATSOEVER, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. AS TO THE INITIAL ASSIGNEE AND ANY SUBSEQUENT ASSIGNEE, THE PURCHASER TAKES THE INSTALLMENT ITEM "AS IS." IN NO EVENT SHALL THE INITIAL ASSIGNEE OR ANY SUBSEQUENT ASSIGNEE HAVE ANY LIABILITY FOR, NOR SHALL THE PURCHASER HAVE ANY REMEDY AGAINST, THE INITIAL ASSIGNEE OR ANY SUBSEQUENT ASSIGNEE FOR CONSEQUENTIAL DAMAGES, LOSS OF SAVINGS OR LOSS OF USE.

## I. FINANCING AND PREPAYMENT

1. If the Contractor is not the supplier of the Installment Item, the Contractor will pay the charges for the Installment Items directly to the supplier. In the event the Contractor assigns the Installment Purchase to an Initial Assignee, the Initial Assignee will pay the charges directly to the Contractor or the supplier, as applicable. If the Contractor has assigned rental payments under the Installment Purchase to an Initial Assignee, the Purchaser's obligation to make rental payments for the Installment Item for which the Purchaser has executed and delivered acceptance certificates shall not be affected by any discontinuance, return or destruction of any license or licensed program materials, or by any Purchaser dissatisfaction with any Installment Item.
2. The Purchaser may at any time elect to prepay its remaining Installment Purchase payments. The Purchaser shall provide notice of the intended prepayment date, which shall be at least one month after the date of the notice. Depending on market conditions at the time, the Contractor/Initial Assignee may reduce the balance of the remaining rental payments to reflect the requested prepayment and shall advise the Purchaser of the balance to be paid.
3. If the Purchaser purchases Contract items related to Installment Item prior to the expiration of the Installment Purchase terms, or if the Installment Purchase is terminated for any reason except non-appropriation as described in Section B of these Installment Purchase

Terms and Conditions, and if the Installment Item has been delivered and the Purchaser has executed and delivered to the Contractor an acceptance certificate, the Purchaser shall prepay such Installment Item.

## **J. REMEDIES FOR DEFAULT**

1. If the Purchaser does not make a required payment within 30 days after its due date and such nonpayment continues for 15 days after receipt of written notice from the Contractor/Initial Assignee that the Purchaser is delinquent in payment, if the Purchaser breaches any other provision under these Installment Purchase Terms and Conditions and such breach continues for 15 days after receipt of written notice of the breach from the Contractor/Initial Assignee, or if the Purchaser files any petition or proceeding (or has a petition or proceeding filed against it) under any bankruptcy, insolvency or similar law, the Contractor/Initial Assignee may pursue and enforce the following remedies, individually or collectively:
  - a. Terminate the applicable Installment Purchase.
  - b. Take possession of any or all Contract items in the Purchaser's possession, without any court order or other process of law. For such purpose, upon written notice of its intention to do so, the Contractor or its assignee may enter upon the premises where the Contract items may be and remove and repossess the Contract items from the premises without being liable to the Purchaser in any action or legal proceedings. The Contractor/assignee, at its option, may, sell the repossessed Contract items at public or private sale for cash or credit. The Purchaser shall be liable for the Contractor's/assignee's expenses of retaking possession, including without limitation the removal of the Contract items and placing the Contract items in good operating condition (if not in good operating condition at the time of removal) in accordance with the manufacturer's specifications. Repossessed Contract items shall include only those items that were purchased under the Installment Purchase.
  - c. Recover from the Purchaser all rental payments then due, plus the net present value of the amount of the remaining rental payments. The present value of such remaining rental payments shall be calculated using a discount rate equal to the average of the weekly two- and three-year Treasury Constant Maturities published by the Federal Reserve Board for the last calendar week of the month preceding the Contractor's/assignee's termination of the applicable Installment Purchase. The Treasury Constant Maturities are published in Statistical Release H.15 and may be accessed via the Federal Reserve Board's Internet website at <http://www.federalreserve.gov/>.
2. In the event of Contractor default under the Default provision of the Contract, the Purchaser may pursue one or more of the following remedies:

## Appendix A, Standard Contract Terms and Conditions For IT Supplies and Related Services

- a. If the payments under the Installment Purchase have been assigned to an Initial Assignee, the Purchaser shall continue to make payments for that Installment Item which has been delivered and for which the Purchaser has provided acceptance certificates to the Contractor/Initial Assignee.
- b. The Purchaser may cancel, without liability for payment, its order for any Installment Item which has not been delivered and for which it has not issued acceptance certificates. In this instance, the amount of the Contract payments will be recalculated to take into consideration and pay for the actual amount of Installment Items which was delivered and accepted. If no Installment Items have been delivered and accepted, the Purchaser may terminate the Installment Purchase without liability for any payment.
- c. If payments have not been assigned, the Purchaser may set off or counterclaim any and all damages incurred by the Purchaser as a result of the Contractor's default against its obligation to make payments.

### **K. COMPLIANCE WITH INTERNAL REVENUE CODE**

1. Tax Exempt Financing. If it intends to provide tax exempt financing, the Contractor/Initial Assignee must file, in timely fashion, any reports the Internal Revenue Service may require with respect to the order under the Internal Revenue Code (IRC). The Purchaser shall cooperate with the Contractor/Initial Assignee in the preparation and execution of these documents. The Purchaser shall also keep a copy of each notification of assignment with the Purchaser's counterpart of the order and shall not permit, during the Installment Purchase term, the Installment Item to be directly or indirectly used for a private business use within the meaning of Section 141 of the IRC.
2. Governmental status. Eligible Purchasers include State entities or political subdivisions of a State for the purpose of Section 103(a) of the IRC as well as tax exempt non-profit corporations and entities under 501(c)(4) of the IRC. Any misrepresentation of a Purchaser's status under the IRC shall constitute an event of default by the Purchaser. If the Internal Revenue Service rules that the Purchaser does not so qualify under either Section 103(a) or 501(c)(4) of the IRC, or if the Purchaser fails to cooperate with the Contractor/Initial Assignee in the preparation and execution of any reports required under Section 124 or 149 of the IRC (including 8038G and 8038GC forms), the Purchaser, upon demand, will pay the Contractor/Initial Assignee a sum the Contractor/Initial Assignee determines sufficient to return the Contractor/Initial Assignee to the economic status it would otherwise have received.

### **L. GOVERNING LAW**

All Installment Purchases made under these Installment Purchase Terms and Conditions shall be governed by and construed in accordance with the laws of the Commonwealth of Pennsylvania, except that the parties agree that Article 2A of the Uniform Commercial Code shall not apply or govern transactions under these Installment Purchase Terms and Conditions.

**M. NOTICES**

Service of all notices under these Installment Purchase Terms and Conditions shall be sufficient if delivered to the Purchaser at the address set forth in the applicable Installment Purchase PO, or to the Contractor/Initial Assignee at the address set forth in its acknowledgment of the Installment Purchase PO, including any attached document. Notices by mail shall be effective when deposited in the U.S. mail, properly addressed, with sufficient paid postage. Notices delivered by hand or by overnight courier shall be effective when actually received.

**Commonwealth of Pennsylvania**

Software IFB

Pricing Proposal Response Template

Lot 1 - Microsoft Cost Markup

**Instructions:** Please provide a mark up on the cost for Microsoft Software. Cost is expected to be the Level D pricing Microsoft extends to the Commonwealth of PA.

Publisher #	Software Publisher	Historical Annual Cost	Markup % (+/-)	Total Cost for Evaluation Purposes (automatically calculated)
1	MICROSOFT CORPORATION	\$ 27,259,973.88		\$ 27,259,973.88

Commonwealth of Pennsylvania  
 Software IFB  
 Pricing Proposal Response Template  
 Lot 2 - IBM Discount from List

**Instructions:** Please provide a percentage discount from the IBM retail list price for each of the product categories below.

Software Category	Historical Annual License Cost	License Minimum % Discount from List	Net Cost for Evaluation Purposes (automatically calculated)	Historical Annual Support and Maintenance Cost	Support and Maintenance Minimum % Discount from List	Net Cost for Evaluation Purposes (automatically calculated)
Core Middleware	\$ 1,240,382.00		\$ 1,240,382.00	\$ 3,679,962.00		\$ 3,679,962.00
Analytics	\$ 412,780.00		\$ 412,780.00	\$ 2,166,807.00		\$ 2,166,807.00
Core Hardware	\$ 282,322.00		\$ 282,322.00	\$ 859,818.00		\$ 859,818.00
Security	\$ 50,000.00		\$ 50,000.00	\$ 295,653.00		\$ 295,653.00
Commerce	\$ 285,184.00		\$ 285,184.00	\$ 71,296.00		\$ 71,296.00
Other	\$ 89,787.00		\$ 89,787.00	\$ 175,746.00		\$ 175,746.00
<b>Total</b>			<b>\$ 2,360,455</b>	<b>Total</b>		<b>\$ 7,249,282.00</b>
						<b>TOTAL NET COST FOR EVALUATION PURPOSES (automatically calculated)</b>
						<b>\$ 9,609,737.00</b>

**Instructions:** Please provide a percentage discount off of the Oracle retail list price.

Oracle Discount	Historical Annual Cost	% Discount off MSRP	Maintenance as a % of Software License Cost
Software	\$ 2,100,000.00		
Support	\$ 357,000.00		

**Market Basket**

Software Title	Historical Annual Volume	MSRP	Discount (auto-populated)	Net Unit Price (automatically calculated)	Total Cost for Evaluation Purposes (automatically calculated)	Annual Maintenance (automatically calculated)
Access Manager Non Employee License User License - External License	35000		0.00%	\$ -	\$ -	\$ -
Advanced Security Processor License	8		0.00%	\$ -	\$ -	\$ -
Database Lifecycle Management Pack - Processor CSI # 19771628- QTY 124 Annual	124		0.00%	\$ -	\$ -	\$ -
Oracle Database Enterprise Edition Processor License	755		0.00%	\$ -	\$ -	\$ -
Oracle Endeca Server - Processor Perpetual	28		0.00%	\$ -	\$ -	\$ -
Oracle Endeca Text Enrichment with Sentiment Analytics for English - Processor Perpetual	6		0.00%	\$ -	\$ -	\$ -
Oracle RightNow Enterprise Dynamic Agent Desktop Cloud Service	355		0.00%	\$ -	\$ -	\$ -
Oracle RightNow Universal Tier 1 Sessions Service Period Pool - 100 Sessions - Monthly Capacity, Per Unit Price	20206		0.00%	\$ -	\$ -	\$ -
Real Application Clusters Processor License	54		0.00%	\$ -	\$ -	\$ -
Universal Content Management, Processor License Universal Content Management- CSI # 18054700- QTY 12 Processors PoP: Annual	24		0.00%	\$ -	\$ -	\$ -
Weblogic Server Enterprise Edition, Processor Licenses CSI # 15978190 Annual	16		0.00%	\$ -	\$ -	\$ -
<b>Total</b>						<b>\$ 357,000.00</b>



Commonwealth of Pennsylvania  
 Software IFB  
 Pricing Proposal Response Template  
 Lot 4 - SAP Software, Maintenance and Consulting Services

**Instructions:** Please provide the discount off of SAP's price list for software. Please also indicate the cost of software maintenance as a % of the after discount license cost.  
 Software & Maintenance

Product / Service	Historical Annual Software Retail Cost	% Discount From MSRP Price List	Net Software Cost (automatically calculated)	Maintenance as a % of Software License Cost	Annual Maintenance Spend for Evaluation Purposes (automatically calculated)
Software	\$ 1,000,000.00		\$ 1,000,000.00		\$ -

**Instructions:** Please provide an hourly rate for both onsite and remote consulting services for the following positions.  
 Consulting Services

SAP Pay Category	Job Title	Total Annual Onsite Hours	Onsite Hourly Rate	Total Annual Remote Hours	Remote Hourly Rate	Total Consulting Services Cost
K1	Junior Consultant	299		330		\$ -
K2	Consultant I	269		297		\$ -
K3	Consultant II	242		267		\$ -
K4	Consultant III	218		241		\$ -
K5	Senior Consultant/Management Consultant	196		217		\$ -
K6	Lead Consultant/Project Implementation Manager/Implementation Specialist	177		195		\$ -
K7	Developer/Global Support Manager/Consulting Manager/Platinum Consultant/ Senior Consultant	159		175		\$ -
K8	Senior Developer/Consulting Director/Consulting Vice President	143		158		\$ -
<b>Total</b>						\$ -

Total SAP Software, Maintenance and Consulting Services Cost	\$ 1,000,000.00
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Instructions: Please provide a mark up on the cost for each of the software publishers listed. In the Maximum Markup box, please provide the highest potential markup for all other publishers. Please also indicate what type of relationship you have with the publisher in the "Authorized reseller" column. This value will be used in the market basket calculation below for evaluation purposes.

Minimum Markup for All Other Unlisted Publishers	Maximum Markup for Licenses and Services				
Publisher #	Software Publisher	Historical Annual Cost	Markup %	Authorized Reseller	
<b>Required Publishers</b>					
1	VMWARE	\$ 4,591,570.12			
2	ADobe SYSTEMS	\$ 2,231,466.07			
3	EMC	\$ 1,401,037.78			
4	CA	\$ 784,419.81			
5	GOOGLE	\$ 222,782.78			
6	CISCO WEBEX	\$ 277,155.38			
7	MCAFEE	\$ 62,967.77			
<b>Other Publishers</b>					
8	ECOLANE USA	\$ 3,148,898.78			
9	SYNERGY SOFTWARE TECHNOLOGIES	\$ 2,201,882.76			
10	SPRUNG INC	\$ 1,698,678.11			
11	SERVICESNOW INC	\$ 1,662,644.84			
12	SAS INSTITUTE INC	\$ 969,400.81			
13	HP SOFTWARE	\$ 896,081.42			
14	KNOWLEDGE CENTER	\$ 891,879.88			
15	SOFTWARE AG USA INC	\$ 666,097.17			
16	ORACLE TEXT	\$ 547,149.17			
17	HYLAND SOFTWARE	\$ 449,904.61			
18	ESCHOLAR	\$ 442,616.64			
19	KDFAX INC	\$ 376,837.84			
20	CHECK POINT SOFTWARE TECHNO	\$ 290,908.51			
21	CYBERSOFT TECHNOLOGIES INC	\$ 270,124.42			
22	ACCUSOFT CORPORATION	\$ 269,861.53			
23	RSA SECURITY	\$ 258,200.97			
24	TRENDS MICRO	\$ 211,005.78			
25	RESHAFT SOFTWARE	\$ 182,122.80			
	<b>Grand Total</b>	\$ 25,115,901.28			

**Market Basket**

Instructions: Please provide your cost for each item below. If the item has been discontinued, please indicate so by choosing "Discontinued" in the drop-down column, and then, if possible, enter a Substitute Manufacturer Part # and Software Title. Each item price will then be automatically calculated based on your Markup above ("Reseller Markup") and the total market basket cost will be used as the basis for evaluation. This Market Basket represents approximately \$20M of annual spend.

Software Publisher	Manufacturer Part #	Substitute Manufacturer Part #	Software Title	Substitute Software Title	Historical Annual Volume	Unit Cost	Discontinued	Markup % (Automatically calculated)	Net Unit Price (Automatically calculated)	Total Cost for Evaluation Purposes (Automatically calculated)
ACCUSOFT CORPORATION	2805880		ACCUSOFT SMARTZONE ICM/OCR AND FORMIX		1			0.00%	\$	\$
ACCUSOFT CORPORATION	2805885		ACCUSOFT BARCODE EXPRESS PRO SERVER LICENSES		1			0.00%	\$	\$
ACCUSOFT CORPORATION	2805893		ACCUSOFT PRIORITY SUPPORT		1			0.00%	\$	\$
ACCUSOFT CORPORATION	2805882		ACCUSOFT IMAGEEXPRESS PRO .NET PRIORITY SUPPORT		1			0.00%	\$	\$
ADobe SYSTEMS	59033888A		VIA ADOBE 2ND YEAR TERM PKG 12 MONTH ENT TERM LIC AND PLAT MAINT & SPTT		2			0.00%	\$	\$
ADobe SYSTEMS	210T-1424A-6B		VIA ADOBE EXPERIENCE MANAGER SITES - ONPREMISE TERM - PER BASE		1			0.00%	\$	\$
ADobe SYSTEMS	210T-1427-B		VIA ADOBE EXPERIENCE MANAGER FORMS ONPREMISE TERM - PER CPU		2			0.00%	\$	\$
ADobe SYSTEMS	60328614401000		VIA ADOBE ADIAT PRO IC 2015 LICENSE UNIVERSAL ENGLISH PERPETUAL		1			0.00%	\$	\$
ADobe SYSTEMS	210T-3276-P2-T1		VIA ADOBE ADOBE ADIAT DC PREMIUM SW SUB ONLY P2 - TIER 1 12 MONTHS		350			0.00%	\$	\$
CA	CA5075		ADDITIONAL SERVICES ONSITE		1			0.00%	\$	\$
CA	107M8990-M		IDENTITYMINDER FOR BUSINESS USERS MINT		1			0.00%	\$	\$
CA	CA083990-M		IDENTITYMINDER FOR BUSINESS USERS MINT		1			0.00%	\$	\$
CA	ADV480990-M		CA ADVANCED AUTHENTICATION // BUS PER USER MAINTENANCE		77,000			0.00%	\$	\$
CA	107M8990-M		CA SSO AGENT FOR BSM WEBHERE MINT		14			0.00%	\$	\$
CA	CA083990-M		IDENTITYMINDER FOR BUSINESS USERS MINT		1			0.00%	\$	\$
CA	ADV480990-M		CA ADVANCED AUTHENTICATION // BUS PER USER MAINTENANCE		10			0.00%	\$	\$
CA	107M8990-M		CA SSO AGENT FOR BSM WEBHERE MINT		1			0.00%	\$	\$
CHECK POINT SOFTWARE TECHNOLOGIES	CP85-SL-PRISM		CHECK POINT ENTERPRISE SUPPORT SUBSOP PRISM SUPP/MAINT		3			0.00%	\$	\$
CHECK POINT SOFTWARE TECHNOLOGIES	CP85-SL-STD		CHECK POINT ENTERPRISE SUPPORT SUBSOP SUPP		2			0.00%	\$	\$
CHECK POINT SOFTWARE TECHNOLOGIES	CP8B-INTL-L1		NET GEN THREAT PREVENTION PACKAGE FORHIGH-END LICENSE		1			0.00%	\$	\$
CHECK POINT SOFTWARE TECHNOLOGIES	CP8B-INTL		CHECK POINT ENTERPRISE BASED PROTECTION/NGTF FOR HA LICENSE		2			0.00%	\$	\$
CHECK POINT SOFTWARE TECHNOLOGIES	CP8B-INTL-L1		CHECK POINT INS BLADE SW BLADE FOR HIGH END APPL MINT		1			0.00%	\$	\$
CISCO WEBEX	W012281		NO COMMIT TELEPHONE BILLINGS OVERAGE		5			0.00%	\$	\$
CISCO WEBEX	W012243-Q1-LIB		CISCO WEBEX EE NAMED HOSTS NAMED HOSTS LIC P/MONTH		100			0.00%	\$	\$
CISCO WEBEX	W012157-A-001-1		CISCO WEBEX TRAINING CENTER NAMED HOSTS LIC		1			0.00%	\$	\$
CISCO WEBEX	W012122-001		WEBEX ATEC CTR PRO NMD HOSTS CAPSULES UST/LO/VP		1			0.00%	\$	\$
CISCO WEBEX	W012833-01		CISCO WEBEX EVENT CENTER NAMED HOSTS LIC		1			0.00%	\$	\$
CYBERSOFT TECHNOLOGIES INC	2801884		CYBERSOFT PRIME0 EDGE STUDENT ELIGIBILITY UPDATE LIC AND SUPPORT 1 YEAR		1			0.00%	\$	\$
CYBERSOFT TECHNOLOGIES INC	2803181		CYBERSOFT ANNUAL PROMOTIONS/MESSAGE MENU PLANNING SOFTWARE UPDATES AND SUPP		1			0.00%	\$	\$
CYBERSOFT TECHNOLOGIES INC	2803190		CYBERSOFT ANNUAL HOSTING OF PRIME0/EDGE MENU PLANNING		1			0.00%	\$	\$
CYBERSOFT TECHNOLOGIES INC	2813516		CYBERSOFT PRIME0 EDGE STUDENT ELIGIBILITY HOSTING LICENSE		1			0.00%	\$	\$
ECOLANE USA	2814378		ECOLANE MONTGOMERY COUNTY P/U ANN HOSTING/SUPP/LIC/MAINT		342			0.00%	\$	\$
ECOLANE USA	2814385		ECOLANE WESTMORLEN COUNTY P/U ANN HOSTING/SUPP/LIC/MAINT		98			0.00%	\$	\$
ECOLANE USA	2814383		ECOLANE CENTER COUNTY P/U ANN HOSTING/SUPP/LIC/MAINT		87			0.00%	\$	\$
ECOLANE USA	28120639		ECOLANE SVCS/INSTALL/EM/EMINT P/BLOCKS CTY 15 SVCS/HELS MAX ONSTG 0.6		1			0.00%	\$	\$
ECOLANE USA	2814382		ECOLANE WASHINGTON COUNTY P/U ANN HOSTING/SUPP/LIC/MAINT		68			0.00%	\$	\$
EMC	2818888		EMC CAPTIVA ENHANCED SOFTWARE SUPPORT		2			0.00%	\$	\$
EMC	97221887		EMC CAPTIVA SERVER VOL AD PL 100K P/PV FRP MAINT		1			0.00%	\$	\$
EMC	97221892		EMC CAPTIVA ADV RECOG VOL PL 100K P/PV FRP MAINT		1			0.00%	\$	\$
EMC	97221878		EMC CAPTIVA STD SVR PL ADV RECOG 100K P/PV FRP MAINT		1			0.00%	\$	\$
EMC	97221873		EMC CAPTIVASTD SVR PL ADV RECOG 100K P/PV ENCL MINT		1			0.00%	\$	\$
ESCHOLAR	4133 ES HIGHED		ESCHOLAR COMPLETE DATA WAREHOUSE PK 12 MAINT RNVL		2			0.00%	\$	\$
GOOGLE	GMINT20HST0		GOOGLE ANALYTICS PREMIUM UP TO 1 MILLION VISITS/DEAR LIC		1			0.00%	\$	\$
GOOGLE	GMINT20HST0		GOOGLE ANALYTICS PREMIUM UP TO 18 MONTHS/YEAR LIC		1			0.00%	\$	\$
GOOGLE	GMINT20HST0		GOOGLE APPS AN PREMIER INTERNAL APPL 200K ANNUALPAGEVIEWS LIC 1 YR		4			0.00%	\$	\$
GOOGLE	GMINT20HST0		GOOGLE SITE SEARCH LIMITED TO 200K QUERIES/YR		1			0.00%	\$	\$
HP SOFTWARE	T8870AAE		HP ALM GBL CC US SW E-LTU LICENSE		12			0.00%	\$	\$
HP SOFTWARE	HP-1000		HP SSC SCA B20 SW SW E-LTU LICENSE		28			0.00%	\$	\$
HP SOFTWARE	TR039AAE-USA-R		HP FT SITE CC US SW USA RNS PER SEAT RENEWAL MAINTENANCE		30			0.00%	\$	\$
HP SOFTWARE	HW-0001		EMBARCADERO QBR/ARTSAN PRO 2 PLATFORM WORKSTATION MAINT		12			0.00%	\$	\$
HP SOFTWARE	TR089AAE-USA-R		HP 1E SAP 100-8999 VU SW USA RNS 91X MAINT		1,000			0.00%	\$	\$
HYLAND SOFTWARE	2818187		DYNAMARK BLOCKS OF TIME PROFESSIONAL SERVICES HRS REMOTE		1			0.00%	\$	\$
HYLAND SOFTWARE	2818187		HYLAND KEYMARK BLOCKS OF 800 HOURS BSM SVCS		1			0.00%	\$	\$
HYLAND SOFTWARE	W04P01		WORKFLOW CONCURRENT CLIENT MAINT RENEWAL		185			0.00%	\$	\$
HYLAND SOFTWARE	2818188		HYLAND KEYMARK BSM YEAR MAINT		1			0.00%	\$	\$
HYLAND SOFTWARE	28187993		UPGRADE TO V11 & MIGRATION TO CLOUD LICENSE		1			0.00%	\$	\$
KNOWLEDGE CENTER	2844669		KNOWLEDGE CENTER ENT IC HIMS MAINTENANCE		1			0.00%	\$	\$
KNOWLEDGE CENTER	2818185		KNOWLEDGE CENTER INTS WITH EDGE VIRTUAL COLS LIC		1			0.00%	\$	\$
KNOWLEDGE CENTER	2842201		KNOWLEDGE CENTER MAINT		1			0.00%	\$	\$
KNOWLEDGE CENTER	2799992		KNOWLEDGE CENTER HIMS MAINTENANCE AND SUPPORT FEE		1			0.00%	\$	\$
KNOWLEDGE CENTER	2818189		IC CHANGING ASSESSMENT REPORTING TOOL SOFTWARE MINT		1			0.00%	\$	\$
KDFAX INC	2847643		KDFAX 1 YEAR UNLIMITED TECHNICAL SUPP		1			0.00%	\$	\$
KDFAX INC	2838966		KDFAX AC 500K SCAN LIC MAINT ENVAL		10			0.00%	\$	\$
KDFAX INC	2838984		1 YEAR KDFAX ASSESS CAPTURE USER ASSURANCE 500K INTS/1283		1			0.00%	\$	\$
KDFAX INC	2838988		KDFAX AC FULL STATION LIC MAINT RNVL		50			0.00%	\$	\$
KDFAX INC	2840896		KDFAX 1 YEAR UNLIMITED TECHNICAL SUPP		1			0.00%	\$	\$
MCAFEE	EPSPVM-AA-FI		MCAFEE SOL SERV TRAINING VOUCHER		475			0.00%	\$	\$
MCAFEE	EPSPVM-AA-FI		MCAFEE ENDPOINT PROTECT 1YR GL P+		800			0.00%	\$	\$
MCAFEE	EPSPVM-AA-FI		PLATINUM MFE ENDPOINT PROTECTION 1YR GL P+		350			0.00%	\$	\$

MCACFE	EW93108BNBDI		MCACFE EMAIL & WEB SEC 3100 APPL 8 1YR GL+MBO 1U+		2			0.00%	\$	-	\$	-	
MCACFE	MCACFE-AT-CL		MCACFE MODE AV 7 VIRT SVCS DS P1 GL		60			0.00%	\$	-	\$	-	
OPEN TEXT	2433880		OPEN TEXT PROCESS80 ENT CONC USER HA ENV MNT R/WL		1			0.00%	\$	-	\$	-	
OPEN TEXT	2433881		OPEN TEXT PROCESS80 ENT CONC USER HA ENV MNT R/WL		1			0.00%	\$	-	\$	-	
OPEN TEXT	2432489		OPEN TEXT WPMU UPGRADES AND SUPPORT RENEWAL		1			0.00%	\$	-	\$	-	
OPEN TEXT	2433889		OPEN TEXT PROCESS80 ENT CONC TEST MNT R/WL		1			0.00%	\$	-	\$	-	
OPEN TEXT	S-MT-MPV-FW/P		PROVISION ENT ARCHITECTURE 5 CONCURRENT USERS LIC		1			0.00%	\$	-	\$	-	
RED HAT SOFTWARE	RHD011982N		RHEL 1YR R/WL SERVER PREMIUM 400K UP TO 1 GUEST W/ SMART MGMT		16			0.00%	\$	-	\$	-	
RED HAT SOFTWARE	RHD019878N		RED HAT 1YR ENT LINUX SERVER PREM SUP 1.3 SOC UP TO 3 GUEST W/ SMART MGT		95			0.00%	\$	-	\$	-	
RED HAT SOFTWARE	RHD0176228N		RED HAT 1YR R/WL RHEL SERVER PREMIUM 400K UNL TO GUEST W/ SMART MGMT		4			0.00%	\$	-	\$	-	
RED HAT SOFTWARE	RHD0170263N		RED HAT ENT LINUX SVR W/ SMART MGMT PRIM SUBS R/WL 1 YR BSK UP TO 1 GUEST		4			0.00%	\$	-	\$	-	
RED HAT SOFTWARE	RHD0170264		1YR RED HAT RENEWAL NET S/STL/SLT		2			0.00%	\$	-	\$	-	
RSA SECURITY	CL-AM-EOP1-V1		RSA AUTH MGR EXTD MAINTENANCE 1 YR		1			0.00%	\$	-	\$	-	
RSA SECURITY	WECOP-40K-1		RSA SECOP MGMT 4001-4000 TERM LIC		24			0.00%	\$	-	\$	-	
RSA SECURITY	RAMT-0000000001		RSA SECOP MGMT 001-4000 TERM LIC		480,000			0.00%	\$	-	\$	-	
RSA SECURITY	CL-CAS-SUPP-IPV		CUSTOM APP SUP		1			0.00%	\$	-	\$	-	
RSA SECURITY	RFCOP-40K-TMNT		RSA SECOP MGMT001-4000 TERM BASIC MNT		24			0.00%	\$	-	\$	-	
SAS INSTITUTE INC	SAS-MULTI-COM-M		10 SAS ENTERPRISE COMPUTING OFFER FOR 10U PC WIN MNT		40			0.00%	\$	-	\$	-	
SAS INSTITUTE INC	SAS-MULTI-COM		SAS FINANCIAL MANAGEMENT SOFTWARE SOLUTION LICENSE		1			0.00%	\$	-	\$	-	
SAS INSTITUTE INC	SAS-DC-PP		SAS PROJECT INITIATION NOTES ESTIMATEO ITEM MICE		1			0.00%	\$	-	\$	-	
SAS INSTITUTE INC	SAS-VIRT-OFFANLYT-4M		SAS OFFICE ANALYTICS 4 PROC CORES SITE 668630 MAINT		1			0.00%	\$	-	\$	-	
SAS INSTITUTE INC	SAS-VIRT-OFFANLYT-12		SAS OFFICE ANALYTICS FOR VIRTUAL SERVER 12 PROCESSOR CORES 668630 MAINT		1			0.00%	\$	-	\$	-	
SERVENOW INC	SUNBMPENTWPHSE-96		SERVENOW ENTERPRISE PROCESS FOR USER YEAR 1 MAINTNMT		2,500			0.00%	\$	-	\$	-	
SERVENOW INC	SUNDISCOVCS3		SERVENOW DISCOVERY APPLICATION 20000 DEVICES LICENSE		1			0.00%	\$	-	\$	-	
SERVENOW INC	SMTSAUNLTD		SERVENOW ITSA UNL FULLTLER USER LIC		500			0.00%	\$	-	\$	-	
SERVENOW INC	SUN-ONC-APPROVER		SERVENOW APPROVER 200U LIC		201			0.00%	\$	-	\$	-	
SERVENOW INC	SERVENOW-WATCH		SERVENOW SERVICEWATCH TIER 1 UP TO 1999M LIC 1		500			0.00%	\$	-	\$	-	
SOFTWARE AG USA INC	SE-PIE		SOFTWARE AG SILVER EXTENDED SUPP/MAINT BUNDLE		1			0.00%	\$	-	\$	-	
SOFTWARE AG USA INC	SE-PIE		SW AG WEBMETHODS INTEGRATE PLATFORM CPU PER QTY SILVER SUP		8			0.00%	\$	-	\$	-	
SOFTWARE AG USA INC	SE-AS-MQ3		SW AG WEBMETHODS WEBSHERE MQ ADAPTER PER QTY SILVER SUP		8			0.00%	\$	-	\$	-	
SOFTWARE AG USA INC	SE-PIE		SW AG WEBMETHODS INTEGRATE SERVER CPU PER QTY SILVER SUP		1			0.00%	\$	-	\$	-	
SOFTWARE AG USA INC	SE-PA-DRP-LES-878		SOFTWARE AG WEBMETHODS INTEGRATION LES 878 ADDL LIC MNT		1			0.00%	\$	-	\$	-	
SPLUNK INC	SPL-P-LIC		SPLUNK 150 GB/DAY ENTERPRISE UPGRADE PERPETUAL LICENSE		2			0.00%	\$	-	\$	-	
SPLUNK INC	SPL-GR-P		SPLUNK ENT UPGRADE TO 250GB LICENSE		1			0.00%	\$	-	\$	-	
SPLUNK INC	SPL-P-LIC		SPLUNK APP FOR MICROSOFT EXCHANGE 200GB/DAY PERPETUAL LICENSE		1			0.00%	\$	-	\$	-	
SPLUNK INC	SPL-P-LIC		SPLUNK GB/DAY ENTERPRISE SECURITY UPGRADE PERPETUAL LICENSE		2			0.00%	\$	-	\$	-	
SPLUNK INC	SE-P-EQUIP-R		SPLUNK 300GB/DAY ENTERPRISE MNT R/WL		1			0.00%	\$	-	\$	-	
SYNERGY SOFTWARE TECHNOLOGIE	2427706		SYNERGY BUNDLE ENTERPRISE UP TO 5000U LICENSE		2			0.00%	\$	-	\$	-	
SYNERGY SOFTWARE TECHNOLOGIE	2429273		SYNERGY HARMONY HOSTING SUPP/MAINT		1			0.00%	\$	-	\$	-	
SYNERGY SOFTWARE TECHNOLOGIE	2407808		SYNERGY BUNDLE ENTERPRISE UP TO 5000U LICENSE		1			0.00%	\$	-	\$	-	
TREND MICRO	DRN4020		TM DEEP SEC ENT PER CPU SOCKET		150			0.00%	\$	-	\$	-	
TREND MICRO	DRN4010		TREND MICRO R/WL DEEP SEC COMPLIANCE PACK AV FIM LI DRP/FW		85			0.00%	\$	-	\$	-	
TREND MICRO	EAB4006		TREND MICRO ENTERPRISE SECURITY SUITE (REPLACES NEATSUITE ADV) 1 YEAR MAINT		3,500			0.00%	\$	-	\$	-	
TREND MICRO	FRN0038		SILVER PREMIUM SUPPORT MAINT		1			0.00%	\$	-	\$	-	
TREND MICRO	DRN40619		TREND MICRO DEEP SEC ENT PER CPU SOCKET		45			0.00%	\$	-	\$	-	
VMWARE	VSE-EPL-C		VMWARE VSPHERE 6 ENTERPRISE PLUS FOR 4 PROCESSOR		48			0.00%	\$	-	\$	-	
VMWARE	VSE-EPL-3P-SS-C		VMWARE PROD VSPHERE 6 ENT PLUS 3 PROC 3YR		48			0.00%	\$	-	\$	-	
VMWARE	VSE-PRM-100-P-SS-F		VMWARE PROD SUPPORT/SUBSCRIPTION FOR VIEW PREMIER BUNDLE 100 PACK 1YR		2			0.00%	\$	-	\$	-	
VMWARE	VSE-PRM-ENT-P-SS-F		VMWARE PROD SUPPORT/SUBS STP RECOVERY MANAGER 4 ENT FOR 1 PROC		20			0.00%	\$	-	\$	-	
VMWARE	VSE-VSON-C		VMWARE VIRTUAL SON 6 FOR 1 PROC		20			0.00%	\$	-	\$	-	
			All Other Publishers					0.00%	\$	5,000,000.00	\$	5,000,000.00	
Total Cost										\$	5,000,000.00	\$	5,000,000.00

5,000,000.00

APPENDIX C, LOBBYING CERTIFICATION FORM

**Certification for Contracts, Grants, Loans, and  
Cooperative Agreements**

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

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

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

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

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

SIGNATURE: \_\_\_\_\_

TITLE: \_\_\_\_\_

DATE: \_\_\_\_\_

## DISCLOSURE OF LOBBYING ACTIVITIES

Approved by OMB

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352

0348-0046

(See reverse for public burden disclosure.)

