

LEGISLATIVE TRACKING FORMFiling for Council Meeting Date: 08/05/25

Resolution



Ordinance

Contact/Prepared By: _____

Date Prepared: _____

Title (Caption): A resolution accepting the terms of a cooperative purchasing master agreement with FARO Technologies Inc., for police radar,lidar speed enforcement and accident scene reconstruction equipment for the Metropolitan Nashville Police Department.Submitted to Planning Commission? ☐ N/A ☐ Yes-Date: _____ Proposal No: _____

Proposing Department: _____ Requested By: _____

Affected Department(s): _____ Affected Council District(s): _____

Legislative Category (check one):

- | | | |
|---|--|--|
| ☐ Bonds | ☐ Contract Approval | ☐ Intergovernmental Agreement |
| ☐ Budget - Pay Plan | ☐ Donation | ☐ Lease |
| ☐ Budget - 4% | ☐ Easement Abandonment | ☐ Maps |
| ☐ Capital Improvements | ☐ Easement Accept/Acquisition | ☐ Master List A&E |
| ☐ Capital Outlay Notes | ☐ Grant | ☐ Settlement of Claims/Lawsuits |
| ☐ Code Amendment | ☐ Grant Application | ☐ Street/Highway Improvements |
| ☐ Condemnation | ☐ Improvement Acc. | ☐ Other: _____ |

FINANCE Amount +/-: \$ _____Funding Source: ☐ Capital Improvement Budget
☐ Capital Outlay Notes
☐ Departmental/Agency Budget
☐ Funds to Metro
☐ General Obligation Bonds
☐ Grant
☐ Increased Revenue Sources

Match: \$ _____

☐ Judgments and Losses
☐ Local Government Investment Project
☐ Revenue Bonds
☐ Self-Insured Liability
☐ Solid Waste Reserve
☐ Unappropriated Fund Balance
☐ 4% Fund

Other: _____ 8/1/2025 | 11:17 AM CDT

Approved by OMB: Ernest Franklin

Approved by Finance/Accounts: _____

Approved by Div Grants Coordination: _____

APPROVED BY**FINANCE DIRECTOR'S OFFICE:** Jennine Reed/mjw**ADMINISTRATION**

Council District Member Sponsors: _____

Council Committee Chair Sponsors: _____

Approved by Administration: _____ Date: _____

DEPARTMENT OF LAW

Date to Dept. of Law: _____ Approved by Department of Law: _____

Settlement Resolution/Memorandum Approved by: _____Date to Council: _____ For Council Meeting: _____ ☐ E-mailed Clerk☐ All Dept. Signatures ☐ Copies ☐ Backing ☐ Legislative Summary ☐ Settlement Memo ☐ Clerk Letter ☐ Ready to File

Department of Law – White Copy

Administration –Yellow Copy

Finance Department - Pink Copy

Resolution No. _____

A resolution accepting the terms of a cooperative purchasing master agreement with FARO Technologies Inc., for police radar, lidar speed enforcement and accident scene reconstruction equipment for the Metropolitan Nashville Police Department.

WHEREAS, Tennessee Code Annotated § 12-3-1205(b) allows the Metropolitan Government of Nashville and Davidson County ("Metro") to participate in a cooperative purchasing agreement for the procurement of any goods, supplies, services, or equipment with one or more governmental entities outside this state; and,

WHEREAS, Tennessee Code Annotated § 12-3-1205(b) allows Metro to participate in an out-of-state master agreement by adopting a resolution accepting the terms of the master agreement; and,

WHEREAS, the Purchasing Agent desires to participate in the master agreement between the state of Washington and FARO Technologies, Inc.; and,

WHEREAS, this master agreement was requested by the Metropolitan Nashville Police Department but is available to all Metro Departments to utilize; and,

WHEREAS, approval of the master agreement is in the best interest of the citizens of the Metropolitan Government of Nashville and Davidson County.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY:

Section 1. That the master agreement between the state of Washington and FARO Technologies, Inc., a copy of which is attached hereto and incorporated herein, is hereby approved.

Section 2. That this resolution shall take effect from and after its adoption, the welfare of The Metropolitan Government of Nashville and Davidson County requiring it.

RECOMMENDED BY:

Dennis Rowland
Dennis Rowland
Purchasing Agent

INTRODUCED BY:

APPROVED AS TO AVAILABILITY
OF FUNDS:

Jenneen Reed/mjw
Jenneen Reed, Director
Department of Finance

Member(s) of Council

APPROVED AS TO FORM AND
LEGALITY:

Jesse V. Ortiz-Munoz

Assistant Metropolitan Attorney

c2025090

Friday, June 13, 2025



Cooperative Request Form

Request Utilization of a Federal, Statewide, Municipal, or Cooperative Contract

A cooperative is when Metro utilizes a contract from another public entity to make a purchase. With the exception of statewide contracts, use of a cooperative requires Metro Council approval.

Cooperatives are not negotiable. Departments must accept the terms of the master contract without exception.

Questions? Email zak.kelley@nashville.gov.

Departmental Information

What is your name?	Heather Watson
What is your department?	MNPD
What is your email address?	heather.watson@nashville.gov
What is your phone number?	(615) 880-1206
In addition to your department, will other Metro departments be utilizing this cooperative?	No.
If other Metro departments will be utilizing this cooperative, list them here:	NA
How much do you estimate spending on this cooperative contract?	400,000

Cooperative Information

What is the cooperative entity?	Cooperative - NASPO.
What is the lead agency?	State of Washington
Who is the supplier?	FARO Technologies, Inc.
Is the supplier registered in iSupplier?	Yes.
If yes, what is the supplier's ISN?	20050

What is the contract number? 24823

When did the contract start? Sunday, September 1, 2024

When does the contract end? Tuesday, August 31, 2027

What was the solicitation method for this contract? ITB - Invitation to Bid.

What is the good/service that this cooperative will be utilized to purchase?
Crime scene reconstruction laser scanners and related components and maintenance

Why is utilizing this cooperative contract more advantageous to Metro than issuing our own RFP/ITB?

MNPD Crime Scene Unit seeks to secure continued maintenance and support for its existing FARO scanner equipment and ability to purchase replacement scanners through a cooperative contract identified via NASPO ValuePoint. This request is crucial to ensure the sustained operational readiness, reliability, and evidentiary integrity of our 3D documentation capabilities in homicide and major crime investigations. Since 2015, MNPD has completed 1,102 scans on homicides and major crime scenes, including: Hickory Hollow Theater Shooting, Burnette Chapel Shooting, Waffle House Shooting, Caitlyn Kaufman Homicide, Christmas Day Bombing, and Covenant School Shooting. The FARO system has become an indispensable part of our forensic documentation process, enabling accurate scene reconstruction and preserving evidence in a format that withstands judicial scrutiny. MNPD has invested in certifying four in-house FARO trainers, each trained at a cost exceeding \$20,000. This allows the department to self-train new personnel on the FARO system, eliminating the recurring costs and logistical challenges of external training. FARO's analysis and reconstruction tools have been extensively used in court proceedings, particularly for shooting reconstructions. District Attorneys and court officials in Davidson County are now well-versed in the interpretation of FARO-generated exhibits, further reinforcing the system's value as a courtroom tool. In collaboration with the Metro Nashville Historic Commission and the Franklin Battle Trust, our unit successfully integrated terrestrial scanner data with drone footage for two historical shooting reconstructions. This methodology was also applied during the Covenant School shooting, where over 200 scans were collected to document the scene with unprecedented detail.

Upload the original contract from the lead agency.



1732714043_24823 FARO Tech. Coop... .pdf

Does the contract contain any good/service relative to surveillance as described in MCL 13.08.080? No.

This contract contains a cooperative purchase provision that allows use by other governmental agencies and/or use of this contract is authorized by state and local law. Yes.

I accept the terms of this contract without exception. Yes.

Upload the formal solicitation (RFP/ITB) from the lead agency.



01611b.doc

This solicitation was advertised, open, and unrestricted.

Yes.

I have confirmed with both my department finance manager and/or OMB budget analyst sufficient fund availability for this request.

Yes

I affirm that I am authorized by the appropriate individuals in my department, including my director or their designee, to submit this cooperative request.

Yes



Cooperative Request Review

This cooperative request for **police radar/lidar speed enforcement and accident reconstruction equipment from FARO Technologies via NASPO contract 24823** is recommended for approval.

The anticipated project value is **\$400,000.00**. The estimated savings to Metro via this cooperative is **\$51,071.00**.

The cooperative was requested by the **Police**; use will be available to all Metro entities.

Council approval of the master agreement **is** required. This contract may, at the discretion of Metro Legal, be subject to MCL 13.08.080.

Legal Justification

T.C.A. § 12-3-1205 & MCL 4.12.093 authorize Metro to participate in cooperative purchasing agreements with other governmental entities outside Tennessee for the purchase of goods, supplies, services, and equipment.

For this request the cooperative purchasing agreement is held by NASPO; the lead agency is the State of Washington. Washington State is a public institution that meets the standards for governmental entity as defined in the referenced statute.

The contract resulted from a **competitive RFP with at least nine (9) offers**.

Regulatory Justification

R4.12.090.05 of the regulations to the procurement code authorize Metro to participate in cooperative purchasing agreements with other local governments for the purchase of supplies, services, or construction.

For this request the cooperative purchasing agreement is for supplies and products. This meets the standard as defined by the regulations.

Value Justification

It is unlikely that Metro, as a single government entity, will obtain better value through a competitive solicitation. That is because the pricing in this cooperative purchase agreement (**09% average off MSRP**) leverages both the scale of NASPO membership and the competition of at least nine (9) offers.

Further, a competitive solicitation for this good/service would require an estimated 139 hours of staff time valued at approximately \$17,457.00. Utilization of this cooperative will require 19 hours of staff time valued at approximately \$2,386.00. **A total savings (discount + staff time) of \$51,071.00.**

Impact on Minority & Women Owned Businesses

This cooperative is primarily for goods, so the equal business opportunity program would likely not apply if Metro issued a competitive solicitation. Pursuant to R4.12.090.05 of the regulations to the procurement code, Metro will work with the cooperative entity to maximize participation of disadvantaged firms in accordance with MCL 4.44 and 4.46.

Prepared by Zak Kelley
06/16/2025



Cooperative Request Signature Form

Co-Op Request Number	C2025090
Date Received	June 16, 2025

To Whom It May Concern,

I have read the attached Cooperative Review and concur with the recommendation contained therein.

Should you have questions, please contact the reviewer or reach out to me directly.

Regards,


For Dennis Rowland

Dennis Rowland
Purchasing Agent & Chief Procurement Officer

6/16/2025 | 5:40 PM CDT

Date Signed





State of Washington
DEPARTMENT OF GENERAL ADMINISTRATION
Office of State Procurement
210 11th Avenue SW, Rm. 201, • Olympia, Washington 98504-1017 • (360) 902-7400
<http://www.ga.wa.gov>

INVITATION FOR BID (IFB)

**The State of Washington on behalf of
The Western States Contracting Alliance (WSCA)
A Multi-State Contract for:**

Police Radar, Lidar, Parts and Equipment

Solicitation Number
01611

Pre-bid Conference Date & Time
August 31, 2011

Bid due date and time
September 14, 2011

Steve Jenkins
Procurement Coordinator
Phone (360) 902-7317
Fax (360) 586-2426
E-mail: steve.jenkins@ga.wa.gov

Bids must be received & stamped on or before the Bid due date and time at this location:

Department of General Administration
Office of State Procurement
1500 Jefferson Street SE
Olympia WA 98501

For a site map to the Capitol Campus, click <http://www.ga.wa.gov/images/Campus-Map.pdf>

Driving directions and parking information <http://www.ga.wa.gov/park/visitor.htm>

BIDDER'S AUTHORIZED OFFER

(BID SIGNATURE PAGE)

Police Radar, Lidar, Parts and Accessories IFB #01611

Issued by the State of Washington on behalf of the Western States Contracting Alliance (WSCA)

Certifications and Assurances

We make the following certifications and assurances as a required element of the Response, to which it is attached, affirming the truthfulness of the facts declared here and acknowledging that the continuing compliance with these statements and all requirements of the IFB are conditions precedent to the award or continuation of the resulting Contract.

1. The prices in this Response have been arrived at independently, without, for the purpose of restricting competition, any consultation, communication, or agreement with any other offeror or competitor relating to (i) those prices, (ii) the intention to submit an offer, or (iii) the methods or factors used to calculate the prices offered. The prices in this Response have not been and will not be knowingly disclosed by the offeror, directly or indirectly, to any other offeror or competitor before Contract award unless otherwise required by law. No attempt has been made or will be made by the offeror to induce any other concern to submit or not to submit an offer for the purpose of restricting competition. However, we may freely join with other persons or organizations for the purpose of presenting a single Bid or Proposal.
2. The attached Response is a firm offer for a period of 60 days following the Response Due Date specified in the IFB, and it may be accepted by the Purchasing Activity without further negotiation (except where obviously required by lack of certainty in key terms) at any time within the 60 day period. In the case of protest, our Response will remain valid for 180 days or until the protest and any related court action is resolved, whichever is later.
3. In preparing this Response, we have not been assisted by any current or former employee of the state of Washington whose duties relate (or did relate) to the State's solicitation, or prospective Contract, and who was assisting in other than his or her official, public capacity. Neither does such a person nor any member of his or her immediate family have any financial interest in the outcome of this Response. (Any exceptions to these assurances are described in full detail on a separate page and attached to this document.)
4. We understand that the State will not reimburse us for any costs incurred in the preparation of this Response. All Responses become the property of the State, and we claim no proprietary right to the ideas, writings, items or samples unless so stated in the Response. Submission of the attached Response constitutes an acceptance of the evaluation criteria and an agreement to abide by the procedures and all other administrative requirements described in the solicitation document.
5. We understand that any Contract awarded, as a result of this Response will incorporate all the solicitation requirements. Submission of a Response and execution of this Certifications and Assurances document certify our willingness to comply with the Contract terms and conditions appearing in [Part II](#), if selected as a contractor. It is further understood that our standard contract will not be considered as a replacement for the terms and conditions appearing in [Part II](#) of this solicitation.
6. We **are not** submitting proposed Contract exceptions (see Subsection 1.5, *Contract Requirements*).
7. The authorized signatory below acknowledges having read and understood the entire solicitation and agrees to comply with the terms and conditions of the solicitation in submitting and fulfilling the offer made in its Bid.
8. By submitting this Bid, Bidder hereby offers to furnish materials, supplies, services and/or equipment in compliance with all terms, conditions, and specifications contained in this solicitation.

The signatory below represents that he/she has the authority to bind the company named below to the Bid submitted and any contract awarded as a result of this solicitation.

Bidder Signature

Company Name

Title

Date

CHECKLIST

This checklist is provided for Bidder's convenience only and identifies the documents to be submitted with each Response. Any Response received without any one or more of these documents may be rejected as being non-responsive/non-responsible.

(MINIMUM REQUIRED SUBMITTALS)

Signed Bidder's Authorized Offer	☐
Signed Part II Model Contract	☐
Bid Amendment(s) <i>(if applicable)</i>	☐
Appendix D - Bidder Profile	☐
Appendix E - Price Worksheets	☐
Appendix F – Technical Requirements	☐
Dealer Authorization <i>(if applicable)</i>	☐
Warranty Information	☐

01611 Police Radar, Lidar, Parts and Equipment

TABLE OF CONTENTS

BIDDER'S AUTHORIZED OFFER.....	2
CHECKLIST	3
1 SOLICITATION OVERVIEW.....	8
1.1 ACQUISITION AUTHORITY	8
1.2 ASSIGNMENT TO SUCEOR WASHINGTON STATE GOVERNMENT ENTITY DUE TO TRANSFER OF AUTHORITY.....	8
1.3 STANDARD DEFINITIONS.....	8
1.4 CONTRACT FORMATION	8
1.5 MODEL CONTRACT	8
1.6 SOLICITATION AMENDMENTS	8
1.7 INCORPORATION OF DOCUMENTS INTO CONTRACT	9
1.8 RIGHT TO CANCEL	9
1.9 IN-STATE PREFERENCE/RECIPROCITY	9
1.10 MINORITY AND WOMEN OWNED BUSINESS ENTERPRISES (MWBE)	9
2 SUMMARY OF OPPORTUNITY.....	10
2.1 PURPOSE	10
2.2 CONTRACT SCOPE.....	10
2.3 PARTICIPATING ENTITIES	11
2.4 CONTRACT TERM	11
2.5 ESTIMATED USAGE	11
2.6 EXPECTED RESULT	11
2.7 AWARD	11
3 TIMELINE	11
3.1 PROCUREMENT SCHEDULE	11
3.2 PRE-BID CONFERENCE.....	12
3.3 BID OPENING PROTOCOL.....	13
3.4 CONTRACT INFORMATION AVAILABILITY AFTER AWARD	13
3.5 PROTEST PROCEDURES	13
4 INSTRUCTIONS TO BIDDERS.....	13
4.1 AUTHORIZED COMMUNICATION	13
4.2 BIDDER COMMUNICATION RESPONSIBILITIES.....	13
4.3 BIDDER AUTHORIZED REPRESENTATIVE	13
4.4 WASHINGTON ELECTRONIC BUSINESS SOLUTION (WEBS)	13
4.5 PREPARATION OF BIDS.....	14
4.6 BIDDER RESPONSIVENESS	15
4.7 BIDDER PROFILE.....	15
4.8 PAYMENT TERMS.....	15
4.9 BID PRICING	15
4.10 REFERENCES.....	15
4.11 EQUIPMENT/PRODUCT DEMONSTRATION.....	15
4.12 WITHDRAWAL OR MODIFICATION OF BID	16
4.13 PROPRIETARY OR CONFIDENTIAL INFORMATION.....	16
5 BIDDER QUALIFICATIONS	16
5.1 DEALER AUTHORIZATION.....	16
5.2 FEDERAL FUNDING	16
5.3 FEDERAL RESTRICTIONS ON LOBBYING.....	16
5.4 FEDERAL DEBARMENT AND SUSPENSION.....	17
5.5 USE OF SUBCONTRACTORS	17
5.6 BIDDER TECHNICAL REQUIREMENTS.....	17
5.7 WARRANTY REQUIREMENTS	17
5.8 MERCURY CONTENT AND PREFERENCE	18
6 SUCCESSFUL BIDDER RESPONSIBILITIES	18
6.1 NO COSTS OR CHARGES	18
6.2 POST AWARD CONFERENCE	19

01611 Police Radar, Lidar, Parts and Equipment

6.3	CONTRACT MANAGEMENT	19
6.4	INSURANCE	19
6.5	STATEWIDE VENDOR PAYMENT REGISTRATION	19
6.6	SALES & SUBCONTRACTOR REPORTS	19
6.7	OTHER REQUIRED REPORT(S)	19
7	PRICING (COST FACTORS)	19
7.1	PRICING	19
7.2	NO BEST AND FINAL OFFER	19
7.3	PRICE SHEET	19
7.4	PRICE ADJUSTMENTS	20
7.5	SHIPPING TERMS	20
7.6	CONTRACT ADMINISTRATION FEE	20
7.7	PRESENTATION OF ALL COST COMPONENTS	20
8	EVALUATION AND AWARD	21
8.1	AWARD CRITERIA	21
8.2	SUBMITTAL AND EVALUATION PROCESS	21
8.3	SELECTION OF APPARENTLY SUCCESSFUL BIDDER	23
8.4	NOTIFICATION OF APPARENTLY SUCCESSFUL BIDDER	23
	PART II THE MODEL CONTRACT	24
	STATE OF WASHINGTON	24
1	OVERVIEW	25
1.1	CONTRACT SCOPE	25
1.2	CONTRACT MODIFICATIONS	25
1.3	RECITALS	25
1.4	PARTICIPATING ENTITIES	26
1.5	ESTIMATED USAGE	27
1.6	CONTRACT TERM	27
2	CONTRACT ADMINISTRATION	27
2.1	PURCHASING ACTIVITY CONTRACT ADMINISTRATOR	27
2.2	ADMINISTRATION OF CONTRACT	28
2.3	CONTRACT PRODUCT CHANGES	28
2.4	CONTRACTOR SUPERVISION AND COORDINATION	28
2.5	POST AWARD CONFERENCE	28
2.6	CONTRACT MANAGEMENT	28
2.7	CHANGES	29
2.8	CONTRACT ADMINISTRATION FEE	29
2.9	WASHINGTON STATEWIDE VENDOR PAYMENT REGISTRATION	30
2.10	SALES & SUBCONTRACTOR REPORTS	30
2.11	OTHER REQUIRED REPORT(S)	30
2.12	WASHINGTON'S ELECTRONIC BUSINESS SOLUTION (WEBS)	30
3	PRICING	30
3.1	PRICE PROTECTION	30
3.2	NO ADDITIONAL CHARGES	30
3.3	PRICE ADJUSTMENTS	31
4	CONTRACTOR QUALIFICATIONS AND REQUIREMENTS	31
4.1	ESTABLISHED BUSINESS	31
4.2	DEALER AUTHORIZATION	31
4.3	USE OF SUBCONTRACTORS	32
4.4	SUBCONTRACTS AND ASSIGNMENT	32
4.5	CONTRACTOR AUTHORITY AND INFRINGEMENT	32
4.6	MATERIALS AND WORKMANSHIP	32
4.7	MERCURY CONTENT AND PREFERENCE	32

01611 Police Radar, Lidar, Parts and Equipment

5	DELIVERY REQUIREMENTS	33
5.1	STANDARD OF QUALITY/CONSISTENCY OVER TERM OF CONTRACT	33
5.2	SHIPPING AND RISK OF LOSS	33
5.3	DELIVERY	33
5.4	TECHNICAL MANUALS.....	33
5.5	CATALOGS AND PRICE LISTS	34
5.6	SITE SECURITY	34
5.7	INSPECTION AND REJECTION	34
5.8	STANDARDS	35
5.9	TREATMENT OF ASSETS.....	35
5.10	HAZARDOUS MATERIALS	36
6	PAYMENT.....	36
6.1	ADVANCE PAYMENT PROHIBITED.....	36
6.2	IDENTIFICATION.....	36
6.3	PAYMENT, INVOICING AND DISCOUNTS.....	36
6.4	TAXES, FEES AND LICENSES	37
6.5	MINORITY AND WOMEN'S BUSINESS ENTERPRISE (MWBE) PARTICIPATION	38
6.6	OVERPAYMENTS TO CONTRACTOR.....	38
6.7	AUDITS.....	39
7	QUALITY ASSURANCE.....	39
7.1	RIGHT OF INSPECTION	39
7.2	CONTRACTOR COMMITMENTS, WARRANTIES AND REPRESENTATIONS.....	39
7.3	MANUFACTURER AUTHORIZED WARRANTY REPAIR PROOF OF CERTIFICATION/AUTHORIZATION.....	39
7.4	WARRANTIES	39
7.5	COST OF REMEDY.....	40
8	INFORMATION AND COMMUNICATIONS.....	40
8.1	ADVERTISING.....	40
8.2	RETENTION OF RECORDS	40
8.3	PROPRIETARY OR CONFIDENTIAL INFORMATION.....	41
8.4	NON-ENDORSEMENT AND PUBLICITY	41
8.5	OWNERSHIP/RIGHTS IN DATA.....	41
8.6	PROTECTION OF CONFIDENTIAL AND PERSONAL INFORMATION	42
9	GENERAL PROVISIONS	43
9.1	GOVERNING LAW/VENUE	43
9.2	SEVERABILITY.....	44
9.3	SURVIVORSHIP	44
9.4	INDEPENDENT STATUS OF CONTRACTOR	44
9.5	GIFTS AND GRATUITIES	44
9.6	IMMUNITY AND HOLD HARMLESS.....	44
9.7	PERSONAL LIABILITY	45
9.8	INSURANCE	45
9.9	INDUSTRIAL INSURANCE COVERAGE	47
9.10	NONDISCRIMINATION	47
9.11	OSHA AND WISHA REQUIREMENTS.....	48
9.12	ANTITRUST	48
9.13	WAIVER.....	48
10	DISPUTES AND REMEDIES	48
10.1	PROBLEM RESOLUTION AND DISPUTES	48
10.2	ADMINISTRATIVE SUSPENSION	49
10.3	FORCE MAJEURE	50
10.4	ALTERNATIVE DISPUTE RESOLUTION FEES AND COSTS.....	50
10.5	NON-EXCLUSIVE REMEDIES	50
10.6	LIMITATION OF LIABILITY	50
10.7	FEDERAL FUNDING	51

01611 Police Radar, Lidar, Parts and Equipment

10.8 FEDERAL RESTRICTIONS ON LOBBYING..... 51

10.9 FEDERAL DEBARMENT AND SUSPENSION..... 51

11 CONTRACT TERMINATION.....51

11.1 MATERIAL BREACH..... 51

11.2 OPPORTUNITY TO CURE: 52

11.3 TERMINATION FOR CAUSE..... 52

11.4 TERMINATION FOR CONVENIENCE 53

11.5 TERMINATION FOR WITHDRAWAL OF AUTHORITY 53

11.6 TERMINATION FOR NON-ALLOCATION OF FUNDS 53

11.7 TERMINATION FOR CONFLICT OF INTEREST 54

11.8 TERMINATION BY MUTUAL AGREEMENT 54

11.9 TERMINATION PROCEDURE 54

12 CONTRACT EXECUTION55

12.1 PARTIES 55

12.2 ENTIRE AGREEMENT..... 55

12.3 ORDER OF PRECEDENCE, INCORPORATED DOCUMENTS, CONFLICT AND CONFORMITY 56

12.4 LEGAL NOTICES 56

12.5 LIENS, CLAIMS AND ENCUMBRANCES..... 57

12.6 AUTHORITY TO BIND..... 57

12.7 COUNTERPARTS 57

APPENDIX A PROTEST PROCEDURE59

APPENDIX B WSCA STANDARD TERMS AND CONDITIONS.....63

APPENDIX C STANDARD DEFINITIONS.....68

APPENDIX D BIDDER PROFILE73

APPENDIX E PRICE WORKSHEETS77

APPENDIX F TECHNICAL REQUIREMENTS.....86

1.1 FACTORY TEST 86

1.2 PRODUCT REQUIREMENTS..... 86

APPENDIX G SUPPLEMENTAL INFORMATION 93

APPENDIX H STATE SPECIFIC TERMS AND CONDITIONS.....94

1 SOLICITATION OVERVIEW

1.1 ACQUISITION AUTHORITY

The Washington State Department of General Administration (GA or Purchasing Activity) issues this Invitation for Bid (IFB) acting under the authority of its enabling legislation Revised Code of Washington (RCW) [43.19](#) and RCW [39.34](#). RCW [43.19](#) establishes GA and regulates the manner in which state agencies may acquire general goods and services. RCW [39.34](#) permits local governmental units to make the most efficient use of their powers by enabling them to cooperate with other localities.

1.2 ASSIGNMENT TO SUCESOR WASHINGTON STATE GOVERNMENT ENTITY DUE TO TRANSFER OF AUTHORITY

In the event that the authority of GA is withdrawn by operation of law or otherwise, and that authority is transferred and vested in a successor Washington State government entity, with written notice from an authorized agency of the State of Washington, this Agreement may be assigned to such successor Washington State government entity. The assignment of this Agreement under the aforementioned conditions shall not operate to relieve the parties of their duties and/or obligations hereunder.

1.3 STANDARD DEFINITIONS

See section [Appendix C Standard Definitions](#)

1.4 CONTRACT FORMATION

A Bid submitted in response to the Solicitation is an offer to contract with the Purchasing Activity. A Bid becomes a contract only when legally awarded and accepted in writing by the Purchasing Activity.

1.5 MODEL CONTRACT

A Model Contract has been included as [Part II](#)

To be Responsive, Bidders must indicate a willingness to enter into a Contract substantially the same as the Contract in [Part II](#) by signing the [BIDDER'S AUTHORIZED OFFER](#).

Under no circumstances is a Bidder to submit their own standard contract terms and conditions as a Response to this solicitation. The Purchasing Activity expects the final Contract signed by the Successful Bidder to be substantially the same as the contract located in [Part II](#).

The Successful Bidder will be expected to execute the Contract within ten (10) Business Days of its receipt of the final Contract. If the selected Bidder fails to sign the Contract within the allotted ten (10) Business Days time frame, the Purchasing Activity may consider the Successful Bidder to be non-responsive and elect to cancel the award, and award the Contract to the next ranked Bidder, or cancel or reissue this solicitation ([see Subsection 1.7, Right to Cancel](#)). Bidder's submission of a Response to this solicitation constitutes acceptance of these contract requirements.

1.6 SOLICITATION AMENDMENTS

Prior to submittal due date and time, the Purchasing Activity reserves the right to change portions of this IFB. Any changes or corrections will be by one or more written amendment(s), dated, attached to or incorporated in and made a part of this solicitation

document. All changes must be authorized and issued in writing by the Procurement Coordinator. If there is any conflict between amendments, or between an amendment and the IFB, whichever document was issued last in time shall be controlling. Only Bidders who have properly registered and downloaded the original solicitation directly via WEBS system will receive notification of amendments and other correspondence pertinent to the procurement.

1.7 INCORPORATION OF DOCUMENTS INTO CONTRACT

This Solicitation document, any subsequent amendments and the Bidder's Response will be incorporated into the resulting Contract.

The WSCA Standard Terms and Conditions are attached as [Appendix B](#) and incorporated by this reference. In the event of any inconsistencies, the State of Washington's terms and conditions shall take precedence.

Participating Entities may utilize the resulting Contract(s) by signing a Participating Addendum with the awarded Bidder(s). A Participating Addendum:

- Must be executed by any Participating Entity that decides to adopt a WSCA contract.
- Shall be executed for each contractor by the Participating Entity desiring to use their contract.
- Allows for each Participating Entity to add terms and conditions that may be unique to their State.

The Participating Entity and the Contractor shall negotiate and agree upon any additional terms and conditions prior to the signing and execution of the Participating Addendum. Participating Entities are not mandated to sign a Participating Addendum with all awarded vendors. Additional Participating Entities may be added through execution of Participating Addendums.

1.8 RIGHT TO CANCEL

The Purchasing Activity reserves the right to cancel or reissue all or part of this Solicitation at any time as allowed by law without obligation or liability.

1.9 IN-STATE PREFERENCE/RECIPROCITY

Pursuant to [RCW 43.19.700](#), [RCW 43.19.702](#), [RCW 43.19.704](#) and [WAC 236-48-085](#), the Department of General Administration has established a schedule of percentage increases to be added to Bids from Bidders in states that grant a preference to Contractors located in their state or for goods manufactured in their state. The percentages related to each respective state are provided in the Reciprocity List located at <http://www.ga.wa.gov/pca/recip.htm> and apply only to Bids received from those states listed.

The appropriate percentage will be added to each Bid bearing the address from a state with in-state preferences rather than subtracting a like amount from Washington State Bidders.

This action will be used only for analysis and award purposes. In no instances shall the increase be paid to a Bidder whose Bid is accepted and awarded a Contract.

1.10 MINORITY AND WOMEN OWNED BUSINESS ENTERPRISES (MWBE)

In accordance with the legislative findings and policies set forth in [RCW 39.19](#), the State of Washington encourages participation in all of its Contracts by Minority and Woman

01611 Police Radar, Lidar, Parts and Equipment

Owned Business Enterprise (MWBE) firms either self-identified or certified by the Office of Minority and Women's Business Enterprises (OMWBE). While the state does not give preferential treatment, it does seek equitable representation from the minority and women's business community.

Participation may be either on a direct basis in response to this Solicitation or as a Subcontractor to a Contractor. However, unless required by federal statutes, regulations, grants, or Contract terms referenced in the original Solicitation, no preference will be included in the evaluation of Bids, no minimum level of MWBE participation shall be required as condition for receiving an award, and Bids and Proposals will not be evaluated, rejected or considered non-responsive on that basis.

Any affirmative action requirements set forth in federal regulations or statutes included or referenced in the original Solicitation will apply. Bidders may contact Office of Minority and Woman Owned Business Enterprise (OMWBE) to obtain information on certified firms for potential sub-contracting arrangements. Nothing in this section is intended to prevent or discourage Bidders from inviting others from participation from non MWBE firms as well as MWBE firms.

Bidders who are MWBE or intend to use MWBE Subcontractors are encouraged to identify the participating firm on [*Appendix D Bidder Profile*](#). See also section 6.5 of the Model Contract.

2 SUMMARY OF OPPORTUNITY

2.1 PURPOSE

The purpose of this Solicitation is to establish a Contract(s) for the purchase of Police Radar, Lidar, Parts and Accessories for the Western States Contracting Alliance (WSCA), the State of Washington, and other Participating Entities. The awarded Contract(s) will replace Washington State Contract # 11504 Radar, Traffic and Parts which is due to expire on October 30, 2011.

2.2 CONTRACT SCOPE

The State of Washington, on behalf of the Western States Contracting Alliance (WSCA) is bidding a contract to support the current installation of Police Radar, Lidar, Parts and Accessories that conform to the National Highway Traffic Safety Administration (NHTSA) "Model Performance Specification for Police Traffic Radar Devices."

This contract is intended to support the needs of state and local law enforcement for Police Radar, Lidar, Parts and Accessories. This contract will provide new equipment as well as replacement parts and accessories for existing embedded devices, already owned and in operation by various departments throughout the United States.

01611 Police Radar, Lidar, Parts and Equipment

We anticipate making an award for each brand/manufacturer listed in the price sheets and below.

CATEGORY	MANUFACTURERS
1	Applied Concepts
2	Decatur Electronics
3	DragonEye Technology, LLC
4	Kustom Signals
5	MPH Industries
6	Municipal Electronics
7	U. S. Radar
8	Laser Atlanta, LLC
9	Laser Technology, Inc.

See section 1.1 CONTRACT SCOPE of the Model Contract.

2.3 PARTICIPATING ENTITIES

See section 1.4 PARTICIPATING ENTITIES of the Model Contract

2.4 CONTRACT TERM

See section 1.6 CONTRACT TERM of the Model Contract

2.5 ESTIMATED USAGE

See section 1.5 ESTIMATED USAGE of the Model Contract

2.6 EXPECTED RESULT

The State of Washington and WSCA seek to establish a multi-state Contract(s) for the as needed purchase of Police Radar, Lidar, Parts and Accessories for use by Participating Entities.

A main objective of this solicitation is to obtain reduced pricing by combining the purchasing volume of multiple states. Awarded Contractors should realize significant administrative savings that will result from the maintenance of a single, comprehensive contract.

2.7 AWARD

On behalf of WSCA, the State of Washington intends to award one or more contracts as a result of this solicitation. An award shall be made to the responsive, responsible Bidder(s) offering the lowest aggregate total per category, in accordance with the evaluation criteria set forth in Section 8 *Evaluation and Award*. Participating Entities may form contracts with any of the awarded contractors in conformity with their respective state laws, through the execution of a Participating Addendum.

3 TIMELINE

3.1 PROCUREMENT SCHEDULE

The dates listed below represent the projected procurement schedule. The Purchasing Activity reserves the right to change the schedule. Notification of amendments to the procurement schedule prior to bid opening, will be sent electronically to all properly registered users of the Department of General Administration's Washington Electronic Business Solution (WEBS) who downloaded this IFB from WEBS.

01611 Police Radar, Lidar, Parts and Equipment

Changes to the Procurement Schedule after Bid Opening may be communicated to all bidders reflecting the change.

Projected Schedule of Events

Date	Time	Event
8/10/11		Issue Solicitation document (Available for download from www.ga.wa.gov/webs)
8/24/11		Notify Procurement Coordinator if you wish to participate in the Pre-Bid conference via webinar.
8/31/11	10:00 AM	Bidder Pre-Bid Conference see section 3.2 for location/directions, etc.
If Applicable		Amendment issued, if applicable (bidders should begin checking the website for any amendments)
9/14/11	2:00 PM	Bids Due
		Evaluation begins
10/15/11		Anticipated award date

NOTE: Bid information, including price sheets, will not be available for public disclosure until after award of the contract consistent with [RCW 43.19.1911\(8\)](#). At bid due date and time, only the name of the Bidder and time of Bid receipt will be read aloud. After award, information regarding results of the solicitation may be obtained by contacting the Procurement Coordinator.

3.2 PRE-BID CONFERENCE

An optional pre-bid conference to address solicitation requirements will be held at the time and location indicated below. The pre-bid conference will also be made available by webinar. If you are interested in participating via webinar, you must notify the Procurement Coordinator listed on the front page of this solicitation on or before 8/24/11. While attendance is not mandatory, Vendors are encouraged to attend and actively participate. If interpretations, specifications, or other changes to the solicitation are required as a result of the conference, the Procurement Coordinator will make amendments to the solicitation and provide those amendments by posting them on WEBS at www.ga.wa.gov/webs.

Assistance for disabled, blind or hearing-impaired persons who wish to attend is available with prior arrangement with the Office of State Procurement (OSP). Contact the Procurement Coordinator identified on the face page of this Invitation For Bid.

Pre Bid Date:	August 31, 2011
Pre Bid Time:	10:00 AM to Noon
Pre Bid Location:	Department of General Administration Office of State Procurement 1500 Jefferson Street SE Olympia, WA 98501 MEET IN THE LOBY

For a site map to the Capitol Campus, click <http://www.ga.wa.gov/images/Campus-Map.pdf>

Driving directions and parking information <http://www.ga.wa.gov/park/visitor.htm>

3.3 BID OPENING PROTOCOL

Only the name of the Bidder and the time of receipt are read aloud at the time of the Bid opening. The reading does not determine award of the contract, responsibility of the Bidder, or responsiveness of the Bid. Bidder attendance at Bid openings is not required.

3.4 CONTRACT INFORMATION AVAILABILITY AFTER AWARD

Upon award, written notification will be sent to all bidders. After award, information regarding results of the solicitation may be obtained by contacting the Procurement Coordinator.

Bidders may submit a public disclosure request to either schedule an appointment to review the procurement file or obtain specific documents.

3.5 PROTEST PROCEDURES

Protests shall be filed and resolved in accordance with [*Appendix A Protest Procedure*](#).

4 INSTRUCTIONS TO BIDDERS

This section contains instructions for bidders regarding the preparation and submission of a bid.

4.1 AUTHORIZED COMMUNICATION

Upon release of this IFB, all Bidder communications concerning this solicitation must be directed to the Procurement Coordinator listed on the front page. Unauthorized contact regarding this solicitation with other government employees involved with the solicitation may result in disqualification. All oral and written communications will be considered unofficial and non-binding on the Purchasing Activity. Bidders should rely only on the solicitation document and written amendments issued by the Procurement Coordinator.

4.2 BIDDER COMMUNICATION RESPONSIBILITIES

Bidders will be responsible for communicating to the Procurement Coordinator any issues, exceptions, additions or omissions concerning the solicitation on or before the Bid due date and time. Where requirements appear to prohibit or restrict your firm's participation, an explanation of the issue with suggested alternative language should be submitted in writing to the Procurement Coordinator by the deadline for Bidder Questions, Comments, and Complaints consistent with section [*3.1 Procurement Schedule*](#). The solicitation process may continue. If changes result, written amendments will be made by the Procurement Coordinator and provided by posting them on WEBS as indicated above.

4.3 BIDDER AUTHORIZED REPRESENTATIVE

Bidder must designate an Authorized Representative who will be the principal point of contact for the Purchasing Activities Procurement Coordinator for the duration of this IFB process. Bidder shall complete this section of [*Appendix D Bidder Profile*](#).

4.4 WASHINGTON ELECTRONIC BUSINESS SOLUTION (WEBS)

Bidders are solely responsible for:

1. Properly registering with the Department of General Administration's WEBS at <http://www.ga.wa.gov/webs>.
2. Maintaining an accurate Vendor profile in WEBS

01611 Police Radar, Lidar, Parts and Equipment

3. Downloading the solicitation consisting of the IFB with all attachments and exhibits related to the solicitation for which you are interested in bidding; downloading all current and subsequent amendments to the solicitation

To ensure receipt of all solicitation documents, the IFB for this solicitation must be downloaded from WEBS. Notification of amendments to the solicitation will only be provided to those Vendors who have registered with WEBS and have downloaded the IFB from WEBS. Failure to do so may result in a potential Bidder having incomplete, inaccurate, or otherwise inadequate information, or a Bidder submitting an incomplete, inaccurate, or otherwise inadequate Bid. Bidders and potential bidders accept full responsibility and liability for failing to receive any amendments resulting from their failure to register with WEBS and download the IFB from WEBS, and hold the State of Washington harmless from all claims of injury or loss resulting from such failure.

4.5 PREPARATION OF BIDS

Due date and time:

Original, signed (in ink), sealed Bids must be received as set forth in section 3.1 *PROCUREMENT SCHEDULE* at the specified location identified below on or before the specified date and time. **An electronic copy of the bid should be submitted in addition to the hard copy.** Electronic copies should be in Microsoft Word format. In the event that the hard copy of the price worksheets and the electronic copy of the price worksheets do not agree, the hard copy will prevail. Time of receipt will be determined by the official time stamp located at the Purchasing Activity. If a Bid is late or received at a location other than that specified it shall be rejected. In the event the official time clock is unavailable, the bid clerk may establish the official time and take reasonable steps to ensure the integrity of the Bid receipt is preserved.

Format:

The submittals for this solicitation shall consist of: **One (1) hard copy. One (1) electronic copy may also be submitted.** Hard copy Bids must be legible and completed in ink or with electronic printer or other similar office equipment, and properly signed by an authorized representative of the Bidder. Electronic copies should be submitted on a CD or thumb drive and be in Microsoft Word format. All changes and/or erasures shall be initialed in ink. Unsigned Bids will be rejected on opening unless satisfactory evidence was submitted clearly establishing the Bidder's desire and intent to be bound by the Bid, such as a signed cover letter. Incomplete or illegible Bids may be rejected.

Note: In a joint effort to save costs, reduce waste and produce energy savings, bidders are encouraged to use double-sided printing and recyclable materials. Bidders are highly encouraged to refrain from submitting Bids in 3-ring binders, spiral bindings, and/or other non-recyclable presentation folders.

Identification and Delivery:

To facilitate proper delivery and processing, Responses must be delivered in sealed envelopes, boxes or other method of containment. Sealed Bids should be clearly identified on the outside of the package with the following information to the Purchasing Activity at the address below:

<i>[Bidder's Address]</i> Solicitation Number 01611	Department of General Administration Office of State Procurement
<i>[Bid Due Date]</i> ATTN: Scott Edwards (Bid Clerk)	1500 Jefferson St. SE Olympia, WA 98501

4.6 BIDDER RESPONSIVENESS

Bidder must respond to each question/requirement contained in this IFB. Failure to comply with any applicable item may result in the Response being deemed non-responsive and disqualified.

The Purchasing Activity reserves the right to consider the actual level of Bidder's compliance with the requirements specified in this solicitation and to waive informalities in a Bid. An informality is an immaterial variation from the exact requirements of the competitive solicitation, having no effect or merely a minor or negligible effect on quality, quantity, or delivery of the supplies or performance of the services being procured, and the correction or waiver of which would not affect the relative standing of, or be otherwise prejudicial to bidders.

4.7 BIDDER PROFILE

Bidder shall complete the Bidder Profile Information in [*Appendix D Bidder Profile*](#).

4.8 PAYMENT TERMS

Bidders must indicate which Prompt Payment Terms will be offered in [*Appendix D Bidder Profile*](#).

4.9 BID PRICING

Bid prices must include all cost components needed for the delivery of the product described in this Solicitation document. All costs associated with the product must be incorporated into the price of the Response to this IFB in [*Appendix E Price Worksheet*](#).

Failure to identify all costs in a manner consistent with the instructions in this IFB is sufficient grounds for disqualification.

4.10 REFERENCES

References may be used to evaluate the bidder's history of performance and may be an award consideration on a pass fail basis. Bidder shall furnish minimum of three (3) references from different entities for which Bidder has performed or provided comparable, service, materials, supplies, or equipment similar in scope (i.e. size, volume, type) to this IFB, including entity [name, authorized individual, telephone, email, and facsimile]: Bidder shall complete the References portion of [*Appendix D Bidder Profile*](#).

The Purchasing Activity will only attempt to make contact with a Bidder's provided references a maximum of three (3) times. If such contact cannot be established with any of the references provided, then those references with which contact cannot be established may be deemed non-responsive and no further attempts will be made to contact that particular reference. References giving negative feedback towards the bidder and states an unwillingness to work with the bidder again, may be rejected and therefore cause the bidder to fail the responsibility requirement.

The State reserves the right to solicit and substitute other references to determine the sufficiency of the Bidder's level of responsibility.

4.11 EQUIPMENT/PRODUCT DEMONSTRATION

Prior to a Contract award, and during the bid evaluation process, Bidder(s) may be required to demonstrate the performance capabilities of the equipment offered in their bid.

Performance demonstration(s) must be conducted within fourteen (14) calendar days after notification that such demonstration(s) is required. Bidder(s) shall conduct all demonstration(s) within Washington State and are responsible for their costs associated with the demonstration(s).

4.12 WITHDRAWAL OR MODIFICATION OF BID

Bidders are liable for all errors or omissions contained in their Responses.

After Bid submittal but prior to Bid opening: The Bidder may modify or withdraw his/her Bid at any time prior to the due date and time set for Bid opening by providing a written request to the Procurement Coordinator from an authorized representative of the Bidder.

After Bid opening: No Bid shall be altered or amended. The Purchasing Activity may allow a Bid to be withdrawn if the Bidder demonstrates that the prices were miscalculated. A low Bidder, who claims error and fails to enter into a contract with the State of Washington, may not participate in bidding on the same commodity or service if the solicitation is subsequently reissued by the Purchasing Activity.

The Purchasing Activity reserves the right to contact Bidder for clarification of Response contents.

4.13 PROPRIETARY OR CONFIDENTIAL INFORMATION

All Bids submitted become the property of the State of Washington and a matter of public record, after the contract has been executed.

Any information contained in the Response that is proprietary or confidential must be clearly designated. Marking of the entire Response or entire sections of the Response as proprietary or confidential will not be accepted nor honored. The Purchasing Activity will not honor designations by the Bidder where pricing is marked proprietary or confidential. *See section 8.3 PROPRIETARY OR CONFIDENTIAL INFORMATION of the Model Contract.*

5 BIDDER QUALIFICATIONS

5.1 DEALER AUTHORIZATION

The Bidder, if other than the manufacturer, shall provide a current, dated, and signed authorization from the manufacturer that the Bidder is an authorized distributor, dealer or service representative and is authorized to sell the manufacturer's products. Failure to comply with this requirement may result in Bid rejection. *See section 4.2 DEALER AUTHORIZATION of the Model Contract.*

5.2 FEDERAL FUNDING

See related section 10.7 FEDERAL FUNDING of the Model Contract.

