



OKLAHOMA
Office of Management
& Enterprise Services

The State of Oklahoma
By and through
The Office of Management and Enterprise Services

In conjunction with



And

COBAN TECHNOLOGIES, INC.

NASPO ValuePoint Master Agreement
Award for Public Safety / Law
Enforcement Video Products,
Services, and Solutions

You are hereby notified that your response to Solicitation OK-MA-145-21, which opened August 18, 2021 is accepted. The following documents, are incorporated herein by reference and constitute the entire Contract between you and the State: 1) A Participating Entity’s Participating Addendum (“PA”); 2) This NASPO ValuePoint Master Agreement Award which includes Exhibit A Terms, Conditions and Exhibit B Price and Cost Proposal; 3) The Request for Proposal; and 4) The Contractors response to the Request for Proposal and Service Level Agreement.

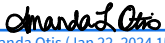

Coban Technologies, Inc. awarded categories include:

Category 1 – Body Worn Video Cameras and Recording Devices.

Category 2 – Vehicle Mounted Video and Recording Devices.

Category 5 – Video Storage, Data Security, Software and Peripherals

NOW, THEREFORE, in consideration of the foregoing and mutual promises set forth herein, the receipt and sufficiency of which are hereby acknowledged the parties have caused this Contract to be duly executed intending to be bound thereby.

STATE OF OKLAHOMA	CONTRACTOR
<p style="text-align: center;">Office of Management and Enterprise Services</p> <p style="text-align: center;"> Amanda Otis (Jan 22, 2024 15:53 CST)</p> <p>By: Amanda Otis</p>	<p style="text-align: center;">Coban Technologies, Inc.</p> <p style="text-align: center;"> J. Mark Griffin (Jan 22, 2024 15:52 CST)</p> <p>By:</p>
<p>Date: 01/22/2024</p>	<p>Date: 01/22/2024</p>
<p>Title: State Purchasing Director</p>	<p>Title: Vice President, Law Enforcement</p>

**Persons signing for Contractor hereby swear and affirm that they are authorized to act on Contractor’s behalf and acknowledge that the Lead State is relying on their representations to that effect.*

Master Agreement Number: OK-MA-145-21-200

OKLAHOMA AND NASPO VALUEPOINT MASTER AGREEMENT AWARD

SUMMARY

1. Scope of Work Defined. The goal of this Master Agreement is to provide State(s) requirements for competitive proposals along with value-added solutions which allow State and Local Governments to easily equip their public safety transportation equipment and employees with the best competitive pricing, cutting edge technology, and superior customer services without the need for individual competitive proposals.

With the volatile speed of technology designs, growing demands and unique customizable configurations, these product categories shall remain flexible and may be redefined during the life of this contract.

Note: the following items will not be included in this contract award: *Body Armor, LED Light Bars, Public Safety Radios, Radar, and Lidar Equipment*. These items are on separate NASPO ValuePoint Master Agreements.

2. Master Agreement Order of Precedence. Any Order placed under this Master Agreement shall consist of the following documents:

- (1) Participating Entity's Participating Addendum ("PA")
- (2) Oklahoma NASPO ValuePoint Master Agreement Award
 - a. Summary
 - b. NASPO ValuePoint Master Agreement Terms and Conditions as modified by Negotiated Exceptions and Additional Terms
 - c. Oklahoma Terms and Conditions as modified by Negotiated Exceptions and Additional Terms
 - d. Service Level Agreement
 - e. Price and Cost Proposal
 - f. Subcontractor List
 - g. Exhibit E, Contractor's Terms and Conditions Contained in Response, as revised and accepted by the Lead State;
- (3) A Purchase Order issued against the Master Agreement;
- (4) Supplier's responses set forth in Exhibit F -Technical Response;
- (5) The Solicitation; and.
- (6) Contractor's response to the Solicitation (other than Exhibit F - Negotiated Exceptions and Additional Terms).

These documents shall be read to be consistent and complementary. Any conflict among these documents shall be resolved by giving priority to these documents in the order listed above. Contractor terms and conditions that apply to this Master Agreement are only those that are expressly accepted by the Lead State and must be in writing and attached to this Master Agreement as an Exhibit or Attachment.

Master Agreement Number: OK-MA-145-21-200

Except for Section 8, Attachment A- Business, Services and Administrative Response, written responses to Company Information Items G (Annual Revenue for 2019) and H (Annual Revenue for Each of the Last Five Years), to Company Information (Company Legal History), and Company Information (Disaster Recovery) of Coban Technologies, Inc.'s bid, Coban Technologies, Inc.'s Security Certification And Accreditation Assessment and information deemed confidential by the State pursuant to applicable law, rule, regulation or policy, the parties agree Contract terms and information are not confidential and are disclosable without further approval of or notice to Supplier.



ATTACHMENT A

NASPO VALUEPOINT MASTER AGREEMENT TERMS AND CONDITIONS

I. Definitions

- 1.1 **Acceptance** means acceptance of goods and services as set forth in Section IX of this Master Agreement.
- 1.2 **Contractor** means a party to this Master Agreement, whether a person or entity, that delivers goods or performs services under the terms set forth in this Master Agreement.
- 1.3 **Embedded Software** means one or more software applications which permanently reside on a computing device.
- 1.4 **Intellectual Property** means any and all patents, copyrights, service marks, trademarks, trade secrets, trade names, patentable inventions, or other similar proprietary rights, in tangible or intangible form, and all rights, title, and interest therein.
- 1.5 **Lead State** means the State centrally administering any resulting Master Agreement(s) who is a party to this Master Agreement.
- 1.6 **Master Agreement** means the underlying agreement executed by and between the Lead State, acting in cooperation with NASPO ValuePoint, and the Contractor, as now or hereafter amended.
- 1.7 **NASPO ValuePoint** is a division of the National Association of State Procurement Officials ("NASPO"), a 501(c)(3) limited liability company. NASPO ValuePoint facilitates administration of the NASPO cooperative group contracting consortium of state chief procurement officials for the benefit of state departments, institutions, agencies, and political subdivisions and other eligible entities (i.e., colleges, school districts, counties, cities, some nonprofit organizations, etc.) for all states, the District of Columbia, and territories of the United States. NASPO ValuePoint is identified in the Master Agreement as the recipient of reports and may perform contract administration functions relating to collecting and receiving reports, as well as other contract administration functions as assigned by the Lead State.
- 1.8 **Order** or **Purchase Order** means any purchase order, sales order, contract, or other document used by a Purchasing Entity to order the Products.

- 1.9 Participating Addendum** means a bilateral agreement executed by a Contractor and a Participating Entity incorporating this Master Agreement and any additional Participating Entity-specific language or other requirements (e.g., ordering procedures specific to the Participating Entity, entity-specific terms and conditions, etc.).
- 1.10 Participating Entity** means a state (as well as the District of Columbia and US territories), city, county, district, other political subdivision of a State, or a nonprofit organization under the laws of some states properly authorized to enter into a Participating Addendum, that has executed a Participating Addendum.
- 1.11 Participating State** means a state that has executed a Participating Addendum or has indicated an intent to execute a Participating Addendum.
- 1.12 Product or Products and Services** means any equipment, software (including embedded software), documentation, service, or other deliverable supplied or created by the Contractor pursuant to this Master Agreement. The term Product includes goods and services.
- 1.13 Purchasing Entity** means a state (as well as the District of Columbia and US territories), city, county, district, other political subdivision of a State, or a nonprofit organization under the laws of some states if authorized by a Participating Addendum, that issues a Purchase Order against the Master Agreement and becomes financially committed to the purchase.

II. Term of Master Agreement

- 2.1 Initial Term.** The initial term of this Master Agreement is for two (2) years. The term of this Master Agreement may be amended beyond the initial term for three (3) additional years at the Lead State's discretion and by mutual agreement and upon review of requirements of Participating Entities, current market conditions, and Contractor performance.
- 2.2 Amendment Limitations.** The terms of this Master Agreement will not be waived, altered, modified, supplemented, or amended in any manner whatsoever without prior written agreement of the Lead State and Contractor.
- 2.3 Amendment Term.** The term of the Master Agreement may be amended past the initial term and stated renewal periods for a reasonable period if in the judgment of the Lead State a follow-on competitive procurement will be unavoidably delayed (despite good faith efforts) beyond the planned date of execution of the follow-on master agreement. This subsection will not be deemed to limit the authority of a Lead State under its state law to otherwise negotiate contract extensions.

III. Order of Precedence

- 3.1 Order.** Any Order placed under this Master Agreement will consist of the following documents:
- 3.1.1** A Participating Entity's Participating Addendum ("PA").
 - 3.1.2** NASPO ValuePoint Master Agreement, including all attachments thereto.
 - 3.1.3** A Purchase Order or Scope of Work/Specifications issued against the Master Agreement.
 - 3.1.4** The Solicitation or, if separately executed after award, the Lead State's bilateral agreement that integrates applicable provisions.
 - 3.1.5** Contractor's response to the Solicitation, as revised (if permitted) and accepted by the Lead State.
- 3.2 Conflict.** These documents will be read to be consistent and complementary. Any conflict among these documents will be resolved by giving priority to these documents in the order listed above. Contractor terms and conditions that apply to this Master Agreement are only those that are expressly accepted by the Lead State and must be in writing and attached to this Master Agreement as an Exhibit or Attachment.
- 3.3 Participating Addenda.** Participating Addenda will not be construed to diminish, modify, or otherwise derogate any provisions in this Master Agreement between the Lead State and Contractor. Participating Addenda will not include a term of agreement that exceeds the term of the Master Agreement.

IV. Participants and Scope

- 4.1 Requirement for a Participating Addendum.** Contractor may not deliver Products under this Master Agreement until a Participating Addendum acceptable to the Participating Entity and Contractor is executed.
- 4.2 Applicability of Master Agreement.** NASPO ValuePoint Master Agreement Terms and Conditions are applicable to any Order by a Participating Entity (and other Purchasing Entities covered by their Participating Addendum), except to the extent altered, modified, supplemented or amended by a Participating Addendum, subject to Section III. For the purposes of illustration and not limitation, this authority may apply to unique delivery and invoicing requirements, confidentiality requirements, defaults on Orders, governing law and venue relating to Orders by a Participating Entity, indemnification, and insurance requirements. Statutory or constitutional requirements relating to availability of funds may require specific language in some Participating Addenda in order to comply with applicable law. The expectation is that these alterations, modifications, supplements, or amendments will be addressed in the Participating Addendum or, with the consent of the Purchasing Entity and Contractor, may be included in the ordering

document (e.g., purchase order or contract) used by the Purchasing Entity to place the Order.

- 4.3 Authorized Use.** Use of specific NASPO ValuePoint Master Agreements by state agencies, political subdivisions and other Participating Entities is subject to applicable state law and the approval of the respective State Chief Procurement Official. Issues of interpretation and eligibility for participation are solely within the authority of the respective State Chief Procurement Official.
- 4.4 Obligated Entities.** Obligations under this Master Agreement are limited to those Participating Entities who have signed a Participating Addendum and Purchasing Entities within the scope of those Participating Addenda. States or other entities permitted to participate may use an informal competitive process to determine which Master Agreements to participate in through execution of a Participating Addendum. Participating Entities incur no financial obligations on behalf of other Purchasing Entities.
- 4.5 Notice of Participating Addendum.** Contractor shall email a fully executed PDF copy of each Participating Addendum to pa@naspovaluepoint.org to support documentation of participation and posting in appropriate databases.
- 4.6 Eligibility for a Participating Addendum.** Eligible entities who are not states may under some circumstances sign their own Participating Addendum, subject to the consent of the Chief Procurement Official of the state where the entity is located. Coordinate requests for such participation through NASPO ValuePoint. Any permission to participate through execution of a Participating Addendum is not a determination that procurement authority exists; the entity must ensure that they have the requisite procurement authority to execute a Participating Addendum.
- 4.7 Prohibition on Resale.** Subject to any specific conditions included in the solicitation or Contractor's proposal as accepted by the Lead State, or as explicitly permitted in a Participating Addendum, Purchasing Entities may not resell Products purchased under this Master Agreement. Absent any such condition or explicit permission, this limitation does not prohibit: payments by employees of a Purchasing Entity for Products; sales of Products to the general public as surplus property; and fees associated with inventory transactions with other governmental or nonprofit entities and consistent with a Purchasing Entity's laws and regulations. Any sale or transfer permitted by this subsection must be consistent with license rights granted for use of intellectual property.
- 4.8 Individual Customers.** Except as may otherwise be agreed to by the Purchasing Entity and Contractor, each Purchasing Entity shall follow the terms and conditions of the Master Agreement and applicable Participating Addendum and will have the same rights and responsibilities for their purchases as the Lead State has in the Master Agreement and as the Participating Entity has in the Participating Addendum, including but

not limited to any indemnity or right to recover any costs as such right is defined in the Master Agreement and applicable Participating Addendum for their purchases. Each Purchasing Entity will be responsible for its own charges, fees, and liabilities. The Contractor will apply the charges and invoice each Purchasing Entity individually.

4.9 Release of Information. Throughout the duration of this Master Agreement, Contractor must secure from the Lead State prior approval for the release of information that pertains to the potential work or activities covered by the Master Agreement. This limitation does not preclude publication about the award of the Master Agreement or marketing activities consistent with any proposed and accepted marketing plan.

4.10 No Representations. The Contractor shall not make any representations of NASPO ValuePoint, the Lead State, any Participating Entity, or any Purchasing Entity's opinion or position as to the quality or effectiveness of the services that are the subject of this Master Agreement without prior written consent.

V. NASPO ValuePoint Provisions

5.1 Applicability. NASPO ValuePoint is not a party to the Master Agreement. The terms set forth in Section V are for the benefit of NASPO ValuePoint as a third-party beneficiary of this Master Agreement.

5.2 Administrative Fees

5.2.1 NASPO ValuePoint Fee. Contractor shall pay to NASPO ValuePoint, or its assignee, a NASPO ValuePoint Administrative Fee of one-quarter of one percent (0.25% or 0.0025) no later than sixty (60) days following the end of each calendar quarter. The NASPO ValuePoint Administrative Fee must be submitted quarterly and is based on all sales of products and services under the Master Agreement (less any charges for taxes or shipping). The NASPO ValuePoint Administrative Fee is not negotiable. This fee is to be included as part of the pricing submitted with a vendor's response to the Lead State's solicitation.

5.2.2 State Imposed Fees. Some states may require an additional fee be paid directly to the state on purchases made by Purchasing Entities within that state. For all such requests, the fee rate or amount, payment method and schedule for such reports and payments will be incorporated into the applicable Participating Addendum. Unless agreed to in writing by the state, Contractor may not adjust the Master Agreement pricing to include the state fee for purchases made by Purchasing Entities within the jurisdiction of the state. No such agreement will affect the NASPO ValuePoint Administrative Fee percentage, or the prices paid by Purchasing Entities outside the jurisdiction of the state requesting the additional fee.

5.3 NASPO ValuePoint Summary and Detailed Usage Reports

5.3.1 Summary Sales Data. The Contractor shall submit quarterly sales reports directly to NASPO ValuePoint using the NASPO ValuePoint Quarterly Sales/Administrative Fee Reporting Tool found at <http://calculator.naspovaluepoint.org>. All sales made under this Master Agreement must be reported as cumulative totals by state. Contractor must submit a report for each quarter, including quarters during which a Contractor has no sales, in which case this will be indicated in the Reporting Tool. Reports must be submitted no later than thirty (30) days following the end of the calendar quarter (as specified in the reporting tool).

5.3.2 Detailed Sales Data. Contractor shall also report detailed sales data by: (1) state; (2) entity/customer type, e.g. local government, higher education, K12, non-profit; (3) Purchasing Entity name; (4) Purchasing Entity bill-to and ship-to locations; (4) Purchasing Entity and Contractor Purchase Order identifier/number(s); (5) Purchase Order Type (e.g. sales order, credit, return, upgrade, determined by industry practices); (6) Purchase Order date; (7) Ship Date; (8) and line item description, including product number if used. The report must be submitted in any form required by the solicitation. Reports are due on a quarterly basis and must be received by the Lead State and NASPO ValuePoint Cooperative Development Team no later than thirty (30) days after the end of the reporting period. Reports must be delivered to the Lead State and to the NASPO ValuePoint Cooperative Development Team electronically through a designated portal or other method as determined by the Lead State and NASPO ValuePoint. Detailed sales data reports must include sales information for all sales under Participating Addenda executed under this Master Agreement.

5.3.3 Reporting on Personal Use. Reportable sales for the summary sales data report and detailed sales data report includes sales to employees for personal use where authorized by the solicitation and the Participating Addendum. Report data for employees should be limited to ONLY the state and entity ((state and agency, city, county, school district, etc.) under whose authority the employee is purchasing Product for personal use and the amount of sales. No personal identification numbers (e.g., names, addresses, social security numbers or any other numerical identifier) may be submitted with any report.

5.3.4 Executive Summary. Contractor shall provide the NASPO ValuePoint Cooperative Development Coordinator with an executive summary each quarter that includes, at a minimum, a list of states with an active Participating Addendum, states that Contractor is in negotiations with and any Participating Addendum roll out or implementation activities and issues. NASPO ValuePoint

Cooperative Development Coordinator and Contractor will determine the format and content of the executive summary. The executive summary is due thirty (30) days after the conclusion of each calendar quarter.

5.3.5 Use of Data. Timely submission of these reports is a material requirement of the Master Agreement. The recipient of the reports will have exclusive ownership of the media containing the reports. The Lead State and NASPO ValuePoint shall have a perpetual, irrevocable, non-exclusive, royalty free, transferable right to display, modify, copy, and otherwise use reports, data and information provided under this section.

5.4 NASPO ValuePoint Cooperative Program Marketing, Training, and Performance Review

5.4.1 Staff Education. Contractor shall work cooperatively with NASPO ValuePoint personnel. Contractor shall present plans to NASPO ValuePoint for the education of Contractor's contract administrator(s) and sales/marketing workforce regarding the Master Agreement contract, including the competitive nature of NASPO ValuePoint procurements, the master agreement and participating addendum process, and the manner in which eligible entities can participate in the Master Agreement.

5.4.2 Onboarding Plan. Upon request by NASPO ValuePoint, Contractor shall, as Participating Addendums are executed, provide plans to launch the program for the Participating Entity. Plans will include time frames to launch the agreement and confirmation that the Contractor's website has been updated to properly reflect the scope and terms of the Master Agreement as available to the Participating Entity and eligible Purchasing Entities.

5.4.3 Annual Contract Performance Review. Contractor shall participate in an annual contract performance review with the Lead State and NASPO ValuePoint, which may at the discretion of the Lead State be held in person and which may include a discussion of marketing action plans, target strategies, marketing materials, Contractor reporting, and timeliness of payment of administration fees.

5.4.4 Use of NASPO ValuePoint Logo. The NASPO ValuePoint logos may not be used by Contractor in sales and marketing until a separate logo use agreement is executed with NASPO ValuePoint.

5.4.5 Most Favored Customer. Contractor shall, within thirty (30) days of their effective date, to notify the Lead State and NASPO ValuePoint of any contractual most-favored-customer provisions in third-party contracts or agreements that may affect the promotion of this Master Agreements or whose terms provide for adjustments to

future rates or pricing based on rates, pricing in, or Orders from this Master Agreement. Upon request of the Lead State or NASPO ValuePoint, Contractor shall provide a copy of any such provisions.

- 5.5 Cancellation.** In consultation with NASPO ValuePoint, the Lead State may, in its discretion, cancel the Master Agreement or not exercise an option to renew when utilization of Contractor's Master Agreement does not warrant further administration of the Master Agreement. The Lead State may also exercise its right to not renew the Master Agreement if vendor fails to record or report revenue for three consecutive quarters, upon 60-calendar day written notice to the Contractor. Cancellation based on nonuse or under-utilization will not occur sooner than [two years] after execution of the Master Agreement. This subsection does not limit the discretionary right of either the Lead State or Contractor to cancel the Master Agreement or terminate for default subject to the terms herein. This subsection also does not limit any right of the Lead State to cancel the Master Agreement under applicable laws.
- 5.6 Canadian Participation.** Subject to the approval of Contractor, any Canadian provincial government or provincially funded entity in Alberta, British Columbia, Manitoba, New Brunswick, Newfoundland and Labrador, Nova Scotia, Ontario, Prince Edward Island, Quebec, or Saskatchewan, and territorial government or territorial government funded entity in the Northwest Territories, Nunavut, or Yukon, including municipalities, universities, community colleges, school boards, health authorities, housing authorities, agencies, boards, commissions, and crown corporations, may be eligible to use Contractor's Master Agreement.
- 5.7 Additional Agreement with NASPO.** Upon request by NASPO ValuePoint, awarded Contractor shall enter into a direct contractual relationship with NASPO ValuePoint related to Contractor's obligations to NASPO ValuePoint under the terms of the Master Agreement, the terms of which shall be the same or similar (and not less favorable) than the terms set forth in the Master Agreement.

VI. Pricing, Payment & Leasing

- 6.1 Pricing.** The prices contained in this Master Agreement or offered under this Master Agreement represent the not-to-exceed price to any Purchasing Entity.
- 6.1.1** All prices and rates must be guaranteed for the initial term of the Master Agreement.
- 6.1.2** Following the initial term of the Master Agreement, any request for a price or rate adjustment must be for an equal guarantee period and must be made at least 30 days prior to the effective date.
- 6.1.3** Requests for a price or rate adjustment must include sufficient documentation supporting the request. Any adjustment or

amendment to the Master Agreement will not be effective unless approved in writing by the Lead State.

6.1.4 No retroactive adjustments to prices or rates will be allowed.

6.2 Payment. Unless otherwise agreed upon in a Participating Addendum or Order, Payment after Acceptance will be made within thirty (30) days following the date the entire order is delivered or the date a correct invoice is received, whichever is later. After 45 days the Contractor may assess overdue account charges up to a maximum rate of one percent per month on the outstanding balance, unless a different late payment amount is specified in a Participating Addendum or Order, or otherwise prescribed by applicable law. Payments will be remitted in the manner specified in the Participating Addendum or Order. Payments may be made via a purchasing card with no additional charge.

6.3 Leasing or Alternative Financing Methods. The procurement and other applicable laws of some Purchasing Entities may permit the use of leasing or alternative financing methods for the acquisition of Products under this Master Agreement. Where the terms and conditions are not otherwise prescribed in an applicable Participating Addendum, the terms, and conditions for leasing or alternative financing methods are subject to negotiation between the Contractor and Purchasing Entity.

VII. Ordering

7.1 Order Numbers. Master Agreement order and purchase order numbers must be clearly shown on all acknowledgments, packing slips, invoices, and on all correspondence.

7.2 Quotes. Purchasing Entities may define entity-specific or project-specific requirements and informally compete the requirement among companies having a Master Agreement on an “as needed” basis. This procedure may also be used when requirements are aggregated, or other firm commitments may be made to achieve reductions in pricing. This procedure may be modified in Participating Addenda and adapted to the Purchasing Entity’s rules and policies. The Purchasing Entity may in its sole discretion determine which Master Agreement Contractors should be solicited for a quote. The Purchasing Entity may select the quote that it considers most advantageous, cost, and other factors considered.

7.3 Applicable Rules. Each Purchasing Entity will identify and utilize its own appropriate purchasing procedure and documentation. Contractor is expected to become familiar with the Purchasing Entities’ rules, policies, and procedures regarding the ordering of supplies and/or services contemplated by this Master Agreement.

7.4 Required Documentation. Contractor shall not begin work without a valid Purchase Order or other appropriate commitment document under the law of the Purchasing Entity.

- 7.5 Term of Purchase.** Orders may be placed consistent with the terms of this Master Agreement and applicable Participating Addendum during the term of the Master Agreement and Participating Addendum.
- 7.5.1** Orders must be placed pursuant to this Master Agreement prior to the termination date thereof but may have a delivery date or performance period up to 120 days past the then-current termination date of this Master Agreement.
- 7.5.2** Notwithstanding the previous, Orders must also comply with the terms of the applicable Participating Addendum, which may further restrict the period during which Orders may be placed or delivered.
- 7.5.3** Financial obligations of Purchasing Entities payable after the current applicable fiscal year are contingent upon agency funds for that purpose being appropriated, budgeted, and otherwise made available.
- 7.5.4** Notwithstanding the expiration, cancellation or termination of this Master Agreement, Contractor shall perform in accordance with the terms of any Orders then outstanding at the time of such expiration or termination. Contractor shall not honor any Orders placed after the expiration, cancellation, or termination of this Master Agreement, or in any manner inconsistent with this Master Agreement's terms.
- 7.5.5** Orders for any separate indefinite quantity, task order, or other form of indefinite delivery order arrangement priced against this Master Agreement may not be placed after the expiration or termination of this Master Agreement, notwithstanding the term of any such indefinite delivery order agreement.
- 7.6 Order Form Requirements.** All Orders pursuant to this Master Agreement, at a minimum, must include:
- 7.6.1** The services or supplies being delivered.
- 7.6.2** A shipping address and other delivery requirements, if any.
- 7.6.3** A billing addresses.
- 7.6.4** Purchasing Entity contact information.
- 7.6.5** Pricing consistent with this Master Agreement and applicable Participating Addendum and as may be adjusted by agreement of the Purchasing Entity and Contractor.
- 7.6.6** A not-to-exceed total for the products or services being ordered; and
- 7.6.7** The Master Agreement number or the applicable Participating Addendum number, provided the Participating Addendum references the Master Agreement number.

- 7.7 Communication.** All communications concerning administration of Orders placed must be furnished solely to the authorized purchasing agent within the Purchasing Entity's purchasing office, or to such other individual identified in writing in the Order.
- 7.8 Contract Provisions for Orders Utilizing Federal Funds.** Pursuant to Appendix II to 2 Code of Federal Regulations (CFR) Part 200, Contract Provisions for Non-Federal Entity Contracts Under Federal Awards, Orders funded with federal funds may have additional contractual requirements or certifications that must be satisfied at the time the Order is placed or upon delivery. These federal requirements may be proposed by Participating Entities in Participating Addenda and Purchasing Entities for incorporation in Orders placed under this Master Agreement.

VIII. Shipping and Delivery

- 8.1 Shipping Terms.** All deliveries will be F.O.B. destination, freight pre-paid, with all transportation and handling charges paid by the Contractor.
- 8.1.1** Notwithstanding the above, responsibility and liability for loss or damage will remain the Contractor's until final inspection and acceptance when responsibility will pass to the Purchasing Entity except as to latent defects, fraud, and Contractor's warranty obligations.
- 8.2 Minimum Shipping.** The minimum shipment amount, if any, must be contained in the Master Agreement. Any order for less than the specified amount is to be shipped with the freight prepaid and added as a separate item on the invoice. Any portion of an Order to be shipped without transportation charges that is back ordered will be shipped without charge.
- 8.3 Inside Deliveries.** To the extent applicable, all deliveries will be "Inside Deliveries" as designated by a representative of the Purchasing Entity placing the Order. Inside Delivery refers to a delivery to a location other than a loading dock, front lobby, or reception area. Specific delivery instructions will be noted on the order form or Purchase Order. Costs to repair any damage to the building interior (e.g., scratched walls, damage to the freight elevator, etc.) caused by Contractor or Contractor's carrier will be the responsibility of the Contractor. Immediately upon becoming aware of such damage, Contractor shall notify the Purchasing Entity placing the Order.
- 8.4 Packaging.** All products must be delivered in the manufacturer's standard package. Costs must include all packing and/or crating charges. Cases must be of durable construction, in good condition, properly labeled and suitable in every respect for storage and handling of contents. Each shipping carton must be marked with the commodity, brand, quantity, item code number and the Purchasing Entity's Purchase Order number.

IX. Inspection and Acceptance

- 9.1 Laws and Regulations.** Any and all Products offered and furnished must comply fully with all applicable Federal, State, and local laws and regulations.
- 9.2 Applicability.** Unless otherwise specified in the Master Agreement, Participating Addendum, or ordering document, the terms of this Section IX will apply. This section is not intended to limit rights and remedies under the applicable commercial code.
- 9.3 Inspection.** All Products are subject to inspection at reasonable times and places before Acceptance. Contractor shall provide right of access to the Lead State, or to any other authorized agent or official of the Lead State or other Participating or Purchasing Entity, at reasonable times, to monitor and evaluate performance, compliance, and/or quality assurance requirements under this Master Agreement.
- 9.3.1** Products that do not meet specifications may be rejected. Failure to reject upon receipt, however, does not relieve the contractor of liability for material (nonconformity that substantial impairs value) latent or hidden defects subsequently revealed when goods are put to use.
- 9.3.2** Acceptance of such goods may be revoked in accordance with the provisions of the applicable commercial code, and the Contractor is liable for any resulting expense incurred by the Purchasing Entity related to the preparation and shipping of Product rejected and returned, or for which Acceptance is revoked.
- 9.4 Failure to Conform.** If any services do not conform to contract requirements, the Purchasing Entity may require the Contractor to perform the services again in conformity with contract requirements, at no increase in Order amount. When defects cannot be corrected by re-performance, the Purchasing Entity may require the Contractor to take necessary action to ensure that future performance conforms to contract requirements and reduce the contract price to reflect the reduced value of services performed.
- 9.5 Acceptance Testing.** Purchasing Entity may establish a process, in keeping with industry standards, to ascertaining whether the Product meets the standard of performance or specifications prior to Acceptance by the Purchasing Entity.
- 9.5.1** The Acceptance Testing period will be thirty (30) calendar days, unless otherwise specified, starting from the day after the Product is delivered or, if installed by Contractor, the day after the Product is installed and Contractor certifies that the Product is ready for Acceptance Testing.
- 9.5.2** If the Product does not meet the standard of performance or specifications during the initial period of Acceptance Testing,

Purchasing Entity may, at its discretion, continue Acceptance Testing on a day-to-day basis until the standard of performance is met.

- 9.5.3** Upon rejection, the Contractor will have fifteen (15) calendar days to cure. If after the cure period, the Product still has not met the standard of performance or specifications, the Purchasing Entity may, at its option: (a) declare Contractor to be in breach and terminate the Order; (b) demand replacement Product from Contractor at no additional cost to Purchasing Entity; or, (c) continue the cure period for an additional time period agreed upon by the Purchasing Entity and the Contractor.
- 9.5.4** Contractor shall pay all costs related to the preparation and shipping of Product returned pursuant to the section.
- 9.5.5** No Product will be deemed Accepted and no charges will be paid until the standard of performance or specification is met.

X. Warranty

- 10.1 Applicability.** Unless otherwise specified in the Master Agreement, Participating Addendum, or ordering document, the terms of this Section X will apply.
- 10.2 Warranty.** The Contractor warrants for a period of one year from the date of Acceptance that: (a) the Product performs according to all specific claims that the Contractor made in its response to the solicitation, (b) the Product is suitable for the ordinary purposes for which such Product is used, (c) the Product is suitable for any special purposes identified in the solicitation or for which the Purchasing Entity has relied on the Contractor's skill or judgment, (d) the Product is designed and manufactured in a commercially reasonable manner, and (e) the Product is free of defects.
- 10.3 Breach of Warranty.** Upon breach of the warranty set forth above, the Contractor will repair or replace (at no charge to the Purchasing Entity) the Product whose nonconformance is discovered and made known to the Contractor. If the repaired and/or replaced Product proves to be inadequate, or fails of its essential purpose, the Contractor will refund the full amount of any payments that have been made.
- 10.4 Rights Reserved.** The rights and remedies of the parties under this warranty are in addition to any other rights and remedies of the parties provided by law or equity, including, without limitation, actual damages, and, as applicable and awarded under the law, to a prevailing party, reasonable attorneys' fees and costs.
- 10.5 Warranty Period Start Date.** The warranty period will begin upon Acceptance, as set forth in Section IX.

XI. Product Title

- 11.1 Conveyance of Title.** Upon Acceptance by the Purchasing Entity, Contractor shall convey to Purchasing Entity title to the Product free and clear of all liens, encumbrances, or other security interests.
- 11.2 Embedded Software.** Transfer of title to the Product must include an irrevocable and perpetual license to use any Embedded Software in the Product. If Purchasing Entity subsequently transfers title of the Product to another entity, Purchasing Entity shall have the right to transfer the license to use the Embedded Software with the transfer of Product title. A subsequent transfer of this software license will be at no additional cost or charge to either Purchasing Entity or Purchasing Entity's transferee.
- 11.3 License of Pre-Existing Intellectual Property.** Contractor grants to the Purchasing Entity a nonexclusive, perpetual, royalty-free, irrevocable, license to use, publish, translate, reproduce, transfer with any sale of tangible media or Product, perform, display, and dispose of the Intellectual Property, and its derivatives, used or delivered under this Master Agreement, but not created under it ("Pre-existing Intellectual Property"). The Contractor shall be responsible for ensuring that this license is consistent with any third-party rights in the Pre-existing Intellectual Property.

XII. Indemnification

- 12.1 General Indemnification.** The Contractor shall defend, indemnify and hold harmless NASPO, NASPO ValuePoint, the Lead State, Participating Entities, and Purchasing Entities, along with their officers and employees, from and against third-party claims, damages or causes of action including reasonable attorneys' fees and related costs for any death, injury, or damage to tangible property arising from any act, error, or omission of the Contractor, its employees or subcontractors or volunteers, at any tier, relating to performance under this Master Agreement.
- 12.2 Intellectual Property Indemnification.** The Contractor shall defend, indemnify and hold harmless NASPO, NASPO ValuePoint, the Lead State, Participating Entities, Purchasing Entities, along with their officers and employees ("Indemnified Party"), from and against claims, damages or causes of action including reasonable attorneys' fees and related costs arising out of the claim that the Product or its use infringes Intellectual Property rights of another person or entity ("Intellectual Property Claim").
- 12.2.1** The Contractor's obligations under this section will not extend to any combination of the Product with any other product, system or method, unless the Product, system or method is:
- 12.2.1.1** provided by the Contractor or the Contractor's subsidiaries or affiliates.
 - 12.2.1.2** specified by the Contractor to work with the Product.
 - 12.2.1.3** reasonably required to use the Product in its intended manner, and the infringement could not have been

avoided by substituting another reasonably available product, system, or method capable of performing the same function; or

12.2.1.4 reasonably expected to be used in combination with the Product.

12.2.2 The Indemnified Party shall notify the Contractor within a reasonable time after receiving notice of an Intellectual Property Claim. Even if the Indemnified Party fails to provide reasonable notice, the Contractor shall not be relieved from its obligations unless the Contractor can demonstrate that it was prejudiced in defending the Intellectual Property Claim resulting in increased expenses or loss to the Contractor. If the Contractor promptly and reasonably investigates and defends any Intellectual Property Claim, it shall have control over the defense and settlement of the Intellectual Property Claim. However, the Indemnified Party must consent in writing for any money damages or obligations for which it may be responsible.

12.2.3 The Indemnified Party shall furnish, at the Contractor's reasonable request and expense, information, and assistance necessary for such defense. If the Contractor fails to vigorously pursue the defense or settlement of the Intellectual Property Claim, the Indemnified Party may assume the defense or settlement of the Intellectual Property Claim and the Contractor shall be liable for all costs and expenses, including reasonable attorneys' fees and related costs, incurred by the Indemnified Party in the pursuit of the Intellectual Property Claim.

12.2.4 Unless otherwise set forth herein, Section 12.2 is not subject to any limitations of liability in this Master Agreement or in any other document executed in conjunction with this Master Agreement.

XIII. Insurance

13.1 Term. Contractor shall, during the term of this Master Agreement, maintain in full force and effect, the insurance described in this section. A Participating Entity may negotiate alternative Insurance requirements in their Participating Addendum.

13.2 Class. Contractor shall acquire such insurance from an insurance carrier or carriers licensed to conduct business in each Participating Entity's state and having a rating of A-, Class VII or better, in the most recently published edition of A.M. Best's Insurance Reports. Failure to buy and maintain the required insurance may result in this Master Agreement's termination or, at a Participating Entity's option, result in termination of its Participating Addendum.

- 13.3 Coverage.** Coverage must be written on an occurrence basis. The minimum acceptable limits will be as indicated below:
- 13.3.1** Contractor shall maintain Commercial General Liability insurance covering premises operations, independent contractors, products and completed operations, blanket contractual liability, personal injury (including death), advertising liability, and property damage, with a limit of not less than \$1 million per occurrence and \$2 million general aggregate;
- 13.3.2** Contractor must comply with any applicable State Workers Compensation or Employers Liability Insurance requirements.
- 13.4 Notice of Cancellation.** Contractor shall pay premiums on all insurance policies. Contractor shall provide notice to a Participating Entity who is a state within five (5) business days after Contractor is first aware of expiration, cancellation or nonrenewal of such policy or is first aware that cancellation is threatened or expiration, nonrenewal or expiration otherwise may occur.
- 13.5 Notice of Endorsement.** Prior to commencement of performance, Contractor shall provide to the Lead State a written endorsement to the Contractor's general liability insurance policy or other documentary evidence acceptable to the Lead State that (1) provides that written notice of cancellation will be delivered in accordance with the policy provisions, and (2) provides that the Contractor's liability insurance policy will be primary, with any liability insurance of any Participating State as secondary and noncontributory.
- 13.6 Participating Entities.** Contractor shall provide to Participating States and Participating Entities the same insurance obligations and documentation as those specified in Section XIII, except the endorsement is provided to the applicable Participating State or Participating Entity.
- 13.7 Furnishing of Certificates.** Contractor shall furnish to the Lead State copies of certificates of all required insurance in a form sufficient to show required coverage within thirty (30) calendar days of the execution of this Master Agreement and prior to performing any work. Copies of renewal certificates of all required insurance will be furnished within thirty (30) days after any renewal date to the applicable state Participating Entity. Failure to provide evidence of coverage may, at the sole option of the Lead State, or any Participating Entity, result in this Master Agreement's termination or the termination of any Participating Addendum.
- 13.8 Disclaimer.** Insurance coverage and limits will not limit Contractor's liability and obligations under this Master Agreement, any Participating Addendum, or any Purchase Order.

XIV. General Provisions

14.1 Records Administration and Audit

- 14.1.1** The Contractor shall maintain books, records, documents, and other evidence pertaining to this Master Agreement and Orders placed by Purchasing Entities under it to the extent and in such detail as will adequately reflect performance and administration of payments and fees. Contractor shall permit the Lead State, a Participating Entity, a Purchasing Entity, the federal government (including its grant awarding entities and the U.S. Comptroller General), and any other duly authorized agent of a governmental agency, to audit, inspect, examine, copy and/or transcribe Contractor's books, documents, papers and records directly pertinent to this Master Agreement or orders placed by a Purchasing Entity under it for the purpose of making audits, examinations, excerpts, and transcriptions. This right will survive for a period of six (6) years following termination of this Agreement or final payment for any order placed by a Purchasing Entity against this Master Agreement, whichever is later, or such longer period as is required by the Purchasing Entity's state statutes, to assure compliance with the terms hereof or to evaluate performance hereunder.
- 14.1.2** Without limiting any other remedy available to any governmental entity, the Contractor shall reimburse the applicable Lead State, Participating Entity, or Purchasing Entity for any overpayments inconsistent with the terms of the Master Agreement or Orders or underpayment of fees found as a result of the examination of the Contractor's records.
- 14.1.3** The rights and obligations herein exist in addition to any quality assurance obligation in the Master Agreement that requires the Contractor to self-audit contract obligations and that permits the Lead State to review compliance with those obligations.

14.2 Confidentiality, Non-Disclosure, and Injunctive Relief

- 14.2.1 Confidentiality.** Contractor acknowledges that it and its employees or agents may, in the course of providing a Product under this Master Agreement, be exposed to or acquire information that is confidential to Purchasing Entity or Purchasing Entity's clients.
- 14.2.1.1** Any and all information of any form that is marked as confidential or would by its nature be deemed confidential obtained by Contractor or its employees or agents in the performance of this Master Agreement, including but not necessarily limited to (1) any Purchasing Entity's records, (2) personnel records, and (3) information concerning individuals, is confidential information of Purchasing Entity ("Confidential Information").

