



**STATE OF OKLAHOMA STATEWIDE CONTRACT WITH ECOLAB INC.**

This State of Oklahoma Statewide Contract (“Contract”) is entered into between the state of Oklahoma by and through the Office of Management and Enterprise Services and Ecolab Inc. (“Supplier”) and is effective as of the date of last signature to this Contract.

**Purpose**

The State is awarding this Contract to Supplier for the provision of dishwashing and dietary cleaning compounds and services, as more particularly described in certain Contract Documents. Supplier submitted a proposal which contained no exceptions to the Solicitation. This Contract memorializes the agreement of the parties with respect to terms of the Contract that is being awarded to Supplier.

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. The parties agree that Supplier has not yet begun performance of work under this Contract. Upon full execution of this Contract, Supplier may begin work. Issuance of a purchase order is required prior to payment to a Supplier.
2. The following Contract Documents are attached hereto and incorporated herein:
  - 2.1. Solicitation, Attachment A
    - 2.1.A. Exhibit 1
  - 2.2. General Terms, Attachment B;
  - 2.3. Statewide Specific Terms Attachment C;
  - 2.4. No Information Technology terms, (Intentionally Omitted), Attachment D;
  - 2.5. Bid Portion, Attachment E and
  - 2.6. No Negotiated Exceptions to Contracts, (Intentionally Omitted) Attachment F.
3. 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 and through the**  
**OFFICE OF MANAGEMENT AND**  
**ENTERPRISE SERVICES**

**ECOLAB INC.**

By:     Dan Sivard    

Name: Dan Sivard

Title: State Purchasing Director

Date:     11/15/2021    

By:     Jeannette Rubbelke    

Name:     Jeannette Rubbelke    

Title:     Bid Contracts Manager I    

Date:     11/13/2021    

    Tim Tuck      
Tim Tuck (Nov 15, 2021 09:29 CST)

**ATTACHMENT A**  
**SOLICITATION NO. 0900000497**

This Solicitation is a Contract Document and is a request for proposal in connection with the Contract awarded by the Office of Management and Enterprise Services as more particularly described below. Any defined term used herein but not defined herein shall have the meaning ascribed in the General Terms or other Contract Document.

**PURPOSE**

The Contract is awarded as a non-mandatory statewide contract for dishwashing and dietary cleaning compounds and services.

**1. Contract Term and Renewal Options**

The initial Contract term, which begins on the effective date of the Contract, is one year and there are 3 one-year options to renew the Contract.

**2. Scope of Work**

Certain Contract requirements and terms are attached hereto as Exhibit 1 and incorporated herein.

## EXHIBIT 1

### 1. Requirements

#### a. Products Offered

- i. All products offered shall have been nationally marketed brands of the same manufacturer and shall have had the same brand name and formulation for a period of not less than twelve (12) months prior to the solicitation closing date.
- ii. Private label names will not be accepted as a statement of manufacturer or brand name and will cause rejection of the proposal.

#### b. Detergent Specifications

##### i. Degreaser and Oven Cleaner

1. Product shall be biodegradable, nonabrasive uniform alkaline liquid compound specifically formulated for use in institutional dietary areas to remove oil, baked-on fats, greases and carbonized deposits on broilers, grills, deep fat fryers, vents and range hood or canopy undersides.
2. Product shall be registered as U.S.D.A. acceptable for use in food processing and service areas.
3. Product shall be nonflammable both in concentrate and in solution.
4. Should a diluted solution be necessary, the supplier(s) must provide proper dispensing equipment. Installation and maintenance of that equipment shall be included.
5. Product shall be formulated for use in diluted and undiluted form.
6. No butyl cellusolve allowed.
7. Product performance must be equivalent to a product conforming to the following:
  - a. Total alkalinity as K20: 15.0% to 18.5%
  - b. Butyl cellusolve: None Allowed.
  - c. Wetting agent % (wt.): 4.0% to 10.0%
  - d. PH (100%): 13.1 to 13.9
  - e. Specific Gravity: 1.140 to 1.320
8. Stability in storage
  - a. The product concentrate shall remain stable; show no separation nor sediment, sour, change in appearance, gel and not deteriorate nor lose any detergency effectiveness for at least one (1) year when stored in closed shipping containers at temperatures ranging between 32 degrees F. and 100 degrees F.

##### ii. Dishwashing Machine Detergent

1. Product shall be a chlorinated solid detergent specifically formulated for use in all mechanical spray-type dishwashing machines under large volume, institutional dishwashing conditions.
  2. Product shall include detergent builders to promote emulsification, deflocculation, and sequestration.
  3. Product shall incorporate a metal inhibitor to prevent corrosion of soft metals.
  4. Product shall be formulated for and completely soluble in all types of water hardness.
  5. Product performance must be equivalent to a product conforming to the following:
    - a. Total alkalinity: 5.0% to 6.0% as NA20
    - b. Phosphate as P205: 3.2% to 5.0%
    - c. Available chlorine: 2.2% to 3.0%
    - d. Free caustic @ NAOH: 2.5 maximum
    - e. PH of a 1.0% solution: 10.6 to 11.
- iii. Detergent for Mechanical Pot and Pan Washing Machines
1. Product shall be nonabrasive solid detergent specifically formulated for use in mechanical pot-washing machines and other similar heavy-duty applications.
  2. Product shall be designed specifically for dispensing directly into the machine from the shipping container. The dispenser should provide a proactive alert system for use in controlling the product use, monitoring temperatures and machine on time.
  3. Product shall incorporate a foam inhibiting agent to assure adequate wash pressures when used in dishwashing machines.
  4. Product shall be suitable for use in institutional mechanical spray-type dishwashing machines under those conditions requiring this type of product.
  5. Product shall be formulated for and completely soluble in all types of water hardness.
  6. Product performance must be equivalent to a product conforming to the following:
    - a. Total alkalinity: 3.1% as NA20 maximum
    - b. Phosphate as P205: 7.0% minimum
    - c. Nonionic solids: 6% minimum.
    - d. Foam Controller (active): 1.5% to 3.2%
    - e. PH of a 100.0% solution: 12.5 to 13.1.
  7. Stability in storage
    - a. The product concentrate shall remain stable; show no separation nor sediment, sour, change in appearance, gel and not deteriorate nor lose any detergency effectiveness for at least one (1) year when stored in closed shipping

containers at temperatures ranging between 32 degrees F. and 100 degrees F.