5.3 FEDERAL RESTRICTIONS ON LOBBYING

The Bidder must certify by signing and submitting the Bidder Authorized Offer page of this IFB with submission of its Bid, that under the requirements of Lobbying Disclosure Act, 2 U.S.C., Section 1601 et seq., no Federal appropriated funds have been paid or will be paid, by or on behalf of the contractor, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or

employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement. *See related section 10.8 FEDERAL RESTRICTIONS ON LOBBYING of the Model Contract.*

5.4 FEDERAL DEBARMENT AND SUSPENSION

The Bidder certifies, by submission of this Bid, that neither it nor its “principals” (as defined in 49 CFR. 29.105 (p)) is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency. *See related section 10.9 FEDERAL DEBARMENT AND SUSPENSION of the Model Contract.*

5.5 USE OF SUBCONTRACTORS

The Purchasing Activity will accept Responses that include third party involvement only if the Bidder submitting the Response agrees to take complete responsibility for all actions of such Subcontractors. Bidder must state whether Subcontractors are/are not being used.

If applicable, Bidder shall identify all subcontractors who will perform services in fulfillment of contract requirements, including their name, the nature of services to be performed, address, telephone, facsimile, email, federal tax identification number (TIN), and anticipated dollar value of each subcontract: Bidder shall complete this section of [Appendix D Bidder Profile](#).

The Purchasing Activity reserves the right to approve or reject any and all Subcontractors that Bidder proposes.

Specific restrictions apply to contracting with current or former state employees pursuant to [Chapter 42.52 RCW](#). Bidders should familiarize themselves with the requirements identified in *section 4.3 USE OF SUBCONTRACTORS of the Model Contract* prior to submitting a Response.

5.6 BIDDER TECHNICAL REQUIREMENTS

Respond to the following requirements per the instructions in [Appendix F Technical Requirements](#).

5.7 WARRANTY REQUIREMENTS

Bidder will submit a copy of warranty as an attachment to bid and items delivered under this contract will also be accompanied by a copy of the warranty. Unless otherwise specified, full parts and labor warranty period shall be for a minimum period of one (1) year after receipt of materials or equipment by the Purchaser. All materials or equipment provided shall be new, unused, of the latest model or design and of recent manufacture.

Equipment Service Life

All equipment covered by these specifications and any resultant contracts shall have a minimum service life of ten (10) years from date of delivery to the purchaser. The supplier shall guarantee replacement parts availability from the supplier and/or authorized distributor for this service life period.

Equipment & Parts Warranty

The supplier shall guarantee repair or replacement of any equipment or part thereof that fails in operation during normal and proper use within one (1) year from date of purchaser's receipt due to defects in design, material or workmanship, consummation of final acceptance and payment notwithstanding. These replacements shall be of no cost to the purchaser. The cost of installation of these replacements, including shipping and delivery, shall be borne by the supplier for the period of warranty.

Any equipment or part replaced under the provisions of this warranty becomes the property of the supplier. If the supplier desires the defective equipment or part returned, the supplier shall pay all transportation charges for the return. If the supplier does not specifically request return of such replaced parts within thirty (30) days from date of replacement, the equipment or parts become the property of the purchaser.

Replacement parts shall be regularly stocked by the supplier and/or authorized distributor. Delay in purchaser's receipt of replacement parts shall not exceed ten (10) consecutive days from supplier or distributor's receipt of order.

The supplier shall supply the purchaser, free of charge for the service life of the equipment, with all data, drawings and specifications of modifications, plans or experiments by which the equipment may be improved or modernized.

5.8 MERCURY CONTENT AND PREFERENCE

In accordance with [Chapter 70.95M](#), the State of Washington gives priority and preference to the purchase of equipment, supplies, and other products that contain no mercury compounds or components, unless: (a) There is no economically feasible non mercury-added alternative that performs a similar function; or (b) the product containing mercury is designed to reduce electricity consumption by at least forty percent and there is no non mercury or lower mercury alternative available that saves the same or a greater amount of electricity as the exempted product. In circumstances where a product without mercury is not available, preference must be given to the purchase of products that contain the least amount of mercury added to the product necessary for the required performance.

Bidders shall offer mercury-free products when available. Should mercury-free products not exist, bidders shall offer products with the lowest mercury content available. Bidders shall disclose products that contain added mercury and attach an explanation that includes the amount or concentration of mercury, and justification as to why added mercury is necessary for the function or performance of the offered product.

The Bidder is to provide any existing technical data pertaining to mercury or a mercury compound intentionally added to the product. If the product does not contain mercury or a mercury compound, submit a written statement to that effect attached to bid.

6 SUCCESSFUL BIDDER RESPONSIBILITIES

6.1 NO COSTS OR CHARGES

Costs or charges under the proposed Contract, incurred before the Contract is fully executed, will be the sole responsibility of the Bidder.

6.2 POST AWARD CONFERENCE

See section 2.5 POST AWARD CONFERENCE of the Model Contract.

6.3 CONTRACT MANAGEMENT

See section 2.6 CONTRACT MANAGEMENT of the Model Contract

6.4 INSURANCE

The Successful Bidder is required to obtain insurance to protect the State should there be any claims, suits, actions, costs, or damages or expenses arising from any negligent or intentional act or omission of the Bidder or its Subcontractor(s), or their agents, while performing work under the terms of any Contract resulting from this solicitation. *See section 9.8 INSURANCE of the Model Contract for a complete description of the specific insurance requirements.*

6.5 STATEWIDE VENDOR PAYMENT REGISTRATION

See section 2.9 of the Model Contract

6.6 SALES & SUBCONTRACTOR REPORTS

See section 2.10 SALES & SUBCONTRACTOR REPORTS of the Model Contract.

6.7 OTHER REQUIRED REPORT(S)

See section 2.11 OTHER REQUIRED REPORT(S) of the Model Contract.

7 PRICING (COST FACTORS)

Respond to the following requirements per the instructions in [Appendix E Price Worksheet](#).

7.1 PRICING

All pricing shall include the costs of bid preparation, servicing of accounts, and complying with all contractual requirements. See [Appendix E Price Worksheet](#).

During contract period pricing shall remain firm and fixed for the initial 365 days of the contract commencing on the effective date of contract award.

7.2 NO BEST AND FINAL OFFER

The Purchasing Activity reserves the right to make an award without further discussion of the Response submitted; *i.e.*, there will be no best and final offer request. Therefore, the Response should be submitted on the most favorable terms that Bidder intends to offer.

7.3 PRICE SHEET

Bidder(s) may offer pricing on more than one category however it is not required. Bidders shall provide pricing for all line items within a given category. Bidder shall add the unit prices together to achieve the Total Cost for each category near the bottom of the price sheet. In the event of an error in the Price Sheet Total, the unit price shall prevail. Prices shall include all associated costs (e.g. customs duties and brokerage or import fees, FOB destination shipping fees, WSCA administrative fees, etc.).

Bidders must also complete the portion of the price sheet regarding the Parts and Accessories discount. This information will be evaluated for price reasonableness only. If found to be reasonable, the percentage discount offered will be used for the as needed purchase of replacement parts and accessories for existing equipment.

Pricing specified shall be in U.S. Dollars and does not include sales tax. ***Do not add sales tax into the unit price.***

Bidder must complete [Appendix E Price Worksheet](#).

7.4 PRICE ADJUSTMENTS

Contractor requests for adjustments in pricing will be considered at sole discretion of the Purchasing Activity and in accordance with *section 3.3 PRICE ADJUSTMENTS of the Model Contract*.

7.5 SHIPPING TERMS

Shipping shall be FOB Destination. Seller pays the cost of shipping, owns the goods in transit and files any claims if necessary.

7.6 CONTRACT ADMINISTRATION FEE

The Contract(s) will be subject to a WSCA Administration Fee. Bidder(s) will include this fee in its Bid pricing and not as a separate line item to Participating Entities. The Contractor(s) will collect the fees and distribute the fees to WSCA as outlined below:

WSCA Administration Fee

The WSCA Administration Fee will be one half of one percent (0.5%) on all purchases made under authority of the Contract. Purchases are defined as total invoice price less sales tax.

The WSCA Administrative fee shall be paid within thirty (60) days after the end of the calendar quarter. It is the Contractor's responsibility to calculate and remit the Administrative Fee since WSCA does not issue an invoice for this fee. Contractor shall indicate the Contract Number #01661 and include with the remittance, a quarterly sales report by WSCA contract participant. The administrative fee shall be paid to:

WESTERN STATES CONTRACTING ALLIANCE (WSCA)
C/O AMR MANAGEMENT SERVICES
201 EAST MAIN STREET, SUITE 1450
LEXINGTON, KY 40507

In addition to the WSCA Administration Fee as stated above, some Participating Entities may also require an administrative fee, and will be incorporated into the Participating Entity's Participating Addendum. Participating Entity Administrative Fees may be added to the price of each item or as a separate line item as agreed in each individual Participating Addendum.

7.7 PRESENTATION OF ALL COST COMPONENTS

All elements of recurring and non-recurring costs must be identified and included in [Appendix E Price Worksheet](#). This must include, but is not limited to, all administrative fees, maintenance, manuals, documentation, shipping charges, labor, travel, training, consultation services, wiring and supplies needed for the installation (including cost of all uncrating, disposal of shipping materials), set-up, testing and initial instruction to agency personnel, warranty work and maintenance.

8 EVALUATION AND AWARD

8.1 AWARD CRITERIA

All radar/lidar units shall be listed on the most current Conforming Products List (CPL), of the International Association of Chiefs of Police (IACP) and be listed in the price sheets of this bid package. Only bids meeting these specifications will be considered for the award of this bid.

Bidders whose bids are determined to be non-responsive will be rejected and will be notified of the reasons for such rejection.

Awards will be made to the bidder(s) that have been determined to be Responsive, Responsible and bid the lowest total cost per category based on the evaluation and award criteria established herein and subject to consideration of all factors identified in [RCW 43.19.1911](#). For evaluation purposes, the lowest total cost will be determined after the application of Prompt Payment Discount (if offered) and applicable preferences and penalties required by law.

Preferences and penalties that are required by law will be applied to the pricing of the Solicitation evaluation. Some preferences and penalties are added by contract language and could be applied to the pricing of the Solicitation evaluation. A preference reduces the Bidder's stated price by the amount of the preference and is an advantage to the Bidder. A penalty increases the Bidder's stated price by the amount of the penalty and is a disadvantage to the Bidder. Preferences and penalties are applied to the pricing for evaluation purposes only but are not applied for purchasing purposes if awarded the contract.

The Bid evaluation shall consider Bidder Responsiveness, Responsibility and Cost Factors in determining the awarded bidder(s). Responsiveness, Responsibility and Cost Factors will be evaluated independently of each other, based on the Evaluation Process described in section 8.2 of this solicitation.

Subject to the provisions of [RCW 43.19.1911](#) and [Chapter 236-48 WAC](#), the purchasing activity reserves the right to: (1) Waive any informality; (2) Reject any or all Bids, or portions thereof; (3) Accept any portion of the items bid unless the Bidder stipulates all or nothing in their Bid; (4) Cancel a solicitation and re-solicit Bids; (5) Negotiate with the lowest Responsive and Responsible Bidder to determine if that Bid can be improved for the Purchaser; (6) Award on an all or none consolidated basis taking into consideration "lifecycle costs"; and (7) Award in aggregate when in the best interest of the state.

8.2 SUBMITTAL AND EVALUATION PROCESS

Evaluation of the bid responses will be as follows:

Category	Evaluation Method
<u>Responsiveness</u>	Pass/Fail
<u>Responsibility</u> <i>Experience/Capability of Bidder</i>	<u>Pass/Fail</u>
<u>Cost Factors</u> <i>Price Sheet</i>	<u>Lowest total cost per category</u>

Pass/Fail Submittals Evaluation

The Procurement Coordinator or other suitable individual will perform the pass/fail Submittal evaluation. If a Pass/Fail Submittal is determined to be a Fail, the Bid is disqualified.

The failure by the Bidder to provide required Submittal(s) may cause the Bid to be rejected as non-responsive or non-responsible. Failure to meet the material requirements of the Submittal (substance, spirit, intent, material aspects, etc.) may cause your Bid to be rejected for lack of responsibility. It is important that you submit all Submittals in the form requested and complete the Submittals as instructed by the Solicitation or Amendment.

Responsiveness Evaluation (Pass/Fail)

Bids will be initially reviewed for responsiveness. This includes but is not limited to; 1) did the bid response arrive before the deadline (sometimes called the Bid Opening), in a sealed container or envelope, 2) with all submittals needed for evaluation substantively completed, and 3) signed with an original signature on the Bidders Authorized Offer page and Contract Signature page which is the Bidder's acknowledgement of firm offer and obligation of contract if awarded the contract.

COMPLETE AND RETURN THE FOLLOWING:

- a. **Signatures** (Bidder's Authorized Offer & Contract Signatures): The purchasing activity treats bid responses as firm offer commitments for the purchasing activity's review and evaluation that will result in an award if accepted and awarded by the purchasing activity in full or part.

State law and this Solicitation require the bid response to have an original signature(s) (preferably in blue ink) that demonstrates the Bidder's firm offer commitment and acknowledgement and acceptance of the resulting contract's terms and conditions as written by the state.

Bidders failing to sign their bid response as indicated below may be disqualified from receiving an award.

The Bidder needs to sign the bid response in two locations.

- **Return a complete Solicitation/Contract (the entire document), and**
- **Sign the Bidder's Authorized Offer located on or about page 2, and**
- **Sign the Contract (Contract Signatures) located on or about page 59.**

- b. **Bidder Profile** ([Appendix D Bidder Profile](#)): The Profile aids the state in its responsibility analysis and contains other information important in the evaluation, such as Prompt Payment Discounts.
- c. **Price Sheet** ([Appendix E Price Worksheet](#)): Bidders must record their firm offer pricing in the appropriate cells on the Price Sheet. Bidders must submit pricing for all line items within a given category; failure to do so may result in disqualification from receiving an award.

Responsibility Evaluation (Pass/Fail)

In addition to the above referenced submittal and pursuant to [RCW 43.19.1911 \(9\)](#), in determining Bidder responsibility, the following elements shall be given consideration:

01611 Police Radar, Lidar, Parts and Equipment

- a) The ability, capacity, and skill of the Bidder to perform the contract or provide the service required;
- b) The character, integrity, reputation, judgment, experience, and efficiency of the Bidder;
- c) Whether the Bidder can perform the contract within the time specified;
- d) The quality of performance of previous contracts or services;
- e) The previous and existing compliance by the Bidder with laws relating to the contract or services;
- f) Such other information as may be secured having a bearing on the decision to award the contract:

During Response evaluation, the purchasing activity reserves the right to make reasonable inquiry to determine the responsibility of any Bidder. Requests may include, but are not limited to, financial statements, review of invoices, references, record of past performance, clarification of Bidder's offer, and on-site inspection of Bidder's facilities. Failure to respond to said request(s) may result in the Response being rejected as non-responsive.

Cost Evaluation:

Only Responses that have been determined to be both Responsive and Responsible will have costs evaluated.

Costs will be evaluated as follows:

Price sheets for each category will be evaluated to verify that all line items have been completed and to verify that the Total Cost per category is correct. In the event of a mathematical error in the calculation of the Total Cost per category, unit prices shall prevail. The Total Cost for each category will then have Prompt Payment Discounts (if offered), applicable Preferences and Penalties as described in section 8.1 applied to the totals.

The bidder offering the lowest Total Cost per category, after the application of Prompt Payment Discounts and applicable Preferences and Penalties will be determined to be the lowest bidder for that given category. [*See section 7.3 PRICE SHEET of the IFB*](#)

8.3 SELECTION OF APPARENTLY SUCCESSFUL BIDDER

The Bidder whose bid is the most advantageous to the State, for a given category, will be declared the Apparent Successful Bidder for that category. The Purchasing Activity may enter into Contract negotiations with the Apparent Successful Bidder.

Should Contract negotiations fail to be completed within 30 days after initiation, the Purchasing Activity may immediately cease Contract negotiations and declare the second lowest Bidder the new Successful Bidder and enter into Contract negotiations with that Bidder. This process may continue until a contract is signed or no qualified Bidders remain.

8.4 NOTIFICATION OF APPARENTLY SUCCESSFUL BIDDER

All Bidders responding to this solicitation will be notified when the Purchasing Activity has determined the Successful Bidder(s). The date of announcement of the Successful Bidder will be the date of the notification from the Purchasing Activity.

01611 Police Radar, Lidar, Parts and Equipment

PART II THE MODEL CONTRACT

State of Washington
Department of General Administration
Office of State Procurement (OSP)



Contract 01611
The State of Washington on behalf of
The Western States Contracting Alliance (WSCA)
A Multi-State Contract for:

Police Radar, Lidar, Parts and Accessories

For Purchases of Materials, Supplies, Services, and Equipment
Under the Authority of
[Chapter 43.19 RCW](#)

01611 Police Radar, Lidar, Parts and Equipment

1 OVERVIEW

1.1 CONTRACT SCOPE

This contract is intended to support the needs of state and local law enforcement for Police Radar, Lidar, Parts and Accessories. This contract will provide new equipment as well as replacement parts and accessories for existing embedded devices, already owned and in operation by various departments throughout the United States.

This Contract is to facilitate the as-needed purchase of Police Radar, Lidar, Parts and Accessories for participating members of the Western States Contracting Alliance (WSCA).

This Contract was bid under the statutory authority of [RCW 43.19](#) for the purchase of goods and services as stated herein and RCW [39.34](#) which permits local governmental units to make the most efficient use of their powers by enabling them to cooperate with other localities.

1.2 CONTRACT MODIFICATIONS

The Purchasing Activity reserves the right to modify this Contract by mutual agreement between the Purchasing Activity and the Contractor, so long as such modification is substantially within the scope of the original Contract. Such modifications will be evidenced by issuance of a written authorized amendment by the Contract Administrator.

1.3 RECITALS

The state of Washington, acting by and through the Department of General Administration (GA), Office of State Procurement (OSP) issued an Invitation for Bid (IFB) for the purpose of purchasing goods and services in accordance with its authority under [Chapter 43.19 RCW](#).

The *Awarded Contractor* submitted a timely Response to OSP's SOLICITATION #01611.

OSP evaluated all properly submitted Responses to the above-referenced SOLICITATION and has identified the *Awarded Contractor* as the apparently successful Contractor.

OSP has determined that entering into a Contract with *Awarded Contractor* will meet Purchaser's needs and will be in Purchaser's best interest.

NOW THEREFORE, OSP awards to the *Awarded Contractor* this Contract, the terms and conditions of which shall govern Contractor's furnishing to Purchasers the goods and services as described herein. This Contract is not for personal use.

IN CONSIDERATION of the mutual promises as hereinafter set forth, the parties agree as follows:

01611 Police Radar, Lidar, Parts and Equipment

1.4 PARTICIPATING ENTITIES

Potential Participating Entities include members of the Western States Contracting Alliance. The Western States Contracting Alliance (WSCA) is a cooperative group-contracting consortium for state government departments, institutions, institutions of higher education, agencies and political subdivisions (e.g., school districts, counties, cities, etc.,) for the States of Alaska, Arizona, California, Colorado, Hawaii, Idaho, Minnesota, Montana, Nevada, New Mexico, Oregon, South Dakota, Utah, Washington, and Wyoming. WSCA is a cooperative purchasing arm of the National Association of State Procurement Officials (NASPO). This contract may also be used by other NASPO states with the authorization of the WSCA directors and subject to approval of the individual State Procurement Director and local statutory provisions.

In addition to the State of Washington, the following entities have signified their intent to participate in this contract: Alaska, Arizona, Colorado, Delaware, Hawaii, Idaho, Louisiana, Minnesota, Montana, Nevada, New Mexico, North Dakota, Oklahoma, Utah and Vermont.

This Intent to Participate is not binding. Other states and public entities may use awards based on this solicitation at any time during the contract period.

All members of the Washington State Purchasing Cooperative (WSPC) including where applicable: State Agencies, Institutions of Higher Education, Political Subdivisions, and Non-Profit Corporations are eligible to use this Contract.

While use of the Contract by Political Subdivisions and Non-Profit Corporations that are members of the WSPC is optional, the Office of State Procurement encourages them to use state contracts. Their use of the contracts may significantly increase the purchase volume. Their orders are subject to the same contract terms, conditions and pricing as state agencies. The Office of State Procurement accepts no responsibility for orders or payment by WSPC members.

A list of WSPC members is available at <http://www.ga.wa.gov/PCA/SPC.htm>.

Purchases by Nonprofit Corporations

Legislation allows nonprofit corporations to participate in State Contracts for purchases administered by the Office of State Procurement (OSP). By mutual agreement with OSP, the contractor may sell goods or services at contract pricing awarded under this SOLICITATION and resulting contract to self certified nonprofit corporations. Such organizations purchasing under the State Contract shall do so only to the extent they retain eligibility and comply with other contract and statutory provisions. The contractor may make reasonable inquiry of credit worthiness prior to accepting orders or delivering goods or services on contract. The State accepts no responsibility for payments by nonprofit corporations. Their use of the contracts may significantly increase the purchase volume. Their orders are subject to the same contract terms, conditions and pricing as state agencies.

01611 Police Radar, Lidar, Parts and Equipment

1.5 ESTIMATED USAGE

Based on past and/or projected usage, it is estimated that purchases over the initial term of the Contract may approximate \$4,700,000 as follows:

State	Annual estimated volume
Alaska	\$200,000.00
Arizona	Not provided
Colorado	Not provided
Delaware	\$200,000.00
Hawaii	not provided
Idaho	\$100,000.00
Louisiana	Not provided
Minnesota	\$200,000.00
Montana	\$75,000.00
Nevada	\$150,000.00
New Mexico	\$500,000.00
North Dakota	\$50,000.00
Oklahoma	\$320,000.00
Utah	\$100,000.00
Vermont	\$100,000.00
Washington	\$675,000.00
	sub-total: \$2,670,000
16 states	1st term Total: \$5,340,000

This estimate is provided solely for the purpose of assisting Bidders in preparing their Response. Orders will be placed only on an as needed basis.

The State of Washington does not represent or guarantee any minimum purchase.

1.6 CONTRACT TERM

The initial term of this contract is Two (2) years from the effective date of award with the option to extend for additional term(s) or portions thereof. Extension for each additional term shall be offered at the sole discretion of the Purchasing Activity and are subject to written mutual agreement. The total contract term, including the initial term and all subsequent extensions, shall not exceed Seven (7) years unless an emergency exists and/or special circumstances require a partial term extension. The state reserves the right to extend with all or some of the contractors, solely determined by the state.

2 CONTRACT ADMINISTRATION**2.1 PURCHASING ACTIVITY CONTRACT ADMINISTRATOR**

The Purchasing Activity shall appoint a single point of contact that will be the Contract Administrator for this Contract and will provide oversight of the activities conducted hereunder. The Contract Administrator will be the principal contact for Contractor concerning business activities under this Contract. The Purchasing Activity will notify

01611 Police Radar, Lidar, Parts and Equipment

Contractor, in writing, when there is a new Contract Administrator assigned to this Contract.

2.2 ADMINISTRATION OF CONTRACT

GA will maintain Contract information and pricing and make it available on the GA web site. The Contract prices are the maximum price the Contractor can charge. The Contractor may also offer volume discounts to Purchasers.

2.3 CONTRACT PRODUCT CHANGES

A Contractor may propose a revision to its offerings to reflect changed Products appropriate to the scope of the Contract, and may propose such new Products with associated prices to the GA Contract Administrator for approval. Contract Administrator has the sole discretion in approval of addition of revised offerings and pricing. New or changed Products proposed by Contractor must meet the requirements established in this solicitation document or subsequent revisions. If approved by GA, the new Products will be added to the Contract by written amendment.

2.4 CONTRACTOR SUPERVISION AND COORDINATION

Contractor shall:

1. Competently and efficiently, supervise and coordinate the implementation and completion of all Contract requirements specified herein;
2. Identify the Contractor's Representative, who will be the principal point of contact for the Purchasing Activity Contract Administrator concerning Contractor's performance under this Contract.
3. Immediately notify the Contract Administrator in writing of any change of the designated Contractor's Representative assigned to this Contract; and
4. Violation of any provision of this paragraph may be considered a material breach establishing grounds for Contract termination.

Be bound by all written communications given to or received from the Contractor's Representative.

2.5 POST AWARD CONFERENCE

The contractor may be required to attend a post award conference scheduled by the Procurement Coordinator to discuss contract performance requirements. The time and place of this conference will be scheduled following contract award.

2.6 CONTRACT MANAGEMENT

Upon award of this contract, the contractor shall:

1. Review the impact of the award and take the necessary steps needed to ensure that contractual obligations will be fulfilled.
2. Promote and market the use of this contract to all authorized contract Purchasers.
3. Ensure that those who endeavor to utilize this contract are authorized Purchasers under this Contract.

01611 Police Radar, Lidar, Parts and Equipment

4. At no additional charge, assist Purchasers in the following manner to make the most cost effective, value based, purchases including, but not limited to:
 - a) Visiting the Purchaser site and providing Purchaser with materials/supplies/equipment recommendations.
 - b) Providing Purchasers with a detailed list of contract items including current contract pricing and part numbers.
5. The contractor shall designate a customer service representative who will be responsible for addressing Purchaser issues including, but not limited to:
 - a) Logging requests for service, ensuring repairs are completed in a timely manner, dispatching service technicians, and processing warranty claim documentation.
 - b) Providing Purchasers with regular and timely status updates in the event of an order or repair fulfillment delay.
6. Acting as the lead and liaison between the manufacturer and Purchaser in resolving warranty claims for contract items purchased.

2.7 CHANGES

Alterations to any of the terms, conditions, or requirements of this Contract shall only be effective upon written issuance of a mutually agreed Contract Amendment by the Contract Administrator. However, changes to point of contact information may be updated without the issuance of a mutually agreed Contract Amendment.

2.8 CONTRACT ADMINISTRATION FEE

The Contract(s) will be subject to a WSCA Administration Fee. Bidder(s) will include this fee in its Contract pricing and not as a separate line item to Participating Entities. The Contractor(s) will collect the fees and distribute the fees to WSCA as outlined below:

WSCA Administration Fee

The WSCA Administration Fee will be one half of one percent (0.5%) on all purchases made under authority of the Contract. Purchases are defined as total invoice price less sales tax.

The WSCA Administrative fee shall be paid within thirty (60) days after the end of the calendar quarter. It is the Contractor's responsibility to calculate and remit the Administrative Fee since WSCA does not issue an invoice for this fee. Contractor shall indicate the Contract Number #01611 and include with the remittance, a quarterly sales report by WSCA contract participant. The administrative fee shall be paid to:

WESTERN STATES CONTRACTING ALLIANCE (WSCA)
C/O AMR MANAGEMENT SERVICES
201 EAST MAIN STREET, SUITE 1450
LEXINGTON, KY 40507

In addition to the WSCA Administration Fee as stated above, some Participating Entities may also require an administrative fee, and will be incorporated into the Participating Entity's Participating Addendum. Participating Entity Administrative Fees may be added to the price of each item or as a separate line item as agreed in each individual Participating Addendum.

01611 Police Radar, Lidar, Parts and Equipment

2.9 WASHINGTON STATEWIDE VENDOR PAYMENT REGISTRATION

Contractors are required to be registered in Washington's Statewide Vendor Payment system, prior to submitting a request for payment under this Contract. Purchasers who are Washington state agencies require registration to be completed prior to payment.

The Washington State Office of Financial Management (OFM) maintains a central contractor registration file for Washington State agencies to process contractor payments.

To obtain registration materials go to <http://www.ofm.wa.gov/accounting/vendors.asp> the form has two parts; Part 1 is the information required to meet the above registration condition. Part 2 allows the Washington state agencies to pay invoices electronically with direct deposit and is the state's most efficient method of payment and you are encouraged to sign up for this form of payment.

2.10 SALES & SUBCONTRACTOR REPORTS

The Contractor shall provide a Sales and Subcontractor Report to the Office of State Procurement on a quarterly basis in the electronic format provided by the Office of State Procurement at: <https://fortress.wa.gov/ga/apps/CSR/Login.aspx>.

Reports must be submitted electronically within thirty (30) days after the end of the calendar quarter, i.e., no later than April 30th, July 31st, October 31st and January 31st.

2.11 OTHER REQUIRED REPORT(S)

All reports required under this contract must be delivered to the Contract Administrator. Contractor may be required to provide a detailed annual contract sales history report that may include but is not limited to products description, part number, per unit quantities sold, contract price in an electronic format that can be read by MS Excel. Other required reports will be designed and approved by the parties by mutual agreement.

2.12 WASHINGTON'S ELECTRONIC BUSINESS SOLUTION (WEBS)

Contractor shall be registered in the Contractor registration system, Washington's Electronic Business Solution (WEBS) www.ga.wa.gov/webs, maintained by the Washington State Department of General Administration. Contractors already registered need not re-register. It is the sole responsibility of Contractor to properly register with WEBS and maintain an accurate Contractor profile in WEBS.

3 PRICING

3.1 PRICE PROTECTION

During the contract period, any price declines at the manufacturer's level or cost reductions to contractor shall be reflected in a reduction of the contract price retroactive to the date the price decline or cost reduction was available to the contractor.

3.2 NO ADDITIONAL CHARGES

Unless otherwise specified in the Solicitation, no additional charges by the Contractor will be allowed including, but not limited to: handling charges such as packing, wrapping, bags, containers, reels; or the processing fees associated with the use of credit cards. Notwithstanding the foregoing, in the event that market conditions, laws, regulations or

01611 Police Radar, Lidar, Parts and Equipment

other unforeseen factors dictate, at the Contract Administrators sole discretion, additional charges may be allowed.

3.3 PRICE ADJUSTMENTS

Contractor requests for adjustments in pricing will be considered at the sole discretion of the Purchasing Activity. **During Contract period pricing shall remain firm and fixed for the initial 365 days of the Contract** and then on a pass through basis only that does not produce a higher profit margin for Contractor than that established by the original Contract pricing.

Contractors shall not make extensions contingent on price adjustments.

Price increases will not be considered without supporting documentation sufficient to justify the requested increase. Documentation must be based on published indices such as the Producer Price Index or other acceptable indices, and/or the result of increases at the manufacturer's level, other supportable pricing increases, and incurred after Contract commencement date. Contractor shall provide a detailed breakdown of their costs upon request. A minimum of 60 calendar days advance written notice of price increase is required.

The granting of any price adjustment will be at the sole discretion of the Contract Administrator. The Contractor shall be notified in writing by the Contract Administrator of any price adjustment granted, and such price adjustment shall be set forth in a written amendment to the Contract. Price adjustments granted shall remain unchanged for at least 365 calendar days thereafter, and no request for adjustments in price will be considered during that time period.

4 CONTRACTOR QUALIFICATIONS AND REQUIREMENTS

4.1 ESTABLISHED BUSINESS

Prior to commencing performance, or prior to that time if required by the Purchasing Activity, law or regulation, Contractor must be an established business firm with all required licenses, fees, bonding, facilities, equipment and trained personnel necessary to meet all requirements and perform the work as specified in the Solicitation. Contractor shall maintain compliance with these requirements throughout the life of this contract.

The Purchasing Activity reserves the right to require receipt of proof of compliance with said requirements within ten (10) calendar days from the date of request, and to terminate this Contract as a material breach for noncompliance with any requirement of this paragraph.

4.2 DEALER AUTHORIZATION

The Contractor, if other than the manufacturer, shall provide upon request from a customer, a current, dated, and signed authorization from the manufacturer that the Contractor is an authorized distributor, dealer or service representative and is authorized to sell the manufacturer's products. Failure to provide manufacturer's authorization may result in Contract cancellation.

01611 Police Radar, Lidar, Parts and Equipment

4.3 USE OF SUBCONTRACTORS

In accordance with IFB requirements, Contractor agrees to take complete responsibility for all actions of such Subcontractors.

Prior to performance, Contractor shall identify all subcontractors who will perform services in fulfillment of contract requirements, including their name, the nature of services to be performed, address, telephone, facsimile, email, federal tax identification number (TIN), and anticipated dollar value of each subcontract:

The Purchasing Activity reserves the right to approve or reject any and all Subcontractors that identified by the contractor. Any Subcontractors not listed in the Bidder's Response, who are engaged by the Contractor, must be pre-approved, in writing, by the Purchasing Activity.

Specific restrictions apply to contracting with current or former state employees pursuant to [Chapter 42.52 RCW](#).

4.4 SUBCONTRACTS AND ASSIGNMENT

Contractor shall not Subcontract, assign, or otherwise transfer its obligations under this Contract without the prior written consent of the Contract Administrator. Contractor shall provide a minimum of thirty (30) calendar days advance notification of intent to Subcontract, assign, or otherwise transfer its obligations under this Contract. Violation of this condition may be considered a material breach establishing grounds for Contract termination. The Contractor shall be responsible to ensure that all requirements of the Contract shall flow down to any and all Subcontractors. In no event shall the existence of a Subcontract operate to release or reduce the liability of Contractor to the state for any breach in the performance of the Contractor's duties.

4.5 CONTRACTOR AUTHORITY AND INFRINGEMENT

Contractor is authorized to sell under this Contract, only those materials, supplies, services and/or equipment as stated herein and allowed for by the provisions of this Contract. Contractor shall not represent to any Purchasers that they have the contract authority to sell any other materials, supplies, services and/or equipment. Further, Contractor may not intentionally infringe on other established State Contracts.

4.6 MATERIALS AND WORKMANSHIP

The Contractor shall be required to furnish all materials, supplies, equipment and/or services necessary to perform Contractual requirements. Materials, supplies and workmanship used in the construction of equipment for this Contract shall conform to all applicable federal, state, and local codes, regulations and requirements for such equipment, specifications contained herein, and the normal uses for which intended. Materials, supplies and equipment shall be manufactured in accordance with the best commercial practices and standards for this type of materials, supplies, and equipment.

4.7 MERCURY CONTENT AND PREFERENCE

Contractor shall provide mercury-free products when available. Should mercury-free products not exist, contractors shall provide products with the lowest mercury content available. Contractor shall disclose products that contain added mercury and provide an

01611 Police Radar, Lidar, Parts and Equipment

explanation that includes the amount or concentration of mercury, and justification as to why added mercury is necessary for the function or performance of the product.

The Contractor is to provide any existing technical data pertaining to the addition of mercury or a mercury compound intentionally added to the product. If the product does not contain mercury or a mercury compound, Contractor shall submit a written statement to that effect. Contractor shall maintain compliance with these requirements throughout the life of this contract.

The Purchasing Activity reserves the right to require receipt of proof of compliance with said requirements within ten (10) calendar days from the date of request, and to terminate this Contract as a material breach for noncompliance with any requirement of this paragraph.

5 DELIVERY REQUIREMENTS

5.1 STANDARD OF QUALITY/CONSISTENCY OVER TERM OF CONTRACT

If, in the sole judgment of the Purchasing Activity or the Purchaser, any item is determined not to be as specified, the Purchaser may take any or all of the following actions:

1. the product may be returned at Contractor's expense;
2. the contract may be terminated without any liability to the State of Washington or Purchaser

5.2 SHIPPING AND RISK OF LOSS

Shipping shall be FOB Destination. Seller pays the cost of shipping, owns the goods in transit and files any claims if necessary.

5.3 DELIVERY

- a) Standard products shall be delivered within ten (10) business days. Non-standard or custom product orders shall be delivered within twenty (20) business days; if delivery is not possible because of specialized materials or product specifications then Contractor shall provide a mutually acceptable firm delivery date.
- b) Deliveries will be made during the normal work hours (Monday through Friday from 8 AM to 5 PM). The contractor is responsible for coordinating with customers and carrier(s) the delivery schedule, shipping instructions and location delivery details. The state reserves the right to refuse shipment when delivered outside of normal working hours.
- c) If order fulfillment is anticipated to exceed the typical order fulfillment lead time, the contractor shall advise the purchaser within 24 hours of receipt of the purchase order.

5.4 TECHNICAL MANUALS

The supplier shall furnish the following equipment documentation. These manuals shall accompany ordered equipment at time of delivery; the ordering agency may request CDROM, or hard copy form.

01611 Police Radar, Lidar, Parts and Equipment

A. OPERATORS MANUAL

One Operators Manual shall be included without charge with each equipment unit. This manual shall provide an operational description of the equipment and all other pertinent operational details. This manual must include illustrations or photographs displaying the location and details of the various devices and controls. This manual may be a volume separated from other manuals.

B. INSTALLATION MANUAL

One Installation Manual shall be included without charge with each unit supplied. The installation manual shall consist of printed and illustrated sections that describe the mechanical, electrical and electronic details of installation sufficient to assure proper operation at completion. This manual may be a section of the operator's manual.

C. SERVICE MANUAL

The Service Manual shall be included without charge with each unit supplied. The Service Manual shall contain circuit descriptions in written and illustrative form which are concise and all inclusive. Sections of the manual shall include theory of operations to the component level, parts lists, troubleshooting flow diagrams and charts, instructions for alignment, programming, adjustment and/or setup, schematics with normal operating voltages, plus wiring, interface, interconnection and printed circuit layout and assembly. Quantities of Service Manual issuance shall be as requested by the purchaser.

5.5 CATALOGS AND PRICE LISTS

Bidder or Contractor shall furnish all necessary catalogs and latest dated published manufacturer's price lists upon the request of a purchaser.

5.6 SITE SECURITY

While on Purchaser's premises, Contractor, its agents, employees, or Subcontractors shall conform in all respects with physical, fire, or other security regulations.

5.7 INSPECTION AND REJECTION

The Purchaser's inspection of all materials, supplies and equipment upon delivery is for the purpose of forming a judgment as to whether such delivered items are what was ordered, were properly delivered and ready for Acceptance. Such inspection shall not be construed as final acceptance, or as acceptance of the materials, supplies or equipment, if the materials, supplies or equipment does not conform to contractual requirements. If there are any apparent defects in the materials, supplies, or equipment at the time of delivery, the Purchaser will promptly notify the Contractor. Without limiting any other rights, the Purchaser may require the Contractor to: (1) repair or replace, at Contractor's expense, any or all of the damaged goods; (2) refund the price of any or all of the damaged goods; or (3) accept the return of any or all of the damaged goods.

01611 Police Radar, Lidar, Parts and Equipment

5.8 STANDARDS

The equipment described herein shall meet or exceed applicable EIA, FCC, IEEE, NHTSA, NIST and NEMA requirements, standards, specifications, practices and/or procedures current at the time of contract bid opening.

Unless specifically excepted by the terms of the attached specifications, any and all parts or accessories ordinarily furnished or required to produce the equipment herein specified as a complete, operating unit shall be furnished by the supplier whether identified in the specifications or not.

The unit shall be delivered to the purchaser with any and all equipment modifications intact and intact and installed. All ordered options shall be factory installed and tested in the unit prior to delivery. The unit shall be delivered to the purchaser fully assembled and ready for operation.

5.9 TREATMENT OF ASSETS

1. Title to all property furnished by the Purchasing Activity and/or Purchaser shall remain in the Purchasing Activity and/or Purchaser, as appropriate. Title to all property furnished by the Contractor, the cost for which the Contractor is entitled to be reimbursed as a direct item of cost under this contract, shall pass to and vest in the Purchaser upon delivery of such property by the Contractor and Acceptance by the Purchaser. Title to other property, the cost of which is reimbursable to the Contractor under this Contract, shall pass to and vest in the Purchaser upon (i) issuance for use of such property in the performance of this Contract, or (ii) commencement of use of such property in the performance of this Contract, or (iii) reimbursement of the cost thereof by the Purchaser in whole or in part, whichever first occurs.
2. Any property of the Purchasing Activity and/or Purchaser furnished to the Contractor shall, unless otherwise provided herein or approved by the Purchasing Activity and/or Purchaser, be used only for the performance of this Contract.
3. The Contractor shall be responsible for damages as a result of any loss or damage to property of the Purchasing Activity and/or Purchaser which results from the negligence of the Contractor or which results from the failure on the part of the Contractor to maintain, administer and protect that property in a reasonable manner and to the extent practicable in all instances.
4. If any Purchasing Activity and/or Purchaser property is lost, destroyed, or damaged, the Contractor shall immediately notify the Purchasing Activity and/or Purchaser and shall take all reasonable steps to protect the property from further damage.
5. The Contractor shall surrender to the Purchasing Activity and/or Purchaser all property of the Purchasing Activity and/or Purchaser prior to settlement upon completion, termination, or cancellation of this contract.
6. All reference to the Contractor under this clause shall also include Contractor's employees, agents or Subcontractors.

01611 Police Radar, Lidar, Parts and Equipment

5.10 HAZARDOUS MATERIALS

“Right to know” legislation requires the Department of Labor and Industries to establish a program to make employers and employees more aware of hazardous substances in their work environment. Implementing [Chapter 296-839 WAC](#) requires that all manufacturers and distributors of hazardous substances, including any of the items listed in this Contract, must include a complete material safety data sheet (MSDS) for each hazardous material. Additionally, each container of hazardous materials must be appropriately labeled with:

1. The identity of the hazardous material,
2. Appropriate hazard warnings, and
3. Name and address of the chemical manufacturer, importer, or other responsible party

Labor and Industries may levy appropriate fines for noncompliance and agencies may withhold payment-pending receipt of a legible copy of MSDS. It should be noted that OSHA Form 20 is not acceptable in lieu of this requirement unless it is modified to include appropriate information relative to “carcinogenic ingredients” and “routes of entry” of the product(s) in question.

6 PAYMENT

6.1 ADVANCE PAYMENT PROHIBITED

No advance payment shall be made for the Products and Services furnished by Contractor pursuant to this Contract.

Notwithstanding the above, maintenance payments, if any, may be made on a quarterly basis at the beginning of each quarter.

6.2 IDENTIFICATION

All invoices, packing lists, packages, instruction manuals, correspondence, shipping notices, shipping containers, and other written materials associated with this Contract shall be identified by the Contract number and the applicable Purchaser’s order number. Packing lists shall be enclosed with each shipment and clearly identify all contents and any backorders.

6.3 PAYMENT, INVOICING AND DISCOUNTS

Payment is the sole responsibility of, and will be made by, the Purchaser.

Contractor shall provide a properly completed invoice to Purchaser. All invoices are to be delivered to the address indicated in the purchase order.

Each invoice shall be identified by the associated Contract Number; the Contractor’s Statewide Vendor registration number assigned by Washington State Office of Financial Management (OFM), the applicable Purchaser’s order number, and shall be in U.S. dollars. Invoices shall be prominently annotated by the Contractor with all applicable prompt payment and/or volume discount(s) and shipping charges unless otherwise specified in the Solicitation. Hard copy credit memos are to be issued when the state has been overcharged.

01611 Police Radar, Lidar, Parts and Equipment

Invoices for payment will accurately reflect all discounts due the Purchaser. Invoices will not be processed for payment, nor will the period of prompt payment discount commence, until receipt of a properly completed invoice denominated in U.S. dollars and until all invoiced items are received and satisfactory performance of Contractor has been accepted by the Purchaser. If an adjustment in payment is necessary due to damage or dispute, any prompt payment discount period shall commence on the date final approval for payment is authorized.

Under [Chapter 39.76 RCW](#), if Purchaser fails to make timely payment(s), Contractor may invoice for 1% per month on the amount overdue or a minimum of \$1.00. Payment will not be considered late if a check or warrant is mailed within the time specified. If no terms are specified, net 30 days will automatically apply. Payment(s) made in accordance with Contract terms shall fully compensate the Contractor for all risk, loss, damages or expense of whatever nature and acceptance of payment shall constitute a waiver of all claims submitted by Contractor. If the Contractor fails to make timely payment(s) or issuance of credit memos, the Purchaser may impose a 1% per month on the amount overdue.

Payment for materials, supplies and/or equipment received and for services rendered shall be made by Purchaser and be redeemable in U.S. dollars. Unless otherwise specified, the Purchaser's sole responsibility shall be to issue this payment. Any bank or transaction fees or similar costs associated with currency exchange procedures or the use of purchasing/credit cards shall be fully assumed by the Contractor.

6.4 TAXES, FEES AND LICENSES

Taxes:

Where required by statute or regulation, the Contractor shall pay for and maintain in current status all taxes that are necessary for Contract performance. Unless otherwise indicated, the Purchaser agrees to pay State of Washington taxes on all applicable materials, supplies, services and/or equipment purchased. No charge by the Contractor shall be made for federal excise taxes and the Purchaser agrees to furnish Contractor with an exemption certificate where appropriate.

Collection of Retail Sales and Use Taxes:

In general, Contractors engaged in retail sales activities within the State of Washington are required to collect and remit sales tax to Department of Revenue (DOR). In general, out-of-state Contractors must collect and remit "use tax" to Department of Revenue if the activity carried on by the seller in the State of Washington is significantly associated with Contractor's ability to establish or maintain a market for its products in Washington State. Examples of such activity include where the Contractor either directly or by an agent or other representative:

1. Maintains an in-state office, distribution house, sales house, warehouse, service enterprise, or any other in-state place of business;
2. Maintains an in-state inventory or stock of goods for sale;
3. Regularly solicits orders from Purchasers located within the State of Washington via sales representatives entering the State of Washington;
4. Sends other staff into the State of Washington (e.g. product safety engineers, etc.) to interact with Purchasers in an attempt to establish or maintain market(s); or

01611 Police Radar, Lidar, Parts and Equipment

5. Other factors identified in [WAC 458-20](#).

Department of Revenue Registration for Out-of-State Contractors:

Out-of-state Contractors meeting any of the above criteria must register and establish an account with the Department of Revenue. Refer to [WAC 458-20-193](#), and call the Department of Revenue at 800-647-7706 for additional information. When out-of-state Contractors are not required to collect and remit “use tax,” Purchasers located in the State of Washington are responsible for paying this tax, if applicable, directly to the Department of Revenue.

Fees/Licenses:

After award of Contract, and prior to commencing performance under the Contract, the Contractor shall pay for and maintain in a current status any licenses, fees, assessments, permit charges, etc., which are necessary for Contract performance. It is the Contractor's sole responsibility to maintain licenses and to monitor and determine any changes or the enactment of any subsequent regulations for said fees, assessments, or charges and to immediately comply with said changes or regulations during the entire term of this Contract.

Customs/Brokerage Fees:

Contractor shall take all necessary actions, including, but not limited to, paying all customs, duties, brokerage, and/or import fees, to ensure that materials, supplies, and/or equipment purchased under the Contract are expedited through customs. Failure to do so may subject Contractor to liquidated damages as identified herein and/or to other remedies available by law or Contract. Neither the Purchasing Activity nor the Purchaser will incur additional costs related to Contractor's payment of such fees.

Taxes on Invoice:

Contractor shall calculate and enter the appropriate Washington State and local sales tax on all invoices. Tax is to be computed on new items after deduction of any trade-in in accordance with [WAC 458-20-247](#).

6.5 MINORITY AND WOMEN'S BUSINESS ENTERPRISE (MWBE) PARTICIPATION

With each invoice for payment and within thirty (30) days of Purchasers request, Contractor shall provide Purchaser an *Affidavit of Amounts Paid*. The *Affidavit of Amounts Paid* shall either state that Contractor still maintains its MWBE certification, or state that its Subcontractor(s) still maintain(s) its/their MWBE certification(s) and specify the amounts paid to each certified MWBE Subcontractor under this Contract. Contractor shall maintain records supporting the *Affidavit of Amounts Paid* in accordance with this Contract's **Retention of Records** section.

