

**AGREEMENT TO PROVIDE SERVICE PURSUANT TO  
A COOPERATIVE PURCHASING CONTRACT**

This Agreement is made and entered into this 21<sup>st</sup> day of March, 2023 (the "Effective Date"), by and between the City of Bisbee, Arizona, a municipal corporation, hereinafter designated as the "City" and Ricoh USA, Inc. hereinafter designated as the "Contractor." The City and Contractor may hereinafter be referred to individual as a "Party" or collectively as the "Parties."

**Recitals**

A. Contractor has contracted with the State of Arizona pursuant to Contract No. AZ ADSP018-216027 (the "Cooperative Purchasing Contract"), attached hereto as **Exhibit "A"** and incorporated herein; and,

B. Pursuant to A.R.S. § 41-2631 et seq. and Bisbee City Code Section 3.5.9, the City has authority to utilize cooperative purchasing contracts and engage Contractors under the terms thereof; and,

C. The City and the Contractor desire to enter into this Agreement for the purpose of (i) acknowledging their cooperative contractual relationship under the Cooperative Purchasing Contract and this Agreement, and (ii) establishing the terms and conditions by which the Contractor may provide the City with the services, materials and/or equipment as more particularly set forth below (the "Equipment").

NOW, THEREFORE, in consideration of the foregoing recitals, which are incorporated herein by reference, the following mutual covenants and conditions, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

**Agreement**

1. **Scope of Work.** Contractor shall provide the following Equipment: 1 qty Ricoh IMC 2500 Color Laser Mult-Function, Ricoh Smart Integration, Configurable PTO Model with TS Network and Scan Connect – SEG BC2, as described in the Ricoh Order Agreement documents attached hereto as **Exhibit B**, which are incorporated herein by reference. As used in this Agreement, all references in the Cooperative Purchasing Contract to the State of Arizona shall mean the City of Bisbee, Arizona.

2. **Completion of Work.** The Contractor shall provide the equipment on or before June 30, 2023.

3. **Term.** This Agreement shall be effective as of the date first set forth above and shall remain in full force and effect for 60 months (the "Term"), unless terminated as otherwise provided in this Agreement.

4. **Payment.** The Purchase Price is \$4,801.74, payable in full at time of delivery or in monthly payments of \$99.11 for a period of 60 months. Service & supplies shall be

charged at an additional \$30.00 per month, and .0525 for color copies. Ricoh Smart Integration unlimited users one time charge \$1,370.20 for 5 years (library patrons). Total monthly payments shall be \$41.00 a month if the equipment is paid in full at time of deliver or \$140.11 per month if the equipment is financed. Payment to the Contractor for the Equipment provided, shall be made in accordance with the price list and terms set forth in the Cooperative Purchasing Contract.

5. **Terms of Cooperative Purchasing Contract Apply.** All provisions of the Cooperative Purchasing Contract documents are incorporated in and shall apply to this Contract as though fully set forth herein, except as otherwise provided for in this Agreement.

6. **Boycott of Israel.** To the extent A.R.S. § 35-393 through § 35-393.03 are applicable, the Parties hereby certify that they are not currently engaged in, and agree for the duration of this Agreement to not engage in, a boycott of goods or services from Israel, as that term is defined in A.R.S. § 35-393.

7. **Conflict of Interest.** The Agreement is subject to the provisions of A.R.S. § 38-511. The City may cancel this Agreement without penalty or further obligations by the City or any of its departments or agencies if any person significantly involved in initiating, negotiating, securing, drafting or creating this Agreement on behalf of the City or any of its departments or agencies is, at any time while this Agreement or any extension of this Agreement is in effect, an employee or agent of any other party to this Agreement in any capacity or a consultant to any other party of this Agreement with respect to the subject matter of this Agreement.

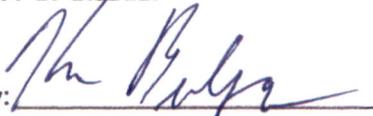
8. **Agreement Subject to Appropriation.** The City is obligated only to pay its obligations set forth in this Agreement as may lawfully be made from funds appropriated and budgeted for that purpose during the City's then current fiscal year. The City's obligations under this Agreement are current expenses subject to the "budget law" and the unfettered legislative discretion of the City concerning budgeted purposes and appropriation of funds. Should the City elect not to appropriate and budget funds to pay its Agreement obligations, this Agreement shall be deemed terminated at the end of the then-current fiscal year term for which such funds were appropriated and budgeted for such purpose and the City shall be relieved of any subsequent obligation under this Agreement. The Parties agree that the City has no obligation or duty of good faith to budget or appropriate the payment of the City obligations set forth in this Agreement in any budget in any fiscal year other than the fiscal year in which this Agreement is executed and delivered. The City shall be the sole judge and authority in determining the availability of funds for its obligations under this Agreement. The City shall keep Contractor informed as to the availability of funds for this Agreement. The obligation of the City to make any payment pursuant to this Agreement is not a general obligation or indebtedness of the City. Contractor hereby waives any and all rights to bring any claim against the City from or relating in any way to the City's termination of this Agreement pursuant to this section.

9. **Conflicting Terms.** In the event of any inconsistency, conflict or ambiguity between this Agreement and the Cooperative Purchasing Contract, this Agreement shall govern.

10. **Counterparts.** This Agreement may be executed in any number of counterparts, all such counterparts shall be deemed to constitute one and the same instrument, and each of said counterparts shall be deemed original hereof.

**IN WITNESS WHEREOF**, the Parties hereto have executed this Agreement as of the date and year first set forth above.

**CITY OF BISBEE:**

By:   
Ken Budge, Mayor

**CONTRACTOR: RICOH USA, INC.**

By:   
(Signature)

Grant Lawson, Regional Vice President  
(Printed Name & Title)

**ATTEST:**

  
Ashlee Coronado, City Clerk

**APPROVED AS TO FORM:**

  
Gust Rosenfeld, PLC, City Attorney  
By: Joseph D. Estes

**EXHIBIT A**  
**CONTRACT OF COOPERATIVE PURCHASING ENTITY**

Attached:

- State of Arizona Contract No. AZ ADSP018-216027

**EXHIBIT B**

**SPECIFIC REQUIREMENTS/OPTIONS OF CITY**

**Attached:** Ricoh Order Agreement

**Notices:** All notices required under the Contract shall be sent to: City Manager  
City of Bisbee 76 Erie Street, Bisbee, Arizona 85603

**Delivery Location:**

City of Bisbee  
Copper Queen Library  
6 Main Street  
Bisbee, Arizona 85603



# Request for Proposal

Solicitation No.  
ADSP018-00008023

Description:  
Multifunctional Devices, including Supplies and Maintenance

Arizona Department of Administration  
State Procurement Office  
100 N 15th Ave., Suite 402  
Phoenix, AZ 85007

## Attachment 1 Offer and Acceptance Form

**SUBMISSION OF OFFER:** Undersigned hereby offers and agrees to provide **Multi-functional Devices, including Supplies and Maintenance** in compliance with the Solicitation indicated above and our Offer indicated by the latest dated version below:

Initial Offer:	1.					
	date	initial				
Revised Offers:	2.		3.		4.	
	date #1	initial	date #1	initial	date #1	initial
	5.		6.		7.	
	date #4	initial	date #5	initial	date #6	initial
Best and Final Offer:	8.					
date	initial					

### RICOH USA, INC

Offeror company name

Signature of person authorized to sign Offer

Initials

70 Valley Stream Parkway

SCOTT DABICE

Address

Printed name and title

Malvern, PA 19355

Vice President, Pricing & Strategic Markets

City | State | ZIP

Contact name and title

23-0334400

scott.dabice@ricoh-usa.com (973) 882-2000

Federal tax identifier (EIN or SSN)

Contact Email Address

Contact phone number

**CERTIFICATION:** By signature in the above, Offeror certifies that it:

- will not discriminate against any employee or applicant for employment in violation of Federal Executive Order 11246, [Arizona] State Executive Order 2009-9 or A.R.S. §§ 41-1461 through 1465;
- has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the submitted offer. Failure to provide a valid signature affirming the stipulations required by this clause will result in rejection of the Offer. Signing the Offer with a false statement will void the Offer, any resulting contract, and may be subject to legal penalties under law;
- complies with A.R.S. § 41-3532 when offering electronics or information technology products, services, or maintenance; and
- is not debarred from, or otherwise prohibited from participating in any contract awarded by federal, state, or local government.

**ACCEPTANCE OF OFFER:** State hereby accepts the initial Offer, Revised Offer, or Best and Final Offer identified by number **ADSP018-00008023** at the top of this form, and which was dated **8/15/2018** (the Accepted Offer). Offeror is now bound (as Contractor) to carry out the Work under the attached Contract, of which the Accepted Offer forms a part. Contractor is cautioned not to commence any billable work or to provide any material or perform any service under the Contract until Contractor receives the applicable Order or written notice to proceed from Procurement Officer.

State's Contract No. is: **ADSP018-216027**

The effective date of the Contract is: **November 1, 2018**

Contract awarded **October 5, 2018**

Rocky Advani

Procurement Officer signature

Procurement Officer Printed Name

PART 3 of the Solicitation Documents  
Template version 2.0 (01-FEB-2017)

SECTION 3-B: Offeror Forms  
Page 14 of 36

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Available online at: [Procure.AZ.gov](http://Procure.AZ.gov)

Douglas A. Ducey  
Governor



Gilbert Davidson  
Chief Operating  
Officer and Interim  
Director

**ARIZONA DEPARTMENT OF ADMINISTRATION**

STATE PROCUREMENT OFFICE

100 NORTH FIFTEENTH AVENUE • SUITE 402  
PHOENIX, ARIZONA 85007

(602) 542-5511 (main)  
<http://spo.az.gov>

October 5, 2018

Sent via e-mail to: [scott.dabice@ricoh-usa.com](mailto:scott.dabice@ricoh-usa.com)

Re: Award of Contract for Solicitation No. ADSPO18-00008023 for Multifunction Devices, Including Supplies and Maintenance

Dear Scott Dabice,

Thank you for submitting a response to the Request for Proposal Solicitation No. ADSPO18-00008023 for Multifunction Devices, Including Supplies and Maintenance. I am pleased to inform you that Ricoh USA, Inc. has been selected for award.

The initial contract term shall begin on **November 1, 2018**

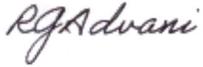
All offers received were evaluated in accordance with the evaluation criteria set forth in the solicitation document. The procurement file for this solicitation, including evaluation documents and resultant contracts, will be shortly available for public viewing via the State's e-Procurement system, ProcureAZ.

In accordance with Special Terms and Conditions, Section 6.7 of the contract and prior to beginning work under the contract, your company is required to submit a Certificate of Insurance to the State Procurement Office if you have not already done so. The certificate of insurance shall indicate that your company is in compliance with insurance requirements contained in the contract. **Please submit your certificate of insurance to me no later than October 29, 2018**

You are cautioned not to begin any work under this new contract until the Procurement Officer assigned to your contract has issued a written notice to proceed.

If you have any questions regarding your company's contract, please contact me at [rocky.advani@azdoa.gov](mailto:rocky.advani@azdoa.gov) or 602.542.0100. Thank you for your response and for your continued interest in doing business with the State of Arizona.

Sincerely,

Handwritten signature of Rocky Advani in cursive script.

Rocky Advani  
State

Procurement

Manager



# Request for Proposal

Solicitation No.  
ADSP018-00008023

Description:  
Multifunction Devices, Including Supplies and Maintenance

Arizona Department of Administration  
**State Procurement Office**  
100 N 15th Ave., Suite 402  
Phoenix, AZ 85007

## Part 2: Scope, Pricing and Terms and Conditions

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### SECTION 2-A: Scope of Work

1. Introduction:

The State of Arizona, its' Agencies, Boards and Commissions (State) as well as Participating Members of the State Purchasing Cooperative (Cooperative), have an ongoing requirement for various products and services as described herein. The purpose of this solicitation is to conduct a competitive process, in accordance with Arizona Revised Statutes (ARS) 41-2501 et seq., to create a contract(s) from which the State and its Cooperative Members may acquire these products and services.

2. Background:

The State desires to establish a Contract or Contract Set to supply the needs for multifunctional devices throughout the State of Arizona. The State and the cooperative members currently have fleets that include purchased, rented or leased equipment. This contract shall include service coverage for all currently placed fleet as well as devices that are procured through this contract. Contracts resulting from this solicitation will be used by multiple eligible agencies with delivery locations throughout the State.

The following items are excluded from the RFP Scope of Work:

- Managed Print Services

3. Definitions:

3.1 Accessory - Any items that may be added to the base marking engine.

3.2 Authorized Dealer - A Manufacturer's authorized sales and service center that shall be certified by the Manufacturer to sell the Manufacturer's products, perform machine installation, maintenance on machines offered.

3.3 Cancelable Rental - Shall meet the financial requirements of an Operational Lease but shall be cancelable given thirty (30) days written notice, at any time during the rental term without penalty.

**3.4** Leasing and Rentals

3.4.1 Operating lease agreements (Fair Market Value Leases), as well as straight rental agreements, between the Contractor and any Eligible Agency are allowable under this Contract.

3.4.1.1 Operating leases are those agreements where agencies do not obtain title to or ownership of, only the temporary possession and use of, the leased property.

3.4.2 In the event of a conflict between the provisions of a lease (or rental) agreement and Contract terms and conditions, the Contract terms and conditions shall prevail.

3.4.3 Any State entity entering into a lease agreement as allowed herein shall follow the policies outlined in the State of Arizona Accounting Manual. Any questions as to the State's policy should be directed to the ADOA General Accounting Office. Inquiries can be sent via email to [gaopolicy@azdoa.gov](mailto:gaopolicy@azdoa.gov).

3.4.4 To ensure compliance with Article 9, Section 5 of the State of Arizona Constitution, installment purchase agreements, or those agreements where title to the property is transferred to the lessee at the inception of the agreement, shall be prohibited under this contract.

**3.5** Equipment Downtime - Is defined as the period of time a piece of equipment is waiting for service to be completed. This time starts with the original service call into the Contractor and ends once all repairs, part installations, equipment modifications, configuration changes, or any prescribed work is completed and the Equipment functions according to OEM published specifications.



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- 3.6 Equipment Functions and Options
- 3.6.1 Automatic Document Feeder (ADF) - An accessory that feeds original documents automatically, one at a time to the exposure glass for scanning and copying;
  - 3.6.2 Automatic Exposure Selection (AES) - A feature that automatically adjusts the exposure when copying from originals with different background shadings;
  - 3.6.3 Automatic Magnification Selection (AMS) - A feature that after detecting the correct size of each original document, the copier automatically calculates the correct magnification (zoom) ratio to fit the paper size selected by the Equipment Operator;
  - 3.6.4 Automatic Paper Selection (APS) - A feature that is a built on sensor that detects the size of the original and the copier selects the proper paper size;
  - 3.6.5 Automatic Tray Switching (ATS) - A feature that enables a copier to automatically switch from a depleted paper source to another;
  - 3.6.6 Automatic Start (AS) - A feature that allows the Equipment Operator to program jobs prior to the Equipment warm-up phase;
  - 3.6.7 Base Cabinet - A cabinet placed under a console device, thereby allowing the device to be a standalone unit, instead of a paper-feed unit.
  - 3.6.8 Paper-Feed Units - Expands the paper capacity by providing two (2) or more additional paper sources such as cassettes, drawers or trays. Additionally paper-feed units act as a support for base units to utilize the device as a standalone unit (resting on the floor) instead of a base cabinet. For Segments 2 (Console), 3 and 4, the paper-feed units include a minimum of two (2) paper cassettes, drawers or trays.
  - 3.6.9 Bypass Paper Supply - A side opening tray into which copying materials may be inserted for the use of copying onto. Should hold multiple sheets of copying material.
  - 3.6.10 Data Security Kit - The kit and software required to enable the encryption of all data written to the hard drive.
  - 3.6.11 Finisher - An accessory that delivers finished/stapled sets into an offset catch tray(s). Finishers are subdivided into the following classifications:
    - 3.6.11.1 Advanced Finisher - A Finisher that is free standing from the output device, offers a minimum fifty (50) page multi position stapling capacity and can be configured with any combination of three hole punching and saddle stitch finishing;
    - 3.6.11.2 Basic Office Finisher - A Finisher that is free standing from the output device and offers a minimum fifty (50) page stapling capacity; and
    - 3.6.11.3 Internal/Wing Finisher - A Finisher that either is internal to the device or is an attachment to the output side of the device and offers a minimum twenty-five (25) page stapling capacity. Wing Finishers are not free standing by original manufacturing design and relies on the output device for support.
  - 3.6.12 Hard Drive Security Kit - The parts and software required to enable US Department of Defense (DoD) standards for data overwrite.



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- 3.6.13 Large Capacity Tray (LCT) - A paper source capable of handling more than one thousand (1,000) sheets of paper.
- 3.6.14 Margin Shift - The ability of a machine to shift the image to the right and left, on the front, back, and both sides of the copy, to allow for binding or three-hole punching.
- 3.6.15 Network Connectivity Kit - All parts, boards, software (internal to the machine) to sufficiently enable the copier to network print, scan to the network folder, scan to email (including server based or POP3) and scan to desktop.
- 3.6.16 Network Security Kit - All necessary parts and software to enable encrypted communications between print drivers and a copier including any necessary specialized print drivers.
- 3.6.17 Post Process Insertion Kit - An accessory that allows for the insertion of substrates without requiring the material to be fused.
- 3.6.18 Reversing Automatic Document Feeders (RADF) - A Feeder that performs the same functions as an ADF with the added capability to automatically invert (turn) a two-sided original to copy material off of both sides.
- 3.6.19 Scan Speed - The speed a device scans originals through the document feeder at 600x600 DPI resolution or better.
- 3.7 First Time Fix - The measurement of a successful service and technical support call is defined by the Contractor's ability to remedy the underlying issue on the first service call.
- 3.8 Maintenance Service - The scheduled or requested service call to perform quality service checks regarding the performance of the machine, or to diagnose and repair Equipment that has been reported as non-functional.
- 3.9 Replacement Parts - Contractor replacement Equipment mechanical parts that are attached to or integrated into the Equipment that allows or assists the Equipment to function or operate.
- 3.10 Service Zone - There are three (3) established service zones, based on distance from City Center. The service zones are as follows:
  - 3.10.1 Urban - Within fifty (50) miles from a City Center
  - 3.10.2 Rural - Outside fifty (50) miles from a City Center; and
  - 3.10.3 Remote - Areas accessible via road from any Urban or Rural Service Zone regardless of distance.



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- 3.11 Service Call - An on-site technician visit due to machine error or breakdown requiring the onsite services of an authorized service technician to remedy the error.
- 3.12 Service Response Time - The time required to solve a service call beginning from the time the call is logged with the Contractor until either a Service Technician arrives on site or the issue is resolved through the Contractor's telephone support.
- 3.13 Supplies - Consumables that are used for the operation of the Equipment and or ensures the operation of the Equipment according to Manufacturer specifications. Supplies do not include staples and paper.
- 3.14 Type of Equipment:
  - 3.14.1 Console Copier - The dimensions, weight or design of this type of Equipment prohibit desktop support; are freestanding and feature built-in consoles. Console copiers are copiers that offer a Base Cabinet and a Paper Feed Unit;
  - 3.14.2 Desktop Copier - The dimensions, weight or design of this type of Equipment allows it to be supported by a desk or optional stand;
  - 3.14.3 Hybrid Copier - A copier based device that combines high-speed four (4) color output with a traditional workgroup or departmental black and white copier/printer. In order for a device to be considered a Hybrid Device, it shall have a rated color production speed within 66% of the rated black and white production speed; and
  - 3.14.4 Multifunction Copier - A device that, by original design, performs Print, Copy and Scan functions.
- 3.15 Segments – The following Segments shall be utilized to group the various speeds of copiers with the Classes referenced in this solicitation:

If a Contractor offers segments greater than what is defined within the solicitation, Offerors may submit their equipment and define the speed in impressions per minute.