iv. Heavy Duty Detergent for Manual Pot and Pan Washing

1. Product shall be a solid concentrate specifically formulated for manual washing of glassware, dishes, silverware and pots and pans.
2. Product shall be formulated for and completely soluble in all water areas.
3. Product shall be safe for use on aluminum and plastic ware and have no deleterious effects on the skin of a normal user.
4. Product performance must be equivalent to a product conforming to the following:
  - a. Total alkalinity @ NA20: 1.0% maximum.
  - b. Total wetting agent (100.0% active): 24.0% to 30.0%
  - c. Total nonvolatile: 25.0% to 31.0%
  - d. PH of concentrate: 7.5 to 9.2
  - e. Inorganic salts: 2.0% maximum
  - f. Phosphate as P205: 3.5% to 4.0%
5. Stability in storage
  - a. The product concentrate shall remain stable; show no separation nor sediment, sour, change in appearance, gel and not deteriorate nor lose any detergency effectiveness for at least one (1) year when stored in closed shipping containers at temperatures ranging between 32 degrees F. and 100 degrees F.

v. Dishwashing Machine Detergent

1. Product shall be a nonabrasive solid concentrate detergent specifically formulated for use in all mechanical dishwashing machines. Product must be capable of providing synergistic detergent action when combined with sodium hypochlorite bleaching solutions and nonionic type rinse additives.
2. Product shall be designed specifically for dispensing directly into the machine from the shipping container. The dispenser should provide proactive alert system for use in controlling product use, monitoring temperatures and machine on time.
3. Product shall be formulated for and completely soluble in all types of water hardness.
4. Product performance must be equivalent to a product conforming to the following:
  - a. Total alkalinity as NA20: 3.2% to 3.7%
  - b. Phosphate as P205: 11.8%
  - c. Available chlorine: 4.8% to 6.0%

- d. Inorganic mineral control and sequestering agents: 20% minimum.
    - e. NTA or EDTA: 0.0%
    - f. Nitrogen: 0.0%
    - g. PH of 1% (distilled water) solution: 10.0 minimum
    - h. PH of concentrate: 13.0 minimum
    - i. Specific gravity: 1.170 minimum
  - 5. Stability in storage.
    - a. The product concentrate shall remain stable; show no separation nor sediment, sour, change in appearance, gel and not deteriorate nor lose any detergency effectiveness for at least one (1) year when stored in closed shipping containers at temperatures ranging between 32 degrees F. and 100 degrees F.
- vi. Liquid Sanitizer for Use in Low-Temp Chemical Sanitizing Dishwashing Machines
  - 1. Product shall be a high purity sanitizing and bleaching product which contains not less than 5% sodium hypochlorite by weight. This product shall be rapidly and completely soluble in hard or soft water in all proportions and shall be suitable for dispensing directly from its container into the dishwashing.
  - 2. Product t shall be registered with the U.S. Environmental Protection Agency.
  - 3. Product t shall be registered as acceptable under the U.S.D.A. Meat, Poultry, Rabbit and Egg Products Inspection Programs.
  - 4. Product performance must be equivalent to a product conforming to the following:
    - a. Sodium hypochlorite by weight: 5.0% to 5.8%
    - b. Specific gravity: 1.056 to 1.067
    - c. Weight per gallon: 8.80 lbs. to 8.90 lbs.
  - 5. Stability in storage
    - a. The product concentrate shall remain stable; show no separation nor sediment, sour, change in appearance, gel and not deteriorate nor lose any detergency effectiveness for at least one (1) year when stored in closed shipping containers at temperatures ranging between 32 degrees F. and 100 degrees F.
- vii. Solid Detergent for Low Temperature Chemical Sanitizing Dishwashing Machines
  - 1. Product shall be nonabrasive solid free-flowing homogeneous built detergent specifically formulated for use in mechanical pot-washing machines and other similar heavy-duty applications. Product shall be designed specifically for dispensing directly into

the machine from the shipping container. The dispenser should provide a proactive alert system for use in controlling product use, monitoring temperatures, and machine on time.

2. Product shall incorporate a foam inhibiting agent to assure adequate wash pressures when used in dishwashing machines.
3. Product shall be suitable for use in institutional mechanical spray-type dishwashing under those conditions requiring this type of product.
4. Product shall be formulated for and completely soluble in all types of water hardness.
5. Product performance must be equivalent to a product conforming to the following:
  - a. Total alkalinity as NA2O: 3.2% to 3.7%
  - b. Phosphate at P2O5: 11.8%
  - c. Available chlorine: 4.8% to 6.0%
  - d. Inorganic mineral control and sequestering agents: 20.0% minimum.
  - e. NTA or EDTA: 0.0%
  - f. Nitrogen: 0.0%
6. Stability in storage
  - a. The product concentrate shall remain stable; show no separation nor sediment, sour, change in appearance, gel and not deteriorate nor lose any detergency effectiveness for at least one (1) year when stored in closed shipping containers at temperatures ranging between 32 degrees F. and 100 degrees F.

viii. Rinse Additives

1. Product shall be a solid concentrate, nonionic drying agent formulated specifically for use in the final rinse of all mechanical spray-type dishwashing machines to promote low-residue rinsing.
2. Product shall provide acceptable sheeting ability on china, stainless steel and melamine surfaces and be non-foaming in a dishwasher at 50 - 200 PPM with usual soil conditions at temperatures greater than 140 ° F.
3. Product shall be formulated for and completely soluble in all types of water hardness.
4. Product performance must be equivalent to a product conforming to the following:
  - a. Alcohol, glycol, and/or other aromatic solvents: 5.0% maximum.
  - b. Heavy metals: 50 PPM maximum
  - c. PH of 100.0% solution: 6.8 to 7.2

- d. Isooctylphenoxy polyethoxy ethanol: 7.0% minimum, 20.0% maximum
  - e. Other active non-volatiles: 13.0% minimum, 15.0% maximum.
  - f. Total active ingredients not to exceed: 25.0%
- 5. Stability in storage
  - a. The product concentrate shall remain stable; show no separation nor sediment, sour, change in appearance, gel and not deteriorate nor lose any detergency effectiveness for at least one (1) year when stored in closed shipping containers at temperatures ranging between 32 degrees F. and 100 degrees F.
- ix. Rinse Additive for Low Temperature Chemical Sanitizing Dishwashing Machine
  - 1. Product shall be a concentrated liquid or solid for use in a dishwashing machine by means of an injector system. It shall be non-corrosive and shall contain at a maximum 5.0% alcohol or aromatic solvents. It shall have a foam depressing ability and shall be able to function effectively in soft or hard water.
  - 2. The chemical analysis must be in the following ranges:
    - a. Cloud point in concentrated product: 118 degrees F. to 128 degrees
    - b. Haze point of 100.0% solution: 40 degrees F. minimum
    - c. Specific gravity at 25 degrees C.: 1.012 to 1.030
    - d. PH of 1.0% solution of distilled water: 7.0 to 8.2.
- x. Lime Solvent Detergent
  - 1. Product shall be a nonabrasive, uniform liquid concentrate, acidic detergent specifically formulated to remove lime, food, film, and scale from stainless steel, aluminum, ceramic, glass, plastic, and concrete surfaces with no significant deleterious effects.
  - 2. Wetting agent shall be of low-foaming type to prevent excessive foaming and/or aeration while being pumped and/or recirculate.
  - 3. Product shall be formulated for and completely soluble in all types of water hardness.
  - 4. Product performance must be equivalent to a product conforming to the following:
    - a. Nonionic synthetic wetting agent (100.0% active): 1.3% minimum
    - b. Total acidic content: 55.0% to 60.0% as H<sub>3</sub>PO<sub>4</sub>
    - c. Heavy metals: 50 PPM maximum
    - d. PH of 0.1% (distilled water) solution: 2.5 to 2.9
    - e. Vehicles and buffering agents: 40.0% to 45.0%
  - 5. Stability in storage