<b>1. Type of Federal Action:</b> a. contract b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	<b>2. Status of Federal Action:</b> a. bid/offer/application b. initial award c. post-award	<b>3. Report Type:</b> a. initial filing b. material change <b>For Material Change Only:</b> year _____ quarter _____ date of last report _____
<b>4. Name and Address of Reporting Entity:</b>  <input type="checkbox"/> Prime <input type="checkbox"/> Subawardee Tier _____, if known:	<b>5. If Reporting Entity in No. 4 is a Subawardee, Enter Name and Address of Prime:</b>   Congressional District, if known:	
<b>6. Federal Department/Agency:</b>	<b>7. Federal Program Name/Description:</b>  CFDA Number, if applicable: _____	
<b>8. Federal Action Number, if known:</b>	<b>9. Award Amount, if known:</b> \$ _____	
<b>10. a. Name and Address of Lobbying Registrant</b> (if individual, last name, first name, MI):	<b>b. Individuals Performing Services</b> (including address if different from No. 10a) (last name, first name, MI):	
<b>11.</b> Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.	Signature: _____ Print Name: _____ Title: Telephone No.: _____ Date:	
<b>Federal Use Only:</b>		Authorized for Local Reproduction Standard Form LLL (Rev. 7-97)

## INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, State and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
5. If the organization filing the report in item 4 checks "Subawardee," then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.
10. (a) Enter the full name, address, city, State and zip code of the lobbying registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.  
  
(b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).
11. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB Control Number. The valid OMB control number for this information collection is OMB No. 0348-0046. Public reporting burden for this collection of information is estimated to average 10 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, DC 20503.

APPENDIX D, COSTARS PROGRAM ELECTION FORM

**If awarded a Contract, our firm agrees to sell the awarded items/services at the same prices and/or discounts, and in accordance with the contractual terms and conditions, to registered COSTARS Members who elect to participate in the contract. Our firm also agrees to pay the applicable Administrative Fee (\$1500 or \$500 for a Department of General Services Certified Small Business) at the beginning of each contract year and upon each contract renewal date.**

**Indicate below which Lot(s) the Bidder elects to sell the awarded items/services to COSTARS members, if awarded a contract:**

- Lot 1, Microsoft Software and Services
- Lot 2, IBM Software and Services
- Lot 3, Oracle Software and Services
- Lot 4, SAP Software and Services
- Lot 5, Third-Party Software and Services

**If you are a Department of General Services Certified Small Business, you must submit a copy of your active certification with your bid response.**

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Corporate or Legal Entity Name

---

Signature/Date

---

Printed Name/Title

PA Supplier ID Number: \_\_\_\_\_

**AGREEMENT BETWEEN  
THE COMMONWEALTH OF PENNSYLVANIA,  
ACTING BY AND THROUGH THE GOVERNOR'S OFFICE OF ADMINISTRATION  
AND**

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This Agreement by and between \_\_\_\_\_ (Licensor) and the Commonwealth of Pennsylvania, acting by and through the Governor's Office of Administration (Commonwealth) is effective the date the Agreement has been fully executed by the Licensor and by the Commonwealth and all approvals required by Commonwealth contracting procedures have been obtained.

RECITALS:

WHEREAS, this Agreement sets forth the Commonwealth's Software License Requirements; and,

WHEREAS, Licensor's Software License Agreement is attached hereto as Exhibit A, and made a material part hereof by this reference; and,

WHEREAS, this document, including the Software License Agreement attached as Exhibit A, constitutes the Agreement between the Licensor and the Commonwealth; and

WHEREAS, the terms and conditions set out below in these Software License Requirements, supplement, and to the extent a conflict exists, supersede and take precedence over the terms and conditions of the attached Exhibit A, which is incorporated herein by reference.

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein and intending to be legally bound hereby, the parties hereto covenant and agree as follows:

1. **Recitals:** The above recitals are hereby incorporated as a material part of these Software License Requirements.
2. **Enterprise Language:** The parties agree that more than one agency of the Commonwealth may license products under this Agreement, provided that any use of products by any agency must be made pursuant to one or more executed purchase orders or purchase documents submitted by each applicable agency seeking to use the Licensed Product. Products specified in Attachment 1, along with support and services for said products, shall be referred to as "Licensed Products."



The parties agree that, if the licensee is a “Commonwealth Agency” as defined by Section 103 of the *Commonwealth Procurement Code*, 62 Pa. C. S. § 103, the terms and conditions of this Agreement apply to any purchase of Licensed Products made by the Commonwealth, and that the terms and conditions of this Agreement become part of the purchase document without further need for execution. The parties agree that the terms of this Agreement supersede and take precedence over the terms included in any purchase order, terms of any shrink-wrap agreement included with the Licensed Products, terms of any click through agreement included with the Licensed Products or any other terms purported to apply to the Licensed Products, including any products eligible for coverage under this Agreement where a legally executed agreement for the same covered product, regardless of version, was not in effect, even if procured by the Commonwealth prior to the effective date of the Agreement. This does not apply to Commonwealth agency agreements executed pursuant to the *Commonwealth Procurement Code*, 62 Pa. C. S. §§ 101—4102, and the *Commonwealth Attorneys’ Act*, 71 P.S. §§ 732-101—732-506.

3. **Choice of Law/Venue/Immunity:** This Agreement shall be interpreted in accordance with and governed by the laws of the Commonwealth of Pennsylvania, without giving effect to its conflicts of law provisions. Except as set forth in Section 23 of this Agreement, the courts of the Commonwealth of Pennsylvania and the federal courts of the Middle District of Pennsylvania shall have exclusive jurisdiction over disputes under this Contract and the resolution thereof. No provision in this Agreement shall be construed to limit the sovereign immunity of the Commonwealth.
4. **Indemnification:** The Commonwealth does not have the authority to and shall not indemnify any entity. The Commonwealth agrees to pay for any loss, liability or expense, which arises out of or relates to the Commonwealth’s acts or omissions with respect to its obligations hereunder, where a final determination of liability on the part of the Commonwealth is established by a court of law or where settlement has been agreed to by the Commonwealth. This provision shall not be construed to limit the Commonwealth’s rights, claims or defenses that arise as a matter of law or pursuant to any other provision of this Agreement. This provision shall not be construed to limit the sovereign immunity of the Commonwealth.
5. **Patent, Copyright, Trademark and Trade Secret Protection:**
  - (a) The Licensor shall, at its expense, defend, indemnify and hold the Commonwealth harmless from any suit or proceeding which may be brought by a third party against the Commonwealth, its departments, officers or employees for the alleged infringement of any United States patents, copyrights or trademarks, or for a misappropriation of a United States trade secret arising out of performance of this Agreement (“Claim”), including all Licensed Products provided by the Licensor. For the purposes of this Agreement, “indemnify and hold harmless” shall mean the Licensor’s specific, exclusive, and limited obligation to (a) pay any judgments, fines, and penalties finally awarded by a court of competent jurisdiction, governmental/administrative body or any settlements reached pursuant to Claim and (b) reimburse the Commonwealth for its reasonable administrative costs or

expenses, including without limitation reasonable attorney's fees, it necessarily incurs in handling the Claim. The Commonwealth agrees to give Licensor prompt notice of any such claim of which it learns. Pursuant to the *Commonwealth Attorneys Act*, 71 P. S. §§ 732-101—732-506, the Office of Attorney General (OAG) has the sole authority to represent the Commonwealth in actions brought against the Commonwealth. The OAG may, however, in its sole discretion, delegate its right of defense of a Claim. If the OAG delegates the defense to the Licensor, the Commonwealth will cooperate with all reasonable requests of Licensor made in the defense of and/or settlement of a Claim. Licensor shall not, without the Commonwealth's consent, enter into any settlement agreement which (a) states or implies that the Commonwealth has engaged in any wrongful or improper activity other than the innocent use of the material which is the subject of the Claim, (b) requires the Commonwealth to perform or cease to perform any act or relinquish any right, other than to cease use of the material which is the subject of the Claim, or (c) requires the Commonwealth to make a payment which Licensor is not obligated by this Agreement to pay on behalf of the Commonwealth. If OAG delegates such rights to the Licensor, the Commonwealth will cooperate with all reasonable requests of Licensor made in the defense of and/or settlement of a Claim. In all events, the Commonwealth shall have the right to participate in the defense of any such suit or proceeding through counsel of its own choosing. It is expressly agreed by the Licensor that, in the event it requests that the Commonwealth provide support to the Licensor in defending any such Claim, the Licensor shall reimburse the Commonwealth for all necessary expenses (including attorneys' fees, if such are made necessary by the Licensor's request) incurred by the Commonwealth for such support. If OAG does not delegate to Licensor the authority to control the defense and settlement of a Claim, the Licensor's obligation under this Section 5 ceases. The Licensor, at its own expense, shall provide whatever cooperation OAG request in the defense of the suit.

- (b) The Licensor agrees to exercise reasonable due diligence to prevent claims of infringement on the rights of third parties. The Licensor certifies that, in all respects applicable to this Agreement, it has exercised and will continue to exercise due diligence to ensure that all Licensed Products provided under this Agreement do not infringe on the patents, copyrights, trademarks, trade secrets or other proprietary interests of any kind which may be held by third parties.
- (c) If the defense of a Claim and the authority to control any potential settlements thereof is delegated to the Licensor, the Licensor shall pay all damages and costs finally awarded therein against the Commonwealth or agreed to by Licensor in any settlement. If information and assistance are furnished by the Commonwealth at the Licensor's written request, it shall be at the Licensor's expense, but the responsibility for such expense shall be only that within the Licensor's written authorization.
- (d) If, in the Licensor's opinion, the Licensed Products furnished hereunder are likely to or do become subject to a claim of infringement of a United States patent,

copyright or trademark, or for a misappropriation of trade secret, then without diminishing the Licensor's obligation to satisfy any final award, the Licensor may, at its option and expense:

- (1) substitute functional equivalents for the alleged infringing Licensed Products; or
  - (2) obtain the rights for the Commonwealth to continue the use of such Licensed Products.
- (e) If any of the Licensed Products provided by the Licensor are in such suit or proceeding held to constitute infringement and the use thereof is enjoined, the Licensor shall, at its own expense and at its option:
- (1) procure the right to continue use of such infringing products;
  - (2) replace them with non-infringing items; or
  - (3) modify them so that they are no longer infringing.
- (f) If use of the Licensed Products is enjoined and the Licensor is unable to do any of the preceding set forth in Section 5(e) above, the Licensor agrees to, upon return of the Licensed Products, refund to the Commonwealth:
- (1) the license fee paid for the infringing Licensed Products, less the amount for the period of usage of any software; and
  - (2) the pro-rated portion of any maintenance fees representing the time remaining in any period of services for which payment was made.
- (g) The obligations of the Licensor under this Section 5 continue without time limit and survive the termination of this Agreement.
- (h) Notwithstanding the above, the Licensor shall have no obligation under this Section 5 for:
- (1) modification of any Licensed Products provided by the Commonwealth or a third party acting under the direction of the Commonwealth;
  - (2) any material provided by the Commonwealth to the Licensor and incorporated into, or used to prepare the product;
  - (3) use of the Software after Licensor recommends discontinuation because of possible or actual infringement and has provided one of the remedy's under Section 5(e) or Section 5(f) above;

- (4) use of the Licensed Products in other than its specified operating environment;
  - (5) the combination, operation, or use of the Licensed Products with other products, services, or deliverables not provided by the Licensor as a system or the combination, operation, or use of the product, service, or deliverable, with any products, data, or apparatus that the Licensor did not provide;
  - (6) infringement of a non-Licensor product alone;
  - (7) the Commonwealth's use of the Licensed Product beyond the scope contemplated by the Agreement; or
  - (8) the Commonwealth's failure to use corrections or enhancements made available to the Commonwealth by the Licensor at no charge.
- (i) The obligation to indemnify the Commonwealth, under the terms of this Section 5, shall be the Licensor's sole and exclusive obligation for the infringement or misappropriation of intellectual property.

**6. Virus, Malicious, Mischievous or Destructive Programming:** Licensor warrants that the Licensed Product as delivered by Licensor does not contain any viruses, worms, Trojan Horses, or other malicious or destructive code to allow unauthorized intrusion upon, disabling of, or erasure of the Licensed Products (each a "Virus"). However, the Licensed Products may contain a key limiting use to the scope and quantity of the license(s) granted, and license keys issued by Licensor for temporary use are time-sensitive.

The Commonwealth's exclusive remedy, and Licensor's sole obligation, for any breach of the foregoing warranty shall be for Licensor to (a) replace the Licensed Products with a copy that does not contain Virus, and (b) if the Commonwealth, has suffered an interruption in the availability of its computer system caused by Virus contained in the Licensed Product, reimburse the Commonwealth for the actual reasonable cost to remove the Virus and restore the Commonwealth's most recent back up copy of data provided that:

- (a) the Licensed Products have been installed and used by the Commonwealth in accordance with the Documentation;
- (b) the Licensed Products has not been modified by any party other than Licensor;
- (c) the Commonwealth has installed and tested, in a test environment which is a mirror image of the production environment, all new releases of the Licensed Products and has used a generally accepted antivirus software to screen the Licensed Products prior to installation in its production environment.

Under no circumstances shall Licensor be liable for damages to the Commonwealth for loss of the Commonwealth's data arising from the failure of the Licensed Products to conform to the warranty stated above.

7. **Limitation of Liability:** The Licensor's liability to the Commonwealth under this Agreement shall be limited the total dollar amount of purchase orders issued for Licensed Products and services covered by this Agreement during the during the twelve (12)-month period prior to the event giving rise to the damage claim. This limitation does not apply to damages for:
- (a) bodily injury;
  - (b) death;
  - (c) intentional injury;
  - (d) damage to real property or tangible personal property for which the Licensor is legally liable;
  - (e) Licensor's indemnity of the Commonwealth for patent, copyright, trade secret, or trademark protection as set forth in Section 5; or
  - (f) Licensor's indemnity of the Commonwealth for data breach.

In no event will the Licensor be liable for consequential, indirect, special or punitive incidental damages unless otherwise specified in the Agreement.

8. **Payment:** The Commonwealth will make purchase through its software reseller as the Commonwealth's agent by way of a purchase order, which shall control with regard to payment amounts and provisions. The Commonwealth's reseller shall purchase Software and services from Licensor, on behalf of the Commonwealth, pursuant to purchase orders to Licensor. Upon acceptance by Licensor of such purchase orders, such purchase orders shall control as to pricing only; additional terms and conditions on such purchase orders are not applicable as the terms of this Agreement and its Exhibits shall control.

The Commonwealth's obligation is to pay its reseller in accordance with its purchase order with the Commonwealth's reseller and Licensor shall look to the Commonwealth's reseller for payment;. however, in the event that the Commonwealth's reseller fails to pay Licensor in accordance with the terms of Exhibit A, the Commonwealth understands and agrees that, other than collection (for which Licensor shall proceed only against the Commonwealth's reseller) Licensor shall notify the Commonwealth of such default and may exercise against the Commonwealth such other remedies as Licensor may have for nonpayment under Exhibit A.

**9. Termination:**

- (a) Licensor may not terminate this Agreement, or an order from any Commonwealth agency issued pursuant to any of the Exhibits to this Agreement, for non-payment; however, as described under Section 8 above, in the event that the Commonwealth's reseller fails to pay Licensor in accordance with the terms of Exhibit A, the Commonwealth understands and agrees that, other than collection (for which Licensor shall proceed only against such reseller) Licensor may exercise against the specific Commonwealth agency that issued a purchase order such other remedies as Licensor may have for nonpayment under Exhibit A solely as it pertains to the specific Commonwealth agency which issued the purchase order.
- (b) The Commonwealth may terminate this Agreement without cause by giving Licensor 30 calendar days prior written notice (Notice of Termination) whenever the Commonwealth shall determine that such termination is in the best interest of the Commonwealth (Termination for Convenience).

**10. Background Checks:**

- (a) Upon prior written request by the Commonwealth, Licensor must, at its expense, arrange for a background check for each of its employees, as well as for the employees of its subcontractors, who will have access to the Commonwealth's IT facilities, either through on site or remote access. Background checks are to be conducted via the Request for Criminal Record Check form and procedure found at <http://www.psp.pa.gov/Pages/Request-a-Criminal-History-Record.aspx>. The background check must be conducted prior to initial access by an IT employee and annually thereafter.
- (b) Before the Commonwealth will permit an employee access to the Commonwealth's facilities, Licensor must provide written confirmation to the office designated by the agency that the background check has been conducted. If, at any time, it is discovered that an employee has a criminal record that includes a felony or misdemeanor involving terrorist threats, violence, use of a lethal weapon, or breach of trust/fiduciary responsibility; or which raises concerns about building, system, or personal security, or is otherwise job-related, Licensor shall not assign that employee to any Commonwealth facilities, shall remove any access privileges already given to the employee, and shall not permit that employee remote access to Commonwealth facilities or systems, unless the agency consents, in writing, prior to the access being provided. The agency may withhold its consent at its sole discretion. Failure of Licensor to comply with the terms of this paragraph may result in default of Licensor under its Agreement with the Commonwealth.
- (c) The Commonwealth specifically reserves the right of the Commonwealth to conduct background checks over and above that described herein.

- (d) Access to certain Capitol Complex buildings and other state office buildings is controlled by means of card readers and secured visitors' entrances. Commonwealth contracted personnel who have regular and routine business in Commonwealth worksites may be issued a photo identification or access badge subject to the requirements of the contracting agency and DGS set forth in Enclosure 3 of [Commonwealth Management Directive 625.10 Amended, Card Reader and Emergency Response Access to Certain Capitol Complex Buildings and Other State Office Buildings.](#) The requirements, policy and procedures include a processing fee payable by the Contractor for contracted personnel photo identification or access badges.

## **11. Confidentiality:**

- (a) For purposes of this Agreement, "Confidential Information" of a party shall mean (1) with respect to Commonwealth, all data and other information of or in the possession of the Commonwealth or any Commonwealth Agency or any private individual, organization or public agency, in each case to the extent such information and documentation is not permitted to be disclosed to third parties under local, Commonwealth or Federal laws and regulations or pursuant to any policy adopted by Commonwealth or pursuant to the terms of any third party agreement to which Commonwealth is a party and (2) with respect to Licensor, all information identified in writing by Licensor as confidential or proprietary to Licensor or its subcontractors.
- (b) All Confidential Information of or relating to a party shall be held in confidence by the other party to the same extent and in at least the same manner as such party protects its own confidential or proprietary information. Neither party shall disclose, publish, release, transfer or otherwise make available any Confidential Information of the other party in any form to, or for the use or benefit of, any person or entity without the other party's consent. Subject to the other provisions of this Agreement, each party shall, however, be permitted to disclose relevant aspects of the other party's Confidential Information to its officers, agents, subcontractors and personnel and to the officers, agents, subcontractors and personnel of its corporate affiliates or subsidiaries to the extent that such disclosure is reasonably necessary for the performance of its duties and obligations under this Agreement; provided, however, that such party shall take all reasonable measures to ensure that Confidential Information of the other party is not disclosed or duplicated in contravention of the provisions of this Agreement by such officers, agents, subcontractors and personnel and that such party shall be responsible for any unauthorized disclosure of the Confidential Information of the other party by such officers, agents, subcontractors or personnel; and further provided, that if the disclosure is by the Commonwealth to another contractor or sub-contractor, such disclosure is subject to a suitable non-disclosure agreement imposing equally or more stringent requirements for data privacy and security. The obligations in this Section 11(b) shall not restrict any disclosure by either party pursuant to any applicable law, or in accordance with the order of any court or government agency

of competent jurisdiction (provided that the disclosing party shall give prompt notice to the non-disclosing party of such order in a timeframe to allow the non-disclosing party to resist the disclosure) and, except to the extent provided otherwise by any applicable law, shall not apply with respect to information which:

- (1) is developed by the other party without violating the disclosing party's proprietary rights,
- (2) is or becomes publicly known (other than through unauthorized disclosure),
- (3) is disclosed by the owner of such information to a Third Party free of any obligation of confidentiality,
- (4) is already known by such party without an obligation of confidentiality other than pursuant to this Agreement or any confidentiality contract entered into before the Effective Date of the Agreement between Commonwealth and Licensor, or
- (5) is rightfully received by the disclosing party free of any obligation of confidentiality.

(c) Each party shall:

- (1) Notify the other party promptly of any known unauthorized possession, use or knowledge of the other party's Confidential Information by any person or entity.
- (2) Promptly furnish to the other party full details known by such party relating to the unauthorized possession, use or knowledge thereof and shall use reasonable efforts to assist the other party in investigating or preventing the recurrence of any unauthorized possession, use or knowledge of the other party's Confidential Information.
- (3) Use reasonable efforts to cooperate with the other party in any litigation and investigation against third parties deemed necessary by the other party to protect its proprietary rights.
- (4) Promptly use all reasonable efforts to prevent a recurrence of any such unauthorized possession, use or knowledge of the other party's Confidential Information.

(d) Each party shall bear the cost it incurs as a result of compliance with this Section 11. The obligations in this Section 11 shall not restrict any disclosure by either party pursuant to any applicable law or pursuant to the order of any court or other legal process or government agency of competent jurisdiction (provided that the



disclosing party shall give prompt notice to the non-disclosing party of such order in a timeframe to allow the non-disclosing party to resist the disclosure).

- (e) The Licensor shall use the following process when submitting information to the Commonwealth it believes to be confidential and/or proprietary information or trade secrets:
  - (1) Prepare an un-redacted version of the appropriate document, and
  - (2) Prepare a redacted version of the document that redacts the information that is asserted to be confidential or proprietary information or a trade secret, and
  - (3) Prepare a signed written statement that states:
    - 1. the attached document contains confidential or proprietary information or trade secrets;
    - 2. the Licensor is submitting the document in both redacted and un-redacted format in accordance with 65 P.S. § 67.707(b); and
    - 3. the Licensor is requesting that the document be considered exempt under 65 P.S. § 67.708(b)(11) from public records requests.
  - (4) Submit the two documents with the signed written statement to the Commonwealth.
- (f) When the Agreement expires or terminates, and at any other time at the written request of a party, the other party must promptly return to such party all of such party's Confidential Information and Data (and all copies of this information) that is in the other party's possession or control, in whatever form. With regard to Commonwealth's Confidential Information and/or Data, Licensor will comply with the requirements of Section 11(e), above.
- (g) Additionally, neither the Agreement nor any pricing information related to the Agreement, nor purchase orders issued pursuant to the Agreement, will be deemed confidential.

**12. Agency-specific Sensitive and Confidential Commonwealth Data (If applicable)**

- (a) Licensor understands that its level of access may allow it to view or access highly sensitive and confidential Commonwealth and third party data. This data is subject to various state and federal laws and policies that vary from agency to agency, and from program to program within an agency. **If applicable**, prior to deployment of the Licensed Products on any Commonwealth agency facilities, the Licensor must receive and sign off on particular instructions and limitations as dictated by that

Commonwealth agency, including but not limited to, as necessary, HIPAA Business Associate Agreements, a sample of which is attached hereto as Attachment 2. This sign-off document (a sample of which is attached hereto as Attachment 3), will include a description of the nature of the data which may be implicated based on the nature of the Licensor's access, and will incorporate the Business Associate Agreement if it is applicable.

- (b) Licensor hereby certifies and warrants that, after being informed by the Commonwealth agency of the nature of the data which may be implicated and prior to the installation of the Licensed Products), the Licensor is and shall remain compliant with all applicable state and federal law and policy regarding the data's protection, and with the requirements memorialized in every completed and signed sign-off document. Every sign-off document completed by a Commonwealth agency and signed by at least one signatory of the Licensor authorized to bind the Licensor is valid and is hereby integrated and incorporated by reference into this Agreement.
- (c) This Section 12 does not require a Commonwealth agency to exhaustively list the law to which implicated data is subject; the Commonwealth agency is obligated only to list the nature of the data implicated by the Licensor's access, to refer the Licensor to its privacy and security policies, and to specify requirements that are not otherwise inherent in compliance with law and policy.
- (d) The requirements of this Section 12 are in addition to and not in lieu of other requirements of this Agreement, its Exhibits and Attachments, having to do with data privacy and security, including but not limited to the requirement that the Licensor comply with the Commonwealth's *Requirements for Non-Commonwealth Hosting Applications/Services*, and all applicable Commonwealth ITPs, which can be found at <http://www.oa.pa.gov/Policies/Pages/itp.aspx>.
- (e) Licensor shall conduct additional background checks, in addition to those required in Section 10 of this Agreement, as may be required by a Commonwealth agency in its sign-off documents. The Licensor shall educate and hold its agents, employees, contractors and subcontractors to standards at least as stringent as those contained in this Agreement. The Licensor shall provide information regarding its agents, employees, contractors and subcontractors to the Commonwealth upon request.

### **13. Sensitive Information**

- (a) The Licensor shall not publish or otherwise disclose, except to the Commonwealth or the Licensor's subcontractors, any information or data obtained hereunder from private individuals, organizations, or public agencies, in a way that allows the information or data furnished by or about any particular person or establishment to be identified.

- (b) The parties shall not use or disclose any information about a recipient receiving services from, or otherwise enrolled in, a Commonwealth program affected by or benefiting from services under this Agreement for any purpose not connected with the parties' Agreement responsibilities.
  - (c) Licensor will comply with all obligations applicable to it under all applicable data protection legislation in relation to all personal data that is processed by it in the course of performing its obligations under this Agreement including by:
    - (1) Maintaining a valid and up to date registrations and certifications; and
    - (2) Complying with all data protection legislation applicable to cross border data flows of personal data and required security measures for personal data.
  - (d) Additionally, neither the Agreement nor any pricing information related to the Agreement, nor purchase orders issued pursuant to the Agreement, will be deemed confidential.
- 14. Publicity/Advertisement:** The Licensor must obtain written Commonwealth approval prior to mentioning the Commonwealth or a Commonwealth agency in an advertisement, endorsement, or any other type of publicity. This includes the use of any trademark or logo.
- 15. Portability.** The parties agree that a Commonwealth agency may move a Licensed Product from machine to machine, whether physical or virtual, and to other locations, where those machines and locations are internal to the Commonwealth or to a Commonwealth contractor, as long as such relocation and the use being made of the Licensed Product comports with the license grant and restrictions. Notwithstanding the foregoing, a Commonwealth agency may move the machine or appliance provided by the Licensor upon which the Licensed Product is installed.
- 16. Taxes-Federal, State and Local:** The Commonwealth is exempt from all excise taxes imposed by the Internal Revenue Service and has accordingly registered with the Internal Revenue Service to make tax-free purchases under registration No. 23-23740001-K. With the exception of purchases of the following items, no exemption certificates are required and none will be issued: undyed diesel fuel, tires, trucks, gas-guzzler emergency vehicles, and sports fishing equipment. The Commonwealth is also exempt from Pennsylvania sales tax, local sales tax, public transportation assistance taxes, and fees and vehicle rental tax. The Department of Revenue regulations provide that exemption certificates are not required for sales made to governmental entities and none will be issued. Nothing in this Section 16 is meant to exempt a construction contractor from the payment of any of these taxes or fees which are required to be paid with respect to the purchase, use, rental or lease of tangible personal property or taxable services used or transferred in connection with the performance of a construction contract.

- 17. Commonwealth Audit Responsibilities:** Commonwealth will maintain, and promptly provide to Reseller upon its request, accurate records regarding use of the Licensed Product by or for the Commonwealth. If the Commonwealth becomes aware of any unauthorized use of all or any part of the Licensed Product, the Commonwealth will notify Reseller promptly, providing reasonable details. The limit of the Commonwealth's responsibility for use of the Licensed Product by more individuals than are permitted by the licensing terms applicable to the Licensed Product shall be to purchase additional licenses and Maintenance and Support (if applicable) for such Licensed Products through the Commonwealth's software reseller.

Commonwealth will perform a self-audit upon the request of Licensor, which request may not occur more often than annually, and report any change in user count (hereinafter "True up number"). Commonwealth shall notify Licensor of the True up number no later than 45 calendar days after the request that the Commonwealth perform a self-audit. If the user count has increased, Commonwealth will make an additional purchase of the Licensed Products through its reseller, which is equivalent to the additional users. This Section 17 sets out the sole software license audit right under this Agreement.

- 18. List of Licensed Products:** Attached hereto and made a part hereof by this reference is Attachment 1, which sets out a list of products that may be licensed under this Agreement. With the consent of Commonwealth, the list of products on Attachment 1 may be updated by Licensor providing Commonwealth with a revised Attachment 1 that adds the new product to the list. In Commonwealth's discretion, its consent may be provided either via written communication directly to the Licensor or by providing a copy of said notice to the Commonwealth's software reseller to update Attachment 1.

No amendment will be required to add a new Licensed Product to the list. If, however, the Licensor desires to add a Licensed Product to the list that requires different license terms, an amendment to this Agreement or a new agreement will be required.

**19. Right-to-Know Law:**

- (a) The Pennsylvania *Right-to-Know Law*, 65 P.S. §§ 67.101—3104 ("RTKL"), applies to this Agreement. For the purpose of these provisions, the term "the Commonwealth" shall refer to the contracting Commonwealth agency.
- (b) If the Commonwealth needs the Licensor's assistance in any matter arising out of the RTKL related to this Agreement, it shall notify the Licensor using the legal contact information provided in this Agreement. The Licensor, at any time, may designate a different contact for such purpose upon reasonable prior written notice to the Commonwealth.
- (c) Upon written notification from the Commonwealth that it requires the Licensor's assistance in responding to a request under the RTKL for information related to this Agreement that may be in the Licensor's possession, constituting, or alleged to

constitute, a public record in accordance with the RTKL (“Requested Information”), the Licensor shall:

- (1) Provide the Commonwealth, within ten (10) calendar days after receipt of written notification, access to, and copies of, any document or information in the Licensor’s possession arising out of this Agreement that the Commonwealth reasonably believes is Requested Information and may be a public record under the RTKL; and
  - (2) Provide such other assistance as the Commonwealth may reasonably request, in order to comply with the RTKL with respect to this Agreement.
- (d) If the Licensor considers the Requested Information to include a request for a Trade Secret or Confidential Proprietary Information, as those terms are defined by the RTKL, or other information that the Licensor considers exempt from production under the RTKL, the Licensor must notify the Commonwealth and provide, within seven (7) calendar days of receiving the written notification, a written statement signed by a representative of the Licensor explaining why the requested material is exempt from public disclosure under the RTKL.
- (e) The Commonwealth will rely upon the written statement from the Licensor in denying a RTKL request for the Requested Information unless the Commonwealth determines that the Requested Information is clearly not protected from disclosure under the RTKL. Should the Commonwealth determine that the Requested Information is clearly not exempt from disclosure, the Licensor shall provide the Requested Information within five (5) business days of receipt of written notification of the Commonwealth’s determination.
- (f) If the Licensor fails to provide the Requested Information within the time period required by these provisions, the Licensor shall indemnify and hold the Commonwealth harmless for any damages, penalties, costs, detriment or harm that the Commonwealth may incur as a result of the Licensor’s failure, including any statutory damages assessed against the Commonwealth.
- (g) The Commonwealth will reimburse the Licensor for any costs associated with complying with these provisions only to the extent allowed under the fee schedule established by the Office of Open Records or as otherwise provided by the RTKL if the fee schedule is inapplicable.
- (h) The Licensor may file a legal challenge to any Commonwealth decision to release a record to the public with the Office of Open Records, or in the Pennsylvania Courts, however, the Licensor shall indemnify the Commonwealth for any legal expenses incurred by the Commonwealth as a result of such a challenge and shall hold the Commonwealth harmless for any damages, penalties, costs, detriment or harm that the Commonwealth may incur as a result of the Licensor’s failure, including any statutory damages assessed against the Commonwealth, regardless

of the outcome of such legal challenge. As between the parties, the Licensor agrees to waive all rights or remedies that may be available to it as a result of the Commonwealth's disclosure of Requested Information pursuant to the RTKL.

- (i) The Licensor's duties relating to the RTKL are continuing duties that survive the expiration of this Agreement and shall continue as long as the Licensor has Requested Information in its possession.

**20. Third party software.** If the software utilizes or includes third party software and other copyrighted material and is subject, therefore, to additional licensing terms, acknowledgements or disclaimers compliance with this Agreement constitutes compliance with those third party terms. The parties agree that the Commonwealth, by acknowledging third party software, does not agree to any terms and conditions of the third party software agreements that are inconsistent with or supplemental to this Agreement.

**21. Attorneys' Fees:** The Commonwealth will not pay attorneys' fees incurred by or paid by the Licensor.

**22. Controversies.**

- (a) In the event of a controversy arising from the Agreement or Purchase Order, the Licensor, within six (6) months after the claim accrues, must file a written claim with the contracting officer for a determination. The claim shall state all grounds upon which the Licensor asserts a controversy exists. If the Licensor fails to file a claim or files an untimely claim, the Licensor is deemed to have waived its right to assert a claim in any forum. At the time the claim is filed, or within 60 days thereafter, either party may request mediation through the Commonwealth Office of General Counsel Dispute Resolution Program.
- (b) If the Licensor or the contracting officer requests mediation and the other party agrees, the contracting officer shall promptly make arrangements for mediation. Mediation shall be scheduled so as to not delay the issuance of the final determination beyond the required 120 days after receipt of the claim if mediation is unsuccessful. If mediation is not agreed to or if resolution is not reached through mediation, the contracting officer shall review timely-filed claims and issue a final determination, in writing, regarding the claim. The final determination shall be issued within 120 days of the receipt of the claim, unless extended by consent of the contracting officer and the Licensor. The contracting officer shall send his/her written determination to the Licensor. If the contracting officer fails to issue a final determination within the 120 days (unless extended by consent of the parties), the claim shall be deemed denied. The contracting officer's determination shall be the final order of the purchasing agency.
- (c) Within 15 days of the mailing date of the determination denying a claim or within 135 days of filing a claim if, no extension is agreed to by the parties, whichever occurs first, the Licensor may file a statement of claim with the Commonwealth

Board of Claims. Pending a final judicial resolution of a controversy or claim, the Licensor shall proceed diligently with the performance of the Agreement in a manner consistent with the determination of the contracting officer and the Commonwealth shall compensate the Licensor pursuant to the terms of the Agreement or Purchase Order.

- 23. Insurance:** Licensor shall procure and maintain at its expense or cause to be maintained by any agents, contractors and subcontractors, as appropriate, the following types of insurance or maintain such self-insurance plans as shall be sufficient to insure against any claims, covering Licensor, its employees, agents, contractors and subcontractors:
- (1) Worker's Compensation Insurance for all of Licensor's employees and those of any subcontractor engaged in performing Services in accordance with the *Worker's Compensation Act* (77 P.S. § 101, *et seq.*).
  - (2) Commercial general liability insurance providing coverage from claims for damages for personal injury, death and property of others. The limits of such insurance shall be in an amount not less than \$500,000 per person and \$2,000,000 per occurrence, personal injury and property damage combined. Such policies shall be occurrence based rather than claims-made policies and shall name the Commonwealth of Pennsylvania as an additional insured, as its interests may appear. The insurance shall not contain any endorsements or any other form designed to limit and restrict any action by the Commonwealth as an additional insured against the insurance coverages in regard to the Services performed for the Commonwealth.
  - (3) Professional and Technology-Based Services Liability Insurance (insuring against damages and claim expenses as a result of claims arising from any actual or alleged wrongful acts in performing cyber and technology activities) in the amount of \$5,000,000, per accident/occurrence/annual aggregate.
  - (4) Technology Products Liability/Professional Liability/Errors & Omissions Insurance in the aggregate amount of not less than \$5,000,000.
  - (5) Comprehensive crime insurance in an amount of not less than \$5,000,000 per claim.
  - (6) Information Security and Privacy Liability Insurance including Privacy Notification Costs (including coverage for Technology Professional Liability if not covered under Licensor's Professional Liability/Errors and Omissions Insurance referenced above) in the amount of \$5,000,000, per occurrence.
- (b) Prior to the expiration of any then effective insurance policy, Contractor shall furnish to Commonwealth certificates of insurance or other appropriate

documentation (including evidence of renewal of insurance) evidencing all coverage referenced in this Section 23, as applicable, and naming Commonwealth as an additional insured to the extent of Licensor's indemnities contained in this Agreement. Licensor shall have included in all policies of insurance required hereunder a waiver by the insurer of all right of subrogation against Commonwealth in connection with any loss or damage thereby insured against. Such certificates or other documentation will include a provision whereby 30 days' notice must be received by Commonwealth prior to coverage cancellation or alteration of the coverage by either Licensor or its Subcontractors or the applicable insurer. Such cancellation or alteration shall not relieve Licensor of its continuing obligation to maintain insurance coverage in accordance with this Section 23.