### Class One (1) Black and White Convenience Copiers



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Segment	Speed in Impressions per Minute (IPM)
2	20-29 (Desktop and Console)
3	30-39
4	40-49
5	50-59
6	60-69
7	70-79
8	80-89
9	90-99
10	100-119

### Class Two (2) Hybrid Convenience Copiers

Segment	Black and White Speed in Impressions Per Minute (IPM)
2	20-29 (Console Only)
3	30-39
4	40-49
5	50-59
6	60-69

### Class Three (3) Black and White Production Copiers

Segment	Speed in Impressions per Minute (IPM)
1	100-119
2	120-139
3	140-159

### Class Four (4) Color Production Copiers

Segment	Speed in Impressions per Minute (IPM)
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1	50-59
2	60-69
3	70-79

### Class Five (5) Wide Format Copiers (Black & White and/or Color)

Segment	Speed in Linear Feet Per Minute (LPM)
1	2 - 6
2	7 - 15

4. **Scope of Products and Services:** The Contractor shall be either an Original Equipment Manufacturer (OEM), or Authorized Dealer (Dealer) and shall provide base equipment, hardware accessories and software required to enable and enhance the equipment capabilities (Equipment) as termed to be either a multi-function device and or copier, as may be ordered by the various Agencies, Commissions, Boards and Participating Members, to any location within the geographical area known as the State of Arizona. All Equipment shall be delivered with start-up supplies and all Equipment shall be set-up, installed and production ready upon completion.

Equipment may be purchased, leased or rented, as detailed throughout this solicitation.

The Contractor shall have the ability to assume rental and lease agreements that were previously established through statewide contracts.

The Contractor shall also provide Equipment maintenance services, which includes all categorizations of priority, i.e., Legacy, Preventative, Routine, and Emergency. The Contractor may offer replacement parts as a component of the monthly maintenance expense, or the Contractor may offer replacement parts as a percentage off from published price lists.

Equipment that is sold, rented or leased shall be new and represent the latest model in current production. Used, shopworn, demonstrator, prototype or discontinued models are not acceptable and will be refused and returned to the Contractor at no additional cost to the State.

### 5. Product Specifications:

5.1 Commercial Product Standard: The Equipment offered shall be in accordance with the requirements of these specifications. A standard commercial product is a product that has been sold or is being currently offered for sale, on the commercial market through advertisements, manufacturer catalogs or brochures, and represents the latest production model. This solicitation shall provide for the following classifications of Equipment:

- 5.1.1 Class One (1) - Convenience Black and White Copiers;
- 5.1.2 Class Two (2) - Convenience Hybrid Copiers;
- 5.1.3 Class Three (3) - Production Black and White Copiers;
- 5.1.4 Class Four (4) - Production Color Copiers; and
- 5.1.5 Class Five (5) - Wide Format Copiers.



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- 5.2 Equipment Configurations:
- 5.2.1 In automatic duplex enabled copiers, the ADF shall be a RADF unless the ADF is equipped to accomplish duplex scanning (scan both sides of the original in the same pass).
  - 5.2.2 All console copiers within Class One (1) and Two (2) shall be capable of the following copier functions: AES, AMS, APS, ATS, AS and Margin Shift.
  - 5.2.3 All copiers shall maintain a scan speed, as defined in this RFP, from an ADF, RADF (including duplex scanners) or separate scanning station, within 66% of the rated speed of the marking engine. Class Three (3) (Production Black and White) shall maintain a scan speed in excess of fifty-five (55) Impressions Per Minute (IPM).
  - 5.2.4 All copiers shall be equipped, at a minimum, with the following components:
    - 5.2.4.1 Marking Engine;
    - 5.2.4.2 Control Panel;
    - 5.2.4.3 Bypass paper supply (except Class three (3) and five (5));
    - 5.2.4.4 Paper Supply equal to or greater than;
      - 5.2.4.4.1 One (1) paper drawer for Segment 2 Desktop copiers,
      - 5.2.4.4.2 Two (2) paper drawers for Segment 2 Console copiers through Segment 4 copiers,
      - 5.2.4.4.3 Four (4) paper drawers and/or 2,000 sheet capacity for Segments 5 and above in Class One (1), Two (2), Three (3) and Four (4), and
      - 5.2.4.4.4 Class Five (5) shall have a minimum paper supply of two (2) rolls;
    - 5.2.4.5 Paper size capacity up to 8.5" x 14" for all Segment 2 desktop copiers and 11" x 17" for all other Segments in Classes One (1), Two (2), Three (3), and Four (4). Class Five (5) copiers shall have a maximum paper size for "E" sized drawings; and
    - 5.2.4.6 All console copiers in Class One (1), Two (2), and Four (4) shall be equipped for duplex copying.
  - 5.2.5 Class One (1) and Two (2) Minimum Available Options - The following optional accessories shall be available for all equipment proposed in Class One (1) and Two (2):
    - 5.2.5.1 **Segment 2 Console** - Network Connectivity Kit, Paper-Feed unit, Basic Office Finisher, Internal Finisher, ADF/RADF, Hard Drive Security Kit, Power Protection and Facsimile;
    - 5.2.5.2 **Segment 2 Desktop** - Network Connectivity Kit (or connectivity to a single PC via USB connection for Printing and Scanning), One (1) additional paper drawer, Document Feeder, Power Protection and Facsimile;
    - 5.2.5.3 **Segment 3** - Network Connectivity Kit, Paper-Feed Unit, Basic Office Finisher, Advanced Office Finisher, Internal/Wing Finisher, ADF/ADF, Booklet Maker, Inline 3-Hole Punch, Large Capacity Tray, Hard Drive Security Kit, Power Protection and Facsimile;



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- 5.2.5.4 **Segment 4** - Network Connectivity Kit, Paper-Feed Unit, Basic Office Finisher, Advanced Office Finisher, Internal/Wing Finisher, ADF/ADF, Booklet Maker, Inline 3-Hole Punch, Large Capacity Tray, Hard Drive Security Kit, Power Protection and Facsimile;
  - 5.2.5.5 **Segment 5** - Network Connectivity Kit, Basic Office Finisher, Advanced Office Finisher, ADF/ADF, Booklet Maker, Inline 3-Hole Punch, Large Capacity Tray, Hard Drive Security Kit, Power Protection and Facsimile;
  - 5.2.5.6 **Segment 6** - Network Connectivity Kit, Basic Office Finisher, Advanced Office Finisher, ADF/ADF, Booklet Maker, Inline 3-Hole Punch, Large Capacity Tray, Hard Drive Security Kit and Power Protection;
  - 5.2.5.7 **Segment 7** - Network Connectivity Kit, Basic Office Finisher, Advanced Office Finisher, ADF/ADF, Booklet Maker, Inline 3-Hole Punch, Large Capacity Tray, Hard Drive Security Kit and Power Protection;
  - 5.2.5.8 **Segment 8** - Network Connectivity Kit, Basic Office Finisher, Advanced Office Finisher, ADF/ADF, Booklet Maker, Inline 3-Hole Punch, Large Capacity Tray, Hard Drive Security Kit and Power Protection;
  - 5.2.5.9 **Segment 9** - Network Connectivity Kit, Basic Office Finisher, Advanced Office Finisher, ADF/ADF, Booklet Maker, Inline 3-Hole Punch, Large Capacity Tray, Hard Drive Security Kit, Post Process Insertion Unit and Power Protection;
  - 5.2.5.10 **Segment 10** - Network Connectivity Kit, Basic Office Finisher, Advanced Office Finisher, ADF/ADF, Booklet Maker, Inline 3-Hole Punch, Large Capacity Tray, Hard Drive Security Kit, Post Process Insertion Unit and Power Protection.
- 5.2.6 All Hybrid Copiers shall comply with the Black and White Segment counterpart, with the addition that all Hybrid Copiers shall include a mandatory accessory of Adobe Postscript.
- 5.2.7 Class Three (3) Minimum Available Options and Specifications - All Class Three (3) copiers shall have as optionally available, the following options:
- 5.2.7.1 Network Connectivity Kit, Additional Paper Drawers/LCT/Additional Paper Supply Modules, Post Process Insertion Units, (or shared paper trays that may be used for this purpose), Booklet Maker, Offset Stacker Finisher, Basic Finisher, Advanced Finisher, Inline 3-Hole Punch, ADF/RADF/Scan Station and Make Ready Software. Class Three (3) will further be limited to devices that have a monthly duty cycle in excess of 750,000 impressions as defined by the Manufacturers' rated monthly **maximum**;
- 5.2.8 Class Four (4) Minimum Available Options and Specifications - All Class Four (4) copies shall have as optionally available accessory, the following options:
- 5.2.8.1 Network Connectivity Kit, Additional Paper Drawers/LCT/Additional Paper Supply Modules, Post Process Insertions Unit (or shared paper trays that may be used for this purpose), Booklet Maker, Offset Stacker Finisher, Basic Finisher, Advanced Finisher, Inline 3-Hole Punch and ADF/RADF/Scan. Class Four (4) will further be limited to devices that have a monthly duty cycle in excess of 750,000 impressions as defined by the Manufacturers' rated monthly **maximum**.
- 5.2.9 Class Five (5) Minimum Available Options - All Class Five (5) copiers shall have as optionally available accessory the following options:



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5.2.9.1 Network Connectivity Kit and Additional Paper Drawers.

5.2.10 Equipment Minimums:

5.2.10.1 All Equipment shall be newly manufactured equipment and currently in production, except as specifically provided for within this RFP;

5.2.10.2 Equipment shall have published specifications;

5.2.10.3 Equipment shall meet or exceed the speed requirements for each Segment of Equipment in each Class; and

5.2.10.4 Equipment shall be Energy Star® compliant.

5.3. Installation and Environmental Requirements - Prior to order acceptance, the Contractor shall advise the Customer of any and all specialized installation and environmental Customer site requirements for delivery and installation of the Equipment. This information should include, but is not limited to:

5.3.1 Air Conditioning;

5.3.2 Electrical Requirements;

5.3.3 Special Grounding;

5.3.4 Cabling Requirements;

5.3.5 Space Requirements;

5.3.6 Humidity and temperature limits; and

5.3.7 Any other considerations critical to the installation.

5.4. Technology Requirements:

5.4.1 **Network Connections** - Equipment shall use only one (1) network connection to accomplish network printing and scanning.

5.4.2 **Print Drivers** - All software and drivers shall be Windows Compliant, as well as all Equipment shall have pre-configurable print drivers for scripting and push method installation on PC's.

5.4.3 **Technology, Authentication and Access** - Any network connected devices (with the exception of Segment 2 Desktop and all Class Three (3) and Four (4) segments) shall offer authentication for all features via LDAP and or Windows AD and the ability to disable authentication for any and all features.

The credential information from any remote authentication method may not be maintained within the copier's memory or persistent storage.

Access to the device's administrative functions shall be password protected as per any password requirements and shall be changed from default at the time of install.

5.4.4 **Security** - Console copiers within Class One (1) and Two (2) shall have as an available option, the ability to encrypt any information written to a copier hard drive.



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Equipment shall undergo a cleansing or erasure of the hard drives at the end of the product life or when any hard drive leaves Customer control.

Equipment shall have the capability for a least a onetime overwrite after the completion of each print/scan job and a structured three (3) times overwrite on a weekly off-hours schedule.

5.4.5 **Software** - The Contractor shall provide additional software to aid in the multifunctional aspects of the Equipment for each Class. The software below shall be made available on a case by case basis, depending on Customer requirements.

5.4.5.1 Advanced Scanning Software (Class One (1) and Two (2)) - Advanced scanning software shall enable a device to de-skew and de-speckle scans as well as provide functionality to scan to searchable PDF files and scan to multiple software applications such as OCR text with formatting (if applicable). Advanced scanning software may be internal to the copier, external software to be utilized on desktop computer or standalone devices that are attached to the copier. In the case of standalone devices, the software shall share a network drop with the copier and not require an additional network drop for its functionality.

5.4.5.2 Advanced Scanning Interface Software (Class One (1) and Two (2)) - Advanced scanning software shall enable copier devices to scan to Electronic Document Management Software (EDM) including Documentum, FileNet, OnBase, Hummingbird and other EDM applications determined by the State. Additionally the software shall enable an end user to enter indexing fields for the EDM system that will be passed to the system along with the file. This class of software shall have interfaces authorized and updated periodically by the EDM Manufacturer. Advanced Scanning Interface Software may be internal to the copier or standalone devices that are attached to the copier. In the case of standalone devices, the device shall share a network drop with the copier and not require an additional network drop for its functionality.

5.4.5.3 Simple Accounting Software (Class One (1) and Two (2)) - Simple Accounting Software shall allow for the accounting copies and prints through a simple code entered at the copier as well as through the print driver. The usage information should be retained at the copier level.

Additional functionality that is desirable is **additional** server based software that aggregates this usage information by user code showing the total impression accomplished.

5.4.5.4 Advanced Accounting Software (Class One (1) and Two (2)) - Advanced Accounting Software shall be copier run software or server based software that will allow for the accounting of all impressions through the use of LDAP, AD or an independent server based database. The program shall control access to the copier and measure the usage. Additionally the software shall have the ability as an option, or included with the software package, to create charge back reports or debit accounts for usage, including common accounting systems and cash control system such as for public or student use in a library. Lastly as an option, these programs may have the ability to interface with copier control devices such as bar code readers and magnetic card readers.

5.4.5.5 Make Ready Software (Class Three (3) and Four (4)) - Make Ready Software shall be capable of performing the following tasks: de-speckle of scanned originals, de-skew of



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scanned originals, impositioning of pages, insertion of additional pages, tab insertion, pagination, crash numbering, Bates Stamping and submission of the job to the copier.

5.4.5.6 Production Management Software (Class Three (3) and Four (4)) - Production Management Software shall have the capability to monitor the production workflow, load balance between multiple devices and perform color/black and white splitting (and pre-programming for document insertion and recombination).

5.4.5.7 Simple Online Submission Software (Class Three (3) and Four (4)) - Simple Online Submission Software shall be capable of:

5.4.5.7.1 Submission of print jobs through a web server;

5.4.5.7.2 Conversion of print jobs to PDF format either through a print driver or through uploading to the web server;

5.4.5.7.3 Customization of the submission site including branding (naming and logo), finishing options, paper available and services available;

5.4.5.7.4 Capability to insert cost center codes;

5.4.5.7.5 Capability to print job ticket;

5.4.5.7.6 Capability for secure (password protected) access;

5.4.5.7.7 Secure Administrator access; and

5.4.5.7.8 Catalog ordering of pre-printed materials such as forms.

5.4.5.8 Advanced Online Submission Software (Class Three (3) and Four (4)) - Advanced Online Submission Software shall be capable of:

5.4.5.8.1 All features of the simple online submission software;

5.4.5.8.2 Both print driver and server based conversion of applications to PDF format;

5.4.5.8.3 Cost estimating of print jobs as well as tracking of print jobs throughout the production process;

5.4.5.8.4 Web based queue management;

5.4.5.8.5 Archival capabilities of print jobs for end users;

5.4.5.8.6 LDAP authentication capabilities; and

5.4.5.8.7 Usage reporting for chargeback purposes.

## 6. Maintenance and Services

### 6.1. Warranty

6.1.1 All Equipment shall carry a minimum ninety (90) day warranty that is free from defects in material and workmanship. If defects are identified, the Contractor shall repair or replace defective parts promptly on a like-for-like basis without additional cost to the Customer. Any and all items failing during the warranty period will be replaced free of charge. Upon significant failure, the warranty period will commence again for a minimum ninety (90) additional days.



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### 6.2 Maintenance

6.2.1 The Contractor shall offer at least two of the three variations of Services and Maintenance Programs listed below:

6.2.1.1 Option 1 - A program based on a monthly flat fee, with unlimited B&W copies and Color copies (if applicable for said equipment), and shall include all supplies; and

6.2.1.2 Option 2 - A program that shall include a cost per copy beyond the specified monthly minimum copy counts, and shall include supplies; and

6.2.1.3 Option 3 – A program based on a monthly flat fee, with unlimited B&W copies and a cost per copy for Color copies, and shall include all supplies.

6.2.2 The Contractor shall provide maintenance services after the initial ninety (90) warranty according to the method and costs as awarded. These services shall be categorized into the following categories:

6.2.2.1 Scheduled/Preventative Maintenance - shall include the provision of all supplies, cleaning, diagnostics, or other activities required to maintain the manufacturer's recommended performance levels. Replacements parts are to be made available for an additional cost. The interval of these services shall be either as recommended by the Manufacturer, or as requested by the Customer. This category shall also include any Emergency repair requests during normal business hours.

6.2.2.2 Legacy Maintenance - shall include the above services as stated for Scheduled/Preventative, except these services shall be reserved for Equipment previously purchased, leased or rented through other State contract vehicles or Procurement Opportunities. Specific Contract vehicles shall mean: EPS060122, and ADSP012-015669, ADSP012-015733, ADSP012-015699, and ADSP012-015851.

6.2.2.3 No Maintenance - shall provide services on an as needed request. If the State chooses this option for any installed Equipment, the State shall be charged an hourly rate and will also be responsible for any parts necessary to repair the Equipment. Supplies shall be purchased separately utilizing other Contracts if available.

6.2.2.4 Rental/Lease Equipment Maintenance – Scheduled/Preventative Maintenance shall be included in the agreement price of equipment being placed through a Rental or Lease Agreement. Maintenance for Rented and Leased equipment shall include a provision for all replacements parts at no additional charge.

6.3 Hard Drive Surrender Services; The State may engage the Contractor to provide Hard Drive Surrender Services on eligible equipment. If engaged to provide this services, the Contractors Service Technicians will remove the hard drive from the applicable equipment, as shown on the Contractor's work order and provide the entity custody of the hard drive before the equipment is removed from the location or any other disposition of the equipment.

6.4 As stated in the Definitions, the provision of Maintenance and Services shall be provided for the entire State of Arizona. The State has been designated into three (3) service areas; Urban, Rural and Remote.

6.4.1 Urban - All cities specified as Urban shall include any outlying communities as Urban, regardless if any portion is beyond the specified radius. The following Cities are classified as Urban:

6.4.1.1 Flagstaff;



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- 6.4.1.2 Yuma;
- 6.4.1.3 Tucson; and
- 6.4.1.4 Phoenix

6.4.2 All other areas not classified above in 6.4.1 shall be considered as Rural and or Remote.

6.5 Services other than Maintenance shall include the following:

6.5.1 Customer consultation regarding Equipment functionality, attributes, and or other requirements.

6.5.1.1 Customer may request that the Contractor come into their agency and perform an analysis that would overlook all equipment currently in the fleet then provide a report to the customer that states recommendations as well as potential cost savings. What the final analysis is to include is to be agreed upon between the Customer and the Contractor, mutually.

6.5.1.2 This service shall be charged at an hourly rate to the requesting customer.

6.5.2 Customer Point of Contact(s) for questions regarding sales, quote development, billing, and maintenance;

6.5.3 Contractor shall provide toll free phone, local phone, facsimile, email, internet and any electronic automated method for the State to place service calls;

6.5.4 Equipment Additions and Moves; and

6.5.5 Training.

6.6 Reporting Requirements

The Contractor will be responsible for remotely or physically taking meter readings monthly at each Equipment site. The Contractor may provide an electronic method for providing periodic meter readings. These electronic methods may include online submission and or automated electronic submission to be performed by the equipment in place via an available network connection as approved by the Customer.

If the room or location where the Equipment is installed is not accessible at the time of the reading, then a verbal reading will be relayed to the Contractor. Copy volumes will be shown on a report and shall be supplied by the Contractor. The reporting will contain the following data:

- 6.6.1 Machine serial number;
- 6.6.2 Meter reading;
- 6.6.3 "Unusable Copies" count;
- 6.6.4 Number of copies used during service calls; and
- 6.6.5 Authorized Key Operator signature.

If the Customer does not have the ability or preference to not provide the Contractor access to the available network connection, the Contractor shall ensure other mechanisms shall be in place to provide this service.

Reporting will constitute the total copy volume for a single calendar month.

6.7 Training



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Initial training will occur upon delivery and installation of equipment at the point of delivery. Training will be prescheduled with State designated personnel for both typical and unique operational functions. Training shall be available on a continuing basis during the entire term that the equipment is in service, whether it is a refresher session, training new personnel, or to assist with add-on options that the user has purchased. Proposed training materials shall represent all model offerings. Training shall be provided at no additional cost to the Customer.

