Offer and Acceptance

STATE OF ARIZONA

Agency: Arizona Dept. of Administration
State Procurement Office (ADOA/SPO)

Customer: WSCA participating states; AZ Statewide (state agencies & cooperative partners)

Description: WSCA Software Value-Added Reseller

OFFER

OFFER TO THE STATE OF ARIZONA: The Undersigned hereby offers and agrees to furnish the materials, service or construction in compliance with all terms, conditions, specifications and amendments in the Solicitation and any written exceptions in the offer.

Arizona Transaction Privilege (Sales) Tax License No. 22-3009648

Federal Employer Identification No. 22-3009648

SHI International Corp.
Company Name

[signature]
Signature of Authorized Agent of the Company

33 Knightsbridge Rd.
Address

Natalie Castagno
Printed Name

Piscataway NJ 08854
City State Zip

Contracts specialist
Title

Phone: 732-868-5904

E-Mail: Kate_Okane@shi.com

Facsimile: 732-868-5905

Web Site: www.shi.com

Delivery and installation is promised within 5-10 calendar days after receipt of an order. If payment is made within ____ days after receipt of goods and services, the buyer is entitled to a discount of 0 ____ % on the above-listed price(s).

ACCEPTANCE

ACCEPTANCE OF THE OFFER: The Offer is hereby accepted. The Contractor is now bound to sell the materials, service or construction stated in the Contract and based upon the Solicitation, including all terms, conditions, specifications, amendments, etc., and the Contractor's Offer as accepted by the State.

Contract No. ADSPO11-00000358-3

Contract Award Date 6/3/11

[signature]
Signature of Authorized Procurement Officer

Stacy L Ingalls
Printed Name

Sr. Procurement Officer
Title

Statement of Work

STATE OF ARIZONA

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Description: **WSCA Software Value-Added Reseller**

1 INTRODUCTION

1.1 Purpose The State Procurement Office of the Arizona Department of Administration is requesting proposals, on behalf of the State of Arizona and the Western States Contracting Alliance (WSCA), from software value-added resellers to provide distributed software and related services.

1.2 Introduction and Background

WSCA was formed in October 1993. The purposes of WSCA are to establish the means by which participating states may join together in cooperative multi-state contracting, to ensure the commitment of each participating state, and to provide regular and ongoing assistance to participating states in researching, developing, and administering procurement and contractual specifications and requirements. WSCA is a cooperative purchasing arm of the National Association of State Procurement Officials (NASPO). The mission of WSCA is to implement multi-state contracts to achieve cost-effective and efficient acquisition of quality products and services. WSCA membership consists of the principal procurement official that heads the state central procurement organization, or designee for that state, from the states of Alaska, Arizona, California, Colorado, Hawaii, Idaho, Minnesota, Montana, Nevada, New Mexico, Oregon, South Dakota, Utah, Washington, and Wyoming.

NASPO is a non-profit association dedicated to strengthening the procurement community through education, research, and communication. It is made up of the directors of the central purchasing offices in each of the 50 states, the District of Columbia and the territories of the United States. NASPO is an organization through which the member purchasing officials provide leadership in professional public purchasing, improve the quality of purchasing and procurement, exchange information, and cooperate to attain greater efficiency and economy.

This is the first solicitation conducted under the auspices of WSCA for software value-added reseller (SVAR) products and services.

We anticipate multiple awards resulting from this solicitation. The State of Arizona, as Lead State, will conduct the solicitation and will execute a Master Price Agreement (MPA) with awarded offerors on behalf of the State of Arizona and the participating states. Individual participating states will select an MPA contractor and execute a Participating Addendum (PA) with each MPA contractor they select individually to establish the authorization for the MPA contractor to provide the products and services per the MPA and PA in that State. Individual states are not required to enter into a PA with all awarded MPA contractors. Some states may elect to enter a PA with only one MPA contractor; other states may elect to enter into multiple PA's.

1.3 Goals and Objectives. The goal of this solicitation is to contract with software value-added resellers who would provide distributed software and related services to eligible users of the resulting contracts. The objectives are to contract with successful offerors who are authorized resellers of distributed Commercial Off-the-Shelf (COTS) software for identified key software publishers as well as being sellers of general distributed software (non-specified publishers). In addition to selling software, and selling maintenance and support agreements for new and previously-purchased software, the Reseller would provide related services to include, but not be limited to, tracking licenses (new and existing), monitoring volume levels and opportunities, training, implementation, and consulting. The Reseller would also work in conjunction with the WSCA/NASPO personal computers, servers/storage, printers, and peripherals contracts, or a participating state's equivalent contracts, as may be required by the individual states, to provide their best reasonable effort to see ~~ensure~~ that software licenses for delivered computing hardware are purchased and tracked through this contract

1.4 Definitions

- "Authorized Purchaser" means an individual authorized by a Participating Entity to place orders against this contract.
- "Contracts" means a Master Price Agreement (MPA) executed between the Offeror and the State of Arizona on behalf of WSCA as a result of this solicitation, and a Participating Addendum (PA) executed between an MPA contractor and an individual participating State. For example, under this contract, a contractor with the State of Arizona would have an executed MPA and an executed PA with Arizona.
- "Commercial Off the Shelf or COTS" means software products that are ready-made and available for sale to the general public. COTS products are designed to be implemented easily into existing systems without the need for customization, also referred to as 'distributed software'.
- "End-User License Agreement" or "License Agreement" is a legal contract between the manufacturer (publisher) and the end user of an application that details how the software can and cannot be used.

- "Non-perpetual licenses", or subscription licenses, are temporary and provide the right to use a particular licensed product until the end of the license-agreement term.
- "Perpetual licenses" are everlasting and valid if the software is being used in accordance with the license-agreement requirements.
- "Publisher" means a software manufacturer (e.g., Microsoft).
- "Reseller" or "Contractor" means a Software Value-Added Reseller who is awarded under this solicitation, and who has a fully-executed (MPA and PA) contract.
- "Reseller Cost" means the price that the Reseller pays the Publisher or Distributor to purchase software on behalf of the Participating Entity. Reseller Cost should not include any administrative or other mark-up costs.
- "Software" means the computer program, including media and associated documentation.
- "Software Licensing" means allowing an individual or group to use a piece of software.
- "Software Maintenance and Support" means any software upgrades, annual updates, patches and fixes needed to improve functionality and keep the software in working order.
- "Volume License Agreements (VLAs)" means an agreement with a Software Publisher wherein the Participating Entity's total expected purchasing over a period of time is considered in establishing the discount level.

2 SCOPE OF CONTRACT

The scope of any contract resulting from this solicitation includes the purchase of licenses for distributed software products through a software value-added reseller. The Reseller would also provide maintenance agreements for software licenses, whether those licenses were purchased under this agreement or are previously-purchased licenses. Reseller will provide services related to the sale and management of distributed software licenses.

3 GENERAL REQUIREMENTS – Products

Software Value-Added Reseller ('Reseller') shall be a large account reseller authorized to sell products direct from key software publishers. If the Reseller is not a direct reseller of a publisher, and the publisher does sell though a distributor, the Reseller would purchase software products through a distributor. The Reseller would be responsible for providing Commercial Off-the-Shelf-Software (COTS) and COTS software maintenance packages on behalf of Participating Entities. Reseller would honor an existing individual Participating Entity's volume or enterprise license agreements, and offer maintenance and support packages on licenses already owned by the Participating Entity. As this is a multi-state solicitation, and potential participants would include not only state governments but also their cooperative partners, volume is indefinite but expected to be considerable. The Reseller is expected to continue to work towards reducing their Reseller Cost, especially from the specific publishers identified in this solicitation (Itemized Publishers). Users envision pricing that is significantly better than Publisher's list price. Reseller will provide services directly related to these products such as: communicating channel partner status with publishers, retaining or enhancing reseller certifications with software publishers, negotiating for reduced Reseller Costs, and assisting with basic software installation. As may be required by a Participating Entity, Reseller would work with WSCA/NASPO computing equipment contractors, or a Participating Entity's comparable computer hardware contractor, to make their best reasonable effort to see ensure that any software acquired under those contracts can be tracked through this contract.

4 SPECIFIC REQUIREMENTS – Products

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

4.2 **Product Offerings.** Reseller will provide COTS software, and software maintenance of new or existing licensed software, under this contract. Information on approved products, customized by participating state, will be available through an online catalog and through Reseller's representatives either through email or telephone inquiry during the standard working hours of the participating state. The online catalog shall provide an expansive list of products allowed per the contracts, particularly those products of itemized publishers.