- 14.2.1.2** Any reports or other documents or items (including software) that result from the use of the Confidential Information by Contractor shall be treated in the same manner as the Confidential Information.
- 14.2.1.3** Confidential Information does not include information that (1) is or becomes (other than by disclosure by Contractor) publicly known; (2) is furnished by Purchasing Entity to others without restrictions similar to those imposed by this Master Agreement; (3) is rightfully in Contractor's possession without the obligation of nondisclosure prior to the time of its disclosure under this Master Agreement; (4) is obtained from a source other than Purchasing Entity without the obligation of confidentiality, (5) is disclosed with the written consent of Purchasing Entity; or (6) is independently developed by employees, agents or subcontractors of Contractor who can be shown to have had no access to the Confidential Information.

14.2.2 Non-Disclosure. Contractor shall hold Confidential Information in confidence, using at least the industry standard of confidentiality, and shall not copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give, or disclose Confidential Information to third parties or use Confidential Information for any purposes whatsoever other than what is necessary to the performance of Orders placed under this Master Agreement.

- 14.2.2.1** Contractor shall advise each of its employees and agents of their obligations to keep Confidential Information confidential. Contractor shall use commercially reasonable efforts to assist Purchasing Entity in identifying and preventing any unauthorized use or disclosure of any Confidential Information.
- 14.2.2.2** Without limiting the generality of the foregoing, Contractor shall advise Purchasing Entity, applicable Participating Entity, and the Lead State immediately if Contractor learns or has reason to believe that any person who has had access to Confidential Information has violated or intends to violate the terms of this Master Agreement, and Contractor shall at its expense cooperate with Purchasing Entity in seeking injunctive or other equitable relief in the name of Purchasing Entity or Contractor against any such person.

14.2.2.3 Except as directed by Purchasing Entity, Contractor will not at any time during or after the term of this Master Agreement disclose, directly or indirectly, any Confidential Information to any person, except in accordance with this Master Agreement, and that upon termination of this Master Agreement or at Purchasing Entity's request, Contractor shall turn over to Purchasing Entity all documents, papers, and other matter in Contractor's possession that embody Confidential Information.

14.2.2.4 Notwithstanding the foregoing, Contractor may keep one copy of such Confidential Information necessary for quality assurance, audits, and evidence of the performance of this Master Agreement.

14.2.3 Injunctive Relief. Contractor acknowledges that Contractor's breach of Section 14.2 would cause irreparable injury to the Purchasing Entity that cannot be inadequately compensated in monetary damages. Accordingly, Purchasing Entity may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal remedies that may be available. Contractor acknowledges and agrees that the covenants contained herein are necessary for the protection of the legitimate business interests of Purchasing Entity and are reasonable in scope and content.

14.2.4 Purchasing Entity Law. These provisions will be applicable only to extent they are not in conflict with the applicable public disclosure laws of any Purchasing Entity.

14.2.5 NASPO ValuePoint. The rights granted to Purchasing Entities and Contractor's obligations under this section will also extend to NASPO ValuePoint's Confidential Information, including but not limited to Participating Addenda, Orders or transaction data relating to Orders under this Master Agreement that identify the entity/customer, Order dates, line-item descriptions and volumes, and prices/rates. This provision does not apply to disclosure to the Lead State, a Participating State, or any governmental entity exercising an audit, inspection, or examination pursuant to this Master Agreement. To the extent permitted by law, Contractor shall notify the Lead State of the identify of any entity seeking access to the Confidential Information described in this subsection.

14.2.6 Public Information. This Master Agreement and all related documents are subject to disclosure pursuant to the Lead State's public information laws.

14.3 Assignment/Subcontracts

- 14.3.1** Contractor shall not assign, sell, transfer, subcontract or sublet rights, or delegate responsibilities under this Master Agreement, in whole or in part, without the prior written approval of the Lead State.
- 14.3.2** The Lead State reserves the right to assign any rights or duties, including written assignment of contract administration duties, to NASPO ValuePoint and other third parties.
- 14.4 Changes in Contractor Representation.** The Contractor must, within ten (10) calendar days, notify the Lead State in writing of any changes in the Contractor's key administrative personnel managing the Master Agreement. The Lead State reserves the right to approve or reject changes in key personnel, as identified in the Contractor's proposal. The Contractor shall propose replacement key personnel having substantially equal or better education, training, and experience as was possessed by the key person proposed and evaluated in the Contractor's proposal.
- 14.5 Independent Contractor.** Contractor is an independent contractor. Contractor has no authorization, express or implied, to bind the Lead State, Participating States, other Participating Entities, or Purchasing Entities to any agreements, settlements, liability or understanding whatsoever, and shall not to hold itself out as agent except as expressly set forth herein or as expressly set forth in an applicable Participating Addendum or Order.
- 14.6 Cancellation.** Unless otherwise set forth herein, this Master Agreement may be canceled by either party upon sixty (60) days' written notice prior to the effective date of the cancellation. Further, any Participating Entity may cancel its participation upon thirty (30) days' written notice, unless otherwise limited or stated in the Participating Addendum. Cancellation may be in whole or in part. Any cancellation under this provision will not affect the rights and obligations attending Orders outstanding at the time of cancellation, including any right of a Purchasing Entity to indemnification by the Contractor, rights of payment for Products delivered and accepted, rights attending any warranty or default in performance in association with any Order, and requirements for records administration and audit. Cancellation of the Master Agreement due to Contractor default may be immediate.
- 14.7 Force Majeure.** Neither party to this Master Agreement shall be held responsible for delay or default caused by fire, riot, unusually severe weather, other acts of God, or acts of war which are beyond that party's reasonable control. The Lead State may terminate this Master Agreement upon determining such delay or default will reasonably prevent successful performance of the Master Agreement.
- 14.8 Defaults and Remedies**

- 14.8.1** The occurrence of any of the following events will be an event of default under this Master Agreement:
- 14.8.1.1** Nonperformance of contractual requirements.
 - 14.8.1.2** A material breach of any term or condition of this Master Agreement.
 - 14.8.1.3** Any certification, representation, or warranty by Contractor in response to the solicitation or in this Master Agreement that proves to be untrue or materially misleading.
 - 14.8.1.4** Institution of proceedings under any bankruptcy, insolvency, reorganization or similar law, by or against Contractor, or the appointment of a receiver or similar officer for Contractor or any of its property, which is not vacated or fully stayed within thirty (30) calendar days after the institution or occurrence thereof; or
 - 14.8.1.5** Any default specified in another section of this Master Agreement.
- 14.8.2** Upon the occurrence of an event of default, the Lead State shall issue a written notice of default, identifying the nature of the default, and providing a period of fifteen (15) calendar days in which Contractor shall have an opportunity to cure the default. The Lead State shall not be required to provide advance written notice or a cure period and may immediately terminate this Master Agreement in whole or in part if the Lead State, in its sole discretion, determines that it is reasonably necessary to preserve public safety or prevent immediate public crisis. Time allowed for cure will not diminish or eliminate Contractor's liability for damages, including liquidated damages to the extent provided for under this Master Agreement.
- 14.8.3** If Contractor is afforded an opportunity to cure and fails to cure the default within the period specified in the written notice of default, Contractor shall be in breach of its obligations under this Master Agreement and the Lead State shall have the right to exercise any or all of the following remedies:
- 14.8.3.1** Any remedy provided by law.
 - 14.8.3.2** Termination of this Master Agreement and any related Contracts or portions thereof.
 - 14.8.3.3** Assessment of liquidated damages as provided in this Master Agreement.
 - 14.8.3.4** Suspension of Contractor from being able to respond to future bid solicitations.

14.8.3.5 Suspension of Contractor's performance; and

14.8.3.6 Withholding of payment until the default is remedied.

14.8.4 Unless otherwise specified in the Participating Addendum, in the event of a default under a Participating Addendum, a Participating Entity shall provide a written notice of default as described in this section and shall have all of the rights and remedies under this paragraph regarding its participation in the Master Agreement, in addition to those set forth in its Participating Addendum. Unless otherwise specified in an Order, a Purchasing Entity shall provide written notice of default as described in this section and have all of the rights and remedies under this paragraph and any applicable Participating Addendum with respect to an Order placed by the Purchasing Entity. Nothing in these Master Agreement Terms and Conditions will be construed to limit the rights and remedies available to a Purchasing Entity under the applicable commercial code.

14.9 Waiver of Breach. Failure of the Lead State, Participating Entity, or Purchasing Entity to declare a default or enforce any rights and remedies will not operate as a waiver under this Master Agreement, any Participating Addendum, or any Purchase Order. Any waiver by the Lead State, Participating Entity, or Purchasing Entity must be in writing. Waiver by the Lead State or Participating Entity of any default, right or remedy under this Master Agreement or Participating Addendum, or by Purchasing Entity with respect to any Purchase Order, or breach of any terms or requirements of this Master Agreement, a Participating Addendum, or Purchase Order will not be construed or operate as a waiver of any subsequent default or breach of such term or requirement, or of any other term or requirement under this Master Agreement, any Participating Addendum, or any Purchase Order.

14.10 Debarment. The Contractor certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in public procurement or contracting by any governmental department or agency. This certification represents a recurring certification made at the time any Order is placed under this Master Agreement. If the Contractor cannot certify this statement, attach a written explanation for review by the Lead State.

14.11 No Waiver of Sovereign Immunity

14.11.1 In no event will this Master Agreement, any Participating Addendum or any contract or any Purchase Order issued thereunder, or any act of the Lead State, a Participating Entity, or a Purchasing Entity be a waiver of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the Constitution

of the United States or otherwise, from any claim or from the jurisdiction of any court.

- 14.11.2** This section applies to a claim brought against the Participating Entities who are states only to the extent Congress has appropriately abrogated the state's sovereign immunity and is not consent by the state to be sued in federal court. This section is also not a waiver by the state of any form of immunity, including but not limited to sovereign immunity and immunity based on the Eleventh Amendment to the Constitution of the United States.

14.12 Governing Law and Venue

- 14.12.1** The procurement, evaluation, and award of the Master Agreement will be governed by and construed in accordance with the laws of the Lead State sponsoring and administering the procurement. The construction and effect of the Master Agreement after award will be governed by the law of the state serving as Lead State. The construction and effect of any Participating Addendum or Order against the Master Agreement will be governed by and construed in accordance with the laws of the Participating Entity's or Purchasing Entity's state.
- 14.12.2** Unless otherwise specified in the RFP, the venue for any protest, claim, dispute or action relating to the procurement, evaluation, and award is in the state serving as Lead State. Venue for any claim, dispute or action concerning the terms of the Master Agreement will be in the state serving as Lead State. Venue for any claim, dispute, or action concerning any Order placed against the Master Agreement or the effect of a Participating Addendum will be in the Purchasing Entity's state.
- 14.12.3** If a claim is brought in a federal forum, then it must be brought and adjudicated solely and exclusively within the United States District Court for (in decreasing order of priority): the Lead State for claims relating to the procurement, evaluation, award, or contract performance or administration if the Lead State is a party; a Participating State if a named party; the state where the Participating Entity or Purchasing Entity is located if either is a named party.

- 14.13 Assignment of Antitrust Rights.** Contractor irrevocably assigns to a Participating Entity who is a state any claim for relief or cause of action which the Contractor now has or which may accrue to the Contractor in the future by reason of any violation of state or federal antitrust laws (15 U.S.C. § 1-15 or a Participating Entity's state antitrust provisions), as now in effect and as may be amended from time to time, in connection with any goods or services provided in that state for the purpose of carrying out the Contractor's obligations under this Master Agreement or Participating

Addendum, including, at the Participating Entity's option, the right to control any such litigation on such claim for relief or cause of action.



EXHIBIT B

STATE OF OKLAHOMA GENERAL TERMS

This State of Oklahoma General Terms (“General Terms”) is a Contract Document in connection with a Contract awarded by the Office of Management and Enterprise Services on behalf of the State of Oklahoma.

In addition to other terms contained in an applicable Contract Document, Supplier and State agree to the following General Terms:

1 Scope and Contract Renewal

- 1.1** Supplier may not add products or services to its offerings under the Contract without the State’s prior written approval. Such request may require a competitive bid of the additional products or services. If the need arises for goods or services outside the scope of the Contract, Supplier shall contact the State.

- 1.2** At no time during the performance of the Contract shall the Supplier have the authority to obligate any Customer for payment for any products or services (a) when a corresponding encumbering document is not signed or (b) over and above an awarded Contract amount. Likewise, Supplier is not entitled to compensation for a product or service provided by or on behalf of Supplier that is neither requested nor accepted as satisfactory.

- 1.3** If applicable, prior to any Contract renewal, the State shall subjectively consider the value of the Contract to the State, the Supplier’s performance under the Contract, and shall review certain other factors, including but not limited to the: a) terms and conditions of Contract Documents to determine validity with current State and other applicable statutes and rules; b) current pricing and discounts offered by Supplier; and c) current products, services and support offered by Supplier. If the State determines changes to the Contract are required as a condition precedent to renewal, the State and Supplier will cooperate in good faith to evidence such required changes in an Addendum. Further, any request for a price increase in connection with a renewal or

otherwise will be conditioned on the Supplier providing appropriate documentation supporting the request.

- 1.4** The State may extend the Contract for ninety (90) days beyond a final renewal term at the Contract compensation rate for the extended period. If the State exercises such option to extend ninety (90) days, the State shall notify the Supplier in writing prior to Contract end date. The State, at its sole option and to the extent allowable by law, may choose to exercise subsequent ninety (90) day extensions at the Contract pricing rate, to facilitate the finalization of related terms and conditions of a new award or as needed for transition to a new Supplier.
- 1.5** Supplier understands that supplier registration expires annually and, pursuant to OAC 260:115-3-3, Supplier shall maintain its supplier registration with the State as a precondition to a renewal of the Contract.

2 Contract Effectiveness and Order of Priority

- 2.1** Unless specifically agreed in writing otherwise, the Contract is effective upon the date last signed by the parties. Supplier shall not commence work, commit funds, incur costs, or in any way act to obligate the State until the Contract is effective.
- 2.2** Contract Documents shall be read to be consistent and complementary. Any conflict among the Contract Documents shall be resolved by giving priority to Contract Documents in the following order of precedence:
 - A.** any Addendum;
 - B.** any applicable Solicitation;
 - C.** any Contract-specific terms contained in a Contract Document including, without limitation, information technology terms and terms specific to a statewide Contract or a State agency Contract;
 - D.** the terms contained in this Contract Document;
 - E.** any successful Bid as may be amended through negotiation and to the extent the Bid does not otherwise conflict with the Solicitation or applicable law;
 - F.** any statement of work, work order, or other similar ordering document as applicable; and
 - G.** other mutually agreed Contract Documents.

- 2.3 If there is a conflict between the terms contained in this Contract Document or in Contract-specific terms and an agreement provided by or on behalf of Supplier including but not limited to linked or supplemental documents which alter or diminish the rights of Customer or the State, the conflicting terms provided by Supplier shall not take priority over this Contract Document or Acquisition-specific terms. In no event will any linked document alter or override such referenced terms except as specifically agreed in an Addendum.
- 2.4 Any Contract Document shall be legibly written in ink or typed. All Contract transactions, and any Contract Document related thereto, may be conducted by electronic means pursuant to the Oklahoma Uniform Electronic Transactions Act.

3 **Modification of Contract Terms and Contract Documents**

- 3.1 The Contract may only be modified, amended, or expanded by an Addendum. Any change to the Contract, including the addition of work or materials, the revision of payment terms, or the substitution of work or materials made unilaterally by the Supplier, is a material breach of the Contract. Unless otherwise specified by applicable law or rules, such changes, including without limitation, any unauthorized written Contract modification, shall be void and without effect and the Supplier shall not be entitled to any claim under the Contract based on those changes. No oral statement of any person shall modify or otherwise affect the terms, conditions, or specifications stated in the Contract.
- 3.2 Any additional terms on an ordering document provided by Supplier are of no effect and are void unless mutually executed. OMES bears no liability for performance, payment or failure thereof by the Supplier or by a Customer other than OMES in connection with an Acquisition.

4 **Definitions**

In addition to any defined terms set forth elsewhere in the Contract, the Oklahoma Central Purchasing Act and the Oklahoma Administrative Code, Title 260, the parties agree that, when used in the Contract, the following terms are defined as set forth below and may be used in the singular or plural form:

- 4.1 **Acquisition** means items, products, materials, supplies, services and equipment acquired by purchase, lease purchase, lease with option to purchase, value provided or rental under the Contract.
- 4.2 **Addendum** means a mutually executed, written modification to a Contract Document.

- 4.3 **Amendment** means a written change, addition, correction or revision to the Solicitation.
- 4.4 **Bid** means an offer a Bidder submits in response to the Solicitation.
- 4.5 **Bidder** means an individual or business entity that submits a Bid in response to the Solicitation.
- 4.6 **Contract** means the written, mutually agreed and binding legal relationship resulting from the Contract Documents and an appropriate encumbering document as may be amended from time to time, which evidences the final agreement between the parties with respect to the subject matter of the Contract.
- 4.7 **Contract Document** means this document; any master or enterprise agreement terms entered into between the parties that are mutually agreed to be applicable to the Contract; any Solicitation; any Contract-specific terms; any Supplier's Bid as may be negotiated; any statement of work, work order, or other similar mutually executed ordering document; other mutually executed documents and any Addendum.
- 4.8 **Customer** means the entity receiving goods or services contemplated by the Contract.
- 4.9 **Debarment** means action taken by a debaring official under federal or state law or regulations to exclude any business entity from inclusion on the Supplier list; bidding; offering to bid; providing a quote; receiving an award of contract with the State and may also result in cancellation of existing contracts with the State.
- 4.10 **Destination** means delivered to the receiving dock or other point specified in the applicable Contract Document.
- 4.11 **Indemnified Parties** means the State and Customer and/or its officers, directors, agents, employees, representatives, contractors, assignees and designees thereof.
- 4.12 **Inspection** means examining and testing an Acquisition (including, when appropriate, raw materials, components, and intermediate assemblies) to determine whether the Acquisition meets Contract requirements.
- 4.13 **Moral Rights** means any and all rights of paternity or integrity of the Work Product and the right to object to any modification, translation or use of the Work Product and any similar rights existing under the judicial or statutory law

of any country in the world or under any treaty, regardless of whether or not such right is denominated or referred to as a moral right.

- 4.14 **OAC** means the Oklahoma Administrative Code.
- 4.15 **OMES** means the Office of Management and Enterprise Services.
- 4.16 **Solicitation** means the document inviting Bids for the Acquisition referenced in the Contract and any amendments thereto.
- 4.17 **State** means the government of the state of Oklahoma, its employees and authorized representatives, including without limitation any department, agency, or other unit of the government of the state of Oklahoma.
- 4.18 **Supplier** means the Bidder with whom the State enters into the Contract awarded pursuant to the Solicitation or the business entity or individual that is a party to the Contract with the State.
- 4.19 **Suspension** means action taken by a suspending official under federal or state law or regulations to suspend a Supplier from inclusion on the Supplier list; be eligible to submit Bids to State agencies and be awarded a contract by a State agency subject to the Central Purchasing Act.
- 4.20 **Supplier Confidential Information** means certain confidential and proprietary information of Supplier that is clearly marked as confidential and agreed by the State Purchasing Director or Customer, as applicable, but does not include information excluded from confidentiality in provisions of the Contract or the Oklahoma Open Records Act.
- 4.21 **Work Product** means any and all deliverables produced by Supplier under a statement of work or similar Contract Document issued pursuant to this Contract, including any and all tangible or intangible items or things that have been or will be prepared, created, developed, invented or conceived at any time following the Contract effective date including but not limited to any (i) works of authorship (such as manuals, instructions, printed material, graphics, artwork, images, illustrations, photographs, computer programs, computer software, scripts, object code, source code or other programming code, HTML code, flow charts, notes, outlines, lists, compilations, manuscripts, writings, pictorial materials, schematics, formulae, processes, algorithms, data, information, multimedia files, text web pages or web sites, other written or machine readable expression of such works fixed in any tangible media, and all other copyrightable works), (ii) trademarks, service marks, trade dress, trade names, logos, or other indicia of source or origin, (iii) ideas, designs, concepts, personality rights, methods, processes, techniques, apparatuses, inventions,

formulas, discoveries, or improvements, including any patents, trade secrets and know-how, (iv) domain names, (v) any copies, and similar or derivative works to any of the foregoing, (vi) all documentation and materials related to any of the foregoing, (vii) all other goods, services or deliverables to be provided by or on behalf of Supplier under the Contract and (viii) all Intellectual Property Rights in any of the foregoing, and which are or were created, prepared, developed, invented or conceived for the use of benefit of Customer in connection with this Contract or with funds appropriated by or for Customer or Customer's benefit (a) by any Supplier personnel or Customer personnel or (b) any Customer personnel who then became personnel to Supplier or any of its affiliates or subcontractors, where, although creation or reduction-to-practice is completed while the person is affiliated with Supplier or its personnel, any portion of same was created, invented or conceived by such person while affiliated with Customer.

5 Pricing

- 5.1** Pursuant to 68 O.S. §§ 1352, 1356, and 1404, State agencies are exempt from the assessment of State sales, use, and excise taxes. Further, State agencies and political subdivisions of the State are exempt from Federal Excise Taxes pursuant to Title 26 of the United States Code. Any taxes of any nature whatsoever payable by the Supplier shall not be reimbursed.
- 5.2** Pursuant to 74 O.S. §85.40, all travel expenses of Supplier must be included in the total Acquisition price.
- 5.3** The price of a product offered under the Contract shall include and Supplier shall prepay all shipping, packaging, delivery and handling fees. All product deliveries will be free on board Customer's Destination. No additional fees shall be charged by Supplier for standard shipping and handling. If Customer requests expedited or special delivery, Customer may be responsible for any charges for expedited or special delivery.

6 Ordering, Inspection, and Acceptance

- 6.1** Any product or service furnished under the Contract shall be ordered by issuance of a valid purchase order or other appropriate payment mechanism, including a pre-encumbrance, or by use of a valid Purchase Card. All orders and transactions are governed by the terms and conditions of the Contract. Any purchase order or other applicable payment mechanism dated prior to termination or expiration of the Contract shall be performed unless mutually agreed in writing otherwise.

- 6.2** Services will be performed in accordance with industry best practices and are subject to acceptance by the Customer. Notwithstanding any other provision in the Contract, deemed acceptance of a service or associated deliverable shall not apply automatically upon receipt of a deliverable or upon provision of a service.

Supplier warrants and represents that a product or deliverable furnished by or through the Supplier shall individually, and where specified by Supplier to perform as a system, be substantially uninterrupted and error-free in operation and guaranteed against faulty material and workmanship for a warranty period of the greater of ninety (90) days from the date of acceptance or the maximum allowed by the manufacturer. A defect in a product or deliverable furnished by or through the Supplier shall be repaired or replaced by Supplier at no additional cost or expense to the Customer if such defect occurs during the warranty period.

Any product to be delivered pursuant to the Contract shall be subject to final inspection and acceptance by the Customer at Destination. The Customer assumes no responsibility for a product until accepted by the Customer. Title and risk of loss or damage to a product shall be the responsibility of the Supplier until accepted. The Supplier shall be responsible for filing, processing, and collecting any and all damage claims accruing prior to acceptance.

Pursuant to OAC 260:115-9-5, payment for an Acquisition does not constitute final acceptance of the Acquisition. If subsequent inspection affirms that the Acquisition does not meet or exceed the specifications of the order or that the Acquisition has a latent defect, the Supplier shall be notified as soon as is reasonably practicable. The Supplier shall retrieve and replace the Acquisition at Supplier's expense or, if unable to replace, shall issue a refund to Customer. Refund under this section shall not be an exclusive remedy.

- 6.3** Supplier shall deliver products and services on or before the required date specified in a Contract Document. Failure to deliver timely may result in liquidated damages as set forth in the applicable Contract Document. Deviations, substitutions, or changes in a product or service, including changes of personnel directly providing services, shall not be made unless expressly authorized in writing by the Customer. Any substitution of personnel directly providing services shall be a person of comparable or greater skills, education and experience for performing the services as the person being replaced. Additionally, Supplier shall provide staff sufficiently experienced and able to

perform with respect to any transitional services provided by Supplier in connection with termination or expiration of the Contract.

- 6.4** Product warranty and return policies and terms provided under any Contract Document will not be more restrictive or more costly than warranty and return policies and terms for other similarly situated customers for a like product.

7 Invoices and Payment

- 7.1** Supplier shall be paid upon submission of a proper invoice(s) at the prices stipulated in the Contract in accordance with 74 O.S. §85.44B which requires that payment be made only after products have been provided and accepted or services rendered and accepted.

The following terms additionally apply:

- A.** An invoice shall contain the purchase order number, description of products or services provided and the dates of such provision.
- B.** Failure to provide a timely and proper invoice may result in delay of processing the invoice for payment. Proper invoice is defined at OAC 260:10-1-2.
- C.** Payment of all fees under the Contract shall be due NET 45 days. Payment and interest on late payments are governed by 62 O.S. §34.72. Such interest is the sole and exclusive remedy for late payments by a State agency and no other late fees are authorized to be assessed pursuant to Oklahoma law.
- D.** The date from which an applicable early payment discount time is calculated shall be from the receipt date of a proper invoice. There is no obligation, however, to utilize an early payment discount.
- E.** If an overpayment or underpayment has been made to Supplier any subsequent payments to Supplier under the Contract may be adjusted to correct the account. A written explanation of the adjustment will be issued to Supplier.
- F.** Supplier shall have no right of setoff.
- G.** Because funds are typically dedicated to a particular fiscal year, an invoice will be paid only when timely submitted, which shall in no instance be later than six (6) months after the end of the fiscal year in which the goods are provided or services performed.

- H. The Supplier shall accept payment by Purchase Card as allowed by Oklahoma law.

8 Maintenance of Insurance, Payment of Taxes, and Workers' Compensation

- 8.1 As a condition of this Contract, Supplier shall procure at its own expense, and provide proof of, insurance coverage with the applicable liability limits set forth below and any approved subcontractor of Supplier shall procure and provide proof of the same coverage. The required insurance shall be underwritten by an insurance carrier with an A.M. Best rating of A- or better.

Such proof of coverage shall additionally be provided to the Customer if services will be provided by any of Supplier's employees, agents or subcontractors at any Customer premises and/or employer vehicles will be used in connection with performance of Supplier's obligations under the Contract. Supplier may not commence performance hereunder until such proof has been provided. Additionally, Supplier shall ensure each insurance policy includes a thirty (30) day notice of cancellation and name the State and its agencies as certificate holder and shall promptly provide proof to the State of any renewals, additions, or changes to such insurance coverage. Supplier's obligation to maintain insurance coverage under the Contract is a continuing obligation until Supplier has no further obligation under the Contract. Any combination of primary and excess or umbrella insurance may be used to satisfy the limits of coverage for Commercial General Liability, Auto Liability and Employers' Liability. Unless agreed between the parties and approved by the State Purchasing Director, the minimum acceptable insurance limits of liability are as follows:

- A. Workers' Compensation and Employer's Liability Insurance in accordance with and to the extent required by applicable law;
- B. Commercial General Liability Insurance covering the risks of personal injury, bodily injury (including death) and property damage, including coverage for contractual liability, with a limit of liability of not less than \$5,000,000 per occurrence;
- C. Automobile Liability Insurance with limits of liability of not less than \$5,000,000 combined single limit each accident;
- D. Directors and Officers Insurance which shall include Employment Practices Liability as well as Consultant's Computer Errors and Omissions Coverage, if information technology services are provided under the Contract, with limits not less than \$5,000,000 per occurrence;

- E.** Security and Privacy Liability insurance, including coverage for failure to protect confidential information and failure of the security of Supplier's computer systems that results in unauthorized access to Customer data with limits \$5,000,000 per occurrence; and
- F.** Additional coverage required in writing in connection with a particular Acquisition.

8.2 Supplier shall be entirely responsible during the existence of the Contract for the liability and payment of taxes payable by or assessed to Supplier or its employees, agents and subcontractors of whatever kind, in connection with the Contract. Supplier further agrees to comply with all state and federal laws applicable to any such persons, including laws regarding wages, taxes, insurance, and Workers' Compensation. Neither Customer nor the State shall be liable to the Supplier, its employees, agents, or others for the payment of taxes or the provision of unemployment insurance and/or Workers' Compensation or any benefit available to a State or Customer employee.

8.3 Supplier agrees to indemnify Customer, the State, and its employees, agents, representatives, contractors, and assignees for any and all liability, actions, claims, demands, or suits, and all related costs and expenses (including without limitation reasonable attorneys' fees and costs required to establish the right to indemnification) relating to tax liability, unemployment insurance and/or Workers' Compensation in connection with its performance under the Contract.

9 Compliance with Applicable Laws

9.1 As long as Supplier has an obligation under the terms of the Contract and in connection with performance of its obligations, the Supplier represents its present compliance, and shall have an ongoing obligation to comply, with all applicable federal, State, and local laws, rules, regulations, ordinances, and orders, as amended, including but not limited to the following:

- A.** Drug-Free Workplace Act of 1988 set forth at 41 U.S.C. §81.
- B.** Section 306 of the Clean Air Act, Section 508 of the Clean Water Act, Executive Order 11738, and Environmental Protection Agency Regulations which prohibit the use of facilities included on the EPA List of Violating Facilities under nonexempt federal contracts, grants or loans;

- C. Prospective participant requirements set at 45 C.F.R. part 76 in connection with Debarment, Suspension and other responsibility matters;
- D. 1964 Civil Rights Act, Title IX of the Education Amendment of 1972, Section 504 of the Rehabilitation Act of 1973, Americans with Disabilities Act of 1990, and Executive Orders 11246 and 11375;
- E. Anti-Lobbying Law set forth at 31 U.S.C. §1325 and as implemented at 45 C.F.R. part 93;
- F. Requirements of Internal Revenue Service Publication 1075 regarding use, access and disclosure of Federal Tax Information (as defined therein);
- G. Obtaining certified independent audits conducted in accordance with Government Auditing Standards and Office of Management and Budget Uniform Guidance, 2 CFR 200 Subpart F §200.500 et seq. with approval and work paper examination rights of the applicable procuring entity;
- H. Requirements of the Oklahoma Taxpayer and Citizen Protection Act of 2007, 25 O.S. §1312 and applicable federal immigration laws and regulations and be registered and participate in the Status Verification System. The Status Verification System is defined at 25 O.S. §1312, includes but is not limited to the free Employment Verification Program (E-Verify) through the Department of Homeland Security, and is available at www.dhs.gov/E-Verify;
- I. Requirements of the Health Insurance Portability and Accountability Act of 1996; Health Information Technology for Economic and Clinical Health Act; Payment Card Industry Security Standards; Criminal Justice Information System Security Policy and Security Addendum; and Family Educational Rights and Privacy Act; and
- J. Be registered as a business entity licensed to do business in the State, have obtained a sales tax permit, and be current on franchise tax payments to the State, as applicable.

9.2 The Supplier's employees, agents and subcontractors shall adhere to applicable Customer policies including, but not limited to acceptable use of Internet and electronic mail, facility and data security, press releases, and public relations. As applicable, the Supplier shall adhere to the State Information Security Policy, Procedures, Guidelines set forth at

https://omes.ok.gov/sites/g/files/gmc316/f/InfoSecPPG_0.pdf. Supplier is responsible for reviewing and relaying such policies covering the above to the Supplier's employees, agents and subcontractors.

- 9.3** At no additional cost to Customer, the Supplier shall maintain all applicable licenses and permits required in association with its obligations under the Contract.
- 9.4** In addition to compliance under subsection 9.1 above, Supplier shall have a continuing obligation to comply with applicable Customer-specific mandatory contract provisions required in connection with the receipt of federal funds or other funding source.
- 9.5** The Supplier is responsible to review and inform its employees, agents, and subcontractors who provide a product or perform a service under the Contract of the Supplier's obligations under the Contract and Supplier certifies that its employees and each such subcontractor shall comply with minimum requirements and applicable provisions of the Contract. At the request of the State, Supplier shall promptly provide adequate evidence that such persons are its employees, agents or approved subcontractors and have been informed of their obligations under the Contract.
- 9.6** As applicable, Supplier agrees to comply with the Governor's Executive Orders related to the use of any tobacco product, electronic cigarette or vaping device on any and all properties owned, leased, or contracted for use by the State, including but not limited to all buildings, land and vehicles owned, leased, or contracted for use by agencies or instrumentalities of the State.
- 9.7** The execution, delivery and performance of the Contract and any ancillary documents by Supplier will not, to the best of Supplier's knowledge, violate, conflict with, or result in a breach of any provision of, or constitute a default (or an event which, with notice or lapse of time or both, would constitute a default) under, or result in the termination of, any written contract or other instrument between Supplier and any third party.
- 9.8** Supplier represents that it has the ability to pay its debts when due and it does not anticipate the filing of a voluntary or involuntary bankruptcy petition or appointment of a receiver, liquidator or trustee.
- 9.9** Supplier represents that, to the best of its knowledge, any litigation or claim or any threat thereof involving Supplier has been disclosed in writing to the State and Supplier is not aware of any other litigation, claim or threat thereof.

9.10 If services provided by Supplier include delivery of an electronic communication, Supplier shall ensure such communication and any associated support documents are compliant with Section 508 of the Federal Rehabilitation Act and with State standards regarding accessibility. Should any communication or associated support documents be non-compliant, Supplier shall correct and re-deliver such communication immediately upon discovery or notice, at no additional cost to the State. Additionally, as part of compliance with accessibility requirements where documents are only provided in non-electronic format, Supplier shall promptly provide such communication and any associated support documents in an alternate format usable by individuals with disabilities upon request and at no additional cost, which may originate from an intended recipient or from the State.

10 Audits and Records Clause

10.1 As used in this clause and pursuant to 67 O.S. §203, “record” includes a document, book, paper, photograph, microfilm, computer tape, disk, record, sound recording, film recording, video record, accounting procedures and practices, and other data, regardless of type and regardless of whether such items are in written form, in the form of computer data, or in any other form. Supplier agrees any pertinent federal or State agency or governing entity of a Customer shall have the right to examine and audit, at no additional cost to a Customer, all records relevant to the execution and performance of the Contract except, unless otherwise agreed, costs of Supplier that comprise pricing under the Contract.

10.2 The Supplier is required to retain records relative to the Contract for the duration of the Contract and for a period of seven (7) years following completion or termination of an Acquisition unless otherwise indicated in the Contract terms. If a claim, audit, litigation or other action involving such records is started before the end of the seven-year period, the records are required to be maintained for two (2) years from the date that all issues arising out of the action are resolved, or until the end of the seven (7) year retention period, whichever is later.

10.3 Pursuant to 74 O.S. §85.41, if professional services are provided hereunder, all items of the Supplier that relate to the professional services are subject to examination by the State agency, State Auditor and Inspector and the State Purchasing Director.

11 Confidentiality

11.1 The Supplier shall maintain strict security of all State and citizen data and records entrusted to it or to which the Supplier gains access, in accordance with

and subject to applicable federal and State laws, rules, regulations, and policies and shall use any such data and records only as necessary for Supplier to perform its obligations under the Contract. The Supplier further agrees to evidence such confidentiality obligation in a separate writing if required under such applicable federal or State laws, rules and regulations. The Supplier warrants and represents that such information shall not be sold, assigned, conveyed, provided, released, disseminated or otherwise disclosed by Supplier, its employees, officers, directors, subsidiaries, affiliates, agents, representatives, assigns, subcontractors, independent contractors, successor or any other persons or entities without Customer's prior express written permission. Supplier shall instruct all such persons and entities that the confidential information shall not be disclosed or used without the Customer's prior express written approval except as necessary for Supplier to render services under the Contract. The Supplier further warrants that it has a tested and proven system in effect designed to protect all confidential information.

- 11.2** Supplier shall establish, maintain and enforce agreements with all such persons and entities that have access to State and citizen data and records to fulfill Supplier's duties and obligations under the Contract and to specifically prohibit any sale, assignment, conveyance, provision, release, dissemination or other disclosure of any State or citizen data or records except as required by law or allowed by written prior approval of the Customer.
- 11.3** Supplier shall immediately report to the Customer any and all unauthorized use, appropriation, sale, assignment, conveyance, provision, release, access, acquisition, disclosure or other dissemination of any State or citizen data or records of which it or its parent company, subsidiaries, affiliates, employees, officers, directors, assignees, agents, representatives, independent contractors, and subcontractors is aware or have knowledge or reasonable should have knowledge. The Supplier shall also promptly furnish to Customer full details of the unauthorized use, appropriation, sale, assignment, conveyance, provision, release, access, acquisition, disclosure or other dissemination, or attempt thereof, and use its best efforts to assist the Customer in investigating or preventing the reoccurrence of such event in the future. The Supplier shall cooperate with the Customer in connection with any litigation and investigation deemed necessary by the Customer to protect any State or citizen data and records and shall bear all costs associated with the investigation, response and recovery in connection with any breach of State or citizen data or records including but not limited to credit monitoring services with a term of at least three (3) years, all notice-related costs and toll free telephone call center services.

- 11.4** Supplier further agrees to promptly prevent a reoccurrence of any unauthorized use, appropriation, sale, assignment, conveyance, provision, release, access, acquisition, disclosure or other dissemination of State or citizen data and records.
- 11.5** Supplier acknowledges that any improper use, appropriation, sale, assignment, conveyance, provision, release, access, acquisition, disclosure or other dissemination of any State data or records to others may cause immediate and irreparable harm to the Customer and certain beneficiaries and may violate state or federal laws and regulations. If the Supplier or its affiliates, parent company, subsidiaries, employees, officers, directors, assignees, agents, representatives, independent contractors, and subcontractors improperly use, appropriate, sell, assign, convey, provide, release, access, acquire, disclose or otherwise disseminate such confidential information to any person or entity in violation of the Contract, the Customer will immediately be entitled to injunctive relief and/or any other rights or remedies available under this Contract, at equity or pursuant to applicable statutory, regulatory, and common law without a cure period.
- 11.6** The Supplier shall immediately forward to the State Purchasing Director, and any other applicable person listed in the Notices section(s) of the Contract, any request by a third party for data or records in the possession of the Supplier or any subcontractor or to which the Supplier or subcontractor has access and Supplier shall fully cooperate with all efforts to protect the security and confidentiality of such data or records in response to a third party request.
- 11.7** Customer may be provided access to Supplier Confidential Information. State agencies are subject to the Oklahoma Open Records Act and Supplier acknowledges information marked confidential information will be disclosed to the extent permitted under the Open Records Act and in accordance with this section. Nothing herein is intended to waive the State Purchasing Director's authority under OAC 260:115-3-9 in connection with Bid information requested to be held confidential by a Bidder. Notwithstanding the foregoing, Supplier Confidential Information shall not include information that: (i) is or becomes generally known or available by public disclosure, commercial use or otherwise and is not in contravention of this Contract; (ii) is known and has been reduced to tangible form by the receiving party before the time of disclosure for the first time under this Contract and without other obligations of confidentiality; (iii) is independently developed without the use of any of Supplier Confidential Information; (iv) is lawfully obtained from a third party (without any confidentiality obligation) who has the right to make such disclosure or (v) résumé, pricing or marketing materials provided to the State. In addition, the obligations in this section shall not apply to the extent

that the applicable law or regulation requires disclosure of Supplier Confidential Information, provided that the Customer provides reasonable written notice, pursuant to Contract notice provisions, to the Supplier so that the Supplier may promptly seek a protective order or other appropriate remedy.