### 6.8 Instructions Manuals

Instructions manuals shall be included for each piece of Equipment that is purchased leased or rented. The instruction manual shall contain, but not be limited to:

- 6.8.1 A section defining the capabilities of the Equipment;
- 6.8.2 A general section describing the technical operation of the Equipment;
- 6.8.3 A section describing the installation and use criteria of the Equipment; and
- 6.8.4 A section on the primary points of contact for sales, training, and maintenance/service.

### 7. Pricing Requirements: The Offeror shall propose Equipment and Services that would correlate with both new and previously purchased equipment as follows:

- 7.1 Equipment; Offeror shall make available manufacturer's base model units at a fixed discount off list price. Offeror shall also make available a fixed discount off list price for all associated parts and accessories that are available as options defined within the Scope of Work. Discounts shall be offered in whole numbers. Offeror shall provide equipment in current production and marketed to the general public and education/government agencies at the time the bid is submitted. Proposed discounts shall be submitted using Attachment II "Discount Schedule".
- 7.2 Services; Offeror shall provide services, as described herein, at an hourly or flat rate, whichever is requested for each service. Pricing shall be submitted using the ProcureAZ "Items" tab.

### 8. Owned Device Trade-in: For Co-ops usage only. Awarded Contractor(s) may allow Co-op Agencies to trade-in owned devices as part of a new agreement under this Contract. The value for the trade-in will be negotiated by the Awarded Contractor(s) and the Co-op Agencies at time of transaction and excludes any disposal or shipping fees.

**No Exhibits apply to the Scope of Work.**

**End of section 2-A**



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## SECTION 2-B: Pricing Document

### 1.0 Compensation

- 1.1 Contractor will be compensated for the satisfactorily carrying out its obligations under the Contract by the method indicated by the "●" mark below:



Discount Off List or Catalog

- 1.1 DISCOUNT OFF LIST OR CATALOG. A discount off list or catalog means a percentage discount to be applied to a base price for from one or more contractually-established price lists against published catalogs. The applicable discounts are scheduled in Exhibit 1 to this Pricing Document.

1.1.1 Equipment;

- (a) Offeror shall make available manufacturer's base model units at a fixed discount off list price. Offeror shall also make available a fixed discount off list price for all associated parts and accessories that are available as options defined within the Scope of Work. Discounts shall be offered in whole numbers. Offeror shall provide equipment in current production and marketed to the general public and education/government agencies at the time the bid is submitted. Proposed discounts shall be submitted using Attachment 4 "Discount Schedule". The catalogs used to establish base price are specified otherwise in the Pricing Document. If nothing is so specified, then the commercially available catalogs published by Contractor or Subcontractor to a dealer or reseller network for the covered materials or services are to be used.

1.1.2 Services;

- (a) Offeror shall provide services, as described herein, at an hourly or flat rate, whichever is requested for each service. Pricing shall be submitted using the ProcureAZ "Items" tab.

1.1.3 Each catalog must:

- (a) bear the applicable State contract number;
- (b) list all materials or services Contractor is authorized to sell under the Contract;
- (c) not contain any items that are excluded from the Contract;
- (d) provide ordering information and contact information for customer support.

1.1.4 Each catalog and its accompanying price list must include for each item:

- (a) a part or model number, if applicable;
- (b) a complete and accurate description of the item;
- (c) the manufacturer's suggested retail price (MSRP) or Contractor's list price;
- (d) a stock keeping unit (SKU) number (SKU), if applicable;
- (e) the item's unit of measure (UOM), if applicable; and
- (f) the quantity in the unit of measure (QUOM), if applicable.

1.1.5 Contractor shall provide and maintain concurrent and identical electronic and hardcopy versions of all contracted price lists and catalogs.

- (a) The electronic versions are to be provided.



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- i. State, at its discretion, may host Contractor's electronic price lists and catalogs directly, or may link through ProcureAZ as a punch-out.
  - ii. Regardless of the number and types of links to Contractor's electronic price lists and catalogs, Contractor shall ensure that all Eligible Agencies and Co-Op Buyers are only able to access one unified set of data.
- (b) Contractor shall supply sufficient, current hardcopy catalogs and price lists price lists to applicable Eligible Agencies at Contract commencement, and provide prompt hardcopy notice of any changes to list/catalog holders as they occur. Contractor shall not change State or any Eligible Agency (or any Co-Op Buyer, if applicable) for lists/catalogs or updates.

## 2.0 Pricing

- 2.1 CONTRACTOR'S BEST PRICING. Supplier warrants that, for the term of the Contract, the prices and discounts set out in Exhibit 1 to this Pricing Document, including any subsequent agreed amendment to it (the "Contract Pricing"), will be equal to or better than the lowest prices and largest discounts, both separately and in combination, at which Contractor sells equivalent items of equipment and materials.
- 2.1.1 That price-plus-discount equivalence ("Contractor's Best Pricing") is intended to be irrespective of whether or not those other sales have special purchase terms, conditions, rebates or allowances.
  - 2.1.2 If Contractor's Best Pricing for equivalent items of equipment and materials is better than the Contract Pricing, then Contractor agrees to adjust the Contract Pricing to match the Contractor's Best Pricing for all sales related to the Contractor made after the date when the Contractor's Best Pricing was first better than the Contract Pricing.
  - 2.1.3 For clarification of intent, that date is intended to be the date when the difference first occurred, which might have been before the difference was first identified. If it was before, then Supplier agrees to charge at less than the Contract Pricing until the extended difference that would have been realized (i.e., if the Contractor's Best Pricing had been applied when it should have been) has been settled.
- 2.2 ANNUAL ADJUSTMENT. No earlier than 30 (thirty) days before and no later than each anniversary of the effective date during the term of the Contract, either Contractor or State may request an adjustment to the contracted labor rates and reimbursable costs rates.
- 2.2.1 Each shall respond within 21 (twenty-one) days of the request.
  - 2.2.2 Any rates so adjusted will be:
    - (a) valid until the next anniversary;
    - (b) only apply to portions of the Work not yet carried out as of that date (i.e., they do not apply retroactively); and
    - (c) not reflected in Contractor's invoices until State provides its formal acceptance by issuing a Contract Amendment.
- 2.3 SHIPPING. Equipment shall be F.O.B. Destination and delivered to the specific receiving point at any location within the State of Arizona, as required by the State at the time of order.
- 2.3.1 Contractors shall not charge for equipment that is delivered to the Contractor's facilities prior to delivery and installation at the State's location.
  - 2.3.2 All risk of transportation and all related charges shall be the responsibility of the Contractor.



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- 2.3.3 All claims for visible and concealed damage shall be filed by the Contractor. The State will notify the Contractor promptly of any damaged goods and shall assist the Contractor in arranging for inspection if needed.
- 2.3.4 All Equipment shall be delivered and installed at no additional cost, including connectivity to the State's network. The State shall ensure that the space selected for installation is of adequate size for proper installation and use. The Contractor shall perform complete installation and verify operation of all Equipment.
- 2.4 TAXES. Further to paragraph 4.3 of the Uniform Terms and Conditions, Contractor shall retain title and control of all goods until they are delivered, received and installed.
- 2.5 UPCHARGES. Where the Exhibit 1 to this Pricing Document entitles Contractor to apply upcharges to a unit price or contracted labor rate, Contractor shall in every instance:
  - 1. include the full upcharge amount in the quote it gives to the Eligible Agency or Co-Op Buyer;
  - 2. itemize upcharges and show them separately from each unit price or contracted labor rate in the quote it gives to the Eligible Agency or Co-Op Buyer; and
  - 3. provide an estimated amount where the exact upcharge cannot be precisely defined at the time of the order and follow the Eligible Agency or Co-Op Buyer instructions as to how and when to apply the estimate and actual amount.

## 3.0 Funding

No particular funding considerations apart from paragraph 4.3 of the Uniform Terms and Conditions [*Availability of Funds*] have been identified as of the Solicitation date.

## 4.0 Invoicing

- 4.1 INVOICES GO TO BUYING ENTITY. Contractor shall submit all billing notices or invoices to the ordering Eligible Agency or Co-Op Buyer at the address indicated on the applicable Order document.
- 4.2 MINIMUM INVOICE REQUIREMENTS. Every invoice must include the following information:

Item	Required
Bill-to name and address	●
Contractor name and contact information	●
Remit-to address	●
State contract number	●
Order number (typically the ProcureAZ PO #)	●
Invoice number and date	●
Date the items shipped or services performed	●
Applicable payment terms	●
Contract line item number	●
Contract line item description	●
Quantity delivered or performed	●
Line item unit of measure	●



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Item price	●
Extended pricing	●
Discount off list or catalog	●
Taxes <i>(as a separate invoice line item)</i>	●
Upcharge shipping/freight, etc. <i>(as a separate invoice line item)</i>	Materials only
Total invoice amount due	●

- 4.3 NO INVOICE WITHOUT AUTHORIZATION. Contractor shall not seek payment for any:
1. Materials or Services that have not been authorized on an acknowledged Order;
  2. expediting, overtime, premiums, or upcharges absent State’s express prior approval; or
  3. Materials or Services that are the subject of a Contract Amendment or Change Order that has not been fully signed.
- 4.4 SUBMITTING INVOICES. Contractor shall submit an invoice to the ordering Eligible Agency or Co-Op Buyer, using the form provided or required by the ordering Eligible Agency or Co-Op Buyer. Every invoice must be signed by Contractor’s authorized representative and accompanied by all supporting information and documentation required by the Contract and applicable laws.
- 4.5 DEFECTIVE INVOICES. Without prejudice to its other rights under the Contract or further obligation to Contractor, the ordering Eligible Agency or Co-Op Buyer may, at its discretion, reject any materially defective invoice.
- 4.5.1 The ordering Eligible Agency or Co-Op Buyer shall notify Contractor within 5 (five) business days after receipt if it determines an invoice to be materially defective.
- 4.5.2 Invoices will be deemed automatically rejected upon delivery if they:
- (a) are sent to an incorrect address;
  - (b) do not reference the correct State contract number; or
  - (c) are payable to any Person other than the Contractor.
- 4.5.3 The ordering Eligible Agency or Co-Op Buyer will have no obligation to pay against a defective invoice unless and until Contractor has re-submitted it free of defects.
- 4.6 INVOICING FOR TASK ORDERS. For task order Services, invoices must include the following information as applicable to the relevant task order being invoiced against:
4. substantiation of hours worked using:
    - a. a detailed daily timesheet;
    - b. itemization to the task level; and
    - c. breakdown by service area (if the Contract covers more than one area) and Contract Amendment (if any apply);
  5. authorizations and receipts for all allowable reimbursable items being invoiced; and
  6. Contractor’s certification that the invoice has been examined and to the best of Contractor’s knowledge and belief the invoiced amounts are entitled, correct, and accurate as can be demonstrated by the contractually required books and records upon State’s demand.



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## 5.0 Payments

- 5.1 PAYMENT. The applicable Eligible Agency or Co-Op Buyer shall pay undisputed amounts due to Contractor within the time period specified in Article 4 of the Uniform Terms and Conditions
- 5.2 JOINT CHECKS OR DIRECT PAY. applicable Eligible Agency or Co-Op Buyer may, but is under no obligation to, pay by joint check or to pay directly to any Subcontractor or other creditor to whom any portion of Contractor's requested payment is owed.
- 5.3 RECOVERY OF OVER-PAYMENT. If applicable Eligible Agency or Co-Op Buyer determines that an over-payment has been made to Contractor on any prior invoice, it shall inform Contractor of the amount and date of the over-payment and may deduct the over-paid amount from amounts then or thereafter due to Contractor.
- 5.4 PAYMENTS TO SUBCONTRACTORS. Contractor shall make payment of all undisputed amounts due to Subcontractors within thirty (30) days of receipt of funds from applicable Eligible Agency or Co-Op Buyer applicable to their services.
- 5.5 PURCHASING CARD. applicable Eligible Agency or Co-Op Buyer may pay invoices for some or all Orders using a purchasing card. Any and all fees related to payment using a Purchasing Card are the responsibility of Contractor. Unless otherwise stated in the Contract there will be no additional fees or increase in prices associated with this method of payment.
- 5.6 AUTOMATED CLEARING HOUSE. applicable Eligible Agency or Co-Op Buyer may pay invoices for some or all Orders through an Automated Clearing House (ACH). In order to receive payments in this manner from Eligible Agencies, Contractor must complete an ACH Vendor Authorization Form (form GAO-618) within 30 (thirty) days after the effective date of the Contract. The form is available online at:  
<https://gao.az.gov/afis/vendor-information>

## 6.0 Exhibits to the Pricing Document

- **Attachment 4 Pricing Sheet** .....

End of Section 2-B



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Description:  
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Arizona Department of Administration  
**State Procurement Office**  
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## SECTION 2-C: Special Terms and Conditions

*The Special Terms and Conditions modify the Uniform Terms and Conditions and its Appendices. It can modify them by replacing, deleting, appending to, or revising the text of an existing provision or by inserting a new paragraph into an existing article. No other document modifies or adds to the Uniform Terms and Conditions, except as may subsequently be otherwise and expressly agreed and incorporated by Contract Amendment.*

### 1.0 Definition of Terms

As used in the Contract, the terms listed below are defined as follows:

**1.1 Co-Op Buyer**

“Co-Op Buyer” means a member of the State Purchasing Cooperative that has entered into a “Cooperative Purchasing Agreement” with the Arizona Department of Administration State Procurement Office under A.R.S. § 41-2632. Unless there is an applicable Cooperative Purchasing Agreement in effect at the time, a State Purchasing Cooperative member cannot be a Co-Op Buyer. For reference, “Co-Op Buyer” is to be construed as encompassing “eligible procurement unit” under A.A.C. R2-7-101(23).

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

**1.2 Eligible Agency**

If the Special Terms and Conditions indicates that the Contract is a “single-agency” contract, then “Eligible Agency” means the particular State of Arizona agency, university, commission, or board identified therein. If the Special Terms and Conditions indicates that the Contract is a “statewide” contract, then “Eligible Agency” means any State of Arizona department, agency, university, commission, or board.

### 2.0 Contract Interpretation

**2.1 New Equipment**

All Equipment, materials, parts and other components incorporated in the work or an item covered by this Contract shall be new, of the latest model and of the most suitable grade for the purpose intended. Any and all work under this contract shall be performed in a skilled and workmanlike manner.

**2.2 Serial Numbers**

The Contract is for Equipment on which the original Manufacturer’s serial number has not been altered in any way. Throughout the Contract term, the State reserves the right to reject any altered Equipment.

### 3.0 Contract Administration and Operation

**3.1 Term of Contract**

The term of the Contract will commence on the date indicated on the Acceptance and continue for one (1) years unless cancelled, terminated, or permissibly extended.

**3.2 Contract Extensions**

State may at its discretion extend the initial Contract term in increments of one or more months and do so one or more times, provided that, the maximum aggregate term of the Contract including extensions cannot exceed the maximum aggregate term of five (5) years.

**3.3 Statewide Contract Provisions**

The Contract is a “statewide” contract for multiple purchases, projects, or assignments, and can be purchased against by some or all Eligible Agencies and any Co-Op Buyers that elect to participate. Even if only one Eligible Agency needs or elects to purchase against the Contract, it is to be construed as being a “statewide” contract hereunder.



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The Contract is an indefinite delivery, indefinite quantity (ID/IQ) type of contract; it is to be construed as a "delivery order" sub-type of ID/IQ contract to the extent the Work is Materials, and a "task order" sub-type to the extent the Work is Services.

1. Contractor shall verify if an ordering entity is a bona fide Co-Op Buyer before selling Materials to or providing Services for them under the Contract. The current list of Co-Op Buyers is available on the State Procurement Office website:  
<https://spo.az.gov/procurement-services/cooperative-procurement/state-purchasing-cooperative>
1. Contractor shall sell to Co-Op Buyers at the same price and on the same lead times and other terms and conditions under which it sells to Eligible Agencies, with the sole exception of any legitimately additional costs for extraordinary shipping or delivery requirements if the Co-Op Buyer is having Materials delivered or installed or Services performed at locations not contemplated in the contracted pricing (e.g. delivery to a location outside Arizona).
2. Contractor shall pay State an administrative fee against all Contract sales to Co-Op Buyers, as provided for under A.R.S. § 41-2633. The fee rate is one (1%) percent. Failure to remit the administrative fees is a material breach of contract, and will entitle State to its remedies under Article 8 and its right to terminate for default under Article 9. Method of calculation, payment procedures, and other details are provided on the State Procurement Office website:  
<https://spo.az.gov/contractor-resources/statewide-contracts-administrative-fee>
3. Contractor shall submit to State a quarterly usage report documenting all Contract sales to both Eligible Agencies and Co-Op Buyers, itemized separately. Contractor shall further itemize divisions, groups or areas within a given Eligible Agency if they place Orders independently of each other. Failure to submit the report is a material breach of contract, and will entitle State to its remedies under Article 8 and its right to terminate for default under Article 9. Contractor shall submit the report using the forms and following the instructions on the State Procurement Office website:  
<https://spo.az.gov/contractor-resources/statewide-contracts-administrative-fee>
4. Contractor shall acknowledge each Order from Eligible Agencies within 1 (one) business day after receipt by either: (a) "approving" the Order electronically in ProcureAZ, which will indicate Contractor's unqualified acceptance of the Order as-issued; or (b) "rejecting" the Order electronically in ProcureAZ, with a concurrent explanation by email to relevant originator as to the reason for rejecting it. By way of reminder, the only grounds on which Contractor may reject or refuse an Order are those set out in subparagraph 3.14.3 [*Orders are Obligatory*]. Unless and until Contractor has approved the Order in ProcureAZ, it will have no effect under the Contract and will not oblige either State or Contractor. If the relevant Eligible Agency explicitly instructs at the time that a verbal acceptance is sufficient because of urgency or other unusual circumstances and Contractor duly gives its verbal acceptance, then Contractor will be deemed to have accepted the Order immediately upon commencing performance, provided that, Contractor must follow-up its verbal acceptance by accepting the Purchase Order electronically in ProcureAZ within 3 (three) business days. Contractor shall thereafter be barred from subsequently rejecting the Order in ProcureAZ and if it does so the rejection will be void.
5. Contractor shall acknowledge each Order from Co-Op Buyers in conformance with each buyer's instructions given at the time of ordering or in any supplemental participating agreement Contractor might have with them. Orders from Co-Op Buyers create no obligation on State's part, since they are entirely between the Co-Op Buyer and Contractor. That notwithstanding, Contractor's obligation under the Contract is to service Co-Op Buyers commercially as though they were with an Eligible Agency, and Contractor's refusal to do so would be a material breach of the Contract.



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### 3.4 Multiple-Use Provisions

Eligible Agencies may issue Orders for Services in several forms, all of which become final and effective by a "Release Purchase Order" in ProcureAZ. Orders issued by Co-Op Buyers will be in whatever form the Co-Op Buyer normally uses. Regardless of origin, Orders must cite the State contract number to be valid. State may, at its discretion in each instance, determine the scope, schedule, and price for each Order in any of the following ways:

1. By choosing some or all of the Materials or Services items covered by the Contract for which a price is established in the Pricing Document, then preparing an Order using those prices (e.g., filling out an order form), and sending it to Contractor.
2. By instructing Contractor to provide a comprehensive proposal of item quantities, combinations, etc., or services hours, personnel, etc., for a defined scope using those established prices as a basis, then validating and negotiating the proposal with Contractor and issuing an Order if and when reaching agreement.
3. As described in (2) above but requesting the proposal from both Contractor and other vendors who are contracted within the applicable scope categories and locations, either sequentially or concurrently, then selecting the proposal or proposals combination that the most advantageous to State.
4. As described in (3) above but introducing ad-hoc commercial competition by making the selection and ordering conditional on obtaining more favorable prices than the contractually-established ones.

When evaluating the proposals under (3) and (4) above, State may select based on price (for example, a quoted number of hours times the contracted or improved rate plus a fixed amount for incidentals), by experience and qualifications (for example, having an office nearer the required work location), or whatever combination thereof it determines is most appropriate to the work in question.