- (c) Licensor agrees to maintain such insurance for the life of any applicable purchase order issued pursuant to the Agreement.
  - (d) Upon request to and approval by the Commonwealth, Licensor's self-insurance of the types and amounts of insurance set for above shall satisfy the requirements of this provision, provided the Commonwealth may request of Licensor evidence each year ,during the term of the purchase order issued under the Agreement, that Licensor has sufficient assets to cover such losses.
- 24. Federal Requirements:** If applicable, in addition to the requirements set forth in Section 12 of this Agreement, the Licensor must receive and sign off on particular federal requirements that a Commonwealth agency may be required to include when utilizing federal funds to procure the Licensed Products. This sign-off document (a sample of which is attached hereto as Attachment 3), in addition to any applicable requirements of Section 12 of this Agreement, will include a description of the required federal provisions, along with the applicable forms necessary for the Licensor execute, as necessary. The sign-off document, along with attachments, must be attached to the purchase order.
- 25. Signatures:** The fully executed Agreement shall not contain ink signatures by the Commonwealth. The Licensor understands and agrees that the receipt of an electronically-printed Agreement with the printed name of the Commonwealth purchasing agent constitutes a valid, binding contract with the Commonwealth. The printed name of the purchasing agent represents the signature of that individual who is authorized to bind the Commonwealth to the obligations contained in the Agreement. The printed name also indicates that all approvals required by Commonwealth contracting procedures have been obtained.
- 26. Entire Agreement.** This Agreement constitutes the entire agreement between the Parties pertaining to the subject matter hereof, and supersedes and integrates all prior discussions, agreements and understandings pertaining thereto. No modification of this Agreement will be effective unless in writing and signed by both Parties.



IN WITNESS WHEREOF, the Parties to this Agreement have executed it, through their respective duly authorized representatives.

**Witness:**

**Licensor:**

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

*If a corporation, the Chairman, President, Vice-President, Senior Vice-President, Executive Vice-President, Assistant Vice-President, Chief Executive Officer and Chief Operating Officer must sign; if a sole proprietor, then the owner must sign; if a general or limited partnership, a general partner must sign; if a limited liability company, then a member must sign, unless it is a managed by a manager, then the manager must sign; otherwise a resolution indicating authority to bind the corporation must be attached to this Agreement.*

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**COMMONWEALTH OF PENNSYLVANIA  
OFFICE OF ADMINISTRATION**

See paragraph 25

**APPROVED:**

See paragraph 25  
Comptroller

**APPROVED AS TO FORM AND LEGALITY:**

See paragraph 25  
Office of Chief Counsel

See paragraph 25  
Office of General Counsel

See paragraph 25  
Office of Attorney General

**ATTACHMENT 1**

**LIST OF LICENSED PRODUCTS**

With the consent of the Commonwealth, Licensor may add additional Licensed Products to this attachment by providing Commonwealth with a new copy of this Attachment 1.

**Licensed Product:**

The Licensed Product includes (list all titles covered by this agreement):

## Attachment 2

### ***Business Associate Agreements as provided by Agencies may differ:***

#### **COMMONWEALTH OF PENNSYLVANIA SAMPLE BUSINESS ASSOCIATE AGREEMENT**

**WHEREAS,** the \_\_\_\_\_ (Covered Entity) and \_\_\_\_\_ (Business Associate) intend to protect the privacy and security of certain Protected Health Information (PHI) to which Business Associate may have access in order to provide goods or services to or on behalf of Covered Entity, in accordance with the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 (HIPAA), the Health Information Technology for Economic and Clinical Health (HITECH) Act, Title XIII of Division A and Title IV of Division B of the American Recovery and Reinvestment Act of 2009 (ARRA), Pub. L. No. 111-5 (Feb. 17, 2009) and related regulations, the HIPAA Privacy Rule (Privacy Rule), 45 C.F.R. Parts 160 and 164, as amended, the HIPAA Security Rule (Security Rule), 45 C.F.R. Parts 160, 162 and 164, ), as amended, 42 U.S.C. § 602(a)(1)(A)(iv), 42 U.S.C. § 1396a(a)(7), 35 P.S. § 7607, 50 Pa.C.S. § 7111, 71 P.S. § 1690.108(c), 62 P.S. § 404, 55 Pa. Code Chapter 105, 55 Pa. Code Chapter 5100, 42 C.F.R. §§ 431.301-431.302, 42 C.F.R. Part 2, 45 C.F.R. § 205.50, the Pennsylvania Breach of Personal Information Notification Act, 73 P.S. § 2301 *et seq.*, and other relevant laws, including subsequently adopted provisions applicable to use and disclosure of confidential information, and applicable agency guidance.

**WHEREAS,** Business Associate may receive PHI from Covered Entity, or may create or obtain PHI from other parties for use on behalf of Covered Entity, which PHI may be used or disclosed only in accordance with this Agreement and the standards established by applicable laws and agency guidance.

**WHEREAS,** Business Associate may receive PHI from Covered Entity, or may create or obtain PHI from other parties for use on behalf of Covered Entity, which PHI must be handled in accordance with this Agreement and the standards established by HIPAA, the HITECH Act and related regulations, and other applicable laws and agency guidance.

**NOW, THEREFORE,** Covered Entity and Business Associate agree as follows:

**1. Definitions.**

- a.** “Business Associate” shall have the meaning given to such term under HIPAA, the HITECH Act, applicable regulations and agency guidance.
- b.** “Covered Entity” shall have the meaning given to such term under HIPAA, the HITECH Act and applicable regulations and agency guidance.
- c.** “HIPAA” shall mean the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191.

- d. “HITECH Act” shall mean the Health Information Technology for Economic and Clinical Health (HITECH) Act, Title XIII of Division A and Title IV of Division B of the American Recovery and Reinvestment Act of 2009 (ARRA), Pub. L. No. 111-5 (Feb. 17, 2009).
- e. “Privacy Rule” shall mean the standards for privacy of individually identifiable health information in 45 C.F.R. Parts 160 and 164, as amended, and related agency guidance.
- f. “Protected Health Information” or “PHI” means any information, transmitted or recorded in any form or medium; (i) that relates to the past, present or future physical or mental condition of an individual; the provision of health care to an individual; or the past, present or future payment for the provision of health care to an individual, and (ii) that identifies the individual or with respect to which there is a reasonable basis to believe the information can be used to identify the individual, and shall have the meaning given to such term under HIPAA, the HITECH Act and related regulations and agency guidance. PHI also includes any and all information that can be used to identify a current or former applicant or recipient of benefits or services of Covered Entity (or Covered Entity’s contractors/business associates).
- g. “Security Rule” shall mean the security standards in 45 C.F.R. Parts 160, 162 and 164, as amended, and related agency guidance.
- h. “Unsecured PHI” shall mean PHI that is not secured through the use of a technology or methodology as specified in HITECH regulations and agency guidance or as otherwise defined in the HITECH Act.

**2. Stated Purposes For Which Business Associate May Use or Disclose PHI.** The Parties hereby agree that Business Associate shall be permitted to use and/or disclose PHI provided by or obtained on behalf of Covered Entity for the following stated purposes, except as otherwise stated in this Agreement:

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**NO OTHER DISCLOSURES OF PHI OR OTHER INFORMATION ARE PERMITTED.**

**3. BUSINESS ASSOCIATE OBLIGATIONS:**

- a. **Limits on Use and Further Disclosure Established by Agreement and Law.** Business Associate hereby agrees that the PHI provided by, or created or obtained

on behalf of Covered Entity shall not be further used or disclosed other than as permitted or required by this Agreement or as required by law and agency guidance.

- b. Appropriate Safeguards.** Business Associate shall establish and maintain appropriate safeguards to prevent any use or disclosure of PHI other than as provided for by this Agreement. Appropriate safeguards shall include implementing administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the electronic PHI that is created, received, maintained, or transmitted on behalf of the Covered Entity and limiting use and disclosure to applicable minimum necessary requirements as set forth in applicable federal and state statutory and regulatory requirements and agency guidance.
- c. Reports of Improper Use or Disclosure.** Business Associate hereby agrees that it shall report to \_\_\_\_\_ at \_\_\_\_\_, within two (2) days of discovery any use or disclosure of PHI not provided for or allowed by this Agreement.
- d. Security Incidents.** In addition to following the breach notification requirements in section 13402 of the Health Information Technology for Economic and Clinical Health Act of 2009 (“HITECH Act”) and related regulations, agency guidance and other applicable federal and state laws, Business Associate shall report to \_\_\_\_\_ at \_\_\_\_\_, within two (2) days of discovery any security incident of which it becomes aware. At the sole expense of Business Associate, Business Associate shall comply with all applicable federal and state breach notification requirements. Business Associate shall indemnify the Covered Entity for costs associated with any incident involving the acquisition, access, use or disclosure of Unsecured PHI in a manner not permitted under federal or state law and agency guidance.
- e. Subcontractors and Agents.** Business Associate hereby agrees that any time PHI is provided or made available to any subcontractors or agents, Business Associate shall provide only the minimum necessary PHI for the purpose of the covered transaction and shall first enter into a subcontract or contract with the subcontractor or agent that contains the same terms, conditions and restrictions on the use and disclosure of PHI as contained in this Agreement.
- f. Right of Access to PHI.** Business Associate hereby agrees to allow an individual who is the subject of PHI maintained in a designated record set, to have access to and copy that individual’s PHI within five (5) business days of receiving a written request from the Covered Entity. Business Associate shall provide PHI to the extent and in the manner required by 45 C.F.R. § 164.524 and other applicable federal and state law and agency guidance . If Business Associate maintains an electronic health record, Business Associate must provide the PHI in electronic format if requested. If any individual requests from Business Associate or its agents or subcontractors access to PHI, Business Associate shall notify Covered Entity of

same within five (5) business days. Business associate shall further conform with and meet all of the requirements of 45 C.F.R. § 164.524 and other applicable laws, including the HITECH Act and related regulations, and agency guidance.

- g. Amendment and Incorporation of Amendments.** Within five (5) business days of receiving a request from Covered Entity for an amendment of PHI maintained in a designated record set, Business Associate shall make the PHI available and incorporate the amendment to enable Covered Entity to comply with 45 C.F.R. § 164.526, applicable federal and state law, including the HITECH Act and related regulations, and agency guidance. If any individual requests an amendment from Business Associate or its agents or subcontractors, Business Associate shall notify Covered Entity within five (5) business days.
- h. Provide Accounting of Disclosures.** Business Associate agrees to maintain a record of all disclosures of PHI in accordance with 45 C.F.R. § 164.528 and other applicable laws and agency guidance, including the HITECH Act and related regulations. Such records shall include, for each disclosure, the date of the disclosure, the name and address of the recipient of the PHI, a description of the PHI disclosed, the name of the individual who is the subject of the PHI disclosed, and the purpose of the disclosure. Business Associate shall make such record available to the individual or the Covered Entity within five (5) business days of a request for an accounting of disclosures.
- i. Requests for Restriction.** Business Associate shall comply with requests for restrictions on disclosures of PHI about an individual if the disclosure is to a health plan for purposes of carrying out payment or health care operations (and is not for treatment purposes), and the PHI pertains solely to a health care item or service for which the service involved was paid in full out-of-pocket. For other requests for restriction, Business associate shall otherwise comply with the Privacy Rule, as amended, and other applicable statutory and regulatory requirements and agency guidance.
- j. Access to Books and Records.** Business Associate hereby agrees to make its internal practices, books, and records relating to the use or disclosure of PHI received from, or created or received by Business Associate on behalf of the Covered Entity, available to the Secretary of Health and Human Services or designee for purposes of determining compliance with applicable laws and agency guidance.
- k. Return or Destruction of PHI.** At termination of this Agreement, Business Associate hereby agrees to return or destroy all PHI provided by or obtained on behalf of Covered Entity. Business Associate agrees not to retain any copies of the PHI after termination of this Agreement. If return or destruction of the PHI is not feasible, Business Associate agrees to extend the protections of this Agreement to limit any further use or disclosure until such time as the PHI may be returned or

destroyed. If Business Associate elects to destroy the PHI, it shall certify to Covered Entity that the PHI has been destroyed.

- l. Maintenance of PHI.** Notwithstanding Section 3(k) of this Agreement, Business Associate and its subcontractors or agents shall retain all PHI throughout the term of the Agreement and shall continue to maintain the information required under the various documentation requirements of this Agreement (such as those in §3(h)) for a period of six (6) years after termination of the Agreement, unless Covered Entity and Business Associate agree otherwise.
- m. Mitigation Procedures.** Business Associate agrees to establish and to provide to Covered Entity upon request, procedures for mitigating, to the maximum extent practicable, any harmful effect from the use or disclosure of PHI in a manner contrary to this Agreement or the Privacy Rule, as amended. Business Associate further agrees to mitigate any harmful effect that is known to Business Associate of a use or disclosure of PHI by Business Associate in violation of this Agreement or applicable laws and agency guidance.
- n. Sanction Procedures.** Business Associate agrees that it shall develop and implement a system of sanctions for any employee, subcontractor or agent who violates this Agreement, applicable laws or agency guidance.
- o. Grounds for Breach.** Non-compliance by Business Associate with this Agreement or the Privacy or Security Rules, as amended, is a breach of the Agreement, if Business Associate knew or reasonably should have known of such non-compliance and failed to immediately take reasonable steps to cure the non-compliance.
- p. Termination by Commonwealth.** Business Associate authorizes termination of this Agreement by the Commonwealth if the Commonwealth determines, in its sole discretion, that the Business Associate has violated a material term of this Agreement.
- q. Failure to Perform Obligations.** In the event Business Associate fails to perform its obligations under this Agreement, Covered Entity may immediately discontinue providing PHI to Business Associate. Covered Entity may also, at its option, require Business Associate to submit to a plan of compliance, including monitoring by Covered Entity and reporting by Business Associate, as Covered Entity in its sole discretion determines to be necessary to maintain compliance with this Agreement and applicable laws and agency guidance.
- r. Privacy Practices.** The Department will provide and Business Associate shall immediately begin using any applicable form, including but not limited to, any form used for Notice of Privacy Practices, Accounting for Disclosures, or Authorization, upon the effective date designated by the Program or Department. The Department retains the right to change the applicable privacy practices, documents and forms.

The Business Associate shall implement changes as soon as practicable, but not later than 45 days from the date of notice of the change.

**4. OBLIGATIONS OF COVERED ENTITY:**

- a. Provision of Notice of Privacy Practices.** Covered Entity shall provide Business Associate with the notice of privacy practices that the Covered Entity produces in accordance with applicable law and agency guidance, as well as changes to such notice.
- b. Permissions.** Covered Entity shall provide Business Associate with any changes in, or revocation of, permission by individual to use or disclose PHI of which Covered Entity is aware, if such changes affect Business Associate's permitted or required uses and disclosures.
- c. Restrictions.** Covered Entity shall notify Business Associate of any restriction to the use or disclosure of PHI that the Covered Entity has agreed to in accordance with 45 C.F.R. § 164.522 and other applicable laws and applicable agency guidance, to the extent that such restriction may affect Business Associate's use or disclosure of PHI.



**Attachment 3**

**Sign-Off Document No. [redacted], under Agreement No. [redacted]  
Between  
[Licensor [redacted]]. and the Commonwealth of PA, [Agency]  
[Licensor [redacted]] Agency-level Deployment**

This document becomes, upon its execution by the signatories named below, a legally valid, binding part of Software License Requirements Agreement No. [redacted] between the Commonwealth and [redacted] (Licensor)., and is subject to the terms of that Agreement.

1. Scope of Deployment (need not be entire agency):
2. Nature of Data implicated or potentially implicated:
3. Agency Policies to which Licensor. is subject (incorporated by reference):
4. Background checks (describe if necessary):
5. Additional requirements (describe with specificity):
6. Is Licensor. a Business Associate (yes or no)?

If yes, the attached Business Associates Agreement, as completed by the Agency, is applicable and is hereby incorporated into this Sign-Off Document by reference.

**Agency Contact Person signature and Date:** \_\_\_\_\_

**[Licensor [redacted]]  
Authorized Signatory and Date:** \_\_\_\_\_

Revised July 08, 2016

APPENDIX F, SERVICE LEVEL AGREEMENTS

Performance Metric	Performance Target	Definition	Frequency of Review	Penalty for Failure to Perform
Customer Inquiry Response Time	95%	The Contractor must return phone calls or respond to emails within a maximum of four (4) business hours after a phone call is placed or an email is received. Each Incoming Request returned <b>after</b> four (4) hours (240 minutes) = Missed Response.	Monthly	N/A
		<b>Calculation:</b> (Total Responses – Missed Responses) / Total Responses		
Quote delivery for Standard Catalog Software and Services	100%	The Contractor must provide quotes within two (2) business day for Software and Services currently in the Contractor’s catalog to the requesting agency. Each requested Quote for Standard Catalog Software and Services delivered <b>after</b> two (2) business days = Missed Quote	Monthly	1% credit on the order resulting from the quote.
		<b>Calculation:</b> (Total Quotes – Missed Quotes) / Total Quotes		
Quote delivery for Software and Services not in Catalog	100%	For Services and software not listed in the catalog, the contractor must provide the quote within three (3) business days. Each requested Quote for Standard Catalog Software and Services not in the Catalog <b>after</b> three (3) business days = Missed Quote.	Per Request Assessed Monthly	1% credit on the order resulting from the quote.
		<b>Calculation:</b> (Total Quotes – Missed Quotes) / Total Quotes		
Order Delivery for Standard Catalog Software and Services	100%	The Contractor must make the required delivery time within ten (10) business days after receipt of an order. Each Order Delivered <b>after</b> the standard fulfillment time of ten (10) business days = Missed Order.	Per Order Assessed Monthly	2% credit on the total cost per order.
		<b>Calculation:</b> (Total Orders – Missed Orders) / Total Orders		
Replacement of defective media	100%	The Contractor must replace any defective or incorrectly delivered media by overnight delivery at the Contractor’s expense, upon request. Each replacement not delivered overnight (or less) = Missed Replacement	Monthly	2% credit on the monthly invoice per billed service.
		<b>Calculation:</b> (Total Replacements – Missed Replacements) / Total Replacements		

APPENDIX F, SERVICE LEVEL AGREEMENTS

Customer assistance with installation, download, or usage issues	100%	The Contractor must provide assistance to customers who are unable to download, install, or use software within four (4) hours of problem notification. Each documented issue instance whereby the contractor does not provide assistance within four (4) hours of notification = Missed Issue Assistance)	Monthly	2% credit on the monthly invoice per billed service not to exceed 50% of billed service.
		<b>Calculation:</b> (Total Issue Assistance – Missed Issue Assistance) / Total Issue Assistance		
Invoice receipt	100%	The Contractor must provide invoices for all orders and services within sixty (60) calendar days of delivery of software or services. Each invoice that is not provided to the Commonwealth within sixty (60) calendar days of the delivery of services or end of billing period = Missed Invoice Receipt.	Monthly	2% credit on late monthly invoice(s).
		<b>Calculation:</b> (Total Invoices – Missed Invoice Receipt) / Total Invoices		
License expiration notification	100%	The Contractor must notify the agency at least sixty (60) calendar days prior to license expiration. Each time Contractor does not provide documented notification at least sixty (60) calendar days prior to the license expiration of software or service = Missed License Notification.	Monthly	2% credit on the monthly invoice per billed service.
		<b>Calculation:</b> (Total license expirations – Missed license expirations) / Total License expirations.		
Software upgrade notification	100%	The Contractor must notify the agency that has a license(s) for the software title being upgraded within five (5) calendar days of the announcement of the upgrade being available by the licensor. Each time Contractor does not provide documented notification at least five (5) calendar days of the upgrade being available = Missed Upgrade Notification	Monthly	2% credit on the monthly invoice per billed service.
		<b>Calculation:</b> (Total upgrades – Missed upgrade notifications) / Total upgrade notifications.		
Software end of life notification	100%	The Contractor must notify the agency that has a license(s) for the software title reaching end of life within five (5) calendar days of announcement of software end date by the licensor. (Each time	Monthly	2% credit on the monthly

APPENDIX F, SERVICE LEVEL AGREEMENTS

		Contractor does not provide documented notification at least five (5) calendar days of the end of life = Missed end of life notification)		invoice per billed service.
		<b>Calculation:</b> (Total end of life instances – Missed end of life notifications) / Total end of life instances.		
Software maintenance expiration notification	100%	The Contractor must notify the agency ninety (90) calendar days prior to the expiration date of any software maintenance services until an order is placed, the agency confirms that they do not wish to renew the maintenance services, or the expiration date has passed. (Each time Contractor does not provide documented notification prior to the expiration date of any software maintenance services = Missed Maintenance Expiration Notification.	Monthly	2% credit on the monthly invoice per billed service.
		<b>Calculation:</b> (Total Maintenance Expirations - Missed Maintenance Expiration Notifications) / Total Maintenance Expirations		

If the Contractor fails to meet a performance target as described in the Service Level Agreement for three consecutive months, the Commonwealth will require the Contractor to submit a corrective action plan to meet the Service Level Agreement. The Commonwealth reserves the right to terminate the Contract according to the terms of Appendix A. "Standard Catalog" refers to software titles currently under license by the Commonwealth.

If the Contractor provides sufficient justification to a missed SLA, and the infraction was beyond the control of the Contractor and unforeseen, the Commonwealth reserves the right to waive the service credit. This will be done on a case by case basis.

# Statement of Work

for

Commonwealth of PA – (Agency)

PO Number: \_\_\_\_\_

AGENCY CONTACT:  
AGENCY ADDRESS:

PHONE:  
FAX:  
E-MAIL:

## A. Introduction

This Statement of Work ("SOW") is made ("Effective Date"), by and between the Commonwealth of PA – ("Agency"), with its principal office located at ("Address") (hereinafter referred to as "Customer") and Supplier, Inc, a corporation organized under the laws of the Provider's State, with its principal place of business at Insert Address (hereinafter referred to as "insert Company name"). Supplier name and Customer may also be referred individually as "Party" or collectively as "Parties."

Agency name is responsible for promptly obtaining all required consents necessary for the Supplier to provide the services described in this Statement of Work. A required consent means any consent or approval required to give Supplier name software, firmware and other products to enable us and our subcontractors to perform the services set forth in this Statement of Work without infringing on the ownership or license rights (including patent and copyright) of the providers or owners of such products.

Any terms and conditions not set forth in this SOW are governed by the IT Terms and Conditions which can be found at [http://www.portal.state.pa.us/portal/server.pt/community/procurement\\_forms](http://www.portal.state.pa.us/portal/server.pt/community/procurement_forms) and the software license agreement negotiated between the vendor and the Commonwealth.

## B. Project Overview and Tasks

Supplier name will perform the following tasks (the "Project"):

Supplier to insert exact description of work to be performed

Agency Requirements & Room Preparation:

Any requirements for the agency must be inserted here

## C. Time Estimates / Delivery Schedule

The actual Project start date will depend on following:  
(below are examples only, ensure dates are provided)

- 1.) Scheduled availability of a qualified systems engineer. 5/10/06
- 2.) Receipt of equipment. 5/20/06
- 3.) Completion necessary cabling, ISP connection, etc. by other vendors if applicable. 5/20/06
- 4.) Receipt of signed SOW from Customer prior to proposed start date. 5/5/06

The Contactor required delivery time shall be negotiated with this statement of work for the requested services and must be agreed upon by both parties. Each order delivered after the negotiated date is considered a missed order. A missed order will result in a 5% credit on the total order cost.

## D. Project Cost

Project Cost is: \$

All work associated with the Project is performed during Mondays through Fridays, between the hours of 8am and 5pm local time, excluding holidays.

(Ensure an exact costing breakdown is provided)

**E. SOW Acceptance**

This SOW is acceptable. I (We) hereby acknowledge and confirm that I (We) have read this SOW and accept and approve the scope of work and related terms. I (We) understand that if additional work is required that by its nature was not known or determined at the time this SOW was executed, a written change order describing the additional work and any related expenses is required.

Please sign and FAX to **Supplier** at **"fax number"**

"Supplier"

Commonwealth of PA – **"Agency"**

Approved (date): \_\_\_\_\_

\_\_\_\_\_

Authorized **Agency** Name

\_\_\_\_\_

\_\_\_\_\_

Authorized **Agency** Signature

\_\_\_\_\_

\_\_\_\_\_

Title

**F. Project Completed and Accepted**

The Project was completed in accordance with this SOW. I (We) hereby accept as completed all work indicated in this SOW. I (We) acknowledge at there is nothing that should prevent prompt payment in accordance with the terms indicated above.

Approved (date): \_\_\_\_\_

\_\_\_\_\_

Authorized **Agency** Name

\_\_\_\_\_

\_\_\_\_\_

Authorized **Agency** Signature

\_\_\_\_\_

\_\_\_\_\_

Title

PLEASE ATTACH HARD COPY OF PURCHASE ORDER  
REFERENCING THIS SOW

## Requirements for Non-Commonwealth Hosted Applications/Services

The purpose of this Attachment is to define requirements for technology solutions procured by the Commonwealth that are not hosted within Commonwealth infrastructure.

### A. Hosting Requirements

1. Licensor/Reseller shall supply all hosting equipment (hardware and software) required for performance of the software and services set forth in the Quote and Statement of Work.
2. Licensor/Reseller shall provide secure access to applicable levels of users via the internet.
3. Licensor/Reseller shall use commercially reasonable resources and efforts to maintain adequate internet connection bandwidth and server capacity.
4. Licensor/Reseller shall maintain all hosting equipment (hardware and software) and replace as necessary to maintain compliance with the Service Level Agreements.
5. Licensor/Reseller shall monitor, prevent and deter unauthorized system access. Any and all known attempts must be reported to the Commonwealth within **two (2)** business days or as otherwise set forth in the Software License Requirements Agreement or the Statement of Work. In the event of any impermissible disclosure unauthorized loss or destruction of Confidential Information, the receiving Party must immediately notify the disclosing Party and take all reasonable steps to mitigate any potential harm or further disclosure of such Confidential Information. In addition, pertaining to the unauthorized access, use, release, or disclosure of data, Licensor/Reseller shall comply with state and federal data breach notification regulations and shall report security incidents to the Commonwealth within **one (1) hour** of when Licensor/Reseller has reasonable confirmation of such unauthorized access, use, release, or disclosure of data.
6. Licensor/Reseller shall allow the Commonwealth or its delegate, at times chosen by the Commonwealth, and within at least **three (3)** business days' notice, to review the hosted system's data center locations and security architecture.
7. Licensor/Reseller staff that are directly responsible for day-to-day monitoring and maintenance shall have industry standard certifications applicable to the environment and system architecture used.
8. Licensor/Reseller shall locate servers in a climate-controlled environment. Licensor/Reseller shall house all servers and equipment in an operational environment that meets industry standards including climate control, fire and security hazard detection, electrical needs, and physical security.

*Requirements for Non-Commonwealth Hosted Applications Services*



9. Licensor/Reseller shall examine system and error logs daily to minimize and predict system problems and initiate appropriate action.
10. Licensor/Reseller shall completely test and apply patches for all third-party software products before release.
11. Licensor/Reseller shall provide the Commonwealth with its annual American Institute of Certified Public Accountants (AICPA) Attestation Standard (AT) Sec. 101 Service Organization Control (“SOC”) 2, Type 2 certification (AT Sec. 101 SOC 2, Type 2), or an equivalent certification approved by the Commonwealth. Equivalent certifications include, but are not limited to: International Organization of Standards (ISO) 2700x certification; certification under the [Federal Information Security Management Act](#) (FISMA); and AT Sec. 101 SOC 3 (SysTrust/WebTrust) certification. Annually, Licensor/Reseller shall provide an AT Sec. 101 SOC 2, Type 2 audit report, or its equivalent, to the Commonwealth upon request.

**B. System Availability (as applicable)**

1. The Licensor or Reseller shall make available the system and any custom software on a *{basis for system availability ex. 24 x 7}* basis.
2. The Licensor or Reseller shall perform routine maintenance during the planned weekly maintenance period of *{insert weekly maintenance period ex. Daily from Midnight to 5am Eastern time}*. Routine maintenance shall include, but is not limited to, server upgrades/patching, software upgrades/patching and hardware maintenance. *{Remove the following sentence if this is not an availability requirement}* In order to maintain system availability, the Licensor or Reseller is expected to rollover to a backup site during maintenance periods.
3. The Licensor or Reseller shall perform non-routine maintenance at a mutually agreeable time with *{insert time period for advance notice ex. two (2) weeks}* advance notice to the Commonwealth.
4. From time to time, emergency maintenance may be required to bring down the system. In such situations, if possible, the Licensor or Reseller shall give advance notice, before the system goes down for maintenance, to the Commonwealth. The Licensor or Reseller will limit the emergency maintenance to those situations which require immediate action of bringing down the system that cannot wait for the next scheduled maintenance period. *{Remove the following sentence if this is not an availability requirement}* It is expected that the will rollover to a backup site during any such emergency maintenance.

**C. Security Requirements**

1. Licensor/Reseller shall conduct a third party independent security/vulnerability assessment at its own expense on an annual basis, and submit the results of such assessment to the Commonwealth within {insert time period ex. three (3) business days}.
2. Licensor/Reseller shall comply with Commonwealth directions/resolutions to remediate the results of the security/vulnerability assessment to align with the standards of the Commonwealth.
3. Licensor/Reseller shall use industry best practices to protect access to the system with a firewall and firewall rules to prevent access by non-authorized users and block all improper and unauthorized access attempts.
4. Licensor/Reseller shall use industry best practices to provide applicable system intrusion detection and prevention in order to detect intrusions in a timely manner.
5. Licensor/Reseller shall use industry best practices to provide applicable malware and virus protection on all servers and network components.
6. Licensor/Reseller shall limit access to the Commonwealth specific systems and servers and provide access only to those staff that must have access to provide services proposed.
7. Licensor/Reseller will provide all Services, using security technologies and techniques in accordance with industry best practices and the Commonwealth's security policies, procedures and requirements, including those relating to the prevention and detection of intrusions, and any other inappropriate use or access of systems and networks.

**D. Data Storage**

1. Licensor/Reseller shall use industry best practices to update and patch all applicable systems and third party software security configurations to reduce security risk. Licensor/Reseller shall protect their operational systems with applicable anti-virus, host intrusion protection, incident response monitoring and reporting, network firewalls, application firewalls, and employ system and application patch management to protect its network and customer data from unauthorized disclosure.
2. Licensor/Reseller shall be solely responsible for applicable data storage required.
3. Licensor/Reseller shall take all commercially viable and applicable measures to protect the data including, but not limited to, the backup of the servers on a daily basis in accordance with industry best practices and encryption techniques.

4. Licensor/Reseller agrees to have appropriate controls in place to protect critical or sensitive data and shall employ stringent policies, procedures, to protect that data particularly in instances where sensitive data may be stored on a Licensor/Reseller controlled or owned electronic device.
5. Licensor/Reseller shall utilize a secured backup solution to prevent loss of data, back up all data every day and store backup media. Stored backup media must be kept in an all-hazards protective storage safe at the worksite and when taken offsite. All back up data and media shall be encrypted.

**E. Disaster Recovery**

Licensor/Reseller shall employ reasonable disaster recovery procedures to assist in preventing interruption in the use of the system.

**Data Exchange/Interface Requirements**

**F. PCI Compliance** {Only use if Licensor or Reseller processes payment card data. }

1. Licensor/Reseller is obliged to adhere to the Payment Card Industry Data Security Standard (PCI DSS) if it processes payment card data. Moreover, Licensor/Reseller shall certify that its Information Technology practices conform to and meet current PCI DSS standards as defined by the PCI Security Standards Council at [https://www.pcisecuritystandards.org/security\\_standards/index.php](https://www.pcisecuritystandards.org/security_standards/index.php).
2. The Licensor or Reseller will monitor these PCI DSS standards and its Information Technology practices and the Licensor or Reseller will notify the Commonwealth within **one (1) week**, if its practices should not conform to such standards. The Licensor or Reseller will provide a letter of certification to attest to meeting this requirement and agrees to the Commonwealth's right-to-audit either by Commonwealth or external third party auditors.
3. Licensor/Reseller agrees that it may (1) create, (2) receive from or on behalf of Commonwealth, or (3) have access to, payment card records or record systems containing cardholder data including credit card numbers (collectively, the "Cardholder Data"). Licensor/Reseller shall comply with the Payment Card Industry Data Security Standard ("PCI-DSS") requirements for Cardholder Data that are prescribed by the payment brands (as appropriate including Visa, MasterCard, American Express, Discover), as they may be amended from time to time (collectively, the "PCIDSS Requirements"). Licensor/Reseller acknowledges and agrees that Cardholder Data may only be used for assisting in completing a card transaction, for fraud control services, for loyalty programs, or as specifically agreed to by the payment brands, for purposes of the Agreement/Purchase Order or as required by applicable law.

**G. Adherence to Policy**

*Requirements for Non-Commonwealth Hosted Applications Services*

1. Licensor/Reseller support and problem resolution solution shall provide a means to classify problems as to criticality and impact and with appropriate resolution procedures and escalation process for each classification of problem.
2. Licensor/Reseller shall abide by the applicable Commonwealth's Information Technology Policies ([ITPs](#)), a list of the most relevant being attached hereto as Attachment 2-A.
3. Licensor/Reseller shall comply with all pertinent federal and state privacy regulations.

#### **H. Closeout**

When the purchase order(s) term expires or terminates, and a new purchase order(s) has not been issued by a Commonwealth Agency to the Commonwealth Software Reseller within sixty (60) days of expiration or termination, and at any other time at the written request of the Commonwealth; Licensor/Reseller must promptly return to the Commonwealth all Commonwealth's data (and all copies of this information) that is in Licensor or Reseller's possession or control. Commonwealth's data shall be returned in a format agreed to by the Commonwealth.