12 Conflict of Interest

In addition to any requirement of law or of a professional code of ethics or conduct, the Supplier, its employees, agents and subcontractors are required to disclose any outside activity or interest that conflicts or may conflict with the best interest of the State. Prompt disclosure is required under this section if the activity or interest is related, directly or indirectly, to any person or entity currently under contract with or seeking to do business with the State, its employees or any other third-party individual or entity awarded a contract with the State. Further, as long as the Supplier has an obligation under the Contract, any plan, preparation or engagement in any such activity or interest shall not occur without prior written approval of the State. Any conflict of interest shall, at the sole discretion of the State, be grounds for partial or whole termination of the Contract.

13 Assignment and Permitted Subcontractors

13.1 Supplier's obligations under the Contract may not be assigned or transferred to any other person or entity without the prior written consent of the State which may be withheld at the State's sole discretion. Should Supplier assign its rights to payment, in whole or in part, under the Contract, Supplier shall provide the State and all affected Customers with written notice of the assignment. Such written notice shall be delivered timely and contain details sufficient for affected Customers to perform payment obligations without any delay caused by the assignment.

13.2 Notwithstanding the foregoing, the Contract may be assigned by Supplier to any corporation or other entity in connection with a merger, consolidation, sale of all equity interests of the Supplier, or a sale of all or substantially all of the assets of the Supplier to which the Contract relates. In any such case, said corporation or other entity shall by operation of law or expressly in writing assume all obligations of the Supplier as fully as if it had been originally made a party to the Contract. Supplier shall give the State and all affected Customers prior written notice of said assignment. Any assignment or delegation in violation of this subsection shall be void.

13.3 If the Supplier is permitted to utilize subcontractors in support of the Contract, the Supplier shall remain solely responsible for its obligations under the terms of the Contract, for its actions and omissions and those of its agents, employees and subcontractors and for payments to such persons or entities. Prior to a

subcontractor being utilized by the Supplier, the Supplier shall obtain written approval of the State of such subcontractor and each employee, as applicable to a particular Acquisition, of such subcontractor proposed for use by the Supplier. Such approval is within the sole discretion of the State. Any proposed subcontractor shall be identified by entity name, and by employee name, if required by the particular Acquisition, in the applicable proposal and shall include the nature of the services to be performed. As part of the approval request, the Supplier shall provide a copy of a written agreement executed by the Supplier and subcontractor setting forth that such subcontractor is bound by and agrees, as applicable, to perform the same covenants and be subject to the same conditions and make identical certifications to the same facts and criteria, as the Supplier under the terms of all applicable Contract Documents. Supplier agrees that maintaining such agreement with any subcontractor and obtaining prior written approval by the State of any subcontractor and associated employees shall be a continuing obligation. The State further reserves the right to revoke approval of a subcontractor or an employee thereof in instances of poor performance, misconduct or for other similar reasons.

- 13.4** All payments under the Contract shall be made directly to the Supplier, except as provided in subsection A above regarding the Supplier's assignment of payment. No payment shall be made to the Supplier for performance by unapproved or disapproved employees of the Supplier or a subcontractor.
- 13.5** Rights and obligations of the State or a Customer under the terms of this Contract may be assigned or transferred, at no additional cost, to other Customer entities.

14 Background Checks and Criminal History Investigations

Prior to the commencement of any services, background checks and criminal history investigations of the Supplier's employees and subcontractors who will be providing services may be required and, if so, the required information shall be provided to the State in a timely manner. Supplier's access to facilities, data and information may be withheld prior to completion of background verification acceptable to the State. The costs of additional background checks beyond Supplier's normal hiring practices shall be the responsibility of the Customer unless such additional background checks are required solely because Supplier will not provide results of its otherwise acceptable normal background checks; in such an instance, Supplier shall pay for the additional background checks. Supplier will coordinate with the State and its employees to complete the necessary background checks and criminal history investigations. Should any employee or subcontractor of the Supplier who will be providing services under the Contract not be acceptable as a result of the background check or criminal history investigation, the Customer may require replacement of the employee or

subcontractor in question and, if no suitable replacement is made within a reasonable time, terminate the purchase order or other payment mechanism associated with the project or services.

15 Patents and Copyrights

Without exception, a product or deliverable price shall include all royalties or costs owed by the Supplier to any third party arising from the use of a patent, intellectual property, copyright or other property right held by such third party. Should any third party threaten or make a claim that any portion of a product or service provided by Supplier under the Contract infringes that party's patent, intellectual property, copyright or other property right, Supplier shall enable each affected Customer to legally continue to use, or modify for use, the portion of the product or service at issue or replace such potentially infringing product, or re-perform or redeliver in the case of a service, with at least a functional non-infringing equivalent. Supplier's duty under this section shall extend to include any other product or service rendered materially unusable as intended due to replacement or modification of the product or service at issue. If the Supplier determines that none of these alternatives are reasonably available, the State shall return such portion of the product or deliverable at issue to the Supplier, upon written request, in exchange for a refund of the price paid for such returned goods as well as a refund or reimbursement, if applicable, of the cost of any other product or deliverable rendered materially unusable as intended due to removal of the portion of product or deliverable at issue. Any remedy provided under this section is not an exclusive remedy and is not intended to operate as a waiver of legal or equitable remedies because of acceptance of relief provided by Supplier.

16 Indemnification

16.1 Acts or Omissions

- A.** Supplier shall defend and indemnify the Indemnified Parties, as applicable, for any and all liability, claims, damages, losses, costs, expenses, demands, suits and actions of third parties (including without limitation reasonable attorneys' fees and costs required to establish the right to indemnification) arising out of, or resulting from any action or claim for bodily injury, death, or property damage brought against any of the Indemnified parties to the extent arising from any negligent act or omission or willful misconduct of the Supplier or its agents, employees, or subcontractors in the execution or performance of the Contract.
- B.** To the extent Supplier is found liable for loss, damage, or destruction of any property of Customer due to negligence, misconduct, wrongful act, or omission on the part of the Supplier, its employees, agents,

representatives, or subcontractors, the Supplier and Customer shall use best efforts to mutually negotiate an equitable settlement amount to repair or replace the property unless such loss, damage or destruction is of such a magnitude that repair or replacement is not a reasonable option. Such amount shall be invoiced to, and is payable by, Supplier sixty (60) calendar days after the date of Supplier's receipt of an invoice for the negotiated settlement amount.

16.2 Infringement

Supplier shall indemnify the Indemnified Parties, as applicable, for all liability, claims, damages, losses, costs, expenses, demands, suits and actions of third parties (including without limitation reasonable attorneys' fees and costs required to establish the right to indemnification) arising from or in connection with Supplier's breach of its representations and warranties in the Contract or alleged infringement of any patent, intellectual property, copyright or other property right in connection with a product or service provided under the Contract. Supplier's duty under this section is reduced to the extent a claimed infringement results from: (a) a Customer's or user's content; (b) modifications by Customer or third party to a product delivered under the Contract or combinations of the product with any non-Supplier-provided services or products unless Supplier recommended or participated in such modification or combination; (c) use of a product or service by Customer in violation of the Contract unless done so at the direction of Supplier, or (d) a non-Supplier product that has not been provided to the State by, through or on behalf of Supplier as opposed to its combination with products Supplier provides to or develops for the State or a Customer as a system.

16.3 Notice and Cooperation

In connection with indemnification obligations under the Contract, the parties agree to furnish prompt written notice to each other of any third-party claim. Any Customer affected by the claim will reasonably cooperate with Supplier and defense of the claim to the extent its interests are aligned with Supplier. Supplier shall use counsel reasonably experienced in the subject matter at issue and will not settle a claim without the written consent of the party being defended, which consent will not be unreasonably withheld or delayed, except that no consent will be required to settle a claim against Indemnified Parties that are not a State agency, where relief against the Indemnified Parties is limited to monetary damages that are paid by the defending party under indemnification provisions of the Contract.

16.4 Coordination of Defense

In connection with indemnification obligations under the Contract, when a State agency is a named defendant in any filed or threatened lawsuit, the defense of the State agency shall be coordinated by the Attorney General of Oklahoma, or the Attorney General may authorize the Supplier to control the defense and any related settlement negotiations; provided, however, Supplier shall not agree to any settlement of claims against the State without obtaining advance written concurrence from the Attorney General. If the Attorney General does not authorize sole control of the defense and settlement negotiations to Supplier, Supplier shall have authorization to equally participate in any proceeding related to the indemnity obligation under the Contract and shall remain responsible to indemnify the applicable Indemnified Parties.

16.5 Limitation of Liability

- A.** With respect to any claim or cause of action arising under or related to the Contract, neither the State nor any Customer shall be liable to Supplier for lost profits, lost sales or business expenditures, investments, or commitments in connection with any business, loss of any goodwill, or for any other indirect, incidental, punitive, special or consequential damages, even if advised of the possibility of such damages.
- B.** Notwithstanding anything to the contrary in the Contract, no provision shall limit damages, expenses, costs, actions, claims, and liabilities arising from or related to property damage, bodily injury or death caused by Supplier or its employees, agents or subcontractors; indemnity, security or confidentiality obligations under the Contract; the bad faith, negligence, intentional misconduct or other acts for which applicable law does not allow exemption from liability of Supplier or its employees, agents or subcontractors.
- C.** The limitation of liability and disclaimers set forth in the Contract will apply regardless of whether Customer has accepted a product or service. The parties agree that Supplier has set its fees and entered into the Contract in reliance on the disclaimers and limitations set forth herein, that the same reflect an allocation of risk between the parties and form an essential basis of the bargain between the parties. These limitations shall apply notwithstanding any failure of essential purpose of any limited remedy.

17 Termination for Funding Insufficiency

- 17.1** Notwithstanding anything to the contrary in any Contract Document, the State may terminate the Contract in whole or in part if funds sufficient to pay obligations under the Contract are not appropriated or received from an intended third-party funding source. In the event of such insufficiency, Supplier will be provided at least fifteen (15) calendar days' written notice of termination. Any partial termination of the Contract under this section shall not be construed as a waiver of, and shall not affect, the rights and obligations of any party regarding portions of the Contract that are not terminated. The determination by the State of insufficient funding shall be accepted by, and shall be final and binding on, the Supplier.
- 17.2** Upon receipt of notice of a termination, Supplier shall immediately comply with the notice terms and take all necessary steps to minimize the incurrence of costs allocable to the work affected by the notice. If a purchase order or other payment mechanism has been issued and a product or service has been accepted as satisfactory prior to the effective date of termination, the termination does not relieve an obligation to pay for the product or service but there shall not be any liability for further payments ordinarily due under the Contract or for any damages or other amounts caused by or associated with such termination. Any amount paid to Supplier in the form of prepaid fees that are unused when the Contractor certain obligations are terminated shall be refunded.
- 17.3** The State's exercise of its right to terminate the Contract under this section shall not be considered a default or breach under the Contract or relieve the Supplier of any liability for claims arising under the Contract.

18 Termination for Cause

- 18.1** Supplier may terminate the Contract if (i) it has provided the State with written notice of material breach and (ii) the State fails to cure such material breach within thirty (30) days of receipt of written notice. If there is more than one Customer, material breach by a Customer does not give rise to a claim of material breach as grounds for termination by Supplier of the Contract as a whole. The State may terminate the Contract in whole or in part if (i) it has provided Supplier with written notice of material breach, and (ii) Supplier fails to cure such material breach within thirty (30) days of receipt of written notice. Any partial termination of the Contract under this section shall not be construed as a waiver of, and shall not affect, the rights and obligations of any party regarding portions of the Contract that are not terminated.
- 18.2** The State may terminate the Contract in whole or in part immediately without a thirty (30) day written notice to Supplier if (i) Supplier fails to comply with

confidentiality, privacy, security, environmental or safety requirements applicable to Supplier's performance or obligations under the Contract; (ii) Supplier's material breach is reasonably determined to be an impediment to the function of the State and detrimental to the State or to cause a condition precluding the thirty (30) day notice or (iii) when the State determines that an administrative error in connection with award of the Contract occurred prior to Contract performance.

18.3 Upon receipt of notice of a termination, Supplier shall immediately comply with the notice terms and take all necessary steps to minimize the incurrence of costs allocable to the work affected by the notice. If a purchase order or other payment mechanism has been issued and a product or service has been accepted as satisfactory prior to the effective date of termination, the termination does not relieve an obligation to pay for the product or service but there shall not be any liability for further payments ordinarily due under the Contract or for any damages or other amounts caused by or associated with such termination. Such termination is not an exclusive remedy but is in addition to any other rights and remedies provided for by law. Any amount paid to Supplier in the form of prepaid fees that are unused when the Contract or certain obligations are terminated shall be refunded. Termination of the Contract under this section, in whole or in part, shall not relieve the Supplier of liability for claims arising under the Contract.

18.4 The Supplier's repeated failure to provide an acceptable product or service; Supplier's unilateral revision of linked or supplemental terms that have a materially adverse impact on a Customer's rights or obligations under the Contract (except as required by a governmental authority); actual or anticipated failure of Supplier to perform its obligations under the Contract; Supplier's inability to pay its debts when due; assignment for the benefit of Supplier's creditors; or voluntary or involuntary appointment of a receiver or filing of bankruptcy of Supplier shall constitute a material breach of the Supplier's obligations, which may result in partial or whole termination of the Contract. This subsection is not intended as an exhaustive list of material breach conditions. Termination may also result from other instances of failure to adhere to the Contract provisions and for other reasons provided for by applicable law, rules or regulations; without limitation, OAC 260:115-9-9 is an example.

19 Termination for Convenience

19.1 The State may terminate the Contract, in whole or in part, for convenience if it is determined that termination is in the State's best interest. In the event of a termination for convenience, Supplier will be provided at least thirty (30) days'

written notice of termination. Any partial termination of the Contract shall not be construed as a waiver of, and shall not affect, the rights and obligations of any party regarding portions of the Contract that remain in effect.

19.2 Upon receipt of notice of such termination, Supplier shall immediately comply with the notice terms and take all necessary steps to minimize the incurrence of costs allocable to the work affected by the notice. If a purchase order or other payment mechanism has been issued and a product or service has been accepted as satisfactory prior to the effective date of termination, the termination does not relieve an obligation to pay for the product or service but there shall not be any liability for further payments ordinarily due under the Contract or for any damages or other amounts caused by or associated with such termination. Such termination shall not be an exclusive remedy but shall be in addition to any other rights and remedies provided for by law. Any amount paid to Supplier in the form of prepaid fees that are unused when the Contract or certain obligations are terminated shall be refunded. Termination of the Contract under this section, in whole or in part, shall not relieve the Supplier of liability for claims arising under the Contract.

20 Suspension of Supplier

20.1 Supplier may be subject to Suspension without advance notice and may additionally be suspended from activities under the Contract if Supplier fails to comply with confidentiality, privacy, security, environmental or safety requirements applicable to Supplier's performance or obligations under the Contract.

20.2 Upon receipt of a notice pursuant to this section, Supplier shall immediately comply with the notice terms and take all necessary steps to minimize the incurrence of costs allocable to the work affected by the notice. If a purchase order or other payment mechanism has been issued and a product or service has been accepted as satisfactory prior to receipt of notice by Supplier, the Suspension does not relieve an obligation to pay for the product or service but there shall not be any liability for further payments ordinarily due under the Contract during a period of Suspension or suspended activity or for any damages or other amounts caused by or associated with such Suspension or suspended activity. A right exercised under this section shall not be an exclusive remedy but shall be in addition to any other rights and remedies provided for by law. Any amount paid to Supplier in the form of prepaid fees attributable to a period of Suspension or suspended activity shall be refunded.

20.3 Such Suspension may be removed, or suspended activity may resume, at the earlier of such time as a formal notice is issued that authorizes the resumption

of performance under the Contract or at such time as a purchase order or other appropriate encumbrance document is issued. This subsection is not intended to operate as an affirmative statement that such resumption will occur.

21 Certification Regarding Debarment, Suspension, and Other Responsibility Matters

The certification made by Supplier with respect to Debarment, Suspension, certain indictments, convictions, civil judgments and terminated public contracts is a material representation of fact upon which reliance was placed when entering into the Contract. A determination that Supplier knowingly rendered an erroneous certification, in addition to other available remedies, may result in whole or partial termination of the Contract for Supplier's default. Additionally, Supplier shall promptly provide written notice to the State Purchasing Director if the certification becomes erroneous due to changed circumstances.

22 Certification Regarding State Employees Prohibition From Fulfilling Services

Pursuant to 74 O.S. § 85.42, the Supplier certifies that no person involved in any manner in development of the Contract employed by the State shall be employed to fulfill any services provided under the Contract.

23 Force Majeure

23.1 Either party shall be temporarily excused from performance to the extent delayed as a result of unforeseen causes beyond its reasonable control including fire or other similar casualty, act of God, strike or labor dispute, war or other violence, or any law, order or requirement of any governmental agency or authority provided the party experiencing the force majeure event has prudently and promptly acted to take any and all steps within the party's control to ensure continued performance and to shorten duration of the event. If a party's performance of its obligations is materially hindered as a result of a force majeure event, such party shall promptly notify the other party of its best reasonable assessment of the nature and duration of the force majeure event and steps it is taking, and plans to take, to mitigate the effects of the force majeure event. The party shall use commercially reasonable best efforts to continue performance to the extent possible during such event and resume full performance as soon as reasonably practicable.

23.2 Subject to the conditions set forth above, non-performance as a result of a force majeure event shall not be deemed a default. However, a purchase order or other payment mechanism may be terminated if Supplier cannot cause delivery of a product or service in a timely manner to meet the business needs of Customer. Supplier is not entitled to payment for products or services not

received and, therefore, amounts payable to Supplier during the force majeure event shall be equitably adjusted downward.

23.3 Notwithstanding the foregoing or any other provision in the Contract, (i) the following are not a force majeure event under the Contract: (a) shutdowns, disruptions or malfunctions in Supplier's system or any of Supplier's telecommunication or internet services other than as a result of general and widespread internet or telecommunications failures that are not limited to Supplier's systems or (b) the delay or failure of Supplier or subcontractor personnel to perform any obligation of Supplier hereunder unless such delay or failure to perform is itself by reason of a force majeure event and (ii) no force majeure event modifies or excuses Supplier's obligations related to confidentiality, indemnification, data security or breach notification obligations set forth herein.

24 Security of Property and Personnel

In connection with Supplier's performance under the Contract, Supplier may have access to Customer personnel, premises, data, records, equipment and other property. Supplier shall use commercially reasonable best efforts to preserve the safety and security of such personnel, premises, data, records, equipment, and other property of Customer. Supplier shall be responsible for damage to such property to the extent such damage is caused by its employees or subcontractors and shall be responsible for loss of Customer property in its possession, regardless of cause. If Supplier fails to comply with Customer's security requirements, Supplier is subject to immediate suspension of work as well as termination of the associated purchase order or other payment mechanism.

25 Notices

All notices, approvals or requests allowed or required by the terms of any Contract Document shall be in writing, reference the Contract with specificity and deemed delivered upon receipt or upon refusal of the intended party to accept receipt of the notice. In addition to other notice requirements in the Contract and the designated Supplier contact provided in a successful Bid, notices shall be sent to the State at the physical address set forth below. Notice information may be updated in writing to the other party as necessary. Notwithstanding any other provision of the Contract, confidentiality, breach and termination-related notices shall not be delivered solely via e-mail.

If sent to the State:

State Purchasing Director
5005 North Lincoln Boulevard, Suite 300

Oklahoma City, Oklahoma 73105

With a copy, which shall not constitute notice, to:

Purchasing Division Deputy General Counsel
5005 North Lincoln Boulevard, Suite 300
Oklahoma City, Oklahoma 73105

26 Miscellaneous

26.1 Choice of Law and Venue

Any claim, dispute, or litigation relating to the Contract Documents, in the singular or in the aggregate, shall be governed by the laws of the State without regard to application of choice of law principles. Pursuant to 74 O.S. §85.14, where federal granted funds are involved, applicable federal laws, rules and regulations shall govern to the extent necessary to insure benefit of such federal funds to the State. Venue for any action, claim, dispute, or litigation relating in any way to the Contract Documents, shall be in Oklahoma County, Oklahoma.

26.2 No Guarantee of Products or Services Required

The State shall not guarantee any minimum or maximum amount of Supplier products or services required under the Contract.

26.3 Employment Relationship

The Contract does not create an employment relationship. Individuals providing products or performing services pursuant to the Contract are not employees of the State or Customer and, accordingly are not eligible for any rights or benefits whatsoever accruing to such employees.

26.4 Transition Services

If transition services are needed at the time of Contract expiration or termination, Supplier shall provide such services on a month-to-month basis, at the contract rate or other mutually agreed rate. Supplier shall provide a proposed transition plan, upon request, and cooperate with any successor supplier and with establishing a mutually agreeable transition plan. Failure to cooperate may be documented as poor performance of Supplier.

26.5 Publicity

The existence of the Contract or any Acquisition is in no way an endorsement of Supplier, the products or services and shall not be so construed by Supplier

in any advertising or publicity materials. Supplier agrees to submit to the State all advertising, sales, promotion, and other publicity matters relating to the Contract wherein the name of the State or any Customer is mentioned or language used from which, in the State's judgment, an endorsement may be inferred or implied. Supplier further agrees not to publish or use such advertising, sales promotion, or publicity matter or release any informational pamphlets, notices, press releases, research reports, or similar public notices concerning the Contract or any Acquisition hereunder without obtaining the prior written approval of the State.

26.6 Open Records Act

Supplier acknowledges that all State agencies and certain other Customers are subject to the Oklahoma Open Records Act set forth at 51 O.S. §24A-1 *et seq.* Supplier also acknowledges that compliance with the Oklahoma Open Records Act and all opinions of the Oklahoma Attorney General concerning the Act is required.

26.7 Failure to Enforce

Failure by the State or a Customer at any time to enforce a provision of, or exercise a right under, the Contract shall not be construed as a waiver of any such provision. Such failure to enforce or exercise shall not affect the validity of any Contract Document, or any part thereof, or the right of the State or a Customer to enforce any provision of, or exercise any right under, the Contract at any time in accordance with its terms. Likewise, a waiver of a breach of any provision of a Contract Document shall not affect or waive a subsequent breach of the same provision or a breach of any other provision in the Contract.

26.8 Mutual Responsibilities

- A.** No party to the Contract grants the other the right to use any trademarks, trade names, other designations in any promotion or publication without the express written consent by the other party.
- B.** The Contract is a non-exclusive contract and each party is free to enter into similar agreements with others.
- C.** The Customer and Supplier each grant the other only the licenses and rights specified in the Contract and all other rights and interests are expressly reserved.
- D.** The Customer and Supplier shall reasonably cooperate with each other and any Supplier to which the provision of a product and/or service

under the Contract may be transitioned after termination or expiration of the Contract.

- E. Except as otherwise set forth herein, where approval, acceptance, consent, or similar action by a party is required under the Contract, such action shall not be unreasonably delayed or withheld.

26.9 Invalid Term or Condition

To the extent any term or condition in the Contract conflicts with a compulsory applicable State or United States law or regulation, such Contract term or condition is void and unenforceable. By executing any Contract Document which contains a conflicting term or condition, no representation or warranty is made regarding the enforceability of such term or condition. Likewise, any applicable State or federal law or regulation which conflicts with the Contract or any non-conflicting applicable State or federal law or regulation is not waived.

26.10 Severability

If any provision of a Contract Document, or the application of any term or condition to any party or circumstances, is held invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable and the application of such provision to other parties or circumstances shall remain valid and in full force and effect. If a court finds that any provision of this contract is invalid or unenforceable, but that by limiting such provision it would become valid and enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.

26.11 Section Headings

The headings used in any Contract Document are for convenience only and do not constitute terms of the Contract.

26.12 Sovereign Immunity

Notwithstanding any provision in the Contract, the Contract is entered into subject to the State's Constitution, statutes, common law, regulations, and the doctrine of sovereign immunity, none of which are waived by the State nor any other right or defense available to the State.

26.13 Survival

As applicable, performance under all license, subscription, service agreements, statements of work, transition plans and other similar Contract Documents

entered into between the parties under the terms of the Contract shall survive Contract expiration. Additionally, rights and obligations under the Contract which by their nature should survive including, without limitation, certain payment obligations invoiced prior to expiration or termination; confidentiality obligations; security incident and data breach obligations and indemnification obligations, remain in effect after expiration or termination of the Contract.

26.14 Entire Agreement

The Contract Documents taken together as a whole constitute the entire agreement between the parties. No statement, promise, condition, understanding, inducement or representation, oral or written, expressed or implied, which is not contained in a Contract Document shall be binding or valid. The Supplier's representations and certifications, including any completed electronically, are incorporated by reference into the Contract.

26.15 Gratuities

The Contract may be immediately terminated, in whole or in part, by written notice if it is determined that the Supplier, its employee, agent, or another representative violated any federal, State or local law, rule or ordinance by offering or giving a gratuity to any State employee directly involved in the Contract. In addition, Suspension or Debarment of the Supplier may result from such a violation.

26.16 Import/Export Controls

Neither party will use, distribute, transfer or transmit any equipment, services, software or technical information provided under the Contract (even if incorporated into other products) except in compliance with all applicable import and export laws, conventions and regulations.

EXHIBIT C

STATE OF OKLAHOMA INFORMATION TECHNOLOGY TERMS

The parties further agree to the following terms (“Information Technology Terms”), as applicable, for any Acquisition of products or services with an information technology or telecommunication component. Pursuant to the Oklahoma Information Technology Consolidation and Coordination Act, OMES-Information Services (“OMES-IS”) is designated to purchase information technology and telecommunication products and services on behalf of the State. The Act directs OMES-IS to acquire necessary hardware, software and services and to authorize the use by other State agencies. OMES, as the owner of information technology and telecommunication assets and contracts on behalf of the State, allows other State agencies to use the assets while retaining ownership and the right to reassign the assets, at no additional cost, upon written notification to Supplier. OMES-IS is the data custodian for State agency data; however, such data is owned by the respective State agency.

1 Definitions

- 1.1 **COTS** means software that is commercial off the shelf.
- 1.2 **Customer Data** means all data supplied by or on behalf of a Customer in connection with the Contract, excluding any confidential information of Supplier.
- 1.3 **Data Breach** means the unauthorized access by an unauthorized person that results in the use, disclosure or theft of Customer Data.
- 1.4 **Host** includes the terms **Hosted** or **Hosting** and means the accessing, processing or storing of Customer Data.
- 1.5 **Intellectual Property Rights** means the worldwide legal rights or interests evidenced by or embodied in any idea, design, concept, personality right, method, process, technique, apparatus, invention, discovery or improvement including any patents, trade secrets and know-how; any work of authorship including any copyrights, Moral Rights or neighboring rights; any trademark, service mark, trade dress, trade name or other indicia of source or origin; domain name registrations; and any other proprietary or similar rights. Intellectual Property Rights of a party also includes all worldwide legal rights or interests that the party may have acquired by assignment or license with the right to grant sublicenses.
- 1.6 **Moral Rights** means any and all rights of paternity or integrity of the Work Product and the right to object to any modification, translation or use of the Work Product and any similar rights existing under the judicial or statutory law of any country in the world or under any treaty, regardless of whether or not such right is denominated or referred to as a moral right.
- 1.7 **Non-Public Data** means Customer Data, other than Personal Data, that is not subject to distribution to the public as public information. It is deemed to be sensitive and confidential

by Customer because it contains information that is exempt by statute, ordinance or administrative rule from access by the general public as public information. Non-Public Data includes any data deemed confidential pursuant to the Contract, otherwise identified by Customer as Non-Public Data, or that a reasonable person would deem confidential.

- 1.8 Personal Data** means Customer Data that contains 1) any combination of an individual's name, social security numbers, driver's license, state/federal identification number, account number, credit or debit card number and/or 2) data subject to protection under a federal, state or local law, rule, regulation or ordinance.
- 1.9 Security Incident** means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with the Hosted environment used to perform the services.
- 1.10 State CIO** means the State Chief Information Officer or authorized designee.
- 1.11 Supplier Intellectual Property** means all tangible or intangible items or things, including the Intellectual Property Rights therein, created or developed by Supplier and identified in writing as such (a) prior to providing any services or Work Product to Customer and prior to receiving any documents, materials, information or funding from or on behalf of a Customer relating to the services or Work Product, or (b) after the effective date of the Contract if such tangible or intangible items or things were independently developed by Supplier outside Supplier's provision of services or Work Product for Customer under the Contract and were not created, prepared, developed, invented or conceived by any Customer personnel who then became personnel to Supplier or any of its affiliates or subcontractors, where, although creation or reduction-to-practice is completed while the person is affiliated with Supplier or its personnel, any portion of same was created, invented or conceived by such person while affiliated with Customer.
- 1.12 Third Party Intellectual Property** means the Intellectual Property Rights of any third party that is not a party to the Contract, and that is not directly or indirectly providing any goods or services to a Customer under the Contract.
- 1.13 Work Product** means any and all deliverables produced by Supplier for Customer under a statement of work issued pursuant to the Contract, including any and all tangible or intangible items or things that have been or will be prepared, created, developed, invented or conceived at any time following the effective date of the Contract, including but not limited to any (i) works of authorship (such as manuals, instructions, printed material, graphics, artwork, images, illustrations, photographs, computer programs, computer software, scripts, object code, source code or other programming code, HTML code, flow charts, notes, outlines, lists, compilations, manuscripts, writings, pictorial materials, schematics, formulae, processes, algorithms, data, information, multimedia files, text web pages or web sites, other written or machine readable expression of such works fixed in any tangible media, and all other copyrightable works), (i) trademarks, service marks, trade dress, trade names, logos, or other indicia of source or origin, (iii) ideas, designs, concepts,

personality rights, methods, processes, techniques, apparatuses, inventions, formulas, discoveries, or improvements, including any patents, trade secrets and know-how, (iv) domain names, (v) any copies, and similar or derivative works to any of the foregoing, (vi) all documentation and materials related to any of the foregoing, (vii) all other goods, services or deliverables to be provided to Customer under the Contract or statement of work, and (viii) all Intellectual Property Rights in any of the foregoing, and which are or were created, prepared, developed, invented or conceived for the use of benefit of Customer in connection with this Contract or a statement of work, or with funds appropriated by or for Customer or Customer's benefit: (a) by any Supplier personnel or Customer personnel, or (b) any Customer personnel who then became personnel to Supplier or any of its affiliates or subcontractors, where, although creation or reduction-to-practice is completed while the person is affiliated with Supplier or its personnel, any portion of same was created, invented or conceived by such person while affiliated with Customer.

2 Termination of Maintenance and Support Services

Customer may terminate maintenance or support services without an adjustment charge, provided any of the following circumstances occur:

- 2.1** Customer removes the product for which the services are provided, from productive use or;
- 2.2** The location at which the services are provided is no longer controlled by Customer (for example, because of statutory or regulatory changes or the sale or closing of a facility).

If Customer chooses to renew maintenance or support after maintenance has lapsed, Customer may choose to pay the additional fee, if any, associated with renewing a license after such maintenance or support has lapsed, or to purchase a new license. Any amount paid to Supplier in the form of prepaid fees that are unused when services under the Contract or purchase order are terminated shall be refunded to Customer.

3 Compliance and Electronic and Information Technology Accessibility

State procurement of information technology is subject to certain federal and State laws, rules and regulations related to information technology accessibility, including but not limited to Oklahoma Information Technology Accessibility Standards ("Standards") set forth at <https://omes.ok.gov/services/information-services/accessibility-standards>. Supplier shall provide a Voluntary Product Accessibility Template ("VPAT") describing accessibility compliance via a URL linking to the VPAT and shall update the VPAT as necessary in order to allow a Customer to obtain current VPAT information as required by State law. If products require development or customization, additional requirements and documentation may be required and compliance shall be necessary by Supplier. Such requirements may be stated in appropriate documents including but not limited to a statement of work, riders, agreement, purchase order or Addendum.

All representations contained in the VPAT provided will be relied upon by the State or a Customer, as applicable, for accessibility compliance purposes.

4 Media Ownership (Disk Drive and/or Memory Chip Ownership)

4.1 Any disk drives and memory cards purchased with or included for use in leased or purchased products under the Contract remain the property of the Customer.

4.2 Personal information may be retained within electronic media devices and components; therefore, electronic media shall not be released either between Customers or for the resale, of refurbished equipment that has been in use by a Customer, by the Supplier to the general public or other entities. This provision applies to replacement devices and components, whether purchased or leased, supplied by Supplier, its agents or subcontractors during the downtime (repair) of products purchased or leased through the Contract. If a device is removed from a location for repairs, the Customer shall have sole discretion, prior to removal, to determine and implement sufficient safeguards (such as a record of hard drive serial numbers) to protect personal information that may be stored within the hard drive or memory of the device.

5 Offshore Services

No offshore services are provided for under the Contract. State data shall not be used or accessed internationally for troubleshooting or any other use not specifically provided for herein without the prior written permission, which may be withheld in the State's sole discretion, from the appropriate authorized representative of the State. Notwithstanding the above, back office administrative functions of the Supplier may be located offshore and the follow-the-sun support model may be used by the Supplier to the extent allowed by law applicable to any Customer data being accessed or used.

6 Compliance with Technology Policies

6.1 The Supplier agrees to adhere to the State of Oklahoma "Information Security Policy, Procedures, and Guidelines" available at https://omes.ok.gov/s/g/files/gmc316/f/InfoSecPPG_0.pdf.

Supplier's employees and subcontractors shall adhere to the applicable State IT Standard Methodologies and Templates including but not limited to Project Management, Business Analysis, System Analysis, Enterprise and IT Architecture, Quality, Application and Security Methodologies and Templates as set forth at <http://eclipse.omes.ok.gov>.

6.2 Supplier shall comply with applicable Federal Information Processing Standards including, without limitation, FIPS 200, FIPS 140-2 or successor standards and all recommendations from the National Institute of Standards and Technology. The confidentiality of Customer Data shall be protected and maintained in accordance with these standards as well as other applicable Customer standards.

6.3 Supplier shall comply with the CJIS Security Policy as more particularly described at Appendix 2 attached hereto and incorporated herein.

7 Emerging Technologies

The State of Oklahoma reserves the right to enter into an Addendum to the Contract at any time to allow for emerging technologies not identified elsewhere in the Contract Documents if there are repeated requests for such emerging technology or the State determines it is warranted to add such technology.

8 Extension Right

In addition to extension rights of the State set forth in the Contract, the State CIO reserves the right to extend any Contract if the State CIO determines such extension to be in the best interest of the State.

9 Source Code Escrow

Pursuant to 62 O.S. § 34.31, if customized computer software is developed or modified exclusively for a State agency, the Supplier has a continuing obligation to comply with such law and place the source code for such software and any modifications thereto into escrow with an independent third party escrow agent. Supplier shall pay all fees charged by the escrow agent and enter into an escrow agreement, the terms of which are subject to the prior written approval of the State, including terms that provide the State receives ownership of all escrowed source code upon the occurrence of any of the following:

- 9.1** A bona fide material default of the obligations of the Supplier under the agreement with the applicable Customer;
- 9.2** An assignment by the Supplier for the benefit of its creditors;
- 9.3** A failure by the Supplier to pay, or an admission by the Supplier of its inability to pay, its debts as they mature;
- 9.4** The filing of a petition in bankruptcy by or against the Supplier when such petition is not dismissed within sixty (60) days of the filing date;
- 9.5** The appointment of a receiver, liquidator or trustee appointed for any substantial part of the Supplier's property;
- 9.6** The inability or unwillingness of the Supplier to provide the maintenance and support services in accordance with the agreement with the agency;
- 9.7** Supplier's ceasing of maintenance and support of the software; or
- 9.8** Such other condition as may be statutorily imposed by the future amendment or enactment of applicable Oklahoma law.

10 Commercial Off The Shelf Software

If Supplier specifies terms and conditions or clauses in an electronic license, subscription, maintenance, support or similar agreement that conflict with the terms of this Contract, the additional terms and conditions or conflicting clauses shall not be binding on the State and the provisions of this Contract shall prevail.

11 Ownership Rights

Any software developed by the Supplier under the terms of the Contract is for the sole and exclusive use of the State including but not limited to the right to use, reproduce, re-use, alter, modify, edit, or change the software as it sees fit and for any purpose. Moreover, except with regard to any deliverable based on Supplier Intellectual Property, the State shall be deemed the sole and exclusive owner of all right, title, and interest therein, including but not limited to all source data, information and materials furnished to the State, together with all plans, system analysis, and design specifications and drawings, completed programs and documentation thereof, reports and listing, all data and test procedures and all other items pertaining to the work and services to be performed pursuant to this Contract including all copyright and proprietary rights relating thereto. With respect to Supplier Intellectual Property, the Supplier grants the State, for no additional consideration, a perpetual, irrevocable, royalty-free license, solely for the internal business use of the State, to use, copy, modify, display, perform, transmit and prepare derivative works of Supplier Intellectual Property embodied in or delivered to the State in conjunction with the products.

Except for any Supplier Intellectual Property, all work performed by the Supplier of developing, modifying or customizing software and any related supporting documentation shall be considered as Work for Hire (as defined under the U.S. copyright laws) and, as such, shall be owned by and for the benefit of State.

In the event that it should be determined that any portion of such software or related supporting documentation does not qualify as “Work for Hire”, Supplier hereby irrevocably grants to the State, for no additional consideration, a non-exclusive, irrevocable, royalty-free license to use, copy, modify, display, perform, transmit and prepare derivative works of any such software and any Supplier Intellectual Property embodied in or delivered to the State in conjunction with the products.

Supplier shall assist the State and its agents, upon request, in preparing U.S. and foreign copyright, trademark, and/or patent applications covering software developed, modified or customized for the State. Supplier shall sign any such applications, upon request, and deliver them to the State. The State shall bear all expenses that incurred in connection with such copyright, trademark, and/or patent applications.

If any Acquisition pursuant to this Contract is funded wholly or in part with federal funds, the source code and all associated software and related documentation owned by the State may be

shared with other publicly funded agencies at the discretion of the State without permission from or additional compensation to the Supplier.

12 Intellectual Property Ownership

The following terms apply to ownership and rights related to Intellectual Property:

- 12.1** As between Supplier and Customer, the Work Product and Intellectual Property Rights therein are and shall be owned exclusively by Customer, and not Supplier. Supplier specifically agrees that the Work Product shall be considered “works made for hire” and that the Work Product shall, upon creation, be owned exclusively by Customer. To the extent that the Work Product, under applicable law, may not be considered works made for hire, Supplier hereby agrees that all right, title and interest in and to all ownership rights and all Intellectual Property Rights in the Work Product is hereby effectively transferred, granted, conveyed, assigned and relinquished exclusively to Customer, without the necessity of any further consideration, and Customer shall be entitled to obtain and hold in its own name all Intellectual Property Rights in and to the Work Product. Supplier acknowledges that Supplier and Customer do not intend Supplier to be a joint author of the Work Product within the meaning of the Copyright Act of 1976. Customer shall have access, during normal business hours (Monday through Friday, 8:00 a.m. to 5:00 p.m.) and upon reasonable prior notice to Supplier, to all Supplier materials, premises and computer files containing the Work Product. Supplier and Customer, as appropriate, will cooperate with one another and execute such other documents as may be reasonably appropriate to achieve the objectives herein. No license or other right is granted under the Contract to any Third Party Intellectual Property, except as may be incorporated in the Work Product by Supplier.
- 12.2** Supplier, upon request and without further consideration, shall perform any acts that may be deemed reasonably necessary or desirable by Customer to evidence more fully the transfer of ownership and/or registration of all Intellectual Property Rights in all Work Product to Customer to the fullest extent possible including, but not limited to, the execution, acknowledgement and delivery of such further documents in a form determined by Customer. In the event Customer shall be unable to obtain Supplier’s signature due to the dissolution of Supplier or Supplier’s failure to respond to Customer’s repeated requests for such signature on any document reasonably necessary for any purpose set forth in the foregoing sentence, Supplier hereby irrevocably designates and appoints Customer and its duly authorized officers and agents as Supplier’s agent and Supplier’s attorney-in-fact to act for and in Supplier’s behalf and stead to execute and file any such document and to do all other lawfully permitted acts to further any such purpose with the same force and effect as if executed and delivered by Supplier, provided however that no such grant of right to Customer is applicable if Supplier fails to execute any document due to a good faith dispute by Supplier with respect to such document. It is understood that such power is coupled with an interest and is therefore irrevocable. Customer shall have the full and sole power to prosecute such applications and to take all other action concerning the Work Product, and Supplier shall cooperate, at Customer’s sole expense, in the preparation and

prosecution of all such applications and in any legal actions and proceedings concerning the Work Product.