### 3.5 Contractor Performance Reports

Program Management shall document Contractor performance, both exemplary and needing improvements where corrective action is needed or desired. Copies of corrective action reports will be forwarded to the State Procurement Office for review and necessary follow-up. The State Procurement Office may contact the Contractor upon receipt of the report and may request corrective action. The State Procurement Office shall discuss the Contractor's suggested corrective action plan with the Procurement Specialist for approval of the plan.

### 3.6 Access Constraints and Requirements

Contractor access to State facilities shall be properly authorized by State personnel, based on business need and **will be restricted to least possible privilege**. Upon approval of access privileges, the Contractor shall maintain strict adherence to all policies, standards, and procedures. Policies/Standards, ADOA/ASET Policies/Procedures, and Arizona Revised Statutes (A.R.S.) 28-447, 28-449, 28-450, 38-421, 13-2408, 13-2316, 41-770).

Failure of the Contractor, its agents or subcontractors to comply with policies, standards, and procedures including any person who commits an unlawful breach or harmless access (physical or virtual) will be subject to prosecution under all applicable State and/or Federal Laws.

Any and all recovery or reconstruction costs or other liabilities associated with an unlawful breach or harmful access shall be paid by the Contractor.

## 4.0 Costs and Payments

### 4.1 Purchase of Maintenance/Service Agreements

Maintenance Agreements and Maintenance Service Agreements shall be made available for purchase on new Equipment at any time during the ninety (90) day warranty period. The Contractor shall also allow the State to purchase the agreements up to nine (9) months after the ninety (90) day warranty period has expired (one (1) year after installation of the equipment) without incurring an update charge.

## 5.0 Contract Changes



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### 5.1 Non-Exclusive Contract

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

## 6.0 Risk and Liability

### 6.1 Indemnification Clause

To the fullest extent permitted by law, Contractor shall defend, indemnify, and hold harmless the State of Arizona, and its departments, agencies, boards, commissions, universities, and any jurisdiction or agency issuing permits for any work included in the project, and their respective directors, officers, officials, agents and employees (hereinafter referred to as "Indemnitee") from and against any and all claims, actions, liabilities, costs, losses, or expenses, (including reasonable attorney's fees), (hereinafter collectively referred to as "Claims") arising out of actual or alleged bodily injury or personal injury of any person (including death) or loss or damage to tangible or intangible property caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of Contractor or any of Contractor's directors, officers, agents, employees, volunteers or subcontractors. This indemnity includes any claim or amount arising or recovered under the Workers' Compensation Law or arising out of the failure of Contractor to conform to any federal, state or local law, statute, ordinance, rule, regulation or court decree. It is the specific intention of the parties that the Indemnitee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnitee, be indemnified by Contractor from and against any and all Claims. It is agreed that Contractor will be responsible for primary loss investigation, defense and judgment costs where this indemnification is applicable. This indemnification will survive the termination of the above listed contract with the Contractor.

This indemnity shall not apply if the contractor or sub-contractor(s) is/are an agency, board, commission or university of the State of Arizona.

### 6.2 Non-Exclusive Contract

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

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

### 6.3 Minimum Scope and Limits of Insurance

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

#### Commercial General Liability (CGL) – Occurrence Form

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

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



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

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

### Business Automobile Liability

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

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

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

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

### Workers' Compensation and Employers' Liability

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

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

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

### Technology Errors & Omissions Insurance

- Each Claim                      \$2,000,000
- Annual Aggregate            \$2,000,000

Such insurance shall cover any, and all errors, omissions, or negligent acts in the delivery of products, services, and/or licensed programs under this contract.



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Coverage shall include copyright infringement, infringement of trade dress, domain name, title or slogan.

In the event that the Tech E&O insurance required by this Contract is written on a claims-made basis, Contractor warrants that any retroactive date under the policy shall precede the effective date of this Contract and, either continuous coverage will be maintained or an extended discovery period will be exercised for a period of two (2) years, beginning at the time work under this Contract is completed.

### 6.4 Additional Requirements

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

The Contractor's policies, as applicable, shall stipulate that the insurance afforded the Contractor shall be primary and that any insurance carried by the Department, its agents, officials, employees or the State of Arizona shall be excess and not contributory insurance, as provided by A.R.S. § 41-621 (E).

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

### 6.5 Notice of Cancellation

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

### 6.6 Acceptability of Insurers

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

### 6.7 Verification of Coverage

Contractor shall furnish the State of Arizona with certificates of insurance (valid ACORD form or equivalent approved by the State of Arizona) evidencing that Contractor has the insurance as required by this Contract. An authorized representative of the insurer shall sign the certificates.

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

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

All certificates required by this Contract shall be sent directly to the Department. The State of Arizona project/contract number and project description shall be noted on the certificate of insurance. The State of Arizona reserves the right to require complete copies of all insurance policies required by this Contract at any time.



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## 6.8 Subcontractors

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

## 6.9 Approval and Modifications

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

## 6.10 Exceptions

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

## 7.0 Warranties

No modifications to uniform terms and conditions section.

## 8.0 State's Contractual Remedies

No modifications to uniform terms and conditions section

## 9.0 Contract Termination

No modifications to uniform terms and conditions section

## 10.0 Contract Claims

No modifications to uniform terms and conditions section.

## 11.0 General Provisions for Commodities

### 11.1 Applicability

Article 11 applies to the extent the Work is or includes Materials.

### 11.2 Off-Contract Materials

Contractor shall ensure that the design and/or procedures for the Materials ordering method prevents Orders for off-contract items or excluded items. Notwithstanding that State might have its own internal administrative rules regarding off-contract or excluded item ordering, and endeavors to prevent such orders from occurring, Contractor is responsible for not accepting any such Orders; State may, at its discretion, return any such items under subparagraph 11.17 or cancel any such Order under subparagraph 11.18, in either case being without obligation and at Contractor's expense. As used above, "off-contract item" refers to any product not included in the scope of the Contract and for which no price or compensation has been established contractually, and "excluded item" refers to any product expressly stated in the Contract as being excluded from the Contract.

### 11.3 Compensation for Late Deliveries

Contractor shall have clear, published policies in place regarding late delivery, order cancelation, discounts, or rebates given to compensate for late deliveries, etc., and make them readily available to those Eligible Agencies that are likely to need them.



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- 11.4 Indicate Shipping Costs on Order**

If shipping cost is additional to the contracted price or rate for an item, the Contractor shall identify the shipping cost it intends to add for shipping, as a separate line item on the price quote provided to ASDB. The Contractor shall also provide the required substantiating documentation for the shipping cost with the price quote. If ASDB approves paying a shipping cost, ASDB will list the agreed upon shipping cost as a line item on their Order, when it is issued. If there is no additional shipping cost, the Contractor shall indicate on the price quote that shipping is included in the Order price.
- 11.5 Current Products**

Contractor shall keep all products being offered under the Contract: (a) in current and ongoing production; (b) in its advertised product lines; (c) as models or types that are actively functioning in other paying customer environments; and (d) in conformance to the requirements of the Contract.
- 11.6 Maintain Comprehensive Selection**

Contractor shall provide at all times the comprehensive selection of products for which a price is established in the Pricing Document.
- 11.7 Additional Products**

State, at its discretion, may modify the scope of the Contract by Contract Amendment to include additional products or product categories so long as they are within the general scope of the ones originally covered by the Contract. Once the Contract Amendment has been fully executed, Contractor shall then update all applicable catalogs and price lists and make them available to all affected entities at no additional cost. Either party may make the request to add products to the Contract; regardless of who makes the request, the parties shall negotiate in good faith a fair price for any additional products, but State may elect not to add some or all of the products in question if no agreement is reached on pricing in a timely manner. Contractor's request or proposal in response to State's request must include: (a) documentation demonstrating that the additional products meet or exceed the specifications for the original products while remaining in the same product groups as the original ones; and (b) documentation demonstrating that the proposed price for the additional products is both fair and reasonable and at the same level of discount relative to market price as were the original ones. Demonstration of (b) typically requires showing how prices at which sales are currently or were last made to a significant number of buyers compare to the prices or discounts (as applicable) being proposed for the additional products.
- 11.8 Discontinued Products**

If a product or groups of products covered by the Contract are discontinued by the manufacturer, Contractor shall notify State within 5 (five) business days after receiving the manufacturer's notification. State, at its discretion, will either allow Contractor to provide substitutes for the discontinued products or delete the products from the scope of the Contract, both of which will be accomplished by Contract Amendment. Contractor shall then update all applicable catalogs and price lists and make them available to all affected entities at no additional cost. The parties shall negotiate in good faith a fair price for any substitute product, but State may elect to delete the products from the scope of the Contract if no agreement is reached on substitute pricing in a timely manner. When notifying State of the discontinuance, Contractor shall provide: (a) manufacturer's announcement or documentation stating that the products have been discontinued, with identification by model/part number; (b) documentation demonstrating that the substitute products meet or exceed the specifications for the discontinued products while remaining in the same product groups as were the discontinued ones; and (c) documentation demonstrating that the proposed price for the substitute products is both fair and reasonable and at the same level of discount relative to market price as were the discontinued ones (with demonstration being as described in subparagraph 11.7).
- 11.9 Forced Substitutions**

Forced substitutions will not be permitted; Contractor shall obtain State's prior written consent before making any discretionary substitution for any product covered by the Contract.



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## 11.10 Recalls

In the event of a recall notice, technical service bulletin, or other important notification affecting a product offered under the Contract (collectively, "recalls" hereinafter), Contractor shall send timely notice to State for each applicable Order referencing the affected Order and product. Notwithstanding whatever protection Contractor might have under A.R.S. § 12-684 with respect to a manufacturer, Contractor shall handle recalls entirely and without obligation on State's part, other than to permit removal of installed products, retrieval of stored products, etc., as necessary to implement the recall.

## 11.11 Delivery

11.11.1 **PRICING.** Unless stated otherwise in the Pricing Document, all Materials prices set forth therein are FCA (seller's dock) Incoterms®2010, with "seller's dock" meaning the last place of manufacturing, assembly, integration, final packing, or warehousing before departure to designated point of delivery to State. For reference, the foregoing is to be construed as equivalent to "F.O.B. Origin, Contractor's Facility" under FAR 52.247-30.

11.11.2 **LIABILITY.** Unless stated otherwise in the Pricing Document or an Order, Contractor's liability for all Materials is DDP (State-designated receiving point per Order) Incoterms®2010, but with unloading at destination included. For reference, the foregoing is to be construed as equivalent to "F.O.B. Destination, Within Consignee's Premises" under FAR 52.247-35.

11.11.3 **PAYMENT.** Unless stated otherwise in the Pricing Document or an Order, State shall reimburse Contractor the costs of the difference between DDP (State-designated receiving point per Order) and FCA (seller's dock) with no mark-up, which Contractor shall itemize and invoice separately.

## 11.12 Delivery Time

Unless stated otherwise in the Pricing Document generally or in the applicable Order particularly, Contractor shall make delivery of the Equipment, start-up supplies and consumables within 2 (two) weeks or earlier after receiving each Order. **Start-up supplies shall be enough to last through the initial 90-day warranty period.** For orders that include five (5) or more devices, delivery of the equipment shall be within thirty (30) days.

## 11.13 Delivery Locations

Contractor shall offer deliveries to every location served under the scope of the Contract, specifically:

- 11.13.1 If the Contract is for a single State agency in a single area, then Contractor shall deliver to any agency location in that area;
- 11.13.2 if the Contract is for a single State agency in all its locations, then Contractor shall deliver to any of that agency's location in Arizona;
- 11.13.3 if the Contract is for statewide use but excludes certain areas, then Contractor shall deliver to any Eligible Agency location that is not in the excluded areas; and
- 11.13.4 if the Contract is for unrestricted statewide use, then:
- 11.13.5 Contractor shall deliver to any Eligible Agency anywhere in Arizona;
- 11.13.6 if the Pricing Document indicates defined delivery areas and prices, those always apply unless the Order expressly states otherwise and Contractor accepts it.

## 11.14 Conditions at Delivery Location

Contractor shall verify receiving hours and conditions (i.e. height/weight restrictions, access control, etc.) with the relevant purchaser for the receiving site before scheduling or making a delivery. State will neither allow extra charges for wait time, comebacks, or the like nor excuse late delivery if Contractor has failed to make the verification or comply with the applicable conditions. Contractor shall make each delivery to the specific location indicated in the Order, which Contractor acknowledges might be inside an industrial building, institutional building, low-rise office building, or high-rise office building instead of a normal receiving dock. Contractor might be required to make deliveries to locations inside a secured perimeter at certain institutional facilities such as prisons where prior clearances are required for each delivery and driver individually. Contractor shall contact each such facility directly to confirm its most-current security clearance procedures, allowable hours



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for deliveries, visitor dress code, and other applicable rules. State will neither allow extra charges for wait time, comebacks, or the like nor excuse late delivery if Contractor has failed to make the confirmation or comply with the applicable conditions.

Contractor shall at all times keep the premises and the areas in which the work is performed free from accumulation of waste materials or rubbish as well as tools, installation equipment, machinery and surplus materials during the installation process. The Contractor shall remove from the installation site all crates, wrappings and other flammable waste materials.

**11.15 Secure Location Deliveries**

The Contractor will be responsible for contacting the Secure Location, i.e., Arizona Department of Corrections, for security clearance, hours of operation, dress code, and other related rules when scheduling a delivery or service call. Lack of familiarity with the locations or policies will not relieve a Contractor of their responsibilities in fulfillment of the delivery, installation, maintenance/service and all other contractual requirements.

**11.16 Materials Acceptance**

State has the right to make acceptance of Materials subject to a complete inspection on delivery and installation, if installation is Contractor's responsibility. State may apply acceptance criteria conformity to the Contract, workmanship and quality, correctness of constituent materials, and any other matter for which the Contract or applicable laws state a requirement, whether stated directly or by reference to another document, standard, reference specification, etc. Contractor shall remove any rejected Materials from the delivery location, or from any immediate environs to which it might have been reasonably necessary to move it, carry it off the delivery premises, and subsequently deliver an equal number or quantity of conforming items. State will not owe Contractor any payment for rejected Materials, and State may, at its discretion, withhold or make partial payment for any rejected Materials that have been returned to Contractor in those instances where State has agreed to permit repair instead of demanding replacement.

**11.17 Correcting Defects**

Contractor shall, at no additional cost and without entitlement to extension of any delivery deadline or specified time for performance, remove or exchange and replace any defective or non-conforming delivered or installed Materials.

11.17.1 Contractor shall be solely responsible for the cost of any associated cutting and patching, temporary protection measures, packing and crating, hoisting and loading, transportation, unpacking, inspection, repacking, reshipping, and reinstallation if installation is within the scope of the Contract.

11.17.2 If Contractor fails to do so in a timely manner, State will be entitled to exercise its remedies under paragraph 8.5 [Right of Offset] of the Uniform Terms and Conditions.

11.17.3 Whether State will permit Contractor to repair in place or demands that Contractor remove and replace is at State's discretion in each instance, provided that, State shall not apply that discretion punitively if repair in place is practicable and doing so would not create safety hazards, put property at risk, unreasonably interfere with operations, create public nuisance, or give rise to any other reasonable concern on State's part.

**11.18 Returns**

State may, at its discretion, return for full credit and with no restocking charges any delivered Materials unused in the original packaging, including any instruction manuals or other incidental item that accompanied the original shipment, within 30 (thirty) days after receipt. If State elects to return delivered Materials, then State shall pay all freight, delivery, and transit insurance costs to return the products to the place from which Contractor shipped them, provided that, if State returns delivered Materials because they are defective or non-conforming or for any other reason having to do with Contractor fault or error, then State will not be responsible for paying freight, delivery, or transit insurance costs to return the products and may, at its discretion, either have those billed directly to



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Contractor or offset them under paragraph 8.5 [*Right of Offset*] of the Uniform Terms and Conditions.

**11.19 Relocation of Equipment**

The State may request the relocation of Equipment, either within a Facility or to another designated Entity. Upon notification by the State, the Contractor shall prepare the Equipment for transport, pick-up, delivery, and provide all labor for the installation of the relocated Equipment. The Contractor may charge a flat fee for this service.

**11.20 Order Cancellation**

State may cancel Orders within a reasonable period after issuance and at its discretion. The same method as that used for ordering will be used for cancellation. If State cancels an Order, then State shall:

- 11.20.1 pay Contractor for any portion of the Materials and Services from that Order that have been properly delivered or performed as of the cancellation effective date plus 1 (one) additional business day;
- 11.20.2 reimburse Contractor for:
- 11.20.3 its actual, documented costs incurred in fulfilling the Order up to the cancellation effective date plus 1 (one) additional business day; and
- 11.20.4 the cost of any obligations it incurred as of the cancellation effective date plus 1 (one) additional business day that demonstrably cannot be canceled, or that have pre-established cancellation penalties specified in the relevant Subcontracts, to the extent the penalties are reasonable and customary for the work in question; and
- 11.20.5 contractor shall not charge or be entitled to charge State for any new costs it incurs after receiving the cancellation notice plus 1 (one) business day or for any lost profits or opportunity.

By way of reminder, State is not liable for any products that were produced, shipped, or delivered or any services that were performed before Contractor had acknowledged the corresponding Order.

**11.21 Cancellation of Rental Agreements**

Notwithstanding the provisions of Availability of Funds for the Current State Fiscal Year and Availability of Funds for the Next State Fiscal Funding Year, the State will provide thirty (30) day written notice of cancellation. The cancellation notice from the State shall include the following:

- 11.21.1 Equipment location referencing, State Name, Building Location and Room Number;
- 11.21.2 Equipment Model and Serial Number;
- 11.21.3 Meter Reading; and
- 11.21.4 Date the Equipment will be available for removal.

**11.22 Product Safety**

Materials as-shipped must comply with applicable safety regulations and standards. Unless expressly stated otherwise in the Scope of Work, State is not responsible for making any Materials safe or compliant following acceptance and is relying exclusively on Contractor to deliver only products that are already safe and compliant.

**11.23 Hazardous Materials**

Contractor shall timely provide State with any "Safety Data Sheets" (SDS) and any other hazard communication documentation required under the US Department of Labor's Occupational Safety and Health Administration (OSHA) "Hazard Communication Standard" (often referred to as the "HazCom 2012 Final Rule") that is reasonably necessary for State to comply with regulations when it or its other contractors install, handle, operate, repair, maintain or remove any Materials. Note that, in the past, those documents might have been referred to as "Material Safety Data Sheets" or "Product Safety Data Sheets", but State (and this Contract) use only the more up-to-date "SDS" reference. Contractor shall ensure that all its relevant personnel understand the nature of and hazards associated with, to the extent it they are Contractor's responsibility under the Contract, the design, shipping, handling, delivery, installation, repair and maintenance of any portion of the



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Work that is, contains or will become upon use a hazardous material, with "hazardous material" being any material or substance that is: (1) identified now or in the future as being hazardous, toxic or dangerous under applicable laws; or (2) subject to statutory or regulatory requirement governing special handling, disposal or cleanup.

**11.24 Loaner Equipment**

Equipment including all hardware accessories furnished under this Contract shall be capable of continuous operation. In those instances where the Equipment or any accessories become inoperable for a period of seventy-two (72) consecutive working hours, the Contractor shall, at the State's option, provide a loaner copier or accessory of equal capability at no additional cost. Loaner Equipment is defined as Equipment that will be installed on a temporary basis while the malfunctioning Equipment is repaired or until Equipment is replaced and installed. All Loaner Equipment will be replaced within thirty (3) days with the original equipment or a new replacement.

**11.25 Trail or Demonstration Equipment**

Trial or Demonstration Equipment may be provided under this Contract. Any trial or demonstration period shall not exceed thirty (30) calendar days. No trial or demonstration machine may be converted to a lease, rental or purchase, unless the Equipment was new, prior to the current placement as a trail or demonstration machine. Trail or Demonstration Equipment installation, set-up, and removal shall be provided by the Contractor at no cost, and shall include all initial set-up, supplies, except paper and staples.