6.6 OVERPAYMENTS TO CONTRACTOR

Contractor shall refund to Purchaser the full amount of any erroneous payment or overpayment under this Contract within thirty (30) days' written notice. If Contractor fails to make timely refund, Purchaser may charge Contractor one percent (1%) per month on the amount due, until paid in full.

01611 Police Radar, Lidar, Parts and Equipment

6.7 AUDITS

The state reserves the right to audit, or have a designated third party audit, applicable records to ensure that the state has been properly invoiced. Any remedies and penalties allowed by law to recover monies determined owed will be enforced. Repetitive instances of incorrect invoicing may be considered complete cause for contract termination.

7 QUALITY ASSURANCE

7.1 RIGHT OF INSPECTION

Contractor shall provide right of access to its facilities to Purchasing Activity, or any of Purchasing Activity's officers, or to any other authorized agent or official of the state of Washington or the federal government, at all reasonable times, in order to monitor and evaluate performance, compliance, and/or quality assurance under this Contract.

7.2 CONTRACTOR COMMITMENTS, WARRANTIES AND REPRESENTATIONS

Any written commitment by Contractor within the scope of this Contract shall be binding upon Contractor. Failure of Contractor to fulfill such a commitment may constitute breach and shall render Contractor liable for damages under the terms of this Contract. For purposes of this section, a commitment by Contractor includes: (i) Prices, discounts, and options committed to remain in force over a specified period of time; and (ii) any warranty or representation made by Contractor in its Response or contained in any Contractor or manufacturer publications, written materials, schedules, charts, diagrams, tables, descriptions, other written representations, and any other communication medium accompanying or referred to in its Response or used to effect the sale to Purchaser..

7.3 MANUFACTURER AUTHORIZED WARRANTY REPAIR PROOF OF CERTIFICATION/AUTHORIZATION

Contractor shall also provide documentation demonstrating the qualification of each facility to perform service and repairs including at least the following:

A letter signed by an authorized representative of the manufacturer certifying that each facility listed is an authorized service and repair facility for materials, supplies, or equipment; and

Manufacturer authorized service must be available in to any geographic area covered in this solicitation

7.4 WARRANTIES

Items delivered under this contract will be accompanied by a copy of the warranty. Unless otherwise specified, full parts and labor warranty period shall be for a minimum period of one (1) year after receipt of materials or equipment by the Purchaser. All materials or equipment provided shall be new, unused, of the latest model or design and of recent manufacture.

01611 Police Radar, Lidar, Parts and Equipment

Equipment Service Life

All equipment covered by these specifications and any resultant contracts shall have a minimum service life of ten (10) years from date of delivery to the purchaser. The supplier shall guarantee replacement parts availability from the supplier and/or authorized distributor for this service life period.

Equipment & Parts Warranty

The supplier shall guarantee repair or replacement of any equipment or part thereof that fails in operation during normal and proper use within one (1) year from date of purchaser's receipt due to defects in design, material or workmanship, consummation of final acceptance and payment notwithstanding. These replacements shall be of no cost to the purchaser. The cost of installation of these replacements, including shipping and delivery, shall be borne by the supplier for the period of warranty.

Any equipment or part replaced under the provisions of this warranty becomes the property of the supplier. If the supplier desires the defective equipment or part returned, the supplier shall pay all transportation charges for the return. If the supplier does not specifically request return of such replaced parts within thirty (30) days from date of replacement, the equipment or parts become the property of the purchaser.

Replacement parts shall be regularly stocked by the supplier and/or authorized distributor. Delay in purchaser's receipt of replacement parts shall not exceed ten (10) consecutive days from supplier or distributor's receipt of order.

The supplier shall supply the purchaser, free of charge for the service life of the equipment, with all data, drawings and specifications of modifications, plans or experiments by which the equipment may be improved or modernized.

7.5 COST OF REMEDY

Cost of Remedying Defects: All defects, indirect and consequential costs of correcting, removing or replacing any or all of the defective materials or equipment will be charged against the Contractor.

8 INFORMATION AND COMMUNICATIONS

8.1 ADVERTISING

Contractor shall not publish or use any information concerning this Contract in any format or media for advertising or publicity without prior written consent from the Contract Administrator.

8.2 RETENTION OF RECORDS

The Contractor shall maintain all books, records, documents, data and other evidence relating to this Contract and the provision of materials, supplies, services and/or equipment described herein, including, but not limited to, accounting procedures and practices which sufficiently and properly reflect all direct and indirect costs of any nature expended in the

01611 Police Radar, Lidar, Parts and Equipment

performance of this Contract. Contractor shall retain such records for a period of six (6) years following the date of final payment. At no additional cost, these records, including materials generated under the Contract, shall be subject at all reasonable times to inspection, review, or audit by the Purchasing Activity, personnel duly authorized by the Purchasing Activity, the Washington State Auditor's Office, and federal and state officials so authorized by law, regulation or agreement.

If any litigation, claim or audit is started before the expiration of the six (6) year period, the records shall be retained until final resolution of all litigation, claims, or audit findings involving the records.

8.3 PROPRIETARY OR CONFIDENTIAL INFORMATION

To the extent consistent with [Chapter 42.56 RCW](#), the Public Disclosure Act, the Purchasing Activity shall maintain the confidentiality of Contractor's information marked confidential or proprietary. If a request is made to view Contractor's proprietary information, the Purchasing Activity will notify Contractor of the request and of the date that the records will be released to the requester unless Contractor obtains a court order enjoining that disclosure. If Contractor fails to obtain the court order enjoining disclosure, the Purchasing Activity will release the requested information on the date specified.

The State's sole responsibility shall be limited to maintaining the above data in a secure area and to notify Contractor of any request(s) for disclosure for so long as the Purchasing Activity retains Contractor's information in the Purchasing Activity records. Failure to so label such materials or failure to timely respond after notice of request for public disclosure has been given shall be deemed a waiver by Contractor of any claim that such materials are exempt from disclosure.

8.4 NON-ENDORSEMENT AND PUBLICITY

Neither the Purchasing Activity nor the Purchasers are endorsing the Contractor's Products or Services, nor suggesting that they are the best or only solution to their needs. Contractor agrees to make no reference to the Purchasing Activity, any Purchaser or the state of Washington in any literature, promotional material, brochures, sales presentation or the like, regardless of method of distribution, without the prior review and express written consent of the Purchasing Activity.

8.5 OWNERSHIP/RIGHTS IN DATA

Purchaser and Contractor agree that all data and work products (collectively called "Work Product") produced pursuant to this Contract shall be considered work made for hire under the U.S. Copyright Act, 17 U.S.C. §101 *et seq*, and shall be owned by Purchaser.

Contractor is hereby commissioned to create the Work Product. Work Product includes, but is not limited to, discoveries, formulae, ideas, improvements, inventions, methods, models, processes, techniques, findings, conclusions, recommendations, reports, designs, plans, diagrams, drawings, Software, databases, documents, pamphlets, advertisements, books, magazines, surveys, studies, computer programs, films, tapes, and/or sound reproductions, to the extent provided by law. Ownership includes the right to copyright, patent, register and the ability to transfer these rights and all information used to formulate such Work Product.

01611 Police Radar, Lidar, Parts and Equipment

If for any reason the Work Product would not be considered a work made for hire under applicable law, Contractor assigns and transfers to Purchaser the entire right, title and interest in and to all rights in the Work Product and any registrations and copyright applications relating thereto and any renewals and extensions thereof.

Contractor shall execute all documents and perform such other proper acts as Purchaser may deem necessary to secure for Purchaser the rights pursuant to this section.

Contractor shall not use or in any manner disseminate any Work Product to any third party, or represent in any way Contractor ownership in any Work Product, without the prior written permission of Purchaser. Contractor shall take all reasonable steps necessary to ensure that its agents, employees, or Subcontractors shall not copy or disclose, transmit or perform any Work Product or any portion thereof, in any form, to any third party.

Material that is delivered under this Contract, but that does not originate there from ("Preexisting Material"), shall be transferred to Purchaser with a nonexclusive, royalty-free, irrevocable license to publish, translate, reproduce, deliver, perform, display, and dispose of such Preexisting Material, and to authorize others to do so except that such license shall be limited to the extent to which Contractor has a right to grant such a license. Contractor shall exert all reasonable effort to advise Purchaser at the time of delivery of Preexisting Material furnished under this Contract, of all known or potential infringements of publicity, privacy or of intellectual property contained therein and of any portion of such document which was not produced in the performance of this Contract. Contractor agrees to obtain, at its own expense, express written consent of the copyright holder for the inclusion of Preexisting Material. Purchaser shall receive prompt written notice of each notice or claim of copyright infringement or infringement of other intellectual property right worldwide received by Contractor with respect to any Preexisting Material delivered under this Contract. Purchaser shall have the right to modify or remove any restrictive markings placed upon the Preexisting Material by Contractor.

8.6 PROTECTION OF CONFIDENTIAL AND PERSONAL INFORMATION

Contractor acknowledges that some of the material and information that may come into its possession or knowledge in connection with this Contract or its performance may consist of information that is exempt from disclosure to the public or other unauthorized persons under either [Chapter 42.56 RCW](#) or other state or federal statutes ("Confidential Information"). Confidential Information includes, but is not limited to, names, addresses, Social Security numbers, e-mail addresses, telephone numbers, financial profiles, credit card information, driver's license numbers, medical data, law enforcement records, agency source code or object code, agency security data, or information identifiable to an individual that relates to any of these types of information. Contractor agrees to hold Confidential Information in strictest confidence and not to make use of Confidential Information for any purpose other than the performance of this Contract, to release it only to authorized employees or Subcontractors requiring such information for the purposes of carrying out this Contract, and not to release, divulge, publish, transfer, sell, disclose, or otherwise make the information known to any other party without Purchaser's express written consent or as provided by law. Contractor agrees to release such information or material only to employees or Subcontractors who have signed a nondisclosure agreement, the terms of which have been previously approved by Purchaser. Contractor agrees to implement physical, electronic, and managerial safeguards to prevent unauthorized access to Confidential Information.

01611 Police Radar, Lidar, Parts and Equipment

“Personal information” including, but not limited to, “Protected Health Information” (PHI) under Health Insurance Portability And Accountability Act (HIPAA), individuals’ names, addresses, phone numbers, birth dates, and social security numbers collected, used, or acquired in connection with this Contract shall be protected against unauthorized use, disclosure, modification or loss.

HIPAA establishes national minimum standards for the use and disclosure of certain health information. The Contractor must comply with all HIPAA requirements and rules when determined applicable by the Purchaser. If Purchaser determines that (1) Purchaser is a “covered entity” under HIPAA, and that (2) Contractor will perform “business associate” services and activities covered under HIPAA, then at Purchaser’s request, Contractor agrees to execute Purchaser’s business associate Contract in compliance with HIPAA.

Contractor shall ensure its directors, officers, employees, Subcontractors or agents use personal information solely for the purposes of accomplishing the services set forth herein. Contractor and its Subcontractors agree not to release, divulge, publish, transfer, sell or otherwise make known to unauthorized persons personal information without the express written consent of the Agency or as otherwise required by law.

Any breach of this provision may result in termination of the Contract and demand for return of all personal information. The Contractor agrees to indemnify and hold harmless the State of Washington and the Purchaser for any damages related to both: (1) the Contractor’s unauthorized use of personal information and (2) the unauthorized use of personal information by unauthorized persons as a result of Contractor’s failure to sufficiently protect against unauthorized use, disclosure, modification, or loss.

Contractor shall maintain a log documenting the following: the Confidential Information received in the performance of this Contract; the purpose(s) for which the Confidential Information was received; who received, maintained and used the Confidential Information; and the final disposition of the Confidential Information. Contractor’s records shall be subject to inspection, review or audit in accordance with Retention of Records.

Purchaser reserves the right to monitor, audit, or investigate the use of Confidential Information collected, used, or acquired by Contractor through this Contract. The monitoring, auditing, or investigating may include, but is not limited to, salting databases.

Violation of this section by Contractor or its Subcontractors may result in termination of this Contract and demand for return of all Confidential Information, monetary damages, or penalties.

Immediately upon expiration or termination of this Contract, Contractor shall, at Purchaser’s option: (i) certify to Purchaser that Contractor has destroyed all Confidential Information; or (ii) return all Confidential Information to Purchaser; or (iii) take whatever other steps Purchaser requires of Contractor to protect Purchaser’s Confidential Information.

9 GENERAL PROVISIONS

9.1 GOVERNING LAW/VENUE

This Contract shall be construed and interpreted in accordance with the laws of the State of Washington, and the venue of any action brought hereunder shall be in the Superior Court for Thurston County.

01611 Police Radar, Lidar, Parts and Equipment

9.2 SEVERABILITY

Severability: If any provision of this Contract or any provision of any document incorporated by reference shall be held invalid, such invalidity shall not affect the other provisions of this Contract that can be given effect without the invalid provision, and to this end the provisions of this Contract are declared to be severable.

9.3 SURVIVORSHIP

All transactions executed for Products and Services provided pursuant to the authority of this Contract shall be bound by all of the terms, conditions, Prices and Price discounts set forth herein, notwithstanding the expiration of the initial term of this Contract or any extension thereof. Further, the terms, conditions and warranties contained in this Contract that by their sense and context are intended to survive the completion of the performance, cancellation or termination of this Contract shall so survive. In addition, the terms of the sections titled Overpayments to Contractor; Ownership/Rights in Data; Contractor's Commitments, Warranties and Representations; Protection of Purchaser's Confidential Information; Section Headings, Incorporated Documents and Order of Precedence; Publicity; Retention of Records; Patent and Copyright Indemnification; Contractor's Proprietary Information; Disputes; and Limitation of Liability shall survive the termination of this Contract.

9.4 INDEPENDENT STATUS OF CONTRACTOR

In the performance of this Contract, the parties will be acting in their individual, corporate or governmental capacities and not as agents, employees, partners, joint venturers, or associates of one another. The parties intend that an independent contractor relationship will be created by this Contract. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purpose whatsoever. Contractor shall not make any claim of right, privilege or benefit which would accrue to an employee under [Chapter 41.06 RCW](#), or [Title 51 RCW](#).

9.5 GIFTS AND GRATUITIES

Contractor shall comply with all state laws regarding gifts and gratuities, including but not limited to: [RCW 43.19.1937](#), [RCW 43.19.1939](#), [RCW 42.52.150](#), [RCW 42.52.160](#), and [RCW 42.52.170](#) under which it is unlawful for any person to directly or indirectly offer, give or accept gifts, gratuities, loans, trips, favors, special discounts, services, or anything of economic value in conjunction with state business or contract activities.

Under [RCW 43.19.1937](#) and the Ethics in Public Service Law, [Chapter 42.52 RCW](#) state officers and employees are prohibited from receiving, accepting, taking or seeking gifts (except as permitted by [RCW 42.52.150](#)) if the officer or employee participates in contractual matters relating to the purchase of goods or services.

9.6 IMMUNITY AND HOLD HARMLESS

To the fullest extent permitted by law, Contractor shall indemnify, defend and hold harmless State, agencies of State and all officials, agents and employees of State, from and against all claims for injuries, death or damage to property arising out of or resulting from the performance of the contract. Contractor's obligation to indemnify, defend, and hold harmless includes any claim by Contractors' agents, employees, representatives, or any subcontractor or its employees.

01611 Police Radar, Lidar, Parts and Equipment

Contractor expressly agrees to indemnify, defend, and hold harmless the State for any claim arising out of or incident to Contractor's or any subcontractor's performance or failure to perform the contract. Contractor shall be required to indemnify, defend, and hold harmless the State only to the extent claim is caused in whole or in part by negligent acts or omissions of Contractor.

Contractor waives its immunity under Title 51 to the extent it is required to indemnify, defend and hold harmless State and its agencies, officials, agents or employees.

9.7 PERSONAL LIABILITY

It is agreed by and between the parties hereto that in no event shall any official, officer, employee or agent of the State of Washington when executing their official duties in good faith, be in any way personally liable or responsible for any agreement herein contained whether expressed or implied, nor for any statement or representation made herein or in any connection with this agreement.

9.8 INSURANCE

General Requirements:

Contractor shall, at their own expense, obtain and keep in force insurance as follows until completion of the Contract. Upon request, Contractor shall furnish evidence in the form of a certificate of insurance satisfactory to the State of Washington that insurance, in the following kinds and minimum amounts, has been secured. Failure to provide proof of insurance, as required, will result in Contract cancellation.

Contractor shall include all Subcontractors as insureds under all required insurance policies, or shall furnish separate Certificates of Insurance and endorsements for each Subcontractor. Subcontractor(s) must comply fully with all insurance requirements stated herein. Failure of Subcontractor(s) to comply with insurance requirements does not limit Contractor's liability or responsibility.

All insurance provided in compliance with this Contract shall be primary as to any other insurance or self-insurance programs afforded to or maintained by the state.

Specific Requirements:

Employers Liability (Stop Gap): The Contractor will at all times comply with all applicable workers' compensation, occupational disease, and occupational health and safety laws, statutes, and regulations to the full extent applicable and will maintain Employers Liability insurance with a limit of no less than \$1,000,000.00. The State of Washington will not be held responsible in any way for claims filed by the Contractor or their employees for services performed under the terms of this Contract.

Commercial General Liability Insurance: The Contractor shall at all times during the term of this Contract, carry and maintain commercial general liability insurance and if necessary, commercial umbrella insurance for bodily injury and property damage arising out of services provided under this Contract. This insurance shall cover such claims as may be caused by any act, omission, or negligence of the Contractor or its officers, agents, representatives, assigns, or servants.

The insurance shall also cover bodily injury, including disease, illness and death, and property damage arising out of the Contractor's premises/operations, independent

01611 Police Radar, Lidar, Parts and Equipment

Contractors, products/completed operations, personal injury and advertising injury, and contractual liability (including the tort liability of another assumed in a business Contract), and contain separation of insured's (cross liability) conditions.

Contractor waives all rights against the State of Washington for the recovery of damages to the extent they are covered by general liability or umbrella insurance.

The limits of liability insurance shall not be less than as follows:

General Aggregate Limits (other than products-completed operations)	\$2,000,000
Products-Completed Operations Aggregate	\$2,000,000
Personal and Advertising Injury Aggregate	\$1,000,000
Each Occurrence (applies to all of the above)	\$1,000,000
Fire Damage Limit (per occurrence)	\$ 50,000
Medical Expense Limit (any one person)	\$ 5,000

Business Auto Policy (BAP):

In the event that services delivered pursuant to this Contract involve the use of vehicles, or the transportation of clients, automobile liability insurance shall be required. The coverage provided shall protect against claims for bodily injury, including illness, disease, and death; and property damage caused by an occurrence arising out of or in consequence of the performance of this service by the Contractor, Subcontractor, or anyone employed by either.

Contractor shall maintain business auto liability and, if necessary, commercial umbrella liability insurance with a combined single limit not less than \$1,000,000 per occurrence. The business auto liability shall include Hired and Non-Owned coverage.

Contractor waives all rights against the State of Washington for the recovery of damages to the extent they are covered by business auto liability or commercial umbrella liability insurance.

Additional Insurance Provisions:

All above insurance policies shall include, but not be limited to, the following provisions:

Additional Insured:

The State of Washington and all authorized Purchasers shall be named as an additional insured on all general liability, umbrella, excess, and property insurance policies. All policies shall be primary over any other valid and collectable insurance.

Notice of Policy(ies) Cancellation/Non-renewal:

For insurers subject to [Chapter 48.18 RCW](#) (Admitted and regulated by the Washington State Insurance Commissioner) a written notice shall be given to the director of purchasing or designee forty-five (45) calendar days prior to cancellation or any material change to the policy(ies) as it relates to this Contract. Written notice shall include the affected Contract reference number.

Surplus Lines:

01611 Police Radar, Lidar, Parts and Equipment

For insurers subject to [Chapter 48.15 RCW](#) (Surplus Lines) a written notice shall be given to the director of purchasing or designee twenty (20) calendar days prior to cancellation or any material change to the policy(ies) as it relates to this Contract. Written notice shall include the affected Contract reference number.

Cancellation for Non-payment to Premium:

If cancellation on any policy is due to non-payment of premium, a written notice shall be given the director of purchasing or designee ten (10) calendar days prior to cancellation. Written notice shall include the affected Contract reference number.

Identification:

Policy(ies) and Certificates of Insurance shall include the affected Contract reference number.

Insurance Carrier Rating:

The insurance required above shall be issued by an insurance company authorized to do business within the State of Washington. Insurance is to be placed with a carrier that has a rating of A- Class VII or better in the most recently published edition of Best's Reports. Any exception must be reviewed and approved by the Risk Manager for the State of Washington, by submitting a copy of the Contract and evidence of insurance before Contract commencement. If an insurer is not admitted, all insurance policies and procedures for issuing the insurance policies must comply with [Chapter 48.15 RCW](#) and [Chapter 284-15 WAC](#) .

Excess Coverage:

The limits of all insurance required to be provided by the Contractor shall be no less than the minimum amounts specified. However, coverage in the amounts of these minimum limits shall not be construed to relieve the Contractor from liability in excess of such limits.

Limit Adjustments:

The state reserves the right to increase or decrease limits as appropriate.

9.9 INDUSTRIAL INSURANCE COVERAGE

The Contractor shall comply with the provisions of [Title 51 RCW](#) Industrial Insurance. If the Contractor fails to provide industrial insurance coverage or fails to pay premiums or penalties on behalf of its employees as may be required by law, the Purchasing Activity may terminate this Contract. This provision does not waive any of the Washington State Department of Labor and Industries (L&I) rights to collect from the Contractor.

9.10 NONDISCRIMINATION

During the performance of this Contract, the Contractor shall comply with all applicable federal and state nondiscrimination laws, regulations and policies, including, but not limited to, Title VII of the Civil Rights Act, 42 U.S.C. section 12101 et. seq.; the Americans with Disabilities Act (ADA); and, [Chapter 49.60 RCW](#), Discrimination – Human Rights Commission.

01611 Police Radar, Lidar, Parts and Equipment

9.11 OSHA AND WISHA REQUIREMENTS

Contractor agrees to comply with conditions of the Federal Occupational Safety and Health Administration (OSHA) and, if manufactured or stored in the State of Washington, the Washington Industrial Safety and Health Act (WISHA) and the standards and regulations issued there under, and certifies that all items furnished and purchased will conform to and comply with said laws, standards and regulations. Contractor further agrees to indemnify and hold harmless Purchasing Activity and Purchaser from all damages assessed against Purchaser as a result of Contractor's failure to comply with those laws, standards and regulations, and for the failure of the items furnished under the Contract to so comply.

9.12 ANTITRUST

The state maintains that, in actual practice, overcharges resulting from antitrust violations are borne by the Purchaser. Therefore, the Contractor hereby assigns to the State of Washington any and all of the Contractor's claims for such price fixing or overcharges which arise under federal or state antitrust laws, relating to the materials, supplies, services and/or equipment purchased under this Contract.

9.13 WAIVER

Failure or delay of the Purchasing Activity or Purchaser to insist upon the strict performance of any term or condition of the Contract or to exercise any right or remedy provided in the Contract or by law; or the Purchasing Activity's or Purchaser's acceptance of or payment for materials, supplies, services and/or equipment, shall not release the Contractor from any responsibilities or obligations imposed by this Contract or by law, and shall not be deemed a waiver of any right of the Purchasing Activity or Purchaser to insist upon the strict performance of the entire agreement by the Contractor. In the event of any claim for breach of Contract against the Contractor, no provision of this Contract shall be construed, expressly or by implication, as a waiver by the Purchasing Activity or Purchaser of any existing or future right and/or remedy available by law.

10 DISPUTES AND REMEDIES

10.1 PROBLEM RESOLUTION AND DISPUTES

Problems arising out of the performance of this Contract shall be resolved in a timely manner at the lowest possible level with authority to resolve such problem. If a problem persists and cannot be resolved, it may be escalated within each organization.

In the event a bona fide dispute concerning a question of fact arises between the Purchasing Activity or the Purchaser and Contractor and it cannot be resolved between the parties through the normal problem escalation processes, either party may initiate the dispute resolution procedure provided herein. The dispute shall be handled by a Dispute Resolution Panel in the following manner. Each party to this Contract shall appoint one member to the Panel. These two appointed members shall jointly appoint an additional member. The Dispute Resolution Panel shall review the facts, Contract terms and applicable statutes and rules and make a determination of the dispute as quickly as reasonably possible. The determination of the Dispute Resolution Panel shall be final and binding on the parties hereto. Purchasing Activity and/or Purchaser and Contractor agree that, the existence of a dispute notwithstanding, they will continue without delay to carry

01611 Police Radar, Lidar, Parts and Equipment

out all their respective responsibilities under this Contract that are not affected by the dispute.

In the event a bona fide dispute concerning a question of fact arises between Purchasing Activity or the Purchaser and Contractor and it cannot be resolved between the parties through the normal escalation processes, either party may initiate the dispute resolution procedure provided herein.

The initiating party shall reduce its description of the dispute to writing and deliver it to the responding party. The responding party shall respond in writing within three (3) Business Days. The initiating party shall have three (3) Business Days to review the response. If after this review a resolution cannot be reached, both parties shall have three (3) Business Days to negotiate in good faith to resolve the dispute.

If the dispute cannot be resolved after three (3) Business Days, a Dispute Resolution Panel may be requested in writing by either party who shall also identify the first panel member. Within three (3) Business Days of receipt of the request, the other party will designate a panel member. Those two panel members will appoint a third individual to the Dispute Resolution Panel within the next three (3) Business Days.

The Dispute Resolution Panel will review the written descriptions of the dispute, gather additional information as needed, and render a decision on the dispute in the shortest practical time.

Each party shall bear the cost for its panel member and share equally the cost of the third panel member.

Both parties agree to be bound by the determination of the Dispute Resolution Panel.

Both parties agree to exercise good faith in dispute resolution and to settle disputes prior to using a Dispute Resolution Panel whenever possible.

Purchasing Activity, the Purchaser and Contractor agree that, the existence of a dispute notwithstanding, they will continue without delay to carry out all their respective responsibilities under this Contract that are not affected by the dispute.

If the subject of the dispute is the amount due and payable by Purchaser for materials, supplies, services and/or equipment being provided by Contractor, Contractor shall continue providing materials, supplies, services and/or equipment pending resolution of the dispute provided Purchaser pays Contractor the amount Purchaser, in good faith, believes is due and payable, and places in escrow the difference between such amount and the amount Contractor, in good faith, believes is due and payable.

10.2 ADMINISTRATIVE SUSPENSION

When it is in the best interest of the state, the Purchasing Activity may at any time, and without cause, suspend the Contract or any portion thereof for a period of not more than thirty (30) calendar days per event by written notice from the Contract Administrator to the Contractor's Representative. Contractor shall resume performance on the next business day following the 30th day of suspension unless an earlier resumption date is specified in the notice of suspension. If no resumption date was specified in the notice of suspension, the Contractor can be demanded and required to resume performance within the 30 day suspension period by the Contract Administrator providing the Contractor's Representative with written notice of such demand.

01611 Police Radar, Lidar, Parts and Equipment

10.3 FORCE MAJEURE

The term “force majeure” means an occurrence that causes a delay that is beyond the control of the party affected and could not have been avoided by exercising reasonable diligence. Force majeure shall include acts of God, war, riots, strikes, fire, floods, epidemics, or other similar occurrences.

Exceptions: Except for payment of sums due, neither party shall be liable to the other or deemed in breach under this Contract if, and to the extent that, such party's performance of this Contract is prevented by reason of force majeure.

Notification: If either party is delayed by force majeure, said party shall provide written notification within forty-eight (48) hours. The notification shall provide evidence of the force majeure to the satisfaction of the other party. Such delay shall cease as soon as practicable and written notification of same shall likewise be provided. So far as consistent with the Rights Reserved below, the time of completion shall be extended by Contract amendment for a period of time equal to the time that the results or effects of such delay prevented the delayed party from performing in accordance with this Contract.

Rights Reserved: The Purchasing Activity reserves the right to authorize an amendment to this Contract, terminate the Contract, and/or purchase materials, supplies, equipment and/or services from the best available source during the time of force majeure, and Contractor shall have no recourse against the State.

10.4 ALTERNATIVE DISPUTE RESOLUTION FEES AND COSTS

In the event that the parties engage in arbitration, mediation or any other alternative dispute resolution forum to resolve a dispute in lieu of litigation, both parties shall share equally in the cost of the alternative dispute resolution method, including cost of mediator or arbitrator. In addition, each party shall be responsible for its own attorneys' fees incurred as a result of the alternative dispute resolution method.

10.5 NON-EXCLUSIVE REMEDIES

The remedies provided for in this Contract shall not be exclusive but are in addition to all other remedies available under law.

10.6 LIMITATION OF LIABILITY

The parties agree that neither Contractor, Purchasing Activity nor Purchaser shall be liable to each other, regardless of the form of action, for consequential, incidental, indirect, or special damages except a claim related to bodily injury or death, or a claim or demand based on patent, copyright, or other intellectual property right infringement, in which case liability shall be as set forth elsewhere in this Contract. This section does not modify any sections regarding liquidated damages or any other conditions as are elsewhere agreed to herein between the parties. The damages specified in the sections titled Termination for Default and Retention of Records are not consequential, incidental, indirect, or special damages as that term is used in this section.

Neither the Contractor, the Purchasing Activity nor Purchaser shall be liable for damages arising from causes beyond the reasonable control and without the fault or negligence of the Contractor, the Purchasing Activity or Purchaser. Such causes may include, but are not restricted to, acts of God or of the public enemy, acts of a governmental body other than the Purchasing Activity or the Purchaser acting in either its sovereign or contractual

01611 Police Radar, Lidar, Parts and Equipment

capacity, war, explosions, fires, floods, earthquakes, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather; but in every case the delays must be beyond the reasonable control and without fault or negligence of the Contractor, the Purchasing Activity or the Purchaser, or their respective Subcontractors.

If delays are caused by a Subcontractor without its fault or negligence, Contractor shall not be liable for damages for such delays, unless the Services to be performed were obtainable on comparable terms from other sources in sufficient time to permit Contractor to meet its required performance schedule.

Neither party shall be liable for personal injury to the other party or damage to the other party's property except personal injury or damage to property proximately caused by such party's respective fault or negligence.

10.7 FEDERAL FUNDING

In the event that a federally funded acquisition results from this procurement, the contractor may be required to provide additional information (free of charge) at the request of the Purchasing Activity or purchaser: Further, the contractor may be subject to those federal requirements specific to the commodity.

10.8 FEDERAL RESTRICTIONS ON LOBBYING

Contractor certifies that under the requirements of Lobbying Disclosure Act, 2 U.S.C., Section 1601 et seq., no Federal appropriated funds have been paid or will be paid, by or on behalf of the contractor, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

10.9 FEDERAL DEBARMENT AND SUSPENSION

The contractor certifies, that neither it nor its "principals" (as defined in 49 CFR. 29.105 (p)) is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

11 CONTRACT TERMINATION

11.1 MATERIAL BREACH

A Contractor may be Terminated for Cause by the Purchasing Activity, at the sole discretion of the Contract Administrator, for failing to perform a contractual requirement or for a material breach of any term or condition. Material breach of a term or condition of the Contract may include but is not limited to:

1. Contractor failure to perform services or deliver materials, supplies, or equipment by the date required or by an alternate date as mutually agreed in a written amendment to the Contract;
2. Contractor failure to carry out any warranty or fails to perform or comply with any mandatory provision of the contract;

01611 Police Radar, Lidar, Parts and Equipment

3. Contractor becomes insolvent or in an unsound financial condition so as to endanger performance hereunder;
4. Contractor becomes the subject of any proceeding under any law relating to bankruptcy, insolvency or reorganization, or relief from creditors and/or debtors that endangers the Contractor's proper performance hereunder;
5. Appointment of any receiver, trustee, or similar official for Contractor or any of the Contractor's property and such appointment endangers the Contractor's proper performance hereunder;
6. A determination that the Contractor is in violation of federal, state, or local laws or regulations and that such determination renders the Contractor unable to perform any aspect of the Contract.

11.2 OPPORTUNITY TO CURE:

In the event that Contractor fails to perform a contractual requirement or materially breaches any term or condition, the Purchasing Activity may issue a written cure notice. The Contractor may have a period of time in which to cure. The Purchasing Activity is not required to allow the Contractor to cure defects if the opportunity for cure is not feasible as determined solely within the discretion of the Purchasing Activity. Time allowed for cure shall not diminish or eliminate Contractor's liability for liquidated or other damages, or otherwise affects any other remedies available against Contractor under the Contract or by law.

If the breach remains after Contractor has been provided the opportunity to cure, the Purchasing Activity may do any one or more of the following:

1. Exercise any remedy provided by law;
2. Terminate this Contract and any related Contracts or portions thereof;
3. Procure replacements and impose damages as set forth elsewhere in this Contract;
4. Impose actual or liquidated damages;
5. Suspend or bar Contractor from receiving future Solicitations or other opportunities;
6. Require Contractor to reimburse the state for any loss or additional expense incurred as a result of default or failure to satisfactorily perform the terms of the Contract.

11.3 TERMINATION FOR CAUSE

In the event the Contract Administrator, in its sole discretion, determines that the Contractor has failed to comply with the conditions of this Contract in a timely manner or is in material breach, the Contract Administrator has the right to suspend or terminate this Contract, in part or in whole. The Contract Administrator shall notify the Contractor in writing of the need to take corrective action. If corrective action is not taken within thirty (30) calendar days or as otherwise specified by the Contract Administrator, or if such corrective action is deemed by the Contract Administrator to be insufficient, the Contract may be terminated. The Contract Administrator reserves the right to suspend all or part of the Contract, withhold further payments, or prohibit the Contractor from incurring additional obligations of funds during investigation of the alleged breach and pending

01611 Police Radar, Lidar, Parts and Equipment

corrective action by the Contractor or a decision by the Contract Administrator to terminate the Contract.

In the event of termination, the Purchasing Activity shall have the right to procure for all Purchasers any replacement materials, supplies, services and/or equipment that are the subject of this Contract on the open market. In addition, the Contractor shall be liable for damages as authorized by law including, but not limited to, any price difference between the original contract and the replacement or cover contract and all administrative costs directly related to the replacement contract, e.g., cost of the competitive bidding, mailing, advertising and staff time.

If it is determined that: (1) the Contractor was not in material breach; or (2) failure to perform was outside of Contractor's or its Subcontractor's control, fault or negligence, the termination shall be deemed to be a "Termination for Convenience". The rights and remedies of the Purchasing Activity and/or the Purchaser provided in this Contract are not exclusive and are in addition to any other rights and remedies provided by law.

11.4 TERMINATION FOR CONVENIENCE

Except as otherwise provided in this Contract, the Purchasing Activity, at the sole discretion of the Contract Administrator, may terminate this Contract, in whole or in part by giving thirty (30) calendar days or other appropriate time period written notice beginning on the second day after mailing to the Contractor. If this Contract is so terminated, Purchasers shall be liable only for payment required under this Contract for properly authorized services rendered, or materials, supplies and/or equipment delivered to and Accepted by the Purchaser prior to the effective date of Contract termination. Neither the Purchasing Activity nor the Purchaser shall have any other obligation whatsoever to the Contractor for such termination. This Termination for Convenience clause may be invoked by the Purchasing Activity when it is in the best interest of the State of Washington.

11.5 TERMINATION FOR WITHDRAWAL OF AUTHORITY

In the event that the Purchasing Activity and/or Purchaser's authority to perform any of its duties is withdrawn, reduced, or limited in any way after the commencement of this Contract and prior to normal completion, the Purchasing Activity may terminate this Contract, in whole or in part, by seven (7) calendar days or other appropriate time period written notice to Contractor.

11.6 TERMINATION FOR NON-ALLOCATION OF FUNDS

If funds are not allocated to Purchaser(s) to continue this Contract in any future period, Purchasing Activity may terminate this Contract by seven (7) calendar days or other appropriate time period written notice to Contractor or work with Contractor to arrive at a mutually acceptable resolution of the situation. Purchaser will not be obligated to pay any further charges for materials, supplies, services and/or equipment including the net remainder of agreed to consecutive periodic payments remaining unpaid beyond the end of the then-current period. Purchasing Activity and/or Purchaser agrees to notify contractor in writing of such non-allocation at the earliest possible time.

01611 Police Radar, Lidar, Parts and Equipment

No penalty shall accrue to the Purchaser in the event this section shall be exercised. This section shall not be construed to permit Purchasing Activity to terminate this Contract in order to acquire similar materials, supplies, services and/or equipment from a third party.

11.7 TERMINATION FOR CONFLICT OF INTEREST

Purchasing Activity may terminate this Contract by written notice to Contractor if it is determined, after due notice and examination, that any party to this Contract has violated [Chapter 42.52 RCW](#), Ethics in Public Service, or any other laws regarding ethics in public acquisitions and procurement and performance of contracts. In the event this Contract is so terminated, the Purchasing Activity and /or Purchaser shall be entitled to pursue the same remedies against Contractor as it could pursue in the event that the Contractor breaches this Contract.

11.8 TERMINATION BY MUTUAL AGREEMENT

The Purchasing Activity and the Contractor may terminate this Contract in whole or in part, at any time, by mutual agreement.

11.9 TERMINATION PROCEDURE

In addition to the procedures set forth below, if the Purchasing Activity terminates this Contract, Contractor shall follow any procedures the Contract Administrator specifies in the termination notice.

Upon termination of this Contract and in addition to any other rights provided in this Contract, Contract Administrator may require the Contractor to deliver to the Purchaser any property specifically produced or acquired for the performance of such part of this contract as has been terminated. The provisions of the "Treatment of Assets" clause shall apply in such property transfer.

The Purchaser shall pay to the Contractor the agreed upon price, if separately stated, for completed work and service(s) Accepted by the Purchaser, and the amount agreed upon by the Contractor and the Purchaser for (i) completed materials, supplies, services rendered and/or equipment for which no separate price is stated, (ii) partially completed materials, supplies, services rendered and/or equipment, (iii) other materials, supplies, services rendered and/or equipment which are Accepted by the Purchaser, and (iv) the protection and preservation of property, unless the termination is for cause, in which case the Purchasing Activity and the Purchaser shall determine the extent of the liability of the Purchaser. Failure to agree with such determination shall be a dispute within the meaning of the "Disputes" clause of this contract. The Purchaser may withhold from any amounts due the Contractor such sum as the Contract Administrator and Purchaser determine to be necessary to protect the Purchaser against potential loss or liability.

The rights and remedies of the Purchasing Activity and/or the Purchaser provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.

After receipt of a termination notice, and except as otherwise expressly directed in writing by the Contract Administrator, the Contractor shall:

1. Stop all work, order fulfillment, shipments, and deliveries under the Contract on the date, and to the extent specified, in the notice;

01611 Police Radar, Lidar, Parts and Equipment

2. Place no further orders or subcontracts for materials, services, supplies, equipment and/or facilities in relation to the Contract except as is necessary to complete or fulfill such portion of the Contract that is not terminated;
3. Complete or fulfill such portion of the Contract that is not terminated in compliance with all contractual requirements;
4. Assign to the Purchaser, in the manner, at the times, and to the extent directed by the Contract Administrator on behalf of the Purchaser, all of the rights, title, and interest of the Contractor under the orders and subcontracts so terminated, in which case the Purchaser has the right, at its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts.
5. Settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of the Contract Administrator and/or the Purchaser to the extent Contract Administrator and/or the Purchaser may require, which approval or ratification shall be final for all the purposes of this clause;
6. Transfer title to the Purchaser and deliver in the manner, at the times, and to the extent directed by the Contract Administrator on behalf of the Purchaser any property which, if the contract had been completed, would have been required to be furnished to the Purchaser;
7. Take such action as may be necessary, or as the Contract Administrator and/or the Purchaser may direct, for the protection and preservation of the property related to this contract which is in the possession of the Contractor and in which the Purchasing Activity and/or the Purchaser has or may acquire an interest.

12 CONTRACT EXECUTION

12.1 PARTIES

This Contract ("Contract") is entered into by and between the state of Washington, acting by and through the Department of General Administration, Office of State Procurement, an agency of Washington State government ("Purchasing Activity" or "State") located at 1500 Jefferson St SE, Olympia, WA 98501, and *[Contractor]* a *[corporation/sole proprietor or other business form]* licensed to conduct business in the state of Washington ("Contractor"), located at *[Contractor address]* for the purpose of providing Police Radar, Lidar Parts and Accessories.

12.2 ENTIRE AGREEMENT

This Contract document and all subsequently issued amendments comprise the entire agreement between the Purchasing Activity and the Contractor. No other statements or representations, written or oral, shall be deemed a part of the Contract.

This Contract sets forth the entire agreement between the parties with respect to the subject matter hereof and except as provided in the section titled **Contractor Commitments, Warranties and Representations**, understandings, agreements, representations, or warranties not contained in this Contract or a written amendment hereto shall not be binding on either party. Except as provided herein, no alteration of any of the terms,

01611 Police Radar, Lidar, Parts and Equipment

conditions, delivery, Price, quality, or Specifications of this Contract will be effective without the written consent of both parties.

12.3 ORDER OF PRECEDENCE, INCORPORATED DOCUMENTS, CONFLICT AND CONFORMITY

Incorporated Documents:

Each of the documents listed below is, by this reference, incorporated into this Contract as though fully set forth herein.

1. The Purchasing Activity's Solicitation document 01611 with all attachments and appendices, and all amendments thereto
2. Contractor's response to the Solicitation 01611 dated [date];
3. Award Letter.

The terms and conditions contained on Purchaser's Order Documents, if used; and

All Contractor or manufacturer publications, written materials and schedules, charts, diagrams, tables, descriptions, other written representations and any other supporting materials Contractor made available to Purchaser and used to affect the sale of the Product to the Purchaser.

Order of Precedence

In the event of a conflict in such terms, or between the terms and any applicable statute or rule, the inconsistency shall be resolved by giving precedence in the following order:

1. Applicable Federal and State of Washington statutes and regulations
2. Mutually agreed written amendments to this Contract
3. This Contract, Number 01611
4. The Purchasing Activity's Solicitation document with all attachments and appendices, and all amendments thereto
5. Contractor's response to the Solicitation
6. Any other provision, term, or materials incorporated into the Contract by reference.

Conflict: To the extent possible, the terms of this Contract shall be read consistently.

Conformity: If any provision of this Contract violates any Federal or State of Washington statute or rule of law, it is considered modified to conform to that statute or rule of law.

12.4 LEGAL NOTICES

Any notice or demand or other communication required or permitted to be given under this Contract or applicable law (except notice of malfunctioning Equipment) shall be effective only if it is in writing and signed by the applicable party, properly addressed, and either delivered in person, or by a recognized courier service, or deposited with the United States Postal Service as first-class mail, postage prepaid certified mail, return receipt requested, via facsimile or by electronic mail, to the parties at the addresses and fax numbers, e-mail addresses provided in this section. For purposes of complying with any provision in this Contract or applicable law that requires a "writing," such communication, when digitally

01611 Police Radar, Lidar, Parts and Equipment

signed with a Washington State Licensed Certificate, shall be considered to be “in writing” or “written” to an extent no less than if it were in paper form.

To Contractor at:	To Purchasing Activity at:
<i>[Contractor]</i>	State of Washington Department of General Administration Office of State Procurement
Attn: <i>[Contractor's Representative]</i>	Attn: Chief Procurement Officer
<i>[Contractor address]</i>	1500 Jefferson Street SE
	Olympia, WA 98501
Phone:	Phone: 360-902-7317
Fax:	Fax: 360-586-2426
E-mail:	E-mail: Steve.jenkins@ga.wa.gov

Notices shall be effective upon receipt or four (4) Business Days after mailing, whichever is earlier. The notice address as provided herein may be changed by written notice given as provided above.

In the event that a subpoena or other legal process commenced by a third party in any way concerning the Equipment or Services provided pursuant to this Contract is served upon Contractor or Purchasing Activity, such party agrees to notify the other party in the most expeditious fashion possible following receipt of such subpoena or other legal process. Contractor and Purchasing Activity further agree to cooperate with the other party in any lawful effort by the other party to contest the legal validity of such subpoena or other legal process commenced by a third party.

12.5 LIENS, CLAIMS AND ENCUMBRANCES

All materials, equipment, supplies and/or services shall be free of all liens, claims, or encumbrances of any kind, and if the Purchasing Activity or the Purchaser requests, a formal release of same shall be delivered to the respective requestor.

12.6 AUTHORITY TO BIND

The signatories to this Contract represent that they have the authority to bind their respective organizations to this Contract.

12.7 COUNTERPARTS

This Contract may be executed in counterparts or in duplicate originals. Each counterpart or each duplicate shall be deemed an original copy of this Contract signed by each party, for all purposes.

01611 Police Radar, Lidar, Parts and Equipment

SIGNATURES

In Witness Whereof, the parties hereto, having read this Contract in its entirety, including all attachments, do agree in each and every particular and have thus set their hands hereunto.

This Contract is effective this ____ day of _____, 2011.

Approved		Approved
State of Washington Department of General Administration Office of State Procurement		[Contractor]
Signature		Signature
Print or Type Name Date		Print or Type Name Date
Title		Title

Office of State Procurement
Unit Manager Approval

Signature
Print or Type Name Date

01611 Police Radar, Lidar, Parts and Equipment

APPENDIX A PROTEST PROCEDURE

PROTEST PRIOR TO AWARD:

PROTEST PRIOR TO AWARD CRITERIA:

Protests prior to Award will be considered only if the protest concerns:

1. the bid of another Bidder,
2. the specifications or
3. the manner in which the solicitation process has been conducted.

INITIATING THE PROTEST PROCESS:

The protesting Bidder must notify the State Procurement Coordinator in charge of the solicitation of his/her intent to file a protest as soon as possible after he/she becomes aware of the reason(s) for the protest. The protest(s) must be received in writing by the State Procurement Coordinator not later than five (5) business days after the Bidder's notification to the State Procurement Coordinator of the intent to protest.

If an Intent to Award is announced, any protest must be received in writing by the State Procurement Coordinator not later than five (5) business days after the announcement or as otherwise specified in the Solicitation document.

If a protest is not received within these time frames it will be untimely and the State Procurement Coordinator may proceed with the award without further obligation.

The Procurement Coordinator will consider all the facts available and issue a decision in writing within ten (10) business days after receipt of the protest, unless more time is needed.

If additional time is necessary the State Procurement Coordinator will notify the protesting Bidder and, where applicable, the Bidder(s) against whom the protest is made.

APPEAL OF PROTEST PRIOR TO AWARD DECISION:

The protesting Bidder or the Bidder against whom the protest is made has the right to appeal the decision of the State Procurement Coordinator to the GA Assistant Director in charge of the Office of State Procurement.

The appeal must be received by the GA Assistant Director within five (5) business days after notification of the State Procurement Coordinator's decision.