- 12.3** Supplier hereby irrevocably and forever waives, and agrees never to assert, any Moral Rights in or to the Work Product which Supplier may now have or which may accrue to Supplier's benefit under U.S. or foreign copyright or other laws and any and all other residual rights and benefits which arise under any other applicable law now in force or hereafter enacted. Supplier acknowledges the receipt of equitable compensation for its assignment and waiver of such Moral Rights.
- 12.4** All documents, information and materials forwarded to Supplier by Customer for use in and preparation of the Work Product shall be deemed the confidential information of Customer, subject to the license granted by Customer to Supplier hereunder. Supplier shall not otherwise use, disclose, or permit any third party to use or obtain the Work Product, or any portion thereof, in any manner without the prior written approval of Customer.
- 12.5** These provisions are intended to protect Customer's proprietary rights pertaining to the Work Product and the Intellectual Property Rights therein and any misuse of such rights would cause substantial and irreparable harm to Customer's business. Therefore, Supplier acknowledges and stipulates that a court of competent jurisdiction may immediately enjoin a material breach of the Supplier's obligations with respect to confidentiality provisions of the Contract and the Work Product and a Customer's Intellectual Property Rights, upon a request by Customer, without requiring proof of irreparable injury, as same is presumed.
- 12.6** Upon the request of Customer, but in any event upon termination or expiration of this Contract or a statement of work, Supplier shall surrender to Customer all documents and things pertaining to the Work Product, generated or developed by Supplier or furnished by Customer to Supplier, including all materials embodying the Work Product, any Customer confidential information and Intellectual Property Rights in such Work Product, regardless of whether complete or incomplete. This section is intended to apply to all Work Product as well as to all documents and things furnished to Supplier by Customer or by anyone else that pertains to the Work Product.
- 12.7** Customer hereby grants to Supplier a non-transferable, non-exclusive, royalty-free, fully paid license to use any Work Product solely as necessary to provide services to Customer. Except as provided in this section, neither Supplier nor any subcontractor shall have the right to use the Work Product in connection with the provision of services to its other customers without the prior written consent of Customer, which consent may be withheld in Customer's sole discretion.
- 12.8** To the extent that any Third Party Intellectual Property is embodied or reflected in the Work Product or is necessary to provide services, Supplier shall obtain from the applicable third party for the Customer's benefit, an irrevocable, perpetual, non-exclusive, worldwide, royalty-free license, solely for Customer's internal business purposes; likewise, with respect to any Supplier Intellectual Property embodied or reflected in the Work Product or

necessary to provide services, Supplier grants to Customer an irrevocable, perpetual, non-exclusive, worldwide, royalty-free license, solely for the Customer's internal business purposes. Each such license shall allow the applicable Customer to (i) use, copy, modify, display, perform (by any means), transmit and prepare derivative works of any Third Party Intellectual Property or Supplier Intellectual Property embodied in or delivered to Customer in conjunction with the Work Product and (ii) authorize others to do any or all of the foregoing. Supplier agrees to notify Customer on delivery of the Work Product or services if such materials include any Third Party Intellectual Property. The foregoing license includes the right to sublicense third parties, solely for the purpose of engaging such third parties to assist or carry out Customer's internal business use of the Work Product. Except for the preceding license, all rights in Supplier Intellectual Property remain in Supplier. On request, Supplier shall provide Customer with documentation indicating a third party's written approval for Supplier to use any Third Party Intellectual Property that may be embodied or reflected in the Work Product.

- 12.9** Supplier agrees that it shall have written agreement(s) that are consistent with the provisions hereof related to Work Product and Intellectual Property Rights with any employees, agents, consultants, contractors or subcontractors providing services or Work Product pursuant to the Contract, prior to the provision of such services or Work Product and that it shall maintain such written agreements at all times during performance of this Contract which are sufficient to support all performance and grants of rights by Supplier. Copies of such agreements shall be provided to the Customer promptly upon request.
- 12.10** To the extent not inconsistent with Customer's rights in the Work Product or other provisions, nothing in this Contract shall preclude Supplier from developing for itself, or for others, materials which are competitive with those produced as a result of the services provided under the Contract, provided that no Work Product is utilized, and no Intellectual Property Rights of Customer therein are infringed by such competitive materials. To the extent that Supplier wishes to use the Work Product or acquire licensed rights in certain Intellectual Property Rights of Customer therein in order to offer competitive goods or services to third parties, Supplier and Customer agree to negotiate in good faith regarding an appropriate license and royalty agreement to allow for such.
- 12.11** If any Acquisition pursuant to the Contract is funded wholly or in part with federal funds, the source code and all associated software and related documentation and materials owned by a Customer may be shared with other publicly funded agencies at the discretion of such Customer without permission from or additional compensation to the Supplier.

13 Hosting Services

- 13.1** If Supplier or its subcontractor, affiliate or any other person or entity providing products or services under the Contract Hosts Customer Data in connection with an Acquisition, the provisions of Appendix 1, attached hereto and incorporated herein, apply to such Acquisition.

13.2 If the Hosting of Customer Data by Supplier or its subcontractor, affiliate or any other person or entity providing products or services under the Contract contributes to or directly causes a Data Breach, Supplier shall be responsible for the obligations set forth in Appendix 1 related to breach reporting requirements and associated costs. Likewise if such Hosting contributes to or directly causes a Security Incident, Supplier shall be responsible for the obligations set forth in Appendix 1, as applicable.

14 Change Management

When a scheduled change is made to products or services provided to a Customer that impacts the Customer's system related to such product or service, Supplier shall provide two (2) weeks' prior written notice of such change. When the change is an emergency change, Supplier shall provide twenty-four (24) hours' prior written notice of the change. Repeated failure to provide such notice may be an evaluation factor (as indicative of Supplier's past performance) upon renewal or if future bids submitted by Supplier are evaluated by the State.

15 Service Level Deficiency

In addition to other terms of the Contract, in instances of the Supplier's repeated failure to provide an acceptable level of service or meet service level agreement metrics, service credits shall be provided by Supplier and may be used as an offset to payment due.

16 Notices

In addition to notice requirements under the terms of the Contract otherwise, the following individuals shall also be provided the request, approval or notice, as applicable:

Chief Information Officer
3115 N. Lincoln Blvd
Oklahoma City, OK 73105

With a copy, which shall not constitute notice, to:

Information Services Deputy Counsel
3115 North Lincoln Boulevard
Oklahoma City, Oklahoma 73105

Appendix 1 to State of Oklahoma Information Technology Terms

The parties agree to the following provisions in connection with any Customer Data accessed, processed or stored by or on behalf of the Supplier and the obligations, representations and warranties set forth below shall continue as long as the Supplier has an obligation under the Contract

A. Customer Data

1. Customer will be responsible for the accuracy and completeness of all Customer Data provided to Supplier by Customer. Customer shall retain exclusive ownership of all Customer Data. Non-Public Data and Personal Data shall be deemed to be Customer's confidential information. Supplier shall restrict access to Customer Data to their employees with a need to know (and advise such employees of the confidentiality and non-disclosure obligations assumed herein).
2. Supplier shall promptly notify the Customer upon receipt of any requests from unauthorized third parties which in any way might reasonably require access to Customer Data or Customer's use of the Hosted environment. Supplier shall notify the Customer by the fastest means available and also in writing pursuant to Contract notice provisions and the notice provision herein. Except to the extent required by law, Supplier shall not respond to subpoenas, service or process, Freedom of Information Act or other open records requests, and other legal request related to Customer without first notifying the Customer and obtaining the Customer's prior approval, which shall not be unreasonably withheld, of Supplier's proposed responses. Supplier agrees to provide its completed responses to the Customer with adequate time for Customer review, revision and approval.
3. Supplier will use commercially reasonable efforts to prevent the loss of or damage to Customer Data in its possession and will maintain commercially reasonable back-up procedures and copies to facilitate the reconstruction of any Customer Data that may be lost or damaged by Supplier. Supplier will promptly notify Customer of any loss, damage to, or unauthorized access of Customer Data. Supplier will use commercially reasonable efforts to reconstruct any Customer Data that has been lost or damaged by Supplier as a result of its negligence or willful misconduct. If Customer Data is lost or damaged for reasons other than as a result of Supplier's negligence or willful misconduct, Supplier, at the Customer's expense, will, at the request of the State, use commercially reasonable efforts to reconstruct any Customer Data lost or damaged.

B. Data Security

1. Supplier will use commercially reasonable efforts, consistent with industry standards, to provide security for the Hosted environment and Customer Data and to protect against both unauthorized access to the Hosting environment, and unauthorized communications between the Hosting environment and the Customer's browser. Supplier shall implement and maintain appropriate administrative, technical and organizational security measures to safeguard against unauthorized access, disclosure or theft of Personal Data and Non-Public

Data. Such security measures shall be in accordance with recognized industry practice and not less stringent than the measures the service provider applies to its own personal data and non-public data of similar kind.

2. All Personal Data and Non-public Data shall be encrypted at rest and in transit with controlled access. Unless otherwise stipulated, the service provider is responsible for encryption of Personal Data.
3. Supplier represents and warrants to the Customer that the Hosting equipment and environment will be routinely checked with a commercially available, industry standard software application with up-to-date virus definitions. Supplier will regularly update the virus definitions to ensure that the definitions are as up-to-date as is commercially reasonable. Supplier will promptly purge all viruses discovered during virus checks. If there is a reasonable basis to believe that a virus may have been transmitted to Customer by Supplier, Supplier will promptly notify Customer of such possibility in a writing that states the nature of the virus, the date on which transmission may have occurred, and the means Supplier has used to remediate the virus. Should the virus propagate to Customer's IT infrastructure, Supplier is responsible for costs incurred by Customer for Customer to remediate the virus.
4. Supplier shall provide its services to Customer and its users solely from data centers in the U.S. Storage of Customer Data at rest shall be located solely in data centers in the U.S. Supplier shall not allow its personnel or contractors to store Customer Data on portable devices, including personal computers, except for devices that are used and kept only at its U.S. data centers. Supplier shall permit its personnel and contractors to access Customer Data remotely only as required to fulfill Supplier's obligations under the Contract.
5. Supplier shall allow the Customer to audit conformance to the Contract terms. The Customer may perform this audit or contract with a third party at its discretion and at Customer's expense.
6. Supplier shall perform an independent audit of its data centers at least annually at its expense and provide a redacted version of the audit report upon request. Supplier may remove its proprietary information from the redacted version. A Service Organization Control (SOC) 2 audit report or approved equivalent sets the minimum level of a third-party audit.
7. Any remedies provided in this Appendix are not exclusive and are in addition to other rights and remedies available under the terms of the Contract, at law or in equity.

C. Security Assessment

1. The State requires any entity or third-party Supplier Hosting Oklahoma Customer Data to submit to a State Certification and Accreditation Review process to assess initial security risk. Supplier submitted to the review and met the State's minimum security standards at time the Contract was executed. Failure to maintain the State's minimum security standards

during the term of the contract, including renewals, constitutes a material breach. Upon request, the Supplier shall provide updated data security information in connection with a potential renewal. If information provided in the security risk assessment changes, Supplier shall promptly notify the State and include in such notification the updated information; provided, however, Supplier shall make no change that results in lessened data protection or increased data security risk. Failure to provide the notice required by this section or maintain the level of security required in the Contract constitutes a material breach by Supplier and may result in a whole or partial termination of the Contract.

2. Any Hosting entity change must be approved in writing prior to such change. To the extent Supplier requests a different sub-contractor than the third-party Hosting Supplier already approved by the State, the different sub-contractor is subject to the State's approval. Supplier agrees not to migrate State's data or otherwise utilize the different third-party Hosting Supplier in connection with key business functions that are Supplier's obligations under the contract until the State approves the third-party Hosting Supplier's State Certification and Accreditation Review, which approval shall not be unreasonably withheld or delayed. In the event the third-party Hosting Supplier does not meet the State's requirements under the State Certification and Accreditation Review, Supplier acknowledges and agrees it will not utilize the third-party Supplier in connection with key business functions that are Supplier's obligations under the contract, until such third party meets such requirements.

D. Security Incident or Data Breach Notification: Supplier shall inform Customer of any Security Incident or Data Breach.

1. Supplier may need to communicate with outside parties regarding a Security Incident, which may include contacting law enforcement, fielding media inquiries and seeking external expertise as mutually agreed upon, defined by law or contained in the Contract. If a Security Incident involves Customer Data, Supplier will coordinate with Customer prior to any such communication.
2. Supplier shall report a Security Incident to the Customer identified contact set forth herein within five (5) days of discovery of the Security Incident or within a shorter notice period required by applicable law or regulation (i.e. HIPAA requires notice to be provided within 24 hours).
3. Supplier shall:
 - a. Maintain processes and procedures to identify, respond to and analyze Security Incidents;
 - b. Make summary information regarding such procedures available to Customer at Customer's request;
 - c. Mitigate, to the extent practicable, harmful effects of Security Incidents that are known to Supplier; and

d. Document all Security Incidents and their outcomes.

4. If Supplier has reasonable belief or actual knowledge of a Data Breach, Supplier shall (1) promptly notify the appropriate Customer identified contact set forth herein within 24 hours or sooner, unless shorter time is required by applicable law, and (2) take commercially reasonable measures to address the Data Breach in a timely manner.

E. **Breach Responsibilities:** This section only applies when a Data Breach occurs with respect to Personal Data or Non-Public Data within the possession or control of Supplier.

1. Supplier shall (1) cooperate with Customer as reasonably requested by Customer to investigate and resolve the Data Breach, (2) promptly implement necessary remedial measures, if necessary, and (3) document responsive actions taken related to the Data Breach, including any post-incident review of events and actions taken to make changes in business practices in providing the services, if necessary.

2. Unless otherwise stipulated, if a Data Breach is a direct result of Supplier's breach of its obligation to encrypt Personal Data and Non-Public Data or otherwise prevent its release, Supplier shall bear the costs associated with (1) the investigation and resolution of the Data Breach; (2) notifications to individuals, regulators or others required by state law; (3) credit monitoring services required by state or federal law; (4) a website or toll-free numbers and call center for affected individuals required by state law – all not to exceed the agency per record per person cost calculated for data breaches in the United States on the most recent Cost of Data breach Study: Global Analysis published by the Ponemon Institute at the time of the data breach; and (5) complete all corrective actions as reasonably determined by Supplier based on root cause.

3. If a Data Breach is a direct result of Supplier's breach of its obligations to encrypt Personal Data and Non-Public Data or otherwise prevent its release, Supplier shall indemnify and hold harmless the Customer against all penalties assessed to Indemnified Parties by governmental authorities in connection with the Data Breach.

F. **Notices**

In addition to notice requirements under the terms of the Contract and those set forth above, a request, an approval or a notice in connection with this Appendix provided by Supplier shall be provided to:

Chief Information Security Officer

3115 N. Lincoln Blvd

Oklahoma City, OK 73105

and

servicedesk@omes.ok.gov.

G. Supplier Representations and Warranties

Supplier represents and warrants the following:

1. The product and services provided in connection with Hosting services do not infringe a third party's patent or copyright or other intellectual property rights.
2. Supplier will protect Customer's Non-Public Data and Personal Data from unauthorized dissemination and use with the same degree of care that each such party uses to protect its own confidential information and, in any event, will use no less than a reasonable degree of care in protecting such confidential information.
3. The execution, delivery and performance of the Contract and any ancillary documents and the consummation of the transactions contemplated by the Contract or any ancillary documents by Supplier will not violate, conflict with, or result in a breach of any provision of, or constitute a default (or an event which, with notice or lapse of time or both, would constitute a default) under, or result in the termination of, any written contract or other instrument between Supplier and any third parties retained or utilized by Supplier to provide goods or services for the benefit of the Customer.
4. Supplier shall not knowingly upload, store, post, e-mail or otherwise transmit, distribute, publish or disseminate to or through the Hosting environment any material that contains software viruses, malware or other surreptitious code designed to interrupt, destroy or limit the functionality of any computer software or hardware or telecommunications equipment or circumvent any "copy-protected" devices, or any other harmful or disruptive program.

H. Indemnity

Supplier agrees to defend, indemnify and hold the State, its officers, directors, employees, and agents harmless from all liabilities, claims, damages, losses, costs, expenses, demands, suits and actions (including without limitation reasonable attorneys' fees and costs required to establish the right to indemnification), excluding damages that are the sole fault of Customer, arising from or in connection with Supplier's breach of its express representations and warranties in these Information Technology Terms and the Contract. If a third party claims that any portion of the products or services provided by Supplier under the terms of another Contract Document or these Information Technology Terms infringes that party's patent or copyright, Supplier shall defend, indemnify and hold harmless the State and Customer against the claim at Supplier's expense and pay all related costs, damages, and attorney's fees incurred by or assessed to, the State and/or Customer. The State and/or Customer shall promptly notify Supplier of any third party claims and to the extent authorized by the Attorney General of the State, allow Supplier to control the defense and any related settlement negotiations. If the Attorney General of the State does not authorize sole control of the defense and settlement negotiations to Supplier, Supplier shall be granted authorization to equally participate in any proceeding related to this section but Supplier shall remain responsible to indemnify Customer and the State for all associated costs, damages and fees incurred by or assessed to the State and/or Customer. Should the software become, or in Supplier's

opinion, be likely to become the subject of a claim or an injunction preventing its use as contemplated in connection with Hosting services, Supplier may, at its option (i) procure for the State the right to continue using the software or (ii) replace or modify the software with a like or similar product so that it becomes non-infringing.

I. Termination, Expiration and Suspension of Service

1. During any period of service suspension, Supplier shall not take any action to intentionally disclose, alter or erase any Customer Data.

2. In the event of a termination or expiration of the Contract, the parties further agree:

Supplier shall implement an orderly return of Customer Data in a format specified by the Customer and, as determined by the Customer:

a. return the Customer Data to Customer at no additional cost, at a time agreed to by the parties and the subsequent secure disposal of State Data;

b. transitioned to a different Supplier at a mutually agreed cost and in accordance with a mutually agreed data transition plan and the subsequent secure disposal of State Data or

c. a combination of the two immediately preceding options.

3. Supplier shall not take any action to intentionally erase any Customer Data for a period of:

a. 10 days after the effective date of termination, if the termination is in accordance with the contract period;

b. 30 days after the effective date of termination, if the termination is for convenience; or

c. 60 days after the effective date of termination, if the termination is for cause.

After such period, Supplier shall, unless legally prohibited or otherwise stipulated, delete all Customer Data in its systems or otherwise in its possession or under its control.

4. The State shall be entitled to any post termination or expiration assistance generally made available with respect to the services.

5. Disposal by Supplier of Customer Data in all of its forms, such as disk, CD/DVD, backup tape and paper, when requested by the Customer, shall be performed in a secure manner. Data shall be permanently deleted and shall not be recoverable, according to National Institute of Standards and Technology (NIST)-approved methods. Certificates of destruction shall be provided to Customer within thirty (30) calendar day of its request for disposal of data.

Appendix 2 to State of Oklahoma Information Technology Terms

INTRODUCTION

The use and maintenance of all items of software or equipment offered for purchase herein must be in compliance with the most current version of the U.S. Department of Justice, Federal Bureau of Investigation (“FBI”), Criminal Justice Information Services (CJIS) Division’s CJIS Security Policy (“CJIS Security Policy” or “Security Policy” herein).

The Entity or Affiliate acquiring the data or system is hereby ultimately responsible for compliance with the CJIS Security Policy and will be subject to an audit by the State of Oklahoma CJIS Systems Officer (“CSO”) and the FBI CJIS Division’s Audit Staff.

CJIS SECURITY POLICY REQUIREMENTS GENERALLY

The CJIS Security Policy outlines a number of administrative, procedural, and technical controls agencies must have in place to protect Criminal Justice Information (“CJI”). Our experience is that agencies will generally have many of the administrative and procedural controls in place but will need to implement additional technical safeguards in order to be in complete compliance with the mandate. A Criminal Justice Agency (“CJA”) and certain other governmental agencies procuring technology equipment and services that could be used in hosting or connecting or transmitting or receiving CJI data may need to use the check list herein to make sure that the software, equipment, location, security, and persons having the ability to access CJI will meet the CJIS requirements per the then current CJIS Security Policy. A completed Appendix H to said Security Policy will need to be signed by Vendor or a 3rd party if it has access to CJI, such as incident to the maintenance or support of the purchased hardware or software within which resides CJI. **Per Appendix “A” to said Security Policy, “access to CJI is the physical or logical (electronic) ability, right or privilege to view, modify or make use of CJI.”**

DIRECTIVE CONCERNING ACCESS TO CRIMINAL JUSTICE INFORMATION AND TO HARDWARE OR SOFTWARE WHICH INTERACTS WITH CJI and CERTIFICATION

The FBI CJIS Division provides state-of-the-art identification and information services to the local, state, tribal, federal, and international criminal justice communities for criminal justice purposes, as well as the noncriminal justice communities for noncriminal justice purposes.

This Directive primarily concerns access to CJI and access to hardware and software in the use, retention, transmission, reception, and hosting of CJI for criminal justice purposes and not for noncriminal justice purposes. In that regard, this Directive is not only applicable to such data, but also to the hardware and software interacting with such data, their location(s), and persons having the ability to access such data. The CJIS data applicable to the Security Policy is the data described as such in said Policy **plus all data transmitted over the Oklahoma Law Enforcement Telecommunications System (“OLETS”) which is operated by DPS.**

In order to have access to CJI or to the aforesaid hardware or software, the vendor must be familiar with the FBI CJIS Security Policy, including but not limited to the following portions of said Security Policy:

1. the Definitions and Acronyms in §3 & Appendices “A” & “B”;

2. the general policies in §4;
3. the Policies in §5;
4. the appropriate forms in Appendices “D”, “E”, “F” & “H”; and
5. the Supplemental Guidance in Appendices “J” & “K”.

This FBI Security Policy is located and may be downloaded at: <https://www.fbi.gov/services/cjis/cjis-security-policy-resource-center>.

By executing the Contract to which this Directive is attached, the vendor hereby CERTIFIES that the foregoing directive has and will be followed, including but not limited to full compliance with the FBI CJIS Security Policy, as amended and as applicable.

Policy Requirement Checklist	Compliance checklist –
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Policy Area 1	Information Exchange Agreements
Policy Area 2	Security Awareness Training
Policy Area 3	Incident Response
Policy Area 4	Auditing and Accountability
Policy Area 5	Access Control
Policy Area 6	Identification and Authentication
Policy Area 7	Configuration Management
Policy Area 8	Media Protection
Policy Area 9	Physical Protection
Policy Area 10	Systems and Communications Protection and Information Integrity
Policy Area 11	Formal Audits
Policy Area 12	Personnel Security

EXHIBIT D

OKLAHOMA STATEWIDE CONTRACT TERMS

1. Statewide Contract Type

- 1.1** The Contract is a non-mandatory statewide contract for use by State agencies. Additionally, the Contract may be used by any governmental entity specified as a political subdivision of the State pursuant to the Governmental Tort Claims Act including any associated institution, instrumentality, board, commission, committee, department or other entity designated to act on behalf of the political subdivision; a state, county or local governmental entity in its state of origin; and entities authorized to utilize contracts by the State via a multistate or multigovernmental contract.
- 1.2** The Contract is a firm, fixed price contract for indefinite delivery and quantity for the Acquisitions available under the Contract.

2. Orders and Addendums

- 2.1** Unless mutually agreed in writing otherwise, orders shall be placed directly with the Supplier by issuance of written purchase orders or by Purchase Card by state agencies and other authorized entities. All orders are subject to the Contract terms and any order dated prior to Contract expiration shall be performed. Delivery to multiple destinations may be required.
- 2.2** Any ordering document shall be effective between Supplier and the Customer only and shall not be an Addendum to the Contract in its entirety or apply to any Acquisition by another Customer.
- 2.3** Additional terms added to a Contract Document by a Customer shall be effective if the additional terms do not conflict with the General Terms and are acceptable to Supplier. However, an Addendum to the Contract shall be signed by the State Purchasing Director or designee. Regarding information technology and telecommunications contracts, pursuant to 62 O.S., §34.11.1, the Chief Information Officer acts as the Information Technology and Telecommunications Purchasing Director.

3. Termination for Funding Insufficiency

In addition to Contract terms relating to termination due to insufficient funding, a Customer may terminate any purchase order or other payment mechanism if funds sufficient to pay obligations under the Contract are not appropriated or received from an intended third-party funding source. The determination by the Customer of insufficient funding shall be accepted by, and shall be final and binding on, the Supplier.

4. Termination for Cause

In addition to Contract terms relating to termination for cause, a customer may terminate its obligations, in whole or in part, to Supplier if it has provided Supplier with written notice of material breach and Supplier fails to cure such material breach within thirty (30) days of receipt of written notice. The Customer may also terminate a purchase order or other payment mechanism or Supplier's activities under the Contract immediately without a thirty (30) day written notice to Supplier, if Supplier fails to comply with confidentiality, privacy, security, environmental or safety requirements if such non-compliance relates or may relate to Supplier provision of products or services to the Customer or if Supplier's material breach is reasonably determined (i) to be an impediment to the function of the Customer and detrimental to the Customer, or (ii) when conditions preclude the thirty (30) day notice.

5. Termination for Convenience

In addition to any termination for convenience provisions in the Contract, a Customer may terminate a purchase order or other payment mechanism for convenience if it is determined that termination is in the Customer's best interest. Supplier will be provided at least thirty (30) days' written notice of termination.

6. Contract Management Fee and Usage Report

6.1 Pursuant to 74 O.S. § 85.33A, the State assesses a contract management fee on all transactions under a statewide contract. The payment of such fee will be calculated for all transactions, net of returns and the Supplier has no right of setoff against such fee regardless of the payment status of any Customer or any aggregate accounts receivable percentage. Supplier acknowledges and agrees that all prices quoted under any statewide contract shall include the contract management fee and the contract

management fee shall not be reflected as a separate line item in Supplier's billing. The State reserves the right to change this fee upward or downward upon sixty (60) calendar days' written notice to Supplier without further requirement for an Addendum.

6.2 While Supplier is the awardee of a statewide contract, transactions that occur under the terms of the statewide contract are subject to a one percent (1%) contract management fee to be paid by Supplier. Supplier shall submit a Contract Usage Report on a quarterly basis for each contract using a form provided by the State and such report shall include applicable information for each transaction. Reports shall include usage of the statewide contract by every Customer during the applicable quarter. A singular report provided late will not be considered a breach of the statewide contract; provided, however, repeated failure to submit accurate quarterly usage reports and submit timely payments may result in suspension or termination, in whole or in part, of the Contract.

6.3 All Contract Usage Reports shall meet the following criteria:

- i.** Electronic submission in Microsoft Excel format to strategic.sourcing@omes.ok.gov;
- ii.** Quarterly submission regardless of whether there were transactions under the Contract during the applicable quarterly reporting period;
- iii.** Submission no later than forty-five (45) days following the end of each calendar quarter;
- iv.** Contract quarterly reporting periods shall be as follows:
 - a.** January 01 through March 31;
 - b.** April 01 through June 30;
 - c.** July 01 through September 30; and
 - d.** October 01 through December 31.
- v.** Reports must include the following information:

- a. Procuring entity;
- b. Order date;
- c. Purchase Order number or note that the transaction was paid by Purchase Card;
- d. City in which products or services were received or specific office or subdivision title;
- e. Product manufacturer or type of service;
- f. Manufacturer item number, if applicable;
- g. Product description;
- h. General product category, if applicable;
- i. Quantity;
- j. Unit list price or MSRP, as applicable;
- k. Unit price charged to the purchasing entity; and
- l. Other Contract usage information requested by the State.

6.4 Payment of the contract management fee shall be delivered to the following address within forty-five (45) calendar days after the end of each quarterly reporting period:

State of Oklahoma
Office of Management and Enterprise Services, Central Purchasing
2401 North Lincoln Boulevard, Suite 116
Oklahoma City, Oklahoma 73105

To ensure payment is properly accounted for, Supplier shall provide the following information with payment: (i) reference to the applicable Contract Usage Report and quarterly reporting period and (ii) the applicable statewide contract number(s) and the amount of the contract management fee being paid for each contract number.

Exhibit E

Safe Fleet Video & Telematics Products and Services Standard Customer Terms & Conditions, as modified by mutual agreement of the parties



Safe Fleet Video & Telematics (“V&T”) Products and Services Standard Customer Terms & Conditions (“Terms”)

1. APPLICABILITY

1.1 The following terms shall have the following meanings for purposes of this Exhibit E: (a) “Safe Fleet” shall mean Contractor; (b) “Customer” means State, Participating Entity, Purchasing Entity, and/or Customer, as applicable, in each case to the extent same receives any Safe Fleet V&T Offering in connection herewith; (c) “Sales Confirmation” means the Agreement; (d) capitalized terms used but not defined in this Exhibit E shall have the meaning ascribed to them in the Agreement. All attachments to this Exhibit E are hereby incorporated into this Exhibit E as if fully set forth herein.

1.2 “**Safe Fleet V&T Offerings**” means all of the following goods, products and services (but excluding, in all cases, the Excluded Items, as defined below):

- (a) All V&T-related hardware products and parts specified in the Sales Confirmation (“**Hardware**”);
- (b) All software-as-a-service, web-based and/or cloud-based services specified in the Sales Confirmation (“**Cloud Services**”);
- (c) The object code versions of (i) any software which is embedded in, and integral to the operation of, any Hardware (“**Firmware**”), together with (ii) software provided by Safe Fleet for download to or installation on any Customer equipment or device in connection with services specified in the Sales Confirmation (all software described in clauses (i) and (ii), together, the “**Software**”; together with Cloud Services, “**Software Services**”);
- (d) All content, data, and information incorporated, included, or delivered directly or indirectly by Safe Fleet with or in the Hardware, Software Services, or Customer Support Services, excluding the Documentation (“**Safe Fleet-Provided Data**”); and
- (e) Any services or other assistance in connection with Third-Party Proceedings, as contemplated by Section 4.2 (“**Third-Party Dispute Assistance**”), together with all installation, maintenance, support, customization, development, coding, and related services provided by or on behalf of Safe Fleet with respect to Hardware and/or Software Services, in each case as specified in the Sales Confirmation (collectively, “**Customer Support Services**”; collectively with Software Services, “**Services**”).

1.3 “**Documentation**” means and all user manuals and other documentation provided with any Safe Fleet V&T Offerings or otherwise incorporated, included, embodied, embedded, linked, bundled or delivered therewith or therein or made a part thereof, or published or otherwise made available from time to time by Safe Fleet in respect thereof.

1.4 “**Excluded Items**” means each of the following:

- (a) All hardware provided to Customer by a third party, or otherwise obtained by Customer independently of Safe Fleet; and
- (b) All Customer Software (as defined below) and all Third-Party Dependent Software (as defined below). “**Customer Software**” means any and all software (whether software-as-a-service, web-based and/or cloud-based services, or downloadable or installable software) developed, provided, or made available by or (other than by Safe Fleet pursuant to this Agreement) on behalf of Customer. “**Third-Party Dependent Software**” means any and all third-party software (whether software-as-a-service, web-based and/or cloud-based services, or downloadable or installable software) which is or was (i) provided or made available to Customer directly by a third party, or otherwise obtained by Customer independently of Safe Fleet, and/or (ii) Third-Party Licensed Software (as defined below) which is not Embedded Third-Party Software (as defined below). “**Third-Party Licensed Software**” means any and all software (whether software-as-a-service, web-based and/or cloud-based services, or downloadable or installable software) which is subject to any agreement other than this Agreement, including any free or open-source license or any other license agreement (including any clickwrap or browsewrap license, terms of use, or terms of service) between Customer and any third party (any of the foregoing, a “**Third-Party License**”). “**Embedded Third-Party Software**” means any and all Third-Party

Licensed Software which is included, incorporated, embedded, or embodied in Software Services provided directly to Customer by Safe Fleet.

1.5 Safe Fleet V&T Offerings often include, incorporate, embed, embody, and/or are linked to or bundled or delivered with (any of the foregoing, “**Incorporate**”), Third-Party Solutions. “**Third-Party Solutions**” means any product or service provided by an entity (other than Safe Fleet or its affiliates) which is a supplier, contractor, subcontractor, agent, or representative (any of the foregoing, a “**Third-Party Supplier**”) of Safe Fleet or any of its affiliates. Certain Third-Party Suppliers providing Third-Party Solutions require Safe Fleet to pass such Third-Party Supplier’s terms and conditions through to Safe Fleet’s direct and/or downstream customers and users. Participating Entity or Participating State reserve all defenses or objections to any Third-Party Supplier’s terms and conditions Separate Terms that conflict with applicable law or regulation or which expand the Entity’s or State’s liabilities or Entity’s or State’s reduce rights and protections..

2. **HARDWARE**, Hardware is not returnable, except as expressly provided in this Agreement with respect to the Inspection Period and/or as provided in the Warranty Documentation.

3. SOFTWARE SERVICES

This Section 3 applies only if and to the extent that the Sales Confirmation and/or SOW provides for the provision of any Software Services.

3.1 License and Use. Subject to Customer’s compliance with the terms and conditions of this Agreement, including Customer’s payment and confidentiality obligations, Safe Fleet hereby grants to Customer a limited, non-exclusive, non-transferable, non-assignable, non-sublicensable right and license (X) to internally copy and install the Software (if applicable, and to the extent permitted by the Sales Confirmation) at or on Customer facilities, vehicles, and/or equipment, and (Y) during the License Term, as defined in Section 5.1 below (except with respect to Firmware (the “**Perpetually Licensed Software**”), in which case this license shall be perpetual, provided, however, that Safe Fleet shall have no obligation to provide any new version, update, revision, enhancement, improvement, patch, or modification of or to any Perpetually Licensed Software following the License Term), to access and use the Software Services, in all cases solely (a) in accordance with the applicable Sales Confirmation as agreed upon by the parties and all applicable statutes, laws, ordinances, regulations, rules, codes, constitutions, treaties, common law, governmental orders or other requirements or rules of law of any governmental authority now or hereafter in effect (collectively, “**Laws**”), and (b) for the internal business purposes of Customer and not for resale, redistribution, or any other use of any kind by or for the benefit of any other person or entity, and (c) subject to any additional restrictions that may be set forth in such Sales Confirmation as agreed upon by the parties, and (d) for clarity, in object code form only. Customer agrees not to, directly or indirectly: (i) sell, resell, lease, sublease, license, sublicense, publicly display, distribute or permit the use of any Software Services (or any content or materials of any kind provided as part of the Software Services) by any party other than Customer, or (ii) access or use the Software Services (or any portion thereof) (A) by any means other than through an interface provided by Safe Fleet for such purpose or (B) in violation of any of the foregoing clauses (a) through (d). Customer shall not, and shall not permit any other person or entity to, decipher, adapt, translate, disassemble, decompile, reverse engineer, reengineer, or otherwise seek to duplicate the performance or characteristics of, the Software, the other Software Services, or any portion of either thereof, or use any robot, spider, search/retrieval application, or other manual or automatic device or technique to extract, “scrape,” collect, retrieve, index, “data mine,” copy, catalog, download or otherwise reproduce, store or distribute information or content available on the Software Services (including information about other individuals or entities using the Software Services or any portion thereof), or in any way reproduce or circumvent the navigational structure or presentation of the Software Services (or any portion thereof), or use the Software Services in any way that infringes any Intellectual Property Rights in the Software Services or for any unlawful, unconstitutional, or unauthorized purpose. The Software Services may be used only by (I) individual employees of Customer and (II) solely to the extent specifically permitted by the Sales Confirmation or otherwise agreed in writing by Safe Fleet, authorized agents or independent contractors of Customer, provided same are acting solely on behalf of Customer (each of the parties described in the foregoing clause (I) or (II), a “**Customer End User**”). Customer agrees to cause all Customer End Users to comply fully with this Agreement and shall be fully responsible for the activities of each Customer End User and liable under this Agreement for any and all acts or omissions of any such Customer End User which, if taken or made by Customer, would breach any provision of this Agreement or otherwise subject Customer to any liability in connection with this Agreement. If the Software Services portion of the Sales Confirmation references a number of sites, servers, devices, instances, vehicles, offices, or other facilities or equipment (any of the foregoing, “**Instances**”), then Customer may only install and use the applicable Software Services at or on up to such number of Instances. If the Software Services portion of the Sales Confirmation references a number of logins, accounts, subscriptions, users, or any similar phrase (“**Logins**”) with respect to any Software Services, then only the number of Customer End Users so referenced may access and use such Software Services hereunder. Each Login must be assigned to one individual employee of Customer only. Neither Logins, nor Instance licenses, may be shared, transferred, or reassigned without Safe Fleet’s prior written consent.

3.2 Provision of Software Services. Customer shall bear any telecommunication and network costs and other charges related to its access or retrieval of the Software Services. Customer shall maintain adequate security precautions to prevent unauthorized access to or distribution of the Software Services by any means or channels, consistent with then-current industry technology standards, including the use of secure servers, protective firewalls and a user authentication system. Upon Safe Fleet's request, Customer shall provide information reasonably related to the security measures it undertakes in connection with its receipt, access to and use of the Software Services and any failure thereof or security breach related thereto. If Safe Fleet changes the content, format, medium, or means of access to or delivery of any of the Software Services generally for its customers, it may do so in the same manner for Customer (in the case of any such change which is material, upon at least 30 days' prior written notice).

4. CUSTOMER SUPPORT SERVICES

This Section 4 applies only if and to the extent the Sales Confirmation provides for the provision of any Customer Support Services and/or Customer requests any Third-Party Dispute Assistance.

4.1 Provision of Customer Support Services Generally. With respect to any Customer Support Services identified in the Sales Confirmation, (a) Safe Fleet shall use reasonable efforts to meet any performance dates to render the Customer Support Services as specified in the Sales Confirmation, and (b) Customer shall (i) cooperate with Safe Fleet in all matters relating to the Customer Support Services and provide such access to Customer's premises, vehicles, and facilities as Safe Fleet may reasonably request for the purposes of performing the Customer Support Services; (ii) respond promptly to any Safe Fleet request to provide direction, information, approvals, authorizations, or decisions that are reasonably necessary for Safe Fleet to perform Customer Support Services in accordance with the requirements of this Agreement; (iii) provide such customer materials or information as Safe Fleet may reasonably request to carry out the Customer Support Services in a timely manner and ensure that such Customer materials or information are complete and accurate in all material respects; and (iv) obtain and maintain all necessary licenses and consents and comply with all applicable Laws in relation to the Customer Support Services before the date on which the Customer Support Services are to start (and thereafter for so long as shall be legally required). If Safe Fleet's performance of its obligations under this Agreement is prevented, impeded or delayed by any act or omission of Customer or any of its officers, directors, employees, owners, consultants or agents (collectively, "**Customer Parties**"), including any failure by any of the foregoing to perform, or delay by any of the foregoing in performing, Safe Fleet shall not be deemed in breach of its obligations under this Agreement or otherwise liable for any costs, charges, or losses sustained or incurred by Customer or any other party, in each case to the extent arising directly from such prevention, impediment or delay. Fees for installation Customer Support Services cover the scheduled installation time in a single location only; if Safe Fleet is required to return to the site at a later date or to perform offsite installation work, e.g., if Customer does not make all applicable vehicles present and available at such location at such time, additional Fees, including labor and associated travel costs, may apply. The Parties acknowledge and agree that, from time to time, it may become necessary to amend the Sales Documentation, including the scope of Customer Support Services, to accommodate Customer-requested changes, unforeseen issues, or for any other mutually agreed reason; in such a case, the Party requesting a change will provide a change request to the other Party, the Parties will cooperate and negotiate in good faith a mutually agreeable change order memorializing such changes, and no changes shall be binding on either Party, and Safe Fleet shall have no obligation to provide any additional Services, unless and until the Parties mutually agree to and execute a written change order (a "**Change Order**") with respect to same.