4.3 Product Acquisition

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

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

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

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

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

4.4.1 Itemized Highest Volume Publishers (Highest Volume, Itemized Lines). The products of the publishers in this category represent the highest tier of sales volume identified for this solicitation, of those publishers who sell through resellers. This category is the one most likely to include a Participating Entity's enterprise or high volume agreements with a publisher. It is most desirable that Resellers are certified direct resellers for publishers in this category. The preferred pricing that a Reseller receives based on their reseller certification status, in conjunction with the anticipated considerable volume of purchases through these Contracts, is the expected foundation for a very competitive base Reseller Cost, with further reductions of Reseller Cost as they are achieved through ongoing Reseller negotiations. A percentage rate above or below Reseller Cost is to be provided for each itemized publisher. Specific requirements may be required for some publishers in this category in an individual State's PA.

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

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

KEY ITEMIZED PUBLISHERS – certification as direct reseller required or highly desirable	**OTHER ITEMIZED PUBLISHERS**– certification as direct reseller desirable. If not certified, the percentage rate should be no greater than Non-Itemized rate.	**OTHER ITEMIZED PUBLISHERS**– Continued
Microsoft **Adobe** **IBM** **Symantec** **McAfee** **Intel** **VMWare** **CA (Computer Associates)** **Quest** **SAP Business Objects** **Checkpoint** **TrendMicro** **BMC** **Commvault** **RedHat**	**AI Squared** **Apple** **Attachmate** **Autodesk** **Bakbone** **Barracuda** **Corel** **Cisco** **Citrix** **Compuware** **Doubletake** **EMC** **Enchoice** **ESET** **ESRI** **Freedom Scientific** **Guardian Edge** **GW Micro** **ICM Conversions** **HP** **HumanWare** **Hummingbird Exceed** **Information Builders** **Kronos Software** **LANDesk** **Laserfische** **Lotus** **Microfocus, Inc.** **Mindjet** **MPS** **MQSoftware** **nCircle** **Novell** **Nuance**	**Oracle** **OSAM** **Passport** **Patchlink** **Proofpoint** **SAS** **Solutions Software** **Sophos** **Splunk Software** **Stellent** **SunGard** **Sybase** **Techsmith** **Titus** **Ultrabac** **Websense** **NON-ITEMIZED PUBLISHERS** – One 'not to exceed' rate for all other products

4.5 Software Publishers, General Representation.

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

4.5.2 Expanded Representation. The Reseller is expected to continue to work towards reseller certifications with publishers not currently represented, particularly with those publishers whose sales volume merit classification into the itemized publisher lines. Similarly, Reseller is expected to continue to work towards a higher certification level with current publishers. If the Reseller's certification or reseller status is reestablished at a higher level, the Reseller is required to notify the MPA and individual PA Procurement Officers in writing explaining the change and any impact on their costs to obtain the product or services they may provide.

4.5.3 Continued Representation. The Reseller is expected, at a minimum, to maintain their reseller certification levels held at time of award. If the Reseller's certification or reseller status is withdrawn or reduced, the Reseller is required to immediately notify the MPA and individual PA Procurement Officers in writing explaining the change, the impact on their costs to obtain the product, or limitations on the products or services they may provide, and the reasons for the change. Failure to notify, or significant negative changes in their reseller status, may be grounds which individual States may use to suspend or cancel their PA.

4.6 Product Delivery and Returns

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

4.6.2 Delivery Period. Reseller to provide delivery within ten (10) business days after receipt of a valid order unless conditions arise that are outside the control of the Reseller, such as product out of stock. If delivery cannot be within this time frame, Reseller is to notify Participating Entity of delay and anticipated ship date. If this delayed delivery is unacceptable to Participating Entity, the order can be cancelled without penalty.

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

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

4.7 License Confirmations

4.7.1 Proof of License. For licenses ordered under the contract by authorized purchasers, Reseller shall be able to provide either: (i) certified Licensing Confirmation Certificates for all software licenses; (ii) Reseller's certified license confirmation certificates in the name of such Licensee; or (iii) a written confirmation from the Reseller or Publisher accepting the Eligible Participating Entity's contract or purchase order as proof of license. The form of Proof of License provided must be acceptable proof to the Publisher and in the format as requested by the purchaser. The Proof of License shall be provided as an electronic file and/or a hardcopy document, as requested by the Participating Entity. Reseller will retain an electronic file of Participating Entity's Proof of Licenses and provide copies to the Participating Entity as requested.

4.7.2 Hardware/Software Coordination – Reseller shall work with Participating Entity and any computer hardware contractor to provide their best reasonable effort to see ~~ensure~~ that license confirmation documents for any distributed software provided with those machines is provided to, and tracked by, the Reseller as consistent with this contract.

~~4.8 Product Upgrades and/or Patches. Reseller shall notify Lead State and Participating Entities in writing of any changes in product, product version, or product enhancements for any of the itemized Publishers. This notification shall be made to the MPA Procurement Officer and the PA Procurement Officers as soon as possible but no later than 20 days before implementation. Such information should also be posted on the state web-sites.~~

4.8 **Product Installation Assistance.** If the Participating Entity encounters difficulty in downloading or installing the software, the Reseller must provide assistance within eight business hours of being informed of the problem. If the installation issue is more complicated, such as an installation requiring limited configurations, Reseller may quote the total cost for services (estimated time, not to exceed contract hourly rates.) If installation or configuration requires the services of the publisher or designee, the Reseller may assist the Participating Entity in developing a separate agreement between the Participating Entity and the publisher or designee for that purpose.

5 GENERAL REQUIREMENTS – Services

In addition to the services directly associated with the receipt of product under this Scope, the Reseller will provide services related to the selection, purchase and management of distributed software. These services include, but are not limited to, development and maintenance of participating state websites, price quotes, license tracking and management, volume license agreements, software installation/ de-installation/ implementation assistance, software advisement, training, and software maintenance and support. The Reseller is expected to support the Participating Entities in getting best value from software decisions, providing information and advice regarding software and representing the State's interests in negotiating with software publishers.

6 SPECIFIC REQUIREMENTS – Services

6.1 **Develop and Maintain Website.** For each participating state, Reseller shall develop and support a website specific to that State, with content approved from the Contract Procurement Officer and/or State Procurement Officer as appropriate based on content. This web site information shall be available through the Internet without the use of additional software or licenses. Website should be user friendly to allow for quick and easy access and use. Reseller should provide web-based training regarding use of website at no additional cost, and online, email, or telephone help should be available to assist during State's standard working hours. Website must be available 24 x 7, except for scheduled maintenance and be ADA compliant. No costs or expenses associated with providing this information shall be charged to the States. Universal Resource Locator (URL) for the website must be supplied to the participating state and the contract Procurement Officer within 60 days of the execution of the PA. The website will include contract information, product information/catalog, the capability to generate online reports, and other pertinent information as may be reasonably requested by States, such as copies of VLAs.

6.1.1 Contract and General Information. The website will provide contract and ordering information to include, at a minimum: the contract number(s) (MPA and PA); the Reseller contact names and titles, including primary contact and contacts to whom incidents could be escalated; areas of responsibility for each contact name as well as their phone numbers and email addresses; information on use of website; quote and ordering information; and notifications regarding publishers and products, such as pending key product changes or upgrades.

6.1.2 Online Catalog. The website will provide contract and ordering information to include, at a minimum: publishers, product names, standard product pricing, and product descriptions (photos optional or links to access product literature). Non-authorized products or groups of products shall either not be viewable on the website or shall be clearly marked as excluded products. Regardless of the number and types of links to the Reseller's electronic catalog, the Reseller shall ensure that all eligible agencies purchasing under one PA are accessing the same current base version of the product catalog. Online information must include purchases of Volume or Enterprise License Agreement software as well as individual COTS software licenses

6.1.2.1 *Product Searching Capability.* At a minimum, the online catalog should be searchable by Purchasing Entity and their VLAs, Software Publisher, Product name, OEM product number, and software description (e.g., GIS, Security). The online category can be modified as users' needs dictate, such as including products obtained through a distributor (non-itemized publisher products) that are frequently purchased.

6.1.2.2. *Online Product Quotes.* Product price displayed online is a 'not-to-exceed' product price quote based on contract rate and real time Reseller Cost. For high dollar purchases, or quantity purchases, Authorized Purchaser should request a quote by contacting Reseller representative off-line. The online pricing should allow for overrides when a quote with a negotiated

better price has been offered and is being placed online. Website should have capability to track all quotes by Authorized Purchaser and be easily accessible for viewing by quote number. Website shall include a shopping cart feature that allows Authorized Purchasers to provide shipping instructions. Authorized purchasers can place orders on the web either via credit card or purchase order. Specifics regarding an individual state's requirements for placing an order may be included in that State's PA.