The GA Assistant Director will consider all of the facts available and issue a decision in writing within ten (10) business days after receipt of the appeal, unless more time is needed. The appealing Bidder will be notified if additional time is necessary.

Award of the contract will be postponed until after the GA Assistant Director has issued a decision unless an emergency exists necessitating the award of the contract as determined by the GA Assistant Director.

01611 Police Radar, Lidar, Parts and Equipment

The decision of the GA Assistant Director on the protest appeal is final. The GA Assistant Director may issue further clarifications if determined necessary.

PROTEST AFTER AWARD:

PROTEST AFTER AWARD CRITERIA:

Protests after Award will be considered only if the protest concerns:

1. A matter which arises after the Award or
2. Could not reasonably have been known or discovered prior to Award.

INITIATING THE PROTEST PROCESS AFTER AWARD:

The protesting Bidder must notify both the State Procurement Coordinator in charge of the solicitation process and the Bidder that has received the Award that a protest of the Award is being made. This notification must be made as soon as possible after the Notice of Award is issued by an immediate communication method such as telephone or e-mail. The protesting Bidder must provide documentation demonstrating that they have notified the Bidder that has received the Award of their protest.

In addition to the above notification requirement, the written protest must be received by the GA Assistant Director in charge of the Office of State Procurement not later than five (5) business days after Notice of Award is issued by the Office of State Procurement.

The GA Assistant Director will:

Issue a decision on the protest within ten (10) business days after the protest was received, unless more time is needed.

The protesting Bidder and the Bidder who has received the Award shall be notified of any delay in issuing the GA Assistant Director's decision if more time is needed.

The decision of the GA Assistant Director is final if the award is upheld. The GA Assistant Director may subsequently issue further clarifications, if necessary.

If the GA Assistant Director finds that the protest should be upheld and the Award canceled, all Bidders, including the protesting Bidder and the Bidder who received the Award, will be notified of the intent to cancel the Award and the reasons therefore.

AWARDED BIDDER APPEAL PROCESS

The Bidder who has received the Award has five (5) business days after receipt of notification of the intent to cancel the award in which to appeal the decision to the Director of General Administration. Copies of the Bidder's appeal must also be sent to the GA Assistant Director and the State Procurement Coordinator responsible for the solicitation.

01611 Police Radar, Lidar, Parts and Equipment

The Director of General Administration or designee will:

Issue a decision

- a. to both the appealing Bidder and the original protesting Bidder
- b. within ten (10) business days after receipt of the appeal, unless more time is needed
 - i. If more time is needed to issue a decision, all Bidders, including the appealing Bidder and the original protesting Bidder, will be notified.

DECISION FINAL

The appeal decision of the Director of General Administration is final. The Director of General Administration may subsequently issue further clarifications if necessary,

APPEAL UPHOLD AND CONTRACT AWARD UPHOLD

If the Director of General Administration upholds the appeal and upholds the contract as awarded, the State Procurement Coordinator will notify all Bidders of the decision.

APPEAL DENIED AND AWARD CANCELED

If the Director of General Administration upholds the decision of the GA Assistant Director the Office of State Procurement will proceed with cancellation of the award.

If the award is cancelled, the Assistant director of GA may reject all bids, quotes or proposals pursuant to [RCW 43.1911\(4\)](#) and solicit new bids, quotes or proposals.

If the Assistant director of GA does not decide to reject all bids, an award will be made to the next lowest responsive and responsible Bidder.

PROTEST AND APPEALS – FORM AND SUBSTANCE

All protests and appeals must:

1. be in writing,
2. signed by the protesting or appealing Bidder or an authorized agent
3. delivered within the time frame(s) outlined herein
4. addressed to that individual within the Office of State Procurement or General Administration assigned review responsibilities as specified above

The protesting or appealing Bidder must:

1. state all facts and arguments on which the protesting or appealing Bidder is relying as the basis for its action
2. attach any relevant exhibits related, or referred to in the written protest or appeal

01611 Police Radar, Lidar, Parts and Equipment

3. mail, fax or deliver copies of all protests, appeals, and exhibits to the Bidder or Bidders against whom the protest is made at the same time such protest, appeal, and exhibits are submitted to the Office of State Procurement or General Administration.

COMMUNICATION DURING PROTESTS AND APPEALS

All communications relative to a solicitation that is being protested or appealed must be coordinated through that person conducting the official review for the Office of State Procurement or General Administration

01611 Police Radar, Lidar, Parts and Equipment

APPENDIX B WSCA STANDARD TERMS AND CONDITIONS

Western States Contracting Alliance
Standard Contract Terms and Conditions

PARTICIPANTS: The Western States Contracting Alliance (herein WSCA) is a cooperative group contracting consortium for state government departments, institutions, agencies and political subdivisions (i.e., colleges, school districts, counties, cities, etc.) for the states of Alaska, Arizona, California, Colorado, Hawaii, Idaho, Minnesota, Montana, Nevada, New Mexico, Oregon, South Dakota, Utah, Washington and Wyoming. Other states and their political subdivisions are also eligible to participate in WSCA contracts. Obligations under this contract are limited to those Participating States who have signed a Participating Addendum where contemplated by the solicitation. Financial obligations of Participating States are limited to the orders placed by the departments or other state agencies and institutions having available funds. Participating States incur no financial obligations on behalf of political subdivisions. Unless otherwise specified in the solicitation, the resulting award(s) will be permissive.

QUALITY ESTIMATES: WSCA does not guarantee to purchase any amount under the contract to be awarded. Estimated quantities are for the purposes of submitting proposals only and are not to be construed as a guarantee to purchase any amount.

SPECIFICATIONS: Any deviation from specifications must be clearly indicated by offeror, otherwise, it will be considered that the proposal is in strict compliance. When BRAND NAMES or manufacturers' numbers are stated in the specifications they are intended to establish a standard only and are not restrictive unless the IFB states "No substitute". Proposals will be considered on other makes, models or brands having comparable quality, style, workmanship and performance characteristics. Alternate proposals offering lower quality or inferior performance will not be considered.

ACCEPTANCE OR REJECTION OF PROPOSALS: WSCA reserves the right to accept or reject any or all proposals or parts of proposals, and to waive informalities therein.

SAMPLES: Generally, when required, samples will be specifically requested in the Solicitation. Samples, when required, are to be furnished free of charge. Except for those samples destroyed or mutilated in testing, samples will be returned at offeror's request, transportation collect.

CASH DISCOUNT TERMS: Offeror may quote a cash discount based upon early payment; however, discounts offered for less than 30 days will not be considered in making the award. The date from which discount time is calculated shall be the date a correct invoice is received or receipt of shipment, whichever is later; except that if testing is performed, the date shall be the date of acceptance of the merchandise.

01611 Police Radar, Lidar, Parts and Equipment

TAXES: Proposal prices shall be exclusive of state sales and federal excise taxes. Where the state government entities are not exempt from sales taxes on sales within their state, the contractor shall add the sales taxes on the billing invoice as a separate entry.

PATENTS, COPYRIGHTS, ETC.: The Contractor shall release, indemnify and hold the Buyer, its officers, agents and employees harmless from liability of any kind or nature, including the Contractor's use of any copyrighted or uncopyrighted composition, secret process, patented or unpatented invention, article or appliance furnished or used in the performance of this contract.

AWARD: WSCA may award multiple contracts as the result of this solicitation. Awards shall be made to the responsible offeror(s) whose proposal is determined to be the most advantageous to WSCA, taking into consideration price and the other evaluation factors set forth in the IFB.

NON-COLLUSION: By signing the proposal the offeror certifies that the proposal submitted, has been arrived at independently and has been submitted without collusion with, and without any agreement, understanding or planned common course of action with, any other vendor of materials, supplies, equipment or services described in the Request for Proposal, designed to limit independent bidding or competition.

CANCELLATION: Unless otherwise stated in the special terms and conditions, any contract entered into as a result of this bid may be canceled by either party upon 60 days notice, in writing, prior to the effective date of the cancellation. Further, any Participating State may cancel its participation upon 30 days written notice, unless otherwise limited or stated in the special terms and conditions of this solicitation. Cancellation may be in whole or in part. Any cancellation under this provision shall not affect the rights and obligations attending orders outstanding at the time of cancellation, including any right of and Purchasing Entity to indemnification by the Contractor, rights of payment for goods/services delivered and accepted, and rights attending any warranty or default in performance in association with any order. Cancellation of the contract due to Contractor default may be immediate.

DEFAULT AND REMEDIES: Any of the following events shall constitute cause for WSCA to declare Contractor in default of the contract: 1. Nonperformance of contractual requirements; 2. A material breach of any term or condition of this contract WSCA shall issue a written notice of default providing a period in which Contractor shall have an opportunity to cure. Time allowed for cure shall not diminish or eliminate Contractor's liability for liquidated or other damages. If the default remains, after Contractor has been provided the opportunity to cure, WSCA may do one or more of the following: 1. Exercise any remedy provided by law; 2. Terminate this contract and any related contracts or portions thereof; 3. Impose liquidated damages; 4. Suspend contractor from receiving future proposal solicitations.

LAWS AND REGULATIONS: Any and all supplies, services and equipment offered and furnished shall comply fully with all applicable Federal and State laws and regulations.

01611 Police Radar, Lidar, Parts and Equipment

CONFLICT OF TERMS: In the event of any conflict between these standard terms and conditions and any special terms and conditions contained in the Solicitation, the special terms and conditions shall govern.

REPORTS: The contractor shall submit quarterly reports to the WSCA Contract Administrator showing the quantities and dollar volume of purchases by each agency.

HOLD HARMLESS: The contractor shall release, protect, indemnify and hold WSCA and the respective states and their officers, agencies, employees, harmless from and against any damage, cost or liability, including reasonable attorney's fees for any or all injuries to persons, property or claims for money damages arising from acts or omissions of the contractor, his employees or subcontractors or volunteers.

ORDER NUMBERS: Contract order and purchase order numbers shall be clearly shown on all acknowledgments, shipping labels, packing slips, invoices, and on all correspondence.

GOVERNING LAW: This procurement and the resulting agreement shall be governed by and construed in accordance with the laws of the state sponsoring and administering the procurement. The construction and effect of any Participating Addendum or order against the contract(s) shall be governed by and construed in accordance with the laws of the Participating Entity's State. Venue for any claim, dispute or action concerning an order placed against the contract(s) or the effect of a Participating Addendum shall be in the Purchasing Entity's State.

DELIVERY: The prices offered shall be the delivered price to any Participating State agency or political subdivision. All deliveries shall be F.O.B. destination with all transportation and handling charges paid by the contractor. Responsibility and liability for loss or damage shall remain the Contractor until final inspection and acceptance when responsibility shall pass to the Buyer except as to latent defects, fraud and Contractor's warranty obligations. The minimum shipment amount will be found in the special terms and conditions. Any order for less than the specified amount is to be shipped with the freight prepaid and added as a separate item on the invoice. Any portion of an order to be shipped without transportation charges that is back ordered shall be shipped without charge.

WARRANTY: As used herein "Buyer" refers to any Participating State agency or political subdivision. The contractor acknowledges that the Uniform Commercial Code applies to this contract. In general, the contractor warrants that: (a) the product will do what the salesperson said it would do, (b) the product will live up to all specific claims that the manufacturer makes in their advertisements, (c) the product will be suitable for the ordinary purposes for which such product is used, (d) the product will be suitable for any *special purposes* that the Buyer has relied on the contractor's skill or judgment to consider.

AMENDMENTS: The terms of this contract shall not be waived, altered, modified, supplemented or amended in any manner whatsoever without prior written approval of the WSCA Contract Administrator.

01611 Police Radar, Lidar, Parts and Equipment

ASSIGNMENT/SUBCONTRACT: Contractor shall not assign, sell, transfer, subcontract or sublet rights, or delegate responsibilities under this contract, in whole or in part, without the prior written approval of the WSCA Contract Administrator.

NONDISCRIMINATION: The offeror agrees to abide by the provisions of Title VI and Title VII of the Civil Rights Act of 1964 (42 USC 2000e), which prohibit discrimination against any employee or applicant for employment, or any applicant or recipient of services, on the basis of race, religion, color, or national origin; and further agrees to abide by Executive Order No. 11246, as amended, which prohibits discrimination on basis of sex; 45 CFR 90 which prohibits discrimination on the basis of age, and Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act of 1990 which prohibits discrimination on the basis of disabilities. The offeror further agrees to furnish information and reports to requesting State(s), upon request, for the purpose of determining compliance with these statutes. Offeror agrees to comply with each individual state's certification requirements, if any, as stated in the special terms and conditions. This contract may be canceled if the offeror fails to comply with the provisions of these laws and regulations. The offeror must include this provision in every subcontract relating to purchases by the States to insure that subcontractors and vendors are bound by this provision.

SEVERABILITY: If any provision of this contract is declared by a court to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected; and the rights and obligations of the parties shall be construed and enforced as if the contract did not contain the particular provision held to be invalid.

INSPECTIONS: Goods furnished under this contract shall be subject to inspection and test by the Buyer at times and places determined by the Buyer. If the Buyer finds goods furnished to be incomplete or in compliance with proposal specifications, the Buyer may reject the goods and require Contractor to either correct them without charge or deliver them at a reduced price, which is equitable under the circumstances. If Contractor is unable or refuses to correct such goods within a time deemed reasonable by the Buyer, the Buyer may cancel the order in whole or in part. Nothing in this paragraph shall adversely affect the Buyer's rights including the rights and remedies associated with revocation of acceptance under the Uniform Commercial Code.

FORCE MAJEURE: Neither party to this contract shall be held responsible for delay or default caused by fire, riot, acts of God and/or war which is beyond that party's reasonable control. WSCA may terminate this contract after determining such delay or default will reasonably prevent successful performance of the contract.

HAZARDOUS CHEMICAL INFORMATION: The contractor will provide one set of the appropriate material safety data sheet(s) and container label(s) upon delivery of a hazardous material to the user agency. All safety data sheets and labels will be in accordance with each participating state's requirements.

FIRM PRICE: Unless otherwise stated in the special terms and conditions, for the purpose of award, offers made in accordance with this solicitation must be good and firm for a period of ninety (90) days from the date of proposal opening. Prices must remain firm for the full term of the contract.

01611 Police Radar, Lidar, Parts and Equipment

EXTENSION OF PRICES: In the case of error in the extension of prices in the proposal, the unit prices will govern.

PROPOSAL PREPARATION COSTS: WSCA is not liable for any costs incurred by the offeror in proposal preparation.

CONFLICT OF INTEREST: The contractor certifies that it has not offered or given any gift or compensation prohibited by the state laws of any WSCA participants to any officer or employee of WSCA or participating states to secure favorable treatment with respect to being awarded this contract.

INDEPENDENT CONTRACTOR: The contractor shall be an independent contractor, and as such shall have no authorization, express or implied to bind WSCA or the respective states to any agreements, settlements, liability or understanding whatsoever, and agrees not to perform any acts as agent for WSCA or the states, except as expressly set forth herein.

POLITICAL SUBDIVISION PARTICIPATION: Participation under this contract by political subdivisions (i.e., colleges, school districts, counties, cities, etc.) of the Participating States shall be voluntarily determined by the political subdivision. The contractor agrees to supply the political subdivisions based upon the same terms, conditions and prices.

DEBARMENT: The contractor certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction (contract) by any governmental department or agency. If the contractor cannot certify this statement, attach a written explanation for review by WSCA.

AUDIT OF RECORDS: The contractor agrees to allow WSCA, State and Federal auditors, and state agency staff access to all the records to this contract, for audit and inspection, and monitoring of services. Such access will be during normal business hours, or by appointment.

ENTITY PARTICIPATION: Use of specific WSCA cooperative contracts by state agencies, political subdivisions and other entities (including cooperatives) authorized by individual state's statutes to use state contracts are subject to the approval of the respective State Chief Procurement Official. Issues of interpretation and eligibility for participation are solely within the authority of the respective State Chief Procurement Official.

01611 Police Radar, Lidar, Parts and Equipment

APPENDIX C STANDARD DEFINITIONS

This section contains definitions of terms commonly used in Solicitations conducted by the State of Washington, Office of State Procurement. Additional definitions may also be found in [Chapter 43.19 RCW](#) and [WAC 236-48-003](#), and all terms contained herein will be read consistently with those definitions.

Acceptance	The materials, supplies, services, and/or equipment have passed appropriate Inspection. In the event that there is a formal Acceptance Testing period required in the Solicitation document then acceptance is formalized in writing. If there is no Acceptance Testing, acceptance may occur when the Products are delivered and inspected.
Acceptance Testing	The process for ascertaining that the materials, supplies, services, and/or equipment meets the standards set forth in the Solicitation, prior to Acceptance by the Purchaser.
Agency	Includes State of Washington institutions, the offices of the elective state officers, the Supreme Court, the court of appeals, the administrative and other departments of state government, and the offices of all appointive officers of the state. In addition, colleges, community colleges, and universities who choose to participate in State Contract(s) are included. "Agency" does not include the legislature.
All or Nothing	The result of a competitive Solicitation that requires that a Contract be executed with a single Bidder for delivery of goods and/or services. In the event that suppliers are unable to deliver the entirety of the goods and/or services required, no Contract is executed. No partial fulfillment opportunities are available as a result of the Solicitation A method of award resulting from a competitive Solicitation by which the Purchasing Activity will award the resulting Contract to a single Bidder. Also, a designation the Bidder may use in its Bid or Response to indicate its offer is contingent upon full award and it will not accept a partial award.

01611 Police Radar, Lidar, Parts and Equipment

Alternate	A substitute offer of materials, supplies, services and/or equipment that is not at least a functional Equal in features, performance and use and which materially deviates from one or more of the specifications in a competitive Solicitation.
Amendment	A change to a legal document. For the purposes of a Solicitation document, an amendment shall be a unilateral change issued by the Purchasing Activity, at its sole discretion.
Authorized Representative	An individual designated by the Bidder or Contractor to act on its behalf and with the authority to legally bind the Bidder or Contractor concerning the terms and conditions set forth in Solicitation, Bid and Contract documents.
Bid	A sealed written offer to perform a Contract to provide materials, supplies, services, and/or equipment in reply to an Invitation For Bid (IFB).
Bidder	A Vendor who submits a Bid or Proposal in reply to a Solicitation.
Business Days	Monday through Friday, 8:00 a.m. to 5:00 p.m., Pacific Time, except for holidays observed by the state of Washington.
Calendar Days	Consecutive days of the year including weekends and holidays, each of which commence at 12:00:01 a.m. and end at Midnight, Pacific Time. When “days” are not specified, Calendar Days shall prevail.
Contract	An agreement, or mutual assent, between two or more competent parties with the elements of the agreement being offer, acceptance, and consideration.
Contract Administrator	The person designated to manage the resultant Contract for the Purchasing Activity. The primary contact for the Purchasing Activity with Purchasers and Contractor on a specific Contract.
Contractor	Individual, company, corporation, firm, or combination thereof with whom the Purchasing Activity develops a Contract for the procurement of materials, supplies, services, and/or equipment. It shall also include any Subcontractor retained by Contractor as permitted under the terms of the Contract.
Equal	An offer of materials, supplies, services and/or equipment that meets or exceeds the quality, performance and use of the specifications identified in a Solicitation.
Estimated Useful Life	The estimated time from the date of acquisition to the date of replacement or disposal, determined in any reasonable manner.

01611 Police Radar, Lidar, Parts and Equipment

Inspection	An examination of delivered material, supplies, services, and/or equipment prior to Acceptance aimed at forming a judgment as to whether such delivered items are what was ordered, were properly delivered and ready for Acceptance. Inspection may include a high level visual examination or a more thorough detailed examination as is customary to the type of purchase, as set forth in the solicitation document and/or as agreed between the parties. Inspection shall be acknowledged by an authorized signature of the Purchaser.
Invitation For Bid (IFB)	The form utilized to solicit Bids in the formal, sealed Bid procedure and any amendments thereto issued in writing by the Purchasing Activity. Specifications and qualifications are clearly defined.
Lead Time/After Receipt Of Order (ARO)	The period of time between when the Contractor receives the order and the Purchaser receives the materials, supplies, equipment, or services order.
Life Cycle Cost	The total cost of an item to the state over its Estimated Useful Life, including costs of selection, acquisition, operation, maintenance, and where applicable, disposal, as far as these costs can reasonably be determined, minus the salvage value at the end of its estimated useful life.
Office Of State Procurement	The Purchasing Activity within the Washington Department of General Administration, Services Division authorized under Chapter 43.19 RCW to develop and administer contracts for goods and services on behalf of state agencies, colleges and universities, non-profit organizations and local governments.
Order Document	A written communication, submitted by a Purchaser to the Contractor, which details the specific transactional elements required by the Purchaser within the scope of the Contract such as delivery date, size, color, capacity, etc. An Order Document may include, but is not limited to field orders, purchase orders, work order or other writings as may be designated by the parties hereto. No additional or alternate terms and conditions on such written communication shall apply unless authorized by the Contract and expressly agreed between the Purchaser and the Contractor.
Procurement Coordinator	The individual authorized by the Purchasing Activity who is responsible for conducting a specific Solicitation.
Product	Materials, supplies, services, and/or equipment provided under the terms and conditions of this Contract.
Proposal	A sealed written offer to perform a Contract to supply materials, supplies, services, and/or equipment in reply to a Request For Proposal (RFP).
Purchaser	The authorized user of the Contract, as identified in the Solicitation, who may or actually does make purchases of material, supplies, services, and/or equipment under the resulting Contract.

01611 Police Radar, Lidar, Parts and Equipment

Purchasing Activity	The Office of State Procurement or an Agency authorized by law to conduct acquisition of materials, supplies, services, and/or equipment or delegated that authority by the Office of State Procurement.
Recycled Material	Waste materials and by-products that have been recovered or diverted from solid waste and that can be utilized in place of a raw or virgin material in manufacturing a product and consists of materials derived from post-consumer waste, manufacturing waste, industrial scrap, agricultural wastes and other items, all of which can be used in the manufacture of new or recycled products.
Recycled Content Product	A product containing recycled material.
Request For Proposal (RFP)	The form utilized to solicit Proposals in the formal, sealed Bid procedure and any amendments thereto issued in writing by the Purchasing Activity. The specifications and qualification requirements are written in an outcome based form allowing for consideration of a broad range of different solutions to meet the procurement need.
Responsible	The ability, capacity, and skill to perform the Contract or provide the service required , including, but not limited to the character, integrity, reputation, judgment, experience, and efficiency of the Bidder; Further considerations may include, but are not limited to whether the Bidder can perform the contract within the time specified, the quality of performance of previous contracts or services, the previous and existing compliance by the Bidder with laws relating to the contract or services and such other information as may be secured having a bearing on the decision to award the contract:
Responsive	A Bid or Proposal that meets all material terms of the Solicitation document.
Response	A Bid or Proposal
Solicitation	The process of notifying prospective Bidders that the Purchasing Activity desires to receive competitive Bids or Proposals for furnishing specified materials, supplies, services, and/or equipment. Also includes reference to the actual documents used for that process, including: the Invitation For Bids (IFB) or Request For Proposals (RFP), along with all attachments and exhibits thereto.
State	The State of Washington acting by and through the Purchasing Activity.

01611 Police Radar, Lidar, Parts and Equipment

State Contract	The written document memorializing the agreement between the successful Bidder and the Purchasing Activity for materials, supplies, services, and/or equipment and/or administered by the Office of State Procurement on behalf of the State of Washington. “State Contract” does not include the following: • Colleges and universities that choose to purchase under RCW 28B.10.029 • Purchases made in accordance with state purchasing policy under Washington Purchasing Manual Part 6.11 Best Buy Program; • Purchases made pursuant to authority granted or delegated under RCW 43.19.190(2) or (3) • Purchases authorized as an emergency purchase under RCW 43.19.200(2); or • Purchases made pursuant to other statutes granting the Agency authority to independently conduct purchases of materials, supplies, services, or equipment.
Subcontractor	A person or business that is, or will be, providing or performing an essential aspect of the Contract under the direction and responsibility of the Contractor and with the agreement of the Purchasing Activity.
Vendor	A provider of materials, supplies, services, and/or equipment.
Washington’s Electronic Business Solution (WEBS)	The Vendor registration and Bidder notification system maintained by the Washington State Department of General Administration located at: www.ga.wa.gov/webs .

01611 Police Radar, Lidar, Parts and Equipment

APPENDIX D BIDDER PROFILE

COMPANY INFORMATION

Bidder to provide the following information:

1. Federal Tax Identification number:
2. WA State Department of Revenue Registration Tax number
3. Company Internet URL Address (if available):
4. Company Mailing Addresses
5. Orders to be sent to:
6. Billing will be from
7. Payment to be sent to

RECIPROCITY

Firms bidding from California only: Is your firm currently certified as a small business under California Code, Title 2, Section 1896.12? Yes ☐ No ☐

01611 Police Radar, Lidar, Parts and Equipment

REFERENCES

Provide a minimum of three (3) public sector or private references for which Bidder has delivered goods and/or services similar in scope as describe in the IFB.

1) Agency/Company Name:	
Address:	
Contact Person:	
Telephone:	
Product Provided /Approx. Dollar Cost	

2) Agency/Company Name:	
Address:	
Contact Person:	
Telephone:	
Product Provided /Approx. Dollar Cost	

3) Agency/Company Name:	
Address:	
Contact Person:	
Telephone:	
Product Provided /Approx. Dollar Cost	

SUBCONTRACTORS:

Identify any Subcontractors who will perform services in fulfillment of Contract requirements; the nature of services to be performed including the dollar value of percentage of business, and include federal tax identification (TIN) number for each Subcontractor.

Name/Address/Contact/Phone:	T.I.N.:	Brief description of the nature of Service Provided (e.g. testing, sampling, pick-up, etc) including dollar value or percentage of business:

01611 Police Radar, Lidar, Parts and Equipment

SALES & ORDERING INFORMATION

Bidder shall complete the following information and return with bid response.

1. Sales Representative

Sales Representative(s): Indicate below the contact information and specific territories covered:			
Name: _____		Name: _____	
Telephone: _____		Telephone: _____	
Toll Free No. _____		Toll Free No. _____	
Mobile Phone _____		Mobile Phone _____	
Territory _____		Territory _____	
Fax: _____		Fax: _____	
Email: _____		Email: _____	

2. Usage Contact if different from above: Name: _____ Telephone: _____
3. Payment Term: Prompt Payment Discount _____ % 30 days or NET 30 days.
Note: Prompt payment discount periods equal to (or greater than) 30 calendar days will receive consideration and bid pricing will be reduced (for evaluation purposes only) by the amount of that discount(s).
4. Purchasing (Credit) Cards accepted: Yes ☐ No ☐
(Washington State Purchasing card is VISA) If yes, please list cards accepted:
☐ Visa ☐ Master Card ☐ American Express ☐ Discover ☐ Other _____
Does the Prompt Payment Discount apply if the Purchasing Card is used? Yes ☐ No ☐
5. Volume Discount: Identify volume discount(s), please indicate the discount _____ % or \$ _____ and when it applies:
6. Pricing Components: To better estimate market fluctuations and influences with regard to the product(s) being bid, bidders are to identify the percent breakdown for the following:

Contracted Products: _____ %
Delivery Costs: _____ %
Overhead: _____ %
Total: 100%

Note: The Successful Bidder(s) may be required to provide a more detailed breakdown and supporting documentation to validate.

01611 Police Radar, Lidar, Parts and Equipment

7. For Cost analysis purposes, please indicate the percent savings that your bid pricing represents compared the price other entities would pay without the benefit of a Multi-State Contract:

Bid pricing offered by your firm average _____% lower than (please check all that apply):

- a. _____ Price that would be obtained through a single state contract.
- b. _____ Price that would be obtained through a city or county contract.
- c. _____ Price that would be obtained through a GSA Contract
- d. _____ Manufacturer's current suggested retail price

Other, please specify _____

01611 Police Radar, Lidar, Parts and Equipment

APPENDIX E PRICE WORKSHEETS**Category 1 – Applied Concepts**

Req. Item	MANUFACTURER	MODEL	Band	Qty	Unit	Unit Price
1.	Applied Concepts	Stalker Basic	K	1	EA	\$
2.	Applied Concepts	Stalker Dual SL	K, Ka	1	EA	\$
3.	Applied Concepts	Stalker Dual DSR	Ka	1	EA	\$
4.	Applied Concepts	Stalker DSR 2X	Ka	1	EA	\$
5.	Applied Concepts	Stalker II SDR	Ka	1	EA	\$
6.	Applied Concepts	Stalker II MDR	Ka	1	EA	\$
7.	Applied Concepts	Stalker Patrol	K	1	EA	\$
8.	Applied Concepts	Stalker (LIDAR)		1	EA	\$
9.	Applied Concepts	Stalker LR (LIDAR)		1	EA	\$
10.	Total Cost Applied Concepts (will be used to determine lowest cost for Applied Concepts products)					\$
PARTS & ACCESSORIES DISCOUNTS						
	Manufacturer's <u>Parts Discount</u>					
	Applied Concepts Parts catalog/price list dated: _____			_____ %		
	Manufacturer's <u>Accessories Discount</u>					
	Applied Concepts Accessories catalog/price list dated: _____			_____ %		

01611 Police Radar, Lidar, Parts and Equipment

Category 2 – Decatur Electronics

Req. Item	MANUFACTURER	MODEL	Band	Qty	Unit	Unit Price
1.	Decatur Electronics	Genesis GHD	K	1	EA	\$
2.	Decatur Electronics	Genesis II Select	K, Ka	1	EA	\$
3.	Decatur Electronics	Genesis II Select Harley Davidson	Ka	1	EA	\$
4.	Decatur Electronics	Genesis II Directional	K	1	EA	\$
5.	Decatur Electronics	Genesis-VP Directional	K	1	EA	\$
6.	Decatur Electronics	Harley-Davidson Genesis VP Directional	K	1	EA	\$
7.	Decatur Electronics	Scout	K	1	EA	\$
8.	Total Cost Decatur Electronics (will be used to determine lowest cost for Decatur Products)					\$
PARTS & ACCESSORIES DISCOUNTS						
		Manufacturer's <u>Parts Discount</u>				
		Decatur Electronics _____ Parts catalog/price list dated: _____			_____ %	
		Manufacturer's <u>Accessories Discount</u>				
		Decatur Electronics _____ Accessories catalog/price list dated: _____			_____ %	

01611 Police Radar, Lidar, Parts and Equipment

Category 3 – DragonEye Technology

Req. Item	MANUFACTURER	MODEL	Band	Qty	Unit	Unit Price
1.	DragonEye Tech.	LaserAlly	LIDAR	1	EA	\$
2.	Total Cost DragonEye (will be used to determine lowest cost for DragonEye's Products)					\$
PARTS & ACCESSORIES DISCOUNTS						
		Manufacturer's <u>Parts Discount</u>				
		DragonEye Tech. _____ Parts catalog/price list dated: _____			_____ %	
		Manufacturer's <u>Accessories Discount</u>				
		DragonEye Tech. _____ Accessories catalog/price list dated: _____			_____ %	

01611 Police Radar, Lidar, Parts and Equipment

Category 4 – Kustom Signals

Req. Item	MANUFACTURER	MODEL	Band	Qty	Unit	Unit Price
1.	Kustom Signals	Eagle II	K, Ka	1	EA	\$
2.	Kustom Signals	Eagle Plus II	K, Ka	1	EA	\$
3.	Kustom Signals	Golden Eagle	K, Ka	1	EA	\$
4.	Kustom Signals	Golden Eagle II	K, Ka	1	EA	\$
5.	Kustom Signals	Directional Golden Eagle II	Ka	1	EA	\$
6.	Kustom Signals	Falcon	K	1	EA	\$
7.	Kustom Signals	Falcon HR	K	1	EA	\$
8.	Kustom Signals	HR-12	K	1	EA	\$
9.	Kustom Signals	Pro-1000(DS)	K	1	EA	\$
10	Kustom Signals	Talon II	Ka	1	EA	\$
11	Kustom Signals	Directional Talon	Ka	1	EA	\$
12	Kustom Signals	Raptor RP-1	K, Ka	1	EA	\$
13	Kustom Signals	ProLaser III	LIDAR	1	EA	\$
14	Kustom Signals	Laser Cam II	LIDAR	1	EA	\$
15	Kustom Signals	DTMS	LIDAR	1	EA	\$
16	Kustom Signals	Pro-Lite	LIDAR	1	EA	\$
17	Kustom Signals	Pro-Lite +	LIDAR	1	EA	\$
18	Total Cost Kustom Signal (will be used to determine lowest cost for Kustom Products)					\$
PARTS & ACCESSORIES DISCOUNTS						
		Manufacturer's <u>Parts Discount</u>				
		Kustom Signals _____ Parts catalog/price list dated: _____			_____ %	
		Manufacturer's <u>Accessories Discount</u>				
		Kustom Signals _____ Accessories catalog/price list dated: _____			_____ %	

01611 Police Radar, Lidar, Parts and Equipment

Category 5 – MPH Industries

Req. Item	MANUFACTURER	MODEL	Band	Qty	Unit	Unit Price
1.	MPH Industries	BEE III	K, Ka	1	EA	\$
2.	MPH Industries	Python III	X,K, Ka	1	EA	\$
3.	MPH Industries	Ranger EZ	K	1	EA	\$
4.	MPH Industries	Speedgun	K	1	EA	\$
5.	MPH Industries	Z-25	K	1	EA	\$
6.	MPH Industries	Z-35	K	1	EA	\$
7.	MPH Industries	Enforcer	K, Ka	1	EA	\$
8.	Total Cost MPH Industries (will be used to determine lowest cost for MPH Products)					\$
PARTS & ACCESSORIES DISCOUNTS						
		Manufacturer's <u>Parts Discount</u>				
		MPH Industries _____ Parts catalog/price list dated: _____				_____ %
		Manufacturer's <u>Accessories Discount</u>				
		MPH Industries _____ Accessories catalog/price list dated: _____				_____ %

01611 Police Radar, Lidar, Parts and Equipment

Category 6 – Municipal Electronics

Req. Item	MANUFACTURER	MODEL	Band	Qty	Unit	Unit Price
1.	Municipal Electronics	TS-3	K	1	EA	\$
2.	Total Cost Municipal Electronics (will be used to determine lowest cost for Municipal Products)					\$
PARTS & ACCESSORIES DISCOUNTS						
		Manufacturer's <u>Parts Discount</u>				
		Municipal Electronics _____ Parts catalog/price list dated: _____			_____ %	
		Manufacturer's <u>Accessories Discount</u>				
		Municipal Electronics _____ Accessories catalog/price list dated: _____			_____ %	

01611 Police Radar, Lidar, Parts and Equipment

Category 7 – U.S. Radar

Req. Item	MANUFACTURER	MODEL	Band	Qty	Unit	Unit Price
1.	U. S. Radar	Phantom	K	1	EA	\$
2.	Total Cost U.S. Radar (will be used to determine lowest cost for U.S. Radar Products)					\$
PARTS & ACCESSORIES DISCOUNTS						
		Manufacturer's <u>Parts Discount</u>				
		U.S. Radar _____ Parts catalog/price list dated: _____			_____ %	
		Manufacturer's <u>Accessories Discount</u>				
		U.S. Radar _____ Accessories catalog/price list dated: _____			_____ %	

01611 Police Radar, Lidar, Parts and Equipment

Category 8 – Laser Atlanta, LLC

Req. Item	MANUFACTURER	MODEL	Band	Qty	Unit	Unit Price
1.	Laser Atlanta, LLC	Speedlaser B	LIDAR	1	EA	\$
2.	Laser Atlanta, LLC	Speedlaser R	LIDAR	1	EA	\$
3.	Laser Atlanta, LLC	Speedlaser S	LIDAR	1	EA	\$
4.	Laser Atlanta, LLC	Speedlaser T	LIDAR	1	EA	\$
5.	Total Cost Laser Atlanta, LLC (will be used to determine lowest cost for Laser Atlanta Products)					\$
PARTS & ACCESSORIES DISCOUNTS						
		Manufacturer's <u>Parts Discount</u>				
		Laser Atlanta _____ Parts catalog/price list dated: _____				_____ %
		Manufacturer's <u>Accessories Discount</u>				
		Laser Atlanta _____ Accessories catalog/price list dated: _____				_____ %

01611 Police Radar, Lidar, Parts and Equipment

Category 9 – Laser Technology, Inc.

Req. Item	MANUFACTURER	MODEL	Band	Qty	Unit	Unit Price
1.	Laser Technology, Inc.	LTI 20/20 TruCam	LIDAR	1	EA	\$
2.	Laser Technology, Inc.	TruSpeed	LIDAR	1	EA	\$
3.	Laser Technology, Inc.	Ultralyte 100/100 LR	LIDAR	1	EA	\$
4.	Laser Technology, Inc.	Ultralyte 200/200 LR	LIDAR	1	EA	\$
5.	Laser Technology, Inc.	Ultralyte LR B	LIDAR	1	EA	\$
6.	Laser Technology, Inc.	Ultralyte Compact	LIDAR	1	EA	\$
7.	Laser Technology, Inc.	Micro Digi-Cam System	LIDAR	1	EA	\$
8.	Total Cost Laser Technology, Inc. (will be used to determine lowest cost for Laser Technology Products)					\$
PARTS & ACCESSORIES DISCOUNTS						
		Manufacturer's <u>Parts Discount</u>				
		Laser Technology _____ Parts catalog/price list dated: _____				_____ %
		Manufacturer's <u>Accessories Discount</u>				
		Laser Technology _____ Accessories catalog/price list dated: _____				_____ %

01611 Police Radar, Lidar, Parts and Equipment

APPENDIX F TECHNICAL REQUIREMENTS

1.1 FACTORY TEST

Each unit and assembly shall undergo extensive testing prior to shipment from the factory. These tests shall encompass all aspects and functions of the equipment from component to unit entirely.

All test procedures and standards shall be as prescribed by NHTSA Technical Report.

An operational test report shall be furnished with each unit.

1.2 PRODUCT REQUIREMENTS

All products bid via this solicitation shall be listed on the Conforming Products List (CPL) of the International Association of Chiefs of Police (IACP)

<http://www.theiacp.org/LinkClick.aspx?fileticket=OCj4QtaxEHE%3d&tabid=245>

01611 Police Radar, Lidar, Parts and Equipment

International Association of Chiefs of Police
Police
515 N. Washington Street
Alexandria, VA 22314-2357
Telephone: 703-836-6767; 1-800-THE-IACP
Fax: 703-836-4543



CONFORMING PRODUCT LIST (CPL)

Enforcement Technology Program

International Association of Chiefs of Police (IACP)

July 18, 2011

The International Association of Chiefs of Police (IACP) publishes a Conforming Product List (CPL) for enforcement-technology equipment. This equipment is intended for use in highway-safety programs. Device models that appear on the CPL have been tested and found to be in compliance with IACP's performance specifications that were in effect when the device model was first placed on the CPL. These performance specifications are intended to help ensure these devices are both accurate and reliable when properly operated and maintained. IACP recommends that law-enforcement agencies use this CPL as one of its criteria when purchasing enforcement-technology equipment. It is important to note that these agencies must also be aware of any applicable federal, state and local requirements since these requirements are outside the scope of IACP's performance specifications.

TABLE OF CONTENTS

PART I: DOWN-THE-ROAD RADAR SPEED-MEASURING DEVICES and
UNITS APPROVED BUT NO LONGER IN PRODUCTION

PART II: LIDAR SPEED-MEASURING DEVICES AND SYSTEMS and
UNITS APPROVED BUT NO LONGER IN PRODUCTION

01611 Police Radar, Lidar, Parts and Equipment

PART I: DOWN-THE-ROAD RADAR SPEED-MEASURING DEVICES

The International Association of Chiefs of Police (IACP), through Cooperative Agreement number DTNH22-10-H-00317 with the National Highway Traffic Safety Administration (NHTSA), has tested and certifies that the following down-the-road radar speed-measuring device models meet all the requirements of the *Speed-measuring Device Performance Specifications: Down-the-Road Radar Module* (DOT HS 809 812, June 2004) published by NHTSA and available at <http://www.nhtsa.dot.gov/people/injury/enforce/DownTheRoadWeb/pages/index.html>>. For additional information, refer to the Notes section at the end of this portion of the CPL.

MANUFACTURER	MODEL	BAND	Mode (S/M)	HANDHELD	SAME DIRECTION	FASTEST TARGET	DISCRIMINATE DIRECTION
Applied Concepts	Stalker Basic	K	S/M	•			
Applied Concepts	Stalker Dual SL	Ka	S/M		•	•	
Applied Concepts	Stalker Dual DSR	Ka	S/M		•	•	•
Applied Concepts	Stalker DSR 2X	Ka	S/M		•	•	•
Applied Concepts	Stalker II SDR	Ka	S	•		•	•
Applied Concepts	Stalker II MDR	Ka	S/M	•	•	•	•
Applied Concepts	Stalker Patrol	K	S/M		•	•	
Decatur Electronics	Genesis GHD	K	S	•		•	•
Decatur Electronics	Genesis II Select ¹	K, Ka	S/M		•	•	
Decatur Electronics	Genesis II Select Harley-Davidson	Ka	S/M		•	•	
Decatur Electronics	Genesis II Directional ²	K	S/M		•	•	•
Decatur Electronics	Genesis-VP Directional	K	S	•		•	•
Decatur Electronics	Harley-Davidson Genesis VP Directional	K	S	•		•	•
Decatur Electronics	Scout	K	S	•		•	•
Kustom Signals	Eagle II	K, Ka	S/M				

¹ The radar mirror is approved as a substitute for the original display unit of the Genesis II Select radar.

² The radar mirror is approved as a substitute for the original display unit of the Genesis II Directional radar.

01611 Police Radar, Lidar, Parts and Equipment

MANUFACTURER	MODEL	BAND	Mode (S/M)	HANDHELD	SAME DIRECTION	FASTEST TARGET	DISCRIMINATE DIRECTION
Kustom Signals	Eagle Plus II	K, Ka	S/M			•	
Kustom Signals	Golden Eagle	Ka	S/M		•	•	
Kustom Signals	Golden Eagle II	K, Ka	S/M		•	•	
Kustom Signals	Directional Golden Eagle II	Ka	S/M		•	•	•
Kustom Signals	Falcon	K	S	•			
Kustom Signals	Falcon HR	K	S/M	•	•	•	•
Kustom Signals	HR-12	K	S/M	•			
Kustom Signals	Pro-1000(DS)	K	S/M				
Kustom Signals	Talon II	Ka	S/M	•	•	•	
Kustom Signals	Directional Talon	Ka	S/M	•	•	•	•
Kustom Signals	Raptor RP-1	K, Ka	S/M		•	•	•
MPH Industries	BEE III	K, Ka	S/M		•	•	•
MPH Industries	Python III	X, K, Ka	S/M		• (K and Ka Only)	• (K and Ka Only)	
MPH Industries	Ranger EZ ³	K	S/M		•	•	•
MPH Industries	Speedgun	K	S/M	•	•	•	
MPH Industries	Z-25	K	S	•		•	
MPH Industries	Z-35	K	S	•		•	
MPH Industries	Enforcer	Ka	S/M		•	•	
Municipal Electronics	TS-3	K	S	•			
U. S. Radar	Phantom	K	S	•			

¹ MPH, Ranger EX, K-Band, please note that the directional feature was not tested in the lab due to the lab equipment not being compatible with the Ranger's radar technology.

³ MPH, Ranger EX, K-Band, please note that the directional feature was not tested in the lab due to the lab equipment not being compatible with the Ranger's radar technology.

01611 Police Radar, Lidar, Parts and Equipment

NOTES:

- 1) Mode “S” refers to the stationary mode and mode “M” refers to moving mode.
- 2) Some of the models listed on the CPL may have operational features that are not a part of the model minimum performance specifications. It is important to understand that these features have not been tested or certified, even though the device itself has been certified to meet the model minimum performance specifications.
- 3) CPL certification for any individual device model will be voided by any third party modifications not specifically approved by the original equipment manufacturer and the IACP.
- 4) Test results and analysis contained herein do not represent product endorsement by the IACP nor product approval or endorsement by the National Highway Traffic Safety Administration, the U.S. Department of Transportation, the National Institute of Standards and Technology, or the U.S. Department of Commerce.

PART II: LIDAR SPEED-MEASURING DEVICES AND SYSTEMS

The International Association of Chiefs of Police (IACP), through Cooperative Agreement number DTNH22-10-H-00317 with the National Highway Traffic Safety Administration (NHTSA), has tested and certifies that the following lidar speed-measuring device models and systems meet all the requirements of the *Speed-measuring Device Performance Specifications: Lidar Module* (DOT HS 809 811, June 2004) published by NHTSA and available at http://www.nhtsa.gov/people/injury/speedmgmt/speed_lidar_module/pages/index.htm>. For additional information, refer to the **Notes** section at the end of this portion of the CPL.

MANUFACTURER	MODEL	LIDAR DEVICE ⁽¹⁾	LIDAR SYSTEM ⁽²⁾	
			MANUAL ⁽³⁾	AUTOMATIC ⁽⁴⁾
				UNATTENDED ⁽⁶⁾
Applied Concepts, Inc.	Stalker	•		
Applied Concepts, Inc.	Stalker LR	•		
DragonEye Technology, LLC	LaserAlly ⁴	•		
Kustom Signals, Inc.	ProLaser III	•		
Kustom Signals, Inc.	LaserCam II	•	•	

⁴ DragonEye Speed Lidar

01611 Police Radar, Lidar, Parts and Equipment

MANUFACTURER	MODEL	LIDAR DEVICE ⁽¹⁾	LIDAR SYSTEM ⁽²⁾		
			MANUAL ⁽³⁾	ATTENDED ⁽⁵⁾	AUTOMATIC ⁽⁴⁾
					UNATTENDED ⁽⁶⁾
Kustom Signals, Inc.	DTMS	•		•	•
Kustom Signals, Inc.	Pro-Lite	•			
Kustom Signals, Inc.	Pro-Lite +	•			
Laser Atlanta, LLC	SpeedLaser® B	•			
Laser Atlanta, LLC	SpeedLaser® R	•			
Laser Atlanta, LLC	SpeedLaser® S	•			
Laser Atlanta, LLC	SpeedLaser® T	•			
Laser Technology, Inc.	LTI 20/20 TruCAM	•	•	•	
Laser Technology, Inc.	TruSpeed	•			
Laser Technology, Inc.	Ultralyte 100/100 LR	•			
Laser Technology, Inc.	Ultralyte 200/200 LR	•			
Laser Technology, Inc.	Ultralyte LR B	•			
Laser Technology, Inc.	Ultralyte Compact	•			
Laser Technology, Inc.	Micro Digi-Cam System	•	•	•	

NOTES:

- 1) Lidar Device – down-the-road speed-measuring equipment, which determines target range and speed based on the time-of-flight of laser light pulses reflected off a target. The term “lidar device” is synonymous with “laser speed-measuring device” and “lidar unit.”
- 2) Lidar System – a lidar device that incorporates additional equipment that is used to gather, process and/or recorded images to be used as part of speed enforcement efforts.
- 3) Manual Mode – a mode in a lidar system where an operator manually aims the lidar system to track the movement of a target vehicle while the vehicle’s range and speed are determined and images recorded.
- 4) Automatic Mode – a mode in a lidar system, which automatically determines a target vehicle’s range and speed and records images. This mode applies to both attended and unattended operation.
- 5) Attended Operation – an operator is an integral part of the evidence acquisition process.