4.2 Provision of Third-Party Dispute Assistance. "**Third-Party Proceeding**" means any legal, regulatory, administrative or other claim, demand, action, suit, or proceeding, other than any of same which is initially brought or made by one Party hereto against the other. With respect to any Third-Party Proceeding, Customer acknowledges and agrees that Safe Fleet shall have no obligation under this Agreement to provide documents, materials, equipment, testimony or other evidence, cooperation, support or assistance of any kind, except that Safe Fleet agrees to comply with the requirements of applicable Law, including any valid court order, provided that, with respect to any request or demand (including subpoena) by any third party for any of the foregoing, Customer shall, except to the extent prohibited by applicable Law or to the extent such actions would expose Customer to sanctions, reasonably cooperate with Safe Fleet in any effort to quash, limit, or otherwise resist same. If Customer requests that Safe Fleet act as an expert or other witness to provide testimony or any evidence of any kind in connection with any Safe Fleet V&T Offerings provided hereunder, whether or not due to the request or demand (including subpoena) of any third party, Customer agrees to pay Safe Fleet at Safe Fleet's then-current time and materials rates plus actual, reasonable expenses incurred in connection with fulfilling such Customer request.

4.3 Provision of Preventative Maintenance Services. Any preventative maintenance services set forth in the Sales Confirmation will be governed by the additional terms and conditions set forth in Attachment 3 to this Exhibit E.

5. GENERAL TERMS

This Section 5 applies to all Safe Fleet V&T Offerings set forth in the Sales Confirmation.

5.1 (a) "**License Term**" shall mean all times during the Term of the Agreement during which Customer is paying for, and is current on its payments for, Software Services. (b) Upon expiration or earlier termination (either of the foregoing, "**Termination**")

of the applicable License Term, Participating Addendum, Order, Statement of Work, or similar Contract Document, or of the Agreement in its entirety, Customer shall (i) unless such Termination is made by Customer as a result of an uncured material breach by Safe Fleet or for termination for funding insufficiency or non-appropriations, unconditionally and irrevocably pay Safe Fleet in full for all work in progress and accepted, all Services rendered and accepted, and all other direct costs incurred by Safe Fleet in the performance of this Agreement and, due to such Termination, not recouped by Safe Fleet (e.g., cloud storage fees paid by Safe Fleet to Safe Fleet's cloud storage vendor in advance); and (ii) unless otherwise instructed by Safe Fleet, (A) promptly terminate all access to the affected Services (excluding, except in the case of termination by Safe Fleet for cause ("**Safe Fleet Termination**"), the Firmware); (B) not later than 30 days following such Termination, destroy, and remove from its storage and any and all systems, all versions and copies of any Safe Fleet Confidential Information and other Safe Fleet Property (as defined in the Agreement and Section 5.4 hereof, respectively) relating to same, except, in each case, to the extent (and solely for so long as) Customer is legally required, pursuant to written advice of counsel, to retain Safe Fleet Confidential Information (in which case, for avoidance of doubt, all of same shall remain subject to all confidentiality restrictions set forth in these Terms, and may only be used to the extent necessary to comply with same), and excluding, except in the case of a Safe Fleet Termination, the Firmware; and (C) certify to Safe Fleet, in writing, the accomplishment of the foregoing clauses (A) and (B). (c) Any provision of the Agreement which allows Safe Fleet to terminate the Agreement or any Contract Document, in whole or in part, for cause (i.e., for any reason other than for convenience) shall be deemed to also include the right for Safe Fleet to suspend provision or delivery of affected Safe Fleet V&T Offerings during the period such cause persists. (d) The following Sections of this Exhibit E will survive expiration or earlier termination of this Agreement: 3.1 (with respect to Firmware only), 4.2, 5.1(e), 5.1(d), and 5.2 through 5.10.

5.2 Warranties. The Hardware and Software Services are covered by the applicable warranties (subject to the applicable conditions, qualifications and limitations) solely and exclusively as set forth in the warranty documentation attached as Attachment 2 to this Exhibit E (the "**Warranty Documentation**"). In addition, Safe Fleet represents and warrants that it will perform the Customer Support Services in a professional and workmanlike manner .

5.3 LIMITATION OF LIABILITY.

5.3.1 CUSTOMER ACKNOWLEDGES AND AGREES, AND IS HEREBY EXPRESSLY WARNED, THAT THE INSTALLATION OF AFTER-MARKET EQUIPMENT IN MOTOR VEHICLES CAN COMPROMISE A VEHICLE'S SAFETY-RELATED DESIGN CHARACTERISTICS, INCLUDING AIRBAGS (INCLUDING POTENTIAL OBSTRUCTION OF AIRBAG DEPLOYMENT), PASSENGER COMPARTMENT (INCLUDING POTENTIAL FOR ERGONOMIC PROBLEMS AND PHYSICAL OBSTACLES), AND TRUNK/GAS TANK PROTECTION (INCLUDING THE POTENTIAL FOR TRUNK-MOUNTED EQUIPMENT TO EXACERBATE TANK VULNERABILITY IN A REAR COLLISION), AND THAT INJURY MAY BE CAUSED BY ANY DEVICE MOUNTED IN A MOTOR VEHICLE, INCLUDING IN THE EVENT OF VIOLENT MANEUVERS, COLLISIONS, OR OTHER CIRCUMSTANCES, EVEN THOUGH SUCH DEVICES ARE INSTALLED AND USED ACCORDING TO INSTRUCTIONS, AND CUSTOMER EXPRESSLY ASSUMES ALL RISKS ASSOCIATED WITH SAME, ACKNOWLEDGES AND AGREES THAT ALL DECISIONS AS TO PLACEMENT OF THE HARDWARE AND OTHER INSTALLATION-RELATED DECISIONS AND OTHER ISSUES, ARE SOLELY CUSTOMER'S RESPONSIBILITY, AND HEREBY, TO THE EXTENT PERMITTED BY APPLICABLE LAW, FULLY, IRREVOCABLY, AND UNCONDITIONALLY RELEASES THE SAFE FLEET PARTIES FROM, ANY AND ALL ACTIONS, PROCEEDINGS, DAMAGES, PENALTIES, CLAIMS, DEMANDS, CAUSES OF ACTION, LIABILITIES, FEES (INCLUDING REASONABLE ATTORNEYS' FEES), COSTS, AND LOSSES OF ANY KIND OR NATURE WHATSOEVER (ANY OF THE FOREGOING, A "**LOSS**") OF ANY SORT IN CONNECTION WITH, ARISING OUT OF, CAUSED BY, OR RELATING TO (ANY OF THE FOREGOING "**RELATING TO**") ANY OF THE FOREGOING. IN ADDITION, CUSTOMER ACKNOWLEDGES AND AGREES THAT ITS USE OF DIGITAL VIDEO SURVEILLANCE SYSTEMS, INCLUDING IN-VEHICLE SYSTEMS, AND/OR VEHICLE (INCLUDING SCHOOL BUS) ROUTING AND/OR TRACKING SYSTEMS, INVOLVES INHERENT RISKS, INCLUDING WITH RESPECT TO PRIVACY LAWS (INCLUDING THOSE INTENDED TO PROTECT CHILDREN) AND DATA SECURITY, AND THAT CUSTOMER IS SOLELY RESPONSIBLE FOR (A) DEVELOPING, IMPLEMENTING, AND MAINTAINING APPROPRIATE POLICIES AND PROCEDURES, INCLUDING SECURITY AND PRIVACY POLICIES AND OPERATING PROCEDURES, WITH RESPECT TO USE OF THE SAFE FLEET V&T OFFERINGS, AND ENSURING ON-GOING COMPLIANCE WITH ALL OF SAME AND WITH ALL APPLICABLE LAWS, INCLUDING, IN EACH CASE, WITH RESPECT TO THE CAPTURE, TRANSFER, AND MANAGEMENT OF DIGITAL IMAGES, AND THE USE OF DIGITAL IMAGES IN LEGAL PROCEEDINGS OR FOR ANY OTHER PURPOSE, AND WITH RESPECT TO THE COLLECTION, USE, STORAGE, PROCESSING, DISCLOSURE AND SHARING OF LOCATION INFORMATION AND PERSONAL DATA, AND (B) THE COMPLETENESS AND

ACCURACY, AT ALL TIMES, OF THE CUSTOMER-PROVIDED DATA. EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT, INCLUDING THE WARRANTY DOCUMENTATION, SAFE FLEET IS SOLELY RESPONSIBLE FOR SAFE FLEET V&T OFFERINGS UP TO THE TIME OF DELIVERY, AND SAFE FLEET SHALL BEAR NO LIABILITY WHATSOEVER FOR, AND CUSTOMER HEREBY FULLY, IRREVOCABLY, AND UNCONDITIONALLY RELEASES THE SAFE FLEET PARTIES FROM ANY ALL LOSSES RELATING TO CUSTOMER'S OR ANY THIRD PARTY'S USE OF ANY SAFE FLEET V&T OFFERING, INCLUDING ANY AND ALL LOSSES RELATING TO CUSTOMER-PROVIDED DATA, PERFORMANCE DATA (INCLUDING THE CONTENT OF ANY VIDEO OR OTHER EVIDENCE OR INFORMATION CAPTURED OR STORED BY ANY SAFE FLEET V&T OFFERING, AND ANY PERSONAL DATA AND/OR LOCATION INFORMATION COLLECTED, USED, STORED, PROCESSED, DISCLOSED, OR SHARED BY OR ON BEHALF OF CUSTOMER BY ANY SAFE FLEET V&T OFFERING OR OTHERWISE) OR ANY OTHER CUSTOMER DATA.

5.3.2 WITHOUT LIMITING THE FOREGOING, WITH RESPECT TO ANY V&T SERVICE OFFERINGS INCLUDING OR INCORPORATING ANY MAP OR GPS FUNCTIONALITY, SAFE FLEET DISCLAIMS ALL WARRANTIES RELATING TO THE ACCURACY OF THE MAPS, CONTENT, ROAD CONDITIONS, DRIVING DIRECTIONS, OR NAVIGATION ROUTES PRESENTED OR DISPLAYED IN OR BY SAME. CUSTOMER AGREES AND ACKNOWLEDGES THAT CUSTOMER ASSUMES FULL, EXCLUSIVE AND SOLE RESPONSIBILITY FOR THE USE OF AND RELIANCE ON SUCH V&T SERVICE OFFERING, THAT CUSTOMER'S USE OF OR RELIANCE ON THE SERVICE IS MADE ENTIRELY AT CUSTOMER'S OWN RISK, AND THAT IT IS CUSTOMER'S RESPONSIBILITY TO COMPLY WITH ALL APPLICABLE LAWS (INCLUDING TRAFFIC LAWS) WHILE USING SAME. THE INFORMATION PROVIDED BY THE V&T SERVICE OFFERINGS IS NOT INTENDED TO REPLACE THE INFORMATION PRESENTED ON THE ROAD, AND IF THE INFORMATION PRESENTED ON THE ROAD (TRAFFIC LIGHTS, TRAFFIC SIGNS, POLICE PERSON, ETC.) IS INCONSISTENT WITH THE V&T SERVICE OFFERING, CUSTOMER MUST NOT, AND AGREES NOT TO, RELY ON THE V&T SERVICE OFFERING.

5.4 Intellectual Property Rights. (a) "**Intellectual Property Rights**" means all industrial, intellectual property, and/or proprietary rights of any kind, including patents (including all reissues, divisionals, provisionals, continuations and continuations-in-part, re-examinations, renewals, substitutions and extensions thereof) and any other governmental authority-issued indicia of invention ownership, trademarks and other designations of source or association, together with the goodwill symbolized by same ("**Trademarks**"), copyrights and other works of authorship or expression, all software and code owned by Safe Fleet, its affiliates or its or their direct or indirect licensors, including any firmware or other software included, incorporated, embedded, embodied, linked, or bundled in or otherwise made a part of (any of the foregoing, "**Incorporated**") any of the Safe Fleet V&T Offerings, or any portion thereof, privacy and publicity rights, rights of attribution or integrity, artist's or moral rights, trade secrets, know-how, Confidential Information, mask works, and all rights, interests and protections that are associated with, equivalent or similar to, or required for the exercise of, any of the foregoing, however arising, in each case whether registered or unregistered, and including all registrations and applications for, and renewals or extensions of, such rights or forms of protection pursuant to the Laws of any jurisdiction in any part of the world. (b) Safe Fleet acknowledges and agrees that, as between Customer and Safe Fleet, all right (including all Intellectual Property Rights), title, and interest in and to (i) all video and other evidence, materials, content, information, and data uploaded or otherwise provided directly or indirectly by Customer to Safe Fleet or any Safe Fleet V&T Offering ("**Customer-Provided Data**"), and (ii) all video and other evidence, materials, content, information, and data generated or created by the Customer's use of the Safe Fleet V&T Offerings ("**Performance Data**," and, together with the Customer-Provided Data, the "**Customer Data**") are and at all times shall remain the sole and exclusive property of Customer, subject to the license granted to Safe Fleet pursuant to Section 5.4(d). (c) Customer acknowledges and agrees that, as between Customer and Safe Fleet, all right (including all Intellectual Property Rights), title (subject solely to transfer of title to Hardware as provided in the Agreement), and interest in and to the Safe Fleet V&T Offerings and any and all derivations therefrom, improvements and enhancements thereto, and new versions thereof, regardless of source, all related Documentation, and all Aggregated Anonymized Data, as defined below (all of the foregoing, collectively, the "**Safe Fleet Property**"), are and at all times shall remain the sole and exclusive property of Safe Fleet. Without limiting the foregoing, Customer acknowledges and agrees that any and all Software Services under the applicable Sales Confirmation are licensed and not sold. Except and to the extent (but only to the extent) expressly and specifically granted to Customer herein, any and all rights with respect to any of the Safe Fleet Property are entirely and expressly reserved by Safe Fleet, and there are no implied licenses of any kind with respect to any of the Safe Fleet Property. For clarity, Customer hereby assigns and transfers to Safe Fleet all right, title, and interest in and to any and all Safe Fleet Property which may be deemed to be owned by Customer and waives any and all rights that Customer or any of its personnel may have under any Law applicable to any Safe Fleet Property, and agrees to execute such further instruments as Safe Fleet may from time to time deem necessary or desirable to evidence, establish, maintain, and/or protect Safe Fleet's ownership of such Safe Fleet Property and all right, title, and interest therein. (d) Customer hereby grants to Safe Fleet a limited, non-exclusive, fully paid-up, royalty-free, transferable, assignable, sublicenseable, worldwide right and license, during the Term, to use, compile, decompile, copy, store, modify, create derivative works of, disclose, display, transmit, and/or distribute, in whole or in part, the Customer Data for purposes of (i) managing, improving, developing, providing, supporting, maintaining, and/or troubleshooting Safe Fleet products and services, including the Safe Fleet V&T Offerings (including Customer Support Services), and/or (ii) analyzing, combining, processing, converting, or calculating Customer Data, or any portion thereof, whether alone or with other Safe Fleet or third-party data or information, to create aggregated, anonymized data concerning, related to, or in connection with actual or potential Safe

Fleet product and/or service offerings, including the Safe Fleet V&T Offerings (the “**Aggregated Anonymized Data**”). € Customer shall notify Safe Fleet in writing of any and all infringements or illegal uses of the Safe Fleet Property that come to Customer’s attention. Safe Fleet shall have the right, but not the obligation, to prosecute and conduct or otherwise address or handle all Claims involving the Safe Fleet Property and to take any actions that it may deem proper or necessary for the protection of the same. Upon Safe Fleet’s request, Customer shall, except to the extent legally prohibited, reasonably cooperate with Safe Fleet in connection with any such actions. (f) Customer shall not delete, obscure, or alter in any manner any of the proprietary information, copyright, trademark, or other attribution notices or legal disclaimer notices, if any, appearing on or with respect to any of the Safe Fleet V&T Offerings. (g) Safe Fleet welcomes ideas, suggestions and feedback related to the Safe Fleet V&T Offerings (“**Feedback**”). Provision of Feedback by Customer is entirely voluntary. Customer hereby assigns to Safe Fleet all right, title and interest, including all Intellectual Property Rights, in and to such Feedback, any and all of which Safe Fleet may use for its own business purposes in its sole and absolute discretion, without any payment or accounting to Customer. Such Feedback is deemed part of Safe Fleet’s Confidential Information hereunder, and shall not constitute Confidential Information of or pertaining to Customer. (h) Notwithstanding anything to the contrary in this Agreement, subject to additional Fees as set forth in the Sales Documentation (or, if the Sales Documentation is silent as to any such additional Fees, then at Safe Fleet’s then-prevailing rates), Customer may request that Safe Fleet assist Customer with the transfer of Customer Data to Customer or its designee for Customer’s use after Termination of the License Term; except to the extent so mutually agreed in writing, Customer shall have sole responsibility (and Safe Fleet shall have no obligation) to download, export, migrate, or otherwise store or transfer, during the Term, any and all Customer Data which Customer wishes to retain after Termination of the License Term. For clarity, and notwithstanding anything to the contrary in this Agreement, Safe Fleet shall have no obligation to retain any Customer Data following Termination of the License Term, regardless of the reason for such Termination.

5.5 Federal Programs. (a) This Section 5.5 applies only if and to the extent Customer will use any Safe Fleet V&T Offerings in connection with any contract, purchase order, delivery order, task order, grant cooperative agreement or other arrangement including any subcontract at any tier thereunder directly or indirectly purchased with funds provided by the Government (“**Federal Program**”). For purposes of this Section 5.5, “**Government**” shall mean the federal government of the United States. (b) The Customer hereby agrees and affirms that the Safe Fleet V&T Offerings shall be considered Commercially Available off-the-shelf (COTS) items as set forth in 48 C.F.R. 2.101. (c) All software (including Software and Cloud Services) provided to or accessed by the Customer in connection with the Software Services has been developed at private expense and includes only Restricted Rights Computer Software as set forth in 48 C.F.R. 27.401. For Federal Programs under the United States Department of Defense (“**DoD**”), all software (including Software and Cloud Services) provided in connection with the Software Services includes only commercial computer software as set forth in 48 C.F.R. 227.7202-1 and shall remain subject only to the license provided under this Agreement. (d) All data delivered in connection with the Cloud Services including all Safe Fleet-Provided Data shall be considered limited rights data developed at private expense and embodying trade secrets or are otherwise commercial or financial and confidential or privileged as set forth in 48 C.F.R. 252.227-14 (ALT I). By accessing any of such data, the Customer hereby acknowledges the following Limited Rights Notice: **These data are submitted with limited rights in connection with a Federal Program. These data may be reproduced and used by the Government with the express limitation that they will not, without written permission of Safe Fleet, be used for purposes of manufacture nor disclosed outside the Government.** (e) For Federal Programs under the DoD, all technical data provided in connection with the Services including all data delivered with the exception of Software shall be considered Commercial Item technical data subject to the use restrictions set forth in 48 C.F.R. 227-7015(b)(2).

5.6 Certain Additional Customer Compliance Matters. (a) In addition to, and without limiting in any respect, any other provision of this Agreement, Customer agrees not to, and not to permit any other person or entity to, seek to defeat or circumvent any safety or security feature of any Safe Fleet V&T Offerings, or any portion thereof, or to use any Safe Fleet V&T Offering, or any portion thereof, in any manner contrary to or not expressly authorized by the Documentation or this Agreement, or in any manner which violates any applicable Law, including any export laws and regulations, or any of the Documentation. (b) Certain Safe Fleet V&T Offerings include components that are preprogrammed to default settings that have been determined to be optimal for performance of such Safe Fleet V&T Offerings. However, given the variety of potential conditions that can be encountered, the default settings cannot be guaranteed to be safe and appropriate for all situations. Accordingly, where a Safe Fleet V&T Offering expressly provides a dedicated interface expressly permitting Customer to do so, Customer acknowledges and agrees that it (and/or the end user, as applicable) is fully and solely responsible for, and Safe Fleet has no responsibility for and shall bear no liability or obligation for, adjusting or modifying such default settings to ensure that the settings (i) are safe and appropriate for all circumstances encountered by the vehicle on which such Safe Fleet V&T Offering (or portion thereof) has been installed or otherwise operates, (ii) comply with all Laws, and (iii) conform to all of Safe Fleet’s then-current requirements and recommendations as set forth in the Documentation. (c) Customer further acknowledges and agrees that it (and/or the end user, as applicable) is fully and solely responsible for, and Safe Fleet has no responsibility for and shall bear no liability or obligation for, ensuring (i) the proper application and maintenance, in an appropriate location fully visible to the operator / end user, of any and all warning labels and stickers provided by Safe Fleet in conjunction with a Safe Fleet V&T Offering, (ii) the distribution to all operators / end users of, and the proper administration and regular assurance of compliance by all such persons with, any and all Documentation and materials related to training with respect to, and the safe and proper operation, use, testing, and maintenance of, the applicable Safe Fleet V&T Offering, and (iii) that no modifications to such Safe Fleet V&T Offering of any kind, in whole or in part, occurs without the express prior written authorization of Safe Fleet (for clarification, this clause (iii) does not prohibit

Customer from modifying settings as contemplated by Section 5.6(b) above). (d) Customer represents, warrants, and covenants that the Customer-Provided Data (i) is, and will at all times during the Term be, complete and accurate, and (ii) will not cause any bodily harm, death, property damage, or any other Loss of any kind to Safe Fleet or to any third party.

5.7 Miscellaneous.

(a) For purposes of this Agreement, each of the words “include,” “includes” and “including” is deemed to be followed by the words “without limitation.” “Dollars” or “\$” means U.S. dollars. The Parties drafted this Agreement without regard to any presumption or rule requiring construction or interpretation against the Party drafting an instrument or causing any instrument to be drafted. The captions and headings in this Agreement are for reference only and do not affect the interpretation of this Agreement. Section references contained in these Terms shall be references to the corresponding sections of these Terms unless otherwise specified. It is the express wish of the parties that this Agreement and all related documents, including notices and other communications, be drawn up in the English language only. *Il est la volonté expresse des parties que cette convention et tous les documents s’y rattachant, y compris les avis et les autres communications, soient rédigés et signés en anglais seulement.* (b) Upon a Party’s reasonable request, the other Party shall, at its sole cost and expense, execute and deliver all such further documents and instruments, and take all such further acts, necessary to give full effect to this Agreement. (c) Each Party shall comply with all Laws applicable to it in connection with its provision, or its use and enjoyment (as applicable), of all Safe Fleet V&T Offerings. Customer shall maintain in effect all the licenses, permissions, authorizations, consents, and permits that it needs to carry out its obligations under this Agreement and to use the Safe Fleet V&T Offerings as intended by this Agreement.. Customer shall comply with all Third-Party Licenses as agreed to by the Customer.(d) This Agreement may be executed in counterparts, each of which is deemed an original, but all of which together are deemed to be one and the same agreement and may be delivered by facsimile, emailed pdf, or other electronic transmission.



Attachment 1 to Exhibit E

(Effective April 20, 2022)

These Service Level, Support and Maintenance Terms and Conditions (these “**Terms**” or this “**SLA**”), as may be as agreed upon by the parties, exclusively govern the provision by Safe Fleet to the customer identified in the Order (as defined below) (the “**Customer**”), of the Technical Support and Subscription Services (each as defined below) (collectively, the “**Services**”) set forth on the applicable Quote, enterprise license agreement, SnS order form, Statement of Work, Sales Confirmation, or Customer’s purchase Order which is accepted in writing by Safe Fleet, or, if Customer has purchased support on a per-incident basis (“**Per Incident**”), in the registration form completed by Customer upon such purchase (any of the foregoing, the “**Order**”).

1. Definitions

1.1 “**Cloud Service**” or “**DEMS**” means the digital evidence management system and other cloud services offered by Safe Fleet’s Law Enforcement Division, including under the Nexus brand name, and including, data computing, storage and transmissions services provided by Microsoft Azure Government. The Cloud Service may be used in conjunction with, but excludes, On-Premise Software.

1.2 “**Effective Date**” means, for purposes of these Terms, the date the administrator account for the DEMS is communicated to Customer.

1.3 “**Error**” means a failure in the Software Services to materially conform to the specifications described in the applicable product Documentation.

1.4 “**Modified Code**” means any modification, addition, development, and/or other New Versions of code or scripts of the Software Services, including those that deviate from the predefined product code tree(s)/modules developed by Safe Fleet for production deployment or use, except any of the foregoing created by Safe Fleet.

1.5 “**On-Premise Software**” means any installable or other on-premise Software identified in the Order. The On-Premise Software may be used in conjunction with, but excludes, the Cloud Service.

1.6 “**Safe Fleet**,” for purposes of these Terms, means Coban Technologies, Inc., SF Mobile Vision Inc., or the applicable Safe Fleet Affiliate of either of them.

1.7 “**Safe Fleet Affiliates**” means Safe Fleet Acquisition Corp. and its direct and indirect subsidiaries.

1.8 “**Services Fees**” means the fees for Services specified in a corresponding Safe Fleet, reseller, or other applicable invoice.

1.9 “**Services Period**” means the period for which Customer has purchased the Services, as set forth in the Order, and any subsequent renewal periods, and shall commence: (a) for Software Services for which Safe Fleet requires a license key, on the date the applicable license key is made available to Customer, or (b) for Cloud Services, on the date the applicable Cloud Service is made available for use to the Customer.

1.10 “**Severity**” is a measure of the relative impact an Error has on the use of the Software Services, as determined by Safe Fleet in good faith in accordance with the definitions set forth in Section 3.2.8 of these Terms.

1.11 “**Software Services**” means, solely for purposes of these Terms, the Cloud Service.

1.12 “**Subscription Services**” means the provision to Customer of the Software Services, including any maintenance corrections, bug fixes, enhancements, extensions, and/or other new versions thereof or thereto (if and to the extent applicable, and as determined by Safe Fleet in its sole discretion) (any of the foregoing, an “**Update**”), as well as corresponding Documentation. Safe Fleet may categorize any Update as a “**Maintenance Release**,” “**Minor Release**,” or “**Major Release**” in its sole discretion, acting in good faith.

1.13 “**Support Services Website**” means Safe Fleet’s support services website, currently located at <https://community.safefleet.net/sfle/>, or such other URLs as Safe Fleet may from time to time designate.

1.14 “**Technical Support**” means the provision of telephone- or web-based/remote technical assistance by Safe Fleet to Customer’s

technical contact(s) with respect to installation, Errors and technical product problems, at the corresponding Services level purchased by Customer as set forth in the Order.

2. Service Terms

2.1 **Provision of Services.** Subject to these Terms, during the Services Period Safe Fleet shall, provided that Customer has current paid status, provide Customer with Services at the applicable Services level purchased. Service pack or firmware updates may be made available via the Support Services Website as a Customer downloadable and installable update or via scheduling an update with the technical support department at Safe Fleet’s discretion. There is a target of one major release per 12-month period (which may include a combination of software updates, service pack and/or firmware), plus as- needed patches and service packs. However, this schedule is just an estimate, and Safe Fleet has no obligation to provide releases, patches, or service packs hereunder in any specific quantity or on any specific schedule; failure to provide any of same shall have no effect on the provision of any Services and Safe Fleet shall have no liability therefor.

2.2 **End of Availability.** Safe Fleet may, at its discretion, decide to retire Software Services and/or Services from time to time (“**End of Availability**”). Safe Fleet shall publicly post for all customers notice of End of Availability, including the last date of general commercial availability of the affected Software Services and the timeline for discontinuing Services at the Support Services Website. Safe Fleet shall have no obligation to provide Services for Software Services that have reached End of Availability status or are otherwise outside of the applicable Service life. In addition, Safe Fleet may terminate or suspend any or all Services as provided in the Agreement.

2.3 **Purchase Requirements.** Except as otherwise agreed in writing by Safe Fleet, Customer may purchase initial Services only for the most current, generally available release of the Software Services, and Customer must purchase and/or renew Services at the same Services level for all of the licenses for a particular Software Services product or suite that has been installed in a given environment, such as Test, Development, QA, or Production (for example, Customer cannot purchase Production level support for only one license per unit in its lab and purchase Basic level support for the other units in that environment). Except as otherwise provided in the applicable Order, the minimum term for any Service offering is one year.

2.4 **Advanced and Complimentary Offerings.** Certain Services (e.g., Mission Critical Support) require that Customer also purchase a base level of support, to the extent set forth in the Order. Safe Fleet may, in its discretion, offer complimentary Services, including Complimentary Update Services for certain Software Services, to the extent set forth in the Order. “**Safe Fleet Complimentary Update Services**” means the provision of Maintenance Releases and Minor Releases, if any, to Customer, provided, however, that in no event will the Safe Fleet Complimentary Update Service include the provision of any Major Releases.

2.5 **Technical Support Guide.** The English language version of the Technical Support guide and policies found at the Support Services Website, as may be updated by Safe Fleet in its discretion from time to time, are the governing versions of such documents/policies, and Customer agrees to comply with same; any translation into other languages is for convenience only.

3. Technical Support

3.1 **Customer’s Representative.** At all times during the Services Period, at least one (1) (but no more than such maximum number as may reasonably be determined by Safe Fleet) employee of the Customer shall be designated to act as Customer’s representative and point of contact for Services (“**Customer’s Representative**”). Customer’s Representative shall be responsible to react to all equipment problems, attempt troubleshooting to isolate the malfunction area, apply patches and updates that are supplied by Safe Fleet, notify Safe Fleet of the need for support and cooperate with Safe Fleet to diagnose the problem over the telephone.

3.2 Help Desk Support Procedure

3.2.1 Safe Fleet will assign a customer service unit to this contract. The customer service unit provides office and personnel resources for responding to inquiries, including telephone and email coverage weekdays during the hours of 8:00 a.m. - 6:00 p.m., Central Time for all hardware equipment and 24x7x365 coverage for all software issues including the cloud-based WMVARS. The customer service unit shall be staffed with individuals that: are trained in the requirements of this contract; have the authority to take administrative action to correct problems that may occur; and are designated for training and general customer service follow-up.

3.2.2 Technical Support contact information is as follows:

Hardware and Software (standard operating hours M-F 8:00AM to 6:00PM Central Time):

Phone	Email
(888) 812-6226 option 2	SFLE-Support@safefleet.net

Hardware and Software (outside of standard hours):

Phone	Email
(888) 995-7884	SFLE-Support@safefleet.net

3.2.3 Customer must notify Safe Fleet within the applicable Services Period to obtain Technical Support. Proof of a valid bill of sale or purchase order (evidencing that the applicable product is within the Services Period) must be presented to obtain Technical Support if requested. Prior to contacting Safe Fleet the Customer must have the following information on hand:

- Supported system's invoice number
- Model type
- All associated serial numbers
- Vehicles number or VIN
- Description of the problem (as well as any error messages that may be received) and any troubleshooting steps that the Customer has already taken.
- It is strongly recommended that the Customer not remove any components from any vehicle prior to contacting Safe Fleet Support Engineers for troubleshooting.

3.2.4 Once the support request is accepted by the Safe Fleet Help Desk, a Technical Support Ticket Number will be issued to the Customer's Representative for reference and tracking purposes. Customer's Representative will be asked to provide this ticket number to the Safe Fleet Support Engineer in any and all communications regarding to this support request. Customer should not re-submit a support request if a support ticket number has already been assigned for the issue.

3.2.5 When requested, the Customer's Representative will provide the Safe Fleet Support Engineer with all information relevant to the request, including the timing, context and text of any error messages the Customer receives; what the Customer was doing when the error occurred; and what steps the Customer's Representative may have already taken to resolve the problem. The Safe Fleet Support Engineer will go through a series of standardized troubleshooting steps over the phone with the Customer's Representative to help diagnose the issue. Following completion of remote troubleshooting and problem determination the Safe Fleet Support Engineer will determine if the issue requires a Return Merchandise Authorization Number (RMA Number) or if the issue can be resolved remotely over the phone.

3.2.6 Customer's Representative or an authorized installation Support Engineer shall be available to assist in troubleshooting the unit by phone if needed. Safe Fleet will contact the Customer's Representative with this request and schedule a time to troubleshoot the unit if the appropriate personnel are not available at an appropriate time. Upon completion of troubleshooting, if the issue is not resolved, Safe Fleet's Technical Support Department will assess the situation and determine the next course of action. The Customer's Representative will supply a login and connection profile for access to the Customer network via VPN if needed. The Customer's Representative will supply a login and connection profile for access to the Customer network via VPN and/or remote support via the parties agreed upon remote support software (Terminal Services, VNC, GoToAssist, TeamViewer, etc.).

3.2.7 **Current Troubleshooting Escalation Process.** Safe Fleet currently employs three help desk levels to provide Technical Support with respect to Hardware, as follows:

Level 1 - The level one Help Desk is prepared to answer the most commonly asked questions, or provide resolutions that often belong in the frequently asked question or knowledge base. A Technical Support Ticket Number will be generated at the time of the initial notification of the issue (whether via phone or Safe Fleet Customer Support Website). During the initial problem discovery and diagnostics, Safe Fleet Support Engineers will request the Customer's Representative to perform rudimentary troubleshooting steps. Once the issue is solved the ticket will be closed. If the issue cannot be resolved with initial call, the Safe Fleet Support Engineer will escalate the issue to a level 2 Help Desk for further research/troubleshooting.

Level 2 - The level two Help Desk will require servicing/repairing on the components (i.e. camera, CPU, power supply, etc.). If service or repair is required, a Safe Fleet Support Engineer will issue an RMA Number and instruct the Customer's Representative to return the defective components to Safe Fleet. Prior to issuing an RMA Number for the component, the Safe Fleet Support Engineer may request that the in-car unit be "re-imaged" by the Customer's Representative to see if this resolves the matter. If a re-image process and components replacement does not resolve the issue, the problem will be escalated to a Level 3 Help Desk. Cross ship or unit replacement will be issued at Safe Fleet's discretion.

Level 3 - Level three issues are typically classified as "Total System Failures" meaning the system is not operational or useable by the Customer. If this is the case, and the serviced or repaired components did not resolve the issue, a complete system replacement may be sent (if that is determined by Safe Fleet to be the only solution). Additional troubleshooting and diagnostics will be attempted prior to issuing an RMA for a complete system replacement or the vehicle may need to be sent to the authorized service center for diagnostics test.

Customer will return all replaced equipment to the authorized service center.

3.2.8 Technical Support Response Times. Safe Fleet will triage Technical Support requests in good faith in accordance with the Severity Definitions below, and will use commercially reasonable efforts to provide an initial response to each such request within the Targeted Response Time set forth below. Customer acknowledges and agrees that the Targeted Resolution Time Guidelines below are estimates only, that many factors affect the ability to resolve specific requests and the time within which resolution may be achieved, and that Safe Fleet therefore does not guarantee that Errors will be resolved within such time and will have no liability for failing to meet such targets. All Targeted Response Times and Targeted Resolution Times set forth in these Terms assume, and require only, provision of Technical Support during Normal Business Hours, except that, if Customer has purchased, and is current on payments for, 24/7 Support, then, in the event of Severity 1 or Severity 2 incidents, Technical Support will be available 24 hours per day, 7 days per week until such incident is resolved or downgraded to Severity 3 or below.

Cloud Service – Technical Support Response Times			
Level of Severity	Severity Definition	Targeted Response Time:	Targeted Resolution Time Guidelines:
Severity 1	Critical software issue: Production Cloud Service unavailable or major malfunction affecting critical business tasks and high number of staff. No workaround exists.	As soon as possible, using commercially reasonable efforts	As soon as possible, using commercially reasonable efforts.
Severity 2	Severe: Impacts ability for some task to be completed though not full system nor all critical tasks.	1 Business Day	2 weeks or less from response, with workaround within 1 week or less.
Severity 3	Major: Affects one user workflow, and even if there is a workaround, it is objectively not desirable.	1 Business Day	Based upon prioritization and dependent upon all other reported issues and circumstances.
Severity 4	Minor: Issue or question that, even if bothersome, has limited business impact.	1 Business Day	Improved on when it is associated with higher priority work targeted for a release.
Severity 5	Cosmetic: Low priority defect with no, or substantially no, business impact	1 Business Day	Improved on when it is associated with higher priority work targeted for a release.

3.2.9 On-Premise Hardware Support.

3.2.9.1 Qualified, trained technicians will perform all contracted Hardware maintenance, which may include any of the following:

- o Ongoing Central Processing Unit (CPU) monitoring memory performance level and system disk usage.
- o Ongoing compliance of all security patches applied to hardware and firmware updates in place.
- o Ongoing troubleshooting and proactively resolving hardware issues.
- o Ongoing system security monitoring for user access, system access, and reporting hardware security breach to CHP.

4. Subscription Services. Safe Fleet may, in its sole discretion (but shall not be obligated to), periodically provide Maintenance Releases, Minor Releases and Major Releases as maintenance and updates to the Software Services. These updates will be applied to the cloud and for immediate availability to the Customer. For the duration of maintenance and updates for Maintenance Releases, Minor Releases and Major Releases, all or part of the DEMS may be unavailable. Scheduled maintenance or updates to the DEMS may be performed by Safe Fleet on a regularly scheduled basis. When reasonably practicable, Safe Fleet will provide notice of any change to regular schedule at least 1 week prior to change. Unscheduled maintenance or updates may occur on an emergency basis as necessary to ensure the security, performance and ongoing capability of the Software Services. When reasonably practicable, Safe Fleet will provide notice of any unscheduled maintenance at least 24 hours prior to any related downtime. Without limiting the foregoing, Safe Fleet will have no obligation to provide Customer any Updates, Minor Release, or Major Releases following expiration or earlier termination of either the Service Period or the License Term. All system upgrades shall be administered from a central location (e.g., firmware updates, camera configuration, video storage system upgrades).

5. Exclusions.

5.1 **Exclusions.** Services do not cover, and Safe Fleet shall have no obligations, including any obligation to provide Services, or liability with respect to Errors, repairs, tickets, troubleshooting, issues, problems, or requests (any of the foregoing, a “Request”) caused by, arising out of, or relating to, any Service Exclusion (as defined below).

5.2 “**Service Exclusion**” means any of the following:

- Third-party hardware, software, applications, or vehicles
- On-site service for in-car and/or body-worn camera video system troubleshooting and repair (which will be provided remotely and via RMA procedures and spare part provisioning)
- Operating system or driver updates
- Data migration
- Products lacking a serial number, including those which have had a serial number removed or made illegible
- Systems that are nonoperational due to abuse, neglect or improper usage for anything other than what the system was configured to do (not limited to improper shutdown, dirt, debris, water damage or liquid of any type)
- A product subjected to unauthorized entry or opening of the Safe Fleet module or monitor, or forced removal of the MHDD and/or components
- A product subjected to unauthorized modifications, disassembly, or repairs (including, without limitation, the addition to the product of non-Safe Fleet supplied equipment)
- Defects, damage, or other Errors from improper testing, operation, maintenance, installation, alteration, modification, or adjustment
- A product affected by virus, malware, security breach, or other network-related occurrence including but not limited to: installation of third party software applications, or network security settings changes executed or authorized by Customer or a third party acting on its behalf, which results in loss of communication, ability to properly use the system, or configurations that deviate from the Original Master Gold Image
- A product, which, due to illegal or unauthorized alteration of the software / firmware in the product, does not function in accordance with Safe Fleet-published specifications or with the FCC type acceptance labeling in effect for the product at the time the product was initially distributed from Safe Fleet
- unusual external physical factors such as inclement weather conditions that cause electrical or electromagnetic stress or a failure of electric power, air conditioning or humidity control; neglect; misuse; operation of the Software Services with other media not in accordance with the manufacturer’s specifications; or causes other than ordinary use;
- use of the Software Services that deviates from the operating procedures specified in the Documentation or is otherwise unintended, including exceeding the usage and retention periods as defined in the Order, any of which may result in Safe Fleet throttling of suspected abusive behavior;
- Excluded Items, other than the interface of the Software Services with the Excluded Items;
- Modified Code;
- use of the Software Services with unsupported tools (e.g., Java Development Kit (JDK); Java Runtime Environment (JRE)), APIs, interfaces or data formats other than those included with the Software Services and

- supported as set forth in the Documentation;
- Any Force Majeure Event;
- during or with respect to any trial period, alpha or beta testing, pre-release version or any unpaid use of the Services;
- insufficient bandwidth or data transmission capacity necessary to perform data exchange to and from customer's facilities to the Cloud Services demarcation point;
- Customer's failure to follow appropriate security practices, including but not limited to password and access control;
- issues arising from Safe Fleet suspension or termination of the customer's right to use the Services in accordance with the Agreement.