**ATTACHMENT 2-A**

**Information Technology Policies (ITPs)  
for  
Outsourced/Licensor(s)-hosted Solutions**

<b>ITP Number</b>	<b>Title</b>	<b>Type</b>
<a href="#"><u>ACC001</u></a>	IT Accessibility Policy	Policy
<a href="#"><u>APP035</u></a>	Internet Browser Policy	Policy
<a href="#"><u>APP036</u></a>	Office Productivity Software Policy	Policy
<a href="#"><u>APP037</u></a>	Document Viewer and Reader Policy	Policy
<a href="#"><u>INF001</u></a>	Database Management Systems	Policy
<a href="#"><u>INF003</u></a>	Data Modeling Standards	Policy
<a href="#"><u>INFRM006</u></a>	Electronic Documents Management Systems	Policy
<a href="#"><u>PRV001</u></a>	Commonwealth of Pennsylvania Electronic Information Privacy Policy	Policy
<a href="#"><u>SEC001</u></a>	Enterprise Host Security Software Suite Standards and Policy	Policy
<a href="#"><u>SEC004</u></a>	Enterprise Web Application Firewall	Policy
<a href="#"><u>SEC005</u></a>	Commonwealth Application Certification and Accreditation	Policy
<a href="#"><u>SEC007</u></a>	Minimum Standards for User ID's and Passwords	Policy
<a href="#"><u>SEC010</u></a>	Virtual Private Networks	Policy

*Requirements for Non-Commonwealth Hosted Applications Services*

ITP Number	Title	Type
<a href="#">SEC011</a>	Enterprise Policy and software Standards for Agency Firewalls	Policy
<a href="#">SEC019</a>	Policy and procedures for Protecting Commonwealth Electronic Data	Policy
<a href="#">SEC020</a>	Encryption Standards for Data at Rest	Policy
<a href="#">SEC024</a>	IT Security Incident Reporting Policy	Policy
<a href="#">SEC025</a>	Proper Use and Disclosure of Personally Identifiable Information (PII)	Policy
<a href="#">SEC031</a>	Encryption Standards for Data in Transit	Policy
<a href="#">SEC034</a>	Enterprise Firewall Rule Set	Policy
<a href="#">SYM003</a>	Off-site Storage for Commonwealth Agencies	Policy
<a href="#">SYM006</a>	Desktop and Server Software Patching Policy	Policy







AGENCY INFORMATION					Outstanding Issue Summary
Agency	Location (Street Address)	City	State	Zip Code	

APPENDIX J, CURRENT COMMONWEALTH PUBLISHERS

Utilized Publishers
1E
20-20 TECHNOLOGIES COMMERCIAL
8X8 INC
ABBYY USA SOFTWARE HOUSE INC
ABILITY NETWORK
ABM AMERICA
ACCELERATIO
ACCELLION INC
ACCESS DATA
ACCUFUND
ACCUPROCESS
ACCUWEATHER
ACL SERVICES LTD
ACRONIS
ACS GOVERNMENT SYSTEMS
ACTIVEPDF
ACTIVESTATE
ACTIVEXPERTS SOFTWARE
ACUMEN PM
ADEPT COMPUTER SOLUTIONS
ADLIB DOCUMENT SOLUTIONS
ADMIN ARSENAL CORP
ADVANCED INTELLECT LLC
ADVANCED SYSTEMS CONCEPTS
ADVANCED TECHNOLOGY SYSTEMS
ADVANCEDFORCE INFOSECURITY SOL
AGATE SOFTWARE
AGILE ACCESS CONTROL
AGILE RISK MANAGEMENT
AI SQUARED
AIRCRAFT MAINTENANCE SYSTEMS
AIRWATCH
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APPLIED IMAGERY
APPLIED MATHS
APTERYX INC
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AQUEOUS SOLUTIONS LLC
AQUIRE SOLUTIONS
ARCHIVE SYSTEMS INC
ARCSERVE LLC
ARIAL SOFTWARE
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ASCENT GIS
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ASSETWORKS
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ATOMIC DESIGN
ATTACHMATE
AUDIMATION SERVICES INC.
AUTODATA SYSTEMS
AUTODESK
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AXIOM SYSTEMS INC

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BASTA COMPUTING
BCL TECHNOLOGIES
BIDDLE CONSULTING GROUP
BITLY INC
BIZTECH SOLUTIONS
BLACK ICE SOFTWARE
BLUEBEAM SOFTWARE
BLUEPRINT SOFTWARE SYSTEMS
BMC
BORLAND
BRADMARK TECHNOLOGIES
BRIDGES TRANSITIONS CO
BROOKS INTERNET SOFTWARE
BSP SOFTWARE LLC
BUILDING SYSTEMS DESIGN
BUSINESS OBJECTS
CAMTASIA
CAM-TEK SYSTEMS
CARDINAL SYSTEMS
CARLSON SOFTWARE
CASENET
CASEWARE IDEA SOFTWARE
CATALYST USA INC
CCH
CDMS
CELLEBRITE USA
CERBERUS
CETE SOFTWARE
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CITRIX ONLINE
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CLEARWELL

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COOPER NOTIFICATION
CORE SECURITY TECHNOLOGIES
CORE TECHNOLOGY CORP
COREL CORPORATION
COREPOINT HEALTH
CORE-TECH.COM
CRAWFORD TECHNOLOGIES USA
CROSSCHECK NETWORKS
CUADRA ASSOCIATES INC
CWC SOFTWARE
CYBER-ARK SOFTWARE
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DAMEWARE
DANE PRAIRIE SYSTEMS
DAPTIV SOLUTIONS LLC
DATABASE BROTHERS
DATAFLUX
DATANAMIC SOLUTIONS BV
DATAWORKS PLUS
DATAZEN SOFTWARE INC
DAXTRA TECHNOLOGIES
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DTSEARCH CORP
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DYNAMSOFT
EARTH NETWORKS
ECONOMIC MODELING SPECIALIST
EDJ ENTERPRISES
EKTRON
ELECTRONIC IMAGING MATERIALS
ELECTRONICS FOR IMAGING
ELEMENT K
ELEVI ASSOCIATES LLC
ELIXIR TECHNOLOGIES
EMBARCADERO TECHNOLOGIES
EMERGE KNOWLEDGE DESIGN
EMERGENCY REPORTING
ENCHOICE INC
ENCORE SOFTWARE
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ENGINEERED DATA PRODUCTS
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ENTRUST
EPI-USE LABS
ERDAS
ERICOM SOFTWARE
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ESI SERVICES
ESKER

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EXECUTIVEPULSE
EXPERIAN MARKETING SOLUTIONS
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EXTENSIS CORPORATION
F5 NETWORKS
FASTVUE INC
FEDERAL AIRWAYS & AIRSPACE
FILEMAKER
FIRST JUDICIAL DISTRICT OF PA
FISHBOWL SOLUTIONS INC
FLEXERA
FLOWERFIRE
FOLLETT SOFTWARE
FOOKES SOFTWARE
FORMDEV SOFTWARE
FORTIFY SOFTWARE
FORTRES GRAND CORP
FOXIT CORPORATION
FREEDOM SCIENTIFIC BLV GROUP
FRIEDRICH SOFTWARE RESOURCES
FRONTLINE TECHONOLGIES
FRONTRANGE SOLUTIONS
FULL CIRCLE SOLUTIONS GROUP
FUNCTION 1
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GAMING INFORMATICS
GARMIN INTERNATIONAL
GAS TECHNOLOGY INSTITUTE
GENIKON
GENUITEC
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GEOSYSTEM SOFTWARE
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GFI SOFTWARE
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GT SOFTWARE INC.
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GW MICRO
HANCOCK SOFTWARE
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HEALTH FINANCIAL SYSTEMS
HEROIX LLC
HEWLETT PACKARD
HEWLETT PACKARD COMPANY
HID GLOBAL CORPORATION
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HISOFTWARE
HISOFTWARE INC
HMS TECHNOLOGIES
HOUGHTON MIFFLIN HARCOURT
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HOV SERVICES
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I.S. CONSULTING
I2 INC
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ID AUTOMATION
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INFORMA SYSTEMS INC
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INPUT TECHNOLOGIES INC
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INTELLITRACK
INTERACT INTRANET
INTERACT PUBLIC SAFETY SYSTEMS
INTERGRAL INFORMATION SOLUTION
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KNOWLEDGE MANAGEMENT ASSOC
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KRONOS SOFTWARE
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LIQUIDWARE LABS
LISTRAK INC
LIZARDTECH
LOCALIST CORPORATION
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METASTORM
METHOD R CORPORATION
MH CORBIN INC
MICRO POWER & LIGHT
MICRO SYSTEMATION
MICROFOCUS INC
MICROSOFT EASY
MICROSURVEY SOFTWARE
MILLIMAN INC
MINDJET
MINITAB
MIRIA SYSTEMS INC
MITC
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MOBILE REACH
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MULTI-HEALTH SYSTEMS
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MYTOPO
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NETSUPPORT INC
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NOVA RESEARCH COMPANY
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PERSITS SOFTWARE
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PGP Corporation
PHAROS SYSTEMS INTL INC
PICTOMETRY INTERNATIONAL
PILE DYNAMICS
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PKWARE
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PRE EMPTIVE SOLUTIONS
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PRIORITY SYSTEMS
PROFESSIONAL ADVANTAGE SOFT
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PTI MARKETING TECHNOLOGIES
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RESOURCE ONE
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ROCKWARE
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SAGE SOFTWARE
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SAPPHIREHEALTH LLC
SAPRO SYSTEMS
SAVVIUS
SCANLINK CORP
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SIGNALSCAPE INC
SIGNCAD SYSTEMS
SILVER BAY SOFTWARE
SINGLEWIRE SOFTWARE LLC
SKILLSOFT CORPORATION
SLICKEDIT
SMARTBEAR SOFTWARE
SMARTDEPLOY
SMARTDRAW.COM
SNAPTRENDS INC
SOA SOFTWARE INC
SOFTARTISANS
SOFTLOGICA
SOFTPRO NORTH AMERICA
SOFTWARE PURSUITS INC
SOFTWARE995
SOLARWINDS
SOLID OAK SOFTWARE
SONIC FOUNDRY
SONIC SOLUTIONS
SONOCENT LTD
SONY
SONY CREATIVE SOFTWARE
SOPHOS INC
SORACO TECHNOLOGIES
SOTI INC
SPARX SYSTEMS
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SPECTRUM SOFTWARE
SPECTRUM SYSTEMS INC
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STERLING SOLUTIONS
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SWIFTPAGE ACT LLC
SWORD INC
SYBASE
SYMANTEC CORPORATION
SYMANTEC-VERISIGN
SYNCFUSION
SYNERGIS TECHNOLOGIES INC
SYSTEM AUTOMATION
SYSTEMTOOLS SOFTWARE
SYSTEMWERX LIMITED
TAB PRODUCTS
TABLEAU SOFTWARE INC
TACTICAL SOFTWARE
TAILORED SOLUTIONS CORP
TAL TECHNOLOGIES
TAO COMPUTING SOLUTIONS
TEAM INTERACTIONS
TEAMSTUDIO INC
TECHHIT
TECHNOLOGY ENTERPRISE GROUP
TECHNOSOLUTIONS CORPORATION
TECHSMITH
TEEL TECHNOLOGIES
TEKLYNX NEWCO SAS
TELEDYNE ISCO
TELERIK
TENABLE NETWORK SECURITY INC
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THERMO EBERLINE
THOMSON RESEARCHSOFT



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TIBCO SOFTWARE INC
TIMEKEEPING SYSTEMS INC
TIMEVALUE SOFTWARE
TOOLS4EVER INC
TRAFFICWARE
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TRC ENGINEERS
TRIPWIRE INC
TRIVANTIS
TRU TRAFFIC SOFTWARE LLC
TRUSTWAVE HOLDINGS
TVEYES
TVL
UC4 SOFTWARE
UNICON GROUP LTD
UNIXIS LLC
UPTIME SOFTWARE
VANDYKE SOFTWARE
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VEEAM SOFTWARE
VELSOFT TRAINING MATERIALS
VERITAS
VERSATILE SYSTEMS
VIASERV
VIDEObANK
VIDESKTOP INC
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VIZIONCORE
VOCATIONAL RESEARCH INSTITUTE
VRI
WEB DATA CORPORATION
WEBMETHODS
WEBSense INC
WEBSIO INFORMATION SOLUTIONS
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WINFRASOFT LTD
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ZAP TECHNOLOGIES INTERNATIONAL
ZEDX
ZEROTURNAROUND
ZIP CODE DOWNLOAD
ZIX CORPORATION
ZOHO CORPORATION
ZOOMERANG

**APPENDIX K, REVERSE AUCTION PACKAGE**

**COMMONWEALTH OF PENNSYLVANIA  
OFFICE OF ADMINISTRATION, OFFICE FOR  
INFORMATION TECHNOLOGY**

**REVERSE AUCTION  
PACKAGE**

**Software & Related Services**

**Invitation for Bid No. 6100037605**

## I. Purpose

This Reverse Auction Package contains instructions governing Bidder participation in the online reverse auction for Software & Related Services, as well as rules for submitting electronic prices through the auction and information regarding the training process for the auction. Attachments to this Reverse Auction Package include the Reverse Auction - Intent to Participate Form (Appendix K, Attachment A); and the Reverse Auction - Instructions on Configuring Your Browser (Appendix K, Attachment B).

## II. Background Information

Office of Administration, Office for Information Technology (OIT) has decided to use an online reverse auction for the purpose of obtaining competitive prices for Invitation to Bid (IFB) No. 6100037605 for Software & Related Services.

To be fully eligible to participate in the auction and be considered for an award, a Bidder must do the following:

- **Sign and return the Reverse Auction - Intent to Participate Form (Appendix K, Attachment A) with the bid package in response to the IFB** by the date and time listed in the Calendar of Events;
- **Participate in an auction training session** conducted on the date listed in the Calendar of Events for this Reverse Auction Package;
- **Register with Ariba Sourcing and enter initial pricing in Appendix B, Pricing Proposal Response Template;**
- **Participate in the auction**, scheduled for the date and time listed in the Calendar of Events for this Reverse Auction Package; and
- **Submit the Final Reverse Auction Bid Sheet** by the date and time set forth in the Calendar of Events. This will be an updated version of Appendix B, Pricing Proposal Response Template.

## III. Issuing Office

The Issuing Office for this event is Office of Administration, Office for Information Technology (OIT). The Issuing Officer is the sole point of contact for the Commonwealth for this reverse auction. Please refer all inquiries to:

Joseph M. Millovich, Commodity Specialist & ITQ Administrator  
Governor's Office of Administration  
Bureau of IT Procurement  
613 North Street, 5th Floor, Finance Building  
Harrisburg, PA 17120  
jmillovich@pa.gov

## IV. Reverse Auction Overview

- a. An online reverse auction will be used to obtain pricing for Software & Related Services. All Bidders participating in the reverse auction process are required to submit pricing electronically during a specified time frame through the Ariba Sourcing auction platform. All prices submitted during the auction shall constitute valid and binding bids. OIT shall maintain the right to accept or reject all bids.
- b. All participating Bidders will access the Ariba Sourcing auction platform via the internet from their own offices. A PC with a web browser and internet access are required to access and use this system. A description of the system and software requirements is set forth in Appendix K, Attachment B - Reverse Auction - Instructions on Configuring Your Browser.
- c. The auction format allows Bidders to see how their price submittals compare against those of other Bidders, and provides the opportunity for Bidders to improve their chances for award by reducing their prices. The identity of all participating Bidders will not be revealed to other Bidders during the online auction. A bid tabulation reflecting the auction prices will be posted after the reverse auction following the receipt of the Final Reverse Auction Bid Sheets from the auction participants.
- d. At all times during a Bidder's participation, the Bidder will have access to phone support to answer all questions related to the online price submittal system and the auction process. During the registration and training portion of the event, Bidder questions will be answered within 24 hours. Prior to and during the online auction, Bidders will have real-time support from Ariba Sourcing to resolve technical issues regarding the auction platform, supplier registration, entering prebids, logons and connectivity. The number for Ariba Sourcing is **866-218-2155**.
- e. Prior to participating in the online auction, a Bidder must, among other things, execute and agree to be bound by the online auction general terms and conditions through the Intent to Participate Form, which must to be submitted with the Bidder's response to the IFB.

## V. Lot Overview and Parameters

- a. The auction will consist of five (5) lots. A description of the lots is contained in the Specifications of IFB No. 6100037605. The auction will consist of extended pricing for Software & Related Services as set forth in the Specifications and Appendix B, the Pricing Proposal Response Template.
- b. Bidders will be required to submit their Final Reverse Auction Bid Sheet (an updated version of Appendix B, Pricing Proposal Response Template) no later than 4:00 pm (local time) on August 2, 2016 (EST).
- c. Listed below are the reverse auction parameters. These configuration details will be reviewed further during the individual training session:
  1. **Style:** This Auction will be a reverse format, in which a Bidder's price submittals may only decrease in value.
  2. **Information Release:** During the reverse auction, Bidders will see their current price as well as the other bidders' prices for each lot. However, the identities and number of other Bidders will not be visible at any time.

3. **Prebids:** Prebids are bids that you enter during the auction preview period. The prebid price will be the extended pricing for each lot. The Bidder must submit prebid pricing for all lots for which pricing was submitted on Appendix B, Pricing Proposal Response Template. Failure to submit prebids prior to the date and time set forth in the calendar of events will result in the Bidder being locked out of the lots for which no prebids were entered. The prebid lot pricing must match the lot pricing contained in the Bidder's initial pricing in Appendix B, Pricing Proposal Response Template.
  1. Please Note: In order to ensure that all Bidders are bidding on the exact same items during the Reverse Auction, the Commonwealth will update Bid Sheets based on initial submissions received, removing discontinued titles and/or publishers that all bidders could not bid on. The Commonwealth will send out the Updated Reverse Auction Bid Sheets at least three (3) days prior to the reverse auction.
4. **Tie Bids:** Tie bids will not be accepted during the auction. If a bidder attempts to submit a bid that is exactly the same as another Bidder's bid, the system will not accept the second bid and will send a message to the second bidder.
5. **Ceiling Price:** The ceiling price is a price set by OIT for each lot and only bids at or below this price will be accepted by the auction platform. OIT reserves the right to establish a ceiling price prior to the reverse auction event. If OIT determines that it is in the best interests of the Commonwealth to establish ceiling prices on one or more lots, a Solicitation Addendum will be issued notifying Bidders of this change.
6. **Bid Guardian Percentage:** The Bid Guardian Percentage helps prevent Bidders from entering erroneous bids during the reverse auction event by providing a warning message to a Bidder who attempts to enter a bid that is more than ten percent (10%) lower than the Bidder's previous bid. The Bidder can override the warning and submit the lower bid.
7. **Minimum Price Submittal Rule/Decrement:** The minimum price submittal decrement is the amount by which Bidders will need to beat **their** previous lowest price in order to submit a new price. For this auction the minimum decrement is set at 0.1% of the total lot value.
8. **Initial Duration:** The initial duration for Lot 1 will be 15 minutes. Overtime may extend the auction duration past the initial time period. All lots will start at the same time; however, the ending times for each lot will be staggered by ten (10) minute intervals to ensure that all Bidders have the opportunity to improve their pricing for the lots in which they are bidding.
9. **Extension Rule:** Overtime activates for a lot when a new low price is submitted within the last sixty (60) seconds of the auction duration. Successive overtime extensions are activated whenever new low price submittals are placed with sixty (60) seconds or less remaining. Each overtime extension resets the time remaining in the auction to one (1) minute. There will be no limit to the number of extensions that may occur in overtime. The overtime period will end when no additional extensions are triggered and the time expires. An overtime in one Lot will automatically extend the closing time for the other Lots.
10. **Surrogate Bidding:** Surrogate bidding is used when a Bidder, during the auction event, is unable to participate in the online reverse auction due to loss of connectivity, loss of power, or other unplanned circumstances out of the control of the bidder that prevent the Bidder from participating. If during the auction event, a Bidder experiences such a circumstance, the Bidder

may call Ariba's technical support helpline (**866-218-2155**) for assistance in bidding. Ariba, with the verbal consent of the Bidder over the telephone, will enter bids at the direction of the Bidder until the conclusion of the auction or until such time as Bidder is able to enter bids on its own. The telephone call will be recorded to capture all communications between Ariba and the Bidder. If a Bidder is required to use Ariba for surrogate bidding during an auction event, such actions are solely between the Bidder and Ariba. The Commonwealth is not a party to these communications and is not liable for any errors or miscommunications between the Bidder and Ariba during the period of surrogate bidding.

## **VI. Training**

DGS will train designated employees of each Bidder in a telephonic training and online session to familiarize the Bidder's employees with the auction configuration details and the online price submittal system. This will include a practice auction. This practice auction will familiarize the Bidder with the Ariba Sourcing auction platform, registering as a vendor with Ariba, entering prebid pricing, and submitting pricing in a competitive environment prior to the live online reverse auction itself. Training will be held on the dates set forth in the Calendar of Events contained in IFB text.

## **VII. Reverse Auction General Terms and Conditions**

### **a. Auction Event Terms**

1. The Commonwealth intends to use the online auction process for soliciting prices for the lots as described in the IFB. The Commonwealth is not acting as an auctioneer. The pricing results of the reverse auction may become, at the Commonwealth's sole discretion, part of any final contract between the Commonwealth and the selected Bidder(s).
2. The Bidder releases the Commonwealth, its agencies, officers, employees, and consultants from any liability with respect to the online auction event or the conduct of any participant in the online auction event, regardless of whether such liability arises under contract, tort, or any other theory. The Bidder acknowledges that it is under no coercion to agree to this term.
3. Prices which Bidders submit for the online auction event are legally binding prices without qualification. Price submittals may not be cancelled or withdrawn except as specified in these terms.
4. No partial price submittals are permitted. Bidders may only participate in the auctions for the lots for which they submitted initial pricing in response to the IFB.
5. Except as provided in Subsection 6, below, or specifically requested by the Commonwealth, Bidders agree to submit initial pricing on Appendix B, Pricing Proposal Response Template and auction prices online only through the auction website provided by the Commonwealth and not to submit prices via any other mechanism including, but not limited to, U.S. mail, courier, fax, E-mail, or orally.
6. Any Bidder experiencing difficulties during an online auction event must notify Ariba Sourcing immediately at the number provided above. "Difficulties" include any technical problem which interferes with the Bidder's ability to participate in the online auction event and may include, but

is not limited to: data entry errors, software problems, or hardware problems. If more than one Bidder experiences difficulties during the auction, OIT may cancel the auction and set up a new time and date. During the online auction, Bidders will have real-time support from Ariba Sourcing by calling **866-218-2155**.

7. Bidders must maintain security of passwords against unauthorized use.
8. Bidders must enter prebid pricing for each of the lots for which they submitted pricing on the Appendix B, Pricing Proposal Response Template. The prebid pricing **must** match the pricing on the Appendix B, Pricing Proposal Response Template for the lots being bid.
9. Only those Bidders who have submitted initial pricing for lots in response to the IFB (through the Appendix B, Pricing Proposal Response Template) and have entered those prices as prebids in the Ariba Sourcing auction platform will be eligible to participate in the online auction event for those lots.
10. Prices submitted to the auction site or submitted through the Final Reverse Auction Bid Sheet (an updated version of Appendix B, Pricing Proposal Response Template) shall not be withdrawn or modified by the Bidder for a period of sixty (60) days from the close of the auction or until a contract is fully executed.
11. If the Bidder is selected for award, it agrees that the price submitted through the online auction is the Bidder's final price.
12. In submitting a proposal and participating in the reverse auction, Bidders understand and agree that the Commonwealth will award the contract based upon the lowest price submitted by responsive and responsible Bidders during the auction.
13. OIT reserves the right to revise the closing date of the auction, cancel auctions, pause auctions, change posted quantities, and re-offer items that were previously withdrawn. OIT also reserves the right to extend auctions at any time at its sole discretion. OIT also reserves the right to reject all prices received through the online auction.
14. Bidders are responsible for ensuring that bids are submitted through the auction with sufficient time remaining in the auction. Bidders who choose to wait until the final minutes of an auction do so at their own risk. If a Bidder encounters difficulties, as defined above, in the last sixty (60) seconds of the auction, the auction will not be paused and the Bidder will be bound by its last valid price submittal.
15. In participating in the reverse auction, the Bidder understands that OIT will determine, in its sole discretion, which auction result, if any, is accepted. In addition, OIT reserves, in its sole discretion, the right to waive any technical deficiencies or errors with regard to bid packages and bid prices submitted.
16. OIT reserves the right to revise these terms at any time by Addendum.

**b. Auction Site Terms**

1. The auction web site and this service are provided "as is" and without any warranty, express, implied or statutory, including, but not limited to the implied warranties of title, merchantability, fitness for a particular purpose and non-infringement.



2. The Commonwealth makes no warranty that the information on the auction site is accurate, that the auction site will be uninterrupted, timely, secure, or error free. The Commonwealth makes no warranty as to the results that may be obtained from the auction site or that defects, if any, in the software will be corrected.
3. No advice or information, whether oral or written, obtained by the Bidder from the Commonwealth or through the auction site shall create any warranty not expressly stated herein.
4. In no event shall the Commonwealth be liable for lost profits or any special, incidental or consequential damages arising out of or in connection with the website (including suspension or interruption of service), or the services provided for the online auction event (however arising, including negligence).
5. Without limiting any other remedies, the Commonwealth may suspend or terminate a Bidder's access to the website if the Bidder is suspected (by conviction, settlement, insurance or escrow investigation, or otherwise) to have engaged in fraudulent activity in connection with the site.

**c. Bidder Response to OIT**

1. Each Bidder's auction response will consist of four (4) components: 1) Appendix B, Pricing Proposal Response Template submitted in response to the IFB, 2) Prebid pricing in the Ariba Sourcing auction platform; 3) the Reverse Auction; and 4) the Final Reverse Auction Bid Sheet (Appendix B, Pricing Proposal Response Template). Detailed instructions for completing the Final Reverse Auction Bid Sheet following the auction are contained in subparagraph 3 below.
2. Once the auction starts, the Bidder's prebid pricing for those lots for which they submitted pricing in the Appendix B, Pricing Proposal Response Template will appear in the auction event as the bidder's opening bid.
3. At the conclusion of the auction, Bidders must complete and submit the Final Reverse Auction Bid Sheet. The Final Reverse Auction Bid Sheet will reflect the Bidder's lowest bid on the lot from the reverse auction. Bidders shall submit the completed Final Reverse Auction Bid Sheet via e-mail to the Issuing Officer, by 4:00 pm (local time) on August 2, 2016.
4. If these components are not satisfied, OIT may, in its sole discretion, reject the Bidder's bid for individual lots or all lots for which the bidder submitted pricing. After the Bidder has submitted the Final Reverse Auction Bid Sheet via e-mail, the Bidder will receive a confirmation through e-mail that it has been received. If the Bidder does not receive a confirmation e-mail, the Bidder should contact the Issuing Officer.

**COMMONWEALTH OF PENNSYLVANIA**  
**OFFICE OF ADMINISTRATION, OFFICE FOR INFORMATION TECHNOLOGY**  
**INTENT TO PARTICIPATE IN REVERSE AUCTION**  
**FOR**  
**SOFTWARE AND RELATED SERVICES**

**SOLICITATION NO. 6100037605**

Instructions: Complete the information below for the individual that will represent your company during the online reverse auction and submit the completed and signed form with your bid response. After you submit the completed form, the person designated below as the contact person will be contacted by OIT who will provide login information and schedule individual training on the features and functions of the mock auction and live auction software.

**Company**

**Name:** \_\_\_\_\_

**Reverse Auction**

**Contact Person:** \_\_\_\_\_

**Address:** \_\_\_\_\_

**Telephone:** \_\_\_\_\_

**Facsimile:** \_\_\_\_\_

**E-mail Address:** \_\_\_\_\_

By submitting this Intent to Participate, I acknowledge that the Contact Person listed above will participate in the online reverse auction for the above-referenced solicitation. All participation in the online reverse auction will be done in accordance with the terms and conditions contained in the Reverse Auction Package and the Invitation for Bid.

\_\_\_\_\_  
**Signature of Authorized Officer**

\_\_\_\_\_  
**Date**



## Configuring Your Browser to Access Ariba Solutions

Before you can log in to any Ariba On-Demand solution, your web browser must be configured to allow cookies from [ariba.com](http://ariba.com).

### Specifying Cookie Settings for Microsoft Internet Explorer

To log in to any Ariba On-Demand Solution using Microsoft Internet Explorer, Explorer must be configured to allow cookies from [ariba.com](http://ariba.com).

#### Procedure

1. In Internet Explorer, click the **Tools** menu, and then click **Internet Options**.
2. Click the **Privacy** tab and check your privacy settings:
  - If your privacy setting is **Block all cookies**, you must change the privacy setting to a lower level of privacy, such as **High**.
  - If your privacy setting is **High**, click **Sites**, enter [ariba.com](http://ariba.com) in the Address of website field, and click **Allow**.
  - If your privacy setting is anything else, you don't have to do anything.

### Specifying Cookie Settings for Mozilla Firefox

To log in to any Ariba On-Demand Solution using Mozilla Firefox, Mozilla Firefox must be configured to allow cookies from [ariba.com](http://ariba.com).

#### Procedure

1. In Mozilla Firefox, click the **Tools** menu, and then click **Options**.
2. Click the **Privacy** tab and check the setting in the **History** section:
  - If the setting is **Remember history** or **Never remember history**, you don't have to do anything.
  - If the setting is **Use custom settings for history**, and the **Accept cookies from sites** check box is selected, you don't have to do anything.
  - If the setting is **Use custom settings for history**, and the **Accept cookies from sites** check box is **not** selected, click **Exceptions**, enter [ariba.com](http://ariba.com) in the **Address of website** field, and click **Allow**.

## Specifying Cookie Settings for Apple Safari

To log in to any Ariba On-Demand Solution using Apple Safari, Apple Safari must be configured to allow cookies from ariba.com.

### Procedure

1. In Apple Safari, click the button that displays the menu of the general Safari settings, and then click **Preferences**.
2. Click the **Privacy** tab and check the **Block cookies** setting:
  - If the **Block cookies** setting is **From third parties and advertisers** or **Never**, you don't have to do anything.
  - If the **Block cookies** setting is **Always**, change it to either **Never** or **From third parties and advertisers**.

## Specifying Cookie Settings for Google Chrome

To log in to any Ariba On-Demand Solution using Google Chrome, Google Chrome must be configured to allow cookies from ariba.com.

### Procedure

1. In Google Chrome, click the *Chrome* menu on the browser toolbar, and then click **Settings**.
2. Click the **Show advanced settings** link at the bottom of the **Settings** page.
3. In the **Privacy** section, click **Content Settings**, and look at the **Cookies** section. Check the whether the following options are selected:
  - Block sites from setting any data
  - Block third-party cookies and site data
4. Take the appropriate action to enable cookies from ariba.com:
  - If neither one of the settings in the previous step is selected, cookies from ariba.com are already enabled, and you don't have to do anything.
  - If one or both of the settings in the previous step are selected, click **Manage exceptions**, click the **Hostname pattern** field, enter [**\***.]ariba.com in the field, and choose either **Allow** or **Clear on exit** from the **Behavior** pull-down menu.

**Commonwealth of Pennsylvania**

Software IFB

Pricing Proposal Response Template

Lot 2 - IBM Category Details

Brand	Product
IBM Core Middleware	IBM Bluemix
IBM Core Middleware	IBM WebSphere Application Server
IBM Core Middleware	IBM WebSphere Application Server Community Edition
IBM Core Middleware	IBM WebSphere Application Server Express
IBM Core Middleware	IBM WebSphere Application Server Family
IBM Core Middleware	IBM WebSphere Application Server Hypervisor Edition
IBM Core Middleware	IBM WebSphere Application Server Liberty Core
IBM Core Middleware	IBM WebSphere Application Server Network Deployment
IBM Core Middleware	IBM WebSphere DataPower XC10 Appliance
IBM Core Middleware	IBM WebSphere eXtreme Scale
IBM Core Middleware	IBM WebSphere IP Multimedia Subsystem Connector
IBM Core Middleware	IBM WebSphere Real Time
IBM Core Middleware	IBM WebSphere Translation Server for Multiplatforms
IBM Core Middleware	IBM WebSphere Unified Messaging for WebSphere Voice Response
IBM Core Middleware	IBM WebSphere Voice Response for AIX
IBM Core Middleware	IBM WebSphere XML Document Management Server
IBM Core Middleware	IBM Workload Simulator for z/OS and OS/390
IBM Core Middleware	IBM API Management
IBM Core Middleware	IBM WebSphere Cast Iron Cloud Integration
IBM Core Middleware	IBM WebSphere Enterprise Service Bus for z/OS
IBM Core Middleware	IBM WebSphere MQ Hypervisor Edition for Red Hat Enterprise Linux Server
IBM Core Middleware	IBM InfoSphere Optim pureQuery Runtime for Linux UNIX and Windows
IBM Core Middleware	IBM InfoSphere Optim pureQuery Runtime for z/OS
IBM Core Middleware	IBM WebSphere Real Time
IBM Core Middleware	IBM WebSphere Cast Iron Cloud Integration
IBM Core Middleware	IBM WebSphere Business Integration for Financial Networks
IBM Core Middleware	IBM WebSphere Central Site Server
IBM Core Middleware	IBM WebSphere Data Interchange for MultiPlatforms
IBM Core Middleware	IBM WebSphere Data Interchange for z/OS
IBM Core Middleware	IBM WebSphere Multichannel Bank Transformation Toolkit
IBM Core Middleware	IBM WebSphere Transformation Extender Design Studio
IBM Core Middleware	IBM WebSphere Transformation Extender Family
IBM Core Middleware	IBM WebSphere Transformation Extender for Application Programming for z/OS
IBM Core Middleware	IBM WebSphere Transformation Extender for Integration Servers
IBM Core Middleware	IBM WebSphere Transformation Extender for Integration Servers for z/OS

IBM Core Middleware	IBM WebSphere Transformation Extender Launcher Agent
IBM Core Middleware	IBM WebSphere Transformation Extender Options Family
IBM Core Middleware	IBM WebSphere Transformation Extender Pack for ACORD
IBM Core Middleware	IBM WebSphere Transformation Extender Pack for EANCOM
IBM Core Middleware	IBM WebSphere Transformation Extender Pack for EDIFACT
IBM Core Middleware	IBM WebSphere Transformation Extender Pack for FIX
IBM Core Middleware	IBM WebSphere Transformation Extender Pack for HIPAA EDI
IBM Core Middleware	IBM WebSphere Transformation Extender Pack for HL7
IBM Core Middleware	IBM WebSphere Transformation Extender Pack for NACHA
IBM Core Middleware	IBM WebSphere Transformation Extender Pack for NCPDP
IBM Core Middleware	IBM WebSphere Transformation Extender Pack for Odette
IBM Core Middleware	IBM WebSphere Transformation Extender Pack for PeopleSoft
IBM Core Middleware	IBM WebSphere Transformation Extender Pack for SAP
IBM Core Middleware	IBM WebSphere Transformation Extender Pack for SAP XI
IBM Core Middleware	IBM WebSphere Transformation Extender Pack for SEPA
IBM Core Middleware	IBM WebSphere Transformation Extender Pack for Siebel
IBM Core Middleware	IBM WebSphere Transformation Extender Pack for SWIFTNet FIN
IBM Core Middleware	IBM WebSphere Transformation Extender Pack for SWIFTNet Funds
IBM Core Middleware	IBM WebSphere Transformation Extender Pack for TRADACOMS
IBM Core Middleware	IBM WebSphere Transformation Extender Pack for X12
IBM Core Middleware	IBM WebSphere Transformation Extender Packs for EDI Family
IBM Core Middleware	IBM WebSphere Transformation Extender Packs for Financial Services Family
IBM Core Middleware	IBM WebSphere Transformation Extender Packs for Healthcare Family
IBM Core Middleware	IBM WebSphere Transformation Extender SDK
IBM Core Middleware	IBM WebSphere Transformation Extender Secure Adapters Collection
IBM Core Middleware	IBM WebSphere Transformation Extender SNMP Collection
IBM Core Middleware	IBM WebSphere Transformation Extender Trading Manager
IBM Core Middleware	IBM WebSphere Transformation Extender with Command Server for Multiplatforms
IBM Core Middleware	IBM WebSphere Transformation Extender with Command Server for z/OS
IBM Core Middleware	IBM WebSphere Transformation Extender with Launcher for Multiplatforms
IBM Core Middleware	IBM WebSphere Transformation Extender with Launcher for z/OS
IBM Core Middleware	IBM API Management
IBM Core Middleware	IBM DataPower Gateway Appliance
IBM Core Middleware	IBM DataPower Gateway Virtual Edition
IBM Core Middleware	IBM Enterprise Integrator for Domino
IBM Core Middleware	IBM Integration Bus
IBM Core Middleware	IBM Integration Bus Advanced
IBM Core Middleware	IBM Integration Bus Express
IBM Core Middleware	IBM Integration Bus Family
IBM Core Middleware	IBM Integration Bus for z/OS
IBM Core Middleware	IBM Integration Bus Hypervisor Edition

IBM Core Middleware	IBM Integration Bus Standard
IBM Core Middleware	IBM SOA Policy Gateway Pattern
IBM Core Middleware	IBM SOA Policy Pattern
IBM Core Middleware	IBM WebSphere Enterprise Service Bus
IBM Core Middleware	IBM WebSphere Enterprise Service Bus Registry Edition
IBM Core Middleware	IBM WebSphere Enterprise Service Bus Retail Store Edition
IBM Core Middleware	IBM WebSphere Front Office for Financial Markets
IBM Core Middleware	IBM WebSphere Message Broker Connectivity Pack for Healthcare
IBM Core Middleware	IBM WebSphere Message Broker for Remote Adapter Deployment
IBM Core Middleware	IBM WebSphere Message Broker Hypervisor Edition for IBM AIX
IBM Core Middleware	IBM WebSphere Message Broker Hypervisor Edition for Red Hat Enterprise Linux Server for x86
IBM Core Middleware	IBM WebSphere Message Broker Retail Store Edition
IBM Core Middleware	IBM WebSphere Partner Gateway Advanced Edition
IBM Core Middleware	IBM WebSphere Partner Gateway Enterprise Edition
IBM Core Middleware	IBM WebSphere Service Registry and Repository
IBM Core Middleware	IBM MQ Managed File Transfer
IBM Core Middleware	IBM Internet of Things Foundation
IBM Core Middleware	IBM Message Hub
IBM Core Middleware	IBM MessageSight
IBM Core Middleware	IBM MQ
IBM Core Middleware	IBM MQ Advanced
IBM Core Middleware	IBM MQ Advanced for Developers
IBM Core Middleware	IBM MQ Advanced Message Security
IBM Core Middleware	IBM MQ Advanced Message Security for z/OS
IBM Core Middleware	IBM MQ Appliance
IBM Core Middleware	IBM MQ for HP OpenVMS
IBM Core Middleware	IBM MQ for z/OS
IBM Core Middleware	IBM MQ Light
IBM Core Middleware	IBM MQ Managed File Transfer for z/OS
IBM Core Middleware	IBM MQ Telemetry
IBM Core Middleware	IBM WebSphere MQ Advanced for z/OS
IBM Core Middleware	IBM WebSphere MQ Family
IBM Core Middleware	IBM WebSphere MQ for z/VSE
IBM Core Middleware	IBM WebSphere MQ Hypervisor Edition for Red Hat Enterprise Linux Server
IBM Core Middleware	IBM WebSphere MQ Low Latency Messaging
IBM Core Middleware	Governance of Application Development for Outsourcing Accelerator
IBM Core Middleware	IBM Continuous Integration Solution for z Systems
IBM Core Middleware	IBM Hourglass
IBM Core Middleware	IBM Integrated Solution for z Systems Development
IBM Core Middleware	IBM Mobile Development Lifecycle Solution
IBM Core Middleware	IBM Rational Application Developer for WebSphere Software