01611 Police Radar, Lidar, Parts and Equipment

- 6) Unattended Operation – an operator is not an integral part of the evidence acquisition process.
- 7) Some of the models listed on the CPL may have operational features that are not a part of the model minimum performance specifications. It is important to understand that these features have not been tested or certified, even though the device itself has been certified to meet the model minimum performance specifications.
- 8) CPL certification for any individual device model will be voided by any third party modifications not specifically approved by the original equipment manufacturer and the IACP.
- 9) Test results and analysis contained herein do not represent product endorsement by the IACP nor product approval or endorsement by the National Highway Traffic Safety Administration, the U.S. Department of Transportation, the National Institute of Standards and Technology, or the U.S. Department of Commerce.

01611 Police Radar, Lidar, Parts and Equipment

APPENDIX G SUPPLEMENTAL INFORMATION

Company/bidder experience submittal

This submittal will be evaluated and used to aide in the determination of whether the Bidder Passes or Fails the Responsibility Evaluation.

No state form is provided for this Submittal, a one page, self-authored Submittal should be provided. This Submittal shall be titled Appendix G Supplemental Information and contain your company's name.

Bidders should review the considerations below and make sure the Submittal is in alignment with, and that it addresses the primary focus below.

Considerations: While the Purchasing Activity is not limited in what it can consider, the primary focus is detailed below:

- Please explain why/how your company is well suited to carry out the duties of this contract across multiple states. This should include contracts the Bidder has held during the past three years (or greater) that demonstrate the firm's ability to perform the services identified in the solicitation.
- Provide documentation that indicates how the equipment Unit Prices, and Discount off list for parts and accessories offered in your bid are an equal or greater value when compared to current contracts which are similar in size. Examples: comparisons to other state contracts, city or County contracts, GSA contracts etc. List contract reference numbers, periods of performance, contract persons and telephone numbers.

Failure to provide this Submittal will not cause your bid to be rejected however it will be required upon request. If the Purchasing Activity requests this Submittal, you will have 10 days to provide it. Failure to provide the Submittal within 10 days may cause your bid to be rejected as non-responsible.

01611 Police Radar, Lidar, Parts and Equipment

APPENDIX H STATE SPECIFIC TERMS AND CONDITIONS

State specific, unique terms and conditions are listed below as embedded documents:



\



Washington State
DEPARTMENT OF
ENTERPRISE SERVICES



COOPERATIVE PURCHASING AGREEMENT

No. 24823

**POLICE RADAR LIDAR SPEED ENFORCEMENT
&
ACCIDENT SCENE RECONSTRUCTION**

For Use by Eligible Purchasing Entities

By and Between

**STATE OF WASHINGTON
DEPARTMENT OF ENTERPRISE SERVICES**

and

FARO Technologies, Inc.

September 1, 2024

COOPERATIVE PURCHASING AGREEMENT

No. 24823

POLICE RADAR/LIDAR SPEED ENFORCEMENT & ACCIDENT SCENE RECONSTRUCTION

FOR

CONTRACT CATEGORY ONE, Group C6 –Accident and Crime Scene Re-Construction

This Cooperative Purchasing Agreement (“Cooperative Purchasing Agreement”) is made and entered into by and between Enterprise Services acting by and through the State of Washington (“Enterprise Services”) and FARO Technologies, Inc., a Florida Corporation, (“Contractor”) and is dated and effective as of September 1, 2024.

RECITALS

- A. **CONTRACTS FOR GOODS AND/OR SERVICES.** Pursuant to Legislative authorization, Enterprise Services, on behalf of the State of Washington, is authorized to develop, solicit, and establish contracts for goods and services to support Washington state agencies. See RCW 39.26.050(1). The Washington State Legislature has authorized Enterprise Services to make these contracts available, pursuant to agreement in which Enterprise Services ensures full cost recovery, to other local or federal government agency or entity, certain public benefit nonprofit organizations, or any tribes located in the State of Washington. See RCW 39.26.050(1) & (2).
- B. **COOPERATIVE PURCHASING.** The Washington State Legislature also has authorized Enterprise Services, on behalf of the State of Washington, to participate in, sponsor, conduct, or administer certain cooperative purchasing agreements. See RCW 39.26.060(1). Such cooperative purchasing agreements are designed to function as cost-effective and efficient enterprise procurement solutions for Washington state agencies and other specified eligible purchasers, authorized by Enterprise Services, to procure goods and/or services from awarded contractors pursuant to a competitive solicitation process. See RCW 39.26.060(2).
- C. **COOPERATIVE PURCHASING – ENTERPRISE SERVICES’ ROLE.** In regard to cooperative purchasing, Enterprise Services’ role and responsibility differs depending on whether Enterprise Services, on behalf of the State of Washington, is exercising its authority to participate in an established cooperative purchasing agreement (e.g., join an existing cooperative purchasing agreement and specify the scope of such joinder and eligible purchasers) or is exercising its authority to collaborate, for example, with one or more other states to develop, solicit, and award a cooperative purchasing agreement. See RCW 39.26.060(1).
- D. **COOPERATIVE PURCHASING – ENTERPRISE SERVICES’ MULTI-STATE PROCUREMENT COLLABORATION THROUGH NASPO VALUEPOINT.** One of the approaches that Enterprise Services utilizes to collaborate with other states to develop, solicit, and award a cooperative purchasing agreement, is NASPO ValuePoint. NASPO Cooperative Organization LLC, doing business as NASPO ValuePoint, is a nonprofit subsidiary of the National Association of State Procurement Officials (NASPO). The NASPO ValuePoint cooperative program is led by state procurement officers from member states. NASPO ValuePoint does not solicit, evaluate, or award cooperative purchasing agreements; rather, NASPO ValuePoint assists

states, for an administrative fee, in their multi-state procurement collaboration to design and implement competitively solicited and awarded cooperative purchasing agreements.

- E. **COOPERATIVE PURCHASING – NASPO VALUEPOINT COOPERATIVE MODEL.** Pursuant to the NASPO ValuePoint cooperative model, a designated state serves as the ‘lead state’ to conduct a competitive procurement in compliance with the lead state’s procurement laws and award a cooperative purchasing agreement with a contractor for the specified goods and/or services. States (including the District of Columbia and the organized territories of the United States), including the lead state, then may participate in the awarded cooperative purchasing agreement(s) by executing a participating addendum with the awarded contractor. Until a participating addendum is executed by the applicable state (a ‘participating entity’), no agency or other eligible organization (a ‘purchasing entity’) may purchase any goods and/or services pursuant to the cooperative purchasing agreement. Under Washington law, at the time of the competitive solicitation, states may provide supplemental terms and conditions to inform such state’s use of the resulting cooperative purchasing agreement. In addition, pursuant to their participating addendum, states may require certain administrative terms and conditions (e.g., a vendor management fee for sales within the state, state registration and reporting). Awarded contractors, however, have no obligation to condition execution of a participating addendum on substantive terms and conditions that were not competitively procured.
- F. **COMPETITIVE SOLICITATION FOR COOPERATIVE PURCHASING AGREEMENT(S).** Enterprise Services, with administrative support from NASPO ValuePoint, issued Competitive Solicitation No. 24823 dated January 22, 2024, to solicit bids, by Contract Category and Group, for specified *Goods and/or Services* collectively referred to as Police Radar/Lidar Speed Enforcement & Accident Scene Reconstruction or Police Radar/Lidar. Pursuant to the Competitive Solicitation, bidders were able to bid for some or all of the specified Contract Categories and Groups that comprised the solicited *Goods and/or Services*. Nineteen (19) states indicated an intent to utilize the resulting cooperative purchasing agreement.
- G. **AWARDED CONTRACTOR FOR COOPERATIVE PURCHASING AGREEMENT.** Enterprise Services and a multi-state stakeholder team consisting of representatives from Washington, California, Nevada, Oklahoma, and South Carolina, evaluated all responsive bids to the Competitive Solicitation and identified *Contractor* as an apparent successful bidder for the specified Contract Category(ies) and Group(s) identified above.
- H. **COOPERATIVE PURCHASING AGREEMENT.** The purpose of this *Cooperative Purchasing Agreement* is to establish commercially reasonable contractual terms and conditions for authorized *Purchasing Entities* to purchase specified *Goods and/or Services* from *Contractor*, as set forth herein.

A G R E E M E N T

NOW THEREFORE, in consideration of the mutual promises, covenants, and conditions set forth herein, the *Parties* agree as follows:

1. DEFINITIONS.

- 1.1. **COMPETITIVE SOLICITATION.** Competitive Solicitation No. 24823, issued by Enterprise Services, pursuant to Washington’s Procurement Code for Goods/Services

(RCW 39.26) to conduct a competitive procurement process for *Cooperative Purchasing Agreement(s)* for *Goods and/or Services*.

- 1.2. *CONTRACTOR*. The entity identified above who, pursuant to a competitive solicitation process conducted by the *Lead State*, was awarded a *Cooperative Purchasing Agreement* and, as such, is authorized to enter into a *Participating Addendum* with any *Participating Entity* to enable such *Participating Entity* to authorize *Purchasing Entities* to purchase *Goods and/or Services* from this *Cooperative Purchasing Agreement*, as specified by the applicable *Participating Entity* in the *Participating Addendum*.
- 1.3. *COOPERATIVE PURCHASING AGREEMENT(S)*. This *Cooperative Purchasing Agreement* that was competitively solicited and awarded by the *Lead State* to *Contractor* and which, pursuant to a *Participating Addendum* between *Contractor* and *Participating Entity*, may be utilized by those *Purchasing Entities* specified by the applicable *Participating Entity* to purchase specified *Goods and/or Services*.
- 1.4. *ENTERPRISE SERVICES*. The Washington State Department of Enterprise Services, a Washington state governmental agency.
- 1.5. *GOODS AND/OR SERVICES*. The goods and/or services included within the scope of this *Cooperative Purchasing Agreement* and set forth in attached ***Exhibit B – Included Goods and/or Services & Pricing***.
- 1.6. *LEAD STATE*. The State of Washington acting by and through *Enterprise Services*.
- 1.7. *NASPO VALUEPOINT*. NASPO ValuePoint is a division of the National Association of State Procurement Officials (“NASPO”), a 501(c)(3) corporation. NASPO ValuePoint facilitates administration of the NASPO cooperative group contracting consortium of state chief procurement officials for the benefit of state departments, institutions, agencies, and political subdivisions and other eligible entities (i.e., colleges, school districts, counties, cities, some nonprofit organizations, etc.) for all states, the District of Columbia, and territories of the United States. NASPO ValuePoint is identified in the Cooperative Purchasing Agreement as the recipient of reports and may perform contract administration functions relating to collecting and receiving reports, as well as other contract administration functions as assigned by the Lead State.
- 1.8. *PARTICIPATING ADDENDUM*. A bilateral agreement executed by a Contractor and a Participating Entity incorporating this Cooperative Purchasing Agreement and any additional Participating Entity-specific language or other requirements (e.g., ordering procedures specific to the Participating Entity, entity-specific terms and conditions, etc.).
- 1.9. *PARTICIPATING ENTITY(IES)*. A state (as well as the District of Columbia and US territories), city, county, district, other political subdivision of a State, or a nonprofit organization under the laws of some states properly authorized to enter into a Participating Addendum, that has executed a Participating Addendum.
- 1.10. *PARTIES*. *Contractor* and the State of Washington acting by and through *Enterprise Services*.
- 1.11. *PURCHASE ORDER(S)*. Any purchase order, sales order, contract or other document used by a Purchasing Entity to order the Products. .

- 1.12. *PURCHASING ENTITY(IES)*). A state (as well as the District of Columbia and US territories), city, county, district, other political subdivision of a State, or a nonprofit organization under the laws of some states if authorized by a Participating Addendum, that issues a Purchase Order against the Cooperative Purchasing Agreement and becomes financially committed to the purchase.
- 1.13. *WEBS*. The Washington Electronic Business Solutions system administered by *Enterprise Services*. See RCW 39.26.150.

2. **TERM.** The term of this *Cooperative Purchasing Agreement* is up to sixty (60) months. Initially, the term of this *Cooperative Purchasing Agreement* is thirty-six (36) months, commencing September 1, 2024 and ending August 31, 2027; *Provided*, however that, if *Contractor* is not in default and if, by May 1, 2027, in *Enterprise Services'* reasonable judgment, *Contractor* satisfactorily has met the performance-based metrics for extension, *Enterprise Services* shall extend the term of this *Cooperative Purchasing Agreement*, by written amendment, for up to twenty-four (24) additional months. Such term extension, if any, shall be on the same terms and conditions as set forth in this *Cooperative Purchasing Agreement*. To earn the performance-based term extension, *Contractor* must achieve the following performance-based metrics:

PERFORMANCE METRIC	PERFORMANCE REQUIREMENT FOR TERM EXTENSION
Insurance Endorsements:	<i>Contractor</i> timely provides at the designated address, without exception, annual insurance endorsements for the insurance coverages required by this <i>Cooperative Purchasing Agreement</i> . See Exhibit A – Insurance Requirements at § 15.
Administrative Fee Payments:	<i>Contractor</i> provides timely and accurate Administrative Fee payments as detailed in this <i>Cooperative Purchasing Agreement</i> and <i>Participating Addendums</i> . See § 12.
Reports:	<i>Contractor</i> provides timely and accurate reports as detailed in this <i>Cooperative Purchasing Agreement</i> and <i>Participating Addendums</i> . See § 12, 13.3, 14, and 16.

3. **PARTICIPANTS AND SCOPE OF PARTICIPATION.** This *Cooperative Purchasing Agreement* may be utilized pursuant to the following conditions:

- 3.1. **PARTICIPATING ENTITIES.** *Contractor* may not sell *Goods and/or Services* to a *Purchasing Entity* pursuant to this *Cooperative Purchasing Agreement* until the applicable *Participating Entity* for such *Purchasing Entity* has executed a *Participating Addendum* acceptable to *Participating Entity* and *Contractor* that authorizes purchases of such *Goods and/or Services* by *Purchasing Entity*. The terms and conditions set forth in this *Cooperative Purchasing Agreement* are applicable to any *Purchase Order* by any *Purchasing Entity*, except to the extent altered, modified, supplemented, or amended by a *Participating Addendum*; *Provided*, however, that no *Participating Addendum* shall be construed to diminish, modify, or otherwise derogate any provisions in this *Cooperative Purchasing Agreement* between the Lead State and *Contractor*, which terms and conditions were publicly solicited and procured pursuant to an open, transparent, fair, and competitive procurement process. By way of illustration and not limitation, *Participating Entities* may include in their applicable *Participating Addendum* unique administrative, delivery, and invoicing *Participating Entity* requirements, as well as *Participating Entity*-specific confidentiality requirements and similar *Participating Entity*-

specific administrative requirements in *Purchase Orders* utilizing this *Cooperative Purchasing Agreement*.

- 3.2. PARTICIPATING ADDENDUM. Obligations under this *Cooperative Purchasing Agreement* are limited to those *Participating Entities* who have signed a *Participating Addendum* and *Purchasing Entities* within the scope of those *Participating Addenda*. States or other entities permitted to participate may use an informal competitive or other process to determine which *Cooperative Purchasing Agreements* to participate in through execution of a *Participating Addendum*. *Participating Entities* incur no financial obligations on behalf of other *Purchasing Entities*. *Contractor* shall email a fully executed PDF copy of each *Participating Addendum* as instructed by the *Lead State* to support documentation of participation and posting in appropriate databases.
- 3.3. ENTITY RIGHTS. Except to the extent modified by a *Participating Addendum* in accordance with this *Cooperative Purchasing Agreement*, each *Participating Entity* (and their authorized *Purchasing Entities*) shall follow the terms and conditions of this *Cooperative Purchasing Agreement* and applicable *Participating Addendum* and shall have the same rights and responsibilities for their purchases as the *Lead State* has in this *Cooperative Purchasing Agreement*. Each *Purchasing Entity* shall be responsible for its own charges, fees, and liabilities. *Contractor* shall apply the charges and invoice to each *Purchasing Entity* individually.
- 3.4. PARTICIPATING ADDENDUM APPROVAL. Entities who are not states may, under some circumstances, sign their own *Participating Addendum* as a *Participating Entity*, subject to participation approval by the Chief Procurement Official of the state where such entity is located; Provided, however, that such entities shall, at a minimum, confirm in writing to the applicable Chief Procurement Official of the state where such entity is located that such entity has procurement authority to execute a *Participating Addendum*. Such entities shall coordinate participation requests through NASPO ValuePoint.

4. SCOPE OF COOPERATIVE PURCHASING AGREEMENT – INCLUDED GOODS AND/OR SERVICES & PRICE.

- 4.1. SCOPE. Pursuant to this *Cooperative Purchasing Agreement*, *Contractor* is authorized to sell only those *Goods and/or Services* in the Contract Category(ies) and group(s) stated above and specified in ***Exhibit B – Included Goods and/or Services and Pricing***. *Contractor* shall not represent to any *Participating Entity* or *Purchasing Entity* under this *Cooperative Purchasing Agreement* that *Contractor* has contractual authority to sell any goods and/or services beyond those *Goods and/or Services* in the Contract Category(ies) and group(s) stated above and specified in ***Exhibit B – Included Goods and/or Services and Pricing*** and posted on the NASPO ValuePoint website.
 - (a) *Goods*. For purposes of this *Cooperative Purchasing Agreement*, “Goods” means all equipment, materials, supplies, ancillary parts, accessories, components and other items purchased by *Purchasing Entity* pursuant to this *Cooperative Purchasing Agreement* and specified in ***Exhibit B – Included Goods and/or Services and Pricing*** and as identified in the *Purchase Order*.
 - (b) *Services*. For purposes of this *Cooperative Purchasing Agreement*, “Services” means all services of any nature ordered by *Purchasing Entity* pursuant to this *Cooperative Purchasing Agreement* and specified in

Exhibit B – Included Goods and/or Services and Pricing and as identified in the *Purchase Order*.

- (c) *Specifications*. Where applicable, specifications for *Goods and/or Services* are detailed in this *Cooperative Purchasing Agreement* and the *Purchase Order*. Unless otherwise specified in the *Purchase Order*, all *Goods and/or Services* provided shall be new and unused of the latest model or design.
- 4.2. ABILITY TO MODIFY SCOPE OF COOPERATIVE PURCHASING AGREEMENT. Subject to mutual agreement of the *Parties*, *Enterprise Services*, acting as the *Lead State*, reserves the right to modify the *Goods and/or Services* included in this *Cooperative Purchasing Agreement*; Provided, however, that any such modification shall be effective only upon thirty (30) days advance written notice; and Provided further, that any such modification must be within the scope of the *Competitive Solicitation* for this competitively procured *Cooperative Purchasing Agreement*.
- 4.3. GOODS AND/OR SERVICES – PRODUCT UPDATES. Upon approval by *Enterprise Services*, *Contractor* may update, on a semi-annual basis a set forth below, their products included as *Goods and/or Services* specified in ***Exhibit B – Included Goods and/or Services and Pricing***. *Contractor* timely must submit to the *Enterprise Services’ Contract Administrator* a proposed updated product list using Excel with each tab containing products per category/group separately as described below:
- All discontinued products must be struck through and highlighted;
 - All product additions must include the MSRP, percentage discount, and contract price;
 - All product changes must include an effective date of the change;
 - A separate tab labeled “changes” may be created to show all changes;
 - At no time during the term of the *Cooperative Purchasing Agreement* shall products be deleted from the products list;
 - Product updates must be submitted for review and approval to the *Enterprise Services’ Contract Administrator* thirty (30) days prior to the effective date of the change;
 - All products shall be posted on the NASPO ValuePoint website for the entire term of the *Cooperative Purchasing Agreement*; and
 - Product updates must be submitted, as described above, according to the Products and Pricing Update Schedule table below:

PRODUCTS AND PRICING UPDATE SCHEDULE		
SEMI-ANNUAL	SUBMITTED BY	EFFECTIVE DATE
January 1 – June 30	June 1	July 1
July 1 – December 31	December 1	January 1

- 4.4. PRICING CHANGES. All goods, services and related software are based on a percentage off Manufacturer Suggested Retail Price (MSRP). MSRP may be adjusted semi-annually, *Provided further*, that percentage discount remains the same for the entire contract term. The first

MSRP adjustment must be received by April 1, 2025, for an effective date of July 1, 2025, and semi-annually thereafter according to the Product/Pricing Update Schedule table above. Enterprise Services will review for accuracy to ensure the percentage discount remains unchanged prior to posting to the NASPO ValuePoint website.

- 4.5. PRICE CEILING. Although *Contractor* may offer lower prices, including volume discounts, to *Purchasing Entities*, during the term of this *Cooperative Purchasing Agreement*, *Contractor* guarantees to provide the *Goods and/or Services* at no greater than the prices set forth in ***Exhibit B – Included Goods and/or Services and Pricing*** (subject to adjustment as set forth above).
- 4.6. COOPERATIVE PURCHASING AGREEMENT INFORMATION. *Enterprise Services* shall maintain and provide to *Purchasing Entities* information regarding this *Cooperative Purchasing Agreement*, including scope, pricing, and lowest responsive, responsible bidder designation. In addition, *Enterprise Services* identifies awarded contractors who qualify as Washington Small Businesses, Certified Veteran-Owned Businesses, or that, pursuant to the *Cooperative Purchasing Agreement* provide *Goods and/or Services* that meet specified state procurement priorities as set forth in the Competitive Solicitation.
5. **CONTRACTOR REPRESENTATIONS AND WARRANTIES.** *Contractor* makes each of the following representations and warranties as of the effective date of this *Cooperative Purchasing Agreement* and at the time any *Purchase Order* is placed pursuant to this *Cooperative Purchasing Agreement*. If, at the time of any such *Purchase Order*, *Contractor* cannot make such representations and warranties, *Contractor* shall not process any *Purchase Orders* and shall, within three (3) business days notify *Enterprise Services*, in writing, of such breach.
 - 5.1. QUALIFIED TO DO BUSINESS. *Contractor* represents and warrants that *Contractor* is (a) in good standing; (b) qualified to do business in the State of Washington; and (c) registered with the Washington State Department of Revenue and the Washington Secretary of State. *Contractor* further represents and warrants that, within fifteen (15) days of executing any *Participating Addendum* and prior to making any sales pursuant to such *Participating Addendum*, *Contractor* shall (a) be in good standing; (b) qualified to do business in such state; and (c) properly shall have registered to do business in such state.
 - 5.2. QUALIFIED TO DO BUSINESS. *Contractor* represents and warrants that *Contractor* is (a) in good standing; (b) qualified to do business in the State of Washington; and (c) registered with the Washington State Department of Revenue and the Washington Secretary of State. *Contractor* further represents and warrants that, within fifteen (15) days of executing any *Participating Addendum* and prior to making any sales pursuant to such *Participating Addendum*, *Contractor* shall (a) be in good standing; (b) qualified to do business in such state; and (c) properly shall have registered to do business in such state.
 - 5.3. TAXES. *Contractor* represents and warrants that *Contractor* is current, in full compliance, and has paid all applicable taxes owed to the State of Washington. *Contractor* further represents and warrants that, within fifteen (15) days of executing any *Participating Addendum* and prior to making any sales pursuant to such *Participating Addendum*, *Contractor* shall be current, in full compliance, and have paid all applicable taxes owed to such state.
 - 5.4. LICENSES; CERTIFICATIONS; AUTHORIZATIONS; & APPROVALS. *Contractor* represents and warrants that *Contractor* possesses and shall keep current during the term of this *Cooperative Purchasing Agreement* all required licenses, certifications, permits, authorizations, and

approvals necessary for *Contractor's* proper performance of this *Cooperative Purchasing Agreement*.

- 5.5. SUSPENSION & DEBARMENT. *Contractor* represents and warrants that neither it nor its principals or affiliates presently are debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in any governmental contract by any governmental department or agency within the United States.
- 5.6. WAGE VIOLATIONS. *Contractor* represents and warrants as previously certified in *Contractor's* Bidder's Certification, that during the term of this *Cooperative Purchasing Agreement* and the three (3) year period immediately preceding the award of this *Cooperative Purchasing Agreement*, *Contractor* has not been determined, by a final and binding citation and notice of assessment issued by the Washington Department of Labor and Industries or through a civil judgment entered by a court of limited or general jurisdiction, to be in willful violation of any provision of Washington state wage laws set forth in RCW 49.46, 49.48, or 49.52.
- 5.7. CIVIL RIGHTS. *Contractor* represents and warrants that *Contractor* complies with all applicable requirements regarding civil rights. Such requirements prohibit discrimination against individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity, or national origin.
- 5.8. EXECUTIVE ORDER 18-03 – WORKERS' RIGHTS. *Contractor* represents and warrants, as previously certified in *Contractor's* Bidder's Certification, that *Contractor* does NOT require its employees, as a condition of employment, to sign or agree to mandatory individual arbitration clauses or class or collective action waivers. *Contractor* further represents and warrants that, during the term of this *Cooperative Purchasing Agreement*, *Contractor* shall not, as a condition of employment, require its employees to sign or agree to mandatory individual arbitration clauses or class or collective action waivers.
- 5.9. PUBLIC CONTRACTS AND PROCUREMENT FRAUD. *Contractor* represents and warrants that, within the three (3) year period prior to this *Cooperative Purchasing Agreement*, neither *Contractor* nor its principals or affiliates: (a) have been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offence in connection with obtaining, attempting to obtain, or performing a public (federal, state, local, or tribal) contract or purchase order under a public contract; (b) have been in violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property; (c) have been indicted for or otherwise criminally or civilly charged by a government entity (federal, state, local, or tribal) with commission of any of the offense enumerated in subsection (b) of this provision; or (d) had one or more public contracts (federal, state, local, or tribal) terminated for cause or default.
- 5.10. PROCUREMENT ETHICS & PROHIBITION ON GIFTS. *Contractor* represents and warrants that *Contractor* complies fully with all applicable procurement ethics restrictions including, but not limited to, restrictions against *Contractor* providing gifts or anything of economic value, directly or indirectly, to *Purchasing Entities'* employees.
- 5.11. WASHINGTON'S ELECTRONIC BUSINESS SOLUTION (WEBS). *Contractor* represents and warrants that *Contractor* is registered in Washington's Electronic Business Solution (WEBS), Washington's contract registration system and that, all of *Contractor's* information therein is current and

accurate and that throughout the term of this *Cooperative Purchasing Agreement*, *Contractor* shall maintain an accurate profile in WEBS. Washington's Electronic Business Solution (WEBS).

- 5.12. COOPERATIVE PURCHASING AGREEMENT PROMOTION; ADVERTISING AND ENDORSEMENT. *Contractor* represents and warrants that it shall use commercially reasonable efforts both to promote and market the use of this *Cooperative Purchasing Agreement* with eligible *Purchasing Entities* and to ensure that those entities that utilize this *Cooperative Purchasing Agreement* are eligible *Purchasing Entities*. *Contractor* understands and acknowledges that neither *Enterprise Services* nor *Purchasing Entities* are endorsing *Contractor's Goods and/or Services* or suggesting that such *Goods and/or Services* are the best or only solution to their needs. Accordingly, *Contractor* represents and warrants that it shall make no reference to *Enterprise Services*, any *Purchasing Entity*, or the State of Washington in any promotional material without the prior written consent of *Enterprise Services*.
- 5.13. CONTINGENT FEES. *Contractor* represents and warrants that no person or selling agent has been employed or retained to solicit or secure this *Cooperative Purchasing Agreement* upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established agents as defined in the Federal Acquisition Regulations.
- 5.14. FINANCIALLY SOLVENT. *Contractor* represents and warrants that *Contractor* has not commenced bankruptcy proceedings and that there are no judgment, liens, or encumbrances of any kind affecting title to any *Goods and/or Services* that are the subject of this *Cooperative Purchasing Agreement*.
- 5.15. OPERATIONAL CAPABILITY. *Contractor* represents and warrants, as previously certified in *Contractor's Bidder's Certification*, that *Contractor* has the operational and financial capability to perform this *Cooperative Purchasing Agreement*.
- 5.16. COOPERATIVE PURCHASING AGREEMENT TRANSITION. *Contractor* represents and warrants that, in the event this *Cooperative Purchasing Agreement* is transitioned to another contractor (e.g., *Cooperative Purchasing Agreement* expiration or termination), *Contractor* shall use commercially reasonable efforts to assist *Enterprise Services* and *Purchasing Entities* hereunder for a period of sixty (60) days to effectuate a smooth transition to another contractor to minimize disruption of service and/or costs to the State of Washington and such *Purchasing Entities*; Provided, however, that, if costs are incurred, *Contractor* shall be compensated for such costs consistent with the terms and conditions pertaining to this *Cooperative Purchasing Agreement* for the sixty (60) day period immediately before such transition.
- 5.17. WASHINGTON STATE PAY EQUALITY FOR 'SIMILARLY EMPLOYED' INDIVIDUALS. *Contractor* represents and warrants that, among *Contractor's* employees, 'similarly employed' individuals are compensated as equals. For purposes of this provision, employees are similarly employed if the individuals work for the same employer, the performance of the job requires comparable skill, effort, and responsibility, and the jobs are performed under similar working conditions. Job titles alone are not determinative of whether employees are similarly employed. *Contractor* may allow differentials in compensation for *Contractor's* workers based in good faith on any of the following: a seniority system; a merit system; a system that measures earnings by quantity or quality of production; a bona fide job-related factor or factors; or a bona fide regional difference in compensation levels. A bona fide job-related factor or factors may include, but is not limited to, education, training, or experience that is: consistent with

business necessity; not based on or derived from a gender-based differential; and accounts for the entire differential. A bona fide regional difference in compensation level must be consistent with business necessity; not based on or derived from a gender-based differential; and account for the entire differential. Notwithstanding any provision to the contrary, upon breach of warranty and Contractor's failure to provide satisfactory evidence of compliance within thirty (30) days, Enterprise Services may suspend or terminate this Contract and any Purchaser hereunder similarly may suspend or terminate its use of the Contract and/or any agreement entered into pursuant to this Contract.

6. QUALITY; WARRANTY; REMEDIES.

6.1. GOODS WARRANTY. *Contractor* warrants that, for a period of twelve (12) months from the date when the Goods are put into use, or eighteen (18) months after delivery of the Goods, whichever is later ("Goods Warranty Period"), the Goods: (a) are free from defects in design, material, and workmanship; (b) are fit and safe for the intended purposes and appropriate for the specified application(s) (if any); (c) are consistent with recognized industry quality standards; (d) comply with the requirements, specifications, drawings, standards, and descriptions included in this Contract; and (e) are produced and delivered in full compliance with applicable law ("Goods Warranty"). *Contractor* further warrants that it has good and marketable title to the Goods and shall keep *Purchasing Entity's* property free of liens. If *Purchasing Entity* receives notice of a lien caused by *Contractor*, *Purchasing Entity* may withhold any payment otherwise due *Contractor* until *Contractor* submits proof, in a form satisfactory to *Purchasing Entity*, that all lienable claims have been fully paid or waived.

The following events are excluded by the warranty: (a) misuse, negligence, incorrect installation, maintenance, connection or operation of the product with equipment other than the original equipment authorized by *Contractor* or insufficient maintenance, (b) non-compliance with operating instructions, (c) unauthorized attempts by the *Purchasing Entity* or a third person to open, repair or alter the Goods, or other reasons beyond the framework of the intended use, or (d) accident, fire and/or other reasons for which *Contractor* is not responsible.

- 6.2. GOODS REMEDY. If Goods do not comply with the Goods Warranty or any defects develop during the Goods Warranty Period under normal use, at *Purchasing Entity's* election, *Contractor* promptly shall remedy the defect by replacing any defective Goods. *Contractor's* Goods Warranty support shall include, at *Contractor's* sole expense, all technical support, parts, materials and equipment, and labor, including freight and "in/out" costs required to address the defect. If, in *Purchasing Entity's*, replacement is inadequate, or fails of its essential purpose, *Contractor* shall refund the full amount of any payments that have been made. The rights and remedies of the parties under this warranty are in addition to any other rights and remedies of the parties provided by law or equity, including, without limitation, actual damages, and, as applicable and awarded under the law, to a prevailing party, reasonable attorneys' fees and costs.
- 6.3. SERVICES WARRANTY. *Contractor* warrants that: (a) Services shall be performed in a timely, efficient, and professional manner; (b) all *Contractor* personnel assigned to perform Services shall have the necessary skill and training; and (c) Services shall be performed in a manner consistent with the standard of care in the industry ("Services Warranty"). The Services

Warranty shall survive for a period of twelve (12) months after the date when Services are completed (“Services Warranty Period”).

- 6.4. SERVICES REMEDY. If Services do not comply with the Services Warranty or are in any manner found to be nonconforming during the Services Warranty Period, *Contractor* promptly shall remedy the non-conformance, or at *Purchasing Entity’s* election, *Contractor* shall re-perform or correct the nonconforming Services at no additional cost to *Purchasing Entity* or refund the amounts paid for the Services.
- 6.5. IT WARRANTY. *Contractor* warrants at the time of delivery, that all hardware, software, and firmware associated with *Goods and/or Services* (“IT Goods” and “IT Services”, respectively) shall not: (a) contain any viruses, malicious code, Trojan horse, worm, time bomb, self-help code, back door, or other software code or routine designed to: (i) damage, destroy, or alter any software or hardware; (ii) reveal, damage, destroy, or alter any data; (iii) disable any computer program automatically; or (iv) permit unauthorized access to any software or hardware; (b) contain any third party software (including software that may be considered free software or open source software) that (i) may require any software to be published, accessed, or otherwise made available without the consent of *Purchasing Entity*, or (ii) may require distribution, copying, or modification of any software free of charge; and (c) infringe on any patent, copyright, trademark, or other proprietary or intellectual property right of any third party or misappropriate any trade secret of any third party (“IT Warranty”). The IT Warranty shall expire twelve (12) months after the date IT Goods are delivered or IT Services are complete, as applicable.
- 6.6. IT REMEDY. If IT Goods or IT Services do not comply with the IT Warranty, or if any defect or non-conformance develops during the IT Warranty Period, *Contractor*, at *Purchasing Entity’s* election, promptly shall: (a) remedy the defect by removing, repairing, correcting or replacing, and/or reinstalling any defective IT Goods; (b) re-perform or correct the non-conforming IT Services at no additional cost to *Purchasing Entity’s*; or (c) refund the amounts paid for IT Services and IT Goods. The exclusive remedy for breach of the warranty against infringement is set forth in Section 17.3 (Indemnification – Intellectual Property).
- 6.7. FAILURE TO REMEDY. If *Contractor* does not remedy a defect or nonconformity within ten (10) calendar days after receipt of written notice from *Purchasing Entity*, or if an emergency exists rendering it impossible or impractical for *Purchasing Entity* to have *Contractor* provide a remedy, *Purchasing Entity* may, without prejudice to any other rights or remedies available to it, make or cause to be made required modifications, adjustments, or repairs, or may replace Goods, Services, IT Goods, or IT Services, in which case *Contractor* shall reimburse *Purchasing Entity* for its actual costs or, at *Purchasing Entity’s* option, *Purchasing Entity* shall offset the costs incurred from amounts owing to *Contractor*.
- 6.8. TECHNICAL SUPPORT. During any applicable warranty period, *Contractor* shall provide all warranty service and telephone support, including after-hour technical support, at its own cost. *Contractor* shall maintain a technical support hotline to address breakdowns and safety incidents.
- 6.9. ADDITIONAL WARRANTY OPTIONS. *Contractor* may offer warranty terms beyond the minimum warranties set forth above. Such additional warranty options, if any, shall be as mutually agreed between *Contractor* and *Purchasing Entity* and consistent with the additional warranty options, if any, set forth in **Exhibit B – Included Goods and/or Services and Pricing** and *Contractor’s* Products & Price list on the NASPO ValuePoint website.

7. SAFETY; SECURITY; CONTRACTOR REQUIREMENTS WHILE ON PURCHASING ENTITY'S PREMISES. *Contractor's failure to comply with any of the requirements in this Section shall be cause for termination.*

- 7.1. REGULATORY REQUIREMENTS/SAFETY. *Goods and/or Services* supplied by *Contractor* shall meet all applicable health and safety-related federal, state, and/or local regulatory requirements applicable to the *Goods and/or Services*.
- 7.2. MATERIAL SAFETY DATA SHEETS. As applicable, *Contractor* shall provide *Purchasing Entities* with all appropriate current Material Safety Data Sheets ("MSDS") at the time of delivery of each shipment of *Goods and/or Services* that requires such compliance and/or and for materials used by *Contractor* while, on *Purchasing Entity's* premises, performing this *Cooperative Purchasing Agreement*.
- 7.3. CLEAN-UP. If *Contractor*, its agents, employees, or subcontractors perform on-site services, *Contractor*, at its cost, shall remove all excess materials, equipment, packaging, and garbage within the scope of its performance of services and leave that portion of the premises in which the work was performed in a clean condition. Should *Contractor* fail to clean up a site after completion of work, *Purchasing Entity* shall have the right to remove the materials and set off the cost of clean up against amounts owed to *Contractor*.
- 7.4. ACCIDENT AND INJURY REPORTING. If *Contractor*, its agents, employees, or subcontractors are present at *Purchasing Entity's* premises, *Contractor* promptly shall report in writing all injuries, accidents, property damage, near-miss incidents, or any claims regarding damages or injury involving *Contractor*, its agents, employees, or subcontractors occurring at such premises. *Contractor* agrees to cooperate and assist *Purchasing Entity* in any investigation of incidents.
- 7.5. ON-SITE REQUIREMENTS. While on *Purchasing Entity's* premises, *Contractor*, its agents, employees, or subcontractors shall comply, in all respects, with *Purchasing Entity's* physical, fire, access, safety, health, and security requirements and not interfere with *Purchasing Entity's* operations.
- 7.6. CONFIDENTIALITY; SAFEGUARDING OF INFORMATION. *Contractor* shall not use or disclose any information concerning *Enterprise Services*, the State of Washington or *Purchasing Entity's* which may be classified as confidential, for any purpose not directly connected with the administration of this *Cooperative Purchasing Agreement*, except with prior written consent of *Enterprise Services* (or the applicable *Purchasing Entity*), or as may be required by law.
- 7.7. CONFIDENTIAL INFORMATION; DATA SECURITY; NETWORK ACCESS
 - (a) CONFIDENTIAL INFORMATION. For purposes of this Cooperative Purchasing Agreement, "Confidential Information" includes, but is not limited to, information that is deemed confidential under federal or state law, personal information as defined in [RCW 42.56.590](#), as well as any information identified, in writing, by Purchasing Entity as confidential or protected.
 - (b) PROTECTION OF CONFIDENTIAL INFORMATION. Notwithstanding any provision to the contrary, Contractor's use of Confidential Information will be in compliance with all applicable state and federal law. At a minimum, Contractor shall maintain records documenting: (i) the Confidential Information received pertaining to this Cooperative Purchasing Agreement; (ii) the purpose(s) for which the Confidential Information was received; (iii) who received and maintained the Confidential Information; and (iv) final disposition of the Confidential Information. Purchasing Entity reserves the right to monitor, audit, and/or investigate

Contractor's use of Confidential Information used, collected, or acquired by Supplier pursuant to this Cooperative Purchasing Agreement.

- (c) **CONTRACTOR OBLIGATION – CONFIDENTIAL INFORMATION.** If Confidential Information is collected, stored, or transmitted, Contractor shall: (i) hold Confidential Information in strictest confidence and not make use of Confidential Information for any purpose other than the performance of this Cooperative Purchasing Agreement; (ii) release Confidential Information only to authorized employees or agents requiring such information for the purpose of performing this Cooperative Purchasing Agreement and who have executed an appropriate nondisclosure agreement or data sharing agreement as approved by Purchasing Entity; (iii) implement and maintain physical, electronic, and managerial safeguards to prevent unauthorized access to Confidential Information including, but not limited to, storing Confidential Information on secure servers with access to the data strictly controlled and limited to staff with appropriate training and clearance; and (iv) ensure that all Confidential Information is encrypted in transmission from and to Contractor, at rest in the data base or other data facility maintained or used by Contractor, and when transmitted to authorized recipients.
 - (d) **CONTRACTOR OBLIGATION – DATA SECURITY.** If the Cooperative Purchasing Agreement involves Purchasing Entity's Data and/or access to Purchasing Entity's IT network, Contractor, at its expense, will comply with the data security requirements set forth in *Attachment C – Data Security Requirements*.
 - (e) **CONTRACTOR OBLIGATION – EXPIRATION OR TERMINATION.** Upon expiration or termination of this Purchase Order, Contractor, at Purchasing Entity's direction, timely will: (i) Certify to Purchasing Entity that all Confidential Information has been destroyed; or (ii) return all Confidential Information to Purchasing Entity; or (iii) take whatever other actions Purchasing Entity requires of Contractor to protect such Confidential Information.
- 7.8. **NETWORK ACCESS.** During its performance of this Cooperative Purchasing Agreement, Contractor may be granted access to Purchasing Entity's computer and telecommunication networks ("Networks"). As a condition of Network use, Contractor shall: (a) use the Networks in compliance with all applicable laws, rules, and regulations; (b) use software, protocols, and procedures as directed by Purchasing Entity to access and use the Networks; (c) only access Network locations made available to Contractor by Purchasing Entity; (d) not interfere with or disrupt other users of the Networks; (e) assure the transmissions over the Networks by Contractor (i) do not contain any libelous, defamatory, profane, offensive, obscene, pornographic, or unlawful material, and (ii) are not used to perform any illegal activities, including but not limited to, encouraging, selling, or soliciting illegal drugs, gambling, pornography, prostitution, robbery, spreading computer worms or viruses, hacking into computer systems, or trafficking credit card codes; and (f) upon termination or expiration of the Cooperative Purchasing Agreement, relinquish all IP addresses or address blocks assigned to them on the Networks. Additionally, Contractor shall comply with Purchasing Entity's IT policies.
- 7.9. **TREATMENT OF ASSETS.** Title to all property furnished by any *Participating Entity* and/or *Purchasing Entity* shall remain with such *Participating State* and/or *Purchasing Entity*, as applicable. Any property of any *Participating Entity* and/or *Purchasing Entity* furnished to Contractor shall, unless otherwise provided herein or approved by such *Participating Entity* and/or *Purchasing Entity*, be used only for the performance of this *Cooperative Purchasing Agreement*. Contractor shall be responsible for damages as a result of any loss or damage to

property of any *Participating Entity* and/or *Purchasing Entity* to the extent it results from the negligence of *Contractor* or to the extent it results from the failure on the part of *Contractor* to maintain, administer, and protect that property in a reasonable manner and to the extent practicable in all instances. If any such *Participating Entity* and/or *Purchasing Entity* property is lost, destroyed, or damaged, *Contractor* immediately shall notify such *Participating Entity* and/or *Purchasing Entity* and shall take all reasonable steps to protect the property from further damage. *Contractor* shall surrender to such *Participating Entity* and/or *Purchasing Entity* all property of such *Participating Entity* and/or *Purchasing Entity* prior to settlement upon completion or termination of the applicable *Purchase Order*. Title to all property furnished by *Contractor*, the cost for which the *Contractor* is entitled to be reimbursed as a direct item of cost under this *Cooperative Purchasing Agreement*, shall pass to and vest in the *Purchasing Entity* upon delivery of such property by *Contractor* and acceptance by the *Purchasing Entity*. Title to other property, the cost of which is reimbursable to *Contractor* under this *Cooperative Purchasing Agreement*, shall pass to and vest in the *Purchasing Entity* upon: (a) issuance for use of such property in the performance of this *Cooperative Purchasing Agreement*; (b) commencement of use of such property in the performance of this *Cooperative Purchasing Agreement*; or (c) reimbursement of the cost thereof by the *Purchasing Entity* in whole or in part, whichever first occurs. Title to software shall not pass to *Purchasing Entity* but shall be licensed.

8. SUBCONTRACTORS & CONTRACTOR RESPONSIBILITIES.

- 8.1. **CONTRACTOR RESPONSIBILITY.** Notwithstanding any provision to the contrary, in the event *Contractor* elects to utilize subcontractors to perform this *Cooperative Purchasing Agreement*, *Contractor* shall: (a) incorporate *Contractor's* responsibilities under this *Cooperative Purchasing Agreement* into its subcontracts; (b) be fully responsible for the performance of any such subcontractors (regardless of tier) and ensure that subcontractors comply with each and every *Contractor* obligation set forth in this *Cooperative Purchasing Agreement*; (c) be the sole point of contact for *Enterprise Services* and any *Purchasing Entities* regarding all contractual matters; (d) ensure that such subcontractors are registered in WEBS; and (e) defend, indemnify, and hold *Enterprise Services* and *Purchasing Entities* harmless in case of negligence, other tortious fault, or intentional misconduct by any such subcontractors (regardless of tier). Prior to utilizing any subcontractor to perform this *Cooperative Purchasing Agreement*, *Contractor* shall provide written notice to *Enterprise Services'* contract administrator. Such notice shall confirm that the subcontractor is registered in WEBS and provide the necessary information for *Enterprise Services'* contract administrator to include such subcontractor(s) in Washington's Purchasing Contract Management System (PCMS).
- 8.2. **REPORTING.** If *Contractor* is required to report to *Purchasing Entities* and/or *Enterprise Services*, such report(s) shall include subcontractor data, by subcontractor, for any data that *Contractor* is required to report as well as a consolidated 'rollup' report combining *Contractor* and subcontractor data.
- 8.3. **SUBCONTRACTOR REPRESENTATIONS AND CERTIFICATIONS.** Any *Contractor* representations or certifications set forth in this *Cooperative Purchasing Agreement* shall apply to subcontractors (at any tier) and *Contractor* shall not utilize any subcontractors (at any tier) who cannot provide such representations or certifications, excepting the certification to be registered with Washington's Statewide Payee Desk, unless *Purchasing Entities* shall pay such subcontractor directly.

- 8.4. **CONTRACTOR RESPONSIBILITIES.** *Contractor* shall be responsible for successful performance of the *Cooperative Purchasing Agreement* and for the successful performance of any and all of *Contractor's* partners. *Contractor* shall be the sole point of contact as applicable by *Cooperative Purchasing Agreement* with regard to contractual matters, payment of any and all charges resulting from the purchase of *Goods and/or Services* (including applicable warranties) for the term of the *Cooperative Purchasing Agreement*, unless otherwise specified by a *Participating Entity*, in a *Participating Addendum*, or the *Cooperative Purchasing Agreement*. *Contractor* shall be able to receive, process, and invoice Purchase Orders unless the *Participating Entity* has agreed to assign these functions to a partner. *Contractor* shall be responsible for compliance with requirements under the *Cooperative Purchasing Agreement*, even if requirements are delegated to partners. *Contractor* and its partners shall not in any way represent themselves in the name of the *Lead State*, NASPO ValuePoint or *Participating Entities*.