6. Customer Responsibilities. Customer shall perform, and Safe Fleet's obligations regarding Services are subject to, the following Customer obligations:

6.1 Customer Contact. Customer agrees to receive communications from Safe Fleet via e-mail, telephone, and other formats, regarding Services (such as communications concerning support coverage, Errors or other technical issues and the availability of new releases of the Software Services and training options).

6.2 Additional Obligations. Customer's technical contact shall cooperate to enable Safe Fleet to deliver the Services and provide accurate and complete data in a timely and organized fashion as requested by Safe Fleet in the support of the Services.

6.2.1 Customer is solely responsible for the use of the Software Services by its personnel and, without limiting Safe Fleet's obligation to provide training to the extent (if any) specified in the Order, shall properly train its personnel in the use and application of the Software Services.

6.2.2 Customer shall promptly report to Safe Fleet all problems with the Software Services, and shall implement any corrective procedures provided by Safe Fleet reasonably promptly after receipt.

6.2.3 If Customer has purchased 24/7 Support, Customer will have resources available to work 24X7 on Severity One and Severity Two Errors.

6.2.4 Customer will provide sufficient bandwidth to perform data exchange to and from customer's facilities and those of third-party providers in a timely manner, including those of the Microsoft Azure Government services utilized by Cloud Services.

6.2.5 Customer will use Cloud Service within the intended use including adherence to the usage plans and retention periods as defined in the Order.

6.2.6 Customer acknowledges and will comply with Section 9 of these Terms, regarding data retention and backups.

6.2.7 CLIENT will promptly respond to requests for information including but not limited to the product serial number, model, version of the operating system and software installed, any peripherals devices connected or installed on the product, any error messages displayed actions taken before the product experienced the issue and steps take to resolve the issue.

6.2.8 Services for Software Services made available under open source licenses may be subject to additional policies located on the Support Services Website, and Customer agrees to comply with all such policies. Notwithstanding the foregoing, Participating Entity or Participating State reserve all defenses or objections to any policies that conflict with applicable law or regulation or which expand the Entity's or State's liabilities, or reduce Entity's or State's rights and protections.

6.3 Modified Code. In the event that Safe Fleet suspects that a reported Error or other Request may be related to Modified Code or an Excluded Item, Safe Fleet, may, in its sole discretion, request that the Modified Code or Excluded Item be removed, and/or inform Customer that additional assistance may be obtained by Customer directly from various product discussion forums or by engaging Safe Fleet's consulting services group for an additional fee.

7 "Time and Materials Services" means any services performed by Safe Fleet or any Safe Fleet-authorized party acting on its behalf in response to (a) any Customer Request with respect to any matter not expressly included in Services as described in Sections 1 through 4 of these Terms, (b) any Service Exclusions, or (c) any Excess Requests (as defined below). Safe Fleet limits the number of Severity One or Severity Two Requests which may be reported per customer to 10 occurrences per month combined and a total of 75 occurrences per year combined. "**Excess Request**" means any Request in excess of 10 Requests in a calendar month or 75 Requests in a calendar year, whichever comes first. Customer will pay Safe Fleet at its Master Agreement rates for Time and Materials Services, and Safe Fleet may invoice Customer for same upon performance of such Time and Materials Services.

8 Fees

8.1 Prorated Fees. In the event that Customer renews or adds a Services offering that has a minimum term of one (1) year, Customer may elect to make Services for all of its Software Services licenses coterminous with the renewed or added Services. In such

case, Safe Fleet will prorate the applicable Services Fees to extend the current Services Period to make it coterminous with such renewed or added Services.

8.2 **Migration.** Except in the case of enterprise license agreements, in cases where Customer purchases a license to migrate up from one edition of the Software Services to another (e.g., Safe Fleet DVMS Standard to Safe Fleet DVMS Enterprise), any unused portion of the Services Period on the original license will be converted and used to extend the Services Period for the newly purchased upgraded license.

9 Data Retention and Backups

9.1 **Backups/Data Loss.** Without limiting anything in the Agreement, as permitted by applicable law, Safe Fleet is not responsible for lost data or information in the course of providing Services or in the event of errors or other malfunction of the Software Services or computers on which the Software Services are used. Without limiting the foregoing or anything in the Agreement, it is possible that data will be lost or that the drive may need to be reformatted in the course of service and as such Safe Fleet, as permitted by law, will not be held liable for any damage to or loss of any program, data or other information stored on any media or any part of any product serviced hereunder.

9.2 **Geographically Redundant Storage.** All data within the Cloud Service is replicated synchronously within Microsoft Azure Government Primary Region. For an additional cost, customer may choose to include selection of Geographically Redundant Storage in their Order to decrease the risk of data loss by having their data within the Cloud Service replicated synchronously within the Microsoft Azure Government Primary Region and then replicated synchronously to a Secondary Region. In such case, Customer retains the same rights and control, and grants the same rights to Safe Fleet, with respect to replicated data as with the original customer data.

9.3 **Data Retention.** Customer is solely responsible for deletion of data within the Cloud Service, including through the administration of the data retention settings and their application and the other administrative data aging, purge and deletion functions. Customer agrees to adhere to its own data retention policies, and Safe Fleet will have no obligations or liabilities with respect to any changes Customer makes to such policies after the effective date of the applicable Order. Customer must properly utilize the Event-Type assignment (including Default Event Type) and overrides to ensure customer desired outcome of automated data deletion/purging with full knowledge that once deleted/purged from the system there is no possible recovery from the system of deleted/purged data.

9.4 **Data Breach.** For purposes of this Section 9.4, “Data Breach” means any act or omission that materially compromises the security, confidentiality, or integrity of Customer Data constituting protected personal information under applicable Law. Safe Fleet shall comply with this Section 9.4 with respect to any Data Breach, and, notwithstanding anything to the contrary in the Order, except to the extent otherwise required by applicable Law, same shall be Safe Fleet’s sole obligation with respect to any act or omission that compromises, or may, or is alleged to, compromise, Customer Data or the physical, technical, administrative, or organizational safeguards relating thereto. Upon discovery of any Data Breach, Safe Fleet shall

- a) comply with all applicable Laws with respect thereto;
- b) promptly notify the Customer of the following, to the extent known by Safe Fleet:
 - 1) The nature of the Data Breach;
 - 2) The Customer Data accessed, used or disclosed;
 - 3) The person(s) who accessed, used, disclosed and/or received Customer Data;
 - 4) What Safe Fleet has done or will do to quarantine and mitigate the Data Breach; and
 - 5) What corrective action Safe Fleet has taken or will take to prevent future Data Breaches; and
- c) employ commercially reasonable efforts to quarantine the Data Breach, ensure secure access to the affected Customer Data, and repair the Cloud Services as needed in accordance with these Terms.

9.5 DISASTER RECOVERY/BUSINESS CONTINUITY:

- a) In the event of disaster or catastrophic failure that results in significant Customer Data loss in excess of 1 petabyte, or extended loss of access to Customer Data for more than 48 hours, Safe Fleet shall promptly notify the Customer. Safe Fleet shall provide such notification within twenty-four (24) hours (excluding weekends and holidays) after Safe Fleet reasonably believes there has been such a disaster or catastrophic failure. In the notification, Safe Fleet shall inform the Customer of the following, to the extent known by Safe Fleet:
 - 1) The scale and quantity of the Customer Data loss;
 - 2) What Safe Fleet has done or will do to recover the Customer Data and mitigate any deleterious effect of the Customer Data loss; and
 - 3) What corrective action Safe Fleet has taken or will take to prevent future Customer Data loss.
- b) Safe Fleet shall employ commercially reasonable efforts to restore continuity of Cloud Services, restore Customer Data in accordance with the RPO and RTO as set forth herein, restore accessibility of Customer Data, and repair the Cloud Services as

needed to meet the performance requirements stated herein.

- c) The obligations set forth in this Section 9.5 shall, notwithstanding anything to the contrary in the Order or Accompanying Agreement, be Safe Fleet's sole obligations pursuant to this Agreement with respect to any such disaster or failure.



Attachment 2 to Exhibit E

SAFE FLEET LAW ENFORCEMENT DIVISION LIMITED PRODUCT & SERVICES WARRANTY

(Effective November 2, 2020)

SECTION 1 – LIMITED WARRANTY

The applicable Warrantor (as defined below) warrants to the original purchaser (“Customer”) of the new (not used) equipment and parts identified in Section 2 below manufactured and sold by such Warrantor to Customer (the “Products”) that each of such Products will be free from manufacturing defects for the applicable period set forth in Section 2 below, in each case commencing on the Warranty Start Date (as defined below), provided that such Product is used under conditions of normal use, that regular periodic maintenance and service is performed, and that such Product was installed in accordance with the instructions published by the Safe Fleet Law Enforcement Division (as defined below), and all in accordance with the Product Documentation (as defined below) and subject to the other terms and conditions set forth below (this “Limited Warranty”).

“Warrantor” means (a) in the case of Products listed in Section 2.2 below, Coban Technologies, Inc. (“COBAN”), a subsidiary of Safe Fleet Acquisition Corp. (“Safe Fleet”) and, together with their other applicable affiliates, comprise the Law Enforcement Division of Safe Fleet (the “Safe Fleet Law Enforcement Division”).

“Warranty Start Date” means the date of delivery of the applicable Product as provided in the Master Agreement.

This Limited Warranty applies only to governmental use by the original Customer and is not transferable for any reason, including in the event the applicable Product is sold, traded, transferred or otherwise disposed of in any manner by the original purchaser to another party.

This Limited Warranty is the complete warranty for the Product manufactured by Warrantor and it does not warrant the installation, maintenance, support or servicing of the Product unless a separate written agreement specifically and expressly covering those activities is made between Warrantor and Customer. This Limited Warranty is null and void if the factory applied serial number or tamper evident labels have been damaged, altered or removed from the Product.

SECTION 2 – PRODUCTS AND APPLICABLE WARRANTY PERIODS

2.1 General: The applicable warranty period for each Product is set forth in this Section 2. When Warrantor replaces any part which is a component of a Product listed in this Section 2, the warranty period for such replacement part equals the warranty period remaining on such Product at the time of such part replacement (i.e., furnishing the replacement part does not extend the original warranty period or start a new warranty period), and is subject to all other terms and conditions of this Limited Warranty.

2.2 COBAN Products:

1 Year Warranty

- FOCUS H1 / H2 System Wires
- FOCUS H1 / H2 Power Supply Battery
- Wireless Mic. Transmitter Pouch
- Wireless Mic. Transmitter Battery
- Wireless Mic. Transmitter Antenna
- Wireless Mic. Receiver Antennas
- FOCUS X1 / X2 Body Worn Camera Module
- FOCUS X1 / X2 AC Wall Charger
- FOCUS X1 / X2 USB Cable
- FOCUS X1 / X2 Magnetic Mount
- FOCUS X1 / X2 Clip Camera
- Optional Peripheral Devices

3 Year Warranty

- EDGE CPU / Encoder Module
- EDGE Display Module
- EDGE Power Supply Module
- EDGE Removable Hard Disk
- EDGE System Cables
- EDGE Wireless Microphone ("Mic.")
- EDGE Wireless Mic. Receiver
- EDGE Primary Forward Facing Camera
- FOCUS H1 / H2 CPU Module
- FOCUS H1 / H2 Display Module
- FOCUS H1 / H2 Removable Pen Drive
- FOCUS H1 / H2 System Cables
- FOCUS H1 / H2 Wireless Microphone ("Mic.") Transmitter
- FOCUS H1 / H2 Wireless Mic. Receiver
- FOCUS H1 / H2 Forward Facing and Rear Facing Cameras

An optional 4th and 5th year extended warranty subscription may be available for certain COBAN Products. Upon payment by Customer for any such subscription, the terms and conditions of this Limited Warranty will apply during such additional warranty years.



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SECTION 3 – REMEDY

Customer's sole and exclusive remedy, and Warrantor's sole and exclusive liability and responsibility, under this Limited Warranty is the repair or replacement of Products (with the same or functional equivalents thereof), as determined by Warrantor in its sole discretion, subject to the terms and conditions of this Limited Warranty. Without limiting the foregoing, Warrantor shall have no obligation to diagnose installed components, remove or reinstall components, troubleshoot applications or application compatibility issues, or perform any on-site service, triage, or help desk phone support. All returned parts shall become the property of Warrantor.

SECTION 4 – CUSTOMER'S RESPONSIBILITIES

4.1 Back-Ups and Disaster Recovery. Customer is solely responsible for removing all applicable Product(s) and all other equipment and backing up all Customer Data prior to pursuing any remedy under this Limited Warranty. Warrantor, to the extent permitted by applicable law, assumes no responsibility for the protection of, and will not be held liable for any damage to or loss or corruption of, any Customer Data, including any of same stored on any media or any part of any Product serviced hereunder, in connection with this Limited Warranty. "Customer Data" means any and all data, video, content, materials, programs, software, or other information of any sort stored on or processed by any Products or other equipment or provided, made available or given access by Customer to Warrantor in connection with this Limited Warranty. It is the Customer's responsibility to back up the contents of all hard drives, including any data that may be stored or software that may have been installed on the hard drive. It is possible that the contents of hard drives will be lost or that the drive may need to be reformatted in the course of service. It is highly recommended that Customer create a valid disk "image" after the final original installation of each applicable Product is completed. This image will need to be updated by Customer as changes are made to the units and kept safe by Customer for data recovery purposes. Warrantor assumes no liability or responsibility in developing, and Customer is solely responsible for developing and maintaining, a disaster recovery policy for Customer, including for the reconstruction of lost or altered files, data, software, and programs that may be stored on any Product. Customer will perform any and all data reconstruction, unless specifically stated in the initial written contract between Warrantor and Customer. Any service / warranty work required on the workstation, server or other devices provided by Customer in conjunction with any system of which a Product is a component will be performed by the third- party manufacturer's representative that sold the device to Customer.

4.2 Customer's Representative. At all times during the term of this Limited Warranty, at least one (1) employee of Customer shall be designated to act as Customer's representative and point of contact for matters arising out of this Limited Warranty ("Representative"). Representative shall be responsible for identifying to Warrantor all relevant equipment problems, troubleshooting to attempt to identify causes of such problems, notifying Warrantor of the need for service, and cooperating with Warrantor to attempt to diagnose the problem over the telephone.

4.3 RMA and Shipping.

4.3.1 All Products. Serial number and, if requested by Warrantor, proof of a bill of sale or purchase order (which is evidence that the Product is within the warranty period) must be presented to obtain warranty service. If Warrantor determines that all or part of the Product requires return for repair or replacement, a Return Merchandise Authorization Number (RMA Number) will be issued.. Customer must prominently display the RMA number on the outside of the shipping box and shipping labels of each box. With respect to COBAN Products Warrantor will cover the cost of any RMA shipment to and from Warrantor's maintenance facility. In all cases, for both COBAN Products, any expedited shipping requests will be the responsibility of and paid for solely by Customer. Repair times for defective modules are objectives and



4.3.2 estimates only, not guarantees. Advance replacement / cross ship may be available to expedite service.

4.3.3 **COBAN Products.** All initial RMA Requests must be called into Warrantor's Tech Support line (281-925-0488 option 2) Monday – Friday between the hours of 8:00 AM and 6PM CST, via email at COBANsupport@safefleet.net, or entered via Warrantor Customer Support Web Portal (<https://www.safefleet.net/support/rma-support/>).

4.4 **Unit Replacement.** Upon its receipt of a replacement component, Customer must relinquish the defective unit to Warrantor. If the defective unit is not returned within 30 days, Customer agrees to pay Warrantor the cost for the replacement unit upon receipt of invoice. Failure to honor the invoice within 45 days after receipt will allow Warrantor to impose overdue charges as provided in the Master Agreement.

4.5 **Parts Ownership.** All service parts removed from Customer's supported system become the property of Warrantor. The Customer will be obligated to pay for any service parts removed from Customer's supported system and retained by Customer. Warrantor will use new and reconditioned parts made by various manufacturers in performing warranty repairs.

SECTION 5 – INTENTIONALLY OMITTED

SECTION 6 – EXCLUSIONS

This Limited Warranty does not cover, and expressly excludes:

- Consumable items, such as but not limited to batteries, protective coatings, cables, wires, and mounting clips.
- Any equipment, vehicles, hardware, parts, software, or other products or services not furnished by Warrantor, including without limitation any such equipment which may be attached to or used in connection with the Product (“Third-Party Products”) (none of which Warrantor shall have any obligation to service).
- All normal and/or preventive maintenance, services, or adjustments to Products, including without limitation those recommended by Warrantor to maintain the product in operating condition.
- Damage, defect, error, or other loss of any kind relating to:
 - Accident, alteration, adjustment, disassembly, misuse, negligence, abuse, vandalism or physical damage, including without limitation dropping of the Product, collision with any object, or damage resulting from power surges or improper use of or connection to any electrical source.
 - Any repair, replacement or alteration by a facility not approved in advance and in writing by Warrantor.
 - Improper installation (including electrical damage caused by improper installation) or failure to follow installation instructions provided by Warrantor.
 - Use inconsistent with the instruction manual, safety warnings, product labeling, datasheets, specification sheets and/or other installation, use, operation and technical documentation provided and/or published by the Safe Fleet Law Enforcement Division (collectively, “Product Documentation”).
 - Use of Third-Party Products not furnished by Warrantor.
 - Fire, explosion, implosion, flood, sand, dirt, windstorm, hail, earthquake, lightning strike, acid rain, chemical fallout, catastrophic event, or other act of God or nature.
 - Exposure to excessive heat, other severe environmental conditions, or unintended uses and/or substances.



- Exposure to chemicals, dirt, debris, liquid, or other substances (other than cleaning agents specifically recommended in the Product Documentation).
- Acts or omissions of any carrier shipping or delivering any Products.
- Any failure to care for or maintain any Product in accordance with the Product Documentation.
- Network or security changes by Customer.
- De-installation or re-installation of Product(s), any parts or components thereof, or any other software application(s), hardware or equipment.
- De-installation or re-installation of Products, any parts or components thereof, or Warrantor equipment performed by personnel not trained by Warrantor and/or by any third-party installer not certified by Warrantor.
- Data migration.
- UPS Devices.
- Electrical and other vehicle-related issues.
- Normal wear and tear.
- Any Product on which the serial number has been removed or made or become illegible.
- A Product subjected to unauthorized entry or opening of the Warrantor module, monitor or forced removal of the MHDD and/or components.
- A Product affected by virus, security breach, or other network related occurrence including but not limited to: installation of third party software applications, network security settings changes resulting in loss of communication, ability to properly use the system or configurations that deviate from the Original Master Gold Image.
- Scratches or other cosmetic damages to the Product's surfaces that do not affect the operation of the Product.
- All warranty claims received after the applicable warranty period set forth in Section 2.

SECTION 7 – CERTAIN ADDITIONAL CONDITIONS OF WARRANTY

In addition to the other exclusions, limitations, exceptions, qualifications and conditions set forth herein, this Limited Warranty is conditioned upon, and will be invalidated by failure to comply with any of, the following conditions:

- All Products, and all ancillary equipment, components and parts, must be installed in accordance with the Product Documentation.
- Regular maintenance and service must be performed on all Products, in accordance with the Product Documentation.
- Products must be put to their intended use, in accordance with the Product Documentation.
- Replacement parts must be manufactured by Warrantor.
- Complete compliance with the claims procedures set forth in this Limited Warranty.
- Warrantor must have received full and timely payment of related invoices issued to Customer.



SECTION 8 – INTENTIONALLY OMITTED

SECTION 9 – CHARGES FOR NON-WARRANTY ITEMS

Each warranty request pertaining to any item excluded or otherwise not covered by this Limited Warranty (“Non-Warranty Items”) shall be subject to additional fees, which, unless otherwise mutually agreed in writing by Warrantor and Customer, may be invoiced by Warrantor to Customer at Warrantor’s rates in the Master Agreement, plus Warrantor’s Master Agreement fees for services such as testing, examination, or repair. COBAN’s current rate for services is \$125 per hour, and COBAN currently may charge the Customer a \$125 service fee for any RMA units/components that are returned to Warrantor as Non-Warranty Items, and a \$125 service fee for each RMA unit/component that is returned to Warrantor as “non-operational” that is in fact operational (e.g., CPU units that have not been ghosted properly, scratched / hazy touch screen monitors, microphones missing parts such as: battery, internal seals, antennas, obvious misuse or damaged systems). Warrantor will obtain Customer’s approval/direction for any billable service before repairs are initiated (i.e., devices not covered or repairs not covered).

SECTION 10 – LIMITATION OF LIABILITY

10.1 NO STATEMENT MADE BY ANY PERSON WITH RESPECT TO ANY PRODUCT SHALL CONSTITUTE A WARRANTY, BE RELIED UPON BY ANY CUSTOMER OR ANY OTHER PARTY, OR BE DEEMED PART OF THIS LIMITED WARRANTY OR ANY SALE AGREEMENT BETWEEN WARRANTOR AND ANY CUSTOMER.

10.2 . IN ADDITION, WARRANTOR RESERVES THE RIGHT TO CHANGE ITS PRODUCTS (INCLUDING BUT NOT LIMITED TO THEIR DESIGN, MATERIAL COMPOSITION AND/OR COMPONENTS) FROM TIME TO TIME WITHOUT NOTICE AND WITH NO OBLIGATION TO MAINTAIN SPECIFIC SPARE PARTS OR TO MAKE CORRESPONDING CHANGES IN WARRANTOR’S PREVIOUSLY MANUFACTURED PRODUCTS.



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Attachment 3 to Exhibit E

**Safe Fleet Video & Telematics (“V&T”) Preventative Maintenance Services
Additional Terms & Conditions (“PM Terms”)**

Safe Fleet’s video and telematics products and services are sold and delivered under a variety of brand names, including Safe Fleet®, Seon®, FleetMind®, MobileView®, COBAN®, and Mobile-Vision.™ These brands and associated businesses are owned and operated through Safe Fleet Acquisition Corp. and its wholly-owned subsidiaries, including FleetMind Seon Solutions, Inc., Seon System Sales, Inc., Seon Design (USA) Corp., COBAN Technologies, Inc., and SF Mobile-Vision, Inc.

1. **APPLICABILITY.** These PM Terms apply to any preventative maintenance services (“**PM Services**”) set forth in a Sales Confirmation (as defined in the Safe Fleet Video & Telematics Products and Services Standard Customer Terms & Conditions (the “**V&T Standard Terms**”). All capitalized terms used but not defined herein shall have the meaning ascribed to them in the V&T Standard Terms.

2. **PREVENTATIVE MAINTENANCE SERVICES.**

2.1 Subject to Customer’s compliance with these PM Terms, including its payment and other obligations hereunder, Safe Fleet will provide PM Services to Customer during the PM Services Term. “**PM Services Term**” means the initial term for PM Services as set forth in the Sales Confirmation, or, if no such initial term is stated in the Sales Confirmation, one year from Safe Fleet’s acceptance of the applicable purchase order (the “**PM Services Initial Term**”), together with any PM Services Renewal Terms (as defined below).

2.2 Safe Fleet and Customer will consult and mutually agree as to the scope and timing of the PM Services, which typically include some or all of the following elements:

2.2.1 A certified Safe Fleet technician will travel to Customer’s site and conduct a fleet-wide inspection of video equipment and related Hardware, in each case which was both supplied and installed by Safe Fleet (the “**Fleet Inspection**”), in an effort to identify for repair or adjustment equipment that may not be functioning properly. The technician typically performs some or all of the following tasks, as applicable, as part of the Fleet Inspection: physically inspect each of the main solution components as well as associated cabling and mounts for signs of excessive wear and tear or damage due to other causes; verify that each major system component is in good working order; inspect connections between the different system components; verify data connections; review overall health of the covered systems; inspect the immediate area surrounding each component for any issues that may impair the proper functioning of the covered Fleet Safety Solution going forward.

2.2.2 During such Fleet Inspection, the technician will attempt to identify the need for repairs, replacements and adjustments for parts still under the original Safe Fleet manufacturing warranty pursuant to the terms of the Warranty Documentation (or, in the case of third-party parts originally supplied by Safe Fleet, that third party’s applicable warranty repair period) (together, “**Warranty Parts**”). During the Fleet Inspection, the technician will also identify items requiring repair which are determined by Safe Fleet to be out of warranty (“**Non-Warranty Parts**”).

2.2.3 All repairs for Warranty Parts will be conducted at the time of Fleet Inspection, subject to part replacement timing as described in Section 5 of these PM Terms. Labor costs for such repairs of Warranty Parts



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will be included at no additional cost to Customer under the Safe Fleet Preventative Maintenance Program. Repair of Non-Warranty Parts will require payment of mutually agreed applicable additional labor and parts/material charges; for clarity, Safe Fleet will have no obligation to repair any Non-Warranty Parts unless and until the Parties mutually agree on additional fees applicable to such repairs.

2.2.4 Freight charges for the necessary repair or replacement of covered parts identified during the Fleet Inspection will be covered by the Preventative Maintenance Program. Parts identified as subject to repair or replacement outside of the Fleet Inspection, however, will be subject to the standard RMA process outlined in Section 6 of these PM Terms.

2.2.5 Upon completion of the Fleet Inspection and any subsequent repairs, Safe Fleet will provide a status report outlining Safe Fleet's assessment of the covered fleet safety system health status of each vehicle.

2.2.6 If, during any Fleet Inspection, Safe Fleet identifies equipment requiring repair, replacement, or adjustment, and Safe Fleet is unable to perform such repair, replacement, or adjustment at the time of the Fleet Inspection due to lack of availability of Warranty Parts or Non-Warranty Parts, then Safe Fleet will provide one follow-up visit to perform same, at no additional cost to Customer for labor, travel, or expenses. For clarity, such follow-up visits are not offered due to unavailability of any vehicles during the Fleet Inspection, and any follow-up visits required due to such unavailability will be subject to additional Fees at Safe Fleet's Master Agreement rates.

3. **COMMENCEMENT OF PM SERVICES; SCHEDULING.** The preventative maintenance program begins once the related customer purchase order is received, accepted, and acknowledged by Safe Fleet, at which point Safe Fleet and Customer will mutually agree on a service schedule consistent with the Sales Confirmation and these PM Terms. Scheduling dates are set a minimum of 30 days from the time of service program purchase. Customer may request changes to the schedule at least 30 days in advance via email to PTLW-Service@safefleet.net, and such changes are subject to Safe Fleet's approval in its discretion. Changes requested less than 30 days in advance will be subject to an additional change fee, at Safe Fleet's Master Agreement rates.

4. FEES.

4.1 The base Fees for PM Services are as set forth in the Sales Confirmation. In all cases, Fees are calculated based on, and apply to, each vehicle in Customer's fleet which includes, or on which Customer uses, any Safe Fleet V&T Offering (each, a "**Billable Vehicle**"). Partial fleet coverage is not available. Fees are payable with respect to all Billable Vehicles in the fleet, even if some are not available for service. Customer will maintain adequate, accurate records with respect to its fleet sufficient to allow Safe Fleet to confirm the calculation of fees hereunder, and Safe Fleet will have the right, during the PM Services Term and for one year thereafter, upon reasonable notice to Customer, to inspect and/or audit Customer's applicable books, records, facilities, and/or vehicles to confirm the applicable fees and payments hereunder.

4.2 Fees are also based on service frequency, as set forth in the Sales Confirmation, and assume fleets with a minimum of 25 Billable Vehicles. Fees include Safe Fleet's travel expenses, provided that Customer's fleet includes at least 25 Billable Vehicles. If Customer's fleet includes fewer than 25 Billable Vehicles, Customer will reimburse Safe Fleet for its reasonable travel-related expenses if provided for in Participating Entity or Participating State's Participating Addendum, in addition to the fees set forth in the Sales Confirmation.

4.3 Customer will pay all fees for PM Services annually in advance.

4.4 Labor and parts for cabling or rewiring are not covered by the Preventative Maintenance Program. A price quotation for any additional labor and parts for cabling or rewiring will be submitted to the Customer before that additional work is completed.



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5. **SPARE PARTS.** Safe Fleet strongly recommends that Customer purchase spares of swappable parts in numbers equal to 5% of the number of on-board computing or digital video recorder units deployed across Customer's fleet. If the goal of 5% spare stock is not feasible for small fleets, Safe Fleet recommends that at least one (1) of each major component (e.g., CPU, touch screen display) be kept on hand. This availability of spare parts to the Safe Fleet technician will ensure that if a faulty part is removed, it can be replaced in a timely manner. In any event, Customer's failure to provide a spare will result in the faulty part's removal without immediate replacement, and Safe Fleet will have no liability with respect thereto. It will be the customer's responsibility to replace the repaired part upon return from RMA, as set forth in Section 6 below, and/or place this repaired/returned unit into the stock of spares.

6. **RMA PROCEDURES.**

6.1 Under the Preventative Maintenance Program, when Safe Fleet's on-site technician determines that a part repair requires a return merchandise authorization (RMA), the technician, in his or her discretion, will remove from the vehicle at the time of service any major components requiring repair but without extensive rewiring (e.g., CPU, display). For any RMA-required repair, the Safe Fleet technician will provide the customer with a written summary of the part, problem description, warranty status, and assigned RMA number at the time of service or promptly thereafter.

6.2 For Warranty Parts, Safe Fleet will cover the cost of (a) shipping the RMA-required part back to the authorized Safe Fleet service center for diagnosis and repair or replacement by Safe Fleet and (b) re-installing the repaired or replaced part in the vehicle (if no spare replacement part was installed at time of service) or placing the repaired or replaced part into the Customer's stock of spare parts. The method of shipment will be at the discretion of Safe Fleet, and the Customer will be responsible for ensuring the RMA-required part is forwarded to Safe Fleet's specified carrier within an agreed upon timeframe.

6.3 Non-Warranty Parts requiring RMA will be subject to additional shipping and diagnostics fees payable by the Customer for Safe Fleet to generate a price quotation for the necessary repair or replacement. Such repair or replacement will occur after the Customer's purchase order in response has been received, accepted and acknowledged by Safe Fleet.

7. **ADDITIONAL CUSTOMER OBLIGATIONS.**

To receive PM Services, Customer must provide: (a) a list of vehicles, including vehicle number, identifying the vehicles to be included under the Preventative Maintenance Program, and promptly update such list after each Customer fleet update; (b) easy access for Safe Fleet's technician to areas within the building (e.g., vehicle bays, yard, workspace, lunchroom, washrooms) reasonably requested by Safe Fleet for purposes of providing the PM Services; (c) a workspace equipped with a desk for the Safe Fleet technician to operate a computer; (d) a minimum of one indoor bay with adequate power and lighting; (e) a Customer representative as a primary point of contact, available daily on an as-needed basis for Safe Fleet's technician to discuss vehicle availability needs to ensure vehicles are available continuously for PM Services (provided, for clarity, that vehicles unavailable during the site visit will still incur Fees as set forth in Section 4); (f) personnel qualified to drive vehicles and operate vehicle facilities (e.g., raise/lower lift arms, etc.) as reasonably requested by Safe Fleet; (g) provide easy access to Customer-furnished spares as reasonably requested by Safe Fleet; and (h) all other information and assistance as Safe Fleet may reasonably request in order to provide the PM Services. Safe Fleet will have no liability for failure to provide, or delay in providing, any PM Services to the extent caused by Customer's failure to perform, or delay in performing, any of the foregoing obligations.



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8. EXCLUSIONS AND LIMITATIONS OF LIABILITY.

8.1 The Preventative Maintenance Program does not cover third-party products or parts not purchased from Safe Fleet.

8.2 Services required as a result of abuse, neglect, or physical damage are not covered by the Preventative Maintenance Program; in such cases, additional charges will apply. Customer will use standard Safe Fleet support services between preventative maintenance engagements for any issues/corrective maintenance needs that may arise in order to prevent a backlog of issues on the day(s) of scheduled preventative maintenance; failure to do so may, as reasonably determined by Safe Fleet, be deemed neglect subject to additional charges.

8.3 COMPLETION OF A FLEET INSPECTION DOES NOT GUARANTEE SYSTEM PERFORMANCE, NOR DOES IT PREVENT ALL ISSUES, INCLUDING THE NEED FOR FURTHER REPAIRS, REPLACEMENTS OR ADJUSTMENT OF PARTS. SAFE FLEET DOES NOT WARRANT OR GUARANTEE THAT ANY GIVEN PROBLEM WILL BE SOLVED OR THAT SYSTEM COMPONENTS WILL BE ERROR-FREE. NORMAL DETERIORATION OF EQUIPMENT AND/OR WEAR AND TEAR WILL STILL OCCUR, WHICH CAN IMPACT SYSTEM PERFORMANCE OR REQUIRE THE FURTHER REPAIR, REPLACEMENT, OR ADJUSTMENT OF PARTS. A FLEET INSPECTION ALSO DOES NOT REMOVE OR REPLACE THE NEED FOR ROUTINE, REGULAR MAINTENANCE AND INSPECTION OF SAFE FLEET PARTS AND SYSTEMS AS SPECIFIED IN THE APPLICABLE DOCUMENTATION AND OTHER MATERIALS MADE AVAILABLE FOR THE SUBJECT PARTS OR SYSTEMS. FURTHER, COMPLETION OF A FLEET INSPECTION CANNOT PREVENT ALL INCIDENTS INVOLVING THE SUBJECT VEHICLE. HUMAN ERROR AND BEHAVIOR BY DRIVERS, PASSENGERS, PEDESTRIANS, AND OTHER PERSONS, WEATHER, AND OTHER FACTORS CAN IMPACT SYSTEM RELIABILITY AND PERFORMANCE. SAFE FLEET WILL HAVE NO RESPONSIBILITY OR LIABILITY FOR ANY OF THE FOREGOING AS PERMITTED BY APPLICABLE LAW.



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Attachment 4 to Exhibit E

Additional Safe Fleet Law Enforcement Division

Terms and Conditions

I. General SFLE Terms.

1. **Agency Responsibilities.** Without limiting any provision of the Agreement, Customer is solely responsible for the following: (a) Customer will ensure that Customer owns or has licensed all rights necessary to permit Safe Fleet to use all Customer- Provided Data as contemplated by this Agreement; (b) Customer will ensure that Customer's, and all Customer End Users', configuration and use of the Safe Fleet V&T Offerings, including the Software Services, and all Customer Data (and all use thereof by Customer and/or Customer End Users), complies with all applicable Laws and all rules, regulations, and standards applicable to Customer, and does not infringe, misappropriate, or violate any right, including any intellectual property, proprietary, privacy, contractual, statutory, constitutional, or any other right, of any third party; (c) Customer will maintain all necessary computer equipment and Internet connections for use of the Software Services; (d) If Customer becomes aware of any violation of this Agreement by any Customer End User, Customer will immediately terminate that Customer End User's access to the Software Services and shall promptly notify Safe Fleet of same; (e) Customer will maintain the security of all user credentials, including all Customer End User user names and passwords, and security and access to the Software Services via Customer systems or facilities and/or to all Customer Data. Customer shall promptly notify Safe Fleet if Customer learns or believes that an unauthorized party may be using Customer's account or Customer Data, or that account information may have been lost or stolen.

2. **Customer Data After Termination – Applicable to Software Services Only.** Safe Fleet will not delete Customer Data before the 90th day following expiration or earlier termination of the License Term. Safe Fleet will have no obligation to provide any Software Service functionality to Customer during this 90-day period other than the ability to retrieve Customer Data. Customer will not incur additional fees if Customer downloads Customer Data from the Software Services during this time. Safe Fleet has no obligation to maintain or provide Customer Data after this 90-day period and, except to the extent (and in such case only for so long as) prohibited by applicable law, Safe Fleet may thereafter delete any or all Customer Data. Upon written request, Safe Fleet will provide written notice that safe Fleet has successfully deleted and removed Customer Data from the Software Services.

3. **Post-Termination Assistance – Applicable to Software Services Only.** Safe Fleet will provide Customer with the same post-termination data retrieval assistance that Safe Fleet generally makes available to all customers. Requests for Safe Fleet to provide additional assistance in downloading or transferring Customer data, including requests for Safe Fleet's data egress service, will result in additional fees, and Safe Fleet does not make any, and hereby disclaims all, express and/or implied representations, warranties, and/or guaranties as to the integrity or readability of Customer Data in any non-Safe Fleet systems.

4. **Customer Sharing of Customer Data – Applicable to Software Services Only.** Without limiting any provision of the Ts&Cs: (a) Customer is solely responsible for granting permissions to Customer Data that may be shared via the Software Services, and Safe Fleet will have no responsibility or liability for sharing with, or disclosure to, third parties of Customer Data due to any error, typo, oversight, or other act or omission of Customer (including, for example, any error by Customer in entering a recipient's email address); and (b) Customer is solely responsible for complying with all applicable Laws, standards, policies, and guidelines in connection with its use sharing of Customer Data with, or granting of access to Customer Data to, third parties via the Software Services, and Safe Fleet will have no responsibility or liability for any violation or breach of any of the foregoing due to any act or omission of Customer (including, for example, any violation of privacy laws or standards caused by Customer's sharing of Customer Data with an inappropriate third party or Customer's inappropriate sharing of protected Customer Data).

II. Cloud Terms. The terms and conditions in this Section II apply only to cloud services.

1. **Term.** This subscription is a five-year commitment by Customer, as follows: The Initial Term of this Agreement shall begin on the Effective Date (as defined below) and, unless renewed or earlier terminated as provided in this Agreement, shall expire on the fifth anniversary of the Service Start Date (as defined below). "Effective Date" shall mean the earliest to occur of the following: (a) the date on which this Quote becomes fully executed by both Parties, (b) the effective date of the Accompanying Agreement (if any), (c) Safe Fleet's acceptance of a Customer Purchase Order for any of the Software Services set forth in this Quote, or (d) the Service Start Date (as defined below). "Service Start Date" means the date Safe Fleet first makes available to Customer any of the Software Services set forth in this Quote. The Parties may renew this Agreement for additional years upon execution of a new quote or other written renewal executed by both Parties. New devices and services may require additional quotes and be subject to additional terms. Safe Fleet will not authorize, and will have no obligation to provide, any Services prior to the Effective Date.