- a. The product concentrate shall remain stable, show no separation or sediment, sour, change in appearance, gel and not deteriorate or lose any detergency effectiveness for at least one (1) year when stored in closed shipping containers at temperatures ranging between 32 ° F. and 100 °F.
- xi. Liquid, Quaternary Non-rinse Sanitizer for Hand Ware washing
  1. Liquid product shall be for use on any food contact surface not requiring a rinse.
  2. Product shall be non-corrosive and non-injurious to metal or plastic surfaces.
  3. Product to be used for sanitizing, disinfecting, and deodorizing in food service operations.
  4. Products to be approved effective in use dilution test on staphylococcus aureus, salmonella, choleraesuis and pseudomonas aeruginosa at 400 PPM active quaternary.
  5. Product performance must be equivalent to a product conforming to the following:
    - a. PH (100.0%): 7.9
    - b. PH (1.0%):7.6
    - c. Specific gravity: 0.9925
    - d. Active quaternary: 10.0%
- xii. Presoak and De-staining Agent
  1. Product shall be a homogeneous nonabrasive, non-corrosive, low foaming liquid or solid stain removal and soaking compound specifically formulated to remove coffee, tea and food stains for plastic ware, china, and metal surfaces.
  2. Product shall be formulated for and completely soluble in all types of water hardness.
  3. Product shall contain no chlorine releasing compounds nor other substances which may adversely affect melamine, plastic, or aluminum surfaces.
  4. Product performance must be equivalent to a product conforming to the following:
    - a. Total alkalinity as NA20: 3.7 maximum
    - b. Nonionic content: 4.5% to 5.0% by weight
    - c. Phosphates as P205: 6.5% to 7.5%
    - d. PH of 1.0% (distilled water) solution: 10.0 to 11.0
    - e. Anionic phosphate ester: 2.0% minimum
  5. Stability in storage
    - a. The product concentrate shall remain stable; show no separation or sediment, sour, change in appearance, gel and not deteriorate nor lose any detergency effectiveness for at

least one (1) year when stored in closed shipping containers at temperatures ranging between 32 ° F. and 100 ° F.

xiii. Silverware Presoak

1. The product shall be a 100.0% active solid presoak in a solid capsule equipped with a handle for ease in handling.
2. The solid product shall contain active enzymes to break down stubborn food soil.
3. The capsule shall be designed to eliminate misuse by employees. To provide maximum safety and control of detergent usage and costs.
4. The solid presoak shall be metal safe and shall de-tarnish silver and eliminate stainless steel haze.
5. The solid presoak shall be fed and controlled by a system to dispense the exact amount of presoak needed for soak tanks or bus pans of any size.
6. The solid product must meet the following characteristics:
  - a. PH of 1.0% solution: 10.8 - 11.3
  - b. Enzymes (protease): 10,000 to 20,000 units per gram
  - c. Appearance and odor: Blue solid
  - d. Phosphate as P: Less than 8.7% P
  - e. Active alkalinity: 6.0% - 9.5%
  - f. Biodegradable: Yes
  - g. Wetting: 3.5% - 6.0%
  - h. Carbonate as CO<sub>2</sub>: 6.5% - 10.5%
  - i. Total alkalinity: 16.0% - 21.0%
  - j. Non-phosphate water conditioners: Present

c. Dispenser Services

- i. Contractor should supply any equipment necessary for the “cost efficient” dispensing of all products in this proposal. The equipment should employ the latest changes and improvements necessary for the “cost efficient” dispensing of all products.
- ii. Dish machine dispensing equipment must be approved by the Board of Health and carry N.S.F. and UL Seals of Approval. **Supplier(s) must attach a detailed description of the dispensing equipment.** The equipment must meet all plumbing, electrical and Board of Health approvals and must be approved by the National Sanitation Foundation. The equipment must be state of the art and kept currently updated to always offer to each institution the latest in technology to ensure proper use cost control.
- iii. Such features as “trituration variation by shift” and equipment with “print out capabilities” will be made available to the state agencies at their request to assist them in the use of the successful supplier(s) product.

- iv. Supplier(s) shall calculate all proposal prices in such a manner that the dispensers and technical assistance services complying with the following specifications are provided to all users participating in the contract on a loan-type basis for the term of this contract and at no additional cost to that of products nor with any obligation to the State of Oklahoma.
  - v. Installation of the equipment must be done at the supplier's expense after acceptance.
  - vi. The Supplier(s) shall be responsible for coordinating with the dietary manager, agency engineer and concerned union personnel or their appointed representatives at each agency the installation of dispenser(s). In the event a quantity of previous supplier's products remain unused subsequent to the effective date of this contract, coordination between the new supplier(s) and the dietary manager shall ensure the previous contract's products are completely utilized allowing the previous supplier's dispensers to remain in place before similar products are received from the new supplier(s) and shall further ensure that no interruption of service shall occur during transition. The removal of dispenser(s) shall be coordinated effort between the new and the previous supplier. The previous supplier is to service the equipment once a month until the product is used up.
  - vii. Supplier must provide and install at their own expense, approved proportioners for all products sold to ensure use cost control, eliminate waste, and reduce hazards in the workplace.
  - viii. Approved proportioners must be properly installed and in compliance with local plumbing, electrical, and Board of Health codes.
- d. Service Calls and Technical Assistance
- i. Supplier(s) shall provide a minimum of one (1) service call at intervals not to exceed four (4) weeks during the contract period.
  - ii. Service calls shall be made by representative(s) of the product manufacturer who shall have been technically trained and employed by the manufacturer for a period of not less than one (1) year during which the representatives' responsibility shall have been the servicing of institutional dishwashing equipment.
  - iii. Supplier(s) **provide a list of all sales and service personnel operating in the State of Oklahoma with their proposal.** List the names, addresses and phone numbers (to include emergency service numbers) of the service representatives that reside in the eight (8) respective regions of the State. Please match the appropriate names with the designated region.
- | REGIONS | COUNTIES  |
|---------|---|
| Zone 1  | Wagoner, Cherokee, Okmulgee, Muskogee, Adair, Sequoyah, McIntosh, & Haskell |