**11.26 EPA Energy Star Products**

MB 2324, Chapter 114, A.R.S. 34-451 requires that the State of Arizona purchase Energy Star products or products certified by the Federal Energy Management Program as energy efficient for all product classifications available. If an Energy Star product or certified product is available, documentation of the Energy Star status or certification shall be submitted with the Equipment.

**11.27 Trade-ins**

Trade-Ins are encouraged for all State Agencies, Boards and Commissions. Trade-ins shall be in accordance with the rules established by Surplus Property. Reference the Surplus Property Reference Manual for procedures to be followed. Reference is found at <https://doa.az.gov/state-surplus-property-reference-manual>. Cooperative Members shall follow rules that are established by each of their respective governances.

## 12.0 General Provisions for Services (Labor, Time and/or Effort)

**12.1 Applicability**

Article 12 applies to the extent the Work is or includes Services.

**12.2 Comprehensive Services Offering**

Contractor shall provide the comprehensive range of services for which a price is established in the Pricing Document for ordering by Eligible Agencies, and Co-Op Buyers if co-op buying applies.

**12.3 Additional Services**

State at its discretion may modify the scope of the Contract by Contract Amendment to include additional services or service categories that are within the general scope of the ones originally covered by the Contract if it determines that doing so is in its best interest. Once the Contract Amendment is fully executed, Contractor shall then update all applicable price lists and make them available to all affected entities at no additional cost. Either party may make the request to add services to the Contract; regardless of who makes the request, the parties shall negotiate in good faith a fair price for any additional services, but State may elect not to add some or all of the services in question if no agreement is reached on pricing in a timely manner. Contractor's request or proposal in response to State's request must include documentation demonstrating that the proposed price for the additional services is both fair and reasonable and comparable to the original ones.

**12.4 Off-Contract Services**

Contractor shall ensure that the design and/or procedures for the Services ordering method prevents Orders for off-contract or excluded services. Notwithstanding that State might have its own internal administrative rules regarding off contract or excluded service ordering, and endeavors to prevent such orders from occurring, Contractor is responsible for not accepting any



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such Orders. State may, at its discretion, cancel any such Order without obligation. As used above, "off-contract service" refers to any service not included in the scope of the Contract and for which no price or compensation has been established contractually, and "excluded service" refers to any service expressly excluded from the scope of the Contract.

- 12.5 Employees of the Contractor**  
All employees of the Contractor employed in the performance of work under the Contract shall be considered employees of the Contractor at all times, and not employees of the State. The Contractor shall comply with the Social Security Act, Workman's Compensation laws and Unemployment laws of the State of Arizona and all State, local and Federal legislation relevant to the Contractor's business.
- 12.6 Removal of Personnel**  
Notwithstanding that Contractor is in every circumstance responsible for hiring, assigning, directing, managing, training, disciplining, and rewarding its personnel, State may at its discretion and without the obligation to demonstrate cause instruct Contractor to remove any of its personnel from State's facilities or from further assignment under the Contract. In such cases, Contractor shall promptly replace them with other personnel having equivalent qualifications, experience, and capabilities.
- 12.7 Transitions**  
During commencement, Contractor shall attend transition meetings with any outgoing vendors to coordinate and ease the transition so that the effect on State's operations is kept to a minimum. State may elect to have outgoing vendors complete some or all of their work or orders in progress to ease the transition as is safest and most efficient in each instance, even if that scope is covered under the Contract. Conversely, State anticipates having a continued need for the same materials and services upon expiration or earlier termination of the Contract. Accordingly, Contractor shall work closely with any new (incoming) vendor and State to ensure as smooth and complete a transfer as is practicable. State's representative shall coordinate all transition activities and facilitate joint development of a comprehensive transition plan by both Contractor and the incoming vendor. As with the incoming transition. State may permit Contractor (outgoing) to complete work or orders in progress to ease the transition as is safest and most efficient in each instance.
- 12.8 Accuracy of Work**  
Contractor is responsible for the accuracy of the Services, and shall promptly make all necessary revisions or corrections resulting from errors and omissions on its part without additional compensation. Acceptance by State will not relieve Contractor of responsibility for correction of any errors discovered subsequently or necessary clarification of any ambiguities.
- 12.9 Requirements at Services Location**  
Contractor personnel shall perform their assigned portions of the Services at the specific location indicated in the Order (if applicable). Contractor acknowledges that the location might be inside an industrial building, institutional building, or one of various office types and classes. Additionally, if performing the Services requires Contractor personnel to work inside a secured perimeter at certain institutional facilities such as prisons where prior clearances are required, Contractor shall contact the facility directly to confirm its most-current security clearance procedures, allowable hours for work, visitor dress code, and other applicable rules. State will neither allow extra charges for wait time, comebacks, or the like nor excuse late performance if Contractor has failed to make the confirmation or comply with the applicable conditions.
- 12.10 Services Acceptance**  
State has the right to make acceptance of Services subject to acceptance criteria. State may apply as acceptance criteria conformity to the Contract, accuracy, completeness, or other indicators of quality or other matter for which the Contract or law states a requirement, whether stated directly or by reference to another document, standard, reference specification, etc. State will not owe Contractor any payment for un-accepted Services; and State may, at its discretion, withhold or make partial payment for any rejected Services if Contractor is still in the process of re-performing or otherwise curing the grounds for State's rejection.
- 12.11 Corrective Action Required**  
Notwithstanding any other guarantees, general warranties, or particular warranties Contractor has given under the Contract, if Contractor fails to perform any material portion of the Services,



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including failing to complete any contractual deliverable, or if its performance fails to meet agreed-upon service levels or service standards set out in or referred to in the Contract, then Contractor shall perform a root-cause analysis to identify the source of the failure and use all commercially reasonable efforts to correct the failure and meet the Contract requirements as promptly as is practicable.

- 12.11.1 Contractor shall provide to State a report detailing the identified cause and setting out its detailed corrective action plan promptly after the date the failure occurred (or the date when the failure first became apparent, if it was not apparent immediately after occurrence).
- 12.11.2 State may demand to review and approve Contractor's analysis and plans, and Contractor shall make any corrections State instructs and adopt State's recommendations so far as is commercially practicable, provided that State may insist on any measures it determines within reason to be necessary for safety or protecting property and the environment.
- 12.11.3 Contractor shall take the necessary action to avoid any like failure in the future, if doing so is appropriate and practicable under the circumstances.

<b>12.12 Service Hours</b>	Scheduled/Preventative Maintenance or Emergency/Corrective Maintenance shall be performed during normal working hours, 8:00a.m. through 5:00 P.M. MST, Monday through Friday, except for State observed holidays.
<b>12.13 Emergency/After Hours Service Calls</b>	The Contractor shall make services available on an emergency basis (unscheduled/corrective) during normal business hours, as well as after normal working hours and during State observed holidays. Emergency or After hours Service Calls may be provided at a separate service call rate per hour. Either categorization service rate shall not charge for parts and supplies, covered under an established Maintenance/Service.
<b>12.14 Scheduled Preventative Maintenance</b>	Scheduled/Preventative Maintenance shall be based on the specific needs of the individual machines and in accordance with the Manufacturer's recommendation for optimum equipment performance. The Contractor shall schedule regular preventive maintenance services by appointment with thirty (30) days advanced notice, or by establishment of a standard schedule. Scheduled/Preventative Maintenance is not considered as downtime. These calls shall include, but not be limited to: <ul style="list-style-type: none"> <li>12.14.1 Routine Cleaning;</li> <li>12.14.2 Lubrication;</li> <li>12.14.3 Any Necessary Adjustments; and</li> <li>12.14.4 Replacement of unserviceable parts.</li> </ul>
<b>12.15 On-Site Response Times for Service Calls</b>	On-site response times shall be as follows: <ul style="list-style-type: none"> <li>12.15.1 Urban – On-site response shall not exceed four (4) hours;</li> <li>12.15.2 Rural – On-site response shall not exceed six (6) hours. Service Technician shall provide a telephone call, or e-mail to the Location within two (2) hours of initial service call to the Contractor; and</li> <li>12.15.3 Remote – On-site response shall not exceed eight (8) hours. Service Technician shall provide a call, or e-mail to the location within two (2) hours of the initial service call to the Contractor.</li> </ul> <p>Service calls to the Contractor after 3:00 p.p. MST, shall be serviced the next business day. The Service Technician shall report to the services site, no later than 9:00 a.m. MST, or at a time expressly agreed upon by the State.</p>



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### 12.16 Availability of Repair Parts

The Contractor shall guarantee the availability of repair parts for a minimum of five (5) years subsequent to the acceptance of the Equipment. All branded Equipment components, spare parts, application software, and ancillary equipment purchased and supplied, shall be OEM components. Used and remanufactured components shall not be provided. The Contractor shall ensure that these items are operable and installed in accordance with Manufacturer's specifications.

## 13.0 Data and Information Handling

### 13.1 Applicability

Article 13 applies to the extent the Work includes handling of any (1) State's proprietary and sensitive data or (2) confidential or access-restricted information obtained from State or from others at State's behest.

### 13.2 Data Protection and Confidentiality of Information

Contractor warrants that it will establish and maintain procedures and controls acceptable to State for ensuring that State's proprietary and sensitive data is protected from unauthorized access and information obtained from State or others in performance of its contractual duties is not mishandled, misused, or inappropriately released or disclosed. For purposes of this paragraph, all data created by Contractor in any way related to the Contract, provided to Contractor by State, or prepared by others for State are proprietary to State, and all information by those same avenues is State's confidential information. To comply with the foregoing warrant:

1. Contractor shall: (a) notify State immediately of any unauthorized access or inappropriate disclosures, whether stemming from an external security breach, internal breach, system failure, or procedural lapse; (b) cooperate with State to identify the source or cause of and respond to each unauthorized access or inappropriate disclosure; and (c) notify State promptly of any security threat that could result in unauthorized access or inappropriate disclosures; and
2. Contractor shall not: (a) release any such data or allow it to be released or divulge any such information to anyone other than its employees or officers as needed for each person's individual performance of his or her duties under the Contract, unless State has agreed otherwise in advance and in writing; or (b) respond to any requests it receives from a third party for such data or information, and instead route all such requests to State's designated representative.

### 13.3 Personally Identifiable Information.

Without limiting the generality of paragraph 13.2, Contractor warrants that it will protect any personally identifiable information ("PII") belonging to State's employees' or other contractors or members of the general public that it receives from State or otherwise acquires in its performance under the Contract.

For purposes of this paragraph:

1. PII has the meaning given in the [federal] Office of Management and Budget (OMB) *Memorandum M-07-16 Safeguarding Against and Responding to the Breach of Personally Identifiable Information*; and
2. "protect" means taking measures to safeguard personally identifiable information and prevent its breach that are functionally equivalent to those called for in that OMB memorandum and elaborated on in the [federal] General Services Administration (GSA) *Directive CIO P 2180.1 GSA Rules of Behavior for Handling Personally Identifiable Information*.

NOTE (1): For convenience of reference only, the OMB memorandum is available at:

<https://www.whitehouse.gov/sites/default/files/omb/memoranda/fy2007/m07-16.pdf>

NOTE (2): For convenience of reference only, the GSA directive is available at:

<http://www.gsa.gov/portal/directive/d0/content/658222>



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### 13.4 Protected Health Information

Contractor warrants that, to the extent performance under the Contract involves individually identifiable health information (referred to hereinafter as protected health information ("PHI") and electronic PHI ("ePHI") as defined in the Privacy Rule referred to below), it:

1. is familiar with and will comply with the applicable aspects of the following collective regulatory requirements regarding patient information privacy protection: (a) the "Privacy Rule" in CFR 45 Part 160 and Part 164 pursuant to the Health Insurance Portability and Accountability Act ("HIPAA") of 1996; (b) Arizona laws, rules, and regulations applicable to PHI/ePHI that are not preempted by CFR 45-160(B) or the Employee Retirement Income Security Act of 1974 ("ERISA") as amended; and (c) State's current and published PHI/ePHI privacy and security policies and procedures;
2. will cooperate with State in the course of performing under the Contract so that both State and Contractor stay in compliance with the requirements in (1) above; and
3. will sign any documents that are reasonably necessary to keep both State and Contractor in compliance with the requirements in (1) above, in particular "Business Associate Agreements" in accordance with the Privacy Rule.

NOTE: For convenience of reference only, the Privacy Rule is available at:

<http://www.hhs.gov/hipaa/for-professionals/privacy/index.html>

## 14.0 Information Technology Work

### 14.1 Applicability

Article 14 applies to any Invitation for Bids, Request for Proposals, or Request for Quotations for "Information Technology," as defined in A.R.S. § 41-3501(6) 6: "... computerized and auxiliary automated information processing, telecommunications and related technology, including hardware, software, vendor support and related services, equipment and projects" if and to the extent that the Work is or includes Information Technology.

### 14.2 Background Checks

Each of Contractor's personnel who is an applicant for an information technology position must undergo the security clearance and background check procedure, which includes fingerprinting, as required by A.R.S § 41-710. Contractor shall obtain and pay for the security clearance and background check. Contractor personnel who will have administrator privileges on a State network must additionally provide identify and address verification and undergo State-specified training for unescorted access, confidentiality, privacy, and data security.

### 14.3 Information Access

- 14.3.1 SYSTEM MEASURES. Contractor shall employ appropriate system management and maintenance, fraud prevention and detection, and encryption application and tools to any systems or networks containing or transmitting State's proprietary data or confidential information.
- 14.3.2 INDIVIDUAL MEASURES. Contractor personnel shall comply with applicable State policies and procedures regarding data access, privacy, and security, including prohibitions on remote access and obtaining and maintaining access IDs and passwords. Contractor is responsible to State for ensuring that any State access IDs and passwords are used only by the person to whom they were issued. Contractor shall ensure that personnel are only provided the minimum only such level of access necessary to perform his or duties. Contractor shall on request provide a current register of the access IDs and passwords and corresponding access levels currently assigned to its personnel.
- 14.3.3 ACCESS CONTROL. Contractor is responsible to State for ensuring that hardware, software, data, information, and that has been provided by State or belongs to or is in the custody of State and is accessed or accessible by Contractor personnel is only used in connection with carrying out the Work, and is never commercially exploited in any manner whatsoever not expressly permitted under the Contract. State may restrict access by Contractor personnel, or instruct Contractor to restrict access their access, if in its determination the requirements of this subparagraph are not being met.



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### 14.4 Pass-Through Indemnity

- 14.4.1 INDEMNITY FROM THIRD PARTY. For computer hardware or software included in the Work as discrete units that were manufactured or developed solely by a third party, Contractor may satisfy its indemnification obligations under the Contract by, to the extent permissible by law, passing through to State such indemnity as it receives from the third-party source (each a "Pass-Through Indemnity") and cooperating with State in enforcing that indemnity. If the third party fails to honor its Pass-Through Indemnity, or if a Pass-Through Indemnity is insufficient to indemnify State Indemnitees to the extent and degree Contractor is required to do by the Uniform Terms and Conditions, then Contractor shall indemnify, defend and hold harmless State Indemnitees to the extent the Pass-Through Indemnity does not.
- 14.4.2 NOTIFY OF CLAIMS. State shall notify Contractor promptly of any claim to which a Pass-Through Indemnity might apply. Contractor, with reasonable consultation from State, shall control of the defense of any action on any claim to which a Pass-Through Indemnity applies, including negotiations for settlement or compromise, provided that:
- (a) State reserves the right to elect to participate in the action at its own expense;
  - (b) State reserves the right to approve or reject any settlement or compromise on reasonable grounds and if done so timely; and
  - (c) State shall in any case cooperate in the defense and any related settlement negotiations.

### 14.5 Systems and Controls

In consideration for State having agreed to permit Pass-Through Indemnities in lieu of direct indemnity, Contractor agrees to establish and keep in place systems and controls appropriate to ensure that State funds under this Contract are not knowingly used for the acquisition, operation, or maintenance of Materials or Services in violation of intellectual property laws or a third party's intellectual property rights.

### 14.6 Redress of Infringement.

- 14.6.1 REPLACE, LICENSE, OR MODIFY. If Contractor becomes aware that any Materials or Services infringe, or are likely to be infringing on, any third party's intellectual property rights, then Contractor shall at its sole cost and expense and in consultation with State either:
- (a) replace any infringing items with non-infringing ones;
  - (b) obtain for State the right to continue using the infringing items; or
  - (c) modify the infringing item so that they become non-infringing, so long as they continue to function as specified following the modification.
- 14.6.2 CANCELLATION OPTION. In every case under 14.6.1, if none of those options can reasonably be accomplished, or if the continued use of the infringing items is impracticable, State may cancel the relevant Order or terminate the Contract and Contractor shall take back the infringing items. If State does cancel the Order or terminate the Contract, Contractor shall refund to State:
- (a) for any software created for State under the Contract, the amount State paid to Contractor for creating it;
  - (b) for all other Materials, the net book value of the product provided according to generally accepted accounting principles; and
  - (c) for Services, the amount paid by State or an amount equal to 12 (twelve) months of charges, whichever is less.
- 14.6.3 EXCEPTIONS. Contractor will not be liable for any claim of infringement based solely on any of the following by a State Indemnitee:
- (a) modification or use of Materials other than as contemplated by the Contract or expressly authorized or proposed by a Contractor Indemnitee;



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- (b) operation of Materials with any operating software other than that supplied by Contractor or authorized or proposed by a Contractor Indemnitor; or
- (c) combination or use with other products in a manner not contemplated by the Contract or expressly authorized or proposed by a Contractor Indemnitor.

## 14.7 First Party Liability Limitation

- 14.7.1 LIMIT. Subject to the provisos that follow below and unless stated otherwise in the Special Terms and Conditions, State's and Contractor's respective first party liability arising from or related to the Contract is limited to the greater of \$1,000,000 (one million dollars) or 3 (three) times the purchase price of the specific Materials or Services giving rise to the claim.
- 14.7.2 PROVISOS. This paragraph 14.7 limits liability for first party direct, indirect, incidental, special, punitive, and consequential damages relating to the Work regardless of the legal theory under which the liability is asserted. This paragraph 14.7 does not limit liability arising from any:
  - (a) Indemnified Claim against which Contractor has indemnified State Indemnitees under paragraph **Error! Reference source not found.**;
  - (b) claim against which Contractor has indemnified State Indemnitees under paragraph 6.3; or
  - (c) provision of the Contract calling for liquidated damages or specifying amounts or percentages as being at-risk or subject to deduction for performance deficiencies.
- 14.7.2 PURCHASE PRICE DETERMINATION. If the Contract is for a single-agency and a single Order (or if no Order applies), then "purchase price" in Subparagraph 14.7.1 above means the aggregate Contract price current at the time of Contract expiration or earlier termination, including all change orders or other forms of Contract Amendment having an effect on the aggregate price through that date. In all other cases, "purchase price" above means the total price of the Order for the specific equipment, software, or services giving rise to the claim, and therefore a separate limit will apply to each Order.
- 14.7.3 NO EFFECT ON INSURANCE. This paragraph does not modify the required coverage limits, terms, and conditions of, or any insured's ability to claim against, any insurance that Contractor is required by the Contract to provide, and Contractor shall obtain express endorsements that it does not.

## 14.8 Information Technology Warranty

- 14.8.1 SPECIFIED DESIGN. Where the Scope of Work for information technology Work provides a detailed design specification or sets out specific performance requirements, Contractor warrants that the Work will provide all functionality material to the intended use stated in the Contract, provided that, the foregoing warranty does not extend to any portions of the Materials that are:
  - (a) modified or altered by anyone not authorized by Contractor to do so;
  - (b) maintained in a way inconsistent to any applicable manufacturer recommendations; or
  - (c) operated in a manner not within its intended use or environment.
- 14.8.2 COTS SOFTWARE. With respect to Materials provided under the Contract that are commercial-off-the-shelf (COTS) software, Contractor warrants that:
  - (a) to the extent possible, it will test the software before delivery using commercially available virus detection software conforming to current industry standards;
  - (b) the COTS software will, to the best of its knowledge, at the time of delivery be free of viruses, backdoors, worms, spyware, malware, and other malicious code that could hamper performance, collect unlawfully any personally identifiable information, or prevent products from performing as required by the Contract; and



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- (c) it will provide a new or clean install of any COTS software that State has reason to believe contains harmful code.