9. USING THE COOPERATIVE PURCHASING AGREEMENT – PURCHASES.

- 9.1. **ORDERING REQUIREMENTS.** *Purchasing Entities* shall order *Goods and/or Services* from this *Cooperative Purchasing Agreement*, consistent with the terms hereof and by using any ordering mechanism agreeable both to *Contractor* and *Purchasing Entity* but, at a minimum, including the use of a *Purchase Order*. The terms of this *Cooperative Purchasing Agreement* shall apply to any *Purchase Order*, and, in the event of any conflict, the terms of this *Cooperative Purchasing Agreement* shall prevail. Notwithstanding any provision to the contrary, in no event shall any 'click-agreement,' software or web-based application terms and conditions, or other agreement modify the terms and conditions of this *Cooperative Purchasing Agreement*.
- (a) All Purchase Orders must, at a minimum, reference
 - This *Cooperative Purchasing Agreement* number;
 - The place and requested time of delivery;
 - A billing address;
 - The name, phone number, and address of the *Participating Entity* representative;
 - (b) All communications concerning a *Purchasing Entity's Purchase Order(s)* shall be furnished solely to *Purchasing Entity's* authorized purchasing agent or to such other individual identified in writing in the *Purchase Order*.
 - (c) *Purchase Orders* shall be placed pursuant to this *Cooperative Purchasing Agreement* prior to expiration or termination of this *Cooperative Purchasing Agreement*; but such *Purchase Orders* may have a delivery date or performance period up to 120 days after expiration of this *Cooperative Purchasing Agreement* and, in such event, *Contractor* shall perform in accordance with the terms of such *Purchase Orders*.
 - (d) *Contractor* shall not honor any *Purchase Orders* that are: (1) placed after the expiration or termination of this *Cooperative Purchasing Agreement*; or (2) inconsistent with this *Cooperative Purchasing Agreement*. *Purchase Orders* from any separate indefinite quantity, task orders, or other form of indefinite delivery order arrangement priced against this *Cooperative Purchasing Agreement* may not be placed after the

expiration or termination of this *Cooperative Purchasing Agreement*, notwithstanding the term of any such indefinite delivery order agreement.

- 9.2. DELIVERY REQUIREMENTS. *Contractor* must ensure that delivery of *goods and/or services* will be made as required by this *Cooperative Purchasing Agreement*, the *Purchase Order* used by *Purchasing Entities*, or as otherwise mutually agreed in writing between the *Purchasing Entity* and *Contractor*. The following apply to all deliveries:

- (a) *Contractor* shall make all deliveries to the applicable delivery location specified in the *Purchase Order*. Such deliveries shall occur during *Purchasing Entity's* normal work hours and within the time period mutually agreed in writing between *Purchasing Entity* and *Contractor* at the time of *Purchase Order* placement. Deliveries to be off-loaded at *Purchasing Entity's* receiving dock or designated job site by *Contractor*.

With the exception of Group B Speed Advisory Systems (if included within the *Goods and/or Services*), *Contractor* shall ship all goods purchased pursuant to this *Cooperative Purchasing Agreement* freight charges prepaid by *Contractor*, FOB *Purchasing Entity's* specified destination, with all transportation and handling charges included. Freight charges for Group B Speed Advisory Systems (if included within the *Goods and/or Services*) must be mutually agreed in writing and set forth in the *Purchase Order*. *Contractor* shall bear all risk of loss, damage, or destruction of any *Goods and/or Services* ordered hereunder that occurs prior to delivery, except loss or damage attributable to *Purchasing Entity's* fault or negligence.

- (b) *Contractor* must deliver *Goods and/or Services* according to the ARO (After Receipt of Order) delivery days as indicated in *Contractor's* Products and Price list. Delivery days ARO must not exceed one-hundred eighty (180) days.
- (c) All products must be delivered in the manufacturer's standard package. Costs shall include all packing and/or crating charges. Cases shall be of durable construction, good condition, properly labeled and suitable in every respect for storage and handling of contents. Each shipping carton shall be marked with the commodity, brand, quantity, item code number and the *Purchasing Entity's Purchase Order* number.
- (d) All packing lists, packages, instruction manuals, correspondence, shipping notices, shipping containers, and other written materials associated with this *Cooperative Purchasing Agreement* shall be identified by the *Cooperative Purchasing Agreement* number set forth on the cover of this *Cooperative Purchasing Agreement* and the applicable *Purchase Order* number. Packing lists shall be enclosed with each shipment and clearly identify all contents and any backorders.
- (e) *Purchasing Entities* may return unopened or unused *Goods and/or Services* within thirty (30) days of receipt for full credit, minus any freight or reasonable restocking fee. *Contractor*, however, is responsible for shipping costs pertaining to *Purchasing Entity's* return of any defective *Goods and/or Services*.

- 9.3. RECEIPT AND INSPECTION OF GOODS AND/OR SERVICES. *Goods and/or Services* purchased under this *Cooperative Purchasing Agreement* are subject to *Purchasing Entity's* reasonable inspection, testing, and approval at *Purchasing Entity's* destination. Such inspection and approval shall be determined within thirty (30) days of delivery. *Purchasing Entity* reserves the right to reject and refuse acceptance of *Goods and/or Services* that are not in accordance with this *Cooperative Purchasing Agreement* and *Purchasing Entity's Purchase Order*. *Purchasing Entity* may charge *Contractor* for the cost of inspecting rejected non-conforming *Goods and/or Services*. If there are any apparent defects in the *Goods and/or Services* at the time of delivery, *Purchasing Entity* shall notify *Contractor* within five (5) business days. At *Purchasing Entity's* option, and without limiting any other rights, *Purchasing Entity* may require *Contractor*, consistent with the warranty terms, to replace any non-conforming *Goods and/or Services*, at *Contractor's* expense or, at *Purchasing Entity's* option, *Purchasing Entity* may note any damage to the *Goods and/or Services* on the receiving report, decline acceptance, and deduct the cost of rejected *Goods and/or Services* from payment. Payment for any *Goods and/or Services* under such *Purchase Order* shall not be deemed acceptance of the *Goods and/or Services*.
- (a) All *Goods and/or Services* are subject to inspection at reasonable times and places before acceptance. *Contractor* shall provide right of access to the *Lead State*, or to any other authorized agent or official of the *Lead State* or *Participating Entity* or *Purchasing Entity*, at reasonable times, in order to monitor and evaluate performance, compliance, and/or quality assurance requirements under this *Cooperative Purchasing Agreement*. Any *Goods and/or Services* that do not meet specifications or requirements herein, may be rejected. Failure to reject upon receipt, however, does not relieve *Contractor* of liability for material (nonconformity that substantially impairs value) latent or hidden defects subsequently revealed when the *Goods and/or Services* are put to use. Acceptance of such *Goods and/or Services* may be revoked in accordance with the provisions of the applicable commercial code, and *Contractor* shall be liable for any resulting expense incurred by *Purchasing Entity* related to the preparation and shipping of any *Goods and/or Services* rejected and returned.
 - (b) If any *Goods and/or Services* do not conform to the specifications or requirements herein, *Purchasing Entity* may require *Contractor* to replace such non-conforming *Goods and/or Services*.
- 9.4. INSTALLATION. *Good and/or Services* requiring installation shall be performed by *Contractor* in a professional manner in accordance with industry standard best practices. *Purchasing Entity* reserves the right to require *Contractor* to repair any damage caused during installation or provide full compensation for such damage as determined by *Purchasing Entity*.
- 9.5. SOFTWARE LICENSE AGREEMENT. If any *Goods and/or Services* purchased pursuant to this *Cooperative Purchasing Agreement* require software or firmware to operate, *Contractor's* software license shall apply to such transaction. *Contractor's* software license agreement shall not conflict with the terms and conditions of this *Cooperative Purchasing Agreement* or specific security requirements of *Participating Entity*.
- 9.6. SUBSCRIPTION SERVICES AGREEMENT. If any *Goods and/or Services* purchased pursuant to this *Cooperative Purchasing Agreement* require subscription services to operate, *Contractor's*

Subscription Services Agreement shall apply to such transaction. *Contractor's* Subscription Services Agreement shall not conflict with the terms and conditions of this *Cooperative Purchasing Agreement* or the specific security requirements of *Participating Entity*.

- 9.7. PRODUCT SUBSTITUTIONS. All product substitutions for *Goods and/or Services* must be mutually agreed between Contractor and Purchasing Entity prior to order delivery and must be for products included as *Goods and/or Services* pursuant to this *Cooperative Purchasing Agreement*.
- 9.8. CUSTOMER SERVICE. *Contractor* shall be available by telephone or email during regular business hours of operation between 8:00 a.m. to 5:00 p.m. in each time zone of the United States for which *Contractor* has executed a *Participating Addendum* with a *Participating Entity*. *Contractor* shall provide customer service representatives familiar with all products that Contractor sells that are included as *Goods and/or Services* pursuant to this *Cooperative Purchasing Agreement*. *Contractor* shall provide contact(s) available 24/7 in the event of an emergency.

10. INVOICING & PAYMENT.

- 10.1. CONTRACTOR INVOICE. *Contractor* shall submit to *Purchasing Entity's* designated invoicing contact properly itemized invoices. Such invoices shall itemize the following:
 - *Cooperative Purchasing Agreement* No. 24823
 - *Contractor* name, address, telephone number, and email address for billing issues (i.e., *Contractor* Customer Service Representative)
 - *Contractor's* Federal Tax Identification Number
 - Date(s) of delivery
 - Applicable *Goods and/or Services*;
 - Invoice amount; and
 - Payment terms, including any available prompt payment discounts.

Contractor's invoices for payment shall reflect accurate *Cooperative Purchasing Agreement* prices, less discounts or lower negotiated costs. Invoices will not be processed for payment until receipt of a complete invoice as specified herein.

- 10.2. PAYMENT. Payment is the sole responsibility of, and will be made by, the *Purchasing Entity*. Payment is due within thirty (30) days of invoice. If *Purchasing Entity* fails to make timely payment(s), *Contractor* may invoice *Purchasing Entity* in the amount of one percent (1%) per month on the amount overdue or a minimum of \$1. Payment will not be considered late if a check or warrant is mailed within the time specified.
- 10.3. OVERPAYMENTS. *Contractor* promptly shall refund to *Purchasing Entity* the full amount of any erroneous payment or overpayment. Such refunds shall occur within thirty (30) days of written notice to *Contractor*; Provided, however, that *Purchasing Entity* shall have the right to elect to have either direct payments or written credit memos issued. If *Contractor* fails to make timely payment(s) or issuance of such credit memos, *Purchasing Entity* may impose a one percent (1%) per month on the amount overdue thirty (30) days after notice to the *Contractor*.
- 10.4. ADVANCE PAYMENT PROHIBITED. Except as authorized by law, *Contractor* shall not request or receive advance payment for any *Goods and/or Services* supplied by *Contractor* pursuant to

this *Cooperative Purchasing Agreement*; Provided, however, that the Parties agree that maintenance payments, if any, may be made on a quarterly basis at the beginning of each quarter.

- 10.5. NO ADDITIONAL CHARGES. Unless otherwise specified herein, *Contractor* shall not include or impose any additional charges including, but not limited to, handling, or payment processing.
- 10.6. TAXES/FEES. *Contractor* promptly shall pay all applicable taxes on its operations and activities pertaining to this *Cooperative Purchasing Agreement*. Failure to do so shall constitute breach of this *Cooperative Purchasing Agreement*. Unless otherwise agreed, *Purchasing Entity* shall pay applicable governmental sales tax on purchased *Goods and/or Services*. In regard to federal excise taxes, *Contractor* shall include federal excise taxes only if, after thirty (30) calendar days written notice to *Purchasing Entity*, *Purchasing Entity* has not provided *Contractor* with a valid exemption certificate from such federal excise taxes.

11. CONTRACT MANAGEMENT.

- 11.1. CONTRACT ADMINISTRATION & NOTICES. Except for legal notices, the *Parties* designate the following contract administrators as the respective single points of contact for purposes of this *Cooperative Purchasing Agreement*. *Enterprise Services'* contract administrator shall provide *Cooperative Purchasing Agreement* oversight. *Contractor's* contract administrator shall be *Contractor's* principal contact for business activities under this *Cooperative Purchasing Agreement*. The *Parties* may change contractor administrators by written notice as set forth below.

Any notices required or desired shall be in writing and sent by U.S. mail, postage prepaid, or sent via email, and shall be sent to the respective addressee at the respective address or email address set forth below or to such other address or email address as the *Parties* may specify in writing:

Enterprise Services

Washington Dept. of Enterprise Services
Attn: Contract Administrator 24823
PO Box 41411
Olympia, WA 98504-1411
Tel: (360) 407-2218
Email: DESContractsTeamFir@des.wa.gov

FARO Technologies, Inc.

Attn: Jeff Voyt
Tel: 708 703 1872
Email: Jeff.voyt@faro.com
contracts.amer@faro.com

Notices shall be deemed effective upon date received, if mailed, or, if emailed, upon date of transmission to the designated email address.

- 11.2. CONTRACTOR CUSTOMER SERVICE REPRESENTATIVE. *Contractor* shall designate a customer service representative (and notify *Enterprise Services* of the same) who shall be responsible for addressing *Purchasing Entity* issues pertaining to this *Cooperative Purchasing Agreement*. *Contractor* shall notify *Enterprise Services*, as soon as practicable, regarding any changes to the designated *Contractor* customer service representative.
- 11.3. LEGAL NOTICES. Any legal notices required or desired shall be in writing and sent by U.S. mail, postage prepaid, or sent via email, and shall be sent to the respective addressee at the respective address or email address set forth below or to such other address or email address as the Parties may specify in writing:

Enterprise Services

Washington Dept. of Enterprise Services
Attn: Legal Services Manager
PO Box 41411
Olympia, WA 98504-1411
Email: greg.tolbert@des.wa.gov

FARO Technologies, Inc.

Attn: Legal
Address: 125 Technology Park
Lake Mary, FL 32746
Email: Craig.cupach@faro.com
contracts.amer@faro.com

Notices shall be deemed effective upon the earlier of receipt if mailed, or, if emailed, upon transmission to the designated email address of said addressee.

12. NASPO VALUEPOINT PROVISIONS. *NASPO ValuePoint* is not a party to this *Cooperative Purchasing Agreement*. The terms set forth in this section are for the benefit of *NASPO ValuePoint* as a third-party beneficiary of this *Cooperative Purchasing Agreement*.

12.1. ADMINISTRATIVE FEES

- (a) **NASPO VALUEPOINT FEE.** *Contractor* shall pay to *NASPO ValuePoint*, or its assignee, a *NASPO ValuePoint* Administrative Fee of one-quarter of one percent (0.25% or 0.0025) no later than sixty (60) days following the end of each calendar quarter. The *NASPO ValuePoint* Administrative Fee must be submitted quarterly and is based on all sales of *Goods and/or Services* under this *Cooperative Purchasing Agreement* (less any charges for taxes or shipping). The *NASPO ValuePoint* Administrative Fee is not negotiable. This fee is included as part of *Contractor's* pricing submitted with its bid in response to the *Lead State's Competitive Solicitation*.
- (b) **STATE IMPOSED FEES.** Some states may require an additional fee (e.g., administrative fee or contract management fee) be paid by *Contractor* directly to such state on purchases of *Goods and/or Services* pursuant to this *Cooperative Purchasing Agreement* made by *Purchasing Entities* within such state. For all such requests, the fee rate or amount, payment method, and schedule for such fee payments and reports shall be incorporated into the applicable *Participating Addendum* by the *Participating Entity*. Unless agreed to in writing by the *Participating Entity*, *Contractor* may not adjust the *Cooperative Purchasing Agreement* pricing to include such state fee for purchases of *Goods and/or Services* pursuant to this *Cooperative Purchasing Agreement* made by *Purchasing Entities* within the jurisdiction of such state. No such agreement shall affect the *NASPO ValuePoint* Administrative Fee percentage or the prices paid by *Purchasing Entities* outside the jurisdiction of such state requesting the additional fee.

12.2. NASPO VALUEPOINT REPORTING REQUIREMENTS

- (a) **SALES DATA REPORTING.** In accordance with this section, *Contractor* shall report to *NASPO ValuePoint* all *Purchase Orders* under this *Cooperative Purchasing Agreement* for which *Contractor* has invoiced a *Purchasing Entity* ("Sales Data"). Timely and complete reporting of Sales Data is a material requirement of this *Cooperative Purchasing Agreement*. Reporting requirements, including those related to the format, contents, frequency, or delivery of reports, may be updated by *NASPO ValuePoint*

with reasonable notice to *Contractor* and without amendment to this *Cooperative Purchasing Agreement*. *NASPO ValuePoint* shall have exclusive ownership of any media on which reports are submitted and shall have a perpetual, irrevocable, non-exclusive, royalty free, and transferable right to display, modify, copy, and otherwise use reports, data, and information provided under this section.

- (b) SUMMARY SALES DATA. “Summary Sales Data” is Sales Data reported as cumulative totals by state. *Contractor* shall, using the reporting tool or template provided by *NASPO ValuePoint*, report Summary Sales Data to *NASPO ValuePoint* for each calendar quarter no later than thirty (30) days following the end of the quarter. If *Contractor* has no reportable Sales Data for the quarter, *Contractor* shall submit a zero-sales report.
- (c) DETAILED SALES DATA. “Detailed Sales Data” is Sales Data that includes for each *Purchase Order* all information required by this *Cooperative Purchasing Agreement* or by *NASPO ValuePoint*, including *Purchasing Entity* information, *Purchase Order* information, and line-item details. *Contractor* shall, using the reporting tool or template provided by *NASPO ValuePoint*, report Detailed Sales Data to *NASPO ValuePoint* for each calendar quarter no later than thirty (30) days following the end of the quarter. Detailed Sales Data shall be reported in the format provided in this *Cooperative Purchasing Agreement* or provided by *NASPO ValuePoint*. The total sales volume of reported Detailed Sales Data shall be consistent with the total sales volume of reported Summary Sales Data.
- (d) SALES DATA CROSSWALKS. Upon request by *NASPO ValuePoint*, *Contractor* shall provide to *NASPO ValuePoint* tables of customer and Product information and specific attributes thereof for the purpose of standardizing and analyzing reported Sales Data (“Crosswalks”). Customer Crosswalks must include a list of existing and potential *Purchasing Entities* and identify for each the appropriate customer type as defined by *NASPO ValuePoint*. Product Crosswalks must include *Contractor’s* part number or SKU for each Product in *Contractor’s* catalog and identify for each the appropriate *Cooperative Purchasing Agreement* category (and subcategory/group, if applicable), manufacturer part number, product description, eight-digit UNSPSC Class Level commodity code, and (if applicable) EPEAT value and Energy Star rating. Crosswalk requirements and fields may be updated by *NASPO ValuePoint* with reasonable notice to *Contractor* and without amendment to this *Cooperative Purchasing Agreement*. *Contractor* shall work in good faith with *NASPO ValuePoint* to keep Crosswalks updated as *Contractor’s* customer lists and product catalog change.
- (e) NASPO VALUEPOINT EXECUTIVE SUMMARY. *Contractor* shall, upon request by *NASPO ValuePoint*, provide *NASPO ValuePoint* with an executive summary that includes but is not limited to a list of states with an active *Participating Addendum*, states with which *Contractor* is in negotiations, and any *Participating Addendum* roll-out or implementation activities

and issues. *NASPO ValuePoint* and *Contractor* will determine the format and content of the executive summary.

- (f) **REPORT OWNERSHIP.** Timely submission of these reports is a material requirement of this *Cooperative Purchasing Agreement*. *Enterprise Services* and *NASPO ValuePoint* shall have a perpetual, irrevocable, non-exclusive, royalty free, transferable right to display, modify, copy, and otherwise use reports, data and information provided under this section.

13. NASPO VALUEPOINT COOPERATIVE PROGRAM MARKETING AND PERFORMANCE REVIEW

- 13.1. **STAFF EDUCATION.** *Contractor* shall work cooperatively with *NASPO ValuePoint* personnel. *Contractor* shall present plans to *NASPO ValuePoint* for the education of *Contractor's* contract administrator(s) and sales/marketing workforce regarding this *Cooperative Purchasing Agreement*, including the competitive nature of *NASPO ValuePoint* procurements, the cooperative purchasing agreement and participating addendum process, and the manner in which eligible entities can participate in this *Cooperative Purchasing Agreement*.
- 13.2. **ONBOARDING PLAN.** Upon request by *NASPO ValuePoint*, *Contractor* shall, as *Participating Addendums* are executed, provide plans to launch the program for the *Participating Entity*. Plans will include time frames to launch the agreement and confirmation that the *Contractor's* website has been updated to properly reflect the scope and terms of this *Cooperative Purchasing Agreement* as available to the *Participating Entity* and eligible *Purchasing Entities*.
- 13.3. **ANNUAL SUPPLIER BUSINESS REVIEW.** *Contractor* shall participate in an annual contract performance review with the *Lead State* and *NASPO ValuePoint*, which may at the discretion of the *Lead State* be held in person and which may include a discussion of marketing action plans, target strategies, marketing materials, *Contractor* reporting, and timeliness of payment of administration fees.
- 13.4. **LOGOS.** The *NASPO ValuePoint* logos may not be used by *Contractor* in sales and marketing until a separate logo use agreement is executed with *NASPO ValuePoint*.
- 13.5. **MOST FAVORED CUSTOMER.** *Contractor* shall, within thirty (30) days of their effective date, notify the *Lead State* and *NASPO ValuePoint* of any contractual most-favored-customer provisions in third-party contracts or agreements that may affect the promotion of this *Cooperative Purchasing Agreement* or whose terms provide for adjustments to future rates or pricing based on rates, pricing in, or *Purchase Orders* from this *Cooperative Purchasing Agreement*. Upon request of the *Lead State* or *NASPO ValuePoint*, *Contractor* shall provide a copy of any such provisions.
- 13.6. **CANCELLATION.** In consultation with *NASPO ValuePoint*, the *Lead State* may, in its discretion, cancel the *Cooperative Purchasing Agreement* or not exercise an option to renew, when utilization of *Contractor's* *Cooperative Purchasing Agreement* does not warrant further administration of the *Cooperative Purchasing Agreement*. The *Lead State* may also exercise its right to not renew the *Cooperative Purchasing Agreement* if the *Contractor* fails to record or report revenue for three consecutive quarters, upon 60-calendar day written notice to the *Contractor*. Cancellation based on nonuse or under-utilization will not occur sooner than two years after execution of the *Cooperative Purchasing Agreement*. This subsection does not limit the discretionary right of either the *Lead State* or *Contractor* to cancel the *Cooperative Purchasing Agreement* or terminate for default subject to the terms herein. This subsection

also does not limit any right of the Lead State to cancel the Cooperative Purchasing Agreement under applicable laws.

- 13.7. ADDITIONAL AGREEMENT WITH NASPO. Upon request by NASPO ValuePoint, awarded Contractor shall enter into a direct contractual relationship with NASPO ValuePoint related to Contractor's obligations to NASPO ValuePoint under the terms of the Cooperative Purchasing Agreement, the terms of which shall be the same or similar (and not less favorable) than the terms set forth in the Cooperative Purchasing Agreement.

14. RECORDS RETENTION & AUDITS.

- 14.1. RECORDS RETENTION. *Contractor* shall maintain books, records, documents, and other evidence pertaining to this *Cooperative Purchasing Agreement* and *Purchase Orders* placed by *Purchasing Entities* under it to the extent and in such detail as shall adequately reflect performance and administration of payments and fees. *Contractor* shall retain such records for a period of six (6) years following expiration or termination of this *Cooperative Purchasing Agreement* or final payment for any *Purchase Order* placed by a *Purchasing Entity* against this *Cooperative Purchasing Agreement*, whichever is later; Provided, however, that if any litigation, claim, or audit is commenced prior to the expiration of this period, such period shall extend until all such litigation, claims, or audits have been resolved.
- 14.2. AUDIT. Upon reasonable advance written notice, *Enterprise Services* reserves the right to audit, or have a designated third-party audit, applicable records to ensure that *Contractor* has properly invoiced *Purchasing Entities* and that *Contractor* has paid all applicable fees pertaining to this *Cooperative Purchasing Agreement*. Accordingly, *Contractor* shall permit *Enterprise Services*, any *Purchasing Entity*, and any other duly authorized agent of a governmental agency, to audit, inspect examine, copy and/or transcribe *Contractor's* books, documents, papers and records directly pertinent to this *Cooperative Purchasing Agreement* or *Purchase Orders* placed by a *Purchasing Entity* under it for the purpose of making audits, examinations, excerpts, and transcriptions. This right shall survive for a period of six (6) years following expiration or termination of this *Cooperative Purchasing Agreement* or final payment for any *Purchase Order* placed by a *Purchasing Entity* against this *Cooperative Purchasing Agreement*, whichever is later; Provided, however, that if any litigation, claim, or audit is commenced prior to the expiration of this period, such period shall extend until all such litigation, claims, or audits have been resolved.
- 14.3. OVERPAYMENT OF PURCHASES OR UNDERPAYMENT OF FEES. Without limiting any other remedy available to any *Purchasing Entity*, *Contractor* shall reimburse *Purchasing Entities* for any overpayments inconsistent with the terms of this *Cooperative Agreement* or *Purchase Orders*, at a rate of 125% of such overpayments, found as a result of the examination of the *Contractor's* records.

15. INSURANCE.

- 15.1. REQUIRED INSURANCE. During the term of this *Cooperative Purchasing Agreement*, *Contractor*, at its expense, shall maintain in full force and effect the insurance coverages set forth in *Exhibit A – Insurance Requirements*. All costs for insurance, including any payments of deductible amounts, shall be considered incidental to and included in the prices for *Goods and/or Services* and no additional payment shall be made.

- 15.2. **WORKERS COMPENSATION.** *Contractor* shall comply with applicable workers compensation statutes and regulations (e.g., Title 51 RCW, Industrial Insurance). If *Contractor* fails to provide industrial insurance coverage or fails to pay premiums or penalties on behalf of its employees as may be required by law, *Enterprise Services* may terminate this *Cooperative Purchasing Agreement*. This provision does not waive any of the Washington State Department of Labor and Industries (L&I) rights to collect from *Contractor*. If *Contractor* performs services on behalf of a *Purchasing Entity* in the State of Washington, and only to the extent of claims against *Contractor* by *Purchasing Entity* under the Indemnity obligations in this *Cooperative Purchasing Agreement*, *Contractor* expressly waives any immunity it may be granted under the Washington State Industrial Insurance Act, Title 51 RCW. *Contractor's* indemnification obligation shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable to or for any third-party under workers' compensation acts, disability benefit acts, or other employee benefit acts. The parties expressly acknowledge and certify that the waiver of immunity under Title 51 RCW was mutually negotiated and agreed upon.
- 15.3. **INSURANCE CERTIFICATE.** Prior to commencement of performance, *Contractor* shall provide to *Enterprise Services* a written endorsement to the *Contractor's* general liability insurance policy or other documentary evidence acceptable to *Enterprise Services* that: (a) names the State of Washington and *Enterprise Services* as additional insureds; (b) provides for written notice of cancellation delivered in accordance with the policy provisions; and (c) provides that the *Contractor's* liability insurance policy shall be primary, with any liability insurance of any *Participating Entity* as secondary and noncontributory. Unless otherwise agreed in any *Participating Addendum*, other state *Participating Entities'* rights and *Contractor's* obligations are the same as those specified in the first sentence of this subsection except the endorsement is provided to the applicable state.

16. PUBLIC INFORMATION & PUBLIC RECORDS DISCLOSURE REQUESTS.

- 16.1. **WASHINGTON'S PUBLIC RECORDS ACT.** Unless statutorily exempt from public disclosure, this *Cooperative Purchasing Agreement* and all related records are subject to public disclosure as required by Washington's Public Records Act, RCW 42.56.
- 16.2. **PARTICIPATING ADDENDUMS.** *Participating Addendums* and related records shall be subject to public disclosure as required by applicable law pertaining to such *Participating Entity* or *Purchasing Entity*.
- 16.3. **CONTRACTOR OBLIGATION.** *Contractor* shall identify and mark the precise portion(s) of the relevant page(s) of any records provided to *Enterprise Services* that *Contractor* believes are statutorily exempt from disclosure and identify the precise statutory basis for exemption from disclosure. In addition, if, in *Contractor's* judgment, certain portions of such records are not statutorily exempt from disclosure but are sensitive because particular portions of *Contractor's* records (NOT including pricing) include highly confidential, proprietary, or trade secret information (or the equivalent) that *Contractor* protects through the regular use of confidentiality or similar agreements and routine enforcements through court enforcement actions, *Contractor* shall identify and mark the precise portion(s) of the relevant page(s) of any records that include such sensitive information.
- 16.4. **ENTERPRISE SERVICES' OBLIGATION.** In the event that *Enterprise Services* receives a public records disclosure request pertaining to records that *Contractor* has submitted and marked either as (a) statutorily exempt from disclosure; or (b) sensitive, *Enterprise Services*, prior to disclosure,

shall do the following: *Enterprise Services'* Public Records Officer shall review any records marked by *Contractor* as statutorily exempt from disclosure. In those situations, where the designation comports with the stated statutory exemption from disclosure, *Enterprise Services* shall redact or withhold the record(s) as appropriate. For records marked 'sensitive' or for records where *Enterprise Services* determines that no statutory exemption to disclosure applies or is unable to determine whether the stated statutory exemption to disclosure properly applies, *Enterprise Services* shall notify *Contractor*, at the address provided in the Contract, of the public records disclosure request and identify the date that *Enterprise Services* intends to release that the record(s) (including records marked 'sensitive' or exempt from disclosure) to the requester unless *Contractor*, at *Contractor's* sole expense, timely obtains a court order enjoining *Enterprise Services* from such disclosure. In the event *Contractor* fails to timely file a motion for a court order enjoining such disclosure, *Enterprise Services* shall release the requested record(s) on the date specified. *Contractor's* failure properly to identify exempted or sensitive information or timely respond after notice of request for public disclosure has been given shall be deemed a waiver by *Contractor* of any claim that such records are exempt or protected from public disclosure.

17. CLAIMS.

- 17.1. ASSUMPTION OF RISKS; CLAIMS BETWEEN THE PARTIES. *Contractor* assumes sole responsibility and all risks of personal injury or property damage to itself and its employees and agents to the extent caused by its operations under this *Cooperative Purchasing Agreement*. *Enterprise Services* has made no representations regarding any factor affecting *Contractor's* risks. *Contractor* shall pay for all damage to any *Purchasing Entity's* property resulting directly or indirectly from *Contractor's* acts or omissions under this *Cooperative Purchasing Agreement*, to the extent attributable to negligence by *Contractor* or its agents.
- 17.2. THIRD-PARTY CLAIMS; INDEMNITY. To the fullest extent permitted by law, *Contractor* shall defend, indemnify, and hold *Enterprise Services*, any *Purchasing Entity*, and *NASPO ValuePoint* and their respective employees and agents harmless from and against all claims, demands, judgments, assessments, damages, penalties, fines, costs, liabilities, or losses including, without limitation, sums paid in settlement of claims, attorneys' fees, consultant fees, and expert fees (collectively "Claims") to the extent arising out of *Contractor's* or its successors', agents', and/or subcontractors' negligence, other tortious fault, or intentional misconduct under this *Cooperative Purchasing Agreement*. *Contractor* shall take all steps needed to keep *Purchasing Entity's* property free of liens arising from *Contractor's* activities, and promptly obtain or bond the release of any such liens that may be filed. The *Parties* agree that this section is not subject to any limitations of liability in this *Cooperative Purchasing Agreement* or in any other document executed in conjunction with this *Cooperative Purchasing Agreement*.
- 17.3. INDEMNIFICATION – INTELLECTUAL PROPERTY. To the fullest extent permitted by law, *Contractor* shall defend, indemnify, and hold *Enterprise Services*, any *Purchasing Entity*, and *NASPO ValuePoint* and their employees and agents harmless from against any and all Claims resulting from allegations of infringement of any patents, copyrights, trade secret, or similar intellectual property rights covering the *Goods and/or Services* provided, or the use of the *Goods and/or Services* under this *Cooperative Purchasing Agreement*. If *Purchasing Entity's* use of *Goods and/or Services* provided by *Contractor* is enjoined based on an intellectual property infringement Claim, *Contractor* shall, at its own expense, either procure for *Purchasing Entity* the right to continue using the *Goods and/or Services* or, after consulting

with *Purchasing Entity* and obtaining *Purchasing Entity's* consent, replace or modify the *Goods and/or Services* with substantially similar and functionally equivalent non-infringing *Goods and/or Services*.

- 17.4. CLAIM PROTOCOL. *Purchasing Entity* shall give *Contractor*: (i) prompt written notice of a claim pursuant to Section 17.2 or 17.3; and (ii) assistance and information reasonably requested by *Contractor*. Notwithstanding the foregoing, *Contractor* shall not be liable for any infringement arising from: (i) the integration or combination of the Goods together with other software, materials or products not integrated or combined by *Contractor*, if the infringement would have been avoided in the absence of such integration or combination; (ii) modifications to the Goods that were not authorized by *Contractor*; or (iii) *Purchasing Entity's* use of the Goods in a manner that does not comply with this the *Contractor's* software license agreement (pursuant to Section 9.5) and documentation.

- 18. DISPUTE RESOLUTION.** The *Parties* shall cooperate to resolve any dispute pertaining to this *Cooperative Purchasing Agreement* efficiently, as timely as practicable, and at the lowest possible level with authority to resolve such dispute. If, however, a dispute persists and cannot be resolved, it may be escalated within each organization. In such situation, upon notice by either party, each party, within five (5) business days shall reduce its description of the dispute to writing and deliver it to the other party. The receiving party then shall have three (3) business days to review and respond in writing. In the event that the *Parties* cannot then agree on a resolution of the dispute, the *Parties* shall schedule a conference between the respective senior managers of each organization to attempt to resolve the dispute. In the event the *Parties* cannot agree, either party may resort to court to resolve the dispute.

19. TERMINATION; EXPIRATION; SUSPENSION; & REMEDIES.

- 19.1. TERMINATION. This *Cooperative Purchasing Agreement* may be terminated:

- (a) Upon the mutual written agreement of the *Parties*;
- (b) By the non-breaching party where the breach is not cured within thirty (30) calendar days after written notice of breach is delivered to the breaching party, unless a different time for cure is otherwise stated in this *Cooperative Purchasing Agreement*; and
- (c) As otherwise expressly provided for in this *Cooperative Purchasing Agreement*.

This *Cooperative Purchasing Agreement* shall terminate automatically and without further action if a party becomes insolvent or is placed in receivership, reorganization, liquidation, or bankruptcy. In addition to any other available remedies, the non-breaching party may terminate this *Cooperative Purchasing Agreement* as provided in subsection (b) above without further liability by written notice to the breaching party. A termination for breach will not affect rights or obligations accrued or owed before the effective date of the termination notice.

- 19.2. TERMINATION FOR WITHDRAWAL OF AUTHORITY. *Enterprise Services* may suspend or terminate this *Cooperative Purchasing Agreement* if, during the term hereof, *Enterprise Services'* procurement authority is withdrawn, reduced, or limited such that *Enterprise Services*, in its judgment, would lack authority to enter into this *Cooperative Purchasing Agreement*; Provided, however, that such suspension or termination for withdrawal of authority shall only

be effective upon twenty (20) days prior written notice; and Provided further, that such suspension or termination for withdrawal of authority shall not relieve any *Participating Entity* or *Purchasing Entity* from payment for *Goods and/or Services* already ordered as of the effective date of such notice. Except as stated in this provision, in the event of such suspension or termination for withdrawal of authority, neither *Enterprise Services* nor any *Participating Entity* or *Purchasing Entity* shall have any obligation or liability to *Contractor*. *Contractor* shall be entitled to seek compensation to the extent *Contractor* provides documentary evidence that *Contractor* has incurred additional costs as a result of the suspension.

- 19.3. TERMINATION FOR PUBLIC CONVENIENCE. *Enterprise Services*, for public convenience, may terminate this *Cooperative Purchasing Agreement*; Provided, however, that such termination for public convenience must, in *Enterprise Services*' judgment, be in the best interest of the State of Washington; and Provided further, that such termination for public convenience shall only be effective upon sixty (60) days prior written notice; and Provided further, that such termination for public convenience shall not relieve any *Participating Entity* or *Purchasing Entity* from payment for *Goods and/or Services* already ordered as of the effective date of such notice. Except as stated in this provision, in the event of such termination for public convenience, neither *Enterprise Services* nor any *Participating Entity* or *Purchasing Entity* shall have any obligation or liability to *Contractor*.
- 19.4. PURCHASING ENTITY OBLIGATIONS – EXPIRATION. Upon expiration of this *Cooperative Purchasing Agreement*, *Purchasing Entity* shall accept and take delivery of all outstanding and not yet fulfilled *Purchase Orders* and pay *Contractor* the price as set out in this *Cooperative Purchasing Agreement*. Notwithstanding any provision to the contrary, in no event shall a *Purchasing Entity's Purchase Order* pursuant to this *Cooperative Purchasing Agreement* that is executed prior to expiration of this *Cooperative Purchasing Agreement* allow for *Contractor* to provide *Goods and/or Services* more than twelve (12) months beyond the expiration date of the *Cooperative Purchasing Agreement*.
- 19.5. CONTRACTOR OBLIGATIONS – EXPIRATION OR TERMINATION. Upon expiration or termination of this *Cooperative Purchasing Agreement*, *Contractor* shall: (a) continue to fulfill its warranty obligations with respect to any *Goods and/or Services* sold hereunder and all provisions of the *Cooperative Purchasing Agreement* that, by their nature, would continue beyond the expiration, termination, or cancellation of the *Cooperative Purchasing Agreement* shall so continue and survive; and (b) promptly return to *Purchasing Entity* all keys, badges, and other materials supplied by *Purchasing Entity* for the performance of any *Purchase Order* entered into pursuant to this *Cooperative Purchasing Agreement*.
- 19.6. DEFAULT. Any of the following events shall constitute cause for *Enterprise Services* to declare *Contractor* in default of this *Cooperative Purchasing Agreement*:
 - (a) *Contractor* fails to perform or comply with any of the terms or conditions of this *Cooperative Purchasing Agreement*;
 - (b) *Contractor* fails to timely report sales required by this *Cooperative Purchasing Agreement* when due;
 - (c) *Contractor* fails to timely pay fees required by this *Cooperative Purchasing Agreement* when due;

- (d) *Contractor* fails to maintain the insurance coverages specified herein or timely provide to *Enterprise Services* the Certificate of Insurance and updates thereto specified herein;
- (e) *Contractor* breaches any representation or warranty provided herein; or
- (f) *Contractor* enters into proceedings relating to bankruptcy, whether voluntary or involuntary.

19.7. **SUSPENSION & TERMINATION FOR DEFAULT.** *Enterprise Services* may suspend *Contractor's* operations under this *Cooperative Purchasing Agreement* immediately by written cure notice of any default. *Contractor* may be required to submit a written cure plan within five (5) business days of such suspension notification. Suspension shall continue until the default is remedied to *Enterprise Services'* reasonable satisfaction; Provided, however, that, if after thirty (30) days from such a suspension notice if *Contractor* has not completed all of the actions set forth in the written cure plan within the timeframe identified in the written cure plan, *Enterprise Services* may terminate *Contractor's* rights under this *Cooperative Purchasing Agreement*. All of *Contractor's* obligations to *Enterprise Services* and Purchasing Entities survive termination of *Contractor's* rights under this Cooperative Agreement, until such obligations have been fulfilled.

19.8. **REMEDIES FOR DEFAULT.**

- (a) *Enterprise Services'* rights to suspend and terminate *Contractor's* rights under this *Cooperative Purchasing Agreement* are in addition to all other available remedies.
- (b) In the event of termination for default, *Enterprise Services* may exercise any remedy provided by law including, without limitation, the right to procure for all *Purchasing Entities* replacement *Goods and/or Services*. In such event, *Contractor* shall be liable to *Enterprise Services* for damages as authorized by law including, but not limited to, any price difference between the *Cooperative Purchasing Agreement* price and the replacement or cover price as well as any administrative and/or transaction costs directly related to such replacement procurement – e.g., the cost of the competitive procurement. *Enterprise Services* and *Purchasing Entities* shall mitigate damages and provide *Contractor* with detailed invoices substantiating the charges.
- (c) Unless otherwise specified in the *Participating Addendum*, in the event of a default under a *Participating Addendum*, a *Participating Entity* shall provide a written notice of default as described in this section and have all of the rights and remedies under this section regarding its participation in the *Cooperative Purchasing Agreement*, in addition to those set forth in its *Participating Addendum*. Unless otherwise specified in a *Purchase Order*, a *Purchasing Entity* shall provide written notice of default as described in this section and have all of the rights and remedies under this paragraph and any applicable *Participating Addendum* with respect to a *Purchase Order* placed by the *Purchasing Entity*. Nothing in this *Cooperative Purchasing Agreement* shall be construed to limit the rights and remedies available to *Purchasing Entity* under the applicable commercial code.

19.9. **LIMITATION ON DAMAGES.** Notwithstanding any provision to the contrary, the *Parties* agree that in no event shall any party or *Purchasing Entity* be liable to the other for exemplary or punitive

damages and that each party's liability shall not exceed \$2,000,000 per occurrence; Provided, however, that nothing contained in this section shall in any way exclude or limit: (a) a party's liability for all damages arising out of that party's intentional acts or omissions; (b) the operation of any *Goods and/or Services* warranty provided in this *Cooperative Purchasing Agreement*; or (c) damages subject to the Intellectual Property Indemnity section of this *Cooperative Purchasing Agreement*; (d) non-payment for delivered Goods and/or Services due ONLY by the receiving *Purchasing Entity* (see Section 3.2 & 3.3); and (e) infringement or misappropriation of the intellectual property rights of *Contractor*. Any limitation of either party's obligations under this *Cooperative Purchasing Agreement*, by delivery slips or other documentation is void.

- 19.10. **SUSPENSION/TERMINATION PROCEDURE.** Regardless of basis, in the event of suspension or termination (in full or in part), the *Parties* shall cooperate to ensure an orderly and efficient suspension or termination. Accordingly, *Contractor* shall deliver to *Purchasing Entities* all *Goods and/or Services* that are complete (or with approval from *Enterprise Services*, substantially complete) and *Purchasing Entities* shall inspect, accept, and pay for the same in accordance with this *Cooperative Purchasing Agreement* and the applicable *Purchase Order*. Unless directed by *Enterprise Services* to the contrary, *Contractor* shall not process any *Purchase Orders* after notice of suspension or termination inconsistent therewith.

20. PURCHASE ORDER TERMINATION. *Purchase Orders* between *Purchasing Entities* and *Contractor* may be terminated as follows:

- (a) upon the mutual written agreement of the parties to the *Purchase Order*;
- (b) by the non-breaching party where the breach of the *Purchase Order* is not cured within thirty (30) calendar days after written notice of breach is delivered to the breaching party, unless a different time for cure is otherwise stated in the applicable *Purchase Order*; and
- (c) as otherwise expressly provided for in the applicable *Purchase Order*.

Purchase Orders shall terminate automatically and without further action if a party to such *Purchase Order* becomes insolvent or is placed in receivership, reorganization, liquidation, or bankruptcy. In addition to any other available remedies, the non-breaching party may terminate the *Purchase Order* as provided in subsection (b) above without further liability by written notice to the breaching party. A termination for breach shall not affect rights or obligations accrued or owed before the effective date of the termination notice.

21. GENERAL PROVISIONS.

- 21.1. **TIME IS OF THE ESSENCE.** Time is of the essence for each and every provision of this *Cooperative Purchasing Agreement*.
- 21.2. **COMPLIANCE WITH LAW.** *Contractor* shall comply with all applicable laws. *Contractor* shall obtain all necessary permits and approvals and give all stipulations, certifications, and representations that may be required for it to perform this *Cooperative Purchasing Agreement*.
- 21.3. **NONDISCRIMINATION.**
 - (a) **Nondiscrimination Requirement.** During the term of this *Cooperative Purchasing Agreement*, *Contractor*, including any subcontractor, shall not discriminate on the bases enumerated at RCW 49.60.530(3). In addition,

Contractor, including any subcontractor, shall give written notice of this nondiscrimination requirement to any labor organizations with which Contractor, or subcontractor, has a collective bargaining or other agreement.

- (b) **Obligation to Cooperate.** Contractor, including any subcontractor, shall cooperate and comply with any Washington state agency investigation regarding any allegation that Contractor, including any subcontractor, has engaged in discrimination prohibited by this Cooperative Purchasing Agreement pursuant to RCW 49.60.530(3).
- (c) **Default.** Notwithstanding any provision to the contrary, Enterprise Services may suspend Contractor, including any subcontractor, upon notice of a failure to participate and cooperate with any state agency investigation into alleged discrimination prohibited by this Cooperative Purchasing Agreement, pursuant to RCW 49.60.530(3). Any such suspension will remain in place until Enterprise Services receives notification that Contractor, including any subcontractor, is cooperating with the investigating state agency. In the event Contractor, or subcontractor, is determined to have engaged in discrimination identified at RCW 49.60.530(3), Enterprise Services may terminate this Cooperative Purchasing Agreement in whole or in part, and Contractor, subcontractor, or both, may be referred for debarment as provided in RCW 39.26.200. Contractor or subcontractor may be given a reasonable time in which to cure this noncompliance, including implementing conditions consistent with any court-ordered injunctive relief or settlement agreement.
- (d) **Remedies for Breach.** Notwithstanding any provision to the contrary, in the event of Cooperative Purchasing Agreement termination or suspension for engaging in discrimination, Contractor, subcontractor, or both, shall be liable for contract damages as authorized by law including, but not limited to, any cost difference between this Cooperative Purchasing Agreement and the replacement or cover contract and all administrative costs directly related to the replacement contract, which damages are distinct from any penalties imposed under Chapter 49.60, RCW. Enterprise Services and/or Purchasing Entities shall have the right to deduct from any monies due to Contractor or subcontractor, or that thereafter become due, an amount for damages Contractor or subcontractor will owe Enterprise Services and/or Purchasing Entities for default under this provision.

- 21.4. **ENTIRE AGREEMENT.** This *Cooperative Purchasing Agreement* constitutes the entire agreement and understanding of the *Parties* with respect to the subject matter and supersedes all prior negotiations, representations, and understandings between them. There are no representations or understandings of any kind not set forth herein.
- 21.5. **AMENDMENT OR MODIFICATION.** Except as set forth herein, this *Cooperative Purchasing Agreement* may not be amended or modified except in writing and signed by a duly authorized representative of each party.
- 21.6. **AUTHORITY.** Each party to this *Cooperative Purchasing Agreement*, and each individual signing on behalf of each party, hereby represents and warrants to the other that it has full power and authority to enter into this *Cooperative Purchasing Agreement* and that its execution,

delivery, and performance of this *Cooperative Purchasing Agreement* has been fully authorized and approved, and that no further approvals or consents are required to bind such party.