6.1.2.3. *User Differentiation.* Catalog should be designed so as to provide a means to identify the using Participating Entity (state agency or eligible cooperative partner). This method used must not require any administrative tasks on the part of the contract Procurement Officer for the MPA, the Procurement Officer for the individual PA, or for the Participating Entity. Website should allow users to develop personal lists and profiles, including an option to securely store and maintain procurement card information. Catalog should have the capability of being used as a 'Punch Out' to an individual state's electronic purchasing system.

6.1.3 Online Reports. Website shall have capability to provide order history, as well as order status and order tracking.

6.1.4 Other. Other information may be added to the website as may be required by State (such as copies of volume license agreements) or enhancements that may be proposed by Reseller and approved by State.

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

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

6.2.2 *Quoted Delivery Method.* The quote must clearly indicate the method of delivery, whether via media, download, or some other means.

6.2.3 *Timely Quotes.* Reseller agrees to work with publishers and distributors to obtain quotes and deliver software in a timely fashion. Expected response should be within 24 hours but no more than three business days. If, after three business days, the Reseller has been unable to obtain the quote or assurances that they can obtain the software, the Reseller must contact the Participating Entity with a status report. The Reseller and the Participating Entity will mutually agree as to whether the Reseller shall continue to pursue a quote and within what timeframe, or whether the Reseller will provide the Participating Entity with a written statement that the Reseller cannot supply the software. If the Reseller has been unable to obtain a quote within 10 days of the request for quote, the Contract must provide a written statement (email is sufficient) to the Participating Entity, and the procurement officer as may be required under the PA, that the Reseller cannot supply the software, and the reason why.

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

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

6.3 License Tracking and Management. Reseller must have in place a product license inventory and asset management system, which will include an accurate inventory record of product licenses purchased under this Contract. Reseller must also have the capability of keeping track of maintenance renewal and other significant due dates. At a minimum, this system must be able to provide this information by Participating Entity. Reseller shall work with Participating Entity, publishers, previous and subsequent contract software resellers, and hardware computer contractors to ensure the most comprehensive record of licenses is created, maintained, and the information transferrable. States may choose to award

multiple PA's under this Agreement. Details on how licenses are to be tracked and managed under multiple awards will be determined by that awarding State.

6.4 **Volume and Enterprise License Agreements.** Reseller will work directly with Authorized Purchasers in establishing, signing and maintaining enrollment agreements. If Reseller is sole SVAR contractor in a State, Reseller will aggregate all enrollments together for Master Agreement reporting purposes. If a State elects to have multiple SVAR contractors, Reseller's responsibilities will be delineated in that State's PA. Resellers shall monitor and be able to report on the current levels of software ordered towards any of the State's VLA required sales levels to ensure the Participating Entity does not fall short and thereby incur Publisher penalties. The Reseller shall be responsible for providing license usage information to the Publishers, if such information is required by the Publishers, in a timely manner (e.g., for 'true up' assessments).

6.5 **Software Installation/Implementation Assistance.** Reseller shall provide, at no additional cost, assistance or advice in basic installation or implementation of COTS software.

6.6 **Software Advisement.** Reseller will provide, at no additional cost, advice relative to software. Examples of such advice would be: in selecting appropriate software; in explaining Volume License Agreements with complicated rules; in determining the most cost-effective buying strategies; in ensuring that Participating Entity is in compliance with licensing requirements; and in finding software options to meet a specific need, for example, a flow-charting package.

6.7 **Training.** Reseller will provide, at no additional cost, training on how to use their website and how to use this contract in obtaining quotes and placing orders. Online training should be available on the website, but supplementary training should be provided as needed.

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

6.9 **Software Updates.** Users are eligible to receive from the publisher, ~~The Reseller shall provide~~, at no additional charge, all new releases and updates of the software while under a maintenance agreement. Release shall be defined as any collection of enhancements or updates which the ~~Reseller~~ Publisher generally makes available to its installed base of customers of such programs. The Reseller shall assist the User as necessary to facilitate or help the User in obtaining such releases or updates from the Publisher.

6.10 Customer Service and Representation

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

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

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

6.10.4 *Customer Satisfaction/ Reseller Performance Standards.* See clause entitled, 'PERFORMANCE STANDARDS'.

6.10.5 *Contract Reviews.* Reseller is expected to conduct quarterly reviews of all sales volumes and report sales figures and savings from Publisher's list price, by Publisher and by PA, as well as observed trends or purchasing patterns, and to present the information to the Master Agreement Procurement Officer. At the discretion of the individual participating states, an equivalent review, limited to that state, will be presented to the PA Procurement Officer. All awardees under this contract shall meet once a year with the Master Agreement Procurement Officer and sourcing team to review usage and discuss possible revisions of the categorization of publishers based upon actual sales volume, and to discuss any service concerns, industry trends, and the effectiveness of the contract. Reseller is expected to conduct a customer satisfaction survey and an audit prior to this discussion and be prepared to discuss the results, and provide reports, at this review. At a minimum, the audit will report address quoting and billing accuracy, and any Reseller Cost that exceeds a Publisher's List

price for that item. Based on historical sales volume information, Reseller should be prepared to discuss potential cost savings opportunities which could be passed through to Participating Entities. In a renewal year, the annual review will take place prior to contract extensions.

6.11 Interactions with Software Publishers

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

6.11.2 *Liaison with Publisher.* A State may establish, in their individual PA, a requirement for Reseller Participating Entity as requested to arrange for implementation, customization, training, support, maintenance and other software related services which may be required directly from the software publisher or designee under a separate agreement.

6.12 Consulting/ Industry Information

6.12.1 *Product Pre-Sale Advisement.* The Reseller shall assist the Participating Entity in making strategic software application decisions by providing evaluation copies, product comparisons, needs analysis, product information and application recommendations. There shall be no charge for these services.

6.12.2 *Best Approaches.* The Reseller will act as liaison between the Participating Entity and individual publishers in identifying best approaches and cost savings opportunities for the Participating Entity.

6.12.3 *Publisher Notifications and Other Industry Information.* In the event that a publisher publicly announces changes that are pertinent to user licensing ~~as such as product or maintenance changes or discontinuation, new product versions, product enhancements, or technical issues~~, the Reseller should assist Users by ~~shall be required to~~ posting the information on the state websites. ~~, notify the MPA and PA Procurement Officers in writing, and work with the Procurement Officer(s) on recommended actions, as necessary~~.

6.13 Transitioning License Tracking Information at Contract Termination. The license information data acquired and retained by Reseller will be stored as sortable datafields so the license information can be transferred to a new system upon contract termination. Reseller will work with States and Participating Entities, or their designees, to ensure that the license information data has been successfully transferred in a usable format.

6.14 Reporting

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

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

6.14.3 *Custom reports.* Reseller may develop and provide custom reports as an optional service at a pre-quoted estimated total amount, at established hourly contract rates.

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

8 **EXCLUDED PRODUCTS AND SERVICES.** This contract is intended for the acquisition of distributed, commercial off the shelf software. It is not intended for the purchase of custom software applications. Individual PA's may further limit the scope of this contract.

9 **STATE SUPPORT.** No support, facility space, materials, special access, personnel or other obligations on behalf of the states, other than payment, are required under this contract.

10 **PERFORMANCE STANDARDS.** Offerors are requested to propose viable performance standards which the Offeror suggests as standards which best demonstrate the effectiveness of a Reseller in meeting the requirements of this contract, providing cost-savings solutions, and realizing a high level of customer satisfaction. The Standards agreed to would be added to the final awarded contract(s).

Uniform Terms and Conditions

STATE OF ARIZONA

Agency: **Arizona Dept. of Administration State Procurement Office (ADOA/SPO)**
Customer: **WSCA participating states; AZ Statewide (state agencies & cooperative partners)**

Description: **WSCA Software Value-Added Reseller**

1 **DEFINITION OF TERMS.** As used in this Solicitation and any resulting Contract, the terms listed below are defined as follows:

"Attachment" means any item the Solicitation requires the Offeror to submit as part of the Offer.

"Contract" means the combination of the Solicitation, including the Uniform and Special Instructions to Offerors, the Uniform and Special Terms and Conditions, and the Specifications and Statement or Scope of Work; the Offer and any Best and Final Offers; and any Solicitation Amendments or Contract Amendments.