14.8.3 PAYMENT HAS NO EFFECT. The warranties in this paragraph are not affected by State's inspection, testing, or payment.

### 14.9 Specific Remedies

Unless expressly stated otherwise elsewhere in the Contract, State's remedy for breach of warranty under paragraph 14.8 includes, at State's discretion, re-performance, repair, replacement, or refund of any amounts paid by State for the nonconforming Work, plus (in every case) Contractor's payment of State's additional, documented, and reasonable costs to procure materials or services equivalent in function, capability, and performance at that first called for. For clarification of intent, the foregoing obligations are limited by the limitation of liability in paragraph 14.7. If none of the foregoing options can reasonably be effected, or if the use of the materials by State is made impractical by the nonconformance, then State may seek any remedy available to it under law.

### 14.10 Section 508 Compliance

Unless specifically authorized in the Contract, any electronic or information technology offered to the State of Arizona under this Contract shall comply with A.R.S. § 18-131 and § 18-132 and Section 508 of the Rehabilitation Act of 1973, which requires that employees and members of the public shall have access to and use of information technology that is comparable to the access and use by employees and members of the public who are not individuals with disabilities.

### 14.11 Cloud Applications

The following are required for Contractor of any "cloud" solution that hosts State data outside of the State's network, or transmits and/or receives State data.

1. Submit a completed Arizona Baseline Infrastructure Security Controls assessment spreadsheet as found at: <https://aset.az.gov/resources/policies-standards-and-procedures>, and mitigate or install compensating controls for any issues of concern identified by State. Contractor is required to provide any requested documentation supporting the review of the assessment. The assessment shall be re-validated on a minimum annual basis.
2. State reserves the right to conduct Penetration tests or hire a third party to conduct penetration tests of the Contractor's application. Contractor will be alerted in advance and arrangements made for an agreeable time. Contractor shall respond to all serious flaws discovered by providing an acceptable timeframe to resolve the issue and/or implement a compensating control.
3. Contractor must submit copy of system logs from cloud system to State of AZ security team on a regular basis to be added to the State SIEM (Security Information Event Monitor) or IDS (Intrusion Detection System).

Contractor must employ a government-rated cloud compartment to better protect sensitive or regulated State data.

End of Section 2-C



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### SECTION 2-D: Uniform Terms and Conditions

Version 2018 (2/1/2018)

#### 1.0 Definition of Terms

- 1.1 Acceptance** "Acceptance" means the document headed "Offer and Acceptance Form" bearing the State contract number once Procurement Officer has signed it to signify (1) State's formal acceptance of the Accepted Offer and (2) the formation of the Contract.
- 1.2 Accepted Offer** If State did not request a Revised Offer, then "Vendor Offer" means the Initial Offer.  
If State did request a Revised Offer but not a Best and Final Offer, then "Accepted Offer" means the latest Revised Offer.  
If State requested a Best and Final Offer, then "Accepted Offer" means the latest Best and Final Offer.
- 1.3 Arizona Procurement Code; A.R.S.; A.A.C.** The "Arizona Procurement Code," "A.R.S.," and "A.A.C." refers to Arizona Revised Statutes ("A.R.S.") § 41-2501, *et seq.*, and the rules promulgated thereunder, Arizona Administrative Code ("A.A.C.") R2-7-101, *et. seq.*
- 1.4 Arizona TPT** "Arizona TPT" means Arizona Transaction Privilege Tax. For information, refer to the Arizona Department of Revenue (DOR) website at:  
<https://www.azdor.gov/business/transactionprivilegetax.aspx>.
- 1.5 Attachment** "Attachment" means any item that:
4. the Solicitation required Offeror to submit as part of the relevant Offer (e.g., Initial Offer, Revised Offer, or BAFO);
  5. was attached to an Offer when submitted; and
  6. was included in the Accepted Offer.
- 1.6 Contract** "Contract" means the combination of the Solicitation, including the Uniform and Special Instructions to Offerors, the Uniform and Special Terms and Conditions, and the Specifications and Statement or Scope of Work; the Offer and any Best and Final Offers; and any Solicitation Amendments or Contract Amendments or authorized Purchase Orders.
- 1.7 Contract Amendment** "Contract Amendment" means a document signed by Procurement Officer that has been issued for the purpose of making changes to the Contract after execution. Only the Procurement Officer responsible for this Contract has the authority to modify or amend this Contract. In ProcureAZ, the term "Change Order" has the same meaning as "Contract Amendment".
- 1.8 Contract Terms and Conditions** "Contract Terms and Conditions" means the Special Terms and Conditions and these Uniform Terms and Conditions taken collectively.
- 1.9 Contractor** "Contractor" means the Person identified on the Accepted Offer who has entered into the Contract with State.
- 1.10 Contractor Indemnitor** "Contractor Indemnitor" means Contractor or any of its owners, officers, directors, agents, employees, volunteers or Subcontractors.



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- 1.11 eProcurement System (currently ProcureAZ)** “eProcurement System” means State’s official electronic procurement system, established pursuant to A.A.C. R2-7-201 as set forth in the Arizona Department of Administration State Procurement Office policy. This eProcurement System may be subject to change. The State’s current eProcurement system is “ProcureAZ.” The current version of the ADOA policy regarding the State’s eProcurement System is *Technical Bulletin No. 020, ProcureAZ – The Official State eProcurement System*.

NOTE (1): Technical Bulletin No. 020 is available online at:  
<https://spo.az.gov/administration-policy/state-procurement-resource/procurement-regulations>

NOTE (2): The URL for ProcureAZ itself is:  
<https://procure.az.gov/>
- 1.12 Gratuity** “Gratuity” means a payment, loan, subscription, advance, deposit of money, services, or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value is received.
- 1.13 Indemnified Basic Claims** “Indemnified Basic Claims” means any and all claims, actions, liabilities, damages, losses, or expenses, including court costs, attorney fees, and costs of claim processing, investigation and litigation, for bodily injury or personal injury, including death, or loss or damage to any real or tangible or intangible personal property, collectively. See paragraph 6.2.
- 1.14 Instructions to Offerors** “Instructions to Offerors” is Section 3-a of Part 3 of the Solicitation Documents.
- 1.15 Materials** “Materials” has the meaning given in A.R.S. § 41-2503(7). Materials includes software, except that if software is sold or provided as a service, then to the extent it consists of encoded information or computer instructions it is included in “Materials” and to the extent it is a service it described in “Services” below.
- 1.16 Offer: Initial Offer; Revised Offer; Best and Final Offer (BAFO)** “Initial Offer” means, per A.A.C. R2-7-101(33), Offeror’s proposal submitted to State in response to the Solicitation, as initially submitted.

“Revised Offer” means any revised versions of the Initial Offer that Offeror has submitted to State at State’s request as permitted under A.A.C. R2-7-C314 and R2-7-C315.

“Best and Final Offer” (“BAFO”) means, per A.A.C. R2-7-101(8), the Revised Offer submitted after negotiations have been completed that contain Offeror’s most favorable terms for price, service, and products to be delivered.

Reference to “an Offer,” “the Offer,” or “your Offer” means any of the Initial Offer, a Revised Offer, or the Best and Final Offer.
- 1.17 Pricing Document** “Pricing Document” means Section 2-B of Part 2 of the Solicitation Documents, provided that, if there is no such Section in the Contract, then “Pricing Document” is to be construed as referring to whatever item in the Contract contains the contracted pricing and payment provisions.
- 1.18 Procurement Officer** “Procurement Officer” means the person, or his or her designee, who has been duly authorized by the State to enter into and administer the Contract and to make written determinations with respect to the Contract. Procurement Officer is as identified on the Acceptance unless subsequently changed by Contract Amendment.
- 1.19 Purchase Order** “Purchase Order” means the instrument by which State authorizes Contractor to perform some or all of the Work. Whether the Contract will have one Purchase Order or many Purchase Orders depends the scope of the Contract and how State will use it. The Special Terms and Conditions provide that information. Any of the following is to be construed as being a “Purchase Order”:

7. “Release” or “Release Purchase Order” in ProcureAZ;



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8. "task order", "service order," or "job order" when a Release Purchase Order for Services has already been committed in ProcureAZ; or

9. "purchase order" for buying by Co-Op Buyers, if co-op buying applies.

- 1.20 Services** "Services" has the meaning given in A.R.S. § 41-2503(35), Services include the service aspects of software described in the definition of "Materials" above.
- 1.21 Specification** "Specification" has the meaning given in A.R.S. § 41-2561. Specifications (if any are included in the Contract), are indexed in the Scope of Work and could be bound separately from the other documents forming the Contract.
- 1.22 State** With respect to the Contract generally, "State" means the State of Arizona and its department, agency, university, commission, or board that has executed the Contract. With respect to administration or rights, remedies, obligations and duties under the Contract for a given Purchase Order, "State" means each of Eligible Agency or Co-Op Buyer who has issued the Purchase Order.
- 1.23 State Fiscal Year** "State Fiscal Year" means the period beginning with July 1 and ending June 30.
- 1.24 State Indemnitees** "State Indemnitees" means, collectively, the State of Arizona, its departments, agencies, universities, commissions, and boards and, and their respective officers, agents, and employees.
- 1.25 Subcontract** "Subcontract" means any Contract, express or implied, between the Contractor and another party or between a subcontractor and another party, delegating, in whole or in part, the making or furnishing of any material or any service required for the performance of the Contract.
- 1.26 Subcontractor** "Subcontractor" has the meaning given in A.R.S. § 41-2503(38).
- 1.27 Work** "Work" means the totality of the provision of Materials and the Services and all the acts of administration, creation, production, and performance necessary to fulfill and incidental to fulfilling all of Contractor's obligations and duties under the Contract in conformance with the Contract and applicable laws.

## 2.0 Contract Interpretation

- 2.1 Arizona Law** The Contract is governed by, and is to be interpreted in accordance with, the laws of the State of Arizona, including, but not limited to the Arizona Procurement Code, without consideration of conflict of laws principles.
- 2.2 Implied Terms** Each provision of law and any terms required by law to be in this Contract are a part of this Contract as if fully stated in it.
- 2.3 Contract Order of Precedence**

**COMPLEMENTARY DOCUMENTS.** All of the documents forming the Contract are complementary and all provisions are to be interpreted as a single, united Contract. If certain work, requirements, obligations, or duties are set out only in one but not in another, Contractor shall carry out the Work as though the relevant work, requirements, obligations, or duties had been fully described in all, consistent with the other documents forming the Contract and as is reasonably inferable from them as being necessary to produce complete results.

**CONFLICTS.** In case of any inconsistency, conflict, or ambiguity among the documents forming the Contract and their provisions, the Contract documents and their provisions are to prevail in the following order, descending from most dominate to most subordinate, provided that, among categories of documents or provisions within the same sub-section below, the document or provision with the latest date prevails. Information being identified in one document but not in another is not to be considered a conflict or inconsistency.

  - (a) Contract Amendments;
  - (b) the Solicitation Documents, in the order:
    - (1) Special Terms and Conditions;
    - (2) Exhibits to the Special Terms and Conditions;



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- (3) Uniform Terms and Conditions;
- (4) Scope of Work;
- (5) Exhibits to the Scope of Work;
- (6) Pricing Document;
- (7) Exhibits to the Pricing Document;
- (8) Specifications; and
- (9) any other documents referenced or included in the Solicitation;
- (c) Orders, in reverse chronological order; and
- (d) Accepted Offer.

- 2.4 Severability** The provisions of this Contract are severable to the extent allowed under Arizona Contract Law. Any term or condition deemed or adjusted illegal or invalid is thereby stricken from the Contract and will not affect any other term or condition of the Contract.
- 2.5 Complete Integration** The Contract, including any documents incorporated into the Contract by reference and any authorized Contract Amendments and Orders, is intended by the parties as a final and complete expression of their agreement. There are no prior, contemporaneous, or additional agreements, either oral or in writing, pertaining to the Contract. No course of prior dealings between the parties shall supplement or explain any terms used in this document and no other understanding either oral or in writing can independently bind the State to changes to the Contract.
- 2.6 Independent Contractor** Contractor is an independent contractor and shall act in an independent capacity in performance under the Contract. Neither party is or is to be construed as being to be the employee or agent of the other party, and no action, inaction, event, or circumstance will be grounds for deeming it to be so.
- 2.7 No Waiver of Rights** Either party's failure to insist on strict performance of any term or condition of the Contract is not, and is not to be construed as being, nor will it be deemed, a waiver of that term or condition or a bar to, or diminishment of the right of, subsequent enforcement of any term or condition.

## 3.0 Contract Administration and Operation

- 3.1 Books and Records; Audit**
- 3.1.1 **RETAIN RECORDS.** By A.R.S. § 41-2548(B), Contractor shall retain and shall contractually require each Subcontractor to retain books and records relating for any cost and pricing data submitted in satisfaction of § 41-2543 for the period specified in the statute.
  - 3.1.2 **RIGHT TO AUDIT.** The retained books and records are subject to audit by State during that period. By A.R.S. § 35-214 and-2548(B), Contractor shall retain and shall contractually require each Subcontractor to retain books and records relating to performance under the Contract for the period specified in the statute and those retained books and records are subject to audit by State during that period.
  - 3.1.3 **AUDITING.** Contractor or Subcontractor shall either make all such books and records under subparagraphs 3.1.1 and 3.1.2 available to State at all reasonable times or produce the records at a designated State office on State's demand, the choice of which being at State's discretion. For the purpose of this paragraph, "reasonable times" are during normal business hours and in such a manner so as to not unreasonably interfere with normal business activities. Any person who obstructs or impairs an audit being conducted or about to be conducted in relation to and Contract or Subcontract with the State may be found guilty of a Class 5 Felony under A.R.S. § 35-215.
- 3.2 Non-Discrimination** The Contractor shall comply with State Executive Order No. 2009-09 and all other applicable Federal and State laws, rules and regulations, including the Americans with Disabilities Act.



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### 3.3 Contractor Licenses

Contractor shall maintain current all federal, state and local licenses and permits required for the operation of its business in general, for its operations under the Contract, and for the Work itself.

### 3.4 Inspection and Testing

By A.R.S. § 41-2547, State may at reasonable times inspect the part of Contractor's or Subcontractors' plant or places of business related to performance under the Contract. Accordingly, Contractor agrees to permit (for itself) and ensure (for Subcontractors) access for inspection at any reasonable time to its facilities, processes, and services. State may inspect or test, at its own cost, any finished goods, work-in-progress, components, or unfinished materials that are to be supplied under the Contract or that will be incorporated into something to be supplied under the Contract. If the inspection or testing shows non-conformance or defects, then Contractor will owe State reimbursement or payment of all costs it incurred in carrying out or contracting for the inspection and testing, as well as for any re-inspection or re-testing that might be necessary. Neither inspection of facilities nor testing of goods, work, components, or unfinished materials will of itself constitute acceptance by State of those things.

### 3.5 Notices and Correspondence

3.5.1 TO CONTRACTOR. State shall:

- (a) address all Contract correspondence other than formal notices to the email address indicated as "Default for Type" for "General Mailing Address" in Contractor's corresponding ProcureAZ Vendor Profile; and
- (b) address notices to Contractor to the "Contractor Name and Title" at the "Mailing Address" indicated in the Contract

3.5.2 TO STATE. Contractor shall:

- (a) address all Contract correspondence, other than notices, to the email address indicated in "Contact Instructions" in the ProcureAZ Summary for State; and
- (b) address any required notices to State to Procurement Officer identified as "Purchaser" in the ProcureAZ Summary at the following mailing address:

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3.5.3 CHANGES. State may change the designated Procurement Officer, update contact information, or change the applicable mailing address by Contract Amendment.

### 3.6 Signing of Contract Amendments

Contractor's counter-signature – or "approval" in ProcureAZ, in the case of a Change Order – is not required to give effect if the Contract Amendment only covers either:

- 10. extension of the term of the Contract within the maximum aggregate term;
- 11. revision to Procurement Officer appointment or contact information; or
- 12. modifications of a clerical nature that have no effect on terms, conditions, price, scope, or other material aspect of the Contract.

In every case other than those listed in (1), (2), and (3) above, both parties' signature – or "approval" in ProcureAZ, in the case of a Change Order – are required to give it effect.

### 3.7 Click-Through Terms and Conditions

If either party uses a web based ordering system, an electronic purchase order system, an electronic purchase order acknowledgement, a form of an electronic acceptance, or any software based ordering system with respect to the Contract (each an "Electronic Ordering System"), the parties acknowledge and agree that an Electronic Ordering System is for ease of administration only, and Contractor hereby acknowledges and agrees that the persons using Electronic Ordering Systems on behalf of State do not have any actual or apparent authority to create legally binding obligations that vary from the terms and conditions of the Contract. Accordingly, where an authorized State user is required to "click through" or otherwise accept or be made subject to any terms and conditions in using an Electronic Ordering Systems, any such terms and conditions are deemed void upon presentation. Additionally, where an authorized State user is required to accept or be made subject to any terms and conditions in accessing or employing any Materials or Services, those terms and conditions will also be void.



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### 3.8 Ownership of Intellectual Property

3.8.1 RIGHTS IN WORK PRODUCT. All intellectual property originated or prepared by Contractor pursuant to the Contract, including but not limited to, inventions, discoveries, intellectual copyrights, trademarks, trade names, trade secrets, technical communications, records reports, computer programs and other documentation or improvements thereto, including Contractor's administrative communications and records relating to the Contract, are considered work product and Contractor's property, provided that, State has Government Purpose Rights to that work product as and when it was delivered to State.

(a) "Government Purpose Rights" are:

- i. the unlimited, perpetual, irrevocable, royalty free, non-exclusive, worldwide right to use, modify, reproduce, release, perform, display, sublicense, disclose and create derivatives from that work product without restriction for any activity in which State is a party;
- ii. the right to release or disclose that work product to third parties for any State government purpose; and
- iii. the right to authorize those to whom it rightfully releases or discloses that work product to use, modify, release, create derivative works from the work product for any State government purpose; such recipients being understood to include the federal government, the governments of other states, and various local governments.

(b) "Government Purpose Rights" do not include any right to use, modify, reproduce, perform, release, display, create derivative works from, or disclose that work product for any commercial purpose or to authorize others to do so.

3.8.2 JOINT DEVELOPMENTS. The parties may each use equally any ideas, concepts, know-how, or techniques developed jointly during the course of the Contract, and may do so at their respective discretion, without obligation of notice or accounting to the other party.

3.8.3 PRE-EXISTING MATERIAL. All pre-existing software and other materials developed or otherwise obtained by or for Contractor or its affiliates independently of the Contract or applicable Purchase Orders are not part of the work product to which rights are granted State under subparagraph 3.8.1 above, and will remain the exclusive property of Contractor, provided that any derivative works of such pre-existing material or elements thereof that are created pursuant to the Contract are part of that work product.

### 3.9 Subcontracts

3.9.1 INITIAL LIST. At the time of Contract execution, Contractor may have listed prospective Subcontractors in Attachment 3-C to the Vendor Offer [*Proposed Subcontractors*]. If a Subcontractor is on this initial list in a Vendor Offer, then the Contractor has the Procurement Officer's advance consent to enter into a Subcontract with each listed candidate.

3.9.2 ADDITIONAL NAMES. Contractor shall not enter into a Subcontract without first obtaining Procurement Officer's written consent with any prospective Subcontractor that (a) was not listed on Attachment 3-C at time of Contract execution or (b) is for any Materials or Services categories other than the ones for which they were previously consented. For either case (a) or (b), Contractor shall submit a written request sufficiently in advance of the need date for those materials or services so that performance under the Contract is not impaired. Procurement Officer may request any additional information he or she determines is necessary to assess the submittal, and may withhold consent pending it.

3.9.3 FLOW-DOWN. Contractor shall incorporate the provisions, terms, and conditions of the Contract into every Subcontract by inclusion or by reference, as appropriate. When making any post-execution consent requests, Contractor shall include its warrant that it will do the same for the pending Subcontracts covered by the request. Entering into



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Subcontracts will not relieve Contractor of any of its obligations or duties under the Contract, including, among other things, the duty to supervise and coordinate the work of Subcontractors. Nothing contained in any Subcontract will create or is to be construed as creating any contractual relationship between State and the Subcontractor.