- 21.7. NO AGENCY. The *Parties* agree that no agency, partnership, or joint venture of any kind shall be or is intended to be created by or under this *Cooperative Purchasing Agreement*. Neither party is an agent of the other party nor authorized to obligate it.
- 21.8. ASSIGNMENT. *Contractor* may not assign its rights under this *Cooperative Purchasing Agreement* without *Enterprise Services'* prior written consent and *Enterprise Services* may consider any attempted assignment without such consent to be void; Provided, however, that, if *Contractor* (a) provides written notice to *Enterprise Services* within thirty (30) days of such event and (b) timely executes *Enterprise Services'* Assignment, Assumption and Consent Agreement. *Contractor* may assign its rights under this *Cooperative Purchasing Agreement* in full to any parent, subsidiary, or affiliate of *Contractor* that controls or is controlled by or under common control with *Contractor*, is merged or consolidated with *Contractor*, or purchases a majority or controlling interest in the ownership or assets of *Contractor*. Unless otherwise agreed, *Contractor* guarantees prompt performance of all obligations under this *Cooperative Purchasing Agreement* notwithstanding any prior assignment of its rights.
- 21.9. BINDING EFFECT; SUCCESSORS & ASSIGNS. This *Cooperative Purchasing Agreement* shall be binding upon and shall inure to the benefit of the *Parties* hereto and their respective successors and assigns.
- 21.10. ASSIGNMENT OF ANTITRUST RIGHTS REGARDING PURCHASED GOODS/SERVICES. *Contractor* irrevocably assigns to *Enterprise Services*, on behalf of the State of Washington, any claim for relief or cause of action which the *Contractor* now has or which may accrue to the *Contractor* in the future by reason of any violation of state or federal antitrust laws in connection with any *Goods and/or Services* provided to *Purchasing Entities* in Washington for the purpose of carrying out *Contractor's* obligations under this *Cooperative Purchasing Agreement*, including, at *Enterprise Services'* option, the right to control any such litigation on such claim for relief or cause of action.
- 21.11. FEDERAL FUNDS. To the extent that any *Purchasing Entity* uses federal funds to purchase *Goods and/or Services* pursuant to this *Cooperative Purchasing Agreement*, such *Purchasing Entity* shall specify, with its *Purchase Order*, any applicable requirement or certification that must be satisfied by *Contractor* at the time the order is placed or upon delivery of such *Goods and/or Services* to *Purchasing Entity*.
- 21.12. SEVERABILITY. If any provision of this *Cooperative Purchasing Agreement* is held to be invalid or unenforceable, such provision shall not affect or invalidate the remainder of this *Cooperative Purchasing Agreement*, and to this end the provisions of this *Cooperative Purchasing Agreement* are declared to be severable. If such invalidity becomes known or apparent to the *Parties*, the *Parties* agree to negotiate promptly in good faith in an attempt to amend such provision as nearly as possible to be consistent with the intent of this *Cooperative Purchasing Agreement*.
- 21.13. WAIVER. Failure of either party to insist upon the strict performance of any of the terms and conditions hereof, or failure to exercise any rights or remedies provided herein or by law, or to notify the other party in the event of breach, shall not release the other party of any of its obligations under this *Cooperative Purchasing Agreement*, nor shall any purported oral modification or rescission of this *Cooperative Purchasing Agreement* by either party operate

as a waiver of any of the terms hereof. No waiver by either party of any breach, default, or violation of any term, warranty, representation, contract, covenant, right, condition, or provision hereof shall constitute waiver of any subsequent breach, default, or violation of the same or other term, warranty, representation, contract, covenant, right, condition, or provision.

21.14. SURVIVAL. All representations, warranties, covenants, agreements, and indemnities set forth in or otherwise made pursuant to this *Cooperative Purchasing Agreement* shall survive and remain in effect following the expiration or termination of this *Cooperative Purchasing Agreement*, Provided, however, that nothing herein is intended to extend the survival beyond any applicable statute of limitations periods.

21.15. GOVERNING LAW.

(a) Cooperative Purchasing Agreement. The validity, construction, performance, and enforcement of this *Cooperative Purchasing Agreement* shall be governed by and construed in accordance with the laws of the State of Washington, without regard to any choice of law principles that would provide for the application of the laws of another jurisdiction.

(b) Participating Addendum & Purchase Orders. The validity, construction, and effect of any *Participating Addendum* pertaining to the *Cooperative Purchasing Agreement* or *Purchase Order* placed pursuant to such *Participating Addendum* shall be governed by and construed in accordance with the laws of the *Participating Entity's* or *Purchasing Entity's* state without regard to any choice of law principles that would provide for the application of the laws of another jurisdiction.

21.16. JURISDICTION & VENUE.

(a) Cooperative Purchasing Agreement. In the event that any action is brought to enforce any provision of this *Cooperative Purchasing Agreement*, the *Parties* agree to exclusive jurisdiction in Thurston County Superior Court for the State of Washington and agree that in any such action venue shall lie exclusively at Olympia, Washington.

(b) Purchase Orders. Venue for any claim, dispute, or action concerning any *Purchase Order* placed against the *Cooperative Purchasing Agreement* or the effect of a *Participating Addendum* shall be in the Purchasing Entity's state.

21.17. SOVEREIGN IMMUNITY. In no event shall this *Cooperative Purchasing Agreement*, any *Participating Addendum*, or any *Purchase Order* issued thereunder, or any act of the *Lead State*, a *Participating Entity*, or *Purchasing Entity* be a waiver of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the Constitution of the United States or otherwise, from any claim or from the jurisdiction of any court. This section applies to a claim brought against the *Participating Entities* who are states only to the extent Congress has appropriately abrogated the state's sovereign immunity and is not consent by the state to be sued in federal court.

21.18. ATTORNEYS' FEES. In the event of litigation or other action brought to enforce this *Cooperative Purchasing Agreement*, each party shall bear its own attorneys' fees and costs.

- 21.19. **FAIR CONSTRUCTION & INTERPRETATION.** The provisions of this *Cooperative Purchasing Agreement* shall be construed as a whole according to their common meaning and not strictly for or against any party and consistent with the provisions contained herein in order to achieve the objectives and purposes of this *Cooperative Purchasing Agreement*. Each party hereto and its counsel has reviewed and revised this *Cooperative Purchasing Agreement* and agrees that the normal rules of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be construed in the interpretation of this *Cooperative Purchasing Agreement*. Each term and provision of this *Cooperative Purchasing Agreement* to be performed by either party shall be construed to be both a covenant and a condition.
- 21.20. **FURTHER ASSURANCES.** In addition to the actions specifically mentioned in this *Cooperative Purchasing Agreement*, the Parties shall each do whatever may reasonably be necessary to accomplish the transactions contemplated in this *Cooperative Purchasing Agreement* including, without limitation, executing any additional documents reasonably necessary to effectuate the provisions and purposes of this *Cooperative Purchasing Agreement*.
- 21.21. **EXHIBITS.** All exhibits referred to herein are deemed to be incorporated in this *Cooperative Purchasing Agreement* in their entirety.
- 21.22. **CAPTIONS & HEADINGS.** The captions and headings in this *Cooperative Purchasing Agreement* are for convenience only and are not intended to, and shall not be construed to, limit, enlarge, or affect the scope or intent of this *Cooperative Purchasing Agreement* nor the meaning of any provisions hereof.
- 21.23. **ELECTRONIC SIGNATURES.** An electronic signature or electronic record of this *Cooperative Purchasing Agreement* or any other ancillary agreement shall be deemed to have the same legal effect as delivery of an original executed copy of this *Cooperative Purchasing Agreement* or such other ancillary agreement for all purposes.
- 21.24. **COUNTERPARTS.** This *Cooperative Purchasing Agreement* may be executed in any number of counterparts, each of which shall be deemed an original and all of which counterparts together shall constitute the same instrument which may be sufficiently evidenced by one counterpart. Execution of this *Cooperative Purchasing Agreement* at different times and places by the *Parties* shall not affect the validity thereof so long as all the *Parties* hereto execute a counterpart of this *Cooperative Purchasing Agreement*.

EXECUTED as of the date and year first above written.

STATE OF WASHINGTON
DEPARTMENT OF ENTERPRISE SERVICES

FARO TECHNOLOGIES, INC.
A FLORIDA CORPORATION

By: Elena McGrew
Elena McGrew
Its: Procurement Manager

By: Craig Cupach
Craig Cupach (Nov 26, 2024 14:40 EST)
Craig Cupach
Its: Director of Sales

INSURANCE REQUIREMENTS

1. **INSURANCE OBLIGATION.** During the term of this *Cooperative Purchasing Agreement*, *Contractor* shall possess and maintain in full force and effect, at *Contractor's* sole expense, the following insurance coverages:
 - a. **COMMERCIAL GENERAL LIABILITY INSURANCE.** Commercial general liability insurance (and, if necessary, commercial umbrella liability insurance) covering bodily injury, property damage, products/completed operations, personal injury, and advertising injury liability on an 'occurrence form' that shall be no less comprehensive and no more restrictive than the coverage provided by Insurance Services Office (ISO) under the most recent version of form CG 00 01 in the amount of not less than \$2,000,000 per occurrence and \$4,000,000 general aggregate. This coverage shall include blanket contractual liability coverage. This coverage shall include a cross-liability clause or separation of insured condition.
 - b. **WORKERS' COMPENSATION INSURANCE.** *Contractor* shall comply with applicable Workers' Compensation or Industrial Accident insurance providing benefits as required by law.
 - c. **EMPLOYERS' LIABILITY (STOP GAP) INSURANCE.** Employers' liability insurance (and, if necessary, commercial umbrella liability insurance) with limits not less than \$1,000,000 each accident for bodily injury by accident, \$1,000,000 each employee for bodily injury by disease, and \$1,000,000 bodily injury by disease policy limit.
 - d. **COMMERCIAL AUTOMOBILE LIABILITY INSURANCE** (required if *Contractor* is accessing Purchasing Entity's premises). 'Symbol 1' commercial automobile liability coverage (and, if necessary, commercial umbrella liability insurance) including coverage for all owned, hired, and non-owned vehicles. The combined single limit per accident shall not be less than \$1,000,000.

The insurance coverage limits set forth herein are the minimum. *Contractor's* insurance coverage shall be no less than the minimum amounts specified. Coverage in the amounts of these minimum limits, however, shall not be construed to relieve *Contractor* from liability in excess of such limits. *Contractor* waives all rights against the State of Washington for the recovery of damages to the extent such damages are covered by any insurance required herein.

2. **INSURANCE CARRIER RATING.** Coverages provided by the *Contractor* must be underwritten by an insurance company deemed acceptable to the State of Washington's Office of Risk Management. Insurance coverage shall be provided by companies authorized to do business within the State of Washington and rated A- Class VII or better in the most recently published edition of Best's Insurance Rating. *Enterprise Services* reserves the right to reject all or any insurance carrier(s) with an unacceptable financial rating.
3. **ADDITIONAL INSURED.** When specified as a required insurance coverage (see § 1 – Insurance Obligation, above) Commercial General Liability, Commercial Automobile Liability, and Pollution Liability Insurance shall include the State of Washington and all authorized *Purchasing Entities* (and their agents, officers, and employees) as Additional Insureds evidenced by copy of the Additional Insured Endorsement attached to the Certificate of Insurance on such insurance policies.
4. **CERTIFICATE OF INSURANCE.** Prior to execution of the *Cooperative Purchasing Agreement*, *Contractor* shall furnish to *Enterprise Services*, as evidence of the insurance coverage required by this *Cooperative Agreement*, a certificate of insurance satisfactory to *Enterprise Services* that insurance, in the above-stated kinds and minimum amounts, has been secured. In addition, no less than ten (10) days prior to coverage expiration, *Contractor* shall furnish to *Enterprise Services* an updated or renewed certificate of insurance, satisfactory to *Enterprise Services*, that insurance, in the above-stated kinds and minimum amounts, has been secured. Failure to maintain or provide proof of insurance, as required, shall result in termination of this *Cooperative Purchasing Agreement*. **All policies**

and certificates of insurance shall include the ***Cooperative Purchasing Agreement*** number stated on the cover of this ***Cooperative Purchasing Agreement***. All certificates of Insurance and any related insurance documents shall be delivered to *Enterprise Services* via email sent to the email address set forth below :

Email: DESContractsTeamFir@des.wa.gov

Note: the Email Subject line must state:

**Insurance Certificate: Cooperative Purchasing Agreement
No. 24283 Police Radar/Lidar**

5. **PRIMARY COVERAGE.** *Contractor's* insurance shall apply as primary and shall not seek contribution from any insurance or self-insurance maintained by, or provided to, the additional insureds listed above including, at a minimum, the State of Washington and/or any *Purchasing Entity*. All insurance or self-insurance of the State of Washington and/or *Purchasing Entities* shall be excess of any insurance provided by *Contractor* or subcontractors.
6. **SUBCONTRACTORS.** *Contractor* shall include all subcontractors as insureds under all required insurance policies. Alternatively, prior to utilizing any subcontractor, *Contractor* shall cause any such subcontractor to provide insurance that complies with all applicable requirements of the insurance set forth herein and shall furnish separate Certificates of Insurance and endorsements for each subcontractor. Each subcontractor must comply fully with all insurance requirements stated herein. Failure of any subcontractor to comply with insurance requirements does not limit *Contractor's* liability or responsibility.
7. **WAIVER OF SUBROGATION.** *Contractor* waives all rights of subrogation against the State of Washington and any *Purchasing Entity* for the recovery of damages to the extent such damages are or would be covered by the insurance specified herein.
8. **NOTICE OF CHANGE OR CANCELLATION.** There shall be no cancellation, material change, exhaustion of aggregate limits, or intent not to renew insurance coverage, either in whole or in part without at least thirty (30) days prior written legal notice by *Contractor* to *Enterprise Services*. Failure to provide such notice, as required, shall constitute default by *Contractor*. Any such written notice shall include the *Cooperative Purchasing Agreement* number stated on the cover of this *Cooperative Purchasing Agreement*.
9. **EXTENDED REPORTING PERIOD.** If any required insurance coverage is on a claims-made basis (rather than occurrence), *Contractor* shall maintain such coverage for a period of no less than three (3) years following expiration or termination of the *Cooperative Purchasing Agreement*.

* * * END OF INSURANCE REQUIREMENTS * * *

INCLUDED GOODS AND/OR SERVICES AND PRICING

GROUP C.6 ACCIDENT SCENE RE-CONSTRUCTION

LINE ITEM	PRODUCT NAME/DESCRIPTION	MANUFACTURER	PRODUCT NUMBER (SKU)	MSRP	% OFF MSRP	EVALUATED PRICE	DELIVERY ARO
C.6 FARO TECHNOLOGIES STANDARD OF QUALITY OR EQUAL							
1	FARO ZONE 2D OR 3D INCIDENT MAPPING SOFTWARE, E-DELIVERY	FARO	SSA51000-1Y	\$100.00	10%	\$90.00	14 - 42
2	FARO FOCUS CORE LASER SCANNER (100M)	FARO	LS9-CU-TAA	\$43,999.00	5%	\$41,799.05	14 - 42
3	FARO FOCUS PREMIUM LASER SCANNER (200M)	FARO	LS9-PU-TAA	\$49,999.00	5%	\$47,499.05	14 - 42
4	FARO FOCUS PREMIUM MAX LASER SCANNER (400M)	FARO	LS9-MU-TAA	\$65,999.00	5%	\$62,699.05	14 - 42

GROUP C ACCIDENT SCENE RE-CONSTRUCTION ADDITIONAL PRODUCTS

LINE ITEM	PRODUCT NAME/DESCRIPTION	MANUFACTURER	PRODUCT NUMBER (SKU)	MSRP	% OFF MSRP	CONTRACT PRICE	DELIVERY ARO
PRODUCT TYPE: MAPPING KIT							
1.0	80 MM TRAJECTORY SPHERES	KOPPA	ACCSS0299	\$1,220.00	3%	\$1,183.40	14 - 42
2.0	200 MM REGISTRATION SPHERES	KOPPA	ACCSS0287	\$3,250.00	3%	\$3,152.50	14 - 42
3.0	SCALE BAR KIT	FARO	ACCSS6069	\$2,550.00	3%	\$2,473.50	14 - 42
4.0	CARBON FIBER TRIPOD	GITZO	ACCSS8032	\$1,300.00	3%	\$1,261.00	14 - 42
5.0	FOCUS CORE/PREMIUM COMPLETE CARE-YEAR 2 POS	FARO	SV2-SCN-Y2	\$1,910.00	10%	\$1,719.00	14 - 42
6.0	FOCUS CORE/PREMIUM COMPLETE CARE-YEAR 3 POS	FARO	SV2-SCN-Y3	\$5,590.00	10%	\$5,031.00	14 - 42
7.0	FOCUS CORE/PREMIUM COMPLETE CARE-YEAR 4 POS	FARO	SV2-SCN-Y4	\$8,700.00	10%	\$7,830.00	14 - 42
8.0	FOCUS CORE/PREMIUM COMPLETE CARE-YEAR 5 POS	FARO	SV2-SCN-Y5	\$11,700.00	10%	\$10,530.00	14 - 42
MAPPING SOFTWARE							
1.0	FARO ZONE 3D PRO SOFTWARE SUBSCRIPTION 1 YEAR	FARO	SSA51006-1Y	\$1,260.00	10%	\$1,134.00	14-42
2.0	FARO ZONE 3D EXPERT SOFTWARE SUBSCRIPTION 1 YEAR	FARO	SSA51007-1Y	\$1,940.00	10%	\$1,746.00	14-42

LINE ITEM	PRODUCT NAME/DESCRIPTION	MANUFACTURER	PRODUCT NUMBER (SKU)	MSRP	% OFF MSRP	CONTRACT PRICE	DELIVERY ARO
3.0	FARO SCENE SOFTWARE SUBSCRIPTION 1 YEAR	FARO	SSA0900-1Y	\$2,190.00	10%	\$1,971.00	14-42
4.0	FARO ZONE 2D SOFTWARE SUBSCRIPTION 3 YEAR	FARO	SSA51000-3Y	\$250.00	10%	\$225.00	14-42
5.0	FARO ZONE 3D PRO SOFTWARE SUBSCRIPTION 3 YEAR	FARO	SSA51006-3Y	\$3,390.00	10%	\$3,051.00	14-42
6.0	FARO ZONE 3D EXPERT SOFTWARE SUBSCRIPTION 3 YEAR	FARO	SSA51007-3Y	\$5,280.00	10%	\$4,752.00	14-42
7.0	FARO SCENE SOFTWARE SUBSCRIPTION 3 YEAR	FARO	SSA0900-3Y	\$5,850.00	10%	\$5,265.00	14-42
8.0	SUBSCRIPTION SINGLE USER SOFT LOCK	FARO	SOFTL0001	\$0.00	10%	\$0.00	14-42
9.0	SUBSCRIPTION SINGLE USER HARD LOCK	FARO	SOFTL0006	\$440.00	10%	\$396.00	14-42
10.0	SUBSCRIPTION NETWORK SOFT LOCK	FARO	SOFTL0003	\$440.00	10%	\$396.00	14-42
11.0	SUBSCRIPTION NETWORK HARD LOCK	FARO	SOFTL-0004	\$660.00	10%	\$594.00	14-42
12.0	VR READY NOTEBOOK	HP	COMP0123X64	\$5,930.00	3%	\$5,752.10	14-42

GROUP C PARTS & ACCESSORIES

PRODUCT TYPE	PRODUCT NAME/DESCRIPTION	PRODUCT CODE (SKU)	MSRP	% OFF MSRP	CONTRACT PRICE
HARDWARE	POWER BLOCK BATTERY	ACCS-PWR-0014	\$610.00	5%	\$579.50
HARDWARE	3D_AC_LS FOCUS BATTERY POWER DOCK	ACCS-PWR-0013	\$610.00	5%	\$579.50
HARDWARE	3D_AC_LS_FOCUS 90W POWER SUPPLY	ACCS-PWR-0010	\$120.00	5%	\$114.00
TRAINING	SCANNER TRAINING - FARO FACILITY POS	TR-BL-SCN-POS	\$0.00	0%	\$0.00
TRAINING	SCANNER TRAINING - CUSTOMER SITE UPGRADE POS	TR-BL-SCN-POS-O	\$5,480.00	10%	\$4,932.00
TRAINING	SCANNER TRAINING - FARO FACILITY NON-POS (1 PERSON)	TR-BL-SCN-F	\$1,200.00	10%	\$1,080.00
TRAINING	SCANNER TRAINING CUSTOMER SITE UPGRADE NON-POS	TR-BL-SCN-O	\$8,900.00	10%	\$8,010.00
TRAINING	SCANNER TRAINING - FACILITY TTD	TR-BL-SCN-F-TTD	\$0.00	0%	\$0.00
TRAINING	SCANNER TRAINING FORENSIC - CUSTOMER SITE UPGRADE NON-POS	TR-BL-SCN-POS-FOR	\$9,610.00	10%	\$8,649.00
TRAINING	SCANNER TRAINING FORENSIC - CUSTOMER SITE UPGRADE POS	TR-BL-SCN-FOR-O	\$12,040.00	10%	\$10,836.00
TRAINING	ONLINE SCENE APP SPECIFIC	TR-AS-SCN-W	\$830.00	10%	\$747.00
TRAINING	APP SPECIFIC ONSITE, ONE DAY	TR-AS-SCN-O	\$3,030.00	10%	\$2,727.00
TRAINING	APP SPECIFIC ONSITE ADDITIONAL DAY	TR-AS-SCN-OA	\$1,590.00	10%	\$1,431.00
TRAINING	TRAIN-THE-TRAINER - 5 DAY, ONE PERSON	TR-SCN-TTT-F	\$18,240.00	10%	\$16,416.00
TRAINING	FARO ZONE ONSITE TRAINING	TR-FZ3-O	\$4,860.00	10%	\$4,374.00

PRODUCT TYPE	PRODUCT NAME/DESCRIPTION	PRODUCT CODE (SKU)	MSRP	% OFF MSRP	CONTRACT PRICE
TRAINING	FARO ZONE POWER TOOLS CRASH	TR-FZ3-TCI	\$530.00	10%	\$477.00
TRAINING	FARO ZONE POINT CLOUD CRASH	TR-FZ3-TCI-PC	\$530.00	10%	\$477.00
TRAINING	FARO ZONE ANIMATION	TR-FZ3-AA	\$530.00	10%	\$477.00
TRAINING	FARO ZONE POWER TOOLS CRIME	TR-FZ3-CSI	\$530.00	10%	\$477.00
TRAINING	FARO ZONE POINT CLOUD CRIME	TR-FZ3-CSI-PC	\$530.00	10%	\$477.00
TRAINING	FARO ZONE DIAGRAMMING	TR-FZ3-AD	\$530.00	10%	\$477.00
TRAINING	FARO ZONE PREPLANNING	TR-FZ3-PP	\$530.00	10%	\$477.00
SOFTWARE	SCENE PERPETUAL MAINTENANCE LICENSE	SOFTD0900	\$6,390.00	10%	\$5,751.00
SOFTWARE	SCENE MAINT - 1Y RNWL	SMAR0900-1Y	\$1,190.00	10%	\$1,071.00
SOFTWARE	SCENE MAINT- 3Y RNWL	SMAR0900-3Y	\$2,750.00	10%	\$2,475.00
SOFTWARE	SCENE MAINT RECOVERY-1M	SML0900-1M	\$110.00	10%	\$99.00
SOFTWARE	SCENE MAINT RECOVERY -1Y	SML0900	\$3,100.00	10%	\$2,790.00
SOFTWARE	SCENE SUBSCRIPTION RENEWAL -1Y	SSAR0900-1Y	\$2,320.00	10%	\$2,088.00
SOFTWARE	SCENE SUBSCRIPTION RENEWAL - 3Y	SSAR0900-3Y	\$6,210.00	10%	\$5,589.00
SOFTWARE	FARO ZONE 2D SUBSCRIPTION RENEWAL -1Y	SSAR51000-1Y	\$100.00	10%	\$90.00
SOFTWARE	FARO ZONE 2D SUBSCRIPTION RENEWAL -3Y	SSAR51000-3Y	\$250.00	10%	\$225.00
SOFTWARE	FARO ZONE 3D PRO SUBSCRIPTION RNWL 1Y	SSAR51006-1Y	\$1,260.00	10%	\$1,134.00
SOFTWARE	FARO ZONE 3D PRO SUBSCRIPTION RNWL 3Y	SSAR51006-3Y	\$3,390.00	10%	\$3,051.00
SOFTWARE	FARO ZONE 3D EXPERT SUBSCRIPTION RNWL 1Y	SSAR51007-1Y	\$1,940.00	10%	\$1,746.00
SOFTWARE	FARO ZONE 3D EXPERT SUBSCRIPTION RNWL 3Y	SSAR51007-3Y	\$5,280.00	10%	\$4,752.00
SOFTWARE	FARO ZONE 2D DIGITAL DOWNLOAD	SOFTD51000	\$210.00	10%	\$189.00
SOFTWARE	FARO ZONE 2D MAINT 1Y	SMA51000-1Y	\$35.00	10%	\$31.50
SOFTWARE	FARO ZONE 2D MAINTENANCE - 3 YEAR	SMA51000-3Y	\$80.00	10%	\$72.00
SOFTWARE	FARO ZONE 3D PRO DIGITAL DOWNLOAD	SOFTD51006	\$3,500.00	10%	\$3,150.00
SOFTWARE	FARO ZONE 3D PRO MAINTANCE 1M	SMA51006-1M	\$60.00	10%	\$54.00
SOFTWARE	FARO ZONE 3D PRO MAINTENANCE 1Y	SMA51006-1Y	\$610.00	10%	\$549.00
SOFTWARE	FARO ZONE 3D PRO MAINTENANCE 3Y	SMA51006-3Y	\$1,430.00	10%	\$1,287.00
SOFTWARE	FARO ZONE 3D EXPERT DIGITAL DOWNLOAD	SOFTD51007	\$7,500.00	10%	\$6,750.00
SOFTWARE	FARO ZONE 3D EXPERT MAINTENANCE 1M	SMA51007-1M	\$90.00	10%	\$81.00
SOFTWARE	FARO ZONE 3D EXPERT MAINTENANCE 1Y	SMA51007-1Y	\$990.00	10%	\$891.00
SOFTWARE	FARO ZONE 3D EXPERT MAINTENANCE 3Y	SMA51007-3Y	\$2,310.00	10%	\$2,079.00
SOFTWARE	FARO ZONE 2D MAINT 1 MTH RNWL	SMAR51000-1M	\$5.00	10%	\$4.50
SOFTWARE	FARO ZONE 2D MAINT 1Y RNWL	SMAR51000-1Y	\$35.00	10%	\$31.50
SOFTWARE	FARO ZONE 2D MAINT 3Y RNWL	SMAR51000-3Y	\$80.00	10%	\$72.00
SOFTWARE	FARO ZONE 2D REACTIVATION OF MAINTENANCE CONTRACT	SML51000-1M	\$3.00	10%	\$2.70
SOFTWARE	FARO ZONE 2D REACTIVATION OF MAINTENANCE CONTRACT	SML51000	\$33.00	10%	\$29.70
SOFTWARE	FARO ZONE 3D PRO MAINTENANCE RNWL 1M	SMAR51006-1M	\$60.00	10%	\$54.00
SOFTWARE	FARO ZONE 3D PRO MAINTENANCE RNWL 1Y	SMAR51006-1Y	\$610.00	10%	\$549.00
SOFTWARE	FARO ZONE 3D PRO MAINTENANCE RNWL 3Y	SMAR51006-3Y	\$1,430.00	10%	\$1,287.00
SOFTWARE	FARO ZONE 3D PRO MAINTENANCE RECOVERY 1M	SML51006-1M	\$60.00	10%	\$54.00
SOFTWARE	FARO ZONE 3D PRO MAINTENANCE RECOVERY	SML51006	\$600.00	10%	\$540.00

PRODUCT TYPE	PRODUCT NAME/DESCRIPTION	PRODUCT CODE (SKU)	MSRP	% OFF MSRP	CONTRACT PRICE
SOFTWARE	FARO ZONE 3D EXPERT MAINTENANCE RNWL 1M	SMAR51007-1M	\$90.00	10%	\$81.00
SOFTWARE	FARO ZONE 3D EXPERT MAINTENANCE RNWL 1Y	SMAR51007-1Y	\$990.00	10%	\$891.00
SOFTWARE	FARO ZONE 3D EXPERT MAINTENANCE RNWL 3Y	SMAR51007-3Y	\$2,310.00	10%	\$2,079.00
SOFTWARE	FARO ZONE 3D EXPERT MAINT RECOVERY 1M	SML51007-1M	\$90.00	10%	\$81.00
SOFTWARE	FARO ZONE 3D EXPERT MAINTENANCE RECOVERY	SML51007	\$980.00	10%	\$882.00
SOFTWARE	FARO ZONE 3D EXPERT DIGITAL XGD FROM PRO	SOFTD51007-06-XGD	\$4,500.00	10%	\$4,050.00
SOFTWARE	FARO ZONE 3D PRO DIGITAL XGD FROM 2D	SOFTD51006-00-XGD	\$3,350.00	10%	\$3,015.00
SOFTWARE	FARO ZONE 3D EXPERT DIGITAL XGD FROM 2D	SOFTD51007-00-XGD	\$7,290.00	10%	\$6,561.00
SOFTWARE	FARO ZONE 3D PRO DIG XGD FROM 3D	SOFTD51006-01-XGD	\$0.00	10%	\$0.00
SOFTWARE	FARO ZONE 3D EXPERT XGD FROM 3D	SOFTD51007-01-XGD	\$0.00	10%	\$0.00
WARRANTY	FOCUS CORE/PREMIUM COMPLETE CARE-1 MTH. RNWL.	SV2-SCN-1M-R	\$440.00	10%	\$396.00
WARRANTY	FOCUS CORE/PREMIUM COMPLETE CARE-1 YR RNWL	SV2-SCN-1Y-R	\$4,830.00	10%	\$4,347.00
WARRANTY	FOCUS CORE/PREMIUM COMPLETE CARE-3 YR. RNWL	SV2-SCN-3Y-R	\$10,730.00	10%	\$9,657.00
WARRANTY	FOCUS CORE/PREMIUM ULTIMATE UPTIME-1 MTH RNWL	SV3-SCN-1M-R	\$530.00	10%	\$477.00
WARRANTY	FOCUS CORE/PREMIUM ULTIMATE UPTIME-1 YR. RNWL	SV3-SCN-1Y-R	\$7,240.00	10%	\$6,516.00
WARRANTY	FOCUS CORE/PREMIUM ULTIMATE UPTIME-3 YR. RNWL	SV3-SCN-3Y-R	\$17,780.00	10%	\$16,002.00
WARRANTY	FOCUS CORE/PREMIUM UPGRADE SV1 TO SV2-1 MTH	SV1-SV2-SCN-1M-UPG	\$63.00	10%	\$56.70
WARRANTY	FOCUS CORE/PREMIUM UPGRADE SV1 TO SV2-1 YR	SV1-SV2-SCN-1Y-UPG	\$860.00	10%	\$774.00
WARRANTY	FOCUS CORE/PREMIUM UPGRADE SV1 TO SV2-2 YR	SV1-SV2-SCN-2Y-UPG	\$1,700.00	10%	\$1,530.00
WARRANTY	FOCUS CORE/PREMIUM UPGRADE SV1 TO SV2-3 YR	SV1-SV2-SCN-3Y-UPG	\$2,530.00	10%	\$2,277.00
WARRANTY	FOCUS CORE/PREMIUM UPGRADE SV1 TO SV2 - 4 YEAR	SV1-SV2-SCN-4Y-UPG	\$3,270.00	10%	\$2,943.00
WARRANTY	FOCUS CORE/PREMIUM UPGRADE SV1 TO SV3-1 MTH	SV1-SV3-SCN-1M-UPG	\$180.00	10%	\$162.00
WARRANTY	FOCUS CORE/PREMIUM UPGRADE SV1 TO SV3-1 YR	SV1-SV3-SCN-1Y-UPG	\$2,110.00	10%	\$1,899.00
WARRANTY	FOCUS CORE/PREMIUM UPGRADE SV1 TO SV3-2 YR	SV1-SV3-SCN-2Y-UPG	\$4,110.00	10%	\$3,699.00
WARRANTY	FOCUS CORE/PREMIUM UPGRADE SV1 TO SV3-3 YR	SV1-SV3-SCN-3Y-UPG	\$6,380.00	10%	\$5,742.00

PRODUCT TYPE	PRODUCT NAME/DESCRIPTION	PRODUCT CODE (SKU)	MSRP	% OFF MSRP	CONTRACT PRICE
WARRANTY	FOCUS CORE/PREMIUM UPGRADE SV1 TO SV3 - 4 YEAR	SV1-SV3-SCN-4Y-UPG	\$8,210.00	10%	\$7,389.00
WARRANTY	FOCUS CORE/PREMIUM UPGRADE SV2 TO SV3- 1 MTH	SV2-SV3-SCN-1M-UPG	\$260.00	10%	\$234.00
WARRANTY	FOCUS CORE/PREMIUM UPGRADE SV2 TO SV3- 1 YR	SV2-SV3-SCN-1Y-UPG	\$2,950.00	10%	\$2,655.00
WARRANTY	FOCUS CORE/PREMIUM UPGRADE SV2 TO SV3- 2 YR	SV2-SV3-SCN-2Y-UPG	\$5,750.00	10%	\$5,175.00
WARRANTY	FOCUS CORE/PREMIUM UPGRADE SV2 TO SV3- 3 YR	SV2-SV3-SCN-3Y-UPG	\$8,630.00	10%	\$7,767.00
WARRANTY	FOCUS CORE/PREMIUM UPGRADE SV2 TO SV3 - 4 YEAR	SV2-SV3-SCN-4Y-UPG	\$11,470.00	10%	\$10,323.00
WARRANTY	FOCUS STANDARD COMPLETE CARE-1 MTH RNWL	SV2-SCNB-1M-R	\$350.00	10%	\$315.00
WARRANTY	FOCUS STANDARD COMPLETE CARE-1 YR. RNWL.	SV2-SCNB-1Y-R	\$4,800.00	10%	\$4,320.00
WARRANTY	FOCUS STANDARD COMPLETE CARE-3 YR. RNWL.	SV2-SCNB-3Y-R	\$11,220.00	10%	\$10,098.00
WARRANTY	FOCUS STANDARD ULTIMATE UPTIME-1 MTH RNW	SV3-SCNB-1M-R	\$530.00	10%	\$477.00
WARRANTY	FOCUS STANDARD ULTIMATE UPTIME-1 YR RNWL	SV3-SCNB-1Y-R	\$7,240.00	10%	\$6,516.00
WARRANTY	FOCUS STANDARD ULTIMATE UPTIME-3 YR RNWL	SV3-SCNB-3Y-R	\$16,830.00	10%	\$15,147.00
SOFTWARE	FARO FLASH EXTENSION FOR FOCUS PREMIUM (1M SUBSCRIPTION)	SSA0030-1M	\$290.00	10%	\$261.00
SOFTWARE	FARO FLASH EXTENSION FOR FOCUS PREMIUM (1Y SUBSCRIPTION)	SSA0030-1Y	\$3,490.00	10%	\$3,141.00
SOFTWARE	FARO FLASH EXTENSION FOR FOCUS PREMIUM (3Y SUBSCRIPTION)	SSA0030-3Y	\$9,430.00	10%	\$8,487.00
SOFTWARE	FARO FLASH EXTENSION FOR FOCUS PREMIUM, SBR 1Y	SSAR0030-1Y	\$3,680.00	10%	\$3,312.00
SOFTWARE	FARO FLASH EXTENSION FOR FOCUS PREMIUM, SBR 3Y	SSAR0030-3Y	\$9,920.00	10%	\$8,928.00
HARDWARE	3D_AC_SP_HIGHRES_PANOCAM	ACCSS8063	\$1,550.00	5%	\$1,472.50
HARDWARE	PANOCAM MOUNT	ACCS-0016	\$560.00	5%	\$532.00
SOFTWARE	FARO FLASH EXTENSION	SSA0030-1M	\$290.00	10%	\$261.00
SOFTWARE	FARO FLASH EXTENSION	SSA0030-1Y	\$3,490.00	10%	\$3,141.00
SOFTWARE	FARO FLASH EXTENSION	SSA0030-3Y	\$9,430.00	10%	\$8,487.00
SOFTWARE	FARO FLASH EXTENSION SBR 1Y	SSAR0030-1Y	\$3,680.00	10%	\$3,312.00
SOFTWARE	FARO FLASH EXTENSION	SSAR0030-3Y	\$9,920.00	10%	\$8,928.00
HARDWARE	FARO FREESTYLE 2.5 KIT	900-000119-000	\$20,470.00	5%	\$19,446.50
HARDWARE	FS2 MOBILE PHONE	ACCSS8039	\$870.00	5%	\$826.50
WARRANTY	FREESTYLE COMPLETE CARE-YEAR 2	SV2-FS-Y2	\$1,320.00	10%	\$1,188.00
WARRANTY	FREESTYLE COMPLETE CARE-YEAR 3	SV2-FS-Y3	\$2,500.00	10%	\$2,250.00
WARRANTY	FREESTYLE COMPLETE CARE - YEAR 4	SV2-FS-Y4	\$3,600.00	10%	\$3,240.00
WARRANTY	FREESTYLE COMPLETE CARE - YEAR 5	SV2-FS-Y5	\$4,380.00	10%	\$3,942.00

PRODUCT TYPE	PRODUCT NAME/DESCRIPTION	PRODUCT CODE (SKU)	MSRP	% OFF MSRP	CONTRACT PRICE
WARRANTY	FREESTYLE ULTIMATE UPTIME-1 MTH. EXT.	SV3-FS-1M	\$180.00	10%	\$162.00
WARRANTY	FREESTYLE ULTIMATE UPTIME-YEAR 1	SV3-FS-Y1	\$390.00	10%	\$351.00
WARRANTY	FREESTYLE ULTIMATE UPTIME-YEAR 2	SV3-FS-Y2	\$2,100.00	10%	\$1,890.00
WARRANTY	FREESTYLE ULTIMATE UPTIME-YEAR 3	SV3-FS-Y3	\$3,610.00	10%	\$3,249.00
WARRANTY	FREESTYLE ULTIMATE UPTIME - YEAR 4	SV3-FS-Y4	\$5,050.00	10%	\$4,545.00
WARRANTY	FREESTYLE ULTIMATE UPTIME - YEAR 5	SV3-FS-Y5	\$6,110.00	10%	\$5,499.00
WARRANTY	FREESTYLE BASIC CARE -1 MTH. RNWL.	SV4-FS-1M-R	\$120.00	10%	\$108.00
WARRANTY	FREESTYLE BASIC CARE -1 Yr RNWL	SV4-FS-1Y-R	\$1,270.00	10%	\$1,143.00
WARRANTY	FREESTYLE BASIC CARE -3 Yr RNWL	SV4-FS-3Y-R	\$3,160.00	10%	\$2,844.00
WARRANTY	FREESTYLE COMPLETE CARE-1 MTH. RNWL.	SV2-FS-1M-R	\$140.00	10%	\$126.00
WARRANTY	FREESTYLE COMPLETE CARE-1 Yr. RNWL.	SV2-FS-1Y-R	\$1,620.00	10%	\$1,458.00
WARRANTY	FREESTYLE COMPLETE CARE-3 Yr. RNWL.	SV2-FS-3Y-R	\$4,140.00	10%	\$3,726.00
WARRANTY	FREESTYLE ULTIMATE UPTIME-1 MTH. RNWL.	SV3-FS-1M-R	\$180.00	10%	\$162.00
WARRANTY	FREESTYLE ULTIMATE UPTIME-1 Yr. RNWL.	SV3-FS-1Y-R	\$2,110.00	10%	\$1,899.00
WARRANTY	FREESTYLE ULTIMATE UPTIME-3 Yr. RNWL.	SV3-FS-3Y-R	\$5,260.00	10%	\$4,734.00
WARRANTY	FREESTYLE BASIC CARE EXTENDED -1 MTH. RNWL.	SV4-FS-1M-E	\$160.00	10%	\$144.00
WARRANTY	FREESTYLE BASIC CARE EXTENDED -1 Yr RNWL	SV4-FS-1Y-E	\$1,650.00	10%	\$1,485.00
WARRANTY	FREESTYLE COMPLETE CARE EXTENDED -1 MTH. RNWL.	SV2-FS-1M-E	\$210.00	10%	\$189.00
WARRANTY	FREESTYLE COMPLETE CARE EXTENDED -1 Yr RNWL	SV2-FS-1Y-E	\$2,220.00	10%	\$1,998.00
WARRANTY	FREESTYLE ULTIMATE UPTIME EXTENDED -1 MTH RNWL	SV3-FS-1M-E	\$270.00	10%	\$243.00
WARRANTY	FREESTYLE ULTIMATE UPTIME EXTENDED -1 Yr. RNWL	SV3-FS-1Y-E	\$2,900.00	10%	\$2,610.00
WARRANTY	FREESTYLE UPGRADE SV1 TO SV2-1 MTH	SV1-SV2-FS-1M-UPG	\$32.00	10%	\$28.80
WARRANTY	FREESTYLE UPGRADE SV1 TO SV2-1 YR	SV1-SV2-FS-1Y-UPG	\$320.00	10%	\$288.00
WARRANTY	FREESTYLE UPGRADE SV1 TO SV2-2 YR	SV1-SV2-FS-2Y-UPG	\$640.00	10%	\$576.00
WARRANTY	FREESTYLE UPGRADE SV1 TO SV2-3 YR	SV1-SV2-FS-3Y-UPG	\$940.00	10%	\$846.00
WARRANTY	FREESTYLE UPGRADE SV1 TO SV2 - 4 YEAR	SV1-SV2-FS-4Y-UPG	\$1,270.00	10%	\$1,143.00
WARRANTY	FREESTYLE UPGRADE SV1 TO SV3-1 MTH	SV1-SV3-FS-1M-UPG	\$42.00	10%	\$37.80
WARRANTY	FREESTYLE UPGRADE SV1 TO SV3-1 YR	SV1-SV3-FS-1Y-UPG	\$480.00	10%	\$432.00
WARRANTY	FREESTYLE UPGRADE SV1 TO SV3-2 YR	SV1-SV3-FS-2Y-UPG	\$940.00	10%	\$846.00
WARRANTY	FREESTYLE UPGRADE SV1 TO SV3-3 YR	SV1-SV3-FS-3Y-UPG	\$1,480.00	10%	\$1,332.00
WARRANTY	FREESTYLE UPGRADE SV1 TO SV3 - 4 YEAR	SV1-SV3-FS-4Y-UPG	\$1,900.00	10%	\$1,710.00

PRODUCT TYPE	PRODUCT NAME/DESCRIPTION	PRODUCT CODE (SKU)	MSRP	% OFF MSRP	CONTRACT PRICE
WARRANTY	FREESTYLE UPGRADE SV2 TO SV3-1 MTH	SV2-SV3-FS-1M-UPG	\$63.00	10%	\$56.70
WARRANTY	FREESTYLE UPGRADE SV2 TO SV3-1 YR	SV2-SV3-FS-1Y-UPG	\$790.00	10%	\$711.00
WARRANTY	FREESTYLE UPGRADE SV2 TO SV3-2 YR	SV2-SV3-FS-2Y-UPG	\$1,580.00	10%	\$1,422.00
WARRANTY	FREESTYLE UPGRADE SV2 TO SV3-3 YR	SV2-SV3-FS-3Y-UPG	\$2,420.00	10%	\$2,178.00
WARRANTY	FREESTYLE UPGRADE SV2 TO SV3 - 4 YEAR	SV2-SV3-FS-4Y-UPG	\$3,160.00	10%	\$2,844.00

DATA SECURITY REQUIREMENTS

- (a) **SECURITY COMPLIANCE.** Where required, Contractor is responsible for establishing an information security program and maintaining physical, technical, administrative, and organizational safeguards, that comply with: (a) applicable industry standards and guidelines; (b) American Institute of Certified Public Accountants (AICPA) System and Organization Controls (SOC) 1; and (c) Washington State Office of Chief Information Officer (OCIO) Policy 141.10 – *Securing Information Technology Assets Standards* located at <https://ocio.wa.gov/policy/securing-information-technology-assets-standards>.
- (b) **ANNUAL SECURITY CERTIFICATIONS.** Where required, Contractor will, at the commencement of this Contract and annually thereafter provide Enterprise Services the following reports and certifications: (a) AICPA Statement of Standards for Attestation Engagement (SSAE) No. 18 SOC 1 Type II fiscal year cycle audit report; (b) SOC 2 Type I report in accordance with AICPA AT 101; and (c) attestation that Contractor's Services are in compliance with OCIO Security Policy 141.10 – *Securing Information Technology Assets Standards*. Enterprise Services may accept, at its sole discretion, alternative reports, audits or reporting formats which Enterprise services determines to be equivalent or better to the reports and certifications described herein.
- (c) **DATA BREACH.** Where required, Contractor must have an incident response process that follows National Institute of Standards and Technology (NIST) of Standards and Technology (NIST) standards and includes breach detection, breach notification and breach response. Upon discovery or reasonable belief of any access, destruction, loss, theft, use or disclosure of Enterprise Services' Data by an unauthorized party ("Data Breach"), Contractor shall notify Enterprise Services by the fastest means available and also in writing. Contractor shall provide such notification within forty-eight (48) hours after Contractor reasonably believes there has been such a Data Breach. Contractor's notification shall identify:
- 1) The nature of the Data Breach;
 - 2) The Data accessed, used or disclosed;
 - 3) The person(s) who accessed, used, disclosed and/or received Data (if known);
 - 4) What Contractor has done or will do to quarantine and mitigate the Data Breach; and
 - 5) What corrective action Contractor has taken or will take to prevent future Data Breaches.

Contractor shall quarantine the Data Breach, ensure secure access to Data, and restore Services as needed to comply with terms and conditions of this Contract. Contractor shall conduct an investigation of the Data Breach and shall share the report of the investigation with Enterprise Services.

In the event of the Data Breach, Contractor agrees to comply with all applicable state and federal statutory provisions, including but not limited to RCW 19.255.010 and [RCW 42.56.590](#). Where notifications are required to the public or regulators, Contractor shall coordinate and cooperate with Enterprise Services in the development of a communication plan, and promptly and at no cost, provide advance copies of any notifications for Enterprise Services review before disseminating. If a Data Breach occurs and is found to be the result of Contractor's acts, omissions or negligence, Contractor shall assume complete responsibility for notification of affected parties, and be liable for all associated costs incurred by Enterprise Services in responding to or recovering from the Data Breach.