IBM Core Middleware	IBM Rational Business Developer
IBM Core Middleware	IBM Rational ClearCase Change Management Solution
IBM Core Middleware	IBM Rational ClearCase Change Management Solution Enterprise Edition
IBM Core Middleware	IBM Rational Compliance Accelerator for Financial Services
IBM Core Middleware	IBM Rational Data and Application Modeling Bundle
IBM Core Middleware	IBM Rational Developer for AIX and Linux
IBM Core Middleware	IBM Rational Developer for i
IBM Core Middleware	IBM Rational Developer for the Enterprise
IBM Core Middleware	IBM Rational Developer for z Systems
IBM Core Middleware	IBM Rational Host Integration Solution for 5250 Applications
IBM Core Middleware	IBM Rational Host Integration Solution for Multiplatforms
IBM Core Middleware	IBM Rational Intelligent Transportation Systems
IBM Core Middleware	IBM Rational Mobile Solutions
IBM Core Middleware	IBM Rational Professional Bundle
IBM Core Middleware	IBM Rational Programming Patterns
IBM Core Middleware	IBM Rational Quality Manager
IBM Core Middleware	IBM Rational Rose Data Modeler
IBM Core Middleware	IBM Rational Rose Developer for Java
IBM Core Middleware	IBM Rational Rose Developer for UNIX
IBM Core Middleware	IBM Rational Rose Developer for Visual Studio
IBM Core Middleware	IBM Rational Rose Enterprise
IBM Core Middleware	IBM Rational Rose Family
IBM Core Middleware	IBM Rational Rose Modeler
IBM Core Middleware	IBM Rational Software Architect
IBM Core Middleware	IBM Rational Software Architect Automation Content Pack for RAF and WAS
IBM Core Middleware	IBM Rational Software Architect Contributor
IBM Core Middleware	IBM Rational Software Architect Designer
IBM Core Middleware	IBM Rational Software Architect Designer for WebSphere Software
IBM Core Middleware	IBM Rational Software Architect Extension for C++
IBM Core Middleware	IBM Rational Software Architect Extension for Communications Applications
IBM Core Middleware	IBM Rational Software Architect Extension for Deployment Automation Planning
IBM Core Middleware	IBM Rational Software Architect Extension for Deployment Planning
IBM Core Middleware	IBM Rational Software Architect Extension for Design Management
IBM Core Middleware	IBM Rational Software Architect Extension for Integrated Architecture Frameworks
IBM Core Middleware	IBM Rational Software Architect Extension for SOA and Web Applications
IBM Core Middleware	IBM Rational Software Architect Family
IBM Core Middleware	IBM Rational Software Architect for WebSphere Software
IBM Core Middleware	IBM Rational Software Architect Simulation Toolkit
IBM Core Middleware	IBM Software Development Compliance Solution
IBM Core Middleware	IBM Rational Insight
IBM Core Middleware	IBM Rational Team Concert



IBM Core Middleware	IBM Digital Analytics Benchmark
IBM Core Middleware	IBM SmartCloud Control Desk
IBM Core Middleware	IBM SmartCloud Monitoring - Application Insight
IBM Core Middleware	IBM Cloud Orchestrator
IBM Core Middleware	IBM UrbanCode Deploy
IBM Core Middleware	IBM UrbanCode Deploy with Patterns
IBM Core Middleware	IBM UrbanCode Release
IBM Core Middleware	IBM MobileFirst Platform Quality Assurance
IBM Core Middleware	IBM Rational Functional Tester
IBM Core Middleware	IBM Rational Functional Tester Extension for Oracle Applications
IBM Core Middleware	IBM Rational Functional Tester Family
IBM Core Middleware	IBM Rational Performance Test Server
IBM Core Middleware	IBM Rational Performance Tester
IBM Core Middleware	IBM Rational Performance Tester Extension for Oracle Applications
IBM Core Middleware	IBM Rational Performance Tester Extension for SAP Solutions
IBM Core Middleware	IBM Rational Performance Tester Family
IBM Core Middleware	IBM Rational Quality Manager
IBM Core Middleware	IBM Rational Test Virtualization Server
IBM Core Middleware	IBM Rational Test Workbench
IBM Core Middleware	IBM Rational Test Workbench Mobile Test Edition
IBM Core Middleware	IBM WebSphere Dashboard Framework
IBM Core Middleware	IBM WebSphere Dashboard Framework for Linux on z Systems
IBM Core Middleware	IBM WebSphere Portal Accelerator Family
IBM Core Middleware	IBM WebSphere Portal Enable
IBM Core Middleware	IBM WebSphere Portal Enable for z/OS
IBM Core Middleware	IBM WebSphere Portal Express
IBM Core Middleware	IBM WebSphere Portal Express Idle Standby Server
IBM Core Middleware	IBM WebSphere Portal Family
IBM Core Middleware	IBM WebSphere Portal Server
IBM Core Middleware	IBM Business Process Accelerator
IBM Core Middleware	IBM Collaboration Accelerator
IBM Core Middleware	IBM Dashboard Accelerator
IBM Core Middleware	IBM Employee Experience Suite
IBM Core Middleware	IBM WebSphere Portal Server
IBM Core Middleware	IBM Content Accelerator
IBM Core Middleware	IBM Content Accelerator and WebSphere Portal Server
IBM Core Middleware	IBM Digital Asset Management
IBM Core Middleware	IBM Forms and IBM Forms Experience Builder
IBM Core Middleware	IBM Mobile Portal Accelerator
IBM Core Middleware	IBM Web Experience Factory
IBM Core Middleware	IBM WebSphere Portal Accelerator Family

IBM Core Middleware	IBM WebSphere Portal Enable
IBM Core Middleware	IBM WebSphere Portal Enable for z/OS
IBM Core Middleware	IBM WebSphere Portal Express
IBM Core Middleware	IBM WebSphere Portal Express Idle Standby Server
IBM Core Middleware	IBM WebSphere Portal Extend
IBM Core Middleware	IBM WebSphere Portal Family
IBM Analytics	IBM Case Foundation
IBM Analytics	IBM Case Manager
IBM Analytics	IBM Defense Operations Platform
IBM Analytics	IBM Business Intelligence Pattern with BLU Acceleration
IBM Analytics	IBM Capacity Management Analytics
IBM Analytics	IBM Cognos Business Intelligence
IBM Analytics	IBM Cognos Business Viewpoint
IBM Analytics	IBM Cognos Enterprise
IBM Analytics	IBM Cognos Express
IBM Analytics	IBM Cognos Insight
IBM Analytics	IBM Social Media Analytics Software as a Service
IBM Analytics	IBM Insights Foundation for Energy on Cloud
IBM Analytics	IBM Intelligent Operations Center
IBM Analytics	IBM Intelligent Operations Center on Cloud
IBM Analytics	IBM Predictive Customer Intelligence
IBM Analytics	IBM Social Media Analytics
IBM Analytics	IBM SPSS Analytic Server
IBM Analytics	IBM SPSS Collaboration and Deployment Services
IBM Analytics	IBM SPSS Modeler
IBM Analytics	IBM SPSS Predictive Analytics Enterprise
IBM Analytics	IBM SPSS Statistics
IBM Analytics	Predictive Maintenance and Quality
IBM Analytics	IBM Counter Fraud Management
IBM Analytics	IBM Decision Optimization Center
IBM Analytics	IBM Decision Optimization on Cloud
IBM Analytics	IBM i2 Analyst's Notebook
IBM Analytics	IBM i2 Analyst's Notebook Connector for Esri
IBM Analytics	IBM i2 Analyst's Notebook Premium
IBM Analytics	IBM i2 Analyst's Notebook SDK
IBM Analytics	IBM i2 Analyst's Workstation
IBM Analytics	IBM i2 Analyze
IBM Analytics	IBM i2 COPLINK Premium
IBM Analytics	IBM i2 COPLINK Standard
IBM Analytics	IBM i2 Enterprise Insight Analysis
IBM Analytics	IBM i2 iBase

IBM Analytics	IBM i2 iBase IntelliShare
IBM Analytics	IBM i2 iBridge
IBM Analytics	IBM i2 Information Exchange for Analysis Search for Analyst's Notebook
IBM Analytics	IBM i2 Information Exchange for Analysis Search Services SDK
IBM Analytics	IBM i2 Information Exchange Visualizer
IBM Analytics	IBM i2 Information Exchange Visualizer SDK
IBM Analytics	IBM i2 Intelligent Law Enforcement
IBM Analytics	IBM i2 Product Family
IBM Analytics	IBM i2 Text Chart
IBM Analytics	IBM ILOG CPLEX Optimization Studio
IBM Analytics	IBM Integrated Law Enforcement bundle
IBM Analytics	IBM Intelligent Operations Center for Emergency Management
IBM Analytics	IBM Intelligent Transportation
IBM Analytics	IBM Intelligent Transportation on Cloud
IBM Analytics	IBM Intelligent Video Analytics
IBM Analytics	IBM Intelligent Water
IBM Analytics	IBM Intelligent Water on Cloud
IBM Analytics	IBM SPSS Analytic Server
IBM Analytics	IBM SPSS Collaboration and Deployment Services
IBM Analytics	IBM SPSS Modeler
IBM Analytics	IBM SPSS Predictive Analytics Enterprise
IBM Analytics	Predictive Maintenance and Quality
IBM Analytics	IBM Anonymous Resolution
IBM Analytics	IBM InfoSphere Global Name Management
IBM Analytics	IBM InfoSphere Identity Insight
IBM Analytics	IBM InfoSphere Streams
IBM Analytics	IBM Watson Analytics
IBM Analytics	IBM Watson Explorer
IBM Analytics	IBM Continuous Engineering for Aerospace and Defense
IBM Analytics	IBM Continuous Engineering for Automotive
IBM Analytics	IBM Continuous Engineering for Electronics
IBM Analytics	IBM Continuous Engineering for Medical Devices
IBM Analytics	IBM Continuous Engineering for the Internet of Things
IBM Analytics	IBM Cognos Business Intelligence
IBM Analytics	IBM Cognos Business Viewpoint
IBM Analytics	IBM Cognos Command Center
IBM Analytics	IBM Cognos Controller
IBM Analytics	IBM Cognos Disclosure Management
IBM Analytics	IBM Cognos Financial Statement Reporting
IBM Analytics	IBM Cognos Incentive Compensation Management
IBM Analytics	IBM Cognos Insight

IBM Analytics	IBM Cognos Integration Server
IBM Analytics	IBM Cognos Planning
IBM Analytics	IBM Cognos Territory Management
IBM Analytics	IBM Cognos TM1
IBM Analytics	IBM Concert
IBM Analytics	IBM Algo Comprehensive Capital Analysis and Review
IBM Analytics	IBM Algo Credit Manager
IBM Analytics	IBM Algo FIRST
IBM Analytics	IBM Algo Fundamental Review of Trading Book
IBM Analytics	IBM Algo Integrated Risk Reporting Platform
IBM Analytics	IBM Algo Liquidity Risk Management
IBM Analytics	IBM Algo Managed Data Services on Cloud
IBM Analytics	IBM Algo Risk and Financial Engineering Workbench
IBM Analytics	IBM Algo Risk Service on Cloud
IBM Analytics	IBM Algorithmics Actuarial & Financial Modeling
IBM Analytics	IBM Algorithmics Asset Liability Management
IBM Analytics	IBM Algorithmics Balance Sheet Risk Management
IBM Analytics	IBM Algorithmics Basel RDA
IBM Analytics	IBM Algorithmics Capital Management
IBM Analytics	IBM Algorithmics Economic Capital ERM & Solvency II
IBM Analytics	IBM Algorithmics Full Valuation Asset Liability Management
IBM Analytics	IBM Algorithmics Integrated Market & Credit Risk
IBM Analytics	IBM Algorithmics Investment Design for Wealth Managers
IBM Analytics	IBM Algorithmics Portfolio Construction and Risk Management for Asset Servicers
IBM Analytics	IBM Algorithmics Portfolio Construction and Risk Management for Fund Managers
IBM Analytics	IBM Algorithmics Portfolio Construction and Risk Management for Hedge Funds
IBM Analytics	IBM Algorithmics Portfolio Construction and Risk Management Pension Funds
IBM Analytics	IBM Algorithmics Risk Management Own Risk Solvency Assessment
IBM Analytics	IBM OpenPages Financial Controls Management
IBM Analytics	IBM OpenPages Governance Risk & Compliance Platform
IBM Analytics	IBM OpenPages Information Technology Governance
IBM Analytics	IBM OpenPages Internal Audit Management
IBM Analytics	IBM OpenPages Operational Risk Management
IBM Analytics	IBM OpenPages Operational Risk Management on Cloud
IBM Analytics	IBM OpenPages Policy & Compliance Management
IBM Analytics	IBM Risk Analytics Enterprise Model Risk Governance
IBM Analytics	IBM Risk Analytics Family
IBM Analytics	IBM Risk Analytics Integrated Financial Risk Platform
IBM Analytics	IBM Cognos Incentive Compensation Management
IBM Analytics	IBM Watson Explorer
IBM Analytics	IBM DataWorks

IBM Analytics	IBM InfoSphere Blueprint Director
IBM Analytics	IBM InfoSphere Business Glossary
IBM Analytics	IBM InfoSphere Change Data Capture for Oracle Replication
IBM Analytics	IBM InfoSphere Classic Connector for z/OS
IBM Analytics	IBM InfoSphere Classic Data Event Publisher for z/OS
IBM Analytics	IBM InfoSphere Classic Federation Server for z/OS
IBM Analytics	IBM InfoSphere Classic Replication Server for z/OS
IBM Analytics	IBM InfoSphere Data Architect
IBM Analytics	IBM InfoSphere Data Replication
IBM Analytics	IBM InfoSphere Data Replication for DB2 for z/OS
IBM Analytics	IBM InfoSphere DataStage
IBM Analytics	IBM InfoSphere DataStage and QualityStage Designer
IBM Analytics	IBM InfoSphere DataStage Family
IBM Analytics	IBM InfoSphere DataStage for z/OS
IBM Analytics	IBM InfoSphere DataStage MVS Adapter for IMS
IBM Analytics	IBM InfoSphere DataStage MVS Edition
IBM Analytics	IBM InfoSphere DataStage Server
IBM Analytics	IBM InfoSphere Discovery
IBM Analytics	IBM InfoSphere Federation Server
IBM Analytics	IBM InfoSphere Information Server Family
IBM Analytics	IBM InfoSphere Information Server for z Systems
IBM Analytics	IBM InfoSphere Information Server Pack for Hyperion Essbase
IBM Analytics	IBM InfoSphere Information Server Pack for JD Edwards EnterpriseOne
IBM Analytics	IBM InfoSphere Information Server Pack for Oracle Applications
IBM Analytics	IBM InfoSphere Information Server Pack for PeopleSoft Enterprise
IBM Analytics	IBM InfoSphere Information Server Pack for Salesforce.com
IBM Analytics	IBM InfoSphere Information Server Pack for SAP BW
IBM Analytics	IBM InfoSphere Information Server Pack for SAS
IBM Analytics	IBM InfoSphere Information Server Pack for Siebel
IBM Analytics	IBM InfoSphere Information Services Director
IBM Analytics	IBM InfoSphere QualityStage Module for Address Verification
IBM Analytics	IBM InfoSphere QualityStage Module for DPID
IBM Analytics	IBM InfoSphere QualityStage Module for SERP
IBM Analytics	IBM InfoSphere QualityStage Module for U.S. Address Certification
IBM Analytics	IBM InfoSphere Blueprint Director
IBM Analytics	IBM InfoSphere Change Data Capture for Oracle Replication
IBM Analytics	IBM InfoSphere Classic Connector for z/OS
IBM Analytics	IBM InfoSphere Classic Data Event Publisher for z/OS
IBM Analytics	IBM InfoSphere Classic Federation Server for z/OS
IBM Analytics	IBM InfoSphere Classic Replication Server for z/OS
IBM Analytics	IBM InfoSphere DataStage

IBM Analytics	IBM InfoSphere DataStage and QualityStage Designer
IBM Analytics	IBM InfoSphere DataStage Family
IBM Analytics	IBM InfoSphere DataStage for z/OS
IBM Analytics	IBM InfoSphere DataStage MVS Adapter for IMS
IBM Analytics	IBM InfoSphere DataStage MVS Edition
IBM Analytics	IBM InfoSphere DataStage Server
IBM Analytics	IBM InfoSphere Federation Server
IBM Analytics	IBM InfoSphere Information Server for z Systems
IBM Analytics	IBM InfoSphere Information Server Pack for JD Edwards EnterpriseOne
IBM Analytics	IBM InfoSphere Information Server Pack for Oracle Applications
IBM Analytics	IBM InfoSphere Information Server Pack for PeopleSoft Enterprise
IBM Analytics	IBM InfoSphere Information Server Pack for Salesforce.com
IBM Analytics	IBM InfoSphere Information Server Pack for SAP BW
IBM Analytics	IBM InfoSphere Information Server Pack for SAS
IBM Analytics	IBM InfoSphere Information Server Pack for Siebel
IBM Analytics	IBM InfoSphere Information Services Director
IBM Analytics	IBM InfoSphere Master Data Management Reference Data Management Hub
IBM Analytics	IBM InfoSphere QualityStage
IBM Analytics	IBM InfoSphere QualityStage Family
IBM Analytics	IBM InfoSphere QualityStage Module for Address Verification
IBM Analytics	IBM InfoSphere QualityStage Module for DPID
IBM Analytics	IBM InfoSphere QualityStage Module for SERP
IBM Analytics	IBM InfoSphere QualityStage Module for U.S. Address Certification
IBM Analytics	IBM InfoSphere Data Architect
IBM Analytics	IBM InfoSphere Discovery
IBM Analytics	IBM InfoSphere Optim Data Growth Solution
IBM Analytics	IBM InfoSphere Optim Data Growth Solution Family
IBM Analytics	IBM InfoSphere Optim Data Growth Solution for Amdocs CRM
IBM Analytics	IBM InfoSphere Optim Data Growth Solution for JD Edwards EnterpriseOne
IBM Analytics	IBM InfoSphere Optim Data Growth Solution for Oracle E-Business Suite
IBM Analytics	IBM InfoSphere Optim Data Growth Solution for PeopleSoft Enterprise
IBM Analytics	IBM InfoSphere Optim Data Growth Solution for z/OS
IBM Analytics	IBM InfoSphere Business Glossary
IBM Analytics	IBM InfoSphere Master Data Management Advanced Edition
IBM Analytics	IBM InfoSphere Master Data Management Collaborative Edition
IBM Analytics	IBM InfoSphere Master Data Management Custom Domain Hub Stand Alone
IBM Analytics	IBM InfoSphere Master Data Management Enterprise Edition
IBM Analytics	IBM InfoSphere Master Data Management Reference Data Management Hub
IBM Analytics	IBM Database Patterns Family
IBM Analytics	IBM DB2 Advanced Enterprise Server Edition
IBM Analytics	IBM DB2 Advanced Workgroup Server Edition

IBM Analytics	IBM DB2 Analytics Accelerator
IBM Analytics	IBM DB2 Analytics Accelerator for z/OS
IBM Analytics	IBM DB2 Database Family
IBM Analytics	IBM DB2 Enterprise Server Edition
IBM Analytics	IBM DB2 Express Edition
IBM Analytics	IBM DB2 Express-C
IBM Analytics	IBM DB2 Express-C Fixed Term License
IBM Analytics	IBM DB2 for Linux UNIX and Windows Family
IBM Analytics	IBM DB2 for z/OS
IBM Analytics	IBM DB2 Workgroup Server Edition
IBM Analytics	IBM Informix C-ISAM
IBM Analytics	IBM Informix Extended Parallel Server
IBM Analytics	IBM Informix OnLine Extended Edition
IBM Analytics	IBM Informix OnLine Extended Edition for Linux
IBM Analytics	IBM Informix OnLine Personal Edition
IBM Analytics	IBM Informix Standard Engine Personal Edition
IBM Analytics	IBM Informix Standard Engine Runtime Edition
IBM Analytics	IBM Informix Ultimate Edition
IBM Analytics	IBM Informix Ultimate Warehouse Edition
IBM Analytics	IBM InfoSphere Guardium Database Activity Monitoring and Vulnerability Assessment Family
IBM Analytics	IBM InfoSphere Optim Archive Workgroup Edition Accelerator for Oracle Applications
IBM Analytics	IBM InfoSphere Optim Data Masking Solution
IBM Analytics	IBM InfoSphere Optim Data Masking Solution Family
IBM Analytics	IBM InfoSphere Optim Data Masking Solution for JD Edwards EnterpriseOne
IBM Analytics	IBM InfoSphere Optim Data Masking Solution for Oracle E-Business Suite
IBM Analytics	IBM InfoSphere Optim Data Masking Solution for PeopleSoft Enterprise
IBM Analytics	IBM InfoSphere Optim Data Masking Solution for Siebel CRM
IBM Analytics	IBM InfoSphere Optim Data Masking Solution for Siebel Customer Relationship Management
IBM Analytics	IBM InfoSphere Optim Data Masking Solution for z/OS
IBM Analytics	IBM InfoSphere Optim Data Privacy Workgroup Edition
IBM Analytics	IBM InfoSphere Optim Query Workload Tuner for DB2 for Linux UNIX and Windows
IBM Analytics	IBM InfoSphere Optim Query Workload Tuner for DB2 for z/OS
IBM Analytics	IBM InfoSphere Optim Test Data Management Enterprise Edition
IBM Analytics	IBM InfoSphere Optim Test Data Management Enterprise Edition Accelerator for Oracle Applications
IBM Analytics	IBM InfoSphere Optim Test Data Management Enterprise Edition for SAP Applications
IBM Analytics	IBM InfoSphere Optim Test Data Management Solution
IBM Analytics	IBM InfoSphere Optim Test Data Management Solution Family
IBM Analytics	IBM InfoSphere Optim Test Data Management Solution for JD Edwards EnterpriseOne
IBM Analytics	IBM InfoSphere Optim Test Data Management Solution for PeopleSoft Enterprise
IBM Analytics	IBM InfoSphere Optim Test Data Management Solution for Siebel Customer Relationship Management
IBM Analytics	IBM InfoSphere Optim Test Data Management Solution for z/OS

IBM Analytics	IBM InfoSphere Optim Test Data Management Workgroup Edition
IBM Analytics	IBM InfoSphere Optim Test Data Management Workgroup Edition for SAP Applications
IBM Analytics	IBM PureData System for Transactions
IBM Analytics	IBM Transactional Database Patterns
IBM Analytics	IBM Application Recovery Tool for IMS and DB2
IBM Analytics	IBM Data Mart Pattern
IBM Analytics	IBM Data Studio
IBM Analytics	IBM Database Enterprise Developer Edition
IBM Analytics	IBM DB2 Accessories Suite for z/OS
IBM Analytics	IBM DB2 Administration Solution Pack for z/OS
IBM Analytics	IBM DB2 Administration Tool for z/OS
IBM Analytics	IBM DB2 Administration Toolkit for z/OS the SAP Edition
IBM Analytics	IBM DB2 Advanced Recovery Feature
IBM Analytics	IBM DB2 Automation Tool for z/OS
IBM Analytics	IBM DB2 Automation Toolkit for z/OS the SAP Edition
IBM Analytics	IBM DB2 Bind Manager for z/OS
IBM Analytics	IBM DB2 Buffer Pool Analyzer for z/OS
IBM Analytics	IBM DB2 Change Accumulation Tool for z/OS
IBM Analytics	IBM DB2 Cloning Tool for z/OS
IBM Analytics	IBM DB2 Connect Application Server Advanced Edition
IBM Analytics	IBM DB2 Connect Enterprise Edition
IBM Analytics	IBM DB2 Connect Family
IBM Analytics	IBM DB2 Connect Personal Edition
IBM Analytics	IBM DB2 Connect Unlimited Advanced Edition for zSeries
IBM Analytics	IBM DB2 Fast Copy Solution Pack for z/OS
IBM Analytics	IBM DB2 High Performance Unload for z/OS
IBM Analytics	IBM DB2 Merge Backup for Linux UNIX and Windows
IBM Analytics	IBM DB2 Object Comparison Tool for z/OS
IBM Analytics	IBM DB2 Path Checker for z/OS
IBM Analytics	IBM DB2 Performance Solution Pack for z/OS
IBM Analytics	IBM DB2 Performance Toolkit for z/OS the SAP Edition
IBM Analytics	IBM DB2 pureScale Feature
IBM Analytics	IBM DB2 Query Monitor for z/OS
IBM Analytics	IBM DB2 Query Patroller
IBM Analytics	IBM DB2 Recovery Expert for Linux UNIX and Windows
IBM Analytics	IBM DB2 Recovery Expert for z/OS
IBM Analytics	IBM DB2 Server for VSE & VM
IBM Analytics	IBM DB2 Sort for z/OS
IBM Analytics	IBM DB2 SQL Performance Analyzer for z/OS
IBM Analytics	IBM DB2 Storage Optimization Feature for Linux UNIX and Windows
IBM Analytics	IBM DB2 Table Editor for z/OS



IBM Analytics	IBM DB2 Tools for z/OS Family
IBM Analytics	IBM DB2 Utilities Enhancement Tool for z/OS
IBM Analytics	IBM DB2 Utilities Solution Pack for z/OS
IBM Analytics	IBM DB2 Utilities Suite for z/OS
IBM Analytics	IBM IMS Batch Backout Manager for z/OS
IBM Analytics	IBM IMS Batch Terminal Simulator for z/OS
IBM Analytics	IBM IMS Buffer Pool Analyzer for z/OS
IBM Analytics	IBM IMS Cloning Tool for z/OS
IBM Analytics	IBM IMS Command Control Facility for z/OS
IBM Analytics	IBM IMS Configuration Manager for z/OS
IBM Analytics	IBM IMS Database Control Suite for z/OS
IBM Analytics	IBM IMS DEDB Fast Recovery for z/OS
IBM Analytics	IBM IMS Enterprise Suite
IBM Analytics	IBM IMS Extended Terminal Option Support for z/OS
IBM Analytics	IBM IMS Family
IBM Analytics	IBM IMS Fast Path Solution Pack for z/OS
IBM Analytics	IBM IMS HALDB Toolkit for z/OS
IBM Analytics	IBM IMS High Performance System Generation Tools for z/OS
IBM Analytics	IBM IMS Network Compression Facility for z/OS
IBM Analytics	IBM IMS Online Reorganization Facility for z/OS
IBM Analytics	IBM IMS Performance Solution Pack for z/OS
IBM Analytics	IBM IMS Program Restart Facility for OS/390
IBM Analytics	IBM IMS Queue Control Facility for z/OS
IBM Analytics	IBM IMS Recovery Expert for z/OS
IBM Analytics	IBM IMS Recovery Solution Pack for z/OS
IBM Analytics	IBM IMS Sequential Randomizer Generator for OS/390
IBM Analytics	IBM IMS Sysplex Manager for z/OS
IBM Analytics	IBM IMS Tools Family
IBM Analytics	IBM Informix 4GL
IBM Analytics	IBM Informix C-ISAM DataBlade Module
IBM Analytics	IBM Informix Choice Edition
IBM Analytics	IBM Informix Client Software Development Kit
IBM Analytics	IBM Informix Connect
IBM Analytics	IBM Informix Data Director for Web
IBM Analytics	IBM Informix DataBlade Developer's Kit
IBM Analytics	IBM Informix DataBlade Modules Family
IBM Analytics	IBM Informix Enterprise Gateway Manager
IBM Analytics	IBM Informix Enterprise Gateway Manager with DRDA
IBM Analytics	IBM Informix ESQL/C
IBM Analytics	IBM Informix ESQL/COBOL
IBM Analytics	IBM Informix Excalibur Text Search DataBlade Module

IBM Analytics	IBM Informix Express Edition
IBM Analytics	IBM Informix Family
IBM Analytics	IBM Informix Geodetic DataBlade Module
IBM Analytics	IBM Informix Growth Edition
IBM Analytics	IBM Informix I-Spy
IBM Analytics	IBM Informix Image Foundation DataBlade Module
IBM Analytics	IBM Informix Innovator-C Edition
IBM Analytics	IBM Informix JDBC
IBM Analytics	IBM Informix MaxConnect
IBM Analytics	IBM Informix NET
IBM Analytics	IBM Informix Server Administrator
IBM Analytics	IBM Informix Spatial DataBlade Module
IBM Analytics	IBM Informix SQL
IBM Analytics	IBM Informix Standard Engine
IBM Analytics	IBM Informix TimeSeries DataBlade Module
IBM Analytics	IBM Informix TimeSeries Real-Time Loader
IBM Analytics	IBM Informix Tools Family
IBM Analytics	IBM Informix Video Foundation DataBlade Module
IBM Analytics	IBM Informix Web DataBlade Module
IBM Analytics	IBM InfoSphere Optim Configuration Manager for DB2 for Linux UNIX and Windows
IBM Analytics	IBM InfoSphere Optim Data Growth Solution Family
IBM Analytics	IBM InfoSphere Optim Data Privacy Enterprise Edition
IBM Analytics	IBM InfoSphere Optim Data Privacy Enterprise Edition Accelerator for Oracle Applications
IBM Analytics	IBM InfoSphere Optim High Performance Unload for DB2 for Linux UNIX and Windows
IBM Analytics	IBM InfoSphere Optim Performance Manager for DB2 for Linux UNIX and Windows
IBM Analytics	IBM InfoSphere Optim pureQuery Runtime for Linux UNIX and Windows
IBM Analytics	IBM InfoSphere Optim pureQuery Runtime for z/OS
IBM Analytics	IBM InfoSphere Optim Query Capture and Replay
IBM Analytics	IBM InfoSphere Optim Query Workload Tuner for DB2 for Linux UNIX and Windows
IBM Analytics	IBM Tools Base for z/OS
IBM Analytics	IBM Transaction Analysis Workbench for z/OS
IBM Analytics	IBM PureData Systems Family
IBM Analytics	IBM Banking Data Warehouse
IBM Analytics	IBM Banking Process and Service Models
IBM Analytics	IBM Financial Markets Data Warehouse
IBM Analytics	IBM Health Plan Data Model
IBM Analytics	IBM InfoSphere Warehouse Pack for Customer Insight
IBM Analytics	IBM InfoSphere Warehouse Pack for Market and Campaign Insight
IBM Analytics	IBM InfoSphere Warehouse Pack for Supply Chain Insight
IBM Analytics	IBM Insurance Information Warehouse
IBM Analytics	IBM Insurance Process and Service Models

IBM Analytics	IBM Telecommunications Data Warehouse
IBM Analytics	IBM DB2 Analytics Accelerator
IBM Analytics	IBM DB2 Analytics Accelerator for z/OS
IBM Analytics	IBM DB2 Analytics Accelerator Loader for z/OS
IBM Analytics	IBM Powered by Netezza Technology Family
IBM Analytics	IBM PureData System for Analytics N1001
IBM Analytics	IBM PureData System for Analytics N2001
IBM Analytics	IBM PureData System for Analytics N3001
IBM Analytics	IBM PureData System for Operational Analytics
IBM Analytics	IBM Smart Analytics System 9700/9710
IBM Analytics	IBM zEnterprise Analytic System 9700
IBM Analytics	IBM zEnterprise Analytic System 9710
IBM Analytics	IBM DataQuant for Multiplatforms
IBM Analytics	IBM DataQuant for z/OS
IBM Analytics	IBM DB2 Advanced Enterprise Server Edition
IBM Analytics	IBM DB2 Advanced Workgroup Server Edition
IBM Analytics	IBM DB2 Enterprise Server Edition
IBM Analytics	IBM DB2 Query Management Facility
IBM Analytics	IBM DB2 Workgroup Server Edition
IBM Analytics	IBM Informix Family
IBM Analytics	IBM InfoSphere Warehouse Pack for Customer Insight
IBM Analytics	IBM InfoSphere Warehouse Pack for Market and Campaign Insight
IBM Analytics	IBM InfoSphere Warehouse Pack for Supply Chain Insight
IBM Analytics	IBM InfoSphere Warehouse Packs Family
IBM Analytics	IBM Netezza Replication Services
IBM Analytics	IBM Network Analytics Accelerator
IBM Analytics	IBM InfoSphere BigInsights Enterprise Edition
IBM Analytics	IBM Case Foundation
IBM Analytics	IBM Case Manager
IBM Analytics	IBM Connections Content Manager
IBM Analytics	IBM Connections Enterprise Content Edition
IBM Analytics	IBM Navigator on Cloud
IBM Analytics	IBM Connections Content Manager
IBM Analytics	IBM Connections Content Manager Pattern
IBM Analytics	IBM Connections Enterprise Content Edition
IBM Analytics	IBM Connections Suite
IBM Analytics	IBM Content Analytics with Enterprise Search
IBM Analytics	IBM Content Classification
IBM Analytics	IBM Content Collector Family
IBM Analytics	IBM Content Collector for Microsoft SharePoint
IBM Analytics	IBM Content Foundation

IBM Analytics	IBM Content Integrator
IBM Analytics	IBM Content Integrator for z/OS
IBM Analytics	IBM Content Management Family
IBM Analytics	IBM Content Manager Enterprise Edition
IBM Analytics	IBM Content Manager Family
IBM Analytics	IBM Content Manager for iSeries
IBM Analytics	IBM Content Manager for z/OS
IBM Analytics	IBM Content Manager OnDemand Family
IBM Analytics	IBM Content Manager OnDemand for i
IBM Analytics	IBM Content Manager OnDemand for Multiplatforms
IBM Analytics	IBM Content Manager OnDemand for z/OS
IBM Analytics	IBM Datacap
IBM Analytics	IBM Datacap Accounts Payable
IBM Analytics	IBM Datacap Family
IBM Analytics	IBM Datacap FastDoc
IBM Analytics	IBM Datacap FastDoc Capture
IBM Analytics	IBM Datacap Medical Claims
IBM Analytics	IBM DB2 ImagePlus for z/OS
IBM Analytics	IBM Document Imaging
IBM Analytics	IBM Document Manager
IBM Analytics	IBM ECM Collaboration Edition Bundle
IBM Analytics	IBM FileNet Capture Desktop
IBM Analytics	IBM FileNet Capture Professional
IBM Analytics	IBM FileNet Content Manager
IBM Analytics	IBM FileNet Family
IBM Analytics	IBM FileNet IDM Desktop
IBM Analytics	IBM FileNet Image Manager Active Edition
IBM Analytics	IBM FileNet Image Services
IBM Analytics	IBM FileNet Image Services Resource Adapter
IBM Analytics	IBM FileNet IS IBM DR550 Storage and Retrieval
IBM Analytics	IBM FileNet IS Integral SDS Connector to Centera
IBM Analytics	IBM FileNet IS Integral SDS Connector to HCAP
IBM Analytics	IBM FileNet IS Integral SDS Connector to IBM DR550
IBM Analytics	IBM FileNet IS Integral SDS Connector to SnapLock
IBM Analytics	IBM FileNet IS Integral SDS Connector to Sun 5x20 CAS
IBM Analytics	IBM FileNet IS non-FileNet Optical Storage and Retrieval
IBM Analytics	IBM FileNet IS SnapLock Storage and Retrieval
IBM Analytics	IBM FileNet IS Sun 5x20 CAS Storage and Retrieval
IBM Analytics	IBM FileNet P8 Connector to Centera
IBM Analytics	IBM FileNet P8 Connector to SnapLock
IBM Analytics	IBM FileNet P8 Connector to TSM/SSAM