- 3.10 E-Verify Requirements** In accordance with A.R.S. § 41-4401, Contractor warrants compliance with all Federal immigration laws and regulations relating to employees and warrants its compliance with Section A.R.S. § 23-214, Subsection A. Contractor acknowledges and agrees that under A.R.S. § 41-4401, State retains the legal right to inspect papers of any Contractor employee who works under the Contract to ensure compliance with the foregoing warranty and understands that a breach of the foregoing warranty under shall be deemed a material breach of the Contract that is subject to penalties up to and including termination of the Contract.
- 3.11 Offshore Performance of Certain Work Prohibited** Contractor shall only perform those portions of the Services that directly serve State or its clients and involve access to secure or sensitive data or personal client data within the defined territories of the United States. Unless specifically stated otherwise in the Scope of Work, this paragraph does not apply to indirect or overhead services, redundant back-up services, or services that are incidental to performance under the Contract. This provision applies to work performed by Subcontractors at all tiers.
- 3.12 Purchase Orders**
  - 3.12.1 PURCHASE ORDER SUFFICIENCY. A Purchase Order issued by an authorized person that cites the correct State contract number will suffice to authorize Contractor to provide the Materials and perform the Services covered by that Purchase Order.
  - 3.12.2 PURCHASE ORDER TERMS. All Purchase Orders are subject to the Contract Terms and Conditions; a Purchase Order cannot modify the Contract Terms and Conditions.
  - 3.12.3 PURCHASE ORDERS ARE OBLIGATORY. Until the expiration or earlier termination of the Contract, State may issue and Contractor shall accept Purchase Orders that make proper reference to the Contract and are permissible hereunder, provided that, Contractor is not obliged to accept any Purchase Order that is not consistent with the then-current pricing, lead times, specifications, or payment provisions of the Contract. Contractor shall fulfill and complete any Purchase Orders that are begun but not yet completed as of expiration or earlier termination of the Contract unless State instructs otherwise at the time.
  - 3.12.4 SPECIAL CASE. In the special case where both the following conditions are true, Procurement Officer's signature on the Acceptance is Contractor's authorization to perform and therefore no Purchase Order is required: (a) the Contract is identified as being a "single-agency/single-project" contract and (b) the Contract was created in ProcureAZ as something other than a "Master/ Blanket" type.
  - 3.12.5 NO MINIMUMS OR COMMITMENTS. (a) Contractor shall not impose any minimum dollar amount, item count, services volume, or services duration on Purchase Orders; (b) State makes no commitment of any kind concerning the quantity or monetary value of activity actually initiated or completed during the term of the Contract; (c) Contractor shall only deliver or perform as authorized by Purchase Orders; and (d) State is not limited as to the number of Purchase Orders it may issue for the Contract. For clarity of intent, the foregoing applies equally whether an Eligible Agency issues the Purchase Order or, if applicable, a Co-Op Buyer issues it.
  - 3.12.6 NON-CONTRACTED MATERIALS OR SERVICES. Any attempt to knowingly represent for sales, marketing, or related purposes that goods or services not specifically awarded are under a State contract is a violation of the Contract and law.
- 3.13 Other Contractors** State may undertake with its own forces or award other contracts to the same or other vendors for additional or related work. In such cases, Contractor shall cooperate fully with State's employees and such other vendors and carefully coordinate, fit, connect, accommodate, adjust, or sequence its work to the related work by others. Where the Contract requires handing-off Contractor's work to others, Contractor shall cooperate as State instructs regarding the necessary transfer of its work product, services, or records to State or the other vendors.



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Contractor shall not commit or permit any act that interferes with the State's or other vendors' performance of their work.

**3.14 Work on State Premises**

**3.14.1 COMPLIANCE WITH RULES.** Contractor is responsible for ensuring that its personnel comply with State's rules, regulations, policies, documented practices, and documented operating procedures while delivering or installing Materials or performing Services on State's grounds or in its facilities. Contractor shall comply with State security requirements in order to deliver, install, or perform at that particular location, without entitlement to any additional compensation or additional time for performance if those particular requirements are not expressly stated in the Contract.

**3.14.2 PROTECTION OF GROUNDS AND FACILITIES.** Contractor shall deliver or install the Materials and perform the Services without damaging any State grounds or facilities. Contractor shall promptly repair or replace any damage it caused and at its own expense, subject to whatever instructions and restrictions State needs to make to prevent inconvenience or disruption of operations. If Contractor fails to make the necessary repairs or replacements in a timely manner, State will be entitled to exercise its remedies under paragraph 8.5 *[Right of Offset]*.

**3.15 Advertising, Publishing and Promotion of Contract**

Contractor shall not advertise, promote, or otherwise use information concerning the Contractor commercial benefit without the prior written approval of Procurement Officer, which approval Procurement Officer may withhold at his or her discretion.

**4.0 Costs and Payments**

**4.1 Payments**

**4.1.1 PAYMENT DEADLINE.** State shall make payments in compliance with Arizona Revised Statutes Titles 35 and 41. Unless stated otherwise in the Pricing Document, State shall make payment in full for Materials that have been delivered and accepted and Services that have been performed and accepted within the time specified in A.R.S. § 35-342 after both of the following become true: (a) all of the Materials being invoiced have been delivered or installed (as applicable) and accepted and all of the Services being invoiced have been performed and accepted; and (b) Contractor has provided a complete and accurate invoice in the form and manner called for in the Pricing Document, provided that, State will not make or be liable for any payments to Contractor until Contractor has registered properly in ProcureAZ and provided a current IRS Form W-9 or an equivalent form to the State unless excused by law from providing one.

**4.1.2 PAYMENTS ONLY TO CONTRACTOR.** Unless compelled otherwise by operation of law or order of a court of competent jurisdiction, State will only make payment to Contractor under the federal tax identifier indicated on the Vendor Offer.

**4.2 Applicable Taxes**

**4.2.1 CONTRACTOR TO PAY ALL TAXES.** State is subject to Arizona TPT. Therefore, Arizona TPT applies to all sales under the Contract and Arizona TPT is Contractor's responsibility (as seller) to remit. Contractor's failure to collect Arizona TPT or any other applicable sales or use taxes from an Eligible Agency or Co-Op Buyer (as buyer) will not relieve Contractor of any obligation to remit sales or use taxes that are due under the Contract or laws. Unless stated otherwise in the Pricing Document, all prices therein include Arizona TPT as well as every other manner of transaction privilege or sales/use tax that is due to a municipality or another state or its political subdivisions. Contractor shall pay all federal, state, and local taxes applicable to its operations and personnel.

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

**4.3 Availability of Funds for the Next State fiscal year**

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



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#### 4.4 Availability of Funds for the current State fiscal year

Contract beyond the current state fiscal year until funds are made available for performance of this Contract.

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

- 4.4.1. Accept a decrease in price offered by the contractor;
- 4.4.2. Cancel the Contract; or
- 4.4.3. Cancel the contract and re-solicit the requirements

### 5.0 Contract Changes

#### 5.1 Amendments

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

#### 5.2 Assignment and Delegation

- 5.2.1 IN WHOLE. Contractor shall not assign or delegate its duties under the Contract, in whole or in part, without Procurement Officer's prior written consent; Procurement Officer may withhold at his or her discretion. If Contractor's proposed assignment or delegation stems from a split, sale, acquisition, or other non-merger change in control, then no such consent will be given in any event without the assignee or delegate giving State satisfactory and equivalent evidence or assurance of its financial soundness, competency, capacity, and qualification to perform as that which Contractor possessed when State first awarded it the Contract.
- 5.2.2 IN PART. Subject to paragraph 3.9 (*Subcontracts*) with respect to subcontracting, Contractor may assign particular rights or delegate particular duties under the Contract, but shall obtain Procurement Officer's written consent before doing so. Procurement Officer shall not unreasonably withhold consent so long as the proposed assignment or delegation does not attempt to modify the Contract in any way or to alter or impair State's rights or remedies under the Contract or laws.

### 6.0 Risk and Liability

#### 6.1 Risk of Loss

Contractor shall bear all risk of loss to Materials if, and as, those duties are within the scope of the Work, until they have been accepted as conforming by State in the manner specified in the Purchase Order, or as specified generally elsewhere in the Contract if the Purchase Order does not provide particulars. Risk of loss for nonconforming Materials will remain with Contractor notwithstanding acceptance to the extent the loss stems from the nonconformance.

#### 6.2 Basic Indemnification

- 6.2.1 CONTRACTOR/VENDOR (NOT PUBLIC AGENCY). To the fullest extent permitted by law, Contractor shall defend, indemnify, and hold harmless State Indemnitees from Indemnified Basic Claims that: (a) are caused or alleged to be caused in whole or in part by the negligent or willful acts or omissions of a Contractor Indemnitor; (b) arise out of or are recovered under worker compensation laws; and/or (c) arise out of a Contractor Indemnitor's failure to conform to any federal, state, or local law, statute, ordinance, rule, regulation, or court decree. The parties specifically intend that the Contractor Indemnitors shall indemnify the relevant State Indemnitees from and against Indemnified Basic Claims in all instances except where the Indemnified Basic Claim arises solely from those State Indemnitees' own negligent or willful acts or omissions. Wherever the indemnification under this subparagraph applies, Contractor is responsible for primary loss investigation, defense, and judgment costs for an on behalf of the other Contractor Indemnitors with respect to State Indemnitees, and accordingly Contractor is also responsible for any cooperation, contribution, or subordination



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between or amongst the Contractor Indemnitors. In consideration of the award of the Contract by a State Indemnitee, Contractor hereby waives all rights of subrogation against State Indemnities for losses arising from the Work.

If Contractor is a public agency, this paragraph does not apply and subparagraph 6.2.1 below applies instead.

6.2.2 PUBLIC AGENCY. Each party (as 'indemnitor') agrees to indemnify, defend, and hold harmless the other party (as 'indemnitee') from and against any and all claims, losses, liability, costs, or expenses (including reasonable attorney's fees) (hereinafter collectively referred to as 'claims') arising out of bodily injury of any person (including death) or property damage but only to the extent that such claims which result in vicarious/derivative liability to the indemnitee, are caused by the act, omission, negligence, misconduct, or other fault of the indemnitor, its officers, officials, agents, employees, or volunteers.

6.2.3 If Contractor is not a public agency, this paragraph does not apply and subparagraph above applies instead.

### 6.3 Patent and Copyright Indemnification

CONTRACTOR/VENDOR (NOT PUBLIC AGENCY). With respect to Materials or Services provided or proposed by a Contractor Indemnitor for performance under the Contract, Contractor shall indemnify, defend and hold harmless State Indemnitees against any third-party claims for liability, costs, and expenses, including, but not limited to reasonable attorney fees, for infringement or violation of any patent, trademark, copyright, or trade secret by the Materials and the Services. With respect to the defense and payment of claims under this subparagraph:

13. State shall provide reasonable and timely notification to Contractor of any claim for which Contractor may be liable under this paragraph;
14. Contractor, with reasonable consultation from State, shall have control of the defense of any action on an indemnified claim including all negotiations for its settlement or compromise;
15. State may elect to participate in such action at its own expense; and
16. State may approve or disapprove any settlement or compromise, provided that, (i) State shall not unreasonably withhold or delay such approval or disapproval and (ii) State shall cooperate in the defense and in any related settlement negotiations.

If Contractor is a public agency, this paragraph 6.3 does not apply.

### 6.4 Force Majeure

6.4.1 DEFINITION. For this paragraph, "force majeure" means an occurrence that is (a) beyond the control of the affected party, (b) occurred without the party's fault or negligence, and (c) something the party was unable to prevent by exercising reasonable diligence. Without limiting the generality of the foregoing, force majeure expressly includes acts of God, acts of the public enemy, war, riots, strikes, mobilization, labor disputes, civil disorders, fire, flood, lockouts, injunctions-intervention-acts, failures or refusals to act by government authorities, and, subject to paragraph 7.10 (*Performance in Public Health Emergency*), declared public health emergencies. Force majeure expressly does not include late delivery caused by congestion at a manufacturer's plant or elsewhere, an oversold condition of the market, late performance by a Subcontractor unless the delay arises out of an occurrence of force majeure, or inability of either Contractor or any Subcontractor to acquire or maintain any required insurance, bonds, licenses, or permits.

6.4.2 RELIEF FROM PERFORMANCE. Except for payment of sums due, the parties are not liable to each other if an occurrence of force majeure prevents its performance under the Contract. If either party is delayed at any time in the progress of their respective performance under the Contract by an occurrence of force majeure, the delayed party shall notify the other no later than the following working day after the occurrence, or as soon as it could reasonably have been expected to recognize that the occurrence had effect in cases where the effects were not readily apparent. In any event, the notice must make specific reference to this paragraph specifying the causes of the delay in the notice and, if the effects of the occurrence are on-going, provide an initial notification



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and thereafter the delayed party shall provide regular updates until such time as the effects are fully known. To the extent it is able, the delayed party shall cause the delay to cease promptly and notify the other party when it has done so. The parties shall extend the time of completion by Contract Amendment for a period equal to the time that the results or effects of the delay prevented the delayed party from performing.

6.4.3 EXCUSABLE DELAY IS NOT DEFAULT. Failure in performance by either party will not constitute default hereunder or give rise to any claim for damages or loss of anticipated profits if and to the extent that such failure was or is being caused by an occurrence of force majeure.

6.4.4 DEFAULT DIMINISHES RELIEF. Entitlement to relief from the effects of an occurrence of force majeure is diminished to the extent that the delay did or will result from the affected party's default unrelated to the occurrence, in which case and to that extent the other party's normal remedies and the affected party's obligations would apply undiminished.

**6.5 Third Party Antitrust Violations** Contractor assigns to State any claim for overcharges resulting from antitrust violations to the extent that those violations concern materials or services supplied by third parties to Contractor toward fulfillment of the Contract.

## 7.0 Warranties

**7.1 Liens** The Contractor warrants that the materials supplied under this Contract are free of liens and shall remain free of liens.

**7.2 Conformity to Requirements** Contractor warrants that, unless expressly provided otherwise elsewhere in the Contract, the Materials and Services will for 1 (one) year after acceptance and in each instance: (1) conform to the requirements of the Contract, which by way of reminder include without limitation all descriptions, specifications, and drawings identified in the Scope of Work and any Contractor affirmations included as part of the Contract; (2) be free from defects of material and workmanship; (3) conform to or perform in a manner consistent with current industry standards; and (4) be fit for the intended purpose or use described in the Contract. Mere delivery or performance does not substitute for express acceptance by State. Where inspection, testing, or other acceptance assessment of Materials or Services cannot be done until after installation, the forgoing warranty will not begin until State's acceptance.

**7.3 Quality** Unless otherwise modified elsewhere in these terms and conditions, the Contractor warrants that, for 1 (one) year after acceptance by the State of the materials, they shall be:

- 7.3.1. Of a quality to pass without objection in the trade under the Contract description;
- 7.3.2. Fit for the intended purposes for which the materials are used;
- 7.3.3. Within the variations permitted by the Contract and are of even kind, quantity, and quality within each unit and among all units;
- 7.3.4. Adequately contained, packaged and marked as the Contract may require; and
- 7.3.5. Conform to the written promises or affirmations of fact made by the Contractor.

**7.4 Inspection/Testing** The warranties set forth in subparagraphs 7.1 through 7.3 of this paragraph are not affected by inspection or testing of or payment for the materials by the State.

**7.5 Compliance with Laws** The materials and services supplied under this Contract shall comply with all applicable Federal, state and local laws, and the Contractor shall maintain all applicable license and permit requirements.

**7.6 Survival of Rights and Obligations after Contract Expiration or Termination** 7.6.1. Contractor's Representations and Warranties. All representations and warranties made by the Contractor under this Contract shall survive the expiration or termination hereof. In addition, the parties hereto acknowledge that pursuant to A.R.S. § 12-510, except as provided in A.R.S. § 12-529, the State is not subject to or barred by any limitations of actions prescribed in A.R.S., Title 12, Chapter 5.



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7.6.2. Purchase Orders. The Contractor shall, in accordance with all terms and conditions of the Contract, fully perform and shall be obligated to comply with all purchase orders received by the Contractor prior to the expiration or termination hereof, unless otherwise directed in writing by the Procurement Officer, including, without limitation, all purchase orders received prior to but not fully performed and satisfied at the expiration or termination of this Contract.

**7.7 Contractor Personnel**

Contractor warrants that its personnel will perform their duties under the Contract in a professional manner, applying the requisite skills and knowledge, consistent with industry standards, and in accordance with the requirements of the Contract. Contractor further warrants that its key personnel will maintain any certifications relevant to their work, and Contractor shall provide individual evidence of certification to State's authorized representatives upon request.

**7.8 Intellectual Property**

Contractor warrants that the Materials and Services do not and will not infringe or violate any patent, trademark, copyright, trade secret, or other intellectual property rights or laws, except only to the extent the Specifications do not permit use of any other product and Contractor is not and cannot reasonably be expected to be aware of the infringement or violation.

**7.9 Operational Continuity**

Contractor warrants that it will perform without relief notwithstanding being sold or acquired; no such event will operate to mitigate or alter any of Contractor's duties hereunder absent a consented delegation under paragraph 5.2 (*Assignment and Delegation*) that expressly recognizes the event.

**7.10 Performance in Public Health Emergency**

Contractor warrants that it will:

17. have in effect promptly after commencement a plan for continuing performance in the event of a declared public health emergency that addresses, at a minimum: (a) identification of response personnel by name; (b) key succession and performance responses in the event of sudden and significant decrease in workforce; and (c) alternative avenues to keep sufficient product on hand or in the supply chain; and
18. provide a copy of its current plan to State within 3 (three) business days after State's written request. If Contractor claims relief under paragraph 6.4 (*Force Majeure*) for an occurrence of force majeure that is a declared public health emergency, then that relief will be conditioned on Contractor having first implemented its plan and exhausted all reasonable opportunity for that plan implementation to overcome the effects of that occurrence, or mitigate those effects to the extent that overcoming entirely is not practicable.

For clarification of intent, being obliged to implement the plan is not of itself an occurrence of force majeure, and Contractor will not be entitled to any additional compensation or extension of time by virtue of having to implement it. Furthermore, failure to have or implement an appropriate plan will be a material breach of contract.

**7.11 Lobbying**

**7.11.1 PROHIBITION.**

(a) Contractor warrants that:

- i. it will not engage in lobbying activities, as defined in 40 CFR part 34 and A.R.S. § 41-1231, et seq., using monies awarded under the Contract, provided that, the foregoing does not intend to constrain Contractor's use of its own monies or property, including without limitation any net proceeds duly realized under the Contract or any value thereafter derived from those proceeds; and
- ii. upon award of the Contract, it will disclose all lobbying activities to State to the extent they are an actual or potential conflict of interest or where such activities could create an appearance of impropriety.

(b) Contractor shall implement and maintain adequate controls to assure compliance with (a) above.

(c) Contractor shall obtain an equivalent warranty from all Subcontractors and shall include an equivalent no-lobbying provision in all Subcontracts.



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7.11.2 EXCEPTION. This paragraph does not apply to the extent that the Services are defined in the Contract as being lobbying for State's benefit or on State's behalf.