- (d) **TECHNICAL EXAMINATION AND AUDIT.** Upon advance written request, Contractor agrees that Enterprise Services or its designated representative shall have reasonable access to Services purchased by Enterprise Services under this contract, its operational documentation, records and databases, including online inspections. The online inspection shall allow Enterprise Services, its authorized agents, or a mutually acceptable third party hired by Enterprise Services, to test that controls are in place and working as intended. Tests may include, but not be limited to, the following:
- 1) Operating system/network vulnerability scans;
 - 2) Web application vulnerability scans;
 - 3) Database application vulnerability scans; and

- 4) Any other scans to be performed by Enterprise Services or representatives on behalf of Enterprise Services.

Contractor shall allow Enterprise Services reasonable access to Services security logs, latency statistics, and other related Services security data that affect this Contract and Enterprise Services' Data, at no cost to Enterprise Services. After any significant Data loss, specific to data stored within the Services platform, or as a result of any disaster or catastrophic failure, Contractor will at its expense have an independent, industry-recognized third party perform an information security audit. This does not apply to data loss resulting from interruptions in the Services stemming from Enterprise Services' computers, network hardware, internet connectivity, or other elements owned or controlled by Enterprise Services that are reasonably required to use Services. The audit results shall be shared with Enterprise Services within seven (7) days of Contractor's receipt of such results. Upon Contractor receiving the results of the audit, Contractor will provide Enterprise Services with written evidence of planned remediation within thirty (30) days and promptly modify its security measures in order to meet its obligations under this Contract.

24823 FARO Tech. Coop. Purchasing Agreement

Final Audit Report

2024-11-26

Created:	2024-11-22
By:	Brad Stringfellow (Brad.Stringfellow@des.wa.gov)
Status:	Signed
Transaction ID:	CBJCHBCAABAA5K6Ts_BP3ow1Dy-7UyF0FSxpwkyaSKVW

"24823 FARO Tech. Coop. Purchasing Agreement" History

-  Document created by Brad Stringfellow (Brad.Stringfellow@des.wa.gov)
2024-11-22 - 0:29:08 AM GMT
-  Document emailed to Craig Cupach (craig.cupach@faro.com) for signature
2024-11-22 - 0:29:15 AM GMT
-  Document emailed to Elena McGrew (elena.mcgreg@des.wa.gov) for signature
2024-11-22 - 0:29:15 AM GMT
-  Email viewed by Elena McGrew (elena.mcgreg@des.wa.gov)
2024-11-22 - 6:41:45 AM GMT
-  Document e-signed by Elena McGrew (elena.mcgreg@des.wa.gov)
Signature Date: 2024-11-22 - 6:43:17 AM GMT - Time Source: server
-  Email viewed by Craig Cupach (craig.cupach@faro.com)
2024-11-26 - 7:39:37 PM GMT
-  Document e-signed by Craig Cupach (craig.cupach@faro.com)
Signature Date: 2024-11-26 - 7:40:15 PM GMT - Time Source: server
-  Agreement completed.
2024-11-26 - 7:40:15 PM GMT

Certificate Of Completion

Envelope Id: 376D54DF-A8C0-4DBB-9672-0601D31D15C1

Status: Sent

Subject: Council Legislation - FARO Technologies

Source Envelope:

Document Pages: 148

Signatures: 5

Envelope Originator:

Certificate Pages: 16

Initials: 0

Procurement Resource Group

AutoNav: Enabled

730 2nd Ave. South 1st Floor

Envelopeld Stamping: Enabled

Nashville, TN 37219

Time Zone: (UTC-06:00) Central Time (US & Canada)

prg@nashville.gov

IP Address: 170.190.198.185

Record Tracking

Status: Original

Holder: Procurement Resource Group

Location: DocuSign

7/31/2025 1:34:20 PM

prg@nashville.gov

Security Appliance Status: Connected

Pool: StateLocal

Storage Appliance Status: Connected

Pool: Metropolitan Government of Nashville and Davidson County

Location: Docusign

Signer Events

Signature

Timestamp

Ernest Franklin

Ernest.Franklin@nashville.gov

Security Level: Email, Account Authentication (None)

Ernest Franklin

Sent: 7/31/2025 1:40:03 PM

Viewed: 8/1/2025 6:52:07 AM

Signed: 8/1/2025 6:52:20 AM

Signature Adoption: Pre-selected Style

Using IP Address: 170.190.198.185

Electronic Record and Signature Disclosure:

Not Offered via Docusign

Dennis Rowland

dennis.rowland@nashville.gov

Purchasing Agent & Chief Procurement Officer

Security Level: Email, Account Authentication (None)

Dennis Rowland

Sent: 8/1/2025 6:52:24 AM

Viewed: 8/1/2025 7:47:46 AM

Signed: 8/1/2025 7:48:02 AM

Signature Adoption: Pre-selected Style

Using IP Address: 170.190.198.185

Electronic Record and Signature Disclosure:

Not Offered via Docusign

Jenneen Reed/mjw

MaryJo.Wiggins@nashville.gov

Security Level: Email, Account Authentication (None)

Jenneen Reed/mjw

Sent: 8/1/2025 7:48:06 AM

Viewed: 8/1/2025 11:17:14 AM

Signed: 8/1/2025 11:17:49 AM

Signature Adoption: Pre-selected Style

Using IP Address: 170.190.198.100

Electronic Record and Signature Disclosure:

Accepted: 8/1/2025 11:17:14 AM

ID: 0fda9b41-3abf-4942-940e-054d951502ca

Tessa V. Ortiz-Marsh

tessa.ortiz-marsh@nashville.gov

Security Level: Email, Account Authentication (None)

Tessa V. Ortiz-Marsh

Sent: 8/1/2025 11:17:54 AM

Viewed: 8/1/2025 12:56:33 PM

Signed: 8/1/2025 12:56:48 PM

Signature Adoption: Pre-selected Style

Using IP Address: 170.190.198.185

Electronic Record and Signature Disclosure:

Accepted: 8/1/2025 12:56:33 PM

ID: 023de8f8-626f-44ef-8ad5-1466736faaf2

Signer Events	Signature	Timestamp
Procurement Resource Group prg@nashville.gov Metropolitan Government of Nashville and Davidson County Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign		Sent: 8/1/2025 12:56:53 PM
In Person Signer Events	Signature	Timestamp
Editor Delivery Events	Status	Timestamp
Agent Delivery Events	Status	Timestamp
Intermediary Delivery Events	Status	Timestamp
Certified Delivery Events	Status	Timestamp
Carbon Copy Events	Status	Timestamp
Sally Palmer sally.palmer@nashville.gov Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Accepted: 7/31/2025 8:17:59 AM ID: b32b56ba-4672-41b5-92d2-6d7bd2a064f1		
Tessa V. Ortiz-Marsh tessa.ortiz-marsh@nashville.gov Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Accepted: 8/1/2025 12:56:33 PM ID: 023de8f8-626f-44ef-8ad5-1466736faaf2		
Amber Gardner Amber.Gardner@nashville.gov Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign		
Austin Kyle publicrecords@nashville.gov Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Accepted: 7/31/2025 9:31:35 AM ID: be736ee8-0543-49c1-bcc4-284286d53112		
Terri Ray terri.ray@nashville.gov Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign		
Witness Events	Signature	Timestamp

Notary Events	Signature	Timestamp
Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	7/31/2025 1:40:03 PM
Payment Events	Status	Timestamps
Electronic Record and Signature Disclosure		

1. **ACCEPTANCE OF TERMS AND CONDITIONS** These Terms and Conditions govern your ("Subscriber" or "you") use of DocuSign's on-demand electronic signature service (the "Subscription Service"), as accessed either directly through DocuSign.com, DocuSign.net, or through a DocuSign affiliate's web page offering a Service Plan (collectively, the "Site"). By depositing any document into the System (as defined below), you accept these Terms and Conditions (including your corresponding Service Plan, the DocuSign.com Terms of Use, and all policies and guidelines referenced and hereby incorporated into these Terms and Conditions) and any modifications that may be made to the Terms and Conditions from time to time. If you do not agree to these Terms and Conditions, you should not use the Subscription Service or visit or browse the Site. These Terms and Conditions constitute a binding legal agreement between you and DocuSign, Inc. ("DocuSign," "we," "us," and "our"). Please read them carefully and print a copy for your future reference.

2. **MODIFICATION OF TERMS AND CONDITIONS** We reserve the right to modify these Terms and Conditions at any time and in any manner at our sole discretion by: (a) posting a revision on the Site; or (b) sending information regarding the amendment to the email address you provide to us. **YOU ARE RESPONSIBLE FOR REGULARLY REVIEWING THE SITE TO OBTAIN TIMELY NOTICE OF ANY AMENDMENTS. YOU SHALL BE DEEMED TO HAVE ACCEPTED SUCH AMENDMENTS BY CONTINUING TO USE THE SUBSCRIPTION SERVICE FOR MORE THAN 20 DAYS AFTER SUCH AMENDMENTS HAVE BEEN POSTED OR INFORMATION REGARDING SUCH AMENDMENTS HAS BEEN SENT TO YOU.** You agree that we shall not be liable to you or to any third party for any modification of the Terms and Conditions.

3. **DEFINITIONS** "Account" means a unique account established by Subscriber to enable its Authorized Users to access and use the Subscription Service. "Authorized User" means any employee or agent of Subscriber, identified by a unique email address and user name, who is registered under the Account, provided that no two persons may register, access or use the Subscription Service as the same Authorized User. "Contract" refers to a contract, notice, disclosure, or other record or document deposited into the System by Subscriber for processing using the Subscription Service. "Envelope" means an electronic record containing one or more eContracts consisting of a single page or a group of pages of data uploaded to the System. "Seat" means an active Authorized User listed in the membership of an Account at any one time. No two individuals may log onto or use the Subscription Service as the same Authorized User, but Subscriber may unregister or deactivate Authorized Users and replace them with other Authorized Users without penalty, so long as the number of active Authorized Users registered at any one time is equal to or less than the number of Seats purchased. "Service Plan" means the right to access and use the Subscription Service for a specified period in exchange for a periodic fee, subject to the Service Plan restrictions and requirements that are used to describe the selected Service Plan on the Site. Restrictions and requirements may include any or all of the following: (a) number of Seats and/or Envelopes that a Subscriber may use in a month or year for a fee; (b) fee for sent Envelopes in excess of the number of Envelopes allocated to Subscriber under the Service Plan; (c) per-seat or per-user restrictions; (d) the license to use DocuSign software products such as DocuSign Connect Express in connection with the Subscription Service; and (e) per use fees. "Specifications" means the technical specifications set forth in the "Subscription Service Specifications" available at <http://docuSign.com/company/specifications>. "Subscription Service" means DocuSign's on-demand electronic signature service, as updated from time

to time, which provides on-line display, certified delivery, acknowledgement, electronic signature, and storage services for eContracts via the Internet. "System" refers to the software systems and programs, communication and network facilities, and hardware and equipment used by DocuSign or its agents to provide the Subscription Service. "Term" means the period of effectiveness of these Terms and Conditions, as specified in Section 12 below. "Transaction Data" means the metadata associated with an Envelope (such as transaction history, image hash value, method and time of Envelope deletion, sender and recipient names, email addresses and signature IDs) and maintained by DocuSign in order to establish the digital audit trail required by the Subscription Service.

4. SUBSCRIPTION SERVICE

During the term of the Service Plan and subject to these Terms and Conditions, Subscriber will have the right to obtain an Account and register its Authorized Users, who may access and use the Subscription Service, and DocuSign will provide the Subscription Service in material conformance with the Specifications. You must be 18 years of age or older to register for an Account and use the Subscription Service. Subscriber's right to use the Subscription Service is limited to its Authorized Users, and Subscriber agrees not to resell or otherwise provide or assist with the provision of the Subscription Service to any third party. In addition, DocuSign's provision of the Subscription Service is conditioned on Subscriber's acknowledgement and agreement to the following: (a) The Subscription Service facilitates the execution of eContracts between the parties to those eContracts. Nothing in these Terms and Conditions may be construed to make DocuSign a party to any eContract processed through the Subscription Service, and DocuSign makes no representation or warranty regarding the transactions sought to be effected by any eContract; (b) Between DocuSign and Subscriber, Subscriber has exclusive control over and responsibility for the content, quality, and format of any eContract. All eContracts stored by DocuSign are maintained in an encrypted form, and DocuSign has no control of or access to their contents; (c) If Subscriber elects to use one or more of the optional features designed to verify the identity of the intended recipient of an eContract that DocuSign makes available to its subscribers ("Authentication Measures"), DocuSign will apply only those Authentication Measures selected by the Subscriber, but makes no representations or warranties about the appropriateness of any Authentication Measure. Further, DocuSign assumes no liability for: (A) the inability or failure by the intended recipient or other party to satisfy the Authentication Measure; or (B) the circumvention by any person (other than DocuSign) of any Authentication Measure; (d) Certain types of agreements and documents may be excepted from electronic signature laws (e.g. wills and agreements pertaining to family law), or may be subject to specific regulations promulgated by various government agencies regarding electronic signatures and electronic records. DocuSign is not responsible or liable to determine whether any particular eContract is subject to an exception to applicable electronic signature laws, or whether it is subject to any particular agency promulgations, or whether it can be legally formed by electronic signatures; (e) DocuSign is not responsible for determining how long any d to be retained or stored under any applicable laws, regulations, or legal or administrative agency processes. Further, DocuSign is not responsible for or liable to produce any of Subscriber's eContracts or other documents to any third parties; (f) Certain consumer protection or similar laws or regulations may impose special requirements with respect to electronic transactions involving one or more "consumers," such as (among others) requirements that the consumer consent to the method of contracting and/or that the consumer be provided with a copy, or access to a copy, of a paper or other non-electronic, written record of the transaction. DocuSign does not and is not responsible to: (A) determine whether any

particular transaction involves a “consumer”? (B) furnish or obtain any such consents or determine if any such consents have been withdrawn; (C) provide any information or disclosures in connection with any attempt to obtain any such consents; (D) provide legal review of, or update or correct any information or disclosures currently or previously given; (E) provide any such copies or access, except as expressly provided in the Specifications for all transactions, consumer or otherwise; or (F) otherwise to comply with any such special requirements; and (g) Subscriber undertakes to determine whether any “consumer” is involved in any eContract presented by Subscriber or its Authorized Users for processing, and, if so, to comply with all requirements imposed by law on such eContracts or their formation. (h) If the domain of the primary email address associated with the Account is owned by an organization and was assigned to Subscriber as an employee, contractor or member of such organization, and that organization wishes to establish a commercial relationship with DocuSign and add the Account to such relationship, then, if Subscriber does not change the email address associated with the Account, the Account may become subject to the commercial relationship between DocuSign and such organization and controlled by such organization.

5. RESPONSIBILITY FOR CONTENT OF COMMUNICATIONS As between Subscriber and DocuSign, Subscriber is solely responsible for the nature and content of all materials, works, data, statements, and other visual, graphical, video, and written or audible communications submitted by any Authorized User or otherwise processed through its Account, the Subscription Service, or under any Service Plan. Accordingly: (a) Subscriber will not use or permit the use of the Subscription Service to send unsolicited mass mailings outside its organization. The term “unsolicited mass mailings” includes all statutory or common definitions or understanding of those terms in the applicable jurisdiction, such as those set forth for “Commercial Electronic Mail Messages” under the U.S. CAN-SPAM Act, as an example only; and (b) Subscriber will not use or permit the use of the Subscription Service: (i) to communicate any message or material that is defamatory, harassing, libelous, threatening, or obscene; (ii) in a way that violates or infringes upon the intellectual property rights or the privacy or publicity rights of any person or entity or that may otherwise be unlawful or give rise to civil or criminal liability (other than contractual liability of the parties under eContracts processed through the Subscription Service); (iii) in any manner that is likely to damage, disable, overburden, or impair the System or the Subscription Service or interfere with the use or enjoyment of the Subscription Service by others; or (iv) in any way that constitutes or encourages conduct that could constitute a criminal offense. DocuSign does not monitor the content processed through the Subscription Service, but in accordance with DMCA (Digital Millennium Copyright Act) safe harbors, it may suspend any use of the Subscription Service, or remove or disable any content that DocuSign reasonably and in good faith believes violates this Agreement or applicable laws or regulations. DocuSign will use commercially reasonable efforts to notify Subscriber prior to any such suspension or disablement, unless DocuSign reasonably believes that: (A) it is prohibited from doing so under applicable law or under legal process, such as court or government administrative agency processes, orders, mandates, and the like; or (B) it is necessary to delay notice in order to prevent imminent harm to the System, Subscription Service, or a third party. Under circumstances where notice is delayed, DocuSign will provide the notice if and when the related restrictions in the previous sentence no longer apply.

6. PRICING AND PER USE PURCHASES The prices, features, and options of the Subscription Service available for an Account depend on the Service Plan selected by Subscriber. Subscriber may also purchase optional services on a periodic or per-use basis. DocuSign may add or change the prices, features or options available with a

Service Plan without notice. Subscriber's usage under a Service Plan is measured based on the actual number of Seats as described in the Service Plan on the Site. Once a per-Seat Service Plan is established, the right of the named Authorized User to access and use the Subscription Service is not transferable; any additional or differently named Authorized Users must purchase per-Seat Service Plans to send Envelopes. Extra seats, users and/or per use fees will be charged as set forth in Subscriber's Service Plan if allowed by such Service Plan. If a Services Plan defines a monthly Envelope Allowance (i.e. # Envelopes per month allowed to be sent), all Envelopes sent in excess of the Envelope Allowance will incur a per-Envelope charge. Any unused Envelope Allowances will expire and not carry over from one billing period to another under a Service Plan. Subscriber's Account will be deemed to have consumed an Envelope at the time the Envelope is sent by Subscriber, regardless of whether Envelopes were received by recipients, or whether recipients have performed any actions upon any eContract in the Envelope. Powerforms are considered Envelopes within an Envelope Allowance Service Plan, and will be deemed consumed at the time they are "clicked" by any end user regardless of whether or not any actions are subsequently performed upon such Envelope. For Service Plans that specify the Envelope Allowance is "Unlimited," Subscriber is allowed to send a reasonable number of Envelopes from the number of Seats purchased. If DocuSign suspects that the number of Envelopes sent from a particular Seat or a group of Seats is abusive and/or unduly burdensome, DocuSign will promptly notify Subscriber, discuss the use-case scenario with Subscriber and any continued monitoring, additional discussions and/or information required to make a final determination on the course of action based on such information. In the event Subscriber exceeds, in DocuSign's sole discretion, reasonable use restrictions under a Service Plan, DocuSign reserves the right to transfer Subscriber into a higher-tier Service Plan without notice. If you misrepresent your eligibility for any Service Plan, you agree to pay us the additional amount you would have been charged under the most favorable pricing structure for which you are eligible. DocuSign may discontinue a Service Plan at any time, and with prior notice to you, may migrate your Account to a similar Service Plan that may carry a different fee. You agree to allow us to charge your credit card for the fees associated with a substitute Service Plan, even if those fees are higher than those you agreed to when you registered your Account. Optional services, are measured at the time of use, and such charges are specific to the number of units of the service(s) used during the billing period. Optional services subject to periodic charges, such as additional secure storage, are charged on the same periodic basis as the Service Plan fees for the Subscription Service.

7. SUBSCRIBER SUPPORT DocuSign will provide Subscriber support to Subscriber as specified in the Service Plan selected by Subscriber, and that is further detailed on DocuSign's website.

8. STORAGE DocuSign will store eContracts per the terms of the Service Plan selected by Subscriber. For Service Plans that specify the Envelope storage amount is "Unlimited," DocuSign will store an amount of Envelopes that is not abusive and/or unduly burdensome, in DocuSign's sole discretion. Subscriber may retrieve and store copies of eContracts for storage outside of the System at any time during the Term of the Service Plan when Subscriber is in good financial standing under these Terms and Conditions, and may delete or purge eContracts from the System at its own discretion. DocuSign may, at its sole discretion, delete an uncompleted eContract from the System immediately and without notice upon earlier of: (i) expiration of the Envelope (where Subscriber has established an expiration for such Envelope, not to exceed 365 days); or (ii) expiration of the Term. DocuSign assumes no liability or responsibility for a party's failure or inability to electronically sign any eContract within such a period of time. DocuSign may retain Transaction Data for as long as it has a

business purpose to do so. 9. BUSINESS AGREEMENT BENEFITS You may receive or be eligible for certain pricing structures, discounts, features, promotions, and other benefits (collectively, "Benefits") through a business or government Subscriber's agreement with us (a "Business Agreement"). Any and all such Benefits are provided to you solely as a result of the corresponding Business Agreement and such Benefits may be modified or terminated without notice. If you use the Subscription Service where a business or government entity pays your charges or is otherwise liable for the charges, you authorize us to share your account information with that entity and/or its authorized agents. If you are enrolled in a Service Plan or receive certain Benefits tied to a Business Agreement with us, but you are liable for your own charges, then you authorize us to share enough account information with that entity and its authorized agents to verify your continuing eligibility for those Benefits and the Service Plan. 10. FEES AND PAYMENT TERMS The Service Plan rates, charges, and other conditions for use are set forth in the Site. Subscriber will pay DocuSign the applicable charges for the Services Plan as set forth on the Site. If you add more Authorized Users than the number of Seats you purchased, we will add those Authorized Users to your Account and impose additional charges for such additional Seats on an ongoing basis. Charges for pre-paid Service Plans will be billed to Subscriber in advance. Charges for per use purchases and standard Service Plan charges will be billed in arrears. When you register for an Account, you will be required to provide DocuSign with accurate, complete, and current credit card information for a valid credit card that you are authorized to use. You must promptly notify us of any change in your invoicing address or changes related to the credit card used for payment. By completing your registration for the Services Plan, you authorize DocuSign or its agent to bill your credit card the applicable Service Plan charges, any and all applicable taxes, and any other charges you may incur in connection with your use of the Subscription Service, all of which will be charged to your credit card. Each time you use the Subscription Service, or allow or cause the Subscription Service to be used, you reaffirm that we are authorized to charge your credit card. You may terminate your Account and revoke your credit card authorization as set forth in the Term and Termination section of these Terms and Conditions. We will provide you with one invoice in a format we choose, which may change from time to time, for all Subscription Service associated with each Account and any charges of a third party on whose behalf we bill. Payment of all charges is due and will be charged to your credit card upon your receipt of an invoice. Billing cycle end dates may change from time to time. When a billing cycle covers less than or more than a full month, we may make reasonable adjustments and/or prorations. If your Account is a qualified business account and is approved by us in writing for corporate billing, charges will be accumulated, identified by Account identification number, and invoiced on a monthly basis. You agree that we may (at our option) accumulate charges incurred during your monthly billing cycle and submit them as one or more aggregate charges during or at the end of each cycle, and that we may delay obtaining authorization from your credit card issuer until submission of the accumulated charge(s). This means that accumulated charges may appear on the statement you receive from your credit card issuer. If DocuSign does not receive payment from your credit card provider, you agree to pay all amounts due upon demand. DocuSign reserves the right to correct any errors or mistakes that it makes even if it has already requested or received payment. Your credit card issuer's agreement governs your use of your credit card in connection with the Subscription Service, and you must refer to such agreement (not these Terms and Conditions) with respect to your rights and liabilities as a cardholder. You are solely responsible for any and all fees charged to your credit card by the issuer, bank, or financial institution including, but not limited to, membership,

overdraft, insufficient funds, and over the credit limit fees. You agree to notify us about any billing problems or discrepancies within 20 days after they first appear on your invoice. If you do not bring them to our attention within 20 days, you agree that you waive your right to dispute such problems or discrepancies. We may modify the price, content, or nature of the Subscription Service and/or your Service Plan at any time. If we modify any of the foregoing terms, you may cancel your use of the Subscription Service. We may provide notice of any such changes by e-mail, notice to you upon log-in, or by publishing them on the Site. Your payment obligations survive any termination of your use of the Subscription Service before the end of the billing cycle. Any amount not paid when due will be subject to finance charges equal to 1.5% of the unpaid balance per month or the highest rate permitted by applicable usury law, whichever is less, determined and compounded daily from the date due until the date paid. Subscriber will reimburse any costs or expenses (including, but not limited to, reasonable attorneys' fees) incurred by DocuSign to collect any amount that is not paid when due. DocuSign may accept any check or payment in any amount without prejudice to DocuSign's right to recover the balance of the amount due or to pursue any other right or remedy. Amounts due to DocuSign under these Terms and Conditions may not be withheld or offset by Subscriber for any reason against amounts due or asserted to be due to Subscriber from DocuSign. Unless otherwise noted and Conditions are denominated in United States dollars, and Subscriber will pay all such amounts in United States dollars. Other than federal and state net income taxes imposed on DocuSign by the United States, Subscriber will bear all taxes, duties, VAT and other governmental charges (collectively, "taxes") resulting from these Terms and Conditions or transactions conducted in relation to these Terms and Conditions. Subscriber will pay any additional taxes as are necessary to ensure that the net amounts received and retained by DocuSign after all such taxes are paid are equal to the amounts that DocuSign would have been entitled to in accordance with these Terms and Conditions as if the taxes did not exist. 11.

DEPOSITS, SERVICE LIMITS, CREDIT REPORTS, AND RETURN OF BALANCES You authorize us to ask consumer reporting agencies or trade references to furnish us with employment and credit information, and you consent to our rechecking and reporting personal and/or business payment and credit history if, in our sole discretion, we so choose. If you believe that we have reported inaccurate information about your account to a consumer reporting agency, you may send a written notice describing the specific inaccuracy to the address provided in the Notices section below. For you to use the Subscription Service, we may require a deposit or set a service limit. The deposit will be held as a partial guarantee of payment. It cannot be used by you to pay your invoice or delayed payment. Unless otherwise required by law, deposits may be mixed with other funds and will not earn interest. We reserve the right to increase your deposit if we deem appropriate. You may request that we reevaluate your deposit on an annual basis, which may result in a partial or total refund of the deposit to you or credit to your account. If you default or these Terms and Conditions are terminated, we may, without notice to you, apply any deposit towards payment of any amounts you owe to us. After approximately 90 days following termination of these Terms and Conditions, any remaining deposit or other credit balance in excess of amounts owed will be returned without interest, unless otherwise required by law, to you at your last known address. You agree that any amounts under \$15 will not be refunded to cover our costs of closing your account. If the deposit balance is undeliverable and returned to us, we will hold it for you for one year from the date of return and, during that period, we may charge a service fee against the deposit balance. You hereby grant us a security interest in any deposit we require to secure the performance of your obligations under these Terms and

Conditions. 12. TERM AND TERMINATION The term of these Terms and Conditions for each Account begins on the date you register for an Account and continues for the term specified by the Service Plan you purchase (the "Term"). You may terminate your Account at any time upon 10 days advance written notice to DocuSign following the Notice procedures set forth in these Terms and Conditions. Unless you terminate your Account or you set your Account to not auto renew, your Service Plan will automatically renew at the end of its Term (each a "Renewal Term"), and you authorize us (without notice) to collect the then-applicable fee and any taxes for the renewed Service Plan, using any credit card we have on record for you. Service Plan fees and features may change over time. Your Service Plan for a Renewal Term will be the one we choose as being closest to your Service Plan from the prior Term. For any termination (including when you switch your Account), you will be responsible for payment of all fees and charges through the end of the billing cycle in which termination occurs. If you terminate your annual Service Plan Account within the first 30 days of the Term, you may submit written request to DocuSign following the Notice procedures set forth in these Terms and Conditions, for a full refund of the prepaid fees paid by you to DocuSign. You will be limited to one refund. You agree that termination of an annual Service Plan after the first 30 days will not entitle you to any refund of prepaid fees. You will be in default of these Terms and Conditions if you: (a) fail to pay any amount owed to us or an affiliate of ours or any amount appearing on your invoice; (b) have amounts still owing to us or an affiliate of ours from a prior account; (c) breach any provision of these Terms and Conditions; (d) violate any policy applicable to the Subscription Service; (e) are subject to any proceeding under the Bankruptcy Code or similar laws; or (f) if, in our sole discretion, we believe that your continued use of the Subscription Service presents a threat to the security of other users of the Subscription Service. If you are in default, we may, without notice to you, suspend your Account and use of the Subscription Service, withhold refunds and terminate your Account, in addition to all other remedies available to us. We may require reactivation charges to reactivate your Account after termination or suspension. The following provisions will survive the termination of these Terms and Conditions and your Account: Sections 3, 9-11, and 15-23. 13. SUBSCRIBER WARRANTIES You hereby represent and warrant to DocuSign that: (a) you have all requisite rights and authority to use the Subscription Service under these Terms and Conditions and to grant all applicable rights herein; (b) the performance of your obligations under these Terms and Conditions will not violate, conflict with, or result in a default under any other agreement, including confidentiality agreements between you and third parties; (c) you will use the Subscription Service for lawful purposes only and subject to these Terms and Conditions; (d) you are responsible for all use of the Subscription Service in your Account; (e) you are solely responsible for maintaining the confidentiality of your Account names and password(s); (f) you agree to immediately notify us of any unauthorized use of your Account of which you become aware; (g) you agree that DocuSign will not be liable for any losses incurred as a result of a third party's use of your Account, regardless of whether such use is with or without your knowledge and consent; (h) you will not use the Subscription Service in any manner that could damage, disable, overburden or impair the System, or interfere with another's use of the Subscription Service by others; (i) any information submitted to DocuSign by you is true, accurate, and correct; and (j) you will not attempt to gain unauthorized access to the System or the Subscription Service, other accounts, computer systems, or networks under the control or responsibility of DocuSign through hacking, cracking, password mining, or any other unauthorized means. 14. DOCUSIGN WARRANTIES DocuSign represents and warrants that: (a) the Subscription Service as delivered to Subscriber

and used in accordance with the Specifications will not infringe on any United States patent, copyright or trade secret; (b) the Subscription Service will be performed in accordance with the Specifications in their then-current form at the time of the provision of such Subscription Service; (c) any DocuSign Products that are software shall be free of harmful or illicit code, trapdoors, viruses, or other harmful features; (d) the proper use of the Subscription Service by Subscriber in accordance with the Specifications and applicable law in the formation of an eContract not involving any consumer will be sufficient under the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Â§Â§ 7001 et seq. (the "ESIGN Act") to E-SIGN Act; (e) the proper use of the Subscription Service by Subscriber in accordance with the Specifications and applicable law in the formation of an eContract involving a consumer will be sufficient under the E-SIGN Act to support the validity of such formation, to the extent provided in the E-SIGN Act, so long as and provided that Subscriber complies with all special requirements for consumer eContracts, including and subject to those referenced in Section 4.(f) and (g) above; and (f) DocuSign has implemented information security policies and safeguards to preserve the security, integrity, and confidentiality of eContracts and to protect against unauthorized access and anticipated threats or hazards thereto, that meet the objectives of the Interagency Guidelines Establishing Standards for Safeguarding Subscriber Information as set forth in Section 501 (b) of the Gramm-Leach-Bliley Act.

15. DISCLAIMER OF WARRANTIES EXCEPT FOR THE REPRESENTATIONS AND WARRANTIES EXPRESSLY PROVIDED IN SECTION 14 OF THESE TERMS AND CONDITIONS, THE SUBSCRIPTION SERVICE AND THE SITE ARE PROVIDED "AS IS," AND DOCUSIGN: (a) MAKES NO ADDITIONAL REPRESENTATION OR WARRANTY OF ANY KIND WHETHER EXPRESS, IMPLIED (EITHER IN FACT OR BY OPERATION OF LAW), OR STATUTORY, AS TO ANY MATTER WHATSOEVER; (b) EXPRESSLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, QUALITY, ACCURACY, AND TITLE; AND (c) DOES NOT WARRANT THAT THE SUBSCRIPTION SERVICE OR SITE ARE OR WILL BE ERROR-FREE, WILL MEET SUBSCRIBER'S REQUIREMENTS, OR BE TIMELY OR SECURE. SUBSCRIBER WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE RESULTING FROM THE USE OF THE SUBSCRIPTION SERVICE OR SITE. SUBSCRIBER WILL NOT HAVE THE RIGHT TO MAKE OR PASS ON ANY REPRESENTATION OR WARRANTY ON BEHALF OF DOCUSIGN TO ANY THIRD PARTY. USE OF THE SUBSCRIPTION SERVICE AND SITE ARE AT YOUR SOLE RISK. Because some states and jurisdictions do not allow limitations on implied warranties, the above limitation may not apply to you. In that event, such warranties are limited to the minimum warranty period allowed by the applicable law.

16. SUBSCRIBER INDEMNIFICATION OBLIGATIONS You will defend, indemnify, and hold us, our affiliates, officers, directors, employees, suppliers, consultants, and agents harmless from any and all third party claims, liability, damages, and costs (including, but not limited to, attorneys' fees) arising from or related to: (a) your use of the Subscription Service; (b) your violation of these Terms and Conditions; (c) your infringement, or infringement by any other user of your Account, of any intellectual property or other right of any person or entity; or (d) the nature and content of all materials, works, data, statements, and other visual, graphical, written, or audible communications of any nature submitted by any Authorized User of your Account or otherwise processed through your Account.

17. LIMITATIONS OF LIABILITY NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THESE TERMS AND CONDITIONS, DOCUSIGN WILL NOT, UNDER ANY CIRCUMSTANCES, BE LIABLE TO SUBSCRIBER

FOR ANY CONSEQUENTIAL, INCIDENTAL, SPECIAL, OR EXEMPLARY DAMAGES ARISING OUT OF OR RELATED TO THE TRANSACTIONS CONTEMPLATED UNDER THESE TERMS AND CONDITIONS, INCLUDING BUT NOT LIMITED TO LOST PROFITS OR LOSS OF BUSINESS, EVEN IF APPRISED OF THE LIKELIHOOD OF SUCH DAMAGES OCCURRING. UNDER NO CIRCUMSTANCES WILL DOCUSIGN'S TOTAL LIABILITY OF ALL KINDS ARISING OUT OF OR RELATED TO THESE TERMS AND CONDITIONS OR SUBSCRIBER'S USE OF THE SUBSCRIPTION SERVICE (INCLUDING BUT NOT LIMITED TO WARRANTY CLAIMS), REGARDLESS OF THE FORUM AND REGARDLESS OF WHETHER ANY ACTION OR CLAIM IS BASED ON CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, EXCEED THE TOTAL AMOUNT PAID BY SUBSCRIBER TO DOCUSIGN UNDER THESE TERMS AND CONDITIONS DURING THE 3 MONTHS PRECEDING THE DATE OF THE ACTION OR CLAIM. EACH PROVISION OF THESE TERMS AND CONDITIONS THAT PROVIDES FOR A LIMITATION OF LIABILITY, DISCLAIMER OF WARRANTIES, OR EXCLUSION OF DAMAGES REPRESENTS AN AGREED ALLOCATION OF THE RISKS OF THESE TERMS AND CONDITIONS BETWEEN THE PARTIES. THIS ALLOCATION IS REFLECTED IN THE PRICING OFFERED BY DOCUSIGN TO SUBSCRIBER AND IS AN ESSENTIAL ELEMENT OF THE BASIS OF THE BARGAIN BETWEEN THE PARTIES. EACH OF THESE PROVISIONS IS SEVERABLE AND INDEPENDENT OF ALL OTHER PROVISIONS OF THESE TERMS AND CONDITIONS, AND EACH OF THESE PROVISIONS WILL APPLY EVEN IF THE WARRANTIES IN THESE TERMS AND CONDITIONS HAVE FAILED OF THEIR ESSENTIAL PURPOSE. Because some states and jurisdictions do not allow limitation of liability in certain instances, portions of the above limitation may not apply to you.

18. CONFIDENTIALITY – "Confidential Information" means any trade secrets or other information of DocuSign, whether of a technical, business, or other nature (including, without limitation, DocuSign software and related information), that is disclosed to or made available to Subscriber. Confidential Information does not include any information that: (a) was known to Subscriber prior to receiving it from DocuSign; (b) is independently developed by Subscriber without use of or reference to any Confidential Information; (c) is acquired by Subscriber from another source without restriction as to use or disclosure; or (d) is or becomes part of the public domain through no fault or action of Subscriber. During and after the Term of these Terms and Conditions, Subscriber will: (i) use the Confidential Information solely for the purpose for which it is provided; (ii) not disclose such Confidential Information to a third party; and (iii) protect such Confidential Information from unauthorized use and disclosure to the same extent (but using no less than a reasonable degree of care) that it protects its own Confidential Information of a similar nature. If Subscriber is required by law to disclose the Confidential Information or the terms of these Terms and Conditions, Subscriber must give prompt written notice of such requirement before such disclosure and assist the DocuSign in obtaining an order protecting the Confidential Information from public disclosure. Subscriber acknowledges that, as between the parties, all Confidential Information it receives from DocuSign, including all copies thereof in Subscriber's possession or control, in any media, is proprietary to and exclusively owned by DocuSign. Nothing in these Terms and Conditions grants Subscriber any right, title, or interest in or to any of the Confidential Information. Subscriber's incorporation of the Confidential Information into any of its own materials shall not render Confidential Information non-confidential. Subscriber acknowledges that any actual or threatened violation of this confidentiality provision may cause

irreparable, non-monetary injury to the disclosing party, the extent of which may be difficult to ascertain, and therefore agrees that DocuSign shall be entitled to seek injunctive relief in addition to all remedies available to DocuSign at law and/or in equity. Absent written consent of DocuSign, the burden of proving that the Confidential Information is not, or is no longer, confidential or a trade secret shall be on Subscriber.

19. PRIVACY Personal information provided or collected through or in connection with this Site shall only be used in accordance with DocuSign's Privacy Policy and these Terms and Conditions are subject to the Privacy Policy on DocuSign's website which sets forth the terms and conditions governing DocuSign's collection and use of personal information from Authorized Users that is gathered through the Site.

20. ACCESS LIMITS Your use of the Site is at all times governed by our website Terms of Service. DocuSign is the owner of various intellectual property and technology rights associated with the Subscription Service, its document management, digital signature, and notary system, including patent, copyright, trade secret, and trademark and service mark rights. Except for the rights expressly granted in these Terms and Conditions, DocuSign does not transfer to Subscriber of any Authorized User any of DocuSign's technology or other intellectual property or technology rights. All right, title, and interest in and to DocuSign's technology and intellectual property will remain solely with the DocuSign. Subscriber agrees that it will not, directly or indirectly, reverse engineer, decompile, disassemble, or otherwise attempt to derive source code or other trade secrets from the Subscription Service or DocuSign's technology. DocuSign agrees that data and information provided by Subscriber under these Terms and Conditions shall remain, as between Subscriber and DocuSign, owned by Subscriber. DocuSign hereby grants to users and licensees of its products and services a limited, revocable, nonexclusive and nontransferable right to use DocuSign's regular trade names, trademarks, titles and logos ("Licensed Marks") solely for purposes of identifying DocuSign's products and services. Details of this trademark license are available at: <http://www.docusign.com/IP>.

22. FEEDBACK By submitting feedback to DocuSign: (a) Subscriber automatically grants to DocuSign a perpetual, irrevocable, transferable, royalty-free license to use Subscriber's feedback for any and all purposes without any compensation to Subscriber; and (b) Subscriber agrees that it will not publish, submit, or display feedback submitted by Subscriber or its Authorized Users to or on any other web site or in any other publicly accessible forum without DocuSign's prior written consent.

23. GENERAL Subscriber acknowledges that the Subscription Service and any related products, information, documentation, software, technology, technical data, and any derivatives thereof, that DocuSign makes available to its Subscribers (collectively "Excluded Data"), is subject to export control laws and regulations of the United States and other jurisdictions (collectively "Export Laws"). Subscriber represents and warrants that: (i) it is not located in, under the control of, or a national or resident of an embargoed country or prohibited end user under Export Laws; and (ii) it will not access, download, use, export or re-export, directly or indirectly, the Excluded Data to any location, entity, government or person prohibited by export laws, without first complying with all Export Laws that may be imposed by the U.S. Government and any country or organization of nations within whose jurisdiction it operates or does business. Subscriber is solely responsible for complying with Export Laws for all Excluded Data and any of its content transmitted through the Subscription Service. Subscriber shall advise DocuSign in the event the Excluded Data requires DocuSign to obtain additional licenses, permits and/or approvals from any government in the jurisdiction where Subscriber intends to use the Subscription Service. Upon being advised of such a requirement, DocuSign may at its sole discretion: (a) terminate

Subscriber's Account; (b) obtain such licenses, permits, and/or approvals as may be required; or (c) modify these Terms and Conditions such that additional licenses, permits, and/or approvals are no longer required to be obtained by DocuSign. The Subscription Service will be accessed and delivered via the internet. Subscriber is responsible for obtaining the necessary equipment and internet connection in order to access and use the Subscription Service. In order to fully utilize the Subscription Service, Subscriber will need to maintain certain minimum hardware and software requirements. These requirements are set forth in the Specifications. DocuSign will be and act as an independent contractor (and not as the agent or representative of Subscriber) in the performance of these Terms and Conditions. These Terms and Conditions will not be interpreted or construed as: (a) creating or evidencing any association, joint venture, partnership, or franchise between the parties; (b) imposing any partnership or franchise obligation or liability on either party; (c) prohibiting or restricting either party's performance of any services for any third party; or (d) establishing or as a foundation for any rights or remedies for any third party, whether as a third party beneficiary or otherwise. Subscriber must not represent to anyone that Subscriber is an agent of DocuSign or is otherwise authorized to bind or commit DocuSign in any way without DocuSign's prior authorization. Subscriber may not assign its rights, duties, or obligations under these Terms and Conditions without DocuSign's prior written consent. If consent is given, these Terms and Conditions will bind Subscriber's successors and assigns. Any attempt by Subscriber to transfer its rights, duties, or obligations under these Terms and Conditions except as expressly provided in these Terms and Conditions is void. DocuSign may freely assign its rights, duties, and obligations under these Terms and Conditions. DocuSign may utilize a subcontractor or other third party to perform its duties under these Terms and Conditions so long as: (a) DocuSign shall not be relieved of any responsibilities or obligations under these Terms and Conditions that are performed by the subcontractor or third party; and (b) DocuSign shall remain Subscriber's sole point of contact and sole contracting party. We may provide, or third parties may provide, links to other Web sites or resources that are beyond our control. We make no representations as to the quality, suitability, functionality, or legality of any sites to which links may be provided, and you hereby waive any claim you might have against us with respect to such sites. **DOCUSIGN IS NOT RESPONSIBLE FOR THE CONTENT ON THE INTERNET OR WEB PAGES THAT ARE CONTAINED OUTSIDE THE SITE.** Your correspondence or business dealings with, or participation in promotions of, advertisers or partners found on or through the Site, including payment and delivery of related goods or services, and any other terms, conditions, warranties, or representations associated with such dealings, are solely between you and such advertiser or partner. You agree that we are not responsible or liable for any loss or damage of any sort incurred as the result of any such dealings or as the result of the presence of such advertisers or partners on the Site. Any notice required or permitted to be given in accordance with these Terms and Conditions will be effective if it is in writing and sent using the certified delivery function of the Subscription Service, by email, certified or registered mail, or insured courier, return receipt requested, to the appropriate party at the address set forth in Subscriber's registration information for Subscriber or on the Site for DocuSign. Either party may change its address for receipt of notice by notice to the other party in accordance with this Section. Notices are deemed given upon receipt if delivered using the Subscription Service or email, two business days following the date of mailing, or one business day following delivery to a courier. Written notification to terminate an Account shall be sent by email to support@docuSign.com from the Subscriber's email address set forth in Subscriber's registration information for Subscriber, or by calling

1.866.219.4318. Neither party will be liable for, or be considered to be in breach of or default ns on account of, any delay or failure to perform as required by these Terms and Conditions as a result of any cause or condition beyond such party's reasonable control, so long as such party uses all commercially reasonable efforts to avoid or remove such causes of non-performance or delay. These Terms and Conditions are governed in all respects by the laws of the State of Washington as such laws are applied to agreements entered into and to be performed entirely within Washington between Washington residents. Any controversy or claim arising out of or relating to these Terms and Conditions, the Hosted Service, or the Site will be settled by binding arbitration in accordance with the commercial arbitration rules of the American Arbitration Association. Any such controversy or claim shall be arbitrated on an individual basis, and shall not be consolidated in any arbitration with any claim or controversy of any other party. The arbitration will be conducted in King County, Washington, and judgment on the arbitration award may be entered into any court having jurisdiction thereof. The award of the arbitrator shall be final and binding upon the parties without appeal or review except as permitted by Washington law. Notwithstanding the foregoing, either party may seek any interim or preliminary injunctive relief from any court of competent jurisdiction, as necessary to protect the party's rights or property pending the completion of arbitration. By using the Site or the Subscription Service, you consent and submit to the exclusive jurisdiction and venue of the state and federal courts located in King County, Washington. Any legal action by Subscriber arising under these Terms and Conditions must be initiated within two years after the cause of action arises. The waiver by either party of any breach of any provision of these Terms and Conditions does not waive any other breach. The failure of any party to insist on strict performance of any covenant or obligation in accordance with these Terms and Conditions will not be a waiver of such party's right to demand strict compliance in the future, nor will the same be construed as a novation of these Terms and Conditions. If any part of these Terms and Conditions is found to be illegal, unenforceable, or invalid, the remaining portions of these Terms and Conditions will remain in full force and effect. If any material limitation or restriction on the grant of any license to Subscriber under these Terms and Conditions is found to be illegal, unenforceable, or invalid, the license will immediately terminate. Except as set forth in Section 2 of these Terms and Conditions, these Terms and Conditions may not be amended except in writing signed by both you and us. In the event that we make such a change that has a material adverse impact on your rights or use of the Service, you may terminate these Terms and Conditions by giving us notice within 20 days of the date we notify you, and you will not be charged any cancellation fee. These Terms and Conditions are the final and complete expression of the agreement between these parties regarding the Subscription Service. These Terms and Conditions supersede, and the terms of these Terms and Conditions govern, all previous oral and written communications regarding these matters.

v140527 How it works eSignature Digital Transaction Management Legality Security Global Take a Demo Free Trial Resource Center By Industry Financial Services Healthcare High Tech Higher Education Insurance Real Estate Life Sciences Government By Department Sales Human Resources Finance IT/Operations Legal Marketing Facilities Support Product Management Procurement Partners & Developers Partner Programs Find a Partner Solution Showcase Partner Portal Dev Center Support & Training DocuSign Support Community DocuSign University Company About DocuSign Leadership Team Financial Investors Board of Directors Security & Trust Blog Events Press Room Careers Contact Subscriptions Follow Us Facebook Twitter LinkedIn Glassdoor Google + YouTube Validate TRUSTe privacy certification Â© DocuSign Inc., 2003 - 2014 221 Main St., Suite 1000, San

Francisco, CA 94105 Sales: +1.877.720.2040 | Support: +1.866.219.4318 North America Terms
of Use Privacy Policy Intellectual Property Trending Topics: Digital Signature Free What Is
Electronic Signature Pdf App For Signing Documents Sign Documents On Android What Is
Digital Signature Processing DocuSign FREE TRIAL BUY NOW Validate TRUSTe privacy
certification .