



State of Oklahoma

Office of Management and Enterprise Services

**ADDENDUM 1 TO
STATE OF OKLAHOMA CONTRACT WITH
ANIXTER INC.
RESULTING FROM SOLICITATION NO. 0900000324**

This Addendum 1 ("Addendum") is an Amendment to the Contract awarded to Anixter Inc. ("Anixter") in connection with Solicitation 0900000324 ("Solicitation") and is effective Oct 31, 2018.

Recitals

Whereas, the State issued a Solicitation to secure a statewide contract for network cable and accessories;

Whereas, Anixter submitted a proposal which contained exceptions to the Solicitation; and

Whereas, the State and Anixter have negotiated the final terms under which Anixter will perform the Services under the Contract.

Now, therefore, in consideration of the foregoing and the mutual promises set forth herein, the receipt and sufficiency of which are hereby acknowledged the parties agree as follows:

1. Addendum Purpose.

This Addendum memorializes the understanding of the parties with respect to negotiated terms of the Contract that is being awarded to Anixter as of even date with execution of this Addendum. The parties furthermore agree that Supplier has not yet begun performance of work contemplated by the Solicitation.

2. Negotiated Documents of the Contract.

2.1 The parties have negotiated certain terms of the Contract as follows:

i. certain negotiated exceptions and additional terms to the Solicitation as contained in Attachment A to this Addendum.

2.2 Accordingly, any reference to a Contract Document refers to such Contract Document as it may have been amended. If and to the extent any provision is in multiple documents and addresses the same or substantially the same subject matter but does not create an actual conflict, the more recent provision is deemed to supersede earlier versions.

State of Oklahoma

By: 

Name: James L. Reese, II

Title: Chief Information Officer

Date: 11-2-18

Anixter Inc.

By: 

Name: Heath Grammer

Title: District Manager

Date: 10-30-18

**ATTACHMENT A
TO ADDENDUM 1 TO
STATE OF OKLAHOMA CONTRACT WITH ANIXTER INC.
RESULTING FROM SOLICITATION NO. 30900000324**

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 and exceptions submitted by Anixter or discussed by the parties.

Solicitation, Section A.45 is deleted in its entirety and replaced with the following:

As between Supplier and the State, the Work Product and intellectual property rights therein are and shall be owned exclusively by the State, 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 the state. To the extent that the Work Product, under applicable law, may not be considered works made for hire, Supplier hereby agrees that the Contract effectively transfers, grants, conveys, assigns, and relinquishes exclusively to the State all right, title and interest in and to all ownership rights and all Intellectual Property Rights in the Work Product, without the necessity of any further consideration, and the State 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 the State do not intend Supplier to be a joint author of the Work Product within the meaning of the Copyright Act of 1976. The State 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 the State, 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.

The term ("Work Product") means any and all deliverables produced by Supplier solely for the State under a statement of work executed by the parties and 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 solely for such deliverables, 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, and (vii) 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 the State in connection with the statement of work for the deliverables. Work Product specifically excludes the QS/1 Pharmacy Management System and any deviations, modifications, upgrades, interfaces, modules, or other development related to the System.

Solicitation, Section B.3 is deleted in its entirety and replaced with the following:

Supplier shall pass through any manufacturer warranty of the products being sold hereunder to the State. Supplier warrants and represents that products or deliverables specified and furnished by or through the Supplier shall individually, and where specified by Supplier to perform as a system, materially conform with any written specifications provided by the manufacturer of the product to Supplier for a warranty period of a minimum of ninety (90) days from the date of acceptance or the maximum allowed by the manufacturer. During the warranty period and at Supplier's sole option and expense, defects in the products or deliverables specified and furnished by or through the Supplier shall be repaired or replaced by Supplier at no cost or expense to the State, or if not possible, the purchase price of such products or deliverables shall be refunded.

THE FOREGOING WARRANTIES FOR PRODUCTS BEING SOLE HEREUNDER ARE EXCLUSIVE AND IN LIEU OF, AND SUPPLIER DISCLAIMS AND THE STATE WAIVES, ALL OTHER WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND OF ANY OTHER TYPE, WHETHER EXPRESS OR IMPLIED, ARISING BY LAW (STATUTORY OR OTHERWISE).

Solicitation, Section B.13: a new section titled "Force Majeure" shall read as follows:

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 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. In the event that 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. Subject to the conditions set forth above, such non-performance shall not be deemed a default. However, the State may terminate a purchase order if Supplier cannot provide products or deliverables in a timely manner to meet the business needs of the State.