IBM Analytics	IBM FileNet System Monitor
IBM Analytics	IBM FileNet Web Services/Open Client
IBM Analytics	IBM Navigator on Cloud
IBM Analytics	IBM Production Imaging Edition
IBM Analytics	IBM Web Content Manager
IBM Analytics	IBM Web Content Manager Standard Edition
IBM Analytics	IBM Web Interface for Content Management
IBM Analytics	IBM Content Foundation
IBM Analytics	IBM Atlas eDiscovery Cost Forecasting and Management
IBM Analytics	IBM Atlas eDiscovery Policy Federation Framework and Software Development Kit
IBM Analytics	IBM Atlas eDiscovery Process Management
IBM Analytics	IBM Atlas eDiscovery Process Management MidMarket Edition
IBM Analytics	IBM Atlas IT eDiscovery Process Management
IBM Analytics	IBM Atlas IT eDiscovery Process Management Midmarket Edition
IBM Analytics	IBM Collaborative Lifecycle Management
IBM Analytics	IBM Content Classification
IBM Analytics	IBM Content Collector Family
IBM Analytics	IBM Content Collector for Email
IBM Analytics	IBM Content Collector for File Systems
IBM Analytics	IBM Content Collector for Microsoft SharePoint
IBM Analytics	IBM Content Collector for SAP Applications
IBM Analytics	IBM Defensible Disposal
IBM Analytics	IBM Disposal and Governance Management
IBM Analytics	IBM eDiscovery Analyzer
IBM Analytics	IBM eDiscovery Manager
IBM Analytics	IBM Enterprise Records
IBM Analytics	IBM FileNet IS Magnetic Storage and Retrieval
IBM Analytics	IBM Global Retention Policy and Schedule Management
IBM Analytics	IBM Policy Assessment and Compliance
IBM Analytics	IBM Retention Policy and Schedule Management MidMarket Edition
IBM Analytics	IBM Retention Policy Federation Framework and SDK
IBM Analytics	IBM SCORE
IBM Analytics	IBM Smart Archive Family
IBM Analytics	IBM Tivoli Integration Adapter
IBM Analytics	IBM Tivoli Usage and Accounting Manager
IBM Analytics	IBM Rational DOORS
IBM Analytics	IBM Rational DOORS Next Generation
IBM Analytics	IBM Internet of Things Foundation
IBM Analytics	Arxan Application Protection for IBM Solutions
IBM Analytics	IBM Collaborative Lifecycle Management
IBM Analytics	IBM Continuous Engineering for Aerospace and Defense

IBM Analytics	IBM Continuous Engineering for Automotive
IBM Analytics	IBM Continuous Engineering for Electronics
IBM Analytics	IBM Continuous Engineering for Medical Devices
IBM Analytics	IBM Continuous Engineering for the Internet of Things
IBM Analytics	IBM Rational Automation Framework
IBM Analytics	IBM Rational Build Forge Enterprise Edition
IBM Analytics	IBM Rational Build Forge Enterprise Edition Adaptor Toolkit
IBM Analytics	IBM Rational Build Forge Standard Edition
IBM Analytics	IBM Rational Build Forge Standard Edition Adaptor Toolkit
IBM Analytics	IBM Rational DOORS
IBM Analytics	IBM Rational DOORS Next Generation
IBM Analytics	IBM Rational Engineering Lifecycle Manager
IBM Analytics	IBM Rational Functional Tester
IBM Analytics	IBM Rational Functional Tester Extension for Oracle Applications
IBM Analytics	IBM Rational Functional Tester Family
IBM Analytics	IBM Rational Functional Tester Plus
IBM Analytics	IBM Rational Insight
IBM Analytics	IBM Rational Lifecycle Integration Adapters Family
IBM Analytics	IBM Rational Lifecycle Integration Adapters Standard Edition
IBM Analytics	IBM Rational Lifecycle Integration Adapters Tasktop Edition
IBM Analytics	IBM Rational Method Composer
IBM Analytics	IBM Rational Performance Tester Extension for Citrix Presentation Server
IBM Analytics	IBM Rational Performance Tester Extension for SAP Solutions
IBM Analytics	IBM Rational Performance Tester Extension for Siebel Test Automation
IBM Analytics	IBM Rational Performance Tester Extension for SOA Quality
IBM Analytics	IBM Rational Performance Tester for z/OS
IBM Analytics	IBM Rational Publishing Engine
IBM Analytics	IBM Rational Quality Manager
IBM Analytics	IBM Rational Rhapsody Architect for Software
IBM Analytics	IBM Rational Rhapsody Architect for Systems Engineers
IBM Analytics	IBM Rational Rhapsody Automatic Test Generation Add On
IBM Analytics	IBM Rational Rhapsody Design Manager
IBM Analytics	IBM Rational Rhapsody Design Reviewer
IBM Analytics	IBM Rational Rhapsody Designer for Systems Engineers
IBM Analytics	IBM Rational Rhapsody Developer
IBM Analytics	IBM Rational Rhapsody Developer Rules Composer and Rules Player Add On
IBM Analytics	IBM Rational Rhapsody DoDAF MODAF and UPDM Add On
IBM Analytics	IBM Rational Rhapsody Family
IBM Analytics	IBM Rational Rhapsody Test Conductor Add On
IBM Analytics	IBM Rational Rhapsody Tools and Utilities Add On
IBM Analytics	IBM Rational Robot

IBM Analytics	IBM Rational SDL Suite
IBM Analytics	IBM Rational Service Tester for SOA Quality
IBM Analytics	IBM Rational Solution for Agile ALM
IBM Analytics	IBM Rational Test RealTime
IBM Analytics	IBM Rational Test Workbench Mobile Test Edition
IBM Analytics	IBM SmartCloud Continuous Delivery
Core Hardware	IBM Cloud Orchestrator
Core Hardware	IBM UrbanCode Deploy
Core Hardware	IBM UrbanCode Deploy with Patterns
Core Hardware	IBM Workload Deployer
Core Hardware	IBM Application Performance Analyzer for z/OS
Core Hardware	IBM CICS Deployment Assistant for z/OS
Core Hardware	IBM CICS Tools Family
Core Hardware	IBM CICS VSAM Recovery for z/OS
Core Hardware	IBM Custom Patterns for Linux on z Systems
Core Hardware	IBM Debug Tool for z/OS
Core Hardware	IBM Embedded ViaVoice Advanced Edition
Core Hardware	IBM Embedded ViaVoice Enterprise Edition
Core Hardware	IBM Embedded ViaVoice Family
Core Hardware	IBM Embedded ViaVoice Standard Edition
Core Hardware	IBM Fault Analyzer for z/OS
Core Hardware	IBM File Manager for z/OS
Core Hardware	IBM Multi-site Workload Lifeline
Core Hardware	IBM Open Source Consolidation Package
Core Hardware	IBM PureFlex System
Core Hardware	IBM Session Manager for z/OS
Core Hardware	IBM CICS Batch Application Control for z/OS
Core Hardware	IBM CICS Configuration Manager
Core Hardware	IBM CICS Connectors Family
Core Hardware	IBM CICS Deployment Assistant for z/OS
Core Hardware	IBM CICS Interdependency Analyzer for z/OS
Core Hardware	IBM CICS Modernization Solution Pack for z/OS
Core Hardware	IBM CICS Online Transmission Time Optimizer for z/OS
Core Hardware	IBM CICS Optimization Solution Pack for z/OS
Core Hardware	IBM CICS Performance Analyzer for z/OS
Core Hardware	IBM CICS Tools Family
Core Hardware	IBM CICS Transaction Gateway Desktop Edition
Core Hardware	IBM CICS Transaction Gateway Family
Core Hardware	IBM CICS Transaction Gateway for Multiplatforms
Core Hardware	IBM CICS Transaction Gateway for z/OS
Core Hardware	IBM CICS Transaction Server for z/OS

Core Hardware	IBM CICS Universal Client
Core Hardware	IBM CICS VSAM Recovery for z/OS
Core Hardware	IBM CICS VSAM Transparency for z/OS
Core Hardware	IBM Data Set Commander for z/OS
Core Hardware	IBM IMS
Core Hardware	IBM IMS Family
Core Hardware	IBM TXSeries for Multiplatforms
Core Hardware	IBM WebSphere Transaction Cluster Facility
Core Hardware	IBM Communications Server Family
Core Hardware	IBM Communications Server for AIX
Core Hardware	IBM Communications Server for Data Center Deployment
Core Hardware	IBM Communications Server for Linux
Core Hardware	IBM Communications Server for Linux on z Systems
Core Hardware	IBM Communications Server for Windows
Core Hardware	IBM Financial Transaction Manager
Core Hardware	IBM Global High Availability Mailbox
Core Hardware	IBM Transformation Extender Advanced
Core Hardware	IBM Transformation Extender
Core Hardware	IBM Transformation Extender Pack for Supply Chain EDI
Core Hardware	IBM X.25 Over TCP/IP for Communication Controller for Linux
Core Hardware	IBM z/OS Communications Server
Core Hardware	IBM Aspera File Sharing Suite
Core Hardware	IBM Aspera High-Speed File Transfer
Core Hardware	IBM Aspera High-Speed Sync
Core Hardware	IBM Healthcare Accelerator
Core Hardware	IBM Lotus ActiveInsight
Core Hardware	IBM Lotus ActiveInsight for z/OS
Core Hardware	IBM Self-Service Accelerator
Core Hardware	IBM Forms and IBM Forms Experience Builder
Core Hardware	IBM Digital Asset Management
Core Hardware	IBM IMS
Core Hardware	IBM IMS Family
Core Hardware	IBM IMS Transaction Manager Value Unit Edition
Core Hardware	IBM Migration Utility for z/OS
Core Hardware	IBM Problem Determination Solution Pack for z/OS
Core Hardware	IBM Rational Asset Manager
Core Hardware	IBM Rational Host On-Demand
Core Hardware	IBM COBOL for AIX
Core Hardware	IBM Enterprise COBOL for z/OS
Core Hardware	IBM Enterprise PL/I for z/OS
Core Hardware	IBM PL/I for AIX



Core Hardware	IBM Rational Development Studio for IBM i
Core Hardware	IBM XL C for AIX
Core Hardware	IBM XL C/C++ for AIX
Core Hardware	IBM XL C/C++ for Linux
Core Hardware	IBM XL Fortran for AIX
Core Hardware	IBM XL Fortran for Linux
Core Hardware	IBM IMS
Core Hardware	IBM IMS Database Value Unit Edition
Core Hardware	IBM IMS Family
Core Hardware	IBM Rational Application Developer for WebSphere Software
Core Hardware	IBM Rational Developer for i
Core Hardware	IBM Rational Developer for z Systems
Core Hardware	IBM Rational Solution for Agile ALM
Core Hardware	IBM Business Monitor
Core Hardware	IBM Business Monitor for z/OS
Core Hardware	IBM Decision Server
Core Hardware	IBM WebSphere Business Events eXtreme Scale
Core Hardware	IBM Business Process Manager
Core Hardware	IBM Business Process Manager Advanced
Core Hardware	IBM Business Process Manager Advanced for z/OS
Core Hardware	IBM Business Process Manager Express
Core Hardware	IBM Business Process Manager Standard
Core Hardware	IBM Business Process Manager Tools and Add-Ons
Core Hardware	IBM Case Manager
Core Hardware	IBM Tivoli Application Dependency Discovery Manager (TADDM)
Core Hardware	IBM WebSphere Partner Gateway Express
Core Hardware	IBM WebSphere Partner Gateway Family
Core Hardware	IBM WebSphere Presence Server
Core Hardware	IBM Business Rules for z/OS
Core Hardware	IBM Decision Center
Core Hardware	IBM Decision Center for z/OS
Core Hardware	IBM Decision Server
Core Hardware	IBM Decision Server for z/OS
Core Hardware	IBM Operational Decision Manager Family
Core Hardware	IBM Operational Decision Manager for z/OS Family
Core Hardware	IBM Operational Decision Manager Pattern
Core Hardware	IBM Blueworks Live
Core Hardware	IBM WebSphere Business Modeler Advanced
Core Hardware	IBM WebSphere Business Modeler Basic
Core Hardware	IBM Netcool Network Management
Core Hardware	IBM Rational Performance Tester

Core Hardware	IBM Rational Performance Tester Extension for Oracle Applications
Core Hardware	IBM Rational Performance Tester Family
Core Hardware	IBM Service Delivery Manager
Core Hardware	IBM SmartCloud Monitoring
Core Hardware	IBM SmartCloud Monitoring - Application Insight
Core Hardware	IBM Tivoli Asset Discovery for Distributed
Core Hardware	IBM Tivoli Asset Discovery for z/OS
Core Hardware	IBM Tivoli Business Service Manager
Core Hardware	IBM Tivoli Business Service Manager for z/OS
Core Hardware	IBM Tivoli Composite Application Manager Family
Core Hardware	IBM Tivoli Composite Application Manager for Application Diagnostics
Core Hardware	IBM Tivoli Composite Application Manager for Applications
Core Hardware	IBM Tivoli Composite Application Manager for Microsoft Applications
Core Hardware	IBM Tivoli Composite Application Manager for Transactions
Core Hardware	IBM Tivoli Composite Application Manager for Transactions for z/OS
Core Hardware	IBM Tivoli Decision Support for z/OS
Core Hardware	IBM Tivoli Information Management for z/OS
Core Hardware	IBM Tivoli IntelliWatch Pinnacle for Distributed Systems
Core Hardware	IBM Tivoli Monitoring
Core Hardware	IBM Tivoli Monitoring Agentless / Agent Builder
Core Hardware	IBM Tivoli Monitoring for Virtual Servers
Core Hardware	IBM Tivoli Netcool Configuration Manager
Core Hardware	IBM Tivoli Netcool/OMNIBus
Core Hardware	IBM Tivoli NetView for z/OS
Core Hardware	IBM Tivoli NetView Monitoring for GDPS
Core Hardware	IBM Tivoli OMEGAMON for z/OS Management Suite
Core Hardware	IBM Tivoli OMEGAMON Performance Management Suite for z/OS
Core Hardware	IBM Tivoli OMEGAMON XE for CICS on z/OS
Core Hardware	IBM Tivoli OMEGAMON XE for CICS Transaction Gateway on z/OS
Core Hardware	IBM Tivoli OMEGAMON XE for DB2 Performance Expert on z/OS
Core Hardware	IBM Tivoli OMEGAMON XE for DB2 Performance Monitor on z/OS
Core Hardware	IBM Tivoli OMEGAMON XE for IMS on z/OS
Core Hardware	IBM Tivoli OMEGAMON XE for Mainframe Networks
Core Hardware	IBM Tivoli OMEGAMON XE for Messaging for Distributed Systems
Core Hardware	IBM Tivoli OMEGAMON XE for Messaging for z/OS
Core Hardware	IBM Tivoli OMEGAMON XE for Storage on z/OS
Core Hardware	IBM Tivoli OMEGAMON XE on z/OS
Core Hardware	IBM Tivoli OMEGAMON XE on z/VM and Linux
Core Hardware	IBM Tivoli Performance Modeler for z/OS
Core Hardware	IBM Tivoli Storage Optimizer for z/OS
Core Hardware	IBM Tivoli Web Access for Information Management

Core Hardware	IBM Operations Analytics - Log Analysis
Core Hardware	IBM Operations Analytics for z Systems
Core Hardware	IBM SmartCloud Monitoring
Core Hardware	IBM SmartCloud Virtual Storage Center
Core Hardware	IBM Application Performance Management
Core Hardware	IBM Netcool Network Management
Core Hardware	IBM Tivoli Netcool Configuration Manager
Core Hardware	IBM Tivoli Netcool Performance Manager
Core Hardware	IBM Tivoli Netcool Performance Manager for Wireless
Core Hardware	IBM Tivoli Netcool Service Quality Management Center
Core Hardware	IBM Tivoli Netcool/Impact
Core Hardware	IBM Tivoli Netcool/OMNIBus
Core Hardware	IBM Tivoli Netcool/OMNIBus Gateways
Core Hardware	IBM License Metric Tool
Core Hardware	IBM Netcool Operations Insight
Core Hardware	IBM Rational Asset Manager
Core Hardware	IBM SmartCloud Control Desk
Core Hardware	IBM Tivoli AF/OPERATOR on z/OS
Core Hardware	IBM Tivoli Application Dependency Discovery Manager
Core Hardware	IBM Tivoli Remote Control
Core Hardware	IBM Tivoli Usage and Accounting Manager
Core Hardware	IBM Automation Control for z/OS
Core Hardware	IBM Infrastructure Suite for z/VM and Linux
Core Hardware	IBM Multi-site Workload Lifeline
Core Hardware	IBM SmartCloud Workload Automation
Core Hardware	IBM Tivoli Dynamic Workload Broker
Core Hardware	IBM Tivoli Output Manager for z/OS
Core Hardware	IBM Tivoli Service Automation Manager
Core Hardware	IBM Tivoli Workload Scheduler
Core Hardware	IBM Tivoli Workload Scheduler Family
Core Hardware	IBM Tivoli Workload Scheduler for Applications
Core Hardware	IBM Tivoli Workload Scheduler for Virtualized Data Centers
Core Hardware	IBM Tivoli Workload Scheduler for z/OS
Core Hardware	IBM Tivoli Workload Scheduler Loadleveler
Core Hardware	IBM Spectrum Storage
Core Hardware	IBM Tivoli Storage Manager
Core Hardware	DocAve Backup and Restore for Microsoft SharePoint
Core Hardware	IBM Archive Manager for z/VM
Core Hardware	IBM Backup and Restore Manager for z/VM
Core Hardware	IBM SmartCloud Virtual Storage Center
Core Hardware	IBM Spectrum Storage

Core Hardware	IBM System Storage Archive Manager
Core Hardware	IBM Tape Manager for z/VM
Core Hardware	IBM Tivoli Advanced Allocation Management for z/OS
Core Hardware	IBM Tivoli Advanced Audit for DFSMSHsm
Core Hardware	IBM Tivoli Advanced Backup and Recovery for z/OS
Core Hardware	IBM Tivoli Advanced Catalog Management for z/OS
Core Hardware	IBM Tivoli Advanced Reporting for DFSMSHsm
Core Hardware	IBM Tivoli Advanced Storage Management Suite for z/OS
Core Hardware	IBM Tivoli Automated Tape Allocation Manager for z/OS
Core Hardware	IBM Tivoli Output Manager for z/OS
Core Hardware	IBM Tivoli Storage FlashCopy Manager
Core Hardware	IBM Tivoli Storage Manager
Core Hardware	IBM Tivoli Storage Manager Extended Edition
Core Hardware	IBM Tivoli Storage Manager Family
Core Hardware	IBM Tivoli Storage Manager FastBack
Core Hardware	IBM Tivoli Storage Manager FastBack Center
Core Hardware	IBM Tivoli Storage Manager FastBack for Bare Machine Recovery
Core Hardware	IBM Tivoli Storage Manager FastBack for Microsoft Exchange
Core Hardware	IBM Tivoli Storage Manager FastBack for Workstations
Core Hardware	IBM Tivoli Storage Manager for Databases
Core Hardware	IBM Tivoli Storage Manager for Enterprise Resource Planning
Core Hardware	IBM Tivoli Storage Manager for Mail
Core Hardware	IBM Tivoli Storage Manager for Space Management
Core Hardware	IBM Tivoli Storage Manager for Storage Area Networks
Core Hardware	IBM Tivoli Storage Manager for System Backup and Recovery
Core Hardware	IBM Tivoli Storage Manager for Virtual Environments
Core Hardware	IBM Tivoli Storage Manager for z/OS
Core Hardware	IBM Tivoli Storage Manager for z/OS Media
Core Hardware	IBM Tivoli Storage Manager HSM for Windows
Core Hardware	IBM Tivoli Storage Productivity Center Family
Core Hardware	IBM Tivoli Storage Productivity Center for Replication for z Systems
Core Hardware	IBM Tivoli Tape Optimizer on z/OS
Core Hardware	IBM Spectrum Storage
Core Hardware	IBM Tivoli Storage FlashCopy Manager
Core Hardware	IBM SmartCloud Virtual Storage Center
Core Hardware	IBM Tivoli Storage Manager Family
Core Hardware	IBM Tivoli OMEGAMON XE for Storage on z/OS
Core Hardware	IBM Tivoli Storage Manager
Core Hardware	IBM Tivoli Storage Manager Extended Edition
Core Hardware	IBM Tivoli Storage Manager FastBack
Core Hardware	IBM Tivoli Storage Manager FastBack Center

Core Hardware	IBM Tivoli Storage Manager FastBack for Bare Machine Recovery
Core Hardware	IBM Tivoli Storage Manager FastBack for Microsoft Exchange
Core Hardware	IBM Tivoli Storage Manager for Databases
Core Hardware	IBM Tivoli Storage Manager for Enterprise Resource Planning
Core Hardware	IBM Tivoli Storage Manager for Mail
Core Hardware	IBM Tivoli Storage Manager for Space Management
Core Hardware	IBM Tivoli Storage Manager for Storage Area Networks
Core Hardware	IBM Tivoli Storage Manager for System Backup and Recovery
Core Hardware	IBM Tivoli Storage Manager for z/OS
Core Hardware	IBM Tivoli Storage Manager HSM for Windows
Security	IBM Security Trusteer Mobile Browser
Security	IBM Security Trusteer Mobile SDK
Security	IBM Security Trusteer Pinpoint Criminal Detection
Security	IBM Security Trusteer Pinpoint Malware Detection Advanced Edition
Security	IBM Security Trusteer Rapport
Security	Arxan Application Protection for IBM Solutions
Security	Cigital Application Security Testing
Security	IBM Application Security on Cloud
Security	IBM Security AppScan Enterprise
Security	IBM Security AppScan Family
Security	IBM Security AppScan Source
Security	IBM Security AppScan Standard
Security	IBM Application Security on Cloud
Security	IBM Cloud Identity Service
Security	IBM Cloud Security Enforcer
Security	IBM Security Intelligence on Cloud
Security	IBM InfoSphere Optim Configuration Manager for DB2 for Linux UNIX and Windows
Security	IBM InfoSphere Optim Configuration Manager for DB2 for z/OS
Security	IBM InfoSphere Optim Data Privacy Enterprise Edition
Security	IBM InfoSphere Optim Data Privacy Enterprise Edition Accelerator for Oracle Applications
Security	IBM InfoSphere Optim Data Privacy Workgroup Edition
Security	IBM Security Guardium - Vulnerability Assessment for Databases
Security	IBM Security Guardium Activity Monitor for Files
Security	IBM Security Guardium Data Encryption
Security	IBM Security Guardium Data Encryption for DB2 and IMS Databases
Security	IBM Security Guardium Data Redaction
Security	IBM Security Guardium Database Activity Monitor
Security	IBM Security Guardium Express Activity Monitor for Databases
Security	IBM Security Guardium for Applications
Security	IBM Security Key Lifecycle Manager
Security	IBM Security Key Lifecycle Manager for z/OS

Security	IBM BigFix Compliance
Security	IBM BigFix Family
Security	IBM BigFix Inventory
Security	IBM BigFix Lifecycle
Security	IBM BigFix Patch
Security	IBM BigFix Power Management
Security	IBM BigFix Protection
Security	IBM BigFix Server Automation
Security	IBM MaaS360
Security	IBM MaaS360 (SaaS)
Security	IBM Security Trusteer Apex Advanced Malware Protection
Security	IBM Cloud Identity Service
Security	IBM Security Access Manager
Security	IBM Security Access Manager for DataPower
Security	IBM Security Access Manager for Enterprise Single Sign-On
Security	IBM Security Directory Suite
Security	IBM Security Identity and Access Assurance
Security	IBM Security Identity and Access Manager
Security	IBM Security Identity Governance and Intelligence
Security	IBM Security Identity Manager
Security	IBM Security Privileged Identity Manager
Security	IBM Tivoli Security Policy Manager
Security	IBM Security zSecure Adapters for QRadar SIEM
Security	IBM Security zSecure Admin
Security	IBM Security zSecure Administration (package)
Security	IBM Security zSecure Alert
Security	IBM Security zSecure Audit
Security	IBM Security zSecure CICS Toolkit
Security	IBM Security zSecure Command Verifier
Security	IBM Security zSecure Compliance and Administration (package)
Security	IBM Security zSecure Compliance and Auditing (package)
Security	IBM Security zSecure Manager for RACF z/VM
Security	IBM Security zSecure suite Family
Security	IBM Security zSecure Visual
Security	IBM Application Security on Cloud
Security	IBM MaaS360
Security	IBM MaaS360 (SaaS)
Security	IBM Security AppScan Standard
Security	IBM Security Trusteer Mobile Browser
Security	IBM Security Trusteer Mobile SDK
Security	IBM Security Content Analysis Software Development Kit

Security	IBM Security Network Intrusion Prevention System (GX)
Security	IBM Security Network Protection (XGS)
Security	IBM Security Network Protection for VMware
Security	IBM Security SiteProtector System
Security	IBM QRadar Security Intelligence Platform
Security	IBM Security Intelligence on Cloud
Security	IBM Security QRadar Incident Forensics
Security	IBM Security QRadar Log Manager
Security	IBM Security QRadar QFlow Collector
Security	IBM Security QRadar Risk Manager
Security	IBM Security QRadar SIEM
Security	IBM Security QRadar Vulnerability Manager
Commerce	IBM Tealeaf CX
Commerce	IBM Tealeaf CX Mobile
Commerce	IBM Digital Analytics
Commerce	IBM Predictive Customer Intelligence
Commerce	IBM Social Media Analytics
Commerce	IBM Social Media Analytics Software as a Service
Commerce	IBM Sterling Delivery and Service Scheduling
Commerce	IBM Sterling Global Inventory Visibility
Commerce	IBM Sterling Reverse Logistics
Commerce	IBM Sterling Supplier Portal
Commerce	IBM Sterling Supply Chain Visibility Family
Commerce	IBM Sterling Supply Chain Visibility Inbound
Commerce	IBM Sterling Supply Chain Visibility Outbound
Commerce	IBM Sterling Supply Chain Visibility Vendor Compliance
Commerce	IBM Sterling Warehouse Management System
Commerce	IBM Sterling Warehouse Management System Inventory Management
Commerce	IBM Sterling Warehouse Management System Outbound Management
Commerce	IBM Sterling Warehouse Management System Receiving
Commerce	IBM Call Center for Commerce
Commerce	IBM Commerce Insights
Commerce	IBM Commerce on Cloud
Commerce	IBM Customer Experience Suite
Commerce	IBM Gift Center for WebSphere Commerce
Commerce	IBM Payments Director
Commerce	IBM Payments Gateway
Commerce	IBM Sales Center for WebSphere Commerce
Commerce	IBM Sterling Configurator
Commerce	IBM Sterling Configure Price Quote
Commerce	IBM Sterling Distributed Order Management

Commerce	IBM Sterling Order Management
Commerce	IBM Sterling Pricing
Commerce	IBM Sterling Quotes
Commerce	IBM WebSphere Commerce
Commerce	IBM WebSphere Commerce Developer
Commerce	IBM WebSphere Commerce Enterprise
Commerce	IBM WebSphere Commerce Express
Commerce	IBM WebSphere Commerce Professional
Commerce	IBM Advanced Deal Management
Commerce	IBM Assortment Optimization
Commerce	IBM Deal Management
Commerce	IBM Markdown Optimization
Commerce	IBM Price Management
Commerce	IBM Price Optimization
Commerce	IBM Promotion Execution
Commerce	IBM Promotion Optimization
Commerce	IBM Promotion Planning
Commerce	IBM Shopper Insights
Commerce	IBM AdTarget
Commerce	IBM Content Recommendations
Commerce	IBM Digital Analytics
Commerce	IBM Digital Analytics Accelerator
Commerce	IBM Digital Analytics Benchmark
Commerce	IBM Digital Analytics for On Premises
Commerce	IBM Digital Analytics for Social Media
Commerce	IBM Digital Analytics Impression Attribution
Commerce	IBM Digital Analytics Lifecycle
Commerce	IBM Digital Analytics Multichannel
Commerce	IBM Digital Analytics Multisite
Commerce	IBM Digital Marketing Optimization Solution Family
Commerce	IBM LIVEmail
Commerce	IBM Marketing Center
Commerce	IBM Marketing Operations OnDemand
Commerce	IBM Product Recommendations
Commerce	IBM Search Marketing
Commerce	IBM Marketing Center
Commerce	IBM Campaign
Commerce	IBM Contact Optimization
Commerce	IBM CustomerInsight
Commerce	IBM Digital Analytics for On Premises
Commerce	IBM Distributed Marketing



Commerce	IBM Email Optimization
Commerce	IBM Leads
Commerce	IBM Marketing Operations
Commerce	IBM Marketing Operations OnDemand
Commerce	IBM SPSS Modeler Advantage Enterprise Marketing Management Edition
Commerce	IBM Detect
Commerce	IBM Interact
Commerce	IBM Emptoris Contract Management
Commerce	IBM Emptoris Family
Commerce	IBM Emptoris Program Management
Commerce	IBM Emptoris Sourcing
Commerce	IBM Emptoris Spend Analysis
Commerce	IBM Emptoris Services Procurement
Commerce	IBM Emptoris Spend Analysis
Commerce	IBM B2B Advanced Communications
Commerce	IBM B2B Cloud Services
Commerce	IBM Payments Gateway
Commerce	IBM Standards Processing Engine for Healthcare Payer
Commerce	IBM Standards Processing Engine for Supply Chain EDI
Commerce	IBM Sterling B2B Collaboration Network
Commerce	IBM Sterling B2B Integration Family
Commerce	IBM Sterling B2B Integration Services
Commerce	IBM Sterling B2B Integrator
Commerce	IBM Sterling e-Invoicing
Commerce	IBM Sterling File Gateway
Commerce	IBM Sterling Gentran
Commerce	IBM Sterling Supplier Portal
Commerce	IBM Sterling Connect:Direct
Commerce	IBM Sterling Connect:Express
Commerce	IBM Sterling Control Center
Commerce	IBM Sterling File Transfer Service
Commerce	IBM Sterling Managed File Transfer Family
Commerce	IBM Sterling Secure Proxy
Other	All Other Software



**Date:** June 2, 2016

**Subject:** Software & Related Services

**Solicitation Number:** 6100037605

**Solicitation Due Date:** June 31, 2016

**Addendum Number:** 1

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**To All Offerors/Bidders:**

The Commonwealth of Pennsylvania defines a solicitation “Addendum” as an addition to or amendment of the original terms, conditions, specification, or instruction of a procurement solicitation (e.g. Invitation for Bids, Request for Quotes and Request for Proposals).

**The following changes have been made to the solicitation identified above:**

The Commonwealth has updated the IFB to specify the location of the Pre-bid Conference. The location of the Pre-bid Conference is below:

613 North Street  
Finance Building – Room 503  
Harrisburg, PA 17120

**For electronic solicitations responses via the PASupplierPortal:**

- Attach this addendum to your solicitation response.
- To attach the Addendum, download the Addendum and save to your computer. Move to “My Notes”, use the “Browse” button to find the document you just saved and press “Add” to upload the document.
- Review the Attributes section of our solicitation response to ensure you have responded, as required, to any question relevant to solicitation addenda issues subsequent to the initial advertisement of the solicitation opportunity,

Except as amended by this Addendum, the terms, conditions, specification, and instruction of the solicitation and any previous solicitation addenda, remain as originally written.

Very truly yours,

**Name:** Joseph M. Millovich

**Title:** Commodity Specialist

**Phone:** 717-214-3434

**Email:** [RA-OITPurchases@pa.gov](mailto:RA-OITPurchases@pa.gov)



**Date:** June 8, 2016

**Subject:** Software & Related Services

**Solicitation Number:** 6100037605

**Solicitation Due Date:** July 7, 2016

**Addendum Number:** 2

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**To All Offerors/Bidders:**

The Commonwealth of Pennsylvania defines a solicitation “Addendum” as an addition to or amendment of the original terms, conditions, specification, or instruction of a procurement solicitation (e.g. Invitation for Bids, Request for Quotes and Request for Proposals).

**The following changes have been made to the solicitation identified above:**

The Commonwealth has made the following updates the IFB:

IFB, Part I-6, A:

- Resellers must be certified as a Licensing Solutions Provider (LSP).

Calendar of Events:

- The bid due date has been changed to July, 7, 2016 at 1:00PM.
- The dates of the reverse auction activities have been modified.

Appendix K, Section V, 8:

- Has been revised.

**For electronic solicitations responses via the PASupplierPortal:**

- Attach this addendum to your solicitation response.
- To attach the Addendum, download the Addendum and save to your computer. Move to “My Notes”, use the “Browse” button to find the document you just saved and press “Add” to upload the document.
- Review the Attributes section of our solicitation response to ensure you have responded, as required, to any question relevant to solicitation addenda issues subsequent to the initial advertisement of the solicitation opportunity,

Except as amended by this Addendum, the terms, conditions, specification, and instruction of the solicitation and any previous solicitation addenda, remain as originally written.

Very truly yours,

**Name:** Joseph M. Millovich

**Title:** Commodity Specialist

**Phone:** 717-214-3434

**Email:** [RA-OITPurchases@pa.gov](mailto:RA-OITPurchases@pa.gov)

**Date:** June 10, 2016

**Subject:** Software & Related Services

**Solicitation Number:** 6100037605

**Solicitation Due Date:** July 7, 2016

**Addendum Number:** 3

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**To All Offerors/Bidders:**

The Commonwealth of Pennsylvania defines a solicitation “Addendum” as an addition to or amendment of the original terms, conditions, specification, or instruction of a procurement solicitation (e.g. Invitation for Bids, Request for Quotes and Request for Proposals).

**The following changes have been made to the solicitation identified above:**

The Commonwealth has posted the following documentation as part of this addendum:

- Pre-bid Conference Presentation
- Pre-bid Conference Sign-in Sheet

**For electronic solicitations responses via the PASupplierPortal:**

- Attach this addendum to your solicitation response.
- To attach the Addendum, download the Addendum and save to your computer. Move to “My Notes”, use the “Browse” button to find the document you just saved and press “Add” to upload the document.
- Review the Attributes section of our solicitation response to ensure you have responded, as required, to any question relevant to solicitation addenda issues subsequent to the initial advertisement of the solicitation opportunity,

Except as amended by this Addendum, the terms, conditions, specification, and instruction of the solicitation and any previous solicitation addenda, remain as originally written.

Very truly yours,

**Name:** Joseph M. Millovich

**Title:** Commodity Specialist

**Phone:** 717-214-3434

**Email:** [RA-OITPurchases@pa.gov](mailto:RA-OITPurchases@pa.gov)

# Pre-bid Conference

## SOFTWARE & RELATED SERVICES

**IFB#6100037605**

**June 9, 2016**

# Introductions

## Agency Representatives:

- Office of Administration
  - Joe Millovich, Commodity Specialist
- Treya Partners
  - Barnali Dasverma, Director
  - Michael Yang, Consultant

# Agenda

- Project Scope & Objectives
- Software Services
- Lot Overview
  - Current Contract Information
  - Annual Spend
  - Bidder Eligibility
  - Method of Award
- Calendar of Events
- Bid Submission
- Cost Matrix Overview (Treya Partners)

# Project Scope & Objectives

- The intent of the bid is to give Commonwealth agencies the ability to purchase software (commercially available software, software appliances, software subscriptions and software as a service) and services (installation, implementation, customization, training, support and maintenance).
- Bidders must be capable of providing reseller services such as pre-sales assistance, license administration, order fulfillment, and vendor management services.
- Contractors will only be permitted to provide quotes for products and services from licensors which have a signed software agreement with the Commonwealth.
- NOTE: Freeware, open source code, and click-through agreements are not permitted through any the contract resulting from this IFB.