Zone 2	Pittsburg, Latimer, Le Flore, Atoka, Bryan, Pushmataha, Choctaw, McCurtain, & Marshall
Zone 3	Lincoln, Okfuskee, McClain, Cleveland, Pottawatomie, Seminole, Hughes, Garvin, Pontotoc, Coal, & Johnston
Zone 4	Grant, Kay, Garfield, Noble, Payne, Logan, Kingfisher, Canadian, & Oklahoma
Zone 5	Dewey, Blaine, Roger Mills, Custer, Washita, Beckham, Greer, Kiowa, Harmon, Jackson, & Tillman
Zone 6	Major, Alfalfa, Woods, Woodward, Ellis, Harper, Beaver, Texas, & Cimarron
Zone 7	Caddo, Grady, Comanche, Cotton, Stephens, Jefferson, Murray, Carter, & Love
Zone 8	Washington, Nowata, Craig, Ottawa, Rogers, Mayes, Delaware, Tulsa, Creek, Pawnee, & Osage

- iv. Supplier(s) representative(s) shall be solely responsible for coordinating the service visit(s) with the dietary manager and for ensuring that any or all of the following services are provided to the manager's satisfaction while the agency is utilizing the supplier's products.
1. Inspect and properly maintain all dispensing equipment.
  2. Inspect dishwashing equipment in operation at the agency as to functioning of mechanical parts, gauges, valves, cleanliness of wash arms and rinse nozzles. Provide adjustments as necessary and clean the interior of all the equipment's dispensers and mechanical parts.
  3. Check the solutions on each machine for optimum concentration and temperature.
  4. Render all other services normally provided other customers which shall include instruction on necessary equipment maintenance procedures to be followed by agency personnel between the regular service calls.
  5. At the time of each service (and emergency) visit, a written report in triplicate on the contractor's standard form shall be completed. One copy shall be retained by the participating state agency, the second copy for the supplier's file and the final copy to be submitted to the Office of Management and Enterprise Services Central Purchasing Division on a quarterly basis along with the quarterly usage reports.

6. **Supplier must submit a sample report with the proposal.**

Additionally, as requested by the agency and within twenty-four (24) hours of such request, the supplier shall provide any and all emergency repair service(s) to dispenser(s) and/or dispenser installation(s) to include all parts and labor.

e. **Service Response**

- i. Supplier(s) should supply twenty-four (24) hour service response to the needs of the agencies by having customer service available twenty-four (24) hours a day every day.
- ii. Agencies should expect a return call within two (2) hours of a call generated by the supplier's customer service center.
- iii. Agencies should expect a resolution of service issues within twenty-four (24) hours of the initial call generated to the supplier. If a resolution is not achieved in the twenty-four (24) hour period, a written plan of action should be agreed upon by both the agency and the supplier as to the nature of the problem and the expected time of completion of any necessary repair(s) or improvement(s).
- iv. If the service response or equipment down time exceeds one day due to the fault of the supplier, an appropriate refund must be credited to the account by the supplier based on the added cost of labor to wash by hand and any other additional related extra expense such as the use and substitution of paper products that must be compensated for.
- v. Service must be prompt and satisfactory; otherwise, the contract may be cancelled for nonperformance.
- vi. Service specialists must provide in-house training and instructions on the proper use of the equipment.
- vii. Suppliers must be well versed and capable of conducting OSHA and Right to Know information classes as it relates to their products in the workplace.

f. **Packaging**

- i. Packaging shall be in manufacturer's standard new containers sufficiently durable to ensure safe delivery and the construction and labeling of which shall allow ready acceptance by common carriers regularly engaged in interstate commerce.
- ii. All containers specified herein shall be so designed and constructed that the product shall not affect, nor shall it be affected by the containers in which it is furnished. Containers shall not have defects affecting serviceability such as rust spots, dents, and weak seams.

g. **Labeling**

- i. Permanently affixed to each container and to each case shall be the manufacturer's standard identification commercial typeset label which shall follow the Federal Hazardous Substances Labeling Act and applicable to O.S.H.A. requirements.

- ii. The label shall be in acid resistant ink, Dennison thermiage or be such that the label will resist deterioration and remain legible throughout the using period of the contents.
- iii. The label shall clearly indicate at least the following:
  - 1. Generic identification of the product therein.
  - 2. Name and address of the manufacturer.
  - 3. Trade/brand name of the product therein.
  - 4. Warning statement and precautionary handling instructions.
  - 5. Supplier shall supply a poison control number for chemical emergencies on all containers of product ensuring quick and easy access to help in the event of a chemical emergency.
  - 6. Recommended antidotal action information as required.
  - 7. The statement: "Protect from Freezing" (as applicable).
  - 8. Manufacturer's directions for use in detail.
  - 9. Net contents in U.S. standard pounds, ounces, gallons, or fluids.
  - 10. Active ingredient claims as required.
  - 11. EPA registration number as required.
- h. Packaging of Deliveries
  - i. Packaging of product(s) delivered shall be as contracted.
  - ii. All deliveries shall be clearly marked with the agency purchase order number and labeled as specified herein.
  - iii. Shipments not in accordance with the above may be refused or returned to the supplier freight collect.
- i. Samples
  - i. Samples shall be furnished only at the specific written request of the Central Purchasing Division. Such requests shall be made after the solicitation closing date.
  - ii. Samples requested shall be submitted as directed and must be labeled with the type number, the supplier's name and address and the manufacturer's name and brand.
  - iii. All samples shall be identical in formulation/fabrication to that which the supplier proposed to furnish,
  - iv. Central Purchasing may also select representative samples of product(s) delivered to an agency and submit for analysis.
- j. Testing
  - i. Testing will normally be conducted in accordance with the latest issue of Standard Methods recommended by the A.S.T.M.
  - ii. Testing of chemical requirements will normally be in accordance with the latest issue of Federal Test Methods Standard 536 for the applicable A.S.T.M. Method(s). However, the State reserves the prerogative to use any test method(s) the Central Purchasing Division deems fair and suitable to determine compliance with the specifications herein. In all cases where

material fails to meet the specifications, the cost of testing shall be borne by the supplier; both on samples and delivered material.

k. Poison Control

All products proposed and furnished in fulfilling the terms and specifications of this contract shall be currently and properly on file with the National Clearing House of Poison Control, U.S. Departments of Health, Education, and Welfare, Public Health Service, Food and Drug Administration, 5401 Westbaro Avenue, Bethesda, Maryland 20016, with all data necessary for prompt and correct treatment of accidents to be available from local poison control centers on a 24 hour basis.

l. Documentation

i. All suppliers not quoting the specified product shall submit with their proposal, documentation substantiating product formulation. Acceptable documentation shall only be either of the following:

1. A statement on letterhead stationery signed by both a corporate officer and manufacturer and by the chief chemist of the manufacturer in charge of formulation attesting that all information provided by their firm on detail proposal sheets is current. That no packaging or formulation changes affecting product performance will be made during the contract period without prior written advisement to the Central Purchasing Division and that all products have been marketed nationally with the same brand name and formulation for a period of not less than twelve (12) months prior to the solicitation closing date. (This option is acceptable only if the supplier is a manufacturer).
2. An unaltered photocopy of a report by a national independent testing facility on laboratory letterhead stationery verifying that all ingredient claims made on the detail proposal sheets are current and valid for each product brand name offered. Reports shall be accompanied by a statement from the corporate officer of the manufacturer stating that the testing facility is not allied in any fashion with the supplier/manufacturer.

ii. Proposals shall contain the MSDS sheets for all products quoted in the proposal.

m. Products must be approved by the USDA, EPA and the Poison Control Center and must be verified as being effective. All sanitizers must carry an EPA registration number affixed to the label and be registered by the supplier providing the product.

n. Chemicals cannot be shipped or delivered with food products.

o. Products in conjunction with the equipment must provide satisfactory results.

p. In-house training and instructions on the proper use of the products must be provided by the successful supplier(s) to include "Right to Know" training.