2. **Storage.** Customer may store unlimited Customer Data in Customer's cloud instance of the Software Services, provided that such Customer Data originates from a Safe Fleet in-car video system, Automated License Plate Reader (ALPR) solution, Safe Fleet body- worn camera, Safe Fleet Interview Room, or any other Safe Fleet authorized video/audio capture device (any of the foregoing, a "Safe Fleet Device"); and further provided that:

- (a) if this Quote sets forth per-GB (or other unit of storage) pricing for storage, then Safe Fleet may invoice Customer at such rate for all storage used;



(b) if this Quote sets forth flat-fee pricing for storage, then Customer acknowledges and agrees that Safe Fleet's ability to offer, and continue to offer during the Term, such pricing is conditioned on Customer transparently providing accurate and up-to-date information about Customer's document retention policies and abiding by such policies during the Term; and, without limiting the foregoing:

- (i) Customer will provide Safe Fleet a copy of its then-current document retention policy prior to signing this Agreement (the "Initial Policy"), which copy shall be complete, accurate, and up-to-date;
- (ii) Customer will provide Safe Fleet a copy of any revised, updated, or otherwise modified version of its document retention policy (any of the foregoing, a "Revised Policy") within 30 days of the effective date of such Revised Policy;
- (iii) Customer will comply with each policy described in clauses 2(b)(i) and 2(b)(ii) at all times same is in effect during the Term;
- (iv) If this Quote sets forth any storage cap or assumption, then Customer will not exceed same at any time during the Term;
- (v) Customer will pay all Adjusted Fees (as defined below) within 30 days of receipt of invoice or as provided by the Master Agreement or Participating Addendum;
- (vi) Customer will, within 10 business days of Safe Fleet's request, provide all information and records reasonably requested by Safe Fleet from time to time during the Term in order to assess Customer's compliance with any of the foregoing in clauses 2(b)(i) through 2(b)(v) inclusive;
- (vii) Safe Fleet's Fees may be adjusted from time to time as provided in the Master Agreement (and Safe Fleet will provide third (30) day notice to Customer of the change in rate before invoicing Customer for the difference between the Fees stated in this Quote and such increased Fees--in an amount mutually agreed by the Parties, or, if the Parties do not mutually agree on such an amount within 30 days of Safe Fleet's initial proposal to increase fees, then at the rate set forth above in this Quote (or, if no such rate is stated, at Safe Fleet's then-current rate in the Master Agreement)--if (x) Customer breaches any of the foregoing in clauses 2(b)(i) through 2(b)(vi) inclusive, or (y) Safe Fleet in good faith determines that any Revised Policy may increase Customer data usage assumed by Safe Fleet based on the Initial Policy (any Fees adjusted as provided in this paragraph, the "Adjusted Fees"); and
- (viii) Safe Fleet may suspend any or all Software Services (including, for clarity, Customer's access thereto) if Safe Fleet in good faith determines that Customer has likely breached, or is likely to breach, any of the foregoing in clauses 2(b)(i) through 2(b)(vi) inclusive, until such time as Safe Fleet in good faith determines that Customer has remedied same, and, for clarity, Safe Fleet will have no liability for failing to provide Software Services during such time; and
- (ix) Safe Fleet may terminate this Agreement, as provided in the Master Agreement or Participating Addendum if Customer breaches any of the foregoing in clauses 4(b)(i) through 4(b)(vi) inclusive.

(c) Safe Fleet may, in all cases, invoice Customer at the rate set forth above in this Quote (or, if no such rate is stated, Safe Fleet's then-current rate identified in the Master Agreement) for storage of any Customer Data that (i) did not originate from a Safe Fleet Device, or (ii) results from any full-shift recording policy or practice. Full-shift recording is not supported and is not included in the pricing offered herein; and

(d) Safe Fleet may place any or all Customer Data that Customer has not viewed or accessed for six months into archival storage; Customer Data in archival storage may not be immediately available to Customer and may take up to 24 hours to access.

**STATE OF OKLAHOMA CONTRACT WITH COBAN TECHNOLOGIES, INC.
RESULTING FROM SOLICITATION NO. OK-MA-145-21**

Negotiated Exceptions and Additional Terms to the Solicitation

The Solicitation is hereby amended to include the terms as set forth below and supersedes all prior terms submitted by **COBAN TECHNOLOGIES, INC.** or discussed by the parties.

ANY REQUESTED EXCEPTIONS OR ADDITIONAL TERMS NOT APPEARING BELOW HAVE BEEN DECLINED BY THE STATE

Term & Section	Exception Language
Exhibit A, NASPO ValuePoint Master Agreement Terms and Conditions, Definitions, Master Agreement, Section 1.6	Section 1.6 is deleted in its entirety and replaced with the following: Master Agreement means the underlying agreement executed by and between the Lead State, acting in cooperation with NASPO ValuePoint, and the Contractor, as now or hereafter amended, together with all exhibits and attachments hereto, which are hereby incorporated and made a part of this Master Agreement as if fully set forth herein.
Exhibit A, NASPO ValuePoint Master Agreement Terms and Conditions, Definitions, Participating Addendum, Section 2.1	This section is deleted in its entirety and replaced with the following: Initial Term. The initial term of this Master Agreement . shall begin on the date of award and run through June 30, 2025. The term of this Master Agreement may be amended beyond the initial term for three (3) additional years at the Lead State’s discretion and by mutual agreement and upon review of requirements of Participating Entities, current market conditions, and Contractor performance.
Exhibit A, NASPO ValuePoint Master Agreement Terms and Conditions, Order of Precedence, Section 3.1	Section 3.1 is deleted in its entirety
Exhibit A, NASPO ValuePoint Master Agreement Terms and Conditions, NASPO ValuePoint	Section 5.4.5 is deleted in its entirety and replaced with the following: Most Favored Customer. Contractor shall, within thirty (30) days of their effective date, to notify the Lead State and NASPO ValuePoint of any contractual most-favored-customer provisions in third-party

Term & Section	Exception Language
Provisions, NASPO ValuePoint Cooperative Program Marketing, Training, and Performance Review, Section 5.4.5	contracts or agreements that may affect the promotion of this Master Agreements or whose terms provide for adjustments to future rates or pricing based on rates, pricing in, or Orders from this Master Agreement; in each case of which Contractor has actual knowledge. Upon request of the Lead State or NASPO ValuePoint, Contractor shall provide a copy of any such provisions.
Exhibit A, NASPO ValuePoint Master Agreement Terms and Conditions, NASPO ValuePoint Provisions, Additional Agreement with NASPO, Section 5.7	Section 5.7 is deleted in its entirety and replaced with the following: Additional Agreement with NASPO. Upon request by NASPO ValuePoint, awarded Contractor shall enter into a direct contractual relationship with NASPO ValuePoint related to Contractor's obligations to NASPO ValuePoint under the terms of the Master Agreement, the terms of which shall be the same or similar (and not less favorable to either party) than the terms set forth in the Master Agreement.
Exhibit A, NASPO ValuePoint Master Agreement Terms and Conditions, Pricing, Payment & Leasing, Pricing, Section 6.1	Section 6.1 is deleted in its entirety and replaced with the following: Pricing. The prices contained in this Master Agreement or offered under this Master Agreement represent the not-to-exceed price to any Purchasing Entity to the extent set forth below in this Section 6.1.
Exhibit A, NASPO ValuePoint Master Agreement Terms and Conditions, Pricing, Payment & Leasing, Pricing, Section 6.1.1	Section 6.1.1 is deleted in its entirety and replaced with the following: 6.1.1 All prices and rates must be guaranteed for the first year of the initial term of the Master Agreement.
Exhibit A, NASPO ValuePoint Master Agreement Terms and Conditions, Ordering, Contract Provisions for Orders Utilizing Federal Funds, Section 7.8	Section 7.8 is deleted in its entirety and replaced with the following: <i>Contract Provisions for Orders Utilizing Federal Funds. Pursuant to Appendix II to 2 Code of Federal Regulations (CFR) Part 200, Contract Provisions for Non-Federal Entity Contracts Under Federal Awards, Orders funded with federal funds may have additional contractual requirements or certifications that must be satisfied at the time the Order is placed or upon delivery. These federal requirements may, subject to Section 3.3 above, be proposed by Participating Entities in Participating Addenda and Purchasing Entities for incorporation in Orders placed under this Master Agreement.</i>

Term & Section	Exception Language
<p>Exhibit A, NASPO ValuePoint Master Agreement Terms and Conditions, Inspection and Acceptance, Laws and Regulations, Section 9.1</p>	<p>Section 9.1 is delivered in its entirety and replaced with the following:</p> <p>Laws and Regulations. Any and all Products offered and furnished must, as delivered, comply fully with all applicable Federal, State, and local laws and regulations.</p>
<p>Exhibit A, NASPO ValuePoint Master Agreement Terms and Conditions, Inspection and Acceptance, Inspection, Section 9.3</p>	<p>Section 9.3 is deleted in its entirety and replaced with the following:</p> <p>Inspection. All Products are subject to inspection at reasonable times and places before Acceptance as set forth in this Section IX. Contractor shall provide right of access to the Lead State, or to any other authorized agent or official of the Lead State or other Participating or Purchasing Entity, at reasonable times, to monitor and evaluate performance, compliance, and/or quality assurance requirements under this Master Agreement.</p>
<p>Exhibit A, NASPO ValuePoint Master Agreement Terms and Conditions, Inspection and Acceptance, Inspection, Section 9.3.1</p>	<p>Section 9.3.1 is deleted in its entirety and replaced with the following:</p> <p>Products that do not meet specifications may be rejected within 15 days of receipt by the Purchasing Entity (the “Inspection Period”). Failure to provide written notice of rejection within the Inspection Period shall be deemed Acceptance, however, Acceptance does not relieve the contractor of liability for material (nonconformity that substantial impairs value) latent or hidden defects subsequently revealed when goods are put to use, as and to the extent set forth in the Warranty Documentation and elsewhere in this Agreement.</p>
<p>Exhibit A, NASPO ValuePoint Master Agreement Terms and Conditions, Inspection and Acceptance, Failure to Conform, Section 9.4</p>	<p>Section 9.4 is deleted in its entirety and replaced with the following:</p> <p>Failure to Conform. If Purchasing Entity provides written notice during the Inspection Period that any services do not conform to contract requirements, the Purchasing Entity may, as and to the extent set forth in Section 9.5, require the Contractor to perform the services again in conformity with contract requirements, at no increase in Order amount. When defects cannot be corrected by re-performance, the Purchasing Entity may require the Contractor to take necessary action to ensure that future performance conforms to contract requirements and reduce the contract price to reflect the reduced value of services performed.</p>

Term & Section	Exception Language
Exhibit A, NASPO ValuePoint Master Agreement Terms and Conditions, Inspection and Acceptance, Acceptance Testing, Section 9.5.1	<p>Section 9.5.1 is deleted in its entirety and replaced with the following:</p> <p>The Acceptance Testing period will be ten (10) calendar days, unless otherwise specified, starting from the day after the Product is delivered or, if installed by Contractor, the day after the Product is installed and Contractor certifies that the Product is ready for Acceptance Testing.</p>
Exhibit A, NASPO ValuePoint Master Agreement Terms and Conditions, Inspection and Acceptance, Acceptance Testing, Section 9.5.3	<p>Section 9.5.3 is deleted in its entirety and replaced with the following:</p> <p>Upon rejection, the Contractor will have thirty (30) calendar days to cure. If after the cure period, the Product still has not met the standard of performance or specifications, the Purchasing Entity may, at its option: (a) declare Contractor to be in breach and terminate the Order; (b) demand replacement Product from Contractor at no additional cost to Purchasing Entity; or, (c) continue the cure period for an additional time period agreed upon by the Purchasing Entity and the Contractor.</p>
Exhibit A, NASPO ValuePoint Master Agreement Terms and Conditions, Inspection and Acceptance, Acceptance Testing, Section 9.5.5	<p>Section 9.5.5 is deleted in its entirety and replaced with the following:</p> <p>Prior to expiration of the Inspection Period, no Product will be deemed Accepted and no charges will be paid until the standard of performance or specification is met.</p>
Exhibit A, NASPO ValuePoint Master Agreement Terms and Conditions, Warranty, Applicability, Section 10.1	<p>Section 10.1 is deleted in its entirety and replaced with the following:</p> <p>Applicability. Notwithstanding any other provision to the contrary in the Master Agreement, Participating Addendum, or ordering document, the terms of this Section X will apply and will be the sole warranties relating to the Products.</p>
Exhibit A, NASPO ValuePoint Master Agreement Terms and Conditions, Warranty, Section 10.2	<p>Section 10.2 is deleted in its entirety and replaced with the following:</p> <p>Warranty. Contractor hereby provides, subject to all terms and conditions set forth in the Warranty Documentation (as defined below), the warranties set forth in Contractor’s Safe Fleet Law Enforcement Division Product and Service Warranty, which are part of the Master</p>

Term & Section	Exception Language
	Agreement (the “Warranty Documentation”), and same shall be the sole warranties applicable to the Products.
<p>Exhibit A, NASPO ValuePoint Master Agreement Terms and Conditions, Participants and Scope, NASPO ValuePoint Provisions, Warranty, Warranty Section 10.3</p>	<p>Section 10.3 is deleted in its entirety and replaced with the following:</p> <p>EXCEPT TO THE EXTENT EXPRESSLY SET FORTH IN THE WARRANTY DOCUMENTATION OR THIS SECTION X, (A) SAFE FLEET, ITS AFFILIATES, AND ITS AND THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, OWNERS, CONSULTANTS, AGENTS, SUPPLIERS, LICENSORS AND ASSIGNS (COLLECTIVELY, THE “SAFE FLEET PARTIES”) EXPRESSLY DISCLAIM ANY AND ALL WARRANTIES AND REPRESENTATIONS OF ANY KIND, WHETHER EXPRESS, IMPLIED, OR STATUTORY, INCLUDING ANY WARRANTIES OF MERCHANTABILITY, TITLE, NON-INFRINGEMENT OR FITNESS FOR A PARTICULAR PURPOSE OR USE (WHETHER OR NOT SUCH PURPOSE OR USE HAS BEEN DISCLOSED) AS TO THE PRODUCTS, OR ANY COMPONENT OF ANY OF THEM, OR THE RESULTS OBTAINED BY THEIR USE, OR AS TO THE PERFORMANCE THEREOF, INCLUDING ANY ERRORS, OMISSIONS, INTERRUPTIONS, MALFUNCTIONS, OR DELAYS IN SUCH PERFORMANCE, AND (B) PRODUCTS (AND ALL COMPONENTS THEREOF) ARE PROVIDED ON AN “AS IS” AND “AS AVAILABLE” BASIS, AND USE THEREOF AT ALL TIMES IS AND SHALL BE AT STATE’S AND PURCHASING ENTITY’S OWN RISK.</p>
<p>Exhibit A, NASPO ValuePoint Master Agreement Terms and Conditions, Warranty, Warranty, Section 10.4</p>	<p>Section 10.4 is deleted in its entirety and replaced with the following:</p> <p>Intentionally Omitted.</p>
<p>Exhibit A, NASPO ValuePoint Master Agreement Terms and Conditions, Warranty, Warranty, Section 10.5</p>	<p>Section 10.5 is deleted in its entirety and replaced with the following:</p> <p>Intentionally Omitted.</p>

Term & Section	Exception Language
<p>Exhibit A, NASPO ValuePoint Master Agreement Terms and Conditions, Product Title, Embedded Software, Section 11.2</p>	<p>Section 11.2 is deleted in its entirety.</p>
<p>Exhibit A, NASPO ValuePoint Master Agreement Terms and Conditions, Product Title, License of Pre-Existing Intellectual Property, Section 11.3</p>	<p>Section 11.3 is deleted in its entirety and replaced with the following:</p> <p><i>Intellectual Property.</i> Sections 3.1 and 5.5 of Exhibit E set forth the relevant terms governing ownership and licenses of Intellectual Property relating to the Products.</p>
<p>Exhibit A, NASPO ValuePoint Master Agreement Terms and Conditions, Indemnification, General Indemnification, Section 12.1</p>	<p>Section 12.1 is deleted in its entirety and replaced with the following:</p> <p>General Indemnification. The Contractor shall defend, indemnify and hold harmless NASPO, NASPO ValuePoint, the Lead State, Participating Entities, and Purchasing Entities, along with their officers and employees, from and against third-party claims, damages or causes of action including reasonable attorneys’ fees and related costs for any death, injury, or damage to tangible property to the extent arising from any negligent act, error, or omission, or willful misconduct, of the Contractor, its employees or subcontractors or volunteers, at any tier, relating to performance under this Master Agreement (“General Indemnification Claim”).</p>
<p>Exhibit A, NASPO ValuePoint Master Agreement Terms and Conditions, Indemnification, Intellectual Property Indemnification, Section 12.2</p>	<p>Section 12.2 is deleted in its entirety and replaced with the following:</p> <p>Intellectual Property Indemnification. The Contractor shall defend, indemnify and hold harmless NASPO, NASPO ValuePoint, the Lead State, Participating Entities, Purchasing Entities, along with their officers and employees ("Indemnified Party"), from and against third party claims, damages or causes of action including reasonable attorneys’ fees and related costs to the extent arising out of the claim that the Product, as delivered by Contractor, without alteration or modification, and when used as intended and in accordance with this Agreement and all applicable documentation infringes Intellectual Property rights of another person or entity (“Intellectual Property</p>

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	Claim” and together with General Indemnification Claims, the “Indemnified Claims”).
Exhibit A, NASPO ValuePoint Master Agreement Terms and Conditions, Indemnification, Intellectual Property Indemnification, Section 12.2.1.1	<p>Section 12.2.1.1 is deleted in its entirety and replaced with the following:</p> <p>Provided by the Contractor or the Contractor’s subsidiaries or affiliates, or specified by the Contractor to work with the Product; and</p>
Exhibit A, NASPO ValuePoint Master Agreement Terms and Conditions, Indemnification, Intellectual Property Indemnification, Section 12.2.1.2	<p>Section 12.2.1.2 is deleted in its entirety.</p>
Exhibit A, NASPO ValuePoint Master Agreement Terms and Conditions, Indemnification, Intellectual Property Indemnification, Section 12.2.1.3	<p>Section 12.2.1.4 is replaced with the following:</p> <p>reasonably expected to be used in combination with the Product. In any event, Contractor shall only be responsible for the Products provided by Contractor, its subsidiaries, or affiliates, and in no event will Contractor have any liability for infringement by any other aspects of the product, system, or method with which the Product was combined.</p>
Exhibit A, NASPO ValuePoint Master Agreement Terms and Conditions, Indemnification, Intellectual Property Indemnification, Section 12	<p>A new subsection 12.3 is added as follows:</p> <p>The Indemnified Party shall notify the Contractor within a reasonable time after receiving notice of an Indemnified Claim. Even if the Indemnified Party fails to provide reasonable notice, the Contractor shall not be relieved from its obligations unless the Contractor can demonstrate that it was prejudiced in defending the Indemnified Claim resulting in increased expenses or loss to the Contractor. Contractor shall have control over the defense and settlement of the Indemnified Claim. However, the Indemnified Party must consent in writing for any money damages or obligations for which it may be responsible.</p>
Exhibit A, NASPO ValuePoint Master Agreement Terms and Conditions, Indemnification,	<p>A new subsection 12.4 is added as follows:</p> <p>The Indemnified Party shall furnish, at the Contractor’s reasonable request and expense, information, and assistance necessary for such defense.</p>

Term & Section	Exception Language
Intellectual Property Indemnification, Section 12	
Exhibit A, NASPO ValuePoint Master Agreement Terms and Conditions, General Provisions, Records Administration and Audit, Section 14.1.1	<p>Section 14.1.1 is deleted in its entirety and replaced with the following:</p> <p>The Contractor shall maintain books, records, documents, and other evidence pertaining to this Master Agreement and Orders placed by Purchasing Entities under it to the extent and in such detail as will adequately reflect performance and administration of payments and fees. Contractor shall permit the Lead State, a Participating Entity, a Purchasing Entity, the federal government (including its grant awarding entities and the U.S. Comptroller General), and any other duly authorized agent of a governmental agency, to, no more than once per year in aggregate, only at a mutually agreed time during normal business hours, in a manner that does not unreasonably interfere with Contractor’s ordinary business operations, and in all cases with such books, documents, papers, and records subject to confidentiality protection pursuant to this Master Agreement, audit, inspect, examine, copy and/or transcribe Contractor's books, documents, papers and records directly pertinent to this Master Agreement or orders placed by a Purchasing Entity under it for the purpose of making audits, examinations, excerpts, and transcriptions This right will survive for a period of six (6) years following termination of this Agreement or final payment for any order placed by a Purchasing Entity against this Master Agreement, whichever is later, or such longer period as is required by the Purchasing Entity’s state statutes, to assure compliance with the terms hereof or to evaluate performance hereunder.</p>
Exhibit A, NASPO ValuePoint Master Agreement Terms and Conditions, General Provisions, Confidentiality, Non-Disclosure, and Injunctive Relief, Section 14.2.1.1	<p>Section 14.2.1.1 is added as follows:</p> <p>Any and all information of any form that is marked as confidential or would by its nature or context of disclosure reasonably be deemed confidential (any of the foregoing, “Confidential Information”) obtained by Contractor or its employees or agents in the performance of this Master Agreement, including but not necessarily limited to (1) any Purchasing Entity’s records, (2) personnel records, and (3) information concerning individuals, is confidential information of Purchasing Entity.</p>
Exhibit A, NASPO ValuePoint Master Agreement Terms and Conditions, General	<p>Section 14.2.1.3 is deleted in its entirety and replaced with the following:</p> <p>Confidential Information does not include information that (1) is or becomes (other than by disclosure by Contractor) publicly known; (2) is</p>

Term & Section	Exception Language
Provisions, Confidentiality, Non-Disclosure, and Injunctive Relief, Section 14.2.1.3	<p>furnished by Purchasing Entity to others without restrictions similar to those imposed by this Master Agreement; (3) is rightfully in Contractor’s possession without the obligation of nondisclosure prior to the time of its disclosure under this Master Agreement; (4) is obtained from a source other than Purchasing Entity without the obligation of confidentiality, (5) is disclosed with the written consent of Purchasing Entity; or (6) is independently developed by employees, agents or subcontractors of Contractor.</p>
Exhibit A, NASPO ValuePoint Master Agreement Terms and Conditions, General Provisions, Confidentiality, Non-Disclosure, and Injunctive Relief, Non-Disclosure, Section 14.2.2	<p>COBAN is requesting to add the following language:</p> <p><i>Non-Disclosure.</i> Contractor shall hold Confidential Information in confidence, using at least the industry standard of confidentiality, and shall not copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give, or disclose Confidential Information to third parties or use Confidential Information for any purposes whatsoever other than what is necessary to the performance of Orders placed under this Master Agreement, or as otherwise expressly permitted by this Agreement.</p>
Exhibit A, NASPO ValuePoint Master Agreement Terms and Conditions, General Provisions, Confidentiality, Non-Disclosure, and Injunctive Relief, Public Information, Section 14.2.6	<p>Section 14.2.6 is deleted in its entirety and replaced with the following language:</p> <p>Public Information. This Master Agreement and all related documents are subject to disclosure pursuant to the Lead State’s public information laws, provided that, to the extent permitted by applicable law and practicable under the circumstances, the Party disclosing Confidential Information under such circumstances shall give the other party reasonable notice and a reasonable opportunity to protect its interests in the Confidential Information prior to making such disclosure, and will reasonably cooperate with the disclosing Party in any such effort.</p>
Exhibit A, NASPO ValuePoint Master Agreement Terms and Conditions, General Provisions, Confidentiality, Non-Disclosure, and Injunctive Relief Section 14.2	<p>The following is added as its own numbered subsection 14.2.7:</p> <p>14.2.7. Contractor Confidential Information. Contractor Confidential information shall mean information in any form, disclosed or made available by Contractor that is confidential, proprietary, or otherwise non-public information. Contractor Confidential Information shall not include any information that: (i) was rightfully in the receiving party’s possession prior to Contractor’s disclosure without any obligation to maintain its confidentiality; (ii) was independently developed by the receiving party or its Partners without the use of or reference to Contractor Confidential Information; (iii) is now, or hereafter becomes, publicly available other than through disclosure by the receiving party in breach of this Master Agreement or any</p>

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	<p>Participating Addendum; (iv) is identified by the Contractor to receiving party as no longer confidential; or (v) is, or is included in, any Contract Document, except for the sections identified as confidential in the Summary section of the Master Agreement. Contractor Confidential Information shall be afforded the same protections as Confidential Information under Section 14.2; provided, however, that nothing herein shall prohibit Lead State or any Participating Entity from disclosing any Contractor Confidential Information to the extent required by applicable law (including, for clarity, applicable freedom of information laws), provided that, to the extent permitted by applicable law, the Lead State or Participating Entity, as applicable, shall give Contractor reasonable notice and a reasonable opportunity to protect its interests in the Confidential Information prior to making such disclosure, and will reasonably cooperate with the disclosing Party in any such effort.</p>
<p>Exhibit A, NASPO ValuePoint Master Agreement Terms and Conditions, General Provisions, Changes in Contractor Representation, Section 14.4</p>	<p>Section 14.4 is deleted in its entirety and replaced with the following:</p> <p>Changes in Contractor Representation. The Contractor must, within ten (10) calendar days, notify the Lead State in writing of any changes in the Contractor’s key administrative personnel managing the Master Agreement. The Lead State reserves the right to recommend for or against changes in key personnel, as identified in the Contractor’s proposal. The Contractor shall propose replacement key personnel having substantially equal or better education, training, and experience as was possessed by the key person proposed and evaluated in the Contractor’s proposal.</p>
<p>Exhibit A, NASPO ValuePoint Master Agreement Terms and Conditions, General Provisions, Changes in Contractor Representation, Section 14.6</p>	<p>Section 14.6 is deleted in its entirety and replaced with the following:</p> <p>Unless otherwise set forth herein, this Master Agreement may be canceled by either party upon sixty (60) days’ written notice prior to the effective date of the cancellation. Further, any Participating Entity may cancel its participation upon thirty (30) days’ written notice, unless otherwise limited or stated in the Participating Addendum. Cancellation may be in whole or in part. Notwithstanding the foregoing in this Section 14.6, any cancellation under this provision, other than for Contractor’s material breach of this Agreement which remains uncured for more than 30 days following Contractor’s receipt of written notice specifying such breach, will not affect any Order then-outstanding (and, for clarity, the otherwise-terminated Master Agreement or Participating Addendum, or portion of either of them, as applicable, shall continue to govern such Order until such Order by its terms expires or is earlier terminated), including the rights and obligations attending Orders outstanding at the time of cancellation, including any right of a</p>

Term & Section	Exception Language
	<p>Purchasing Entity to indemnification by the Contractor, rights of payment, rights attending any warranty or default in performance in association with any Order, and requirements for records administration and audit. For clarity, no Order may be terminated, in whole or in part, for convenience. Cancellation of the Master Agreement due to Contractor default may be immediate.</p>
<p>Exhibit A, NASPO ValuePoint Master Agreement Terms and Conditions, General Provisions, Force Majeure, Section 14.7</p>	<p>Section 14.7 is deleted in its entirety and replaced with the following:</p> <p>Force Majeure. Neither party to this Master Agreement shall be held responsible for delay or default caused by fire, riot, unusually severe weather, other acts of God, or acts of war, or any other reasons which are beyond that party’s reasonable control. The Lead State may terminate this Master Agreement upon determining such delay or default will reasonably prevent successful performance of the Master Agreement for more than ninety (90) days.</p>
<p>Exhibit A, NASPO ValuePoint Master Agreement Terms and Conditions, General Provisions, Defaults and Remedies, Section 14.8.4</p>	<p>Section 14.8.4 is deleted in its entirety and replaced with the following:</p> <p>Unless otherwise specified in the Participating Addendum, in the event of a default under a Participating Addendum, a Participating Entity shall provide a written notice of default as described in this section and shall have all of the rights and remedies under this paragraph regarding its participation in the Master Agreement, in addition to those set forth in its Participating Addendum. Unless otherwise specified in an Order, a Purchasing Entity shall provide written notice of default as described in this section and have all of the rights and remedies under this paragraph and any applicable Participating Addendum with respect to an Order placed by the Purchasing Entity. Nothing in these Master Agreement Terms and Conditions will be construed to limit the rights and remedies available to a Purchasing Entity with regards to its remedies for default under applicable law.</p>
<p>Exhibit A, NASPO ValuePoint Master Agreement Terms and Conditions, General Provisions, Waiver of Breach, Section 14.9</p>	<p>Section 14.9 is hereby deleted and replaced by the following:</p> <p>Waiver of Breach. Failure of the Lead State, Participating Entity, or Purchasing Entity, or Contractor to declare a default or enforce any rights and remedies will not operate as a waiver under this Master Agreement, any Participating Addendum, or any Purchase Order. Any waiver by the Lead State, Participating Entity, Contractor, or Purchasing Entity must be in writing. Waiver by the Contractor, Lead State or Participating Entity of any default, right or remedy under this Master Agreement or Participating Addendum, or by Purchasing Entity with respect to any Purchase Order, or breach of any terms or requirements of</p>

Term & Section	Exception Language
	<p>this Master Agreement, a Participating Addendum, or Purchase Order will not be construed or operate as a waiver of any subsequent default or breach of such term or requirement, or of any other term or requirement under this Master Agreement, any Participating Addendum, or any Purchase Order.</p>
<p>Exhibit A, NASPO ValuePoint Master Agreement Terms and Conditions, General Provisions, Assignment of Antitrust Rights, Section 14.13</p>	<p>Section 14.13 is deleted in its entirety:</p>
<p>Exhibit A, NASPO ValuePoint Master Agreement Terms and Conditions, General Provisions, Assignment of Antitrust Rights, Section 14.14</p>	<p>The following is added as a new Section 14.14:</p> <p>14.14 Limitations of Liability. With respect to any claim or cause of action, or liability of any sort regardless of the form of action or basis of claim, arising under or related to the Contract, neither NASPO nor the State nor any Customer nor any Safe Fleet Party shall be liable for lost profits, lost sales or business expenditures, investments, or commitments in connection with any business, loss of any goodwill, lost time, goodwill, or data, or for any other indirect, incidental, punitive, special or consequential damages, even if advised of the possibility of such damages. Except as set forth in Section XII of Exhibit A or Section 16 of Exhibit B, the Safe Fleet Parties shall have no liability for any Claims by third parties. In no event shall the maximum cumulative liability of the Safe Fleet Parties for any and all Claims arising in connection with the Products or this Contract, regardless of the form(s) or action, exceed, in the aggregate, (a) in the case of obligations for Intellectual Property Indemnification pursuant to Section XII of Exhibit A and/or Section 16 of Exhibit B, \$5,000,000, and (b) in all other cases, an amount equal to the fees paid by the entity that is subject to the Claim(s) (whether the State, Participating Entity, Purchasing Entity, or NASPO ValuePoint) under the applicable Order giving rise to such Claim(s). No action, regardless of form, arising from or pertaining to the Products may be brought by State, NASPO ValuePoint, Participating Entity, or Purchasing Entity more than one year after such action has accrued. Notwithstanding the foregoing, no limitation of liability shall apply to obligations for death, injury, or damage to tangible property or for which applicable law does not allow an exemption from liability. For clarity, with respect to obligations pursuant to Section XII of Exhibit A or Section 16 of Exhibit B, the limitations set forth in this Section 14.14 shall apply to indemnification and/or hold harmless obligations, but not to defense obligations (to which no limitation shall apply).</p>

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Exhibit B, State of Oklahoma General Terms, Scope and Contract Renewal, Section 1.2	<p>Section 1.2 is deleted in its entirety and replaced with the following:</p> <p>At no time during the performance of the Contract shall the Supplier have the authority to obligate any Customer for payment for any products or services (a) when a corresponding encumbering document is not signed or (b) over and above an awarded Contract amount. Likewise, Supplier is not entitled to compensation for a product or service provided by or on behalf of Supplier that is neither requested nor Accepted.</p>
Exhibit B, State of Oklahoma General Terms, Scope and Contract Renewal, Section 1.4	<p>Section 1.4 is deleted in its entirety and replaced with the following:</p> <p>The State may extend the Contract for ninety (90) days beyond a final renewal term at the Contract compensation rate for the extended period. If the State exercises such option to extend ninety (90) days, the State shall notify the Supplier in writing prior to Contract end date.</p>
Exhibit B, State of Oklahoma General Terms, Contract Effectiveness and Order of Priority	<p>Section 2.2 is deleted in its entirety.</p>
Exhibit B, State of Oklahoma General Terms, Modification of Contract Terms and Contract Documents, Section 3.2	<p>Section 3.2 is deleted in its entirety and replaced with the following:</p> <p>Any additional terms on an ordering document provided by Supplier or State are of no effect and are void unless mutually executed. OMES bears no liability for performance, payment or failure thereof by the Supplier or by a Customer other than OMES in connection with an Acquisition.</p>
Exhibit B, State of Oklahoma General Terms, Definitions, Supplier Confidential Information, Section 4.20	<p>Section 4.20 is deleted in its entirety and replaced by the following:</p> <p><i>Supplier Confidential Information means confidential and/or proprietary information of Supplier meeting the definition of “Confidential Information” in the Master Agreement (including any of its exhibits); including without limitation information that is clearly marked as confidential and agreed by the State Purchasing Director or Customer, as applicable, but does not include information excluded from confidentiality in provisions of the Contract or the Oklahoma Open Records Act.</i></p>
Exhibit B, State of Oklahoma General Terms, Pricing, Section 5.1	<p>COBAN is requesting to add the following language:</p> <p><i>Pursuant to 68 O.S. §§ 1352, 1356, and 1404, State agencies are exempt from the assessment of State sales, use, and excise taxes.</i></p>

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	<p><i>Further, State agencies and political subdivisions of the State are exempt from Federal Excise Taxes pursuant to Title 26 of the United States Code. Any taxes of any nature whatsoever payable by the Supplier shall not be reimbursed.</i></p>
<p>Exhibit B, State of Oklahoma General Terms, Ordering, Inspection, and Acceptance, Section 6.1</p>	<p>Section 6.1 is deleted in its entirety and replaced with the following:</p> <p>Any product or service furnished under the Contract shall be ordered by issuance of a valid purchase order or other appropriate payment mechanism, including a pre-encumbrance, or (for orders up to \$2500 only) by use of a valid Purchase Card. All orders and transactions are governed by the terms and conditions of the Contract. Any purchase order or other applicable payment mechanism dated prior to termination or expiration of the Contract shall be performed unless mutually agreed in writing otherwise.</p>
<p>Exhibit B, State of Oklahoma General Terms, Ordering, Inspection, and Acceptance, Section 6.2</p>	<p>COBAN is requesting the following edits:</p> <p><i>Services will be performed in accordance with industry best practices and are subject to acceptance by the Customer. Notwithstanding any other provision in the Contract, deemed acceptance of a service or associated deliverable shall not apply automatically upon receipt of a deliverable or upon provision of a service.</i></p> <p><i>Any product to be delivered pursuant to the Contract shall be subject to final inspection and acceptance by the Customer at Destination. Products may only be rejected for failure to conform with express specifications or other terms and conditions of the Contract. If Customer fails within 15 days of receipt of any Product(s) to provide written notice of rejection, which notice shall reasonably detail such failure(s), then the Product(s) will be deemed “Accepted” (as defined elsewhere in this Agreement) and “accepted” as described in this Section 6.2. The Customer assumes no responsibility for a product until accepted by the Customer. Title and risk of loss or damage to a product shall be the responsibility of the Supplier until accepted at the Destination. The Supplier shall be responsible for filing, processing, and collecting any and all damage claims accruing prior to accepted receipt at the Destination.</i></p> <p><i>Pursuant to OAC 260:115-9-1, payment for an Acquisition does not constitute final acceptance of the Acquisition. If subsequent inspection affirms that the Acquisition does not meet or exceed the specifications of the order or that the Acquisition has a latent defect, the Supplier shall be notified as soon as is reasonably practicable. The Supplier handle same in accordance with the Warranty Documentation.</i></p>

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<p>Exhibit B, State of Oklahoma General Terms, Ordering, Inspection, and Acceptance, Section 6.3</p>	<p>Section 6.3 is hereby deleted and replaced by the following:</p> <p><i>Supplier shall deliver products and services on or before the required date specified in a Contract Document. Failure to deliver timely may result in liquidated damages as set forth in the applicable Contract Document. Deviations, substitutions, or changes in a product or service shall not be made unless same are made for Supplier’s customers generally and in a manner that does not materially adversely affect the quality of the products or services hereunder, unless expressly authorized in writing by the Customer. Changes of personnel directly providing services shall not be made in a manner that materially adversely affects the quality of the services hereunder unless expressly authorized in writing by the Customer. Any substitution of personnel directly providing services shall be a person of comparable or greater skills, education and experience for performing the services as the person being replaced. Additionally, Supplier shall provide staff sufficiently experienced and able to perform with respect to any transitional services provided by Supplier in connection with termination or expiration of the Contract.</i></p>
<p>Exhibit B, State of Oklahoma General Terms, Invoices and Payment, Section 7.1.C</p>	<p>Section 7.1.C is hereby deleted in its entirety and replaced by the following:</p> <p>Payment of all fees under the Contract shall be due NET 30 days after receipt of a proper invoice; provided, however, Supplier acknowledges and agrees that payment received in accordance with applicable Oklahoma law allowing forty-five (45) days to pay Supplier shall not constitute default hereunder nor entitle Supplier to late payment fees or interest. Payment and interest on late payments are governed by 62 O.S. §34.72. Such interest is the sole and exclusive remedy for late payments by a State agency and no other late fees are authorized to be assessed pursuant to Oklahoma law.</p>
<p>Exhibit B, State of Oklahoma General Terms, Invoices and Payment, Section 7.1.H</p>	<p>Section 7.1(H) is deleted in its entirety and replaced with the following:</p> <p>The Supplier shall, solely for orders up to \$2500, accept payment by Purchase Card as allowed by Oklahoma law.</p>
<p>Exhibit B, State of Oklahoma General Terms, Maintenance of Insurance,</p>	<p>Section 8.3 is deleted in its entirety and replaced with the following:</p> <p><i>Supplier agrees to indemnify Customer, the State, and its employees, agents, representatives, contractors, and assignees for any and all liability, actions, claims, demands, or suits, and all related costs and</i></p>

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Payment of Taxes, and Workers' Compensation, Section 8.3	<i>expenses (including without limitation reasonable attorneys' fees and costs required to establish the right to indemnification) caused by Supplier's breach of this any provision of this Contract relating to tax liability, unemployment insurance and/or Workers' Compensation in connection with its performance under the Contract.</i>
Exhibit B, State of Oklahoma General Terms, Compliance with Applicable Laws, Section 9.1	<p>Section 9.1 is deleted in its entirety and replaced with the following:</p> <p><i>As long as Supplier has an obligation under the terms of the Contract and in connection with performance of its obligations, the Supplier represents its present compliance, and shall have an ongoing obligation during the term of the Contract or as provided by Section 26.13 to comply, with all applicable federal, State, and local laws, rules, regulations, ordinances, and orders, as amended, including but not limited to the following, in each case to the extent directly applicable to Supplier under applicable law:</i></p>
Exhibit B, State of Oklahoma General Terms, Compliance with Applicable Laws, Section 9.2	<p>COBAN is requesting the following edits:</p> <p><i>The Supplier's employees, agents and subcontractors shall adhere to applicable Customer policies including, but not limited to acceptable use of Internet and electronic mail, facility and data security, press releases, and public relations.</i></p>
Exhibit B, State of Oklahoma General Terms, Compliance with Applicable Laws, Section 9.3	<p>Section 9.3 is deleted in its entirety and replaced with the following:</p> <p>At no additional cost to Customer, the Supplier shall maintain all applicable licenses and permits required to fulfill its obligations under the Contract.</p>
Exhibit B, State of Oklahoma General Terms, Compliance with Applicable Laws, Section 9.9	<p>COBAN is requesting to add the following language:</p> <p><i>Supplier represents that, to the best of its knowledge, any litigation or claim or any threat thereof involving Supplier has been disclosed in writing to the State and Supplier is not aware of any other litigation, claim or threat thereof; in each case which would be material to Supplier's performance of this Contract.</i></p>
Exhibit B, State of Oklahoma General Terms, Audits and Records Clause, Section 10.1	<p>Section 10.1 is deleted in its entirety and replaced with the following:</p> <p>As used in this clause and pursuant to 67 O.S. §203, "record" includes a document, book, paper, photograph, microfilm, computer tape, disk, record, sound recording, film recording, video record, accounting procedures and practices, and other data, regardless of type and regardless of whether such items are in written form, in the form of computer data, or in any other form. Supplier agrees any pertinent federal or State agency or governing entity of a Customer shall have the right, no more than once per year, at a mutually agreed time during</p>