## 8.0 State's Contractual Remedies

- 8.1 Right to Assurance**  
If the State in good faith has reason to believe that the Contractor does not intend to, or is unable to perform or continue performing under this Contract, the Procurement Officer may demand in writing that the Contractor give a written assurance of intent to perform. Failure by the Contractor to provide written assurance within the number of Days specified in the demand may, at the State's option, be the basis for terminating the Contract under the Uniform Terms and Conditions or other rights and remedies available by law or provided by the contract.
- 8.2 Stop Work Order**
  - 8.2.1. The State may, at any time, by written order to the Contractor (the "Stop Work Order"), require the Contractor to stop all or any part, of the work called for by this Contract for period(s) of days indicated by the State in the Stop Work Order. The order shall be specifically identified as a Stop Work Order issued under this clause. Upon receipt of the Stop Work Order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the Stop Work Order during the period of work stoppage.
  - 8.2.2. If a Stop Work Order issued under this clause is canceled or the period of the order or any extension expires, the Contractor shall resume work. If the Procurement Officer determines that an equitable adjustment is necessary, he or she shall make an equitable adjustment in the delivery schedule or Contract price, or both, and the Contract shall be amended in writing accordingly.
- 8.3 Non-exclusive Remedies**  
The rights and the remedies of the State under this Contract are not exclusive.
- 8.4 Nonconforming Tender**  
Materials or services supplied under this Contract shall fully comply with the Contract. The delivery of materials or services or a portion of the materials or services that do not fully comply constitutes a breach of contract. On delivery of nonconforming materials or services, the State may terminate the Contract for default under applicable termination clauses in the Contract, exercise any of its rights and remedies under the Uniform Commercial Code, or pursue any other right or remedy available to it.
- 8.5 Right of Offset**  
The State shall be entitled to offset against any sums due the Contractor, any expenses or costs incurred by the State, or damages assessed by the State concerning the Contractor's non-conforming performance or failure to perform the Contract, including expenses, costs and damages described in the Uniform Terms and Conditions.

## 9.0 Contract Termination

- 9.1 Cancellation for Conflict of Interests**  
Pursuant to A.R.S. § 38-511, the State may cancel this Contract within three (3) years after Contract execution without penalty or further obligation if any person significantly involved in initiating, negotiating, securing, drafting or creating the Contract on behalf of the State is or becomes at any time while the Contract or an extension of the Contract is in effect an employee of or a consultant to any other party to this Contract with respect to the subject matter of the Contract. The cancellation shall be effective when the Contractor receives written notice of the cancellation unless the notice specifies a later time. If the Contractor is a political subdivision of the State, it may also cancel this Contract as provided in A.R.S. § 38-511.
- 9.2 Gratuities**  
The State may, by written notice, terminate this Contract, in whole or in part, if the State determines that employment or a Gratuity was offered or made by the Contractor or a representative of the Contractor to any officer or employee of the State for the purpose of influencing the outcome of the procurement or securing the Contract, an amendment to the Contract, or favorable treatment concerning the Contract, including the making of any determination or decision about contract performance. The State, in addition to any other rights or remedies, shall be entitled to recover exemplary damages in the amount of three times the value of the Gratuity offered by the Contractor.



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**9.3 Suspension or Debarment**

The State may, by written notice to the Contractor, immediately terminate this Contract if the State determines that the Contractor has been debarred, suspended or otherwise lawfully prohibited from participating in any public procurement activity, including but not limited to, being disapproved as a subcontractor of any public procurement unit or other governmental body. Submittal of an offer or execution of a contract shall attest that the contractor is not currently suspended or debarred. If the contractor becomes suspended or debarred, the contractor shall immediately notify the State.

**9.4 Termination for Convenience**

The State reserves the right to terminate the Contract, in whole or in part at any time when in the best interest of the State, without penalty or recourse. Upon receipt of the written notice, the Contractor shall stop all work, as directed in the notice, notify all subcontractors of the effective date of the termination and minimize all further costs to the State. In the event of termination under this paragraph, all documents, data and reports prepared by the Contractor under the Contract shall become the property of and be delivered to the State upon demand. The Contractor shall be entitled to receive just and equitable compensation for work in progress, work completed and materials accepted before the effective date of the termination.

**9.5 Termination for Default**

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

9.5.2. Upon termination under this paragraph, all goods, materials, documents, data and reports prepared by the Contractor under the Contract shall become the property of and be delivered to the State on demand.

9.5.3. The State may, upon termination of this Contract, procure, on terms and in the manner that it deems appropriate, materials or services to replace those under this Contract. The Contractor shall be liable to the State for any excess costs incurred by the State in procuring materials or services in substitution for those due from the Contractor.

**9.6 Continuation of Performance Through Termination**

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

**10.0 Contract Claims**

**10.1 Claim Resolution**

Notwithstanding any law to the contrary, all contract claims or controversies under the Contract are to be resolved according to the Arizona Procurement Code, including judicial review under A.R.S. § 12-1518.

**10.2 Arbitration**

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

End of Section 2-D

End of Part 2

	<h2>Solicitation Amendment</h2>	<p>Arizona Department of Administration State Procurement Office 100 N. 15<sup>th</sup> Avenue, Suite 402 Phoenix, AZ 85007</p>
	RFP: ADSP018-00008023, Multifunction Devices, Including Supplies and Maintenance	
	Amendment 1	

### Multifunction Devices, Including Supplies and Maintenance

1. Pre-Offer Conference Announcement added to Section 1: Solicitation Summary, Tem 3.0

The State WILL conduct a Pre-Offer Conference for this Solicitation at **100 N. 15<sup>th</sup> Ave, Phoenix AZ 85007 in the ADOA 1<sup>st</sup> Floor Conference Room on May 1<sup>st</sup>, 2018 from 9:30 a.m. Arizona Time – 11:00 a.m Arizona Time**; attendance is optional. Refer to paragraph 2.7 of the Instructions to Offerors for more information.

2. Modification to Section 2-D: Uniform Terms and Conditions:

Term 5.2.2, corrected Error! Reference source not found.9 [*Error! Reference source not found.*] with 3.9 (*Subcontracts*).

Term 6.4.1, corrected [*Error! Reference source not found*] with (*Performance in Public Health Emergency*).

Term 7.9 , corrected Error! Reference source not found.2 [*Error! Reference source not found.*] with 5.2 (*Assignment and Delegation*).

Term 7.10.2 corrected [*Error! Reference source not found*] with (*Force Majeure*).

**ALL OTHER REQUIREMENTS, SPECIFICATIONS, TERMS AND CONDITIONS REMAIN UNCHANGED  
ACKNOWLEDGEMENT AND AUTHORIZATION**

This change order shall be fully executed upon the approval electronically in ProcureAZ by an authorized representative of the Contractor and applied to the contract in ProcureAZ by the Procurement Officer or delegate.



## Solicitation Amendment

Solicitation: ADSP018-00008023, Multifunction Devices, Including Supplies and Maintenance

Amendment 2

Arizona Department of  
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### Multifunction Devices, Including Supplies and Maintenance

- The due date for Offers has been extended to 05/23/2018 at 3:00 P.M. and is reflected in ProcureAZ.

**ALL OTHER REQUIREMENTS, SPECIFICATIONS, TERMS AND CONDITIONS REMAIN UNCHANGED  
ACKNOWLEDGEMENT AND AUTHORIZATION**

This change order shall be fully executed upon the approval electronically in ProcureAZ by an authorized representative of the Contractor and applied to the contract in ProcureAZ by the Procurement Officer or delegate.



# Solicitation Amendment

Solicitation: ADSPO18-00008023, Multifunctional Devices, Including Supplies and Maintenance

Amendment 3

Arizona Department of Administration  
State Procurement Office  
100 N. 15<sup>th</sup> Avenue, Suite 402  
Phoenix, AZ 85007

## Multifunctional Devices, Including Supplies and Maintenance

- Section 2, Scope of Work 2-A, Term 4. Scope of Products and Services, removal of “specifically: EPS060122, ADSPO12-015669, ADSPO12-015733, ADSPO12-015699 and ADSPO12-015851.”
- Section 2, Scope of Work 2-A, Term 6.6 Meter Requirements is **replaced** with:

### Reporting Requirements

The Contractor will be responsible for remotely or physically taking meter readings monthly at each Equipment site. The Contractor may provide an electronic method for providing periodic meter readings. These electronic methods may include online submission and or automated electronic submission to be performed by the equipment in place via an available network connection as approved by the Customer.

If the room or location where the Equipment is installed is not accessible at the time of the reading, then a verbal reading will be relayed to the Contractor. Copy volumes will be shown on a report and shall be supplied by the Contractor. The reporting will contain the following data:

- 6.6.1 Machine serial number;
- 6.6.2 Meter reading;
- 6.6.3 "Unusable Copies" count;
- 6.6.4 Number of copies used during service calls; and
- 6.6.5 Authorized Key Operator signature.

If the Customer does not have the ability or preference to not provide the Contractor access to the available network connection, the Contractor shall ensure other mechanisms shall be in place to provide this service.

Reporting will constitute the total copy volume for a single calendar month.

- Section 3, **Removal** of attachment 3-B, Key Personnel, this does not need to be submitted as part of the proposal
- Section 3, Attachment 1, Offer and Acceptance Form, **revised** language to “provide Multifunctional Devices, including Supplies and Maintenance”

**ALL OTHER REQUIREMENTS, SPECIFICATIONS, TERMS AND CONDITIONS REMAIN UNCHANGED  
ACKNOWLEDGEMENT AND AUTHORIZATION**

This change order shall be fully executed upon the approval electronically in ProcureAZ by an authorized representative of the Contractor and applied to the contract in ProcureAZ by the Procurement Officer or delegate.



## Solicitation Amendment

Solicitation: ADSP018-00008023, Multifunctional Devices,  
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Amendment 3

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- Section 3, Attachment 8-A, **Removal** of Baseline Security Controls Requirement, this does not need to be provided as part of the Offer.
- Pricing Attachment 4 – **revised** to include Additional Options tab per Q&A request in ProcureAZ.

**ALL OTHER REQUIREMENTS, SPECIFICATIONS, TERMS AND CONDITIONS REMAIN UNCHANGED  
ACKNOWLEDGEMENT AND AUTHORIZATION**

This change order shall be fully executed upon the approval electronically in ProcureAZ by an authorized representative of the Contractor and applied to the contract in ProcureAZ by the Procurement Officer or delegate.



## Solicitation Amendment

Solicitation: ADSPO18-00008023, Multifunction Devices, Including Supplies and Maintenance

Amendment 4

Arizona Department of  
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Phoenix, AZ 85007

### Multifunction Devices, Including Supplies and Maintenance

- The due date for Offers has been extended to 07/18/2018 at 3:00 P.M. and is reflected in ProcureAZ.

**ALL OTHER REQUIREMENTS, SPECIFICATIONS, TERMS AND CONDITIONS REMAIN UNCHANGED  
ACKNOWLEDGEMENT AND AUTHORIZATION**

This change order shall be fully executed upon the approval electronically in ProcureAZ by an authorized representative of the Contractor and applied to the contract in ProcureAZ by the Procurement Officer or delegate.

## EXHIBIT B

### **SPECIFIC REQUIREMENTS/OPTIONS OF CITY**

**Attached:** Ricoh Order Agreement

**Notices:** All notices required under the Contract shall be sent to: City Manager  
City of Bisbee 76 Erie Street, Bisbee, Arizona 85603

**Delivery Location:**

City of Bisbee  
Copper Queen Library  
6 Main Street  
Bisbee, Arizona 85603

## State of Arizona Lease Pricing

State Contract # ADSP018-216027

Quote: 32569033

### CUSTOMER INFORMATION

Copper Queen Library Customer (Bill To)				Jason Macoviak Billing Contact Name			
6 MAIN ST Product Location Address				PO BOX 1857 Billing Address (if different from location address)			
BISBEE	COCHISE	AZ	85603-9901	BISBEE	COCHISE	AZ	85603-2857
City	County	State	Zip	City	County	State	Zip
Billing Contact Telephone Number			Billing Contact Facsimile Number			Billing Contact E-Mail Address JMACOVIAK@BISBEEAZ.GOV	

### PRODUCT/EQUIPMENT DESCRIPTION ("Product")

Qty	Re-order#	Product Description: Make & Model	Lease Cost	Site Reference
1	PSB-RSIESNTL-1Y	PS SOLUTION SET - RSI ESSENTIALS 1 DEVICE MINIMUM 1YR TERM	\$0.00	6 MAIN ST, BISBEE, AZ, 85603-9901, US
1	PSB-RSIESNTL-1Y-PS1	[OOD]PSB SMART INTEGRATION ESSENTIALS SUBSCRIPTION 1 DEVICE INCIMO	\$11.00	6 MAIN ST, BISBEE, AZ, 85603-9901, US
1	PS-INSTLTRAIN-RSIESNTL-RMT	[OA] REMOTE TS INSTALL AND TRAINING - RICOH SMART INTEGRATION ESSENTIALS	\$3.50	6 MAIN ST, BISBEE, AZ, 85603-9901, US
1	PROMO-MTMRDRT	M2M REDUCED LEASE RATE	\$0.00	6 MAIN ST, BISBEE, AZ, 85603-9901, US
1	IMC2500-RIC	RICOH IMC2500 CONFIGURABLE PTO MODEL	\$87.70	6 MAIN ST, BISBEE, AZ, 85603-9901, US
1	PS-NWSCBC2	TS NETWORK & SCAN CONNECT - SEG BC2	\$0.00	
1	IMC2500-RIC-SET	RICOH IMC2500 BRANDING SET	\$0.00	
1	418352	PAPER FEED UNIT PB3300	\$0.00	
1	418378	INTERNAL FINISHER SR3250	\$0.00	
1	418600	FAX OPTION TYPE M37	\$0.00	
1	006428MIU	ESP XG-PCS-15D	\$0.00	
1	EQ-RETURN-SEG2PLUS	RETURN CHARGE - SEGMENT 2 OR GREATER DEVICES	\$0.00	

<b>Minimum Term</b> (months)
60

<b>Minimum Payment</b> (Without Tax)
\$99.11

<b>Minimum Payment Billing Frequency</b>
<input checked="" type="checkbox"/> Monthly
<input type="checkbox"/> Quarterly
<input type="checkbox"/> Other: _____

<b>All Inclusive Maintenance Plan*</b>
- Unlimited Black and White copies a month
- Color Copies 0.0525
- Maintenance plan starts 90 days after delivery
- Tempe Tax applies at 8.1%
- Maintenance starts after 90 days

<b>Monthly Service Charge</b>
\$30.00
*Monthly Service Charge includes: All Parts, labor, photoconductor, toner, developer, and staples

<b>Meter Reading/Billing Frequency</b>
<input type="checkbox"/> Monthly
<input checked="" type="checkbox"/> Quarterly
<input type="checkbox"/> Other

### Trade in And Hard Drive Surrender

Qty	Product Description: Make & Model	Serial #	Location
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Draft



# RICOH

# Packing List

Customer PO#:   
 Customer Acct#: 5348792   
 1920 West Baseline Road   
 Suite # 2   
 Rialto, CA 92376, United States

Customer Acceptance Date: 04-MAY-2023   
 Ship method: UPS GROUND   
 Delivery #/ BCL Number: 132964349

IST: 10590307   
 VALLEY IMAGING SOLUTIONS,   
 DEALER 12462018 LANIER   
 902 E FRY BLVD.,   
 SIERRA VISTA, AZ 85635-2640, US

Ship To: 4797429   
 COPPER QUEEN LIBRARY   
 6 MAIN ST   
 BISBEE, AZ 85603-9901, United States

Bill To: 9748732   
 RICOH FINANCIAL SERVICES-SYN   
 4667 N ROYAL ATLANTA DR   
 TUCKER, GA 30084-3802, United States

Order Line#	Qty Shipped	Order# / Type	Item#	Weight	Description
1.1.1.0	1	103415221 Internal Lease Sale	IMC2500- C*28257665	319.2 LBs	CONFIG ASSY.IMC2500 IMC2500-RIC - RICOH IMC2500 CONFIGURABLE PTO MODEL Item Serial#: C94040065 Manufacturer Serial#: 3092RC02159 EID :14880141 COLOR:0 BLACK&WHITE:0 TOTAL:0 CID:
Site Reference: LIBRARY					Related Order: 103415221 Related Line: 2.1 Related Order: 103415221 Related Line: 5.1 Related Order: 103415221 Related Line: 6.1 Related Order: 103415221 Related Line: 3.1
Comments: Main Contact: Jason Macoviak Phone: (520)432-4232 Email: JMACOVIAK@BISBEEAZ.GOV Delivery Type: End User Special setup: None Project Mgr: N Special Instr: Main Contact: Macoviak, Jason Contact#: (520)432-4232 Email: JMACOVIAK@BISBEEAZ.GOV OC:ABangayan					

Freight Charge Terms: (freight charges are prepaid unless marked otherwise)  
 SPECIAL INSTRUCTIONS: Pre-Paid:  Collect:  3RD PARTY:

**DELIVERY AND ACCEPTANCE CERTIFICATE**

The Customer named below hereby certifies that each item of equipment or product described below has been delivered, installed and accepted, and Customer hereby agrees that each such item of equipment or product is in good condition and satisfactory for all purposes, including, in the case of any lease or rental agreement or equipment/product schedule ("Agreement") for such equipment or product entered into between Customer and Ricoh USA, Inc., Ricoh Americas Corporation, IKON Office Solutions, Inc., or IKON Financial Services, as applicable, for all purposes of the Agreement.

Authorized Signer: X *Jason Macoviak*  
 Dept: LIBRARY Date: 6/19/23  
JASON MACOVIAK

NOTE Liability Limitation for loss or damage in this shipment may be applicable. See 49 U.S.C. § 14706(c)(1)(A) and (B). RECEIVED, subject to individually determined rates or contracts that have been agreed upon in writing between the carrier and shipper, if applicable, otherwise to the rates, classifications and rules that have been established by the carrier and are available to the shipper, on request, and to all applicable state and federal regulations. The carrier shall not make delivery of this shipment without payment of freight and all other lawful charges.

Shipper Signature \_\_\_\_\_  
 CARRIER SIGNATURE / PICKUP DATE  
 Carrier acknowledges receipt of packages and required placards. Carrier certifies emergency response information was made available and/or carrier has the U.S. DOT emergency response guidebook or equivalent documentation in the vehicle.  
 Property described above is received in good order, except as noted

*ID# 14880141*

*2/4/23 16:48 9:00*

Date:: 09-JUN-23

INSTALLER	CUSTOMER	ORDER TAKER
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ATTN: STEVEN HOULE  
 VALLEY IMAGING SOLUTIONS INC  
 902 E FRY BLVD, , , TRC:  
 07/18/2012SIERRA VISTA, AZ,  
 COCHISE, US, 85635-2840  
 steve.houle@valleyimagingoluti  
 ons.com  
 Account Number 12462018

COPPER QUEEN LIBRARY  
 6 MAIN ST, , BISBEE, AZ, 85603-9901,  
 US

RICOH USA INC

Order #: 103415221	Order: 31-MAR-23	CUSTOMER PO:
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Equipment ID	Product #	Description	Qty	Serial #	Planned Pickup Date
	006428MIU	ESP XG-PCS-15D	-1		27-APR-23
	417268	[NP]PAPER FEED UNIT PB3220	-1	E976QA62688	27-APR-23
	417504	[XXXX] POSTSCRIPT3 UNIT TYPE M19	-1		27-APR-23
	417510	[NP]FAX OPTION TYPE M19	-1		27-APR-23
	417550	[XXXX] MP C2504 (120V MAINFRAME)	-1	G756RA10883	27-APR-23
	417550-U2	MP C2504 (120V MAINFRAME)	-1	C94017095	27-APR-23
	417585	[NP]1 BIN TRAY BN3110	-1		27-APR-23
	417589	[NP]INTERNAL FINISHER SR3130	-1	E566QB64404	27-APR-23
	MPC2504-C*16865748	CONFIG ASSY.MPC2504	-1	C86178654	27-APR-23

Return to: CCC Used - C94 RIALTO CC

Pickup Instructions: SN # C94017095 Main  
 Contact: Jason Macoviak Phone: (520)432-4232 Email: JMACOVIAK@BISBEEAZ.GOV  
 Delivery Type: End User Special setup: None  
 Project Mgr: N Special Instr: SN# C94017095  
 Main Contact: Macoviak, Jason  
 Contact#: (520)432-4232  
 Email: JMACOV



**SPECIAL Instructions:**

Please provide final meter reads & date.



Please send FAX from this edge.

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Page Counter

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Serial No.: G756RA10883

Data of Today: Jun. 19,2023 10:19 AM

Copier:Color	50038
Copier:B & W	49036
Printer:Color	90206
Printer:B & W	64657
Color Total	140244
B & W Total	114100

Bisbee Library



Please send FAX from this edge.

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## Page Counter

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Serial No.: 3092RC02159

Data of Today: Jun. 09,2023 07:37 AM

Copier:Color	0
Copier:B & W	8
Printer:Color	0
Printer:B & W	2
Color Total	0
B & W Total	10