# Software Services

- Additional services may include, but are not limited to, installation, implementation, customization, training, support and maintenance.
- Commonwealth agencies will be required to develop a statement of work when purchasing services. The SOW must be attached to the associated purchase order.
- The total cost for services may not exceed 40% of the software cost (excluding software support and maintenance).
- Orders for software support and maintenance may extend up to two (2) years past the expiration date of the contract.
- When procuring SaaS services, agencies must use the requirements template for non-Commonwealth hosted applications.

# Lot 1, Microsoft Software & Services

- Current Contract #4400007199 (Dell Marketing LP)
- \$27M Annual Spend
- Bidder Eligibility:
  - Resellers must be certified as a Licensing Solutions Provider (LSP).
- Method of Award:
  - A single award will be made to the Bidder who provides the markup resulting in the lowest cost to the Commonwealth..

# Lot 2, IBM Software and Services

- Current Contract #4400007363 (IBM Corporation)
- \$9M Annual Spend
- Bidder Eligibility:
  - Bidder can be the original publisher, or a reseller. Resellers must be an IBM software Value Plus – Authorized Products reseller. The Bidder must be capable of providing all software in the IBM product portfolio.
- Method of Award:
  - A single award will be made to the Bidder who provides the lowest total cost based on the highest percentage discount from the IBM retail list price.

# Lot 3, Oracle Software and Services

- Current Contract #4400004713 (DLT Solutions LLC)
- \$2M Annual Spend
- Bidder Eligibility:
  - Bidder can be the original publisher, or a reseller. Resellers must be an Oracle Partner Network Platinum Level Partner. The Bidder must be capable of providing all software in the Oracle portfolio.
- Method of Award:
  - A single award will be made to the Bidder who provides the lowest total cost for the market basket..

# Lot 4, SAP Software and Services

- Current Contract #4400010101 (SAP)
- \$4.5M Annual Spend
- Bidder Eligibility:
  - Bidder can be the original publisher, or a reseller. Resellers must be an SAP Platinum Partner.
- Method of Award:
  - A single award will be made to the Bidder who provides the lowest total cost based on (1) the highest percentage discount from the MSRP list price for software, (2) the lowest maintenance cost as a % of software license cost, and (3) lowest hourly rates for consulting services

# Lot 5, Third - Party Software & Services

- Current Contract #4400007199 (Dell Marketing LP)
- \$45M Annual Spend
- Bidder Eligibility:
  - Bidder must have a reseller agreement with all eight (8) required publishers and least 15 of the 17 of the other publishers listed in Appendix B, Pricing Proposal Response Template; Lot 5 -Third Party Software Tab, as of the bid due date.
- Method of Award:
  - Awards will be made to up to three (3) Bidders who provide the lowest market basket cost for Third-Party Software and Services.

# Calendar of Events

Activity	Responsibility	Date
Pre-bid Conference:  613 North Street Finance Building – Room 503 Harrisburg, PA 17120	Issuing Office/Potential Bidders	<b>June 9, 2016</b> <b>1:00PM EST</b>
Deadline to submit questions via email to <a href="mailto:RA-OITPurchases@state.pa.us">RA-OITPurchases@state.pa.us</a> with the subject line “IFB 6100037605 Question”	Bidders	<b>June 10, 2016</b> <b>1:00PM EST</b>
Answers to potential questions posted to the PA eMarketplace portal website ( <a href="http://www.emarketplace.state.pa.us">http://www.emarketplace.state.pa.us</a> ).	Issuing Office	<b>June 17, 2016</b>
Please monitor the PA eMarketplace portal website for all communications regarding this IFB.	Bidders	<b>Ongoing</b>
Bid package must be received by the Issuing Office at:  PASupplierPortal website ( <a href="http://www.pasupplierportal.state.pa.us">http://www.pasupplierportal.state.pa.us</a> ) no later than this date.	Bidders	<b>July 7, 2016</b> <b>1:00PM EST</b>
Updated Pre-Reverse Auction Bid Sheets sent to bidders	Commonwealth	<b>July 15, 2016</b>
Reverse Auction Training	Capable Bidders	<b>July 19-26, 2016</b>
Bidders must register as a vendor on the reverse auction website and enter their prebid pricing for the auction.	Capable Bidders	<b>July 27, 2016</b>
Reverse Auctions	Capable Bidders	<b>July 28, 2016</b>
Post-Reverse Auction Bid Sheets Due	Reverse Auction Participants	<b>August 3, 2016</b>

# Bid Submission

Initial bids must be submitted electronically via the PASupplierPortal website on or before the due date specified in the Calendar of Events. Any bid submitted to the Issuing Office in hardcopy format will be rejected. The following documentation must be submitted as part of the bid:

- By Submitting a bid, you confirm that all requirements are met.
- Pricing Proposal Response Template (Appendix B)
- COSTARS Program Election Form (Appendix D), if Applicable
- Reverse Auction Intent to Participate (Appendix K, Attachment A)
- Reseller Authorization Letters (if applicable): If a Bidder is submitting a bid as a reseller, it must submit an authorization letter which clearly states the Bidder is authorized to provide the licensor's Software and Services to the Commonwealth for this IFB.
  - The authorization letter(s) must reference Commonwealth IFB 6100037605 for Software & Related Services.
  - Bidders must submit an authorization letter for each of the lots being bid.
  - For Lot 5 – Third Party Software, authorization letters must be submitted for all the software licensors listed in “Appendix B, Pricing Proposal Response Template; Lot 5 -Third Party Software” tab with which a reseller agreement is held.

**After the initial bid process, additional steps will be required. Please review Appendix K, Reverse Auction Package and associated attachments for more information. Note that a PA Department of General Services trainer will provide one-on-one training to each bidder in advance of the reverse auction.**

**Failure to submit the documentation listed above will result in the bid being rejected. The submission of any documentation other than what is listed above may result in the bid being rejected.**



# Cost Matrix Overview

- Cost matrix walkthrough (refer to Excel-based Cost Proposal Response Template)
- Guidance
  - Please identify any discontinued market basket items in your bid submission
    - The Commonwealth will review and update the Cost Matrix accordingly prior to the Reverse Auction

Contact Name	Company Name	Email Address	Phone Number
Jason Keller	Vocam Jeffries	JASON.KELLER@VOCAM.COM	240-676-1358
BRI HATZ	EMC	William.Hitze@emc.com	717-614-0994
Jack Dixon	Carahsoft	Jack.Dixon@carahsoft.com	103230-7545
Bill Shea	Cisco Systems	bishea@cisco.com	484-595-4149
RICH PUGH	SHI	rich_pugh@shi.com	917-857-5282
Carl Skiba	ePlus	CSKIBAC@eplus.com	717-736-1100
John D'Archange	ePlus	adarchange@eplus.com	610-390-2112
John Luchetti	IBM	john.luchetti@us.ibm.com	717-648-3244
Elizabeth Casey	DELL	Elizabeth.Casey@dell.com	610-974-8907
Mark Hull	DELL	mark.hull@dell.com	484-605-2784
Michael Smith	SHI	Mike_Smith@shi.com	215-589-3249
Tom Miller	COM	Tom.Miller@com.com	610-377-8833
PABLO ADAM	AT&T	PA1362@ATT.COM	717-526-5426



**Date:** June 17, 2016

**Subject:** Software & Related Services

**Solicitation Number:** 6100037605

**Solicitation Due Date:** July 7, 2016

**Addendum Number:** 4

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**To All Offerors/Bidders:**

The Commonwealth of Pennsylvania defines a solicitation “Addendum” as an addition to or amendment of the original terms, conditions, specification, or instruction of a procurement solicitation (e.g. Invitation for Bids, Request for Quotes and Request for Proposals).

**The following changes have been made to the solicitation identified above:**

The Commonwealth has delayed posting the questions and answers due to the unexpected number of questions received. The anticipated posting date for the questions and answers is Monday, June 20, 2016.

**For electronic solicitations responses via the PASupplierPortal:**

- Attach this addendum to your solicitation response.
- To attach the Addendum, download the Addendum and save to your computer. Move to “My Notes”, use the “Browse” button to find the document you just saved and press “Add” to upload the document.
- Review the Attributes section of our solicitation response to ensure you have responded, as required, to any question relevant to solicitation addenda issues subsequent to the initial advertisement of the solicitation opportunity,

Except as amended by this Addendum, the terms, conditions, specification, and instruction of the solicitation and any previous solicitation addenda, remain as originally written.

Very truly yours,

**Name:** Joseph M. Millovich

**Title:** Commodity Specialist

**Phone:** 717-214-3434

**Email:** [RA-OITPurchases@pa.gov](mailto:RA-OITPurchases@pa.gov)

**Date:** June 20, 2016

**Subject:** Software & Related Services

**Solicitation Number:** 6100037605

**Solicitation Due Date:** July 7, 2016

**Addendum Number:** 5

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**To All Offerors/Bidders:**

The Commonwealth of Pennsylvania defines a solicitation “Addendum” as an addition to or amendment of the original terms, conditions, specification, or instruction of a procurement solicitation (e.g. Invitation for Bids, Request for Quotes and Request for Proposals).

**The following changes have been made to the solicitation identified above:**

The Commonwealth has delayed posting the questions and answers due to the unexpected number of questions received. The anticipated posting date for the questions and answers is Tuesday, June 21, 2016.

**For electronic solicitations responses via the PASupplierPortal:**

- Attach this addendum to your solicitation response.
- To attach the Addendum, download the Addendum and save to your computer. Move to “My Notes”, use the “Browse” button to find the document you just saved and press “Add” to upload the document.
- Review the Attributes section of our solicitation response to ensure you have responded, as required, to any question relevant to solicitation addenda issues subsequent to the initial advertisement of the solicitation opportunity,

Except as amended by this Addendum, the terms, conditions, specification, and instruction of the solicitation and any previous solicitation addenda, remain as originally written.

Very truly yours,

**Name:** Joseph M. Millovich

**Title:** Commodity Specialist

**Phone:** 717-214-3434

**Email:** [RA-OITPurchases@pa.gov](mailto:RA-OITPurchases@pa.gov)

**Date:** June 21, 2016

**Subject:** Software & Related Services

**Solicitation Number:** 6100037605

**Solicitation Due Date:** July 11, 2016

**Addendum Number:** 6

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**To All Offerors/Bidders:**

The Commonwealth of Pennsylvania defines a solicitation “Addendum” as an addition to or amendment of the original terms, conditions, specification or instruction of a procurement solicitation (e.g. Invitation for Bids, Request for Quotes and Request for Proposals).

**The following changes have been made to the solicitation identified above:**

The Commonwealth has posted the following documentation as part of this addendum:

- Appendix A, Standard Contract Terms and Conditions for IT Supplies and Related Services (rev.6.21.16)
- Appendix B, Pricing Proposal Response Template (rev. 6.21.16)
- Appendix D, COSTARS Program Election Form (rev. 6.21.16)
- Appendix E, Software License Requirements Agreement Template (rev. 6.21.16)
- Appendix F, Service Level Agreements (rev. 6.21.16)
- Appendix G, Statement of Work Template (rev. 6.21.16)
- Appendix I, Quarterly Report Template (rev. 6.21.16)
- Appendix L, IBM Software Categories
- IFB 6100037605 - Software and Related Services (rev. 6.21.16)
- Questions & Answers

**For electronic solicitations responses via the PASupplierPortal:**

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- Review the Attributes section of our solicitation response to ensure you have responded, as required, to any question relevant to solicitation addenda issues subsequent to the initial advertisement of the solicitation opportunity,

Except as amended by this Addendum, the terms, conditions, specification, and instruction of the solicitation and any previous solicitation addenda, remain as originally written.

Very truly yours,

**Name:** Joseph M. Millovich

**Title:** Commodity Specialist

**Phone:** 717-214-3434

**Email:** [RA-OITPurchases@pa.gov](mailto:RA-OITPurchases@pa.gov)

**Date:** July 1, 2016

**Subject:** Software & Related Services

**Solicitation Number:** 6100037605

**Solicitation Due Date:** July 11, 2016

**Addendum Number:** 7

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**To All Offerors/Bidders:**

The Commonwealth of Pennsylvania defines a solicitation “Addendum” as an addition to or amendment of the original terms, conditions, specification or instruction of a procurement solicitation (e.g. Invitation for Bids, Request for Quotes and Request for Proposals).

**The following changes have been made to the solicitation identified above:**

The Commonwealth has posted the following documentation as part of this addendum:

- Appendix A, Standard Contract Terms and Conditions for IT Supplies and Related Services (rev.7.1.16)
- Appendix B, Pricing Proposal Response Template (rev. 7.1.16)
- Appendix E, Software License Requirements Agreement Template (rev. 7.1.16)
- Appendix F, Service Level Agreements (rev. 7.1.16)
- IFB 6100037605 - Software and Related Services (rev. 7.1.16)
- Questions & Answers (rev. 7.1.16)

**For electronic solicitations responses via the PASupplierPortal:**

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- To attach the Addendum, download the Addendum and save to your computer. Move to “My Notes”, use the “Browse” button to find the document you just saved and press “Add” to upload the document.
- Review the Attributes section of our solicitation response to ensure you have responded, ad required, to any question relevant to solicitation addenda issues subsequent to the initial advertisement of the solicitation opportunity,

Except as amended by this Addendum, the terms, conditions, specification, and instruction of the solicitation and any previous solicitation addenda, remain as originally written.

Very truly yours,

**Name:** Joseph M. Millovich

**Title:** Commodity Specialist

**Phone:** 717-214-3434

**Email:** [RA-OITPurchases@pa.gov](mailto:RA-OITPurchases@pa.gov)

**Date:** July 7, 2016

**Subject:** Software & Related Services

**Solicitation Number:** 6100037605

**Solicitation Due Date:** July 11, 2016

**Addendum Number:** 8

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**To All Offerors/Bidders:**

The Commonwealth of Pennsylvania defines a solicitation “Addendum” as an addition to or amendment of the original terms, conditions, specification or instruction of a procurement solicitation (e.g. Invitation for Bids, Request for Quotes and Request for Proposals).

**The following changes have been made to the solicitation identified above:**

The Commonwealth has posted the following documentation as part of this addendum:

- IFB 6100037605 - Software and Related Services (rev. 7.7.16)
- Questions & Answers (rev. 7.7.16)

**For electronic solicitations responses via the PASupplierPortal:**

- Attach this addendum to your solicitation response.
- To attach the Addendum, download the Addendum and save to your computer. Move to “My Notes”, use the “Browse” button to find the document you just saved and press “Add” to upload the document.
- Review the Attributes section of our solicitation response to ensure you have responded, as required, to any question relevant to solicitation addenda issues subsequent to the initial advertisement of the solicitation opportunity,

Except as amended by this Addendum, the terms, conditions, specification, and instruction of the solicitation and any previous solicitation addenda, remain as originally written.

Very truly yours,

**Name:** Joseph M. Millovich

**Title:** Commodity Specialist

**Phone:** 717-214-3434

**Email:** [RA-OITPurchases@pa.gov](mailto:RA-OITPurchases@pa.gov)

**Date:** July 8, 2016

**Subject:** Software & Related Services

**Solicitation Number:** 6100037605

**Solicitation Due Date:** July 11, 2016

**Addendum Number:** 9

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**To All Offerors/Bidders:**

The Commonwealth of Pennsylvania defines a solicitation “Addendum” as an addition to or amendment of the original terms, conditions, specification or instruction of a procurement solicitation (e.g. Invitation for Bids, Request for Quotes and Request for Proposals).

**The following changes have been made to the solicitation identified above:**

The Commonwealth has posted the following documentation as part of this addendum:

- Appendix A, Standard Contract Terms and Conditions for IT Supplies and Related Services (rev. 7.8.16)
- Appendix B, Pricing Proposal Response Template (rev. 7.8.16)
- Appendix E, Software License Requirements Agreement Template (rev. 7.8.16)
- Questions & Answers (rev. 7.8.16)

**For electronic solicitations responses via the PASupplierPortal:**

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- To attach the Addendum, download the Addendum and save to your computer. Move to “My Notes”, use the “Browse” button to find the document you just saved and press “Add” to upload the document.
- Review the Attributes section of our solicitation response to ensure you have responded, as required, to any question relevant to solicitation addenda issues subsequent to the initial advertisement of the solicitation opportunity,

Except as amended by this Addendum, the terms, conditions, specification, and instruction of the solicitation and any previous solicitation addenda, remain as originally written.

Very truly yours,

**Name:** Joseph M. Millovich

**Title:** Commodity Specialist

**Phone:** 717-214-3434

**Email:** [RA-OITPurchases@pa.gov](mailto:RA-OITPurchases@pa.gov)



**Questions & Answers**  
 IFB 6100037605  
 Software & Related Services

#	Question	Answer
1	<p>Part I, General Information, Section I-1. Purpose: “Freeware, open source code, and click-through agreements are not permitted through any Contract resulting from this IFB”</p> <p>(A) Does the above statement preclude open source software subscription services from being bid under E. Lot 5, Third Party Software and Services?</p> <p>(B) If so, how can open source software subscription services be made available to sell to the Commonwealth of Pennsylvania?</p>	<p>A. No, open source software subscription services are not precluded and the IFB has been amended to clarify this. Open source products and freeware may only be procured by Commonwealth agencies in accordance with Commonwealth Information Technology Policy (“ITP”) <a href="#">APP020, Open Source Software</a> and <a href="#">ITP APP033, Use of Freeware Policy</a>.</p> <p>B. Please refer to the answer to Question 1A.</p>
2	<p>As outlined on Lot 2 – IBM, where is the historical annual support and maintenance cost for Lot 4 – SAP? Is it not part of this IFB?</p>	<p>SAP support and maintenance is within the scope of this IFB. The Commonwealth currently purchases maintenance and support for SAP annually as a fixed percentage of the license spend.</p>
3	<p>In regard to the Reseller Authorization letters that are being required for the IFB qualification process- can you please tell me who the letters are to be addressed to and what the corresponding address would be for these letters.</p>	<p>Licensor authorization letters should be addressed to the Issuing Officer:</p> <p style="text-align: center;">Joseph M. Millovich          Commonwealth of Pennsylvania          Office of Administration          613 North St., Finance Building – Rm. 506          Harrisburg, PA 17120</p>
4	<p>For lot 4, are vendors allowed to bid SAP Consulting rates without bidding SAP Software and Maintenance?</p>	<p>No, bidders must provide pricing for software and maintenance as well as consulting services. <i>See</i> Section II-1, <i>Definitions</i>, of the IFB, in which support and maintenance is included in the definition of “Services.”</p>
5	<p>Appendix K, Reverse Auction: how will the starting point for the reverse auction be calculated? In the case of Lot 2 and Lot 4, will the starting point be the highest percentage submitted in Appendix B amongst all vendors submitting bids for those lots?</p>	<p>For Lot 2, the auction will start based on the amount each responsive and responsible Bidder proposed in Appendix B, <i>Pricing Proposal Response</i>, tab Lot 2, under “TOTAL NET COST FOR EVALUATION PURPOSES.” For Lot 4, the auction will start based on the amount in each responsive and responsible Bidder proposed Appendix B, <i>Pricing Proposal Response Template</i>, tab Lot 4, under “TOTAL SAP SOFTWARE, MAINTENANCE AND CONSULTING SERVICES COST.</p>
6	<p>Lot 2 and Appendix K: there are 7 categories of discount rates for IBM software and 7 corresponding discount rates for IBM Support and Services. Does this mean that the Commonwealth will hold 14 different reverse auctions, assuming 14 different rates are submitted?</p>	<p>No. The Commonwealth will hold one reverse auction for Lot 2. The auction will start based on the amount each responsive and responsible Bidder proposed in Appendix B, <i>Pricing Proposal Response Template</i>, tab Lot 2, under “TOTAL NET COST FOR EVALUATION PURPOSES”.</p>

**Questions & Answers**  
 IFB 6100037605  
 Software & Related Services

#	Question	Answer
7	II-2 Requirements, A.1.b. – This section limits the related Software services to 40% of the software costs, which is a change from today’s contracts that allow 40% of the total purchase order. Both scenarios drastically limit the Commonwealth’s ability to provide for installation, configuration, tuning, and training services. Because of this change, the new IFB is further limiting services. Is this a typo in the IFB?	No, this is not a typographical error.
8	Appendix B, Lot 2: should the title for Column G, read "Support and Maintenance Minimum Discount % from List" ? leaving it as is causes confusion as to whether this column is meant for Software Support and Maintenance vs. complementary services.	Appendix B, <i>Pricing Proposal Response Template</i> , tab Lot 2, Column G heading has been revised to read “Support and Maintenance Minimum % Discount from List.”
9	Please clarify that vendors are only to submit the 5 items listed in I-5 Bid Submission as their proposal.	Bidders are to submit electronically via the PA Supplier Portal website the items set forth in Section I-5A of the IFB, as amended by Addendum Number 6.
10	Where might bidders be able to view the discounts (% mark up/down) on the Commonwealth’s current Software contract# <a href="#">4400007199</a> that this contract will be replacing? Are these public?	Contract <a href="#">4400007199</a> is publicly available via the PA eMarketplace website. <a href="#">Click here</a> to view the contract. Through the contract, the current markup on software is .25% and current markup on services is .5%.
11	Appendix E in section 14, refers to the Commonwealth performing a self-audit and providing a true up if the user count is more than what the Commonwealth has purchased. Some software is provided using different units of measure than user based. Will the Commonwealth consider altering this language to include other models of software licensing such as server-based, CPU-based, processor cores, or other derivatives?	Appendix E, <i>Software Requirements Agreement</i> , is the Commonwealth’s standard software license agreement and is used as the basis for negotiations with licensors that who have not already entered into a software license agreement with the Commonwealth. Addendum Number 6 contains a revised version of Appendix E, <i>Software License Requirements Agreement Template</i> .
12	Appendix E in section 15, refers to a list of products to be attached to the agreement. If the manufacturer maintains a list of such products at a website, will the link to the website satisfy this requirement?	No; a link to the website will not suffice; however, the list can be updated, without an amendment to the license agreement in most instances, as indicated in the “List of Licensed Products” section of Appendix E, <i>Software License Requirements Agreement Template</i> .
13	General Question: For the many available products provided to the Commonwealth using a Software-as-a-Service model, each may have specialized terms of use. How will these terms of use be incorporated into the agreement?	As indicated in Appendix E, <i>Software License Agreement Template</i> , the Licensor’s terms are affixed as an Exhibit to the Software License Requirements Agreement. Please refer to the answer to <a href="#">Question #11</a> .

**Questions & Answers**  
 IFB 6100037605  
 Software & Related Services

#	Question	Answer
14	<p>Appendix E, Software Requirements Agreement Article 8, Termination, subparagraph (a): Will the Commonwealth modify this provision to read as follows?</p> <p>“Licensor may not terminate this Agreement, or an order from any Commonwealth agency issued pursuant to any of the Exhibits to this Agreement, for non-payment of invoices or amounts that are the subject of a good faith dispute.”</p>	<p>Please refer to the answer to <a href="#">Question #11</a>.</p>
15	<p>Appendix A, Article 4 Definitions: Although this is to be a contract for the provision of Software and Related Services, the term Software is not defined though Supplies is. Should bidders read those words as synonyms? Might there be a requirement for a bidder to deliver items other than software?</p>	<p>Addendum Number 6 contains a revised Appendix A, <i>Standard Contract Terms and Conditions for IT Supplies and Related Services</i>, which, at Section 4, clarifies that software is a supply and provides further examples of what constitutes a supply under this Contract.</p>
16	<p>Appendix A, Article 9 Delivery, (a) Supplies Delivery:</p> <p>a. Please clarify the relationship between the requirements (a) deliver all item(s) must be delivered within the time period specified, (b) time is of the essence, (c) the Contractor is subject to termination for failure to deliver as specified, and (d) the applicability of service levels and penalties for failure to meet them. It seems that all of the preceding cannot coexist – isn’t it simpler to say only that the contractor is subject to service level penalties for failure to meet the delivery schedule set forth in purchase orders placed against the contract?</p> <p>b. Please clarify the meaning of the sentence, “Unless otherwise stated in this Contract, delivery must be made within thirty (30) days after the Effective Date.” Does it mean that should a purchase order placed against the contract fail to mention a delivery date, the products ordered must be delivered within 30 days of the purchase order date?</p>	<p>A: The provisions are consistent and speak for themselves.</p> <p>B: Addendum Number 6 contains a revised Appendix A, <i>Standard Contract Terms and Conditions for IT Supplies and Related Services</i>, wherein “thirty (30)” has been replaced with “ten (10)” in Section 9a, to be consistent with the corresponding Service Level of Appendix F, <i>Service Level Agreements</i>.</p>
17	<p>Appendix A, Article 11 Acceptance (a) Supplies and Article 12 Rejected Material Not Considered Abandoned: There’s an apparent inconsistency between these provisions that appear to address the same (or very similar) subject matter: Article 11 specifies that Rejected Supplies will be considered abandoned if not removed with 15 days after notification while Article 12 says “...30 days...”</p>	<p>Addendum Number 6 contains a revised Appendix A, <i>Standard Contract Terms and Conditions for IT Supplies and Related Services</i>, wherein “fifteen (15)” has been replaced with “thirty (30)” in Section 12, <i>Acceptance</i>.</p>

**Questions & Answers**  
 IFB 6100037605  
 Software & Related Services

#	Question	Answer
18	Appendix A, Article 11 Acceptance (a) Supplies: Regarding the sentence, “Any Supplies which is discovered to be defective or fails to conform to the specifications may be rejected upon initial inspection or at any later time if the defects contained in the Supplies or the noncompliance with the specifications were not reasonably ascertainable upon the initial inspection.” When a contractor delivers commercial off the shelf software, to what other specifications might that software be required to conform?	Commercial off-the-shelf software must perform in accordance with the applicable product specifications/documentation and the software license terms and conditions.
19	Appendix A, Article 17, Compensation, (b) Compensation for Services: We respectfully offer the suggestion that services provided on a fixed price basis should be subject to explicit completion criteria (vs “satisfaction”). Services provided on an hourly basis should be provided using reasonable care and skill according to their description in a statement of work.	Addendum Number 6 contains a revised Appendix A, <i>Standard Contract Terms and Conditions for IT Supplies and Related Services</i> , wherein this Section 18 was amended to differentiate between compensation for Reseller Services and compensation for Software Services.
20	Appendix A, Article 24, Limitation of Liability: Suggest that the contract state a limitation of liability for each purchase order placed under it, such as, “...the greater of \$250,000 or the value of the Supplies that are the subject of the claim...”	Section 25 (formerly Section 24) of Appendix A, <i>Standard Contract Terms and Conditions for IT Supplies and Related Services</i> , will remain as originally posted.
21	Appendix A, Article 7 Subcontracts and Article 29 Assignability and Subcontracting: Article 7 says, “...if Contractor has disclosed the identity of Subcontractor(s) together with the scope of work to be subcontracted in its bid/proposal, award of the Contract is deemed approval of all named Subcontractors and a separate approval is not required.” While Article 29(b) says, “The Contractor shall not subcontract with any person or entity to perform all or any part of the work to be performed under this Contract without the prior written consent of the Contracting Officer...” Which is correct?	Both are correct. Subcontractors may be added or removed subsequent to the execution of the Contract, so long such action is performed in accordance with the terms of Appendix A, <i>Standard Contract Terms and Conditions for IT Supplies and Related Services</i> .
22	Appendix A, Article 33 Ownership Rights: Will the Commonwealth consider making clear that the authority set forth in the article is limited to the state’s enterprise – that is to say, within state agencies?	Commonwealth is unclear as to what is being asked. This provision applies to the identified items that are “designed or developed and delivered to the Commonwealth as part of the performance of the Contract.” See, Addendum Number 6, revised Appendix A, <i>Standard Contract Terms and Conditions for IT Supplies and Related Services</i> , Section 34, Ownership Rights.

**Questions & Answers**  
 IFB 6100037605  
 Software & Related Services

#	Question	Answer
23	Appendix A, Article 41 Background Checks, subparagraph (e): “restoring such lost records or data to their most recent backup copy” doesn’t belong there at all or is out of context.	Addendum Number 6 contains a revised Appendix A, <i>Standard Contract Terms and Conditions for IT Supplies and Related Services</i> , wherein this phrase has been deleted.
24	Appendix A, Article 50 Changes: Will the Commonwealth make it clear that in the event of changes ordered pursuant to this provision, the contractor may be entitled to an equitable adjustment?	No. Not all changes will result in the Contractor being entitled to an adjustment.
25	Regarding the link on page 5 of the IFB Section A Lot 1 for the Commonwealth’s Enterprise Agreement ( <a href="#">4400013417</a> ): Does the Commonwealth have a consolidated EA (single EA enrollment) for the Commonwealth of PA Qualifying Agencies listed on page 32-34 of ELA document posted on their site? What is the total number of users on consolidated enrollment?	The Commonwealth does have a single Enterprise Agreement (EA) encompassing all Commonwealth agencies. Each agency has a separate EA enrollment.
26	Regarding the link on page 5 of the IFB Section A Lot 1 for the Commonwealth’s Enterprise Agreement ( <a href="#">4400013417</a> ): Can you please confirm with Microsoft that your current enterprise discount structure listed on page 24 of ELA document posted on site will remain in place for this contract? (i.e. Level D less 4%, Level D less 2%, etc.).	The Commonwealth can confirm that the current price level under contract <a href="#">4400013417</a> is a minimum Level D, minus specific percentages for specific categories of software.
27	Can the Commonwealth validate that the items in the market basket for each Lot truly represent the total annual spend? For example, we noted that in the pricing document Lot 3 for Oracle the annual amount on line 9 may be under represented. On line 17 there is a quantity of 755 for a software titled Oracle the Oracle Enterprise Addition Processor License), based on our calculations when the MSRP for this item is multiplied by the historical annual volume of 755 units the calculated total cost for evaluation exceeds the calculated historical volume in row 17.	The quantities listed within Exhibit B, <i>Pricing Proposal Response</i> , are approximate numbers based on historical spend and will be used for evaluation purposes only.
28	In Appendix B Pricing Proposal Response Template, please define the categories “Other” and “Core Hardware” for Lot 2 IBM.	Addendum Number 6 contains Appendix L, <i>IBM Software Categories</i> , to provide the software title details for each category. Any title not covered in Appendix L falls under the category of “Other.” Additionally, Appendix B, <i>Pricing Proposal Response Template</i> , has been update to remove the category “Social,” since all software in that category now falls under the category of “Other.”

**Questions & Answers**  
 IFB 6100037605  
 Software & Related Services

#	Question	Answer
29	Do cloud and/or SaaS solutions fall under this contract?	SaaS solutions may be purchased through the Contracts resulting from this IFB. Standalone Infrastructure as a Service and Platform as a Service may not be purchased through the Contracts resulting from this IFB.
30	Can the Commonwealth provide historical spend of standalone services by lot?	No.
31	If awarded multiple lots, can the awarded bidder choose which lots are available to COSTARS members?	Addendum Number 6 contains a revised Appendix D, <i>COSTARS Program Election Form</i> , which allows bidders to elect to be COSTARS participants by Lot number.
32	Since it is a relatively new, niche player, we recommend that ServiceNow under Lot 5 be moved from “Required Publishers” to “Other Publishers	Addendum Number 6 contains a revised Appendix B, <i>Pricing Proposal Response</i> , wherein tab Lot 5, has been revised to move “ServiceNow Inc.” from the list of “Required Publishers” to “Other Publishers.”
33	Can a Vendor only bid for services, and not software under Lot#2?	No, Bidders must provide pricing for software as well as services.
34	Can a Vendor only bid on services, and not software under Lot#5?	No, Bidders must provide pricing for software as well as services.
35	Will a Vendor have some leeway to establish reseller agreements with the eight (8) required publishers and at least 15 of the 17 other publishers, or must these relationships all exist prior to submitting a bid?	The relationships must exist on or before the bid due date defined in the Calendar of Events.
36	Part II-7 (Software as a Service (SaaS) for Non-Commonwealth Hosted Software) of the IFB requires the SaaS and/or hosting provider to comply with the requirements of Appendix H (Requirements for Non-Commonwealth Hosted Applications/Services Template). The Appendix H lists both the Licensor and Reseller as responsible for all the requirements listed in Appendix H, however, those requirements can only be fulfilled by the SaaS and/or hosting provider. Does the Commonwealth agree that, where the Reseller is not the entity that performs the hosting or provides the SaaS, the Reseller does not have to perform the requirements in Appendix H, but rather only the hosting provider or SaaS provider, as applicable, is required to perform the requirements in Appendix H?	Yes, where a Reseller is not the entity that performs the hosting or provides the SaaS, the Reseller does not perform the requirements in Appendix H, but rather only the hosting provider or SaaS provider, as applicable, is required to perform the requirements in Appendix H, <i>Requirements for Non-Commonwealth Hosted Applications/Services Template</i> . The Commonwealth’s software license agreement with the SaaS provider typically identifies the entity responsible for the requirements of Appendix H.

**Questions & Answers**  
 IFB 6100037605  
 Software & Related Services

#	Question	Answer
37	Section I-1 (Purpose) of the IFB states that Freeware, open source code, and click-through agreements are not permitted through any Contract resulting from this IFB. Freeware and open source code are commonly included in the Software that is expected to be licensed under this Agreement. Does the prohibition above mean that neither freeware nor open source code can be incorporated into any Software licensed under this Agreement or only that neither can be provided on a standalone basis?	Please refer to the answer to <a href="#">Question #1</a> .
38	Section I-3 (Scope and Objectives) of the IFB indicates the Commonwealth intends to purchase Software and Services. Section II-1 (Definitions) of the IFB states that Reseller Services includes the resale of Software and Services. Can the Commonwealth clarify that Software is being licensed and not sold?	Software is being licensed and not sold. The Commonwealth will purchase software licenses through the contract(s) resulting from this IFB. Addendum Number 6 contains a revised IFB that includes this clarification.
39	Section II-1 (Definitions) of the IFB states that Reseller Services includes the resale of Software and Services. Section II-2.c of the IFB provides that a Statement of Work will be developed by the Commonwealth and attached to the associated purchase order. Will the Commonwealth clarify that, where the Reseller is reselling Services of the Software Publisher or hosting/SaaS provider, the Commonwealth will place the order for such Services with the Reseller under its Agreement with the Reseller, but any Statement of Work will be directly between the Commonwealth and the Software Publisher or hosting/SaaS provider?	Where the Reseller is reselling Services of the Software Publisher or hosting/SaaS provider, the Commonwealth will place the order for such Services with the Reseller under its Agreement with the Reseller, but any Statement of Work will be directly between the Commonwealth and the Software Publisher or hosting/SaaS provider.
40	Section II-1 (Definitions) of the IFB states that Reseller Services includes the resale of Software and Services. Section II-4.B of the IFB provides that a Statement of Work for Stand Alone Services will be developed by the Commonwealth and attached to the associated purchase order. Will the Commonwealth clarify that, where the Reseller is reselling Stand Alone Services of the Software Publisher or hosting/SaaS provider, the Commonwealth will place the order for such Stand Alone Services with the Reseller under its Agreement with the Reseller, but any Statement of Work will be directly between the Commonwealth and the Software Publisher or hosting/SaaS provider?	Where the Reseller is reselling Stand Alone Services of the Software Publisher or hosting/SaaS provider, the Commonwealth will place the order for such Stand Alone Services with the Reseller under its Agreement with the Reseller, but any Statement of Work will be directly between the Commonwealth and the Software Publisher or hosting/SaaS provider.