"Contract Amendment" means a written document signed by the Procurement Officer that is issued for the purpose of making changes in the Contract.

"Contractor" means any person who has a Contract with the State.

"Days" means calendar days unless otherwise specified.

"Exhibit" means any item labeled as an Exhibit in the Solicitation or placed in the Exhibits section of the Solicitation.

"Gratuity" means a payment, loan, subscription, advance, deposit of money, services, or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value is received.

"Materials" means all property, including equipment, supplies, printing, insurance and leases of property but does not include land, a permanent interest in land or real property or leasing space.

"Procurement Officer" means the person, or his or her designee, duly authorized by the State to enter into and administer Contracts and make written determinations with respect to the Contract.

"Services" means the furnishing of labor, time or effort by a contractor or subcontractor which does not involve the delivery of a specific end product other than required reports and performance, but does not include employment agreements or collective bargaining agreements.

"Subcontract" means any Contract, express or implied, between the Contractor and another party or between a subcontractor and another party delegating or assigning, in whole or in part, the making or furnishing of any material or any service required for the performance of the Contract.

"State" means the State of Arizona and Department or Agency of the State that executes the Contract.

"State Fiscal Year" means the period beginning with July 1 and ending June 30.

2 **CONTRACT INTERPRETATION**

2.1 **Arizona Law.** The Arizona law applies to this Contract including, where applicable, the Uniform Commercial Code as adopted by the State of Arizona and the Arizona Procurement Code, Arizona Revised Statutes (A.R.S.) Title 41, Chapter 23, and its implementing rules, Arizona Administrative Code (A.A.C.) Title 2, Chapter 7.

2.2 **Implied Contract Terms.** Each provision of law and any terms required by law to be in this Contract are a part of this Contract as if fully stated in it.

2.3 **Contract Order of Precedence.** In the event of a conflict in the provisions of the Contract, as accepted by the State and as they may be amended, the following shall prevail in the order (a) Special Terms and Conditions; (b) Uniform Terms and Conditions; (c) Statement or Scope of Work; (d) Specifications; (e)Attachments; (f) Exhibits; (g) Documents referenced or included in the Solicitation.

2.4 **Relationship of Parties.** The Contractor under this Contract is an independent Contractor. Neither party to this Contract shall be deemed to be the employee or agent of the other party to the Contract.

2.5 **Severability.** The provisions of this Contract are severable. Any term or condition deemed illegal or invalid shall not affect any other term or condition of the Contract.

2.6 **No Parole Evidence.** This Contract is intended by the parties as a final and complete expression of their agreement. No course of prior dealings between the parties and no usage of the trade shall supplement or explain any terms used in this document and no other understanding either oral or in writing shall be binding.

2.7 **No Waiver.** Either party's failure to insist on strict performance of any term or condition of the Contract shall not be deemed a waiver of that term or condition even if the party accepting or acquiescing in the nonconforming performance knows of the nature of the performance and fails to object to it.

3 CONTRACT ADMINISTRATION AND OPERATION

3.1 **Records.** Under A.R.S. § 35-214 and § 35-215, the Contractor shall retain and shall contractually require each subcontractor to retain all data and other "records" relating to the acquisition and performance of the Contract for a period of five years after the completion of the Contract. All records shall be subject to inspection and audit by the State at reasonable times. Upon request, the Contractor shall produce a legible copy of any or all such records.

3.2 **Non-Discrimination.** The Contractor shall comply with State Executive Order No. 2009-09 and all other applicable Federal and State laws, rules and regulations, including the Americans with Disabilities Act.

3.3 **Audit.** Pursuant to ARS § 35-214, at any time during the term of this Contract and five (5) years thereafter, the Contractor's or any subcontractor's books and records shall be subject to audit by the State and, where applicable, the Federal Government, to the extent that the books and records relate to the performance of the Contract or Subcontract.

3.4 **Facilities Inspection and Materials Testing.** The Contractor agrees to permit access to its facilities, subcontractor facilities and the Contractor's processes or services, at reasonable times for inspection of the facilities or materials covered under this Contract. The State shall also have the right to test, at its own cost, the materials to be supplied under this Contract. Neither inspection of the Contractor's facilities nor materials testing shall constitute final acceptance of the materials or services. If the State determines non-compliance of the materials, the Contractor shall be responsible for the payment of all costs incurred by the State for testing and inspection.

3.5 **Notices.** Notices to the Contractor required by this Contract shall be made by the State to the person indicated on the Offer and Acceptance form submitted by the Contractor unless otherwise stated in the Contract. Notices to the State required by the Contract shall be made by the Contractor to the Solicitation Contact Person indicated on the Solicitation cover sheet, unless otherwise stated in the Contract. An authorized Procurement Officer and an authorized Contractor representative may change their respective person to whom notice shall be given by written notice to the other and an amendment to the Contract shall not be necessary.

3.6 **Advertising, Publishing and Promotion of Contract.** The Contractor shall not use, advertise or promote information for commercial benefit concerning this Contract without the prior written approval of the Procurement Officer.

3.7 **Property of the State.** Any materials, including reports, computer programs and other deliverables, created under this Contract are the sole property of the State. The Contractor is not entitled to a patent or copyright on those materials and may not transfer the patent or copyright to anyone else. The Contractor shall not use or release these materials without the prior written consent of the State.

3.8 **Ownership of Intellectual Property.** Any and all intellectual property, including but not limited to copyright, invention, trademark, tradename, service mark, and/or trade secrets created or conceived pursuant to or as a result of this contract and any related subcontract ("Intellectual Property"), shall be work made for hire and the State shall be considered the creator of such Intellectual Property. The agency, department, division, board or commission of the State of Arizona requesting the issuance of this contract shall own (for and on behalf of the State) the entire right, title and interest to the Intellectual Property throughout the world. Contractor shall notify the State, within thirty (30) days, of the creation of any Intellectual Property by it or its subcontractor(s). Contractor, on behalf of itself and any subcontractor (s), agrees to execute any and all document(s) necessary to assure ownership of the Intellectual Property vests in the State and shall take no affirmative actions that might have the effect of vesting all or part of the Intellectual Property in any entity other than the State. The Intellectual Property shall not be disclosed by contractor or its subcontractor(s) to any entity not the State without the express written authorization of the agency, department, division, board or commission of the State of Arizona requesting the issuance of this contract.

3.9. **Federal Immigration and Nationality Act.** The contractor shall comply with all federal, state and local immigration laws and regulations relating to the immigration status of their employees during the term of the contract. Further, the contractor shall flow down this requirement to all subcontractors utilized during the term of the contract. The State shall retain the right to perform random audits of contractor and subcontractor records or to inspect papers of any employee thereof to ensure compliance. Should the State determine that the contractor and/or any subcontractors be found noncompliant, the State may pursue all remedies allowed by law, including, but not limited to; suspension of work, termination of the contract for default and suspension and/or debarment of the contractor.

3.10 **E-Verify Requirements.** In accordance with A.R.S. § 41-4401, Contractor warrants compliance with all Federal immigration laws and regulations relating to employees and warrants its compliance with Section A.R.S. § 23-214, Subsection A.

3.11 **Scrutinized Businesses.** In accordance with A.R.S. § 35-391 and A.R.S. § 35-393, Contractor certifies that the Contractor does not have scrutinized business operations in Sudan or Iran.

3.12 **Offshore Performance of Work Prohibited.** Any services that are described in the specifications or scope of work that directly serve the State of Arizona or its clients and involve access to secure or sensitive data or personal client data shall be performed within the defined territories of the United States. Unless specifically stated otherwise in the specifications, this paragraph does not apply to indirect or 'overhead' services, redundant back-up services or services that are incidental to the performance of the contract. This provision applies to work performed by subcontractors at all tiers.

4 COST AND PAYMENTS

4.1 **Payments.** Payments shall comply with the requirements of A.R.S. Titles 35 and 41, Net 30 days. Upon receipt and acceptance of goods or services, the Contractor shall submit a complete and accurate invoice for payment from the State within thirty (30) days.

4.2 **Delivery.** Unless stated otherwise in the Contract, all prices shall be F.O.B. Destination and shall include all freight delivery and unloading at the destination.

4.3. **Applicable Taxes.**

4.3.1. *Payment of Taxes.* The Contractor shall be responsible for paying all applicable taxes.

4.3.2. *State and Local Transaction Privilege Taxes.* The State of Arizona is subject to all applicable state and local transaction privilege taxes. Transaction privilege taxes apply to the sale and are the responsibility of the seller to remit. Failure to collect such taxes from the buyer does not relieve the seller from its obligation to remit taxes.