- q. The successful supplier(s) must be well versed and capable of conducting OSHA and Right to Know information classes as they relate to their products in the workplace.
  - r. All containers and labeling must meet DOT approval.
2. Non-Mandatory Specifications
- a. Value-Add  
For additional points, suppliers may submit an outline of how service may be provided. This service may include products or equipment and must be listed in detail. If there is a charge for this service, it must be noted here, otherwise the state will not be responsible for payment for services rendered.

## **ATTACHMENT 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](http://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](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.

## ATTACHMENT C

### 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](mailto: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.



Date: 05/24/2021

State of Oklahoma  
Central Purchasing  
Office of Management and Enterprise Services

RE: Dishwashing and Dietary Cleaning Compounds and Services  
Solicitation Number: 0900000497

## Section 8.2. H. Section Eight: Response to Specifications and Requirements

### Requirements

#### a. Products Offered

*Ecolab acknowledges and adheres to the Requirements for Products Offered*

Ecolab has manufactured the products on this bid for many years, they have also been on the formal agreement with the State of Oklahoma – some of them since 2015, all of them since 2018.

None of the products Ecolab bid are private label.

#### b. Detergent Specifications

*Ecolab acknowledges and adheres to the Requirements for Detergent Specifications*

We closely track every chemistry in our portfolio. Through our Enterprise Resource Planning system, we store and manage raw material and product information in a central database, down to the parts-per million level. The system houses global and regional restricted substance lists, enabling Ecolab to manage existing products and assess new innovations. All of our products are assessed by an expert team of toxicologists and regulatory specialist that not only look at regulations, but the latest science to ensure that our products can be used safely now and in the future. Additionally, data from this system is reviewed by the Chemical Footprint Project, a nonprofit that benchmarks companies as they reduce chemicals of high concern and select safer alternatives.

Ecolab continues to be a leader in providing product and ingredient information over and above regulatory requirements including ingredients in accordance with GHS (Globally Harmonized System of Classification and Labeling of Chemicals), California's Product Right to Know Act (SB-258), the top five ingredients based on New Jersey Right to Know requirements, and specific ingredients of concern via medical professionals.

#### c. Dispenser Services

*Ecolab acknowledges and adheres to the Requirements for Dispenser Services*

Ecolab dispensers meet all specifications in Section C. Our proprietary dispensing equipment can be tailored to the specific operating conditions at each location, Ecolab routine scheduled maintenance ensures all dispensers are functioning as expected, to receive optimal, **cost efficient** results.

Ecolab dispensers are approved by the Board of Health and carry all seals of approval. From the NSF Website: *NSF is concerned about fraudulent downloading and manipulation of website text. Always confirm this information by clicking on the below link for the most accurate information:* <http://info.nsf.org/Certified/food/Listings.asp?Standard=029&Company=14850&>

Ecolab dispensers remain the property of Ecolab at all times, and at the end of all contracts will coordinate to professional remove all equipment. Ecolab installs and maintains dispensing free of charge with the use of Ecolab chemicals.

Please see the attached detailed description of the dispensing equipment, included as attachment 8.2 H c.

#### **d. Service Calls and Technical Assistance**

*Ecolab acknowledges and adheres to the Requirements for Service Calls and Technical Assistance*

Ecolab regular service maintenance is provided free of charge. Please reference Ecolab Kitchen Service Procedures, included as attachment 8.2 H.d1 for an overview of services provided on service visits. Ecolab also provides Emergency Service Visits – available on an as needed basis, that can be requested either via Ecolab customer service (800 352 5326), or on our online Ecolab Customer Connect Portal.

Please see list of all Ecolab Sales and Service personnel operating in the state of Oklahoma, included as attachment 8.2 H.d2.

Please see included Sample Report, included as attachment 8.2 H.d3.

#### **e. Service Response**

*Ecolab acknowledges and adheres to the Requirements for Service Response*

Our service organization is set up to ensure our customers have the highest level of support. Our model ensures that our customers are at the center of the work we do. Our Customer Service center is staffed 24 hours a day, 7 days a week, 365 days a year to answer and convey service requests from the customer directly to the Service Team. When a call is received, that message is paged directly to the responsible Service Specialist. If, at the time of the callback it is determined the matter needs immediate attention, then Ecolab will be at the customer facility within 24 hours or at a mutually agreed upon time by the customer and Ecolab.

At the time of regular service maintenance, Ecolab ensures Right to Know information is posted and understood. Please see included Training Overview included as attachment 8.2 H.e1, for the variety of ways Ecolab associates train employees to ensure safe and proper handling of cleaning compounds. This training is included free of charge and ensures your employees are set up for success.

#### **f. Packaging**

*Ecolab acknowledges and adheres to the Requirements for Packaging*

Ecolab invests a significant amount of resources into our Packaging Team in R&D. Not only does Ecolab only ship in new containers that are safe, and durable and pass all DOT shipping

tests, Ecolab uses recycled materials where possible. Ecolab has a long history of minimizing packaging waste through our solids programs (such as APEX™ and Solid Power XL solids), which reduced packaging waste by over 99% from a traditional 5 gallon pail.

#### **g. Labeling**

*Ecolab acknowledges and adheres to the Requirements for Labeling*

An Example of an Ecolab Label is included for reference, attachment 8.2 Hg., all labels are permanently affixed, and follow Federal Hazardous Substances Labeling Act and applicable to O.S.H.A. requirements.

#### **h. Packaging of Deliveries**

*Ecolab acknowledges and adheres to the Requirements for Packaging of Deliveries*

All deliveries will be clearly marked with Purchase Order identification for proper receiving and processing

#### **i. Samples**

*Ecolab acknowledges and adheres to the Requirements for Samples*

Ecolab is happy to provide samples upon request. All items bid are currently in use, and were contracted under State of Oklahoma SW0041.