**Questions & Answers**  
 IFB 6100037605  
 Software & Related Services

#	Question	Answer
41	<p>(a) Section II-8 (Reports and Project Controls) of the IFB states that additional reports may be added or removed by the Commonwealth at any time. Does the Commonwealth agree that any additional reports be mutually agreed upon by the parties before being implemented?</p> <p>(b) Does the Commonwealth agree that if any additional reports will result in increased costs to the Reseller that the Reseller may increase the price of the Software and/or Services that are the subject of such reports provided such increase is in direct correlation with Reseller's good faith estimate of such increase in costs?</p>	<p>(a) No, this requirement is for Ad Hoc sales reports that may be necessary throughout the course of the contract.</p> <p>(b) No, vendors must maintain their discounts/mark-ups for the life of the contract.</p>
42	<p>Section 4.g of Appendix A (Standard Contract Terms and Conditions) defines Supplies as all tangible and intangible property including, but not limited to materials and equipment, provided by the Contractor to satisfy the Contract. Can the Commonwealth provide some examples of intangible property that make up Supplies?</p>	<p>Addendum Number 6 contains a revised Appendix A, <i>Standard Contract Terms and Conditions for IT Supplies and Related Services</i>, wherein now Section 5g provides further examples of what constitutes a supply under this Contract.</p>
43	<p>Section 6 (Independent Prime Contractor) of Appendix A (Standard Contract Terms and Conditions) states that the Contractor will be responsible for all Services in this Contract whether or not Contractor provides them directly. Will the Commonwealth clarify that, where Reseller is reselling Services being performed by the Software Publisher or hosting/SaaS provider, such Software Publisher or hosting/SaaS provider shall be solely liable for the performance of the Services and any damages resulting from such Software Publisher or hosting/SaaS provider activities in providing the Services?</p>	<p>No.</p>
44	<p>Section 7 (Subcontracts) of Appendix A (Standard Contract Terms and Conditions) states that upon request of the Commonwealth, the Contractor must provide the Commonwealth with a copy of the subcontract agreement between the Contractor and the subcontractor. Will the Commonwealth agree to add language to make clear this will not apply to agreements where the Reseller is not permitted to disclose such agreements pursuant to the terms of the agreement? In addition, will the Commonwealth agree that any portions of a subcontractor agreement that is not applicable to the Commonwealth may be redacted?</p>	<p>Addendum Number 6 contains a revised Appendix A, <i>Standard Contract Terms and Conditions for IT Supplies and Related Services</i>, wherein now Section 8, <i>Subcontracts</i>, has been amended to clarify that subcontracts are to be provided in accordance with the provisions of now Section 22, <i>Confidentiality</i>, subsection c.</p>



**Questions & Answers**  
 IFB 6100037605  
 Software & Related Services

#	Question	Answer
45	Section 9.a (Supplies Delivery) of Appendix A (Standard Contract Terms and Conditions) states that time is of the essence. Will the Commonwealth agree that time is of the essence means that the Contractor will make commercially reasonable efforts to provide the Supplies as specified in Section 9.a?	The provision speaks for itself.
46	Section 10 (Product Conformance) of Appendix A (Standard Contract Terms and Conditions) contains requirements that the Software publisher or hosting/SaaS provider is in the best position to provide, and not the Reseller. Will the Commonwealth agree to remove these requirements from the Reseller?	Contracts resulting from this IFB are between the Commonwealth and the Contractor. The Contractor is responsible for facilitating communications between the Commonwealth and software providers. One of the services the Contractor is required to perform is to provide all information necessary for the Commonwealth agency to make an informed decision. Obtaining this information from the software provider on behalf of the Commonwealth agency, therefore, is the Contractor's responsibility.
47	Section 11.a (Acceptance) of Appendix A (Standard Contract Terms and Conditions) states that no Supplies received by the Commonwealth shall be deemed accepted until the Commonwealth has had a reasonable opportunity to inspect the Supplies. The Commonwealth is protected by warranty after acceptance. Contractor will have revenue recognition issues with its auditors given the vagueness of "reasonable opportunity to inspect". Will the Commonwealth agree to a definite period of time constituting a reasonable opportunity to inspect, for example 15 days from receipt of the Supplies, except where otherwise mutually agreed to by the parties in writing?	No.

**Questions & Answers**  
 IFB 6100037605  
 Software & Related Services

#	Question	Answer
48	<p>Section 14 (Manufacturer’s Price Reduction) of Appendix A (Standard Contract Terms and Conditions) states if, prior to the delivery of the awarded Supplies by the Contractor, a price reduction is announced by the original equipment manufacturer, a comparative price reduction will be given to the Commonwealth by the Contractor. Can the Commonwealth clarify what is meant by the original equipment manufacturer (e.g. the Software Publisher)? Will the Commonwealth agree that this provision does not apply to this contract since the pricing is a cost-plus or Discount off List calculation and involves resale of Software and related services (not equipment)? If not, can the Commonwealth please explain or give an example of how this provision applies to the pricing in this Contract?</p>	<p>“Original equipment manufacturer” refers to the entity providing the supply through the reseller, i.e software publisher, appliance manufacturer, etc.</p> <p>This provision does apply to the contracts resulting from this IFB. For example, if the list price of software was reduced prior to delivery, the comparative price reduction would be passed along to the Commonwealth.</p>
49	<p>Section 21.b (Confidentiality) of Appendix A (Standard Contract Terms and Conditions) states there shall be no restriction with respect to the use or disclosure of any ideas, concepts, know-how, or data processing techniques developed alone or jointly with the Commonwealth in connection with Services provided to the Commonwealth under this Contract. Given that this contract is not for software development that the Commonwealth shall own, will the Commonwealth agree that the Commonwealth may use any ideas, concepts, know-how, or data processing techniques Contractor developed alone or jointly with the Commonwealth for the Commonwealth’s own use of the Software or online Services and that, unless otherwise specifically provided for in a Statement of Work, the Contractor shall retain ownership of such ideas, concepts, know-how, or data processing techniques?</p>	<p>Addendum Number 6 contains a revised version of Appendix A, <i>Standard Contract Terms and Conditions for IT Supplies and Related Services</i>, which amends now Subsection 22b to clarify that except as expressly set forth in the Contract or Statement of Work, nothing in the contract shall be construed as granting to or conferring upon either party any right, title, or interest in any physical or intellectual property that is now owned or subsequently owned by the either party.</p>
50	<p>Will the Commonwealth agree in Section 23.a. (Commonwealth Held Harmless) of Appendix A (Standard Contract Terms and Conditions) to replace the phrase “upon or arising out of any activities performed by the Contractor and its employees and agents under this Contract” with the phrase “upon or arising out of Contractor’s negligence or the negligence of its employees and agents under this Contract” so that there is a direct causation between Contractor’s actions and the liability?</p>	<p>No.</p>

**Questions & Answers**  
 IFB 6100037605  
 Software & Related Services

#	Question	Answer
51	Section 24.a (Limitation of Liability) of Appendix A (Standard Contract Terms and Conditions) states, in part, that Contractor’s liability to the Commonwealth under the Contract shall be limited to the greater of \$250,000 or the value of the Contract (including any amendments). Over time the value of the Contract may create a liability cap that is vastly greater than reasonable industry standard, particularly for a reseller that is selling at low margin. To help prevent this situation, will the Commonwealth agree to modify the clause pertaining to the value of the Contract (including any amendments) to be the value of the Contract over the previous 12 months prior to the event giving rise to the liability for the specific Software or Services which is the subject matter of the claim? Alternatively, is there some other cap more in line with industry standard risks the Commonwealth would consider?	No. Please refer to the answer to <a href="#">Question #20</a> .
52	Section 25.a.3 (Default) of Appendix A (Standard Contract Terms and Conditions) provides that the Commonwealth can declare a default for the unsatisfactory performance of the work, which may be read as a subjective standard. Will the Commonwealth agree that unsatisfactory performance of the work means that the work was not performed, by objective measure, in accordance with the agreed to written specifications, published specifications, or the written services description, as applicable?	Addendum Number 6 contains a revised version of Appendix A, <i>Standard Contract Terms and Conditions for IT Supplies and Related Services</i> , wherein now Paragraph 26 a.3. reads “Unsatisfactory performance of the work as detailed in the specifications referenced in the Contract or a Purchase Order.”
53	Section 25.c (Default) of Appendix A (Standard Contract Terms and Conditions) provides for the transfer of title for certain partially completed items. Will the Commonwealth clarify that such transfer of title will only occur with regards to items for which title was intended to pass upon completion under separate written provisions in the Contract?	Addendum Number 6 contains a revised version of Appendix A, <i>Standard Contract Terms and Conditions for IT Supplies and Related Services</i> , wherein now Subsection 25c addresses this issue.
54	Will the Commonwealth agree to provide thirty (30) days prior written notice to Contractor for any termination for convenience under Section 27.a (Termination) of Appendix A (Standard Contract Terms and Conditions)?	Addendum Number 6 contains a revised version of Appendix A, <i>Standard Contract Terms and Conditions for IT Supplies and Related Services</i> , that, at now Subsection 27a, includes this revision.

**Questions & Answers**  
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 Software & Related Services

#	Question	Answer
55	Will the Commonwealth agree to provide Contractor a reasonable cure period, for example thirty (30) days, prior to any termination for cause under Section 27.c (Termination) of Appendix A (Standard Contract Terms and Conditions)?	Addendum Number 6 contains a revised version of Appendix A, <i>Standard Contract Terms and Conditions for IT Supplies and Related Services</i> , that, at now Subsection 27c, includes this revision.
56	Will the Commonwealth agree to delete the reference to “foreign patents” in Section 32.a (Patent, Copyright, Trademark, and Trade Secret Protection) of Appendix A (Standard Contract Terms and Conditions) so that this provision is consistent with section 4.a of Appendix E (the Commonwealth Agreement with the Licensor of the Software)?	Yes, Addendum Number 6 contains a revised version of Appendix A, <i>Standard Contract Terms and Conditions for IT Supplies and Related Services</i> , that, at now Subsection 32a, includes this revision.
57	Will the Commonwealth agree to delete the sentence: “No settlement which prevents the Commonwealth from continuing to use the Developed Materials as provided herein shall be made without the Commonwealth's prior written consent” in Section 32.a (Patent, Copyright, Trademark, and Trade Secret Protection) of Appendix A (Standard Contract Terms and Conditions) so that this provision is consistent with section 4.a of Appendix E (the Commonwealth Agreement with the Licensor of the Software)?	No, Addendum Number 6 contains a revised version of Appendix E, <i>Software Requirements Agreement</i> , containing similar language.
58	Will the Commonwealth agree that Section 33 (Ownership) of Appendix A (Standard Contract Terms and Conditions) does not apply to Software provided under this Agreement, and that reproduction, distribution and use of the Software provided under this Agreement is controlled by the applicable license agreement between the Commonwealth and the Software publisher?	Addendum Number 6 contains a revised version of Appendix A, <i>Standard Contract Terms and Conditions for IT Supplies and Related Services</i> , amending now Section 34 by inserting the following language at the end of the sentence: “except as otherwise set forth in a Statement of Work attached to a Purchase Order issued under this Contract or an applicable software license agreement.”
59	Will the Commonwealth agree that the introduction of a virus or malicious, mischievous or destructive programming as stated in Section 40 (Virus, Malicious, Mischievous or destructive programming) of Appendix A (Standard Contract Terms and Conditions) shall apply only when such introduction is due to Contractor or any of its employees, subcontractors or consultants negligence, gross negligence or willful misconduct?	No.

**Questions & Answers**  
 IFB 6100037605  
 Software & Related Services

#	Question	Answer
60	Will the question period be extended a week due to the one week extension of the deadline for submissions?	Potential suppliers may submit questions up to the due date defined in the Calendar of Events. The Commonwealth will respond to questions submitted after the due date to submit questions in a timely manner.
61	Does the Commonwealth agree that tab 2 and tab 3 (Problem & Response; Service Level Report) do not relate to Software Licensing purchases? If not, we ask that the Commonwealth provide additional detail on what the expectation for response is for Software Licensing.	In Appendix I, <i>Quarterly Report Template</i> , tab 3, Service Level Report, pertains only to services. Addendum Number 6 contains a revised Appendix I, <i>Quarterly Report Template</i> , which removed tab 2, Problem & Response Report.
62	Can the Commonwealth confirm that columns F, G, H on tab 1 (Sales Report) do not relate to Software Licensing report requests?	Addendum Number 6 contains a revised Appendix I, <i>Quarterly Report Template</i> , which removed columns F, G and H from tab 1, Sales Report.
63	<p>“The Contractor must return phone calls or respond to emails within a maximum of four business hours after a phone call is placed or an email is received. Each Incoming Request returned after four (4) hours (240 minutes) = Missed Response.”</p> <p>Does the Commonwealth recognize an email response to a phone call as an acceptable response?</p>	Yes, for the “Customer Inquiry Response Time” performance metric in Appendix F, <i>Service Level Agreements</i> , an email response to a phone call within four business hours after the phone call is placed is acceptable.
64	<p>“The Contractor must provide quotes within one (1) business day for Software and Services currently in the Contractor’s catalog to the requesting agency. Each requested Quote for Standard Catalog Software and Services delivered after one (1) business day = Missed Quote.”</p> <p>Does a published online price meet the Commonwealth’s requirement?</p>	No; for the “Quote delivery for Standard Catalog Software and Services” performance metric in Appendix F, <i>Service Level Agreements</i> , a published online price does not meet the requirement of the Contractor providing quotes within one (1) business day for Software and Services currently in the Contractor’s catalog to the requesting agency. Addendum Number 6 contains a revised Appendix F, <i>Service Level Agreements</i> , which permits quotes within two (2) business days.
65	<p>“The Contractor must make the required delivery time within ten (10) business days after receipt of an order. Each Order Delivered after the standard fulfillment time of ten (10) business days = Missed Order.”</p> <p>Does the Commonwealth agree not to hold the reseller responsible for delays caused by the manufacturer of the product being sold?</p>	<p>Addendum Number 7 contains a revised Appendix F, <i>Service Level Agreements</i>, wherein the following language has been added:</p> <p style="padding-left: 40px;">If the Contractor provides sufficient justification to a missed SLA, and the infraction was beyond the control of the Contractor and unforeseen, the Commonwealth reserves the right to waive the service credit.</p>

**Questions & Answers**  
 IFB 6100037605  
 Software & Related Services

#	Question	Answer
66	<p>“The Contactor required delivery time shall be negotiated in the statement of work for the requested services and must be agreed upon by both parties. Each Order Delivered after the negotiated date as stated in the SOW = Missed Order.”</p> <p>Does the Commonwealth agree not to hold the reseller responsible for delays caused by the manufacturer of the product being sold?</p>	<p>This SLA has be removed from Appendix F, <i>Service Level Agreements</i>, and incorporated into the Appendix G, <i>Statement of Work Template</i>, the Contractor, and/or service provider (subcontractor), must perform the services at/on the time agreed upon by both parties.</p>
67	<p>“The Contractor must provide assistance to customers who are unable to download, install, or use software within four (4) hours of problem notification. Each documented issue instance whereby the contractor does not provide assistance within four (4) hours of notification = Missed Issue Assistance).”</p> <p>Can the Commonwealth please clarify what kind of assistance is expected from the software reseller? Is this expectation for a services provider?</p>	<p>For the “Customer assistance with installation, download, or usage issues” performance metric in Appendix F, <i>Service Level Agreements</i>, the reseller shall facilitate a resolution for the Commonwealth. The service provider shall trouble shoot and resolve the issue.</p>
68	<p>“The Contractor must notify the agency at least ninety (90) business days prior to license expiration. Each time Contractor does not provide documented notification at least ninety (90) business days prior to the license expiration of software or service = Missed License Notification.”</p> <p>Would the Commonwealth consider adjusting this requirement to 30 days notice, given the publisher may not always provide 90 days notice to the reseller?</p>	<p>No, for the “License expiration notice” performance metric in Appendix F, <i>Service Level Agreements</i>, the notice requirement has been changed from 90 business days to 90 calendar days.</p>
69	<p>“The Contractor must notify the agency that has a license(s) for the software title reaching end of life within sixty (60) business days of announcement of software end date by the licensor. (Each time Contractor does not provide documented notification at least sixty (60) business days of the end of life = Missed end of life notification).”</p> <p>Would the Commonwealth consider adjusting this requirement to 30 days notice, given the publisher may not always provide 90 days notice to the reseller?</p>	<p>The notice requirement for the “Software end of life notification” performance metric in Appendix F, <i>Service Level Agreements</i>, has been changed from 60 calendar days to five (5) calendar days.</p>

**Questions & Answers**  
 IFB 6100037605  
 Software & Related Services

#	Question	Answer
70	<p>“The Contractor must notify the agency ninety (90) business days prior to the expiration date of any software maintenance services, and monthly thereafter until an order is placed, the agency confirms that they do not wish to renew the maintenance services, or the expiration date has passed. (Each time Contractor does not provide documented notification prior to the expiration date of any software maintenance services = Missed Maintenance Expiration Notification.”</p> <p>Would the Commonwealth consider adjusting this requirement to 30 days notice, given the publisher may not always provide 90 days notice to the reseller?</p>	<p>No, for the “Software maintenance expiration notice” performance metric in Appendix F, <i>Service Level Agreements</i>, the notice requirement has been changed from 90 business days to 90 calendar days.</p>
71	<p>Please define what is meant by “Purchase Order Issuance Date” on the “Sales Report” tab on Appendix I template. Is that when the Commonwealth issues or when the vendor receives?</p>	<p>Addendum Number 6 contains a revised Appendix I, <i>Quarterly Report Template</i>, which renamed “the column “Date PO received by Contractor.”</p> <p>The Commonwealth and the successful bidder(s) will finalize this template prior to the effective date of the Contract(s).</p>
72	<p>We understand that ServiceNow is an important vendor for COPA; however in comparison to the other 7 mandatory vendors, they are not a major SW partner. Would COPA consider making ServiceNow/Cloud a separate Lot or if left in Lot 5 not include them as a mandatory vendor?</p>	<p>Addendum Number 6 contains a revised Appendix B, <i>Pricing Proposal Response Template</i>, wherein tab Lot 5, has been revised to move “ServiceNow Inc” from the list of “Required Publishers” to “Other Publishers”</p>
73	<p>Do bidders have to put a bid for each lot (lot 1-5) in order to be considered in the final bidding process? For example, if we only wanted to bid on Lot 5, would that disqualify us? Would the requirement then change to state that bidder must meet the minimum qualifications for each Lot they wish to bid on for this IFB?</p>	<p>Bidders do not have to submit a bid for each Lot in order to be considered in the final bidding process. Bidders must meet the minimum qualifications for each Lot they wish to bid on for this IFB. Addendum Number 6 contains a revised IFB wherein Section I-6, <i>Bidder Eligibility</i>, has been amended to make this clear.</p>
74	<p>The focus of this RFP seems to be pricing, is COPA placing any value on overall vendor capabilities and value adds as part of this award?</p>	<p>No.</p>
75	<p>Will COPA allow a second round of questions so vendors have time to clarify any questions from the first round?</p>	<p>Please refer to the answer to <a href="#">Question #60</a>.</p>
76	<p>Due to the holiday break in July, will COPA consider extending the deadline to July 11?</p>	<p>Yes, the bid due date within the Calendar of Events has been adjusted to reflect a due date of July 11, 2016.</p>

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 Software & Related Services

#	Question	Answer
77	Can COPA provide a list of SW manufacturers they already have agreements with and which are considered net-new as it relates to Reseller Services section F?	Refer to Appendix J, <i>Current Commonwealth Publishers</i> , for a listing of publishers for which the Commonwealth has an agreement.
78	Does COPA already have agreements in place with all vendors listed in Appendix B? Appendix J?	Yes, the Commonwealth has agreements in place with all vendors listed in Appendix B, <i>Pricing Proposal Response Template</i> , and Appendix J, <i>Current Commonwealth Publishers</i> .
79	Will COPA be leading negotiation of terms (Appendix E) for any new software licenses?	Yes.
80	Vendors may already have agreements in place with licensors that we do business with, will COPA accept a vendors PO as an agreement based on the requirements in Reseller Services section G?	No.
81	Does the Commonwealth plan on adding “Payment Plan” terms for multi-year purchases to this contract?	Addendum Number 6 contains a revised Appendix A, <i>Standard Contract Terms and Conditions for IT Supplies and Related Services</i> , has sets forth installment payment terms and conditions relating to Contracts resulting from this IFB.
82	Would the Commonwealth consider removing ServiceNow as a required publisher? This company is very strategic and market segmented. Traditionally only work with partners in their vertical markets. It gives the incumbent a considerable advantage.	Addendum Number 6 contains a revised Appendix B, <i>Pricing Proposal Response Template</i> , wherein tab Lot 5, has been revised to move “ServiceNow Inc” from the list of “Required Publishers” to “Other Publishers.”
83	Would the Commonwealth consider removing Ecolane, Synergy, Software Ag, Knowledge Center, Hyland, escholar, Kofax as part of the “other” publishers? Again, these companies are very strategic and market segmented. They traditionally only work with partners in their vertical markets. Keeping them on the list gives the incumbent a considerable advantage.	No.
84	The IFB listed numerous documents that contain terms and conditions governing the use of software and services. Is there a proposed Order of Precedence of the terms and conditions of a resulting contract?	Appendix A, <i>Standard Contract Terms and Conditions for IT Supplies and Related Services</i> , contains the terms and conditions that apply to the contracts resulting from this IFB. Section 50 sets forth the order of precedence for the Contract documents.
85	Will the Commonwealth consider negotiating the various Appendices that contain terms and conditions governing the use of software and services considering the Manufacturers of the various Software products will have their own terms and conditions?	Please refer to the answer to <a href="#">Question #11</a> , which also applies to Appendix H, <i>Requirements for Non-Commonwealth Hosted Applications/Services Template</i> .



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 Software & Related Services

#	Question	Answer
86	Will the resulting contract(s) from this IFB replace the Current Contracts listed by Lot in the Pre-bid Conference Presentation?	The Commonwealth may keep the existing contracts listed by Lot in the Pre-Bid Conference Presentation active along with the resulting contracts from this IFB.
87	Will the Commonwealth keep the existing contracts listed by Lot in the Pre-Bid Conference Presentation active along with the resulting contracts from this IFB?	The Commonwealth may keep the existing contracts listed by Lot in the Pre-Bid Conference Presentation active along with the Contracts resulting from this IFB.
88	Please confirm respondents are not required to bid on all Lots, and may return a compliant bid for a single Lot only	Please refer to the answer to <a href="#">Question #73</a> .
89	How does the Commonwealth intend to procure “cloud based or Software As A Service (SAAS)” solutions that require software as one component of the overall solution? In the proposed new model, the software for a cloud solution must be purchased from one of the 3 vendors awarded Lot 5; however, few if any software resellers provide the cloud services or telecommunications infrastructure needed to support complete solutions, thereby limiting the Commonwealth from purchasing enterprise grade solutions.	SaaS solutions may be purchased through the contracts resulting from this IFB. Standalone Infrastructure as a Service and Platform as a Service may not be purchased through the contracts resulting from this IFB.
90	Since software is included in 100% of all cloud based solutions, how does the Commonwealth intend to separate software from cloud services?	SaaS solutions may be purchased through the contracts resulting from this IFB. Standalone Infrastructure as a Service and Platform as a Service may not be purchased through the contracts resulting from this IFB.
91	Can a vendor respond for only selected vendor software in category 5?	No, pursuant to Section I-6 E of the IFB:  Bidder must have a reseller agreement with all eight (8) required publishers and least 15 of the 17 of the other publishers listed in Appendix B, Pricing Proposal Response Template; Lot 5 -Third Party Software Tab, as of the bid due date. Additionally, the bidder must be able to provide 90% of the publishers listed in Appendix J, Current Commonwealth Publishers.
92	Can any vendor act as a reseller for the selected vendor(s)?	The Commonwealth will purchase software and services from the awarded bidders resulting from this IFB. The awarded bidders shall act as software resellers. The Commonwealth has no concerns with the awarded bidder using a subcontractor to reseller software, as long as the Commonwealth receives the best price on the software and the services are not affected.

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 Software & Related Services

#	Question	Answer
93	Would the Commonwealth considering including the NASPO agreement as an additional vehicle from which to purchase software listed in category 5.	The Commonwealth will consider this request.
94	Can COPA provide the Oracle Agreement numbers under which PA agencies currently purchase Oracle software for this contract?	The Commonwealth currently purchases Oracle products and services through Contract <a href="#">4400004713</a> with DLT Solutions, LLC.
95	Will the Commonwealth clarify that Section 40, Information Technology Bulletins, of Appendix A (Standard Contract Terms and Conditions For IT Supplies and Related Services) applies to the Software Publisher/SaaS providers and the entity actually providing the services under the Statement of Work to the Commonwealth and not the Reseller unless the Reseller is also the Software Publisher/SaaS provider or the actual provider of the services under a Statement of Work?	No. The IFB, at Section I-9, <i>Information Technology Policies</i> , directs bidders to identify each Information Technology Policy determined to be inapplicable and the reasoning for each determination.
96	As the Software Publisher/SaaS Provider is in the best position to determine whether its Software and Services meet the requirements of Section 40, Information Technology Bulletins, of Appendix A (Standard Contract Terms and Conditions For IT Supplies and Related Services), will the Commonwealth agree to add this provisions in its Appendix E (Software Requirements Agreement) so that the Software Publishers/SaaS Providers agree to comply with the provision in its agreement with the Commonwealth?	Appendix E, <i>Software License Requirements Agreement Template</i> , and Appendix H, <i>Requirements for Non-Commonwealth Hosted Applications/Services Template</i> , will be used as the basis of negotiations with Software Licensors and SaaS providers. Please refer to the answers to <a href="#">Question #11</a> and <a href="#">Question #85</a> .
97	Will the Commonwealth agree that a Reseller's liability for a breach of Section 41 of Appendix A (Standard Contract Terms and Conditions For IT Supplies and Related Services) will not exceed the liability for which the Software Publisher/SaaS Provider is liable pursuant to Section 5 (Virus, Malicious, Mischievous or Destructive Programming) of the Commonwealth's Appendix E, Software Requirements Agreement?	No. Addendum Number 6 contains a revised Appendix A, <i>Standard Contract Terms and Conditions for IT Supplies and Related Services</i> , and Appendix E, <i>Software License Requirements Agreement Template</i> , with the latter to be used as the basis for negotiations with Software Licensors and SaaS providers. Please refer to <a href="#">Question #11</a> .
98	Will the Commonwealth agree that in no event will a Reseller be liable for damages to the Commonwealth for loss of the Commonwealth's data arising from the failure of the Supplies or Services to conform to the requirements of Section 41 of Appendix A (Standard Contract Terms and Conditions For IT Supplies and Related Services)?	No, the provision speaks for itself.

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#	Question	Answer
99	Will the Commonwealth agree that the warranties for Supplies contained in the software requirements agreement between the Commonwealth and the applicable Software Publisher or SaaS Provider will be the controlling warranty over the warranty in Section 17.a. of Appendix A?	No, the provision speaks for itself.
100	Will the Commonwealth agree that Section 25.a.6) of Appendix A (Limitation of Liability) be revised to be the same as the limitation of liability applicable to the Software Publisher/SaaS Provider as set forth in subsection (f) of Section 7 of Appendix E (Limitation of Liability)?	No, Addendum Number 7 contains a revised version of Appendix E, <i>Software License Requirements Agreement Template</i> , containing similar language.
101	Will the Commonwealth agree that Section 25.b. (Limitation of Liability) be revised to be the same as the limitation of liability applicable to the Software Publisher/SaaS Provider in the last paragraph of Section 7 of Appendix E (Limitation of Liability) by adding the sentence: “Contractor will not be liable for damages due to lost records or data.” ?	No, Addendum Number 7 contains a revised version of Appendix E, <i>Software License Requirements Agreement Template</i> , where the last sentence of Section 7, <i>Limitation of Liability</i> , has been deleted.
102	Will the PA Supplier Portal allow vendors to load a zip file with the requested authorization letters or will those need to be uploaded individually?	You cannot upload a zip file. The Commonwealth recommends scanning and combining the files together, and then uploading the documents as a single PDF.
103	For purposes of submitting Appendix K Attachment A, Intent to Participate in Reverse Auction, the form requests a signature from an Authorized Officer. Is it acceptable to include a Delegation of Authority letter that authorizes a non-officer of our company sign this form, along with that person's signature?	Yes.
104	Regarding all SLA requirements in Appendix F: Would the Commonwealth consider adjusting the Performance Target from 100% to 90%?	No.
105	Regarding “Quote Delivery for Standard Catalog SW & Services”: Similar to the answer provided by the Commonwealth on 6/21/16 for “Order Delivery for Standard Catalog Software and Services”, does the Commonwealth agree not to hold the reseller responsible for possible delays caused by the party responsible for providing the quote for software/services requested as long as the reseller keeps the agency informed of such delays?	Addendum Number 7 contains a revised Appendix F, <i>Service Level Agreements</i> , wherein the following language has been added:  If the Contractor provides sufficient justification to a missed SLA, and the infraction was beyond the control of the Contractor and unforeseen, the Commonwealth reserves the right to waiver the service credit.

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 Software & Related Services

#	Question	Answer
106	Regarding “Quote Delivery for non-standard SW & Services”: Similar to the answer provided for “Order Delivery for Standard Catalog Software and Services”, does the Commonwealth agree not to hold the reseller responsible for possible delays caused by the party responsible for providing the quote for software/services requested as long as the reseller keeps the agency informed of such delays?	Addendum Number 7 contains a revised Appendix F, <i>Service Level Agreements</i> , wherein the following language has been added:  If the Contractor provides sufficient justification to a missed SLA, and the infraction was beyond the control of the Contractor and unforeseen, the Commonwealth reserves the right to waiver the service credit.
107	Regarding “Software upgrade notification”: Many publishers do not announce updates/upgrades 60 calendar days before release, which is outside the reseller’s control. Would the Commonwealth consider adjusting this requirement to upgrades being communicated by the reseller within 3 business days of publisher announcement/notification?	Addendum Number 7 contains a revised Appendix F, <i>Service Level Agreements</i> , wherein the “Software upgrade notification” performance metric has been amended to clarify that notification must occur within five (5) calendar days of the announcement of the upgrade being available by the licensor.
108	Regarding “Software upgrade notification”: Would the Commonwealth consider adjusting this requirement to only the publishers listed in LOTS 1-4 and the Top 25 publishers for LOT 5 listed in Appendix B pricing template?	No.
109	Regarding “Software end of life notification”: Would the Commonwealth consider adjusting this requirement to end-of-life notification by the reseller within 5 business days of publisher announcement/notification?	Addendum Number 7 contains a revised Appendix F, <i>Service Level Agreements</i> , wherein the “Software end of life notification” has been amended by reducing the time frame from 60 calendar days to five (5) calendar days.
110	Regarding “Software maintenance notification”: Similar to the answer provided for “Order Delivery for Standard Catalog Software and Services”, does the Commonwealth agree not to hold the reseller responsible for possible delays caused by the party responsible for notifying the reseller of maintenance expiration as long as the reseller keeps the agency informed of such delays? Some vendors may not provide 90 days notification, despite the reseller request.	No.
111	Some of the software publishers, such as Synergy Software Technologies, Hyland Software, Cybersoft Technologies Inc, Knowledge Center, Escholar, and Open Text, do not have partner or reseller programs, which makes it difficult to be a responsive and responsible bidder. How will the Commonwealth determine responsive and responsible bidders in this case?	Bidders must be able to provide 90% of the publishers listed in Appendix J, <i>Current Commonwealth Publishers</i> . This can be accomplished either through direct reseller agreements with the publisher or through the publishers distribution network.

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 Software & Related Services

#	Question	Answer
112	We would like the Commonwealth to be able to conduct a fair and effective evaluation of Lot 5, and, as such, we ask that the market basket section be modified; We noticed that 59 of the items in the market basket are custom software license renewals, many of which have already expired, for which we cannot provide a cost. We think that if the Commonwealth provides unit costs for this section an effective evaluation can be conducted.	<p>Addendum Number 7 contains a revised Appendix B, <i>Pricing Proposal Response Template</i>, wherein tab Lot 5 has been revised to include the following columns in the “Market Basket” section.</p> <ul style="list-style-type: none"> <li>• Discontinued</li> <li>• Substitute Manufacturer Part #</li> <li>• Substitute Software Title</li> </ul>
113	Additionally, we would like to note those items that are discontinued as indicated. However, we do not see the column for discontinued items in the most recent price sheet.	Please refer to the answer to <a href="#">Question #112</a> .
114	We are not clear on the intent of the dropdown selections for the Authorized reseller column. Is there a distinction between reseller and distributor that weighs into the evaluation?	This column helps the Commonwealth understand the relationship between the Bidder and the publisher(s) which they intend to provide as part of the awarded Contract. This is not part of the evaluation of the Contractors response to this IFB.
115	Lastly, given the amount of clarifications needed at this time, we request an extension of the bid due date to allow time for revision of our proposal after these clarifications have been resolved.	The Commonwealth will not extend the due date for this IFB.

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#	Question	Answer
116	<p>The Lot #5 (Third Party Software) award criteria [IFB Section I-4], reserves the right to make awards to “up to three (3) Bidders who provide the lowest market basket cost for Third-Party Software and Services.” (Emphasis added.)</p> <p>After reviewing the QA response the QA response released last week, exact scope of award under a multiple award scenario for Lot #5 remains unclear. Would the Commonwealth please provide additional clarification on what award scope will be awarded to the “lowest” bidder vs. other multiple awardees in the event of a multiple award. E.g.,</p> <ol style="list-style-type: none"> <li>1. Will:           <ol style="list-style-type: none"> <li>a. all awarded bidders be equally able to quote and take orders across all manufacturer(s)’ lines in the market basket (level playing field in selling scope among all awardees)? Or</li> <li>b. only the lowest price contractor able to quote/take orders, with the remaining awardees only considered if the lowest price awardee can’t meet specific requirements?</li> </ol> </li> <li>2. If the latter, how is the “lowest price” awardee for orders determined? The bidder/awardee with the lowest a) overall market basket price (across all lines) b) lowest price for that specific manufacturer’s product line?</li> </ol>	<p>The final award methodology will be determined based on what is in the best interest of the Commonwealth following the evaluation of the reverse auction.</p> <p>Following contract award, all Contractors will have equal opportunity, across all manufacturer(s)’ lines in the market basket, to provide quotes for procurements exceeding \$10K.</p>
117	<p>Appendix A, Limit of Liability, as well as the Commonwealth's response to Question #20 and Question #51: Our current Software contract with the Commonwealth states “The Contractor’s liability to the Commonwealth under this contract shall be limited to the greater of \$250,000 or the value of the purchase order giving rise to the claim.” Will the Commonwealth reconsider clarifying the Limit of Liability for this IFB to the same maximum (i.e. the greater of \$250,000 or the value of the purchase order giving rise to the claim)?</p>	<p>No. Please refer to the answer to <a href="#">Question #20</a>.</p>

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#	Question	Answer
118	Appendix B, Pricing Proposal Response Template: Given the recent change to allow for substitution MFG part numbers, will bidders have a chance to explain their unit cost pricing method (specifically for LOT 5 Market Basket) before the reverse auction occurs? We want to ensure that the Commonwealth has the opportunity to evaluate the market basket products thoroughly and fairly, as many of the products requested aren't necessarily discontinued, but are special prices negotiated with the publisher/end user and are based on the specific size and scope of a particular project.	No, bidders will not have a chance to explain their unit cost pricing method before the reverse auction occurs. The cost per each line item will be calculated from the unit cost (price available to the reseller from the software publisher at the time of the bid) multiplied by the vendor markup for that software publisher.
119	I found the following questions on the submittal website. We are unclear how to respond to these questions. Can you please clarify or explain these questions?  Is the offer in accordance with the "Representation and Authorization" listed in section "Submission – 001.1" of the attached solicitation document?  Has the submitter read, and does the submitter understand, the "Representation and Authorization" listed in section "Submission – 001.1" of the attached solicitation document?	The IFB has been revised to include Section I-22, <i>Bidder's Representation and Authorization</i> .
120	Please confirm that support is not intended to be calculated as 17% of the software license cost (as it appears in cell C11 on the Pricing Proposal Response Template, tab "Lot 3- Oracle").	Correct, support is not intended to be calculated as 17% of the software license cost. Suppliers should enter their % Discount off MSRP for Support in cell D11 of the tab labeled Lot 3 - Oracle.
121	For Appendix B, Pricing Proposal Response Template Lot 3 – Oracle, the cost of existing support renewals (Rows 16, 23 and 24) is generally increased by the Manufacturer year over year by some percentage markup and then passed along to the End User. How would the Commonwealth like us to account for this different pricing method for existing support contracts versus a new license and support purchase that is discounted off of MSRP?	Bidders should offer all pricing as if it were for new license purchases or renewals of existing support contracts as they are at the current time.
122	Could you advise if hardware products are included in the scope of the IFB, particularly for Lot 3-Oracle, if the manufacturer offers hardware products?	Hardware will not be purchased as part of the awarded contract for Lot 3.