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	<p>Supplier’s normal business hours, in a manner that does not unreasonably interfere with Supplier’s normal business operations, and, for clarity, with all relevant records being subject to the confidentiality provisions of this Contract, to examine and audit, at no additional cost to a Customer, all records relevant to the execution and performance of the Contract except, unless otherwise agreed, costs of Supplier that comprise pricing under the Contract.</p>
<p>Exhibit B, State of Oklahoma General Terms, Confidentiality, Section 11.1</p>	<p>Section 11.1 is deleted in its entirety and replaced with the following:</p> <p>The Supplier shall maintain strict commercially reasonable security of all State and citizen data and records entrusted to it or to which the Supplier gains access, in accordance with and subject to applicable federal and State laws, rules, regulations, and policies and shall use any such data and records only as necessary for Supplier to perform its obligations under the Contract. The Supplier further agrees to evidence such confidentiality obligation in a separate writing if required under such applicable federal or State laws, rules and regulations. The Supplier warrants and represents that, except as may be required by Law, such information shall not be sold, assigned, conveyed, provided, released, disseminated or otherwise disclosed by Supplier, its employees, officers, directors, subsidiaries, affiliates, agents, representatives, assigns, subcontractors, independent contractors, successor or any other persons or entities without Customer’s prior express written permission. Supplier shall instruct all such persons and entities that the confidential information shall not, except as may be required by Law, be disclosed or used without the Customer’s prior express written approval except as necessary for Supplier to render services under the Contract. The Supplier further warrants that it has a tested and proven, as measured by commercially reasonable standards in Supplier’s industry, system in effect designed to protect all confidential information.</p> <p>Notwithstanding the foregoing, Supplier has no obligation to treat as confidential information, data or records that (1) is or becomes (other than by disclosure by Supplier) publicly known; (2) is furnished by the State or Customer to others without restrictions similar to those imposed by this Contract; (3) is rightfully in Supplier’s possession without the obligation of nondisclosure prior to the time of its disclosure under this Contract; (4) is obtained from a source other than State or Customer without the obligation of confidentiality, (5) is disclosed with the written consent of the State or Customer; or (6) is independently developed by employees, agents or subcontractors of Supplier.</p>

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<p>Exhibit B, State of Oklahoma General Terms, Confidentiality, Section 11.3</p>	<p>Section 11.3 is deleted in its entirety and replaced with the following:</p> <p>Supplier shall immediately report to the Customer any and all unauthorized use, appropriation, sale, assignment, conveyance, provision, release, access, acquisition, disclosure or other dissemination of any State or citizen data or records of which it or its parent company, subsidiaries, affiliates, employees, officers, directors, assignees, agents, representatives, independent contractors, and subcontractors is aware or have knowledge or reasonable should have knowledge. The Supplier shall also promptly furnish to Customer full details of the unauthorized use, appropriation, sale, assignment, conveyance, provision, release, access, acquisition, disclosure or other dissemination, or attempt thereof, and use its best efforts to assist the Customer in investigating or preventing the reoccurrence of such event in the future. The Supplier shall cooperate with the Customer in connection with any litigation and investigation arising out of Supplier’s breach of this Section 11 deemed necessary by the Customer to protect any State or citizen data and records and shall bear all costs associated with the investigation, response and recovery in connection with any breach of this Section 11 relating to State or citizen data or records including but not limited to credit monitoring services with a term of at least three (3) years, all notice-related costs and toll free telephone call center services.</p>
<p>Exhibit B, State of Oklahoma General Terms, Confidentiality, Section 11.6</p>	<p>Section 11.6 is deleted in its entirety and replaced with the following:</p> <p>The Supplier shall immediately forward to the State Purchasing Director, and any other applicable person listed in the Notices section(s) of the Contract, any request by a third party for State or citizen data or records in the possession of the Supplier or any subcontractor or to which the Supplier or subcontractor has access and Supplier shall, except as otherwise required by applicable Law, fully cooperate with all efforts to protect the security and confidentiality of such data or records in response to a third party request.</p>
<p>Exhibit B, State of Oklahoma General Terms, Conflict of Interest, Section 12</p>	<p>Section 12 is deleted in its entirety and replaced with the following:</p> <p>In addition to any requirement of law or of a professional code of ethics or conduct, the Supplier, its employees, agents and subcontractors are required to disclose any outside activity or interest that, in the exercise of Supplier’s good faith judgment, conflicts or may conflict with the best interest of the State. Prompt disclosure is required under this section if the activity or interest is related, directly or indirectly, to any person or entity currently under contract with or seeking to do business with the</p>

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	<p>State, its employees or any other third-party individual or entity awarded a contract with the State. Further, as long as the Supplier has an obligation under the Contract, any plan, preparation or engagement in any such activity or interest shall not occur without prior written approval of the State. Any conflict of interest shall, at the sole discretion of the State, be grounds for partial or whole termination of the Contract.</p>
<p>Exhibit B, State of Oklahoma General Terms, Assignment and Permitted Subcontractors, Section 13.3</p>	<p>Section 13.3 is deleted in its entirety and replaced with the following:</p> <p><i>If the Supplier is permitted to utilize subcontractors in support of the Contract, the Supplier shall remain solely responsible for its obligations under the terms of the Contract, for its actions and omissions and those of its agents, employees and subcontractors and for payments to such persons or entities. Prior to a Subcontractor being utilized by the Supplier, the Supplier shall obtain written approval of the State of such subcontractor via an Addendum to the Contract. Any proposed subcontractor shall be identified by entity name. The State further reserves the right to revoke approval of a subcontractor thereof in instances of poor performance, misconduct or for other similar reasons.</i></p>
<p>Exhibit B, State of Oklahoma General Terms, Patents and Copyrights, Section 15</p>	<p>Section 15 is deleted in its entirety and replaced with the following:</p> <p>Without exception, a product or deliverable price shall include all royalties or costs owed by the Supplier to any third party arising from the use of a patent, intellectual property, copyright or other property right held by such third party in or to the product or deliverable provided by Supplier. Should any third party threaten or make a claim that any portion of a product or service provided by Supplier under the Contract infringes that party's patent, intellectual property, copyright or other property right, Supplier shall enable each affected Customer to legally continue to use, or modify for use, the portion of the product or service at issue or replace such potentially infringing product, or re-perform or redeliver in the case of a service, with at least a functional non-infringing equivalent. Supplier's duty under this section shall extend to include any other product or service rendered materially unusable as intended due to replacement or modification of the product or service at issue. If the Supplier determines that none of these alternatives are reasonably available, the State shall return such portion of the product or deliverable at issue to the Supplier, upon written request, in exchange for a refund of the price paid for such returned goods as well as a refund or reimbursement, if applicable, of the cost of any other product or</p>

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	<p>deliverable rendered materially unusable as intended due to removal of the portion of product or deliverable at issue. Any remedy provided under this section is not an exclusive remedy and is not intended to operate as a waiver of legal or equitable remedies because of acceptance of relief provided by Supplier.</p>
<p>Exhibit B, State of Oklahoma General Terms, Indemnification, Acts or Omissions, Section 16.1.A</p>	<p>Section 16.1.A is hereby deleted in its entirety and replaced by the following:</p> <p><i>Subject to Sections 12.3 and 12.4 of Exhibit A and Section 16.4 of Exhibit B, Supplier shall defend and indemnify the Indemnified Parties, as applicable, for any and all liability, claims, damages, losses, costs, expenses, demands, suits and actions of third parties (including without limitation reasonable attorneys’ fees and costs required to establish the right to indemnification) arising out of, or resulting from any action or claim for bodily injury, death, or property damage brought against any of the Indemnified parties to the extent arising from any negligent act or omission or willful misconduct of the Supplier or its agents, employees, or subcontractors in the execution or performance of the Contract.</i></p>
<p>Exhibit B, State of Oklahoma General Terms, Indemnification, Infringement, Section 16.2</p>	<p>Section 16.2 is hereby deleted in its entirety and replaced by the following:</p> <p><i>Subject to Sections 12.3 and 12.4 of Exhibit A and Section 16.4 of Exhibit B, Supplier shall indemnify the Indemnified Parties, as applicable, for all liability, claims, damages, losses, costs, expenses, demands, suits and actions of third parties (including without limitation reasonable attorneys’ fees and costs required to establish the right to indemnification) arising from or in connection with Supplier’s alleged infringement of any patent, intellectual property, copyright or other property right in connection with a product or service provided under the Contract. Supplier’s duty under this section is reduced to the extent a claimed infringement results from: (a) a Customer’s or user’s content; (b) modifications by Customer or third party to a product delivered under the Contract or combinations of the product with any non-Supplier-provided services or products unless Supplier expressly authorized in writing such modification or combination; (c) use of a product or service by Customer in violation of the Contract unless done so at the express written direction of Supplier, or (d) a non-Supplier product that has not been provided to the State by, through or on behalf of Supplier as opposed to its combination with products Supplier provides to or develops for the State or a Customer as a system.</i></p>
<p>Exhibit B, State of Oklahoma General</p>	<p>Section 16.3 is deleted in its entirety and replaced with the following:</p>

Term & Section	Exception Language
<p>Terms, Indemnification, Notice and Cooperation, Section 16.3</p>	<p>In connection with indemnification obligations under the Contract, the parties agree to furnish prompt written notice to each other of any third-party claim. Any Customer affected by the claim will reasonably cooperate with Supplier and defense of the claim to the extent its interests are aligned with Supplier. Supplier shall use counsel reasonably experienced in the subject matter at issue and will not settle a claim without the written consent of the party being defended, which consent will not be unreasonably withheld or delayed, except that no consent will be required to settle a claim against Indemnified Parties that are not a State agency, where relief against the Indemnified Parties is limited to monetary damages that are paid by the defending party under indemnification provisions of the Contract, and/or where Indemnified Parties receive a release of all liability for such claim without subjecting Indemnified Parties to equitable or injunctive relief or payment of any amounts not indemnified by Supplier under this Agreement.</p>
<p>Exhibit B, State of Oklahoma General Terms, Indemnification, Coordination of Defense, Section 16.4</p>	<p>Section 16.4 is hereby deleted in its entirety and replaced by the following:</p> <p>In connection with indemnification obligations under the Contract, when a State agency is a named defendant in any filed or threatened lawsuit, the defense of the State agency shall be coordinated by the Attorney General of Oklahoma, or the Attorney General may authorize the Supplier to control the defense and any related settlement negotiations; provided, however, Supplier shall not agree to any settlement of claims that create any liability or obligation for the State without obtaining advance written concurrence from the Attorney General.-For clarity, Supplier shall have no obligation to defend or indemnify the Customer State agency if the Attorney General does not authorize sole control of the defense and settlement negotiations to the Supplier.</p>
<p>Exhibit B, State of Oklahoma General Terms, Indemnification, Limitation of Liability, Section 16.5.A</p>	<p>Section 16.5.A is hereby deleted in its entirety and replaced by the following:</p> <p>[INTENTIONALLY OMITTED.]</p>
<p>Exhibit B, State of Oklahoma General Terms, Indemnification,</p>	<p>Section 16.5.B is hereby deleted in its entirety and replaced by the following:</p>

Term & Section	Exception Language
<p>Limitation of Liability, Section 16.5.B</p>	<p><i>Notwithstanding anything to the contrary in the Contract and to the extent permitted by law, no provision shall limit damages, expenses, costs, actions, claims, and liabilities arising from or related to property damage, bodily injury or death caused by the negligence or willful misconduct of any party or its employees, agents or subcontractors; indemnity, security or confidentiality obligations under the Contract; the bad faith, negligence, intentional misconduct or other acts for which applicable law does not allow exemption from liability of Supplier or its employees, agents or subcontractors.</i></p>
<p>Exhibit B, State of Oklahoma General Terms, Termination for Funding Insufficiency, Section 17.1</p>	<p>Section 17.1 is hereby deleted in its entirety and replaced by the following:</p> <p><i>Notwithstanding anything to the contrary in any Contract Document, the State may terminate the Contract in whole or in part if funds sufficient to pay obligations under the Contract are not appropriated or received from an intended third-party funding source (referred to in this Agreement as lack of “Funding”); provided that (i) State shall only have such right one time per year, upon at least 15 days written notice to Supplier of termination; (ii) State shall include, with such written notice, written documentation to show that Funding necessary for payments pursuant to this Agreement is no longer available; and (iii) such termination shall be effective no earlier than the date on which such Funding actually expires. Any partial termination of the Contract under this section shall not be construed as a waiver of, and shall not affect, the rights and obligations of any party regarding portions of the Contract that are not terminated.</i></p>
<p>Exhibit B, State of Oklahoma General Terms, Termination for Funding Insufficiency, Section 17.2</p>	<p>Section 17.2 is hereby deleted in its entirety and replaced with the following:</p> <p><i>Upon receipt of notice of a termination of this Section 17, Supplier shall immediately comply with the notice terms and take all necessary steps to minimize the incurrence of costs allocable to the work affected by the notice. If a purchase order or other payment mechanism has been issued and a product or service has been accepted as satisfactory prior to the effective date of termination, the termination does not relieve an obligation to pay for the product or service but there shall not be any liability for further payments beyond the effective date of termination ordinarily due under the Contract or for any damages or other amounts caused by or associated with such termination. Any amount paid to Supplier in the form of prepaid fees that are unused as of the effective date of termination pursuant to this Section 17 shall be refunded.</i></p>

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Exhibit B, State of Oklahoma General Terms, Termination for Cause, Section 18.2	Section 18.2 is hereby deleted in its entirety.
Exhibit B, State of Oklahoma General Terms, Termination for Cause, Section 18.3	<p>Section 18.3 is deleted in its entirety and replaced with the following:</p> <p><i>Upon receipt of notice of a termination under this Section 18, Supplier shall immediately comply with the notice terms and take all necessary steps to minimize the incurrence of costs allocable to the work affected by the notice. If a purchase order or other payment mechanism has been issued and a product or service has been accepted as satisfactory prior to the effective date of termination, the termination does not relieve an obligation to pay for the product or service but there shall not be any liability for further payments following the effective date of termination ordinarily due under the Contract or for any damages or other amounts caused by or associated with such termination. Such termination is not an exclusive remedy but is in addition to any other rights and remedies provided for by law. Any amount paid to Supplier in the form of prepaid fees that are unused when the Contract or certain obligations are terminated pursuant to this Section 18 shall be refunded. Termination of the Contract under this section, in whole or in part, shall not relieve the breaching party of liability for claims arising under the Contract.</i></p>
Exhibit B, State of Oklahoma General Terms, Termination for Cause, Section 18.4	<p>Section 18.4 is deleted in its entirety and replaced with the following:</p> <p>The Supplier’s repeated failure to provide an acceptable product or service; Supplier’s unilateral revision of linked or supplemental terms that have a materially adverse impact on a Customer’s rights or obligations under the Contract (except as required by a governmental authority); actual or anticipated failure of Supplier to materially perform its obligations under the Contract; Supplier’s inability to pay its debts when due; assignment for the benefit of Supplier’s creditors; or voluntary or involuntary appointment of a receiver or filing of bankruptcy of Supplier shall constitute a material breach of the Supplier’s obligations, which may result in partial or whole termination of the Contract. This subsection is not intended as an exhaustive list of material breach conditions. Termination may also result from other instances of failure to adhere to the Contract provisions and for other</p>

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	reasons provided for by applicable law, rules or regulations; without limitation, OAC 260:115-9-9 is an example.
Exhibit B, State of Oklahoma General Terms, Termination for Convenience, Section 19.1	<p>Section 19.1 is hereby deleted in its entirety and replaced by the following:</p> <p><i>The State may terminate the Contract but not Contract Documents, in whole or in part, for convenience if it is determined that termination is in the State’s best interest, for clarity, Contract Documents under this section are subject to Exhibit B Section 26.13. In the event of a termination for convenience, Supplier will be provided at least 30 days’ written notice of termination. Any partial termination of the Contract shall not be construed as a waiver of, and shall not affect, the rights and obligations of any party regarding portions of the Contract that remain in effect.</i></p>
Exhibit B, State of Oklahoma General Terms, Termination for Convenience, Section 19.2	<p>Section 19.2 is hereby deleted in its entirety.</p>
Exhibit B, State of Oklahoma General Terms, Suspension of Supplier, Section 20.1	<p>Section 20.1 is deleted in its entirety and replaced with the following:</p> <p>Supplier may be subject to Suspension without advance notice and may additionally be suspended from activities under the Contract if, and solely for as long as, Supplier fails to comply with confidentiality, privacy, security, environmental or safety requirements applicable to Supplier’s performance or obligations under the Contract.</p>
Exhibit B, State of Oklahoma General Terms, Suspension of Supplier, Section 20.2	<p>COBAN is requesting the following edits:</p> <p><i>Upon receipt of a notice pursuant to this section, Supplier shall immediately comply with the notice terms and take all necessary steps to minimize the incurrence of costs allocable to the work affected by the notice. If a purchase order or other payment mechanism has been issued and a product or service has been accepted as satisfactory prior to receipt of notice by Supplier, the Suspension does not relieve an obligation to pay for the product or service but there shall not be any liability for further payments ordinarily due under the Contract during a period of Suspension or suspended activity or for any damages or other amounts caused by or associated with such Suspension or suspended activity. A right exercised under this section shall not be an exclusive remedy but shall be in addition to any other rights and remedies provided for by law. Any amount paid to Supplier in the</i></p>

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	form of prepaid fees attributable to a period of Suspension or suspended activity shall be refunded.
Exhibit B, State of Oklahoma General Terms, Force Majeure, Section 23.3	<p>Section 23.3 is deleted in its entirety and replaced with the following:</p> <p>Notwithstanding the foregoing or any other provision in the Contract, (i) the following are not a force majeure event under the Contract: (a) shutdowns, disruptions or malfunctions in Supplier’s system or any of Supplier’s telecommunication or internet services other than as a result of general and widespread internet or telecommunications failures that are not limited to Supplier’s systems or (b) the delay or failure of Supplier or subcontractor personnel to perform any obligation of Supplier hereunder unless such delay or failure to perform is itself by reason of a force majeure event and (ii) no force majeure event modifies or excuses a party’s obligations, if applicable, related to confidentiality, indemnification, data security or breach notification obligations set forth herein.</p>
Exhibit B, State of Oklahoma General Terms, Miscellaneous, Transition Services, Section 26.4	<p>Section 26.4 is deleted in its entirety and replaced with the following:</p> <p>If transition services are needed at the time of Contract expiration or termination, Supplier shall provide such services on a month-to-month basis, at the contract rate or other mutually agreed rate, in all cases as set forth in a written agreement, amendment, addendum, scope of work or other ordering document memorializing the transition plan. Supplier shall provide a proposed transition plan, upon request, and cooperate with any successor supplier and with establishing a mutually agreeable transition plan. Failure to cooperate may be documented as poor performance of Supplier.</p>
Exhibit B, State of Oklahoma General Terms, Miscellaneous, Failure to Enforce, Section 26.7	<p>Section 26.7 is deleted in its entirety and replaced with the following:</p> <p>Failure by the State or a Customer or Supplier at any time to enforce a provision of, or exercise a right under, the Contract shall not be construed as a waiver of any such provision. Such failure to enforce or exercise shall not affect the validity of any Contract Document, or any part thereof, or the right of the State or a Customer or Supplier to enforce any provision of, or exercise any right under, the Contract at any time in accordance with its terms. Likewise, a waiver of a breach of any provision of a Contract Document shall not affect or waive a subsequent breach of the same provision or a breach of any other provision in the Contract.</p>
Exhibit B, State of Oklahoma General Terms,	COBAN is requesting to add the following language:

Term & Section	Exception Language
Miscellaneous, Mutual Responsibilities, Section 26.8.D	<i>The Customer and Supplier shall as set forth in a mutually agreed transition plan reasonably cooperate with each other and any Supplier to which the provision of a product and/or service under the Contract may be transitioned after termination or expiration of the Contract.</i>
Exhibit B, State of Oklahoma General Terms, Miscellaneous, Entire Agreement, Section 26.13	Section 26.13 is deleted in its entirety and replaced by the following: As applicable, performance and payment obligations under all license, subscription, service agreements, Orders, statements of work, transition plans and other similar Contract Documents entered into between the parties under the terms of the Contract shall survive Contract expiration or earlier termination pursuant to Section 19.1. Additionally, rights and obligations under the Contract which by their nature should survive including, without limitation, certain payment obligations invoiced prior to expiration or termination; confidentiality obligations; security incident and data breach obligations and indemnification obligations, remain in effect after expiration or termination of the Contract.
Exhibit B, State of Oklahoma General Terms, Miscellaneous, Entire Agreement, Section 26.14	COBAN is requesting to add the following language: <i>The Contract Documents taken together as a whole constitute the entire agreement between the parties. No statement, promise, condition, understanding, inducement or representation, oral or written, expressed or implied, which is not contained in a Contract Document shall be binding or valid. To the extent attached as or expressly incorporated into the Contract Documents, the Supplier's representations and certifications including any completed electronically, are incorporated by reference into the Contract.</i>
Exhibit C, State of Oklahoma Information Technology Terms, Definitions, Non-Public Data, Section 1.7	Section 1.7 is deleted in its entirety and replaced with the following: Non-Public Data means Customer Data, other than Personal Data, that is not subject to distribution to the public as public information and constitutes Confidential Information as defined in this Contract. It is deemed to be sensitive and confidential by Customer because it contains information that is exempt by statute, ordinance or administrative rule from access by the general public as public information.
Exhibit C, State of Oklahoma Information Technology Terms, Definitions, Supplier Intellectual	Section 1.11 is deleted in its entirety and replaced with the following: Supplier Intellectual Property means all tangible or intangible items or things, including the Intellectual Property Rights therein, created or developed by Supplier (a) prior to the Effective Date of the Contract, including prior to providing any services or Work Product to Customer

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Property, Section 1.11	and prior to receiving any documents, materials, information or funding from or on behalf of a Customer relating to the services or Work Product, or (b) on or after the effective date of the Contract.
Exhibit C, State of Oklahoma Information Technology Terms, Termination of Maintenance and Support Services, Section 2.2	<p>COBAN is requesting to add the following language:</p> <p><i>The location at which the services are provided is no longer controlled by Customer (for example, because of statutory or regulatory changes or the sale or closing of a facility).</i></p> <p><i>If Customer chooses to renew maintenance or support after maintenance has lapsed, Customer may choose to pay the additional fee, if any, associated with renewing a license after such maintenance or support has lapsed, or to purchase a new license. Any amount paid to Supplier in the form of prepaid fees that are unused when services under the Contract or purchase order are terminated shall be refunded to Customer.</i></p>
Exhibit C, State of Oklahoma Information Technology Terms, Offshore Services, Section 5	<p>COBAN is requesting the following edits:</p> <p><i>No Prohibited Offshore Services are provided for under the Contract. “Prohibited Offshore Services” means, per CJIS requirements, cloud services hosted outside of the United States or Canada or services requiring accessing, processing, storing, or transmitting Customer Data outside of the United States or Canada. State data shall not be used or accessed internationally for troubleshooting or any other use not specifically provided for herein without the prior written permission, which may be withheld in the State’s sole discretion, from the appropriate authorized representative of the State.</i></p> <p><i>Notwithstanding the above, back office administrative functions of the Supplier may be located offshore and the follow-the-sun support model may be used by the Supplier to the extent allowed by law applicable to any Customer Data being accessed or used. Other services not involving accessing, processing, storing or transmitting of Customer Data by personnel in Colombia, Taiwan, or the Philippines are permitted (collectively, the “Permitted Countries”).</i></p>
Exhibit C, State of Oklahoma Information Technology Terms, Compliance with Technology Policies, Section 6.1	<p>COBAN is requesting the following edits:</p> <p><i>The Supplier agrees to adhere to the following standards: SOC 2 Type 2 including the 5 Trust Service Criteria; ISO 27001; and FIPS 140-2. State acknowledges and agrees that Supplier is not required by this Contract to comply with other standards, including without limitation FIPS 199 and FIPS 200. Subject to the foregoing, Supplier agrees not to knowingly cause State to breach State’s obligations pursuant to the State of Oklahoma “Information Security Policy, Procedures, and Guidelines” available at</i></p>

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	<p>https://oklahoma.gov/content/dam/ok/en/omes/documents/InfoSecPG_0.pdf</p> <p><i>or</i></p> <p><i>the applicable State IT Standard Methodologies and Templates including but not limited to Project Management, Business Analysis, System Analysis, Enterprise and IT Architecture, Quality, Application and Security Methodologies and Templates as set forth at https://oklahoma.gov/omes/services/information-services.html.</i></p>
<p>Exhibit C, State of Oklahoma Information Technology Terms, Compliance with Technology Policies, Section 6.2</p>	<p>COBAN requests this subsection to be deleted in its entirety.</p>
<p>Exhibit C, State of Oklahoma Information Technology Terms, Extension Right, Section 8</p>	<p>Section 8 is deleted in its entirety:</p> <p><i>In addition to extension rights of the State set forth in the Contract, the State CIO reserves the right to extend any Contract, to the extent and solely for as long as permitted by the Contract, if the State CIO determines such extension to be in the best interest of the State.</i></p>
<p>Exhibit C, State of Oklahoma Information Technology Terms, Source Code Escrow, Section 9</p>	<p>Section 9 shall be deleted in its entirety and replaced with the following:</p> <p>Pursuant to 62 O.S. § 34.31, and solely to the extent required by same, if customized computer software is developed or modified exclusively for a State agency, the Supplier has a continuing obligation to comply with such law and place the source code for such software and any modifications thereto into escrow with an independent third party escrow agent. However, this Contract does not contemplate, and no Work Product shall be deemed to be, customized computer software developed or modified exclusively for a State agency absent a separate written agreement, amendment or addendum executed by both parties. Supplier shall pay all fees charged by the escrow agent and enter into an escrow agreement, the terms of which are subject to the prior written approval of the State, including terms that provide the State receives</p>

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	<p>ownership of all escrowed source code upon the occurrence of any of the following:</p> <p>9.1 A bona fide material default of the obligations of the Supplier under the agreement with the applicable Customer;</p> <p>9.2 An assignment by the Supplier for the benefit of its creditors;</p> <p>9.3 A failure by the Supplier to pay, or an admission by the Supplier of its inability to pay, its debts as they mature;</p> <p>9.4 The filing of a petition in bankruptcy by or against the Supplier when such petition is not dismissed within sixty (60) days of the filing date;</p> <p>9.5 The appointment of a receiver, liquidator or trustee appointed for any substantial part of the Supplier’s property;</p> <p>9.6 The inability or unwillingness of the Supplier to provide the maintenance and support services in accordance with the agreement with the agency;</p> <p>9.7 Supplier’s ceasing of maintenance and support of the software; or</p> <p>9.8 Such other condition as may be statutorily imposed by the future amendment or enactment of applicable Oklahoma law.</p>
<p>Exhibit C, State of Oklahoma Information Technology Terms, Ownership Rights, Section 11</p>	<p>Section 11 is deleted in its entirety and replaced with the following:</p> <p>Any software developed by the Supplier under the terms of the Contract is licensed to State only, and Supplier retains all right (including Intellectual Property Rights), title, and interest therein and thereto. Exhibit E sets forth the terms and conditions relating to ownership and licensing of software and other intellectual property.</p>
<p>Exhibit C, State of Oklahoma Information Technology Terms, Intellectual Property Ownership, Section 12</p>	<p>The terms set forth in Exhibit E apply to ownership and rights related to Intellectual Property and Section 12 (including, for clarity, all of its subsections) is deleted in its entirety.</p>

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Exhibit C, State of Oklahoma Information Technology Terms, Change Management, Section 14	<p>Section 14 is deleted in its entirety and replaced with its following:</p> <p>When a scheduled change is made to products or services provided to a Customer that impacts the Customer’s system related to such product or service, Supplier shall provide two (2) weeks’ prior written notice of such change. When the change is an emergency change, Supplier shall, where practically feasible, provide twenty-four (24) hours’ prior written notice of the change. Repeated failure to provide such notice may be an evaluation factor (as indicative of Supplier’s past performance) upon renewal or if future bids submitted by Supplier are evaluated by the State.</p>
Exhibit C, State of Oklahoma Information Technology Terms, Service Level Deficiency, Section 15	<p>Section 15 is deleted in its entirety and replaced with the following:</p> <p>In addition to other terms of the Contract, in instances of the Supplier’s repeated failure to provide an acceptable level of service or meet service level agreement metrics, State may terminate this Contract (or the affected portion thereof) in accordance with the termination provision in the Contract.</p>
Exhibit C, Appendix 1 to State of Oklahoma Information Technology Terms, Customer Data, Section A.2	<p>Section A(2) is deleted in its entirety and replaced with the following:</p> <p>Supplier shall promptly notify the Customer upon receipt of any requests from unauthorized third parties which in any way might reasonably require access to Customer Data or Customer’s use of the Hosted environment. Supplier shall notify the Customer by the fastest means available and also in writing pursuant to Contract notice provisions and the notice provision herein. Except to the extent required by law, Supplier shall not respond to subpoenas, service or process, Freedom of Information Act or other open records requests, and other legal request related to Customer without first notifying the Customer and obtaining the Customer’s prior approval, which shall not be unreasonably withheld, of Supplier’s proposed responses. Supplier agrees, to the extent practically feasible in light of legal requirements, to provide its completed responses to the Customer with adequate time for Customer review, revision and approval.</p>
Exhibit C, Appendix 1 to State of Oklahoma Information Technology Terms, Data Security, Section B.4	<p>COBAN is requesting the following edits:</p> <p><i>Supplier shall provide its services to Customer and its users solely from data centers as provided in Section 5 of Attachment D. Storage of Customer Data at rest shall be located solely in data centers in the U.S. and Canada as permitted by CJIS requirements. Supplier shall not allow its personnel or contractors to store Customer Data on portable devices, including personal computers, except for devices that are used and kept only at its US data centers. Supplier shall permit its</i></p>

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	<i>personnel and contractors to access Customer Data remotely only as required to fulfill Supplier’s obligations under the Contract.</i>
Exhibit C, Appendix 1 to State of Oklahoma Information Technology Terms, Data Security, Section B.5	<p>Section B(5) is deleted in its entirety and replaced with the following:</p> <p>Supplier shall allow the Customer to audit conformance to the Contract terms. The Customer may perform this audit or contract with a third party at its discretion and at Customer’s expense. All audits pursuant to this Section 5 will be subject to all terms and conditions of Section XIV of Exhibit A.</p>
Exhibit C, Appendix 1 to State of Oklahoma Information Technology Terms, Security Incident or Data Breach Notification, Section D.1	<p>Section D(1) is deleted in its entirety and replaced with the following:</p> <p>Supplier may need to communicate with outside parties regarding a Security Incident, which may include contacting law enforcement, fielding media inquiries and seeking external expertise as mutually agreed upon, defined by law or contained in the Contract. If a Security Incident involves Customer Data, Supplier will, to the extent practically feasible in light of legal requirements, coordinate with Customer prior to any such communication.</p>
Exhibit C, Appendix 1 to State of Oklahoma Information Technology Terms, Breach Responsibilities, Section E.3	<p>Section E(3) is deleted in its entirety and replaced with the following:</p> <p><i>If a Data Breach is a direct result of Supplier’s breach of its obligations to encrypt Personal Data and Non-Public Data or otherwise employ efforts in compliance with industry standards to prevent its release, Supplier shall indemnify and hold harmless the Customer against all penalties assessed to Indemnified Parties by governmental authorities in connection with the Data Breach.</i></p>
Exhibit C, Appendix 1 to State of Oklahoma Information Technology Terms, Supplier Representations and Warranties, Section G.2	<p>Section G(2) is deleted in its entirety and replaced with the following:</p> <p>Subject to the other confidentiality provisions in the Contract, Supplier will protect Customer’s Non-Public Data and Personal Data from unauthorized dissemination and use with the same degree of care that each such party uses to protect its own confidential information and, in any event, will use no less than a reasonable degree of care in protecting such confidential information.</p>
Exhibit C, Appendix 1 to State of Oklahoma Information	<p>Subsection G(3) is deleted in its entirety.</p>

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Technology Terms, Supplier Representations and Warranties, Section G.3	
Exhibit C, Appendix 1 to State of Oklahoma Information Technology Terms, Indemnity, Section H	<p>COBAN is requesting the following edits:</p> <p><i>Subject to Sections 12.3 and 12.4 of Exhibit A and Section 16.4 of Exhibit B, Supplier agrees to defend, indemnify and hold the State, its officers, directors, employees, and agents harmless from all liabilities, claims, damages, losses, costs, and expenses, to the extent arising out of any demands, suits and actions by a third party (including without limitation reasonable attorneys’ fees and costs required to establish the right to indemnification), excluding damages that are the sole fault of Customer, arising from or in connection with Supplier’s breach of its express representations and warranties in these Information Technology Terms and the Contract.</i></p>
Exhibit D, Oklahoma Statewide Contract Terms, Statewide Contract Type, Section 1.1 and new Section 1.2	<p>Section 1.1 is replaced with the following and Section 1.2 is added as follows:</p> <p>1.1 The Contract is a non-mandatory statewide contract for use by State agencies. Additionally, the Contract may be used by any governmental entity specified as a political subdivision of the State pursuant to the Governmental Tort Claims Act including any associated institution, instrumentality, board, commission, committee, department or other entity designated to act on behalf of the political subdivision; a state, county or local governmental entity in its state of origin; and entities authorized to utilize contracts by the State via a multistate or multigovernmental contract.</p> <p>1.2 The Contract is a firm, fixed price contract for indefinite delivery and quantity for the Acquisitions available under the Contract.</p>
Exhibit D, Oklahoma Statewide Contract Terms, Statewide Contract Type, Section 1	<p>Section 1.3 is added as follows:</p> <p>For clarity, the provisions of this Exhibit D apply only to purchases and orders where Oklahoma (or its applicable subdivision or agency) is the Customer; this Exhibit D has no applicability to purchasers located in other states or jurisdictions.</p>
Exhibit D, Oklahoma Statewide Contract Terms, Orders and	<p>Section 2.1 is deleted in its entirety and replaced with the following:</p> <p>Unless mutually agreed in writing otherwise, orders shall be placed directly with the Supplier by issuance of written purchase orders or,</p>

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Addendums, Section 2.1	solely to the extent permitted elsewhere in this Contract, by Purchase Card by state agencies and other authorized entities. All orders are subject to the Contract terms and any order dated prior to Contract expiration shall be performed. Delivery to multiple destinations may be required.
Exhibit D, Oklahoma Statewide Contract Terms, Orders and Addendums, Section 2.3	Section 2.3 is deleted in its entirety and replaced with the following: Additional terms added to a Contract Document by a Customer shall be effective if the additional terms do not conflict with the General Terms and are acceptable to Supplier, as indicated by their inclusion in a signed amendment or addendum executed by both parties. However, an Addendum to the Contract shall be signed by the State Purchasing Director or designee. Regarding information technology and telecommunications contracts, pursuant to 62 O.S., §34.11.1, the Chief Information Officer acts as the Information Technology and Telecommunications Purchasing Director.
Exhibit D, Oklahoma Statewide Contract Terms, Termination for Funding Insufficiency, Section 3	Section 3 is deleted in its entirety.
Exhibit D, Oklahoma Statewide Contract Terms, Termination for Cause, Section 4	Section 4 is deleted in its entirety.
Exhibit D, Oklahoma Statewide Contract Terms, Termination for Convenience, Section 5	Section 5 is deleted in its entirety.
Exhibit E, Safe Fleet Video & Telematics Products and Services Standard Customer Terms & Conditions with attachments	Exhibit E sets forth COBAN’s standard terms and conditions applicable to sales of these products and services, as referenced in the RFP response and as amended by the parties.

Exhibit F

Attachment B – Technical Response

1.	<p>BODY WORN CAMERA AND RECORDING DEVICES. To include, but not limited to: Mobile Camera and Recording Equipment which is not permanently installed on a fixed surface. This may be attached to a person, mounted on the chest, belt, hat, or glasses etc. Equipment shall be able to capture video from the Officer’s perspective and store the recorded video on a secure hosted website, or secure local storage solution.</p>		
1.15	Level Rotatable Lens	Not Applicable	
2.	<p>VEHICLE MOUNTED VIDEO AND RECORDING DEVICES. To include vehicles, public transit, school buses, and other public safety vehicles. Additional, products can be proposed and available for use by a variety of law enforcement applications, which may also include state police, marine police, corrections, game and inland fisheries, forestry, border surveillance, educational campuses, as well as local fire departments and other emergency first responder needs. Does your company offer equipment that can be mounted on the following vehicles:</p> <p><input type="checkbox"/> Water Vehicles <input type="checkbox"/> Motorcycle <input type="checkbox"/> Public Transit <input type="checkbox"/> School Buses <input type="checkbox"/> Subway <input checked="" type="checkbox"/> Police Vehicles</p>		
2.6	Viewing Angle/Diagonal (minimum rotation of 360 Degrees	Not Applicable	The FOCUS H1 system provides cameras with up to 120-degree wide-angle capability.
2.34	Weatherproof Construction of external microphone (minimum IP66) The device operates as normal within the range of -10 to +40 degrees Celsius. Please indicate other weatherproof construction options in the space provided	Not Applicable	The audio can be integrated with a FOCUS X2 Body Worn Camera, which is IP67. The optional wireless microphone is rugged and rain-resistant, but not IP-rated.
2.42	System must have ability to prioritize one or more video wireless offloads over others	Not Applicable	The FOCUS H1 automatically managed wireless upload, however, USB and wired upload are available for rapid transfer of data.

3.	VIDEO STORAGE, DATA SECURITY, SOFTWARE AND PERIPHERALS. To include all supporting equipment and/or services for video storage, including Government cloud services or local secured storage systems. Data management tools, software with related maintenance and/or license fees, related peripherals. Category 5 is not considered to be a hardware category without the purchase of bundled video products and/or accessories.		
5.25	The system shall be capable to establish the start of a predetermined retention period for any data stored by a date or other event trigger.	Not Applicable	To ensure consistent operation, retention periods are always automatically managed by the system, on date of ingestion. The duration of ingestion is determined by the event type.

**Public Safety/Law Enforcement Video Products, Services and Solutions
Attachment D - Pricing Template**

CATEGORY DISCOUNTS

1. BASELINE PRICING

Identify Baseline/List pricing Utilized

COBAN Technologies, Inc. Commercial MSRP United States

2. CATEGORY DISCOUNT

In space provided below, list the discount percentage you will be bidding for each category of products.
If offering a range of discount, i.e., 10 - 80%, only the lowest discount will be evaluated.

CATEGORY:	DISCOUNT
CATEGORY 1 - BODY WORN VIDEO AND RECORDING	18%
CATEGORY 2 - VEHICLE MOUNTED VIDEO AND RECORDING	20%
CATEGORY 3 - AUTOMATED LICENSE PLATE READERS AND RECORDING	N/A
CATEGORY 4 - INTERVIEW ROOM VIDEO AND RECORDING	N/A
CATEGORY 5 - VIDEO STORAGE, SECURITY, SOFTWARE, AND PERIPHERALS	10 - 18%

3. VOLUME DISCOUNTS

CATEGORY:	Volume	DISCOUNT

4. ADDITIONAL DISCOUNTS OFFERED

CATEGORY:	DISCOUNT
CATEGORY 1 - BODY WORN VIDEO AND RECORDING	1 - 5%
CATEGORY 2 - VEHICLE MOUNTED VIDEO AND RECORDING	1 - 5%
CATEGORY 5 - VIDEO STORAGE, SECURITY, SOFTWARE, AND PERIPHERALS	1 - 5%