4.3.3. *Tax Indemnification.* Contractor and all subcontractors shall pay all Federal, state and local taxes applicable to its operation and any persons employed by the Contractor. Contractor shall, and require all subcontractors to hold the State harmless from any responsibility for taxes, damages and interest, if applicable, contributions required under Federal, and/or state and local laws and regulations and any other costs including transaction privilege taxes, unemployment compensation insurance, Social Security and Worker's Compensation.

4.3.4. *IRS W9 Form.* In order to receive payment the Contractor shall have a current I.R.S. W9 Form on file with the State of Arizona, unless not required by law.

4.4 **Availability of Funds for the Next State fiscal year.** Funds may not presently be available for performance under this Contract beyond the current state fiscal year. No legal liability on the part of the State for any payment may arise under this Contract beyond the current state fiscal year until funds are made available for performance of this Contract.

4.5 **Availability of Funds for the current State fiscal year.** Should the State Legislature enter back into session and reduce the appropriations or for any reason and these goods or services are not funded, the State may take any of the following actions: (a) accept a decrease in price offered by the contractor; (b) cancel the Contract; or (c) cancel the contract and re-solicit the requirements.

5 CONTRACT CHANGES

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

5.2 **Subcontracts.** The Contractor shall not enter into any Subcontract under this Contract for the performance of this contract without the advance written approval of the Procurement Officer. The Contractor shall clearly list any proposed subcontractors and the subcontractor's proposed responsibilities. The Subcontract shall incorporate by reference the terms and conditions of this Contract.

5.3 **Assignment and Delegation.** The Contractor shall not assign any right nor delegate any duty under this Contract without the prior written approval of the Procurement Officer. The State shall not unreasonably withhold approval.

6 RISK AND LIABILITY

6.1. **Risk of Loss.** The Contractor shall bear all loss of conforming material covered under this Contract until received by authorized personnel at the location designated in the purchase order or Contract. Mere receipt does not constitute final acceptance. The risk of loss for nonconforming materials shall remain with the Contractor regardless of receipt.

6.2 **Indemnification.**

6.2.1 *Indemnification – Contractor/Vendor Indemnification (Not Public Agency).* The parties to this contract agree that the State of Arizona, its' departments, agencies, boards and commissions shall be indemnified and held harmless by the contractor for the vicarious liability of the State as a result of entering into this contract. However, the parties further agree that the State of Arizona, its departments, agencies, boards and commissions shall be responsible for its own negligence. Each party to this contract is responsible for its own negligence.

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

6.2.3 *Indemnification - Patent and Copyright.* The Contractor shall indemnify and hold harmless the State against any liability, including costs and expenses, for infringement of any patent, trademark or copyright arising out of Contract performance or use by the State of materials furnished or work performed under this Contract. The State shall reasonably notify the Contractor of any claim for which it may be liable under this paragraph. If the contractor is insured pursuant to A.R.S. § 41-621 and § 35-154, this section shall not apply.

6.3 **Force Majeure.** Except for payment of sums due, neither party shall be liable to the other nor deemed in default under this Contract if and to the extent that such party's performance of this Contract is prevented by reason of force majeure. The term "force majeure" means an occurrence that is beyond the control of the party affected and occurs without its fault or negligence. Without limiting the foregoing, force majeure includes acts of God; acts of the public enemy; war; riots; strikes; mobilization; labor disputes; civil disorders; fire; flood; lockouts; injunctions-intervention-acts; or failures or refusals to act by government authority; and other similar occurrences beyond the control of the party declaring force majeure which such party is unable to prevent by exercising reasonable diligence.

Force Majeure shall not include the following occurrences: (a) late delivery of equipment or materials caused by congestion at a manufacturer's plant or elsewhere, or an oversold condition of the market; (b) late performance by a subcontractor unless the delay arises out of a force majeure occurrence in accordance with this force majeure term and condition; or (c) inability of either the Contractor or any subcontractor to acquire or maintain any required insurance, bonds, licenses or permits.

If either party is delayed at any time in the progress of the work by force majeure, the delayed party shall notify the other party in writing of such delay, as soon as is practicable and no later than the following working day, of the commencement thereof and shall specify the causes of such delay in such notice. Such notice shall be delivered or mailed certified-return receipt and shall make a specific reference to this article, thereby invoking its provisions. The delayed party shall cause such delay to cease as soon as practicable and shall notify the other party in writing when it has done so. The time of completion shall be extended by Contract Amendment for a period of time equal to the time that results or effects of such delay prevent the delayed party from performing in accordance with this Contract.

Any delay or failure in performance by either party hereto shall not constitute default hereunder or give rise to any claim for damages or loss of anticipated profits if, and to the extent that such delay or failure is caused by force majeure.

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

7 WARRANTIES

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

7.2 **Quality.** Unless otherwise modified elsewhere in these terms and conditions, the Contractor warrants that, for one year after acceptance by the State of the materials, they shall be: (a) of a quality to pass without objection in the trade under the Contract description; (b) fit for the intended purposes for which the materials are used; (c) within the variations permitted by the Contract and are of even kind, quantity, and quality within each unit and among all units; (d) adequately contained, packaged and marked as the Contract may require; and (e) conform to the written promises or affirmations of fact made by the Contractor.

7.3 **Fitness.** The Contractor warrants that any material supplied to the State shall fully conform to all requirements of the Contract and all representations of the Contractor, and shall be fit for all purposes and uses required by the Contract.

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

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

7.6 **Survival of Rights and Obligations after Contract Expiration or Termination.**

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

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

8 STATE'S CONTRACTUAL REMEDIES

8.1 **Right to Assurance.** If the State in good faith has reason to believe that the Contractor does not intend to, or is unable to perform or continue performing under this Contract, the Procurement Officer may demand in writing that the Contractor give a written assurance of intent to perform. Failure by the Contractor to provide written assurance within the number of Days specified in the demand may, at the State's option, be the basis for terminating the Contract under the Uniform Terms and Conditions or other rights and remedies available by law or provided by the contract.

8.2 **Stop Work Order.** The State may, at any time, by written order to the Contractor, require the Contractor to stop all or any part, of the work called for by this Contract for period(s) of days indicated by the State after the order is delivered to the Contractor. The order shall be specifically identified as a stop work order issued under this clause. Upon receipt of the order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage.

If a stop work order issued under this clause is canceled or the period of the order or any extension expires, the Contractor shall resume work. The Procurement Officer shall make an equitable adjustment in the delivery schedule or Contract price, or both, and the Contract shall be amended in writing accordingly.

8.3 **Non-exclusive Remedies.** The rights and the remedies of the State under this Contract are not exclusive.

8.4 **Nonconforming Tender.** Materials or services supplied under this Contract shall fully comply with the Contract. The delivery of materials or services or a portion of the materials or services that do not fully comply constitutes a breach of contract. On delivery of nonconforming materials or services, the State may terminate the Contract for default under applicable termination clauses in the Contract, exercise any of its rights and remedies under the Uniform Commercial Code, or pursue any other right or remedy available to it.

8.5 **Right of Offset.** The State shall be entitled to offset against any sums due the Contractor, any expenses or costs incurred by the State, or damages assessed by the State concerning the Contractor's non-conforming performance or failure to perform the Contract, including expenses, costs and damages described in the Uniform Terms and Conditions.

9 CONTRACT TERMINATION

9.1 **Cancellation for Conflict of Interest.** Pursuant to A.R.S. § 38-511, the State may cancel this Contract within three (3) years after Contract execution without penalty or further obligation if any person significantly involved in initiating, negotiating, securing, drafting or creating the Contract on behalf of the State is or becomes at any time while the Contract or an extension of the Contract is in effect an employee of or a consultant to any other party to this Contract with respect to the subject matter of the Contract. The cancellation shall be effective when the Contractor receives written notice of the cancellation unless the notice specifies a later time. If the Contractor is a political subdivision of the State, it may also cancel this Contract as provided in A.R.S. § 38-511.

9.2 **Gratuities.** The State may, by written notice, terminate this Contract, in whole or in part, if the State determines that employment or a Gratuity was offered or made by the Contractor or a representative of the Contractor to any officer or employee of the State for the purpose of influencing the outcome of the procurement or securing the Contract, an amendment to the Contract, or favorable treatment concerning the Contract, including the making of any determination or decision about contract performance. The State, in addition to any other rights or remedies, shall be entitled to recover exemplary damages in the amount of three times the value of the Gratuity offered by the Contractor.

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

9.4 **Termination for Convenience.** The State reserves the right to terminate the Contract, in whole or in part at any time, when in the best interests of the State without penalty or recourse. Upon receipt of the written notice, the Contractor shall stop all work, as directed in the notice, notify all subcontractors of the effective date of the termination and minimize all further costs to the State. In the event of termination under this paragraph, all documents, data and reports prepared by the Contractor under the Contract shall become the property of and be delivered to the State upon demand. The Contractor shall be entitled to receive just and equitable compensation for work in progress, work completed and materials accepted before the effective date of the termination. The cost principles and procedures provided in A.A.C. R2-7-701 shall apply.

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

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

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

9.6 **Continuation of Performance through Termination.** The Contractor shall continue to perform, in accordance with the requirements of the Contract, up to the date of termination, as directed in the termination notice.

10 CONTRACT CLAIMS. All contract claims or controversies under this Contract shall be resolved according to A.R.S. Title 41, Chapter 23, Article 9, and rules adopted thereunder.

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

12 COMMENTS WELCOME. The State Procurement Office periodically reviews the Uniform Terms and Conditions and welcomes any comments you may have. Please submit your comments to: State Procurement Administrator, State Procurement Office, 100 North 15th Avenue, Suite 201, Phoenix, Arizona, 85007.

Special Terms and Conditions

STATE OF ARIZONA

Agency: Arizona Dept. of Administration
State Procurement Office (ADOA/SPO0

Customer: WSCA participating states; AZ Statewide (state agencies and cooperative partners)

Description: **WSCA Software Value-Added Reseller**

1 **DEFINITIONS for ProcureAZ terms.** ProcureAZ (https://procure.az.gov) is the State's online eProcurement system. Although the system was configured for the State's needs, the application is based on a commercial product known as BuySpeed Online, made by Periscope Holdings, Inc. As a result, some of the terms used in the BuySpeed Online application may be semantically different to similar terms used by the State. The following terms are as they appear in BuySpeed Online (and ProcureAZ), along with their corresponding meanings as they apply to the solicitation.

"Actual Cost" means the total value of all items and their extended quantities.

"Alternate Id / Alternate ID" is an optional field and means any additional data in order to link a solicitation or project to a related project, activity or program.

"Attachments" means the section, as displayed in ProcureAZ, where the solicitation's electronic documents may be attached. Attachments as defined in the Uniform Instructions may include Solicitation Attachments, and/or as defined in the Uniform Terms and Conditions may include Contract Attachments.

"Buyer" means procurement officer.

"Catalog ID" is an optional data field and means an identification number to signify a group of related contracts.

"Contact Instructions" means the contact information for the procurement officer.

"Control Code" is an optional field and means an identification characteristic of the contract.

"Days ARO" means the number of days 'After Receipt of Order' in which the customer will receive the ordered materials and/or services.

"Department" means the customer for whom the solicitation or contract was conducted for.

"Discount %" is an optional field and means the standard discount applied to all items.

"Entered Date" means the date that the contract was awarded, not necessarily the date the contract starts, e.g., Master Blanket/Contract Begin Date.

"Fiscal Year" means the State Fiscal Year in which the solicitation was initiated. In the event of contract(s) resulting from the solicitation, the Fiscal Year shall remain unchanged.

"Freight Terms" means how freight will be charged under the contract.

"Header Information" means the section of the solicitation or contract, as displayed in ProcureAZ, containing solicitation or contract information other than the line items.

"Item information" means the section of the solicitation or contract, as displayed in ProcureAZ, containing the solicitation or contract line items.

"Location" means the specific customer, within the department, for whom the solicitation or contract was done.

"Master Blanket/Contract Begin Date" means the date that the contract starts.

"Master Blanket/Contract End Date" means the date that the contract ends.

"Master Blanket/Contract End Date (Maximum)" means the date that the contract may be extended through if all allowable term extensions are exercised.

"Master Blanket/Contract Vendor Distributor List" means the list of companies authorized to distribute the materials and/or services on behalf of the contractor under the contract.

"Master Blanket Purchase Order" means the contract, indicating that the contract will be in effect over a stated period of time.

"Minor Status" is an optional data field and means a type of status indicator of the contract in ProcureAZ.

"Organization" means the state agency under whose authority the solicitation or contract was conducted.

"Payment Terms" means the period of time that payment is due after receipt of an accurate invoice.

"Pcard Enabled" is an optional data field and means that customers are allowed to use their purchasing card (P-Card or Pcard) to order from the contract within the ProcureAZ system.

"PO Acknowledgement" means the list the notifications to the contractor and their acknowledgements of these notices.

"PO Type" means the period of time that the contract is in place, either a one-time transaction, Open Market, or for a stated period of time, Blanket.

"Print Dest Detail" is an optional data field and means a print format applicable to orders under the contract.

"Print Format" means the format of the solicitation or contract print output.

"Project No." is an optional field and means an identification characteristic of the contract.

"Purchase Order" means contract.

"Purchase Order Number" means the contract's identification number.

"Purchaser" means procurement officer.

"Receipt Method" means the method by which materials and/or services under the contract are received, either by amount spent, Dollar, or by item units, Quantity.

"Release Number" means the order number of each order under the contract. The Master Blanket/Contract will always reflect a zero "0" release number.

"Release Type" means the process that orders under the contract are subject to within ProcureAZ, requiring approval on an order-by-order basis, e.g., Standard Releases or not requiring approval, e.g., Direct Release.

"Retainage %" is an optional field and means the amount of the contract's value that is retained.

"Shipping Method" means the method of shipping to be used under the contract.

"Shipping Terms" means the point where the contractor will ship the materials and/or services to, and if accepted, the point when responsibility and title passes from the contractor to the state.

"Short Description" means the contract's title.

"Status" means the availability of the contract within ProcureAZ for ordering, e.g., Sent status.

"Tax Code", if applicable, means the amount of taxes, expressed as a percentage, to be added to all items purchased under the contract. As items may be subject to differing tax rates, this field may be blank.

"Type Code" means the category of customers that may use any resulting contract(s), e.g., Single-Agency, Multi-Agency or Statewide.

"Vendor" means contractor.

2 OTHER DEFINITIONS

"Lead State" means the State conducting this cooperative solicitation and centrally administering any resulting Master Agreement with the permission of the Signatory States.

"MPA Contractor" means the person or entity delivering Products or performing services under the terms and conditions set forth in this Master Price Agreement.

"Master Price Agreement" or "Master Agreement" means the underlying agreement, executed by and between the Lead State, as WSCA contract manager, acting on behalf of the Western States Contracting Alliance (WSCA), and the Contractor, as now or hereafter amended.

"Participating Addendum" means a bilateral agreement executed by a Contractor and a Participating Entity incorporating this Master Agreement and any other additional Participating Entity's specific language or other requirements, e.g., ordering procedures specific to the Participating Entity, other terms and conditions.

"WSCA" means the Western States Contracting Alliance, a cooperative group contracting consortium for state procurement officials, representing 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. WSCA is a cooperative purchasing arm of the National Association of State Procurement Officials (NASPO).

3 CONTRACT ADMINISTRATION

3.1 **Contract.** The contract includes the Master Price Agreement executed between the MPA Contractor and the State of Arizona, as Lead State on behalf of WSCA, as a result of this solicitation, and a Participating Addendum executed between an MPA contractor and an individual participating State.

3.1.1 Master Price Agreement (MPA) or Master Agreement. The MPA shall consist of: the solicitation as amended, any requests for clarifications and/or best and final offers, the proposal submitted by the MPA Contractor, their responses to any requests for clarifications and/or their best and final offer. In the event of a conflict in language between the documents referenced above, the provisions and requirements set forth and/or referenced in the solicitation as amended shall govern. However, the State reserves the right to clarify any contractual relationship in writing, and such written clarification shall govern in case of conflict with the applicable requirements stated in the solicitation as amended or the contractor's proposal. In all other matters not affected by the written clarification, if any, the solicitation shall govern.

3.1.2 Participating Addendum (PA). An individual participating state may execute an individual PA with one or more MPA Contractors. The PA will be administered by the Participating State, in conjunction with the Lead State.

3.1.3 Order of Precedence. Any conflict in terms between the MPA and the PA shall be resolved by giving priority to the terms of the PA. In their PA, an individual state may establish their Order of Precedence for conflicting terms in the different sections of their contract.

3.2 **Participation.** Use of a WSCA cooperative contract by state agencies, political subdivisions and other entities (including cooperatives) authorized by an 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 State Chief Procurement Official. In Arizona, this contract shall be for the use of all State of Arizona departments, agencies, commissions and boards. In addition, eligible universities, political subdivisions and nonprofit educational or public health institutions may participate at their discretion. In order to participate in this contract, a university, political subdivision, or nonprofit educational or public health institution shall have entered into a Cooperative Purchasing Agreement with the Department of Administration, State Procurement Office as required by Arizona Revised Statutes § 41-2632. This contract has been awarded with the understanding and agreement that it is for the sole convenience of the State of Arizona. The State reserves the right to obtain like goods or services from another source when necessary. Off-contract purchase authorization(s) may be approved by either the agency (within an agencies delegated authority) or by the State Procurement Office. Approvals shall be at the exclusive discretion of the State and shall be final. Off-contract procurement shall be consistent with the Arizona Procurement Code.

3.3 **Estimated Quantities.** WSCA and the State of Arizona anticipate considerable activity resulting from contracts that will be awarded as a result of this solicitation; however, no commitment of any kind is made concerning quantities actually acquired and that fact should be taken into consideration by each potential contractor. The Contract shall be on an as needed, if needed basis.

3.4 **Contract Type.** The Contract shall be Firm Fixed Price, with firm pre-order quote based on the Contractor rates.

3.5 **Contract Term.** Pursuant to Arizona law, the term of the Master Agreement shall be effective upon the date of final execution by the State of Arizona, and shall continue for a period of two (2) years from the date of the executed Master Agreement unless terminated, cancelled or extended as otherwise provided herein. The term of the individual Participating Addendum (PA) shall be effective upon the date of execution by the individual state, unless the individual state establishes a different effective date. Termination dates of an individual PA shall be the same as that of the Master Agreement unless terminated, cancelled or otherwise provided in the PA.

3.6 **Contract Extensions.** By mutual written contract amendment, the MPA may be extended for three (3) one-year periods or a portion thereof for a total contract term not to exceed five (5) years. Unless otherwise established in the PA, the term of the PA will automatically be extended with the extension of the term of the MPA. No PA can be extended beyond the term established in the MPA.

3.7 **Scrutinized Business Operations.** Pursuant to A.R.S. § 35-391.06 and § 35-393.06, the Contractor certifies that it does not have a scrutinized business operation in Sudan or Iran. For the purpose of this Section the term "scrutinized business operations" shall have the meanings set forth in A.R.S. § 35-391 or and § 35-393, as applicable.

3.8 **E-Verify.** The Contractor warrants compliance with all Federal immigration laws and regulations relating to employees and warrants its compliance with Section A.R.S. § 23-214, Subsection A. (That subsection reads: "After December 31, 2007, every employer, after hiring an employee, shall verify the employment eligibility of the employee through the e-verify program.). A breach of a warranty regarding compliance with immigration laws and regulations shall be deemed a material breach of the

contract and the Contractor may be subject to penalties up to and including termination of the contract. Failure to comply with a State audit process to randomly verify the employment records of contractors and subcontractors shall be deemed a material breach of the contract and the Contractor may be subject to penalties up to and including termination of the contract. The State Agency retains the legal right to inspect the papers of any employee who works on the contract to ensure that the Contractor or subcontractor is complying with the warranty.

3.9 **Pandemic Contractual Performance.** The State shall require a written plan that illustrates how the contractor shall perform up to contractual standards in the event of a pandemic. The state may require a copy of the plan at anytime prior or post award of a contract. At a minimum, the pandemic performance plan shall include: (i) Key succession and performance planning if there is a sudden significant decrease in contractor's workforce; (ii) Alternative methods to ensure there are products in the supply chain; and (iii) An up to date list of company contacts and organizational chart.

In the event of a pandemic, as declared by the Governor of Arizona, U.S. Government or the World Health Organization, which makes performance of any term under this contract impossible or impracticable, the State shall have the following rights: (i) After the official declaration of a pandemic, the State may temporarily void the contract(s) in whole or specific sections if the contractor cannot perform to the standards agreed upon in the initial terms; (ii) The State shall not incur any liability if a pandemic is declared and emergency procurements are authorized by the director as per § 41-2537 of the Arizona Procurement Code; and (iii) Once the pandemic is officially declared over and/or the contractor can demonstrate the ability to perform, the State, at its sole discretion may reinstate the temporarily voided contract(s).

The State, at any time, may request to see a copy of the written plan from the contractor. The contactor shall produce the written plan within 72 hours of the request.

3.10 **Electronic or Information Technology.** Products, services and maintenance shall comply with A.R.S. § 41-3531, which requires conformance with the requirements of Section 508 of the Rehabilitation Act of 1973. Failure to comply shall be considered a breach of the Contract.

4 CONTRACT OPERATION

4.1 **Contract Release Orders.** Any services to be furnished under this contract shall be ordered by issuance of orders by the Participating Entity. Such orders may be issued from effective date of contract award. All orders are subject to the terms and conditions of this contract. All orders shall cite the contact numbers, that is, the number of the MPA and PA.

4.2 **Ordering Process.** Any products or services to be furnished under this contract shall be ordered by issuance of orders, following receipt of a firm quote as required in the Statement of Work, by the Participating Entity. Individual PA's may modify these, or provide other requirements of an individual state for placing an order. Contract releases or purchase orders are those that are issued by an Authorized Purchaser (defined in the Statement of Work) in any of the following forms:

- Hard copy, one time only or blanket (term type)
- Electronically transmitted through facsimile equipment
- Electronically transmitted as an e-mail attachment
- Electronically transmitted through a contractor's Electronic Data Interchange (EDI) system or secured internet/web portal, i.e. those that provide electronic commerce assistance for the electronic submission of purchase orders, purchase order tracking and reporting.
    - Such systems shall not allow for purchase orders to be placed for non-contract or excluded items
    - Use of such systems shall be at the sole discretion of the Participating Entity and all costs associated with set-up, maintenance and support shall be borne by the Contractor.
- Electronically through Participating Entity's p-card program.

4.3 **Order Acknowledgement.** Contractor shall acknowledge receipt of all Orders. Contractor shall notify the Customer, in writing or electronically, within two (2) days of Order receipt. Customers may accept verbal Order acknowledgment when time and circumstances require.

4.4 **Billing.** Contractor shall include both the Master Agreement number, and the appropriate PA reference number on invoices.

4.5 **Travel.** When requested, in writing, from the Participating Entity to perform work that requires overnight accommodations, the Participating Entity will reimburse the contractor in accordance with the current rates specified in the Rules and Regulations applicable to that Entity or as otherwise defined in their PA. The Contractor shall itemize all per diem and lodging charges.

The Rules and Regulations that apply to contractors for the State of Arizona are those which are applicable to State employee travel. These State rates may be located at www.gao.state.az.us.

4.6 Key Personnel. It is essential that the contractor provide an adequate staff of experienced personnel, capable of and devoted to the successful accomplishment of work to be performed under this contract. The contractor must assign specific individuals to the key positions. Once assigned to work under the contract, key personnel shall not be removed or replaced without the prior written approval of the issuing agency and a copy to the procurement office of record

4.7 Notification. The All notices, requests, demands, consents, approvals, and other communications which may or are required to be served or given hereunder (for the purposes of this provisions collectively called 'Notices'), shall be in writing and shall be sent by registered or certified United States mail, return receipt requested, postage prepaid, addressed to the party or parties to receive such notice as follows:

To the Lead State (Administrator of the Master Agreement):
Arizona Department of Administration
State Procurement Office
100 North 15th Avenue, Suite 201
Phoenix, Arizona 85007
Fax: 602-542-5508
Procurement Officer: Maureen L. McGovern, MBA, CPPO
Email: Maureen.mcgovern@azdoa.gov
Direct Phone: 602-542-9125

To the Contractor: (to be completed at time of award):

To the Participating State: (to be defined in the Participating Addendum)

5 USAGE REPORTS AND ADMINISTRATIVE FEES

5.1 Usage Reports. Reseller agrees to provide quarterly utilization reports to WSCA. The report shall be in the format developed by the Lead State and supplied to the Reseller at time of award. Individual participating states may require their own usage reports. Reseller shall provide these reports at the intervals, and in the format, required by the States.

5.2 Administrative Fees.

5.2.1 WSCA Administrative Fee - Reseller will remit to WSCA a contract administration fee in the amount of one-half of one percent (.5%) of the total sales from this contract. The pricing listed on the proposal shall include the WSCA administrative fee. Administrative fees shall not be added as a line item on any invoice. A statement verifying the total sales amount for all Participating States must accompany the remittance. This remittance is due to WSCA no later than 45 days after the last day of each calendar quarter. The form to be submitted with the check, as well as mailing address, will be provided to Reseller at time of contract award.

5.2.2 Individual State's Administrative Fees - In addition to the WSCA contact administration fee as stated above, some Participating States may also require an administrative fee. See also the section entitled, "Price Quotes – General". Specific State Administrative Fees may be added to the price of each item. Information on a State's Administrative Fee will be provided in that State's PA.

6 RISK AND LIABILITY

The following pages cover indemnification and insurance requirements. Unless otherwise established or modified in an individual PA, these requirements may be interpreted to apply to any Participating State. Contractors shall provide current Certificates of Insurance to each State with which the Contractor has an executed PA.

INDEMNIFICATION:

The Contractor shall defend, indemnify and hold harmless WSCA, the Lead State, and Participating Entities along with their officers, agencies, and employees as well as any person or entity for which they may be liable from and against claims, damages or causes of action including reasonable attorneys' fees and related costs for any death, injury, or damage to property arising from act(s), error(s), or omission(s) of the Contractor, its employees or subcontractors or volunteers, at any tier, relating to the performance under the Master Agreement. This section is not subject to any limitations of liability in this Master Agreement or in any other document executed in conjunction with this Master Agreement.

INSURANCE REQUIREMENTS:

Vendor shall procure and maintain, until all of their obligations, including any warranty periods under this Contract, are satisfied, insurance against claims for injury to persons or damage to property which may arise from or in connection with the purchase and or use of the commodity.

The *Insurance requirements* herein are minimum requirements for this Contract and in no way limit the indemnity covenants contained in this Contract. The State of Arizona in no way warrants that the minimum limits contained herein are sufficient to protect the Vendor from liabilities that might arise out of the purchase and use of the commodities sold under this Contract by the Vendor, his agents, representatives, employees or subcontractors and Vendor is free to purchase such additional insurance as may be determined necessary.

A. **MINIMUM SCOPE AND LIMITS OF INSURANCE:** Contractor shall provide coverage at least as broad and with limits of liability not less than those stated below.

1. **Commercial General Liability – Occurrence Form**
   Policy shall include bodily injury, property damage, personal injury and broad form contractual liability.

• General Aggregate	$2,000,000
• Products – Completed Operations Aggregate	$1,000,000
• Personal and Advertising Injury	$1,000,000
• Fire Legal Liability	$ 50,000
• Blanket Contractual Liability – Written and Oral	$1,000,000
• Each Occurrence	$1,000,000

2. **Business Automobile Liability**
   Bodily Injury and Property Damage for any owned, hired, and/or non-owned vehicles used in the performance of this Contract.

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

   a. The policy shall be endorsed to include the following additional insured language: ***"The [Participating State, e.g., the State of Arizona], its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees shall be named as additional insureds with respect to liability arising out of the activities performed by or on behalf of the Contractor, involving automobiles owned, leased, hired or borrowed by the Contractor."***

   b. Policy shall contain a waiver of subrogation against the **[Participating State, e.g., State of Arizona]**, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.

3. **Worker's Compensation and Employers' Liability**

Workers' Compensation	Statutory
Employers' Liability	
Each Accident	$ 500,000
Disease – Each Employee	$ 500,000
Disease – Policy Limit	$1,000,000

   a. Policy shall contain a waiver of subrogation against the **[Participating State, e.g., State of Arizona]**, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.

   b. For the State of Arizona, this requirement shall not apply to: Separately, EACH contractor or subcontractor exempt under A.R.S. 23-901, AND when such contractor or subcontractor executes the appropriate waiver (Sole Proprietor/Independent Contractor) form.

B. **ADDITIONAL INSURANCE REQUIREMENTS:** The policies are to contain, or be endorsed to contain, the following provisions:

1. The **[Participating State., e.g., State of Arizona]**, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees wherever additional insured status is required. Such additional insured shall be covered to the full limits of liability purchased by the Contractor, even if those limits of liability are in excess of those required by this Contract.
2. The Contractor's insurance coverage shall be primary insurance with respect to all other available sources.
3. Coverage provided by the Contractor shall not be limited to the liability assumed under the indemnification provisions of this Contract.

C. **NOTICE OF CANCELLATION:** With the exception of (10) day notice of cancellation for non-payment of premium, any changes material to compliance with this contract in the insurance policies above shall require (30) days written notice to the Lead State (the State of Arizona) and the Participating State. Such notice shall be sent directly to the Procurement Officer for this Master Agreement and to the Procurement Officer of the Participating Addendum and shall be sent by certified mail, return receipt requested.

D. **ACCEPTABILITY OF INSURERS:** Insurance is to be placed with duly licensed or approved non-admitted insurers in the State of Arizona with an "A.M. Best" rating of not less that A- VII. The State of Arizona in no way warrants that the above-required minimum insurer rating is sufficient to protect the Vendor from potential insurer insolvency.

E. **VERIFICATION OF COVERAGE:** Contractor shall furnish the State of Arizona with certificates of insurance (ACORD form or equivalent approved by the **Participating State**) as required by this Contract. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

All certificates and endorsements are to be received by the Participating State before work commences. Each insurance policy required by this Contract must be in effect at or prior to commencement of work under this Contract and remain in effect for the duration of the project. Failure to maintain the insurance policies as required by this Contract, or to provide evidence of renewal, is a material breach of contract.

All certificates required by this Contract shall be sent directly to the Procurement Officer of the Lead State and to the Procurement Officer of the Participating State. Both the Master Agreement number and the Participating Addendum number and contract description are to be noted on the certificate of insurance. The State of Arizona reserves the right to require complete, certified copies of all insurance policies required by this Contract at any time. **DO NOT SEND CERTIFICATES OF INSURANCE TO THE STATE OF ARIZONA'S RISK MANAGEMENT DIVISION.**

F. **APPROVAL:** Any modification or variation from the *insurance requirements* in this Contract must have prior approval from the State of Arizona Department of Administration, Risk Management Division, whose decision shall be final. Such action will not require a formal contract amendment, but may be made by administrative action.

G. **EXCEPTIONS:** In the event the Contractor or sub-contractor(s) is/are a public entity, then the Insurance Requirements shall not apply. Such public entity shall provide a Certificate of Self-Insurance. If the contractor or sub-contractor(s) is/are a State of Arizona agency, board, commission, or university then none of the above shall apply.

Pricing Proposal
Quotation #: 5089978
Created On: 12/23/2011
Valid Until: 1/22/2012

County of Gila AZ

Tyler Solberg
1400 E Ash Street
Globe, AZ 85501
United States
Phone: (928) 402-8779
Fax:
Email: tgsolberg@co.gila.az.us

Account Representative

Jessica Goglia
290 Davidson Avenue
Somerset, NJ 08873
Phone: 732-537-7177
Fax: 732-537-7179
Email: Jessica_Goglia@shi.com

All Prices are in US Dollar (USD)

	Product	Qty	Your Price	Total
1	VMware Support and Subscription Basic - Technical support - emergency phone consulting - 1 year - 12x5 - 4 business hours - for VMware vCenter Server Standard for vSphere (v. 5) **VMware** - Part#: VCS5-STD-G-SSS-C **Note:** Maintenance Dates: 01/05/2012 - 01/04/2013	1	$995.59	$995.59

Subtotal	$995.59
*Tax	$75.67
Total	$1,071.26

*Tax is estimated. Invoice will include the full and final tax due.

Additional Comments

WSCA Contract AZ: ADSPO11-007500

First time user for SHI Direct website? Please use the following information when registering.

Arizona K-12:
http://www.publicsector.shidirect.com/k12/azi
Token: 8442
Access Key: BB5WNY5L7A

Arizona Gov't:
http://www.publicsector.shidirect.com/slg/az
Token: 8496
Access Key: BWBIUPBWYA

Arizona Hi-Ed:
http://www.publicsector.shidirect.com/hied/az
Token:8393
Access Key:UW9R45KM3!

Colorado Gov't:
http://www.publicsector.shidirect.com/slg/co
Token:8499
Access Key:3PQT94B6WZ

Colorado Hi-Ed:
http://www.publicsector.shidirect.com/hied/co
Token:8396
Access Key:HNN2I33U65

Colorado K-12
http://www.publicsector.shidirect.com/k12/co

The Products offered under this proposal are subject to the SHI Return Policy posted at www.shi.com/returnpolicy, unless there is an existing agreement between SHI and the Customer.