#### **j. Testing**

*Ecolab acknowledges and adheres to the Requirements for Testing*

#### **k. Poison Control**

*Ecolab acknowledges and adheres to the Requirements for Poison Control*

#### **l. Documentation**

*Ecolab acknowledges and adheres to the Requirements for Documentation*

- Ecolab quoted the specified products on all lines.
  - Ecolab continuously improves formulations to provide the same or superior cleaning ability with providing a more sustainable product line. This means that some products' chemical makeup have evolved. Upgrades to Ecolab packaging or formulation changes solutions in no way negatively affect product performance.
  - Ecolab SDS are included for all products

#### **m. Product approval & verification of effectiveness, USDA, EPA and the Poison Control Center**

##### **a. All sanitizers must be EPA registered**

*Ecolab acknowledges and adheres to the Requirements for Product approval & verification of effectiveness*

Ecolab is a leader in the ensuring clean safe environments and has thorough approval and verification from a variety of sources.

All Ecolab Sanitizers are EPA Registered.

**n. Chemical Delivery**

*Ecolab acknowledges and adheres to the Requirements for Chemical Delivery*

**o. Products and Equipment must provide satisfactory results**

*Ecolab acknowledges and adheres to the Requirements for Products and Equipment must provide satisfactory results*

**p. In-house training**

*Ecolab acknowledges and adheres to the Requirements for In-house training*

Please see included Training Overview included as attachment 8.2 H.e1

**q. OSHA and Right to Know information**

*Ecolab acknowledges and adheres to the Requirements for OSHA and Right to Know information*

Ecolab is an industry leader in training, training of Ecolab employees and training for our Ecolab customers. Right to Know understanding is imperative to safe and effective cleaning procedures.

**r. DOT approval for containers and labeling**

*Ecolab acknowledges and adheres to the Requirements for DOT approval for containers and labeling*

Ecolab products must pass DOT (Department of Transportation) shipping tests to meet legal requirements and ensure transportation and customer safety.

**Non-mandatory specification: Value-Add**

For additional points, suppliers may submit an outline of how service may be provided. This service may include products or equipment and must be listed in detail. If there is a charge for this service, it must be noted here, otherwise the state will not be responsible for payment for services rendered.

***Ecolab will extend its most favorable percentage off list of non-contracted items, that fall within scope of the category offering of this solicitation (Dishwashing and Dietary Cleaning Compounds). Ecolab extends a minimum 25% off list, please reference included Ecolab Price List included as attachment 8.2 J\_ Value Add List Pricing.***

PRICE AND COST

Instructions: Bidders must submit the Exhibit "Price List" with bid response.

All fees associated with these products/services must be included on the sheet at the bottom

Item #	Item ID	Description	Price	Packaging	UOM	Manufacturer Name	Manufacturer part #	Use Cost in ounces per 10 gallons	Dilution Ratio
1	1000030743	Degreaser & oven cleaner	35.93	4 - 1 gallon	case	Ecolab Greasecutter Plus	6119513	Not Applicable	Ready To Use
		Greasecutter Plus #19513 or equal		containers per case					
		4 - 1 gallon containers per case							
2	1000030617	Non Caustic Degreaser	42.62	6 - 32 oz	case	Ecolab Grese Lift	6100284	Not Applicable	Ready To Use
		Grease Lift #6100284 or equal		containers per case					
		6 - 32 oz containers per case							
3	1000030618	Non Caustic Degreaser				<b>NO BID - Product is not available in this size</b>			
		Grease Lift #6100319 or equal							
		35 - 4 oz containers per case							
4	1000030619	High Performance Clinging Gel Degreaser	59.33	4 - 1 gallon	case	Ecolab Grease Strip Plus	6119505	Not Applicable	Ready To Use
		Grease Strip Plus #19505 or equal		containers per case					
		4 - 1 gallon containers per case							
5	1000030620	High Performance Clinging Gel Degreaser	36.82	6 - 32 oz	case	Ecolab Grease Strip Plus	6129777	Not Applicable	Ready To Use
		Grease Strip Plus #29777 or equal		containers per case					
		6 - 32 oz. containers per case							
7	1000004090	Detergent for low temperature chemical sanitizing dishwashing machines	52.16	4 - 6.75 lb	case	Ecolab Apex Power Plus	6117091	0.19319	1.6 oz per 10 gallons
		Apex Power Plus #17091 or equal		containers per case					
		4 - 6.75 lb containers per case							
8	1000009901	Machine Detergent, non abrasive solid concentrate,	77.25	4 - 9 lb containers	case	Ecolab Solid Power XL	6100185	0.23470	1.75 oz per 10 gallons
		Solid Power XL #6100185 or equal							
		4 - 9 lb containers per case							
9	1000030621	Detergent for low temperature chemical sanitizing dishwashing machines	71.27	6 - 6.75 lb	case	Ecolab Apex Power	6117062	0.13748	1.25 oz per 10 gallons
		Apex Power # 17062 or equal		containers per case					
		6 - 6.75 lb.containers per case							

10	1000030622	Detergent for low temperature chemical sanitizing dishwashing machines	52.25	4 - 6.75 lb	case	Ecolab Apex Power	6117063	0.15119	1.25 oz per 10 gallons
		Apex Power # 17063 or equal		containers per case					
		4 - 6.75 lb. containers per case							
11	1000009900	Detergent, Mechanical, pot pan washing machines	81.39	4 - 8 lb	case	Ecolab Solid Metal Pro	6110751	0.27819	1.75 oz per 10 gallons
		Solid Metal Pro #10751 or equal		containers per case					
		4 - 8 lb. containers per case							
12	1000002479	Heavy duty liquid detergent for manual pot & pan washing	101.39	4 - 5 lb.	case	Ecolab Solitaire	6117301	0.11882	0.375 oz per 10 gallons
		Solitaire #17301 or equal		containers per case					
		4 - 5 lb. containers per case							
13	1000030623	Pot and Pan soak agent	150.35	6 - 5 lb	case	Ecolab Apex Pot & Pan	6100090	1.25292	4 oz per 10 gallons
		Apex Pot & Pan Soak #610090 or equal		containers per case		PreSoak			
		6 - 5 lb containers per case							
14	1000030624	Pot and Pan soak agent	75.14	3 - 5 lb	case	Ecolab Apex Pot & Pan	6100089	1.25233	4 oz per 10 gallons
		Apex Pot & Pan Soak #610089 or equal		containers per case		PreSoak			
		3 - 5 lb containers per case							
15	1000030625	Concentrated Liquid Detergent, ready to use	100.16	2 - 1 gallon	case	Ecolab Scout	6110906	0.09781	0.5 oz per 10 gallons
		Scout #10906 or equal		containers per case					
		2 - 1 gallon containers per case							
16	1000030626	Liquid Manual Warewashing Detergent	71.85	5 gallon pail	pail	Ecolab Pantastic	6112971	0.06960	0.62 oz per 10 gallons
		Pan Dandy # 11288 or equal							
		5 gallon container							
17	1000030627	Liquid Manual Warewashing Detergent	38.56	4 - 1 gallon	case	Ecolab Pan Dandy	6111262	0.22594	3 oz per 10 gallons
		Pan Dandy # 11262 or equal		containers per case					
		4 - 1 gallon containers per case							
18	1000002567	Chlorine sanitizer for low temperature chemical sanitizing dishwashing machines	27.09	5 gallon pail	pail	Ecolab Ultra San	6113961	0.06349	1.5 oz per 10 gallons
		Ultra San #13961 or equal							
		5 lb. container							

19	1000030628	Liquid Chlorine sanitizer and Destainer for low temperature warewashing machines	20.85	4 - 1 gallon	case	Ecolab Eco San	6113979	0.06108	1.5 oz per 10 gallons
		Eco San #13979		containers per case					
		4 - 1 gallon containers per case							
20	1000030629	Metal-Safe Dish Machine Detergent	76.93	4 - 6.75 lb	case	Ecolab Apex Metal Pro	6110354	0.35616	2 oz per 10 gallons
		Apex Metal Pro #10354 or equal		containers per case					
		4 - 6.75 lb containers per case							
21	1000003730	Rinse Additive for Dishwashing Machines	138.45	2 - 2.5 lb	case	Ecolab Solid Brilliance	6125395	0.05538	0.032 oz per 10 gallons
		Solid Brilliance #25395 or equal		containers per case					
		2 - 2.5 lb. containers per case							
22	1000030630	Rinse additive for low temperature dishwashing machines	73.50	5 gallon pail	pail	Ecolab Rinse Dry	6110934	0.00379	0.033 oz per 10 gallons
		Rinse Dry #10934 or equal							
		5 gallon container							
23	1000003303	Rinse additive for low temperature dishwashing machines	90.51	4 - 1 gallon	case	Ecolab Rinse Dry	6110942	0.00583	0.033 oz per 10 gallons
		Rinse Dry #10942 or equal		containers per case					
		4 - 1 gallon containers per case							
24	1000004064	Lime solvent detergent	35.73	4 - 1 gallon	case	Ecolab Lime A Way	6101131	0.69785	10 oz per 10 gallons
		Limeaway #18700 or equal		containers per case					
		4 - 1 gallon containers per case							
25	1000030631	Rinse Additive for Normal Water Conditions	167.16	2 - 2.5 lb	case	Ecolab Apex Rinse	6116811	0.06686	0.032 oz per 10 gallons
		Apex Rinse #16811 or equal		containers per case					
		2 - 2.5 lb. containers per case							
26	1000030614	Rinse Additive and Drying Agent		<b>NO BID - Product is not available in this size</b>					
		Jet Dry #11833 or equal							
		5 gallon container							
27	1000030615	Rinse Additive and Drying Agent	72.67	4 - 1 gallon	case	Ecolab Jet Dry	6111817	0.00908	0.064 oz per 10 gallons
		Jet Dry #11817 or equal		containers per case					
		4 - 1 gallon containers per case							
28	1000030616	Rinse Additive for Problem Water Conditions	127.75	2 - 5 quart	case	Ecolab R/O Free	6117532	0.01317	0.033 oz per 10 gallons
		R/O Free - Rinse #17532 or equal		containers per case					
		2 - 5 quart containers per case							

29	100003415	Quaternary, Non Rinse Sanitizer for hardware washing	87.55	4 - 1 gallon	case	Ecolab Oasis 146	6117781	0.44459	2.6 oz per 10 gallons
		Oasis 146 #17781 or equal		containers per case					
		4 - 1 gallon containers per case							
30	1000030632	Solid Quaternary Sanitizer	69.94	2 - 2 lb	case	Ecolab Apex Solid Quat	6100176	0.03606	0.033 oz per 10 gallons
		Apex Solid Quat Broad Range Sanitizer #6100176 or equal		containers per case		Broad Range Sanitizer			
		2 - 2 lb. containers per case							
31	100009902	Destaining presoak agent	31.14	4 - 1 gallon	case	Ecolab Liquid Assure	6101083	0.04257	0.7 oz per 10 gallons
		Assure Liquid #11486 or equal		containers per case					
		4 - 1 gallon containers per case							
32	100009903	Presoak and destaining agent Silverware Presoak	60.72	2 - 8 lb	case	Ecolab Solid Silver Power	6112922	0.94875	4 oz per 10 gallons
		Solid Silver Power #12922 or equal		containers per case					
		2 - 8 lb. containers per case							
33	1000030633	Presoak for Machine Warewashing	69.51	3 - 4 lb	case	Ecolab Apex PreSoak	6110364	1.08609	3 oz per 10 gallons
		Apex Presoak #10364 or equal		containers per case					
		3 - 4 lb. containers per case							
34	1000030634	Concentrated Coffee and Tea Destainer	39.73	8 - 1.75 lb	case	Ecolab Dip It	6117583	0.88683	5 oz per 10 gallons
		Dip It #17583 or equal		containers per case					
		8 - 1.75 lb. containers per case							
35	1000030635	Energy-Efficient Machine Warewashing	77.15	5 gallon pail	pail	Ecolab Ultra Klene	6112716	0.18082	1.5 oz per 10 gallons
		Ultra Klene #12716 or equal							
		5 gallon container							
36	1000030636	Energy-Efficient Machine Warewashing	86.56	4 - 1 gallon	case	Ecolab Ultra Klene	6113326	0.25359	1.5 oz per 10 gallons
		Ultra Klene #13326 or equal		containers per case					
		4 - 1 gallon containers per case							
37	1000030637	Hard Water Detergent for Machine Warewashing	33.08	4 - 1 gallon	case	Ecolab Super Trump	6112740	0.12922	2 oz per 10 gallons
		Super Trump #12740 or equal		containers per case					
		4 - 1 gallon containers per case							



Jeannette Rubbelke  
BID CONTRACTS MANAGER I

T 952 852 0967  
F 651 306 5429

1 ECOLAB PLACE  
ST. PAUL, MN 55102-1390  
[jeannette.rubbelke@ecolab.com](mailto:jeannette.rubbelke@ecolab.com)

Date: 05/24/2021

**Central Purchasing  
Office of Management and Enterprise Services**

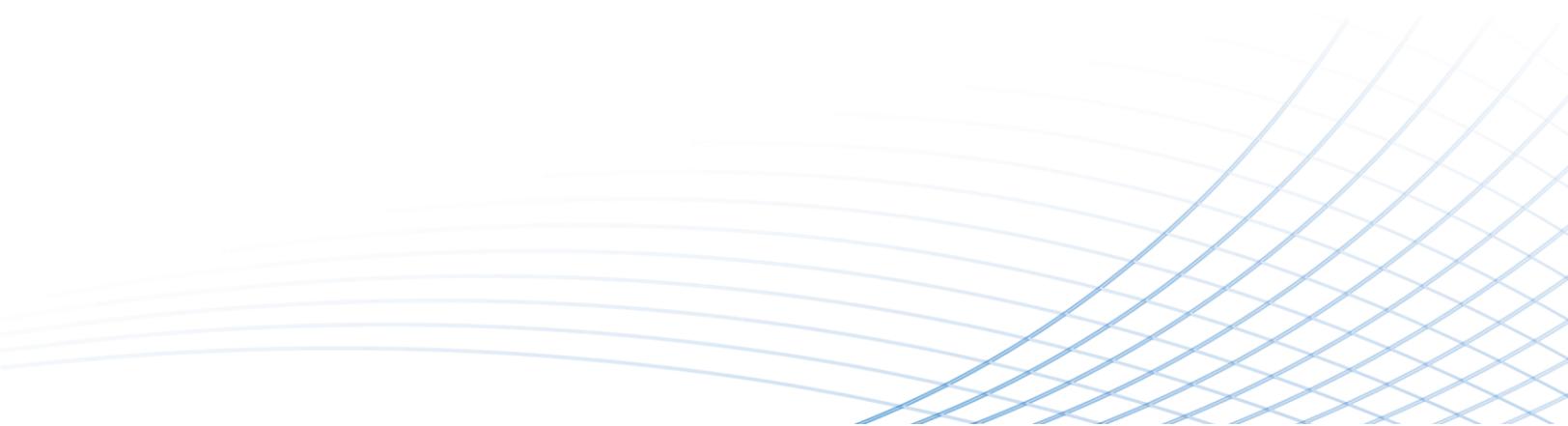
RE: Dishwashing and Dietary Cleaning Compounds and Services  
Solicitation Number: 0900000497

**Section 8.2. J. Section Ten: Offer of Value-Added Products and/or Services**

*For additional points, suppliers may submit an outline of how service may be provided. This service may include products or equipment and must be listed in detail. If there is a charge for this service, it must be noted here, otherwise the state will not be responsible for payment for services rendered.*

Ecolab Value Add Offering:

***Ecolab will extend its most favorable percentage off list of non-contracted items, that fall within scope of the category offering of this solicitation (Dishwashing and Dietary Cleaning Compounds). Ecolab extends a minimum 25% off list, please reference included Ecolab Price List included as attachment 8.2 J\_Value Add List Pricing.***



Ecolab 2020 List Price

PRODUCT CODE	PRODUCT DESCRIPTION	PRODUCT CATEGORY	ECO CERT	Current List Price
6100089	APEX POT & PAN SOAK 3-5LB	MANUAL WAREWASHING		138.26
6100090	APEX POT & PAN SOAK 6-5LB	MANUAL WAREWASHING		268.47
6100118	FAST DRYING RINSE ADD 2-5QT	MACHINE WAREWASHING		422.05
6100155	GREASELIFT 2-2L	KITCHEN HYGIENE		170.74
6100176	APEX QUAT BR RNG SNTZ 2-2LB	KITCHEN HYGIENE		181.4
6100183	SOLID POWER XL 2-9LB	MACHINE WAREWASHING		184.59
6100185	SOLID POWER XL 4-9LB	MACHINE WAREWASHING		329.03
6100283	ANTIMICRO FRUIT&VEG 2.5GL	KITCHEN HYGIENE		159.8
6100284	GREASELIFT RTU 6-32OZ	KITCHEN HYGIENE		109.2
6100316	APEX CHLOR FREE DTRG 4X6.75	MACHINE WAREWASHING	EPA	166.41
6100319	GREASELIFT RTU 35-4OZ	KITCHEN HYGIENE		72.97
6100320	LIQUID P&P DETERGENT 5GL	MANUAL WAREWASHING	EPA	180.75
6100322	DEGREASER 4-1GL	KITCHEN HYGIENE		176.72
6100357	SPECIALTY BEV CLENR 1-100PK	KITCHEN HYGIENE		47.78
6100467	SS CLNR & POLISH 12-17OZ	KITCHEN HYGIENE		194.47
6100521	SOLID RINSE DRY 2-2LB	MACHINE WAREWASHING		852.99
6100536	OASIS 146 MULTI QUAT2.5GL	KITCHEN HYGIENE		149.72
6100606	APEX CHLORFREE DET 4-6.75LB	MACHINE WAREWASHING		224.08
6100607	APEX CHLORFREE DET 6-6.75LB	MACHINE WAREWASHING		289.25
6100704	SPECIALTY OVEN CLEANER 2.5GL	KITCHEN HYGIENE		64.17
6100705	SPECIAL OVN RINSE RTU 2.5GL	KITCHEN HYGIENE		45.22
6100731	SANI WASH N WALK 2.5GL	FLOOR CARE		188.66
6100734	SANI WASH N WALK 15GL	FLOOR CARE		1137.71
6100804	CNTRATED SANT RINSE 2.0 GAL	MACHINE WAREWASHING		140.9
6100823	LIME-A-WAY SELECT 4-1GL	MACHINE WAREWASHING	EPA	122.72
6100968	CON LIQ DM DETEGENT 2.5 GAL	MACHINE WAREWASHING		140.95
6101083	LIQUID ASSURE 4X1 GAL	MANUAL WAREWASHING	EPA	190.56
6101131	LIMEAWAY 4X1 GAL	MACHINE WAREWASHING		157.35
6101133	LIMEAWAY 55 GALLON	MACHINE WAREWASHING		515
6101140	NO RNSE FD CNTACT SANT 2X2L	KITCHEN HYGIENE		114.21
6101141	PTHWYS BEV DRAIN 2X64OZ	KITCHEN HYGIENE		148.63
6101199	SMRTPWR RNSE HD 2X2.5	MACHINE WAREWASHING		584.65
6101200	SMARTPWR DISHMACH HD 4X6.75	MACHINE WAREWASHING		275.23
6101201	SMARTPOWER DM DET 4X6.75 LB	MACHINE WAREWASHING		189.66
6101202	SMARTPOWER DM DET 6X6.75 LB	MACHINE WAREWASHING		241.57
6101203	SMRTPWR RNSE ALL PUR 2X2.5	MACHINE WAREWASHING	EPA	532.24
6101307	SMARTPOWER DM METAL 4X6.25	MACHINE WAREWASHING		223.7
6101308	SMARTPWR DM DET SPEC 4X6.75	MACHINE WAREWASHING	EPA	232.67
6101352	SMRTPWR PRESOAK POT/PAN 6X5	MANUAL WAREWASHING		281.5
6101353	SMRTPWR PRESOAK POT/PAN 3X5	MANUAL WAREWASHING		139.65
6101355	SMARTPOWER SANITIZER 2-2LB	MACHINE WAREWASHING		188.36
6101357	SMARTPOWER DISHMACHINE SANITIZER	MACHINE WAREWASHING		120.88
6101358	SUPER CLING DEGREASE 4X32OZ	KITCHEN HYGIENE		94.77
6101800	PATHWAYS BEV DRN CTRL KIT	KITCHEN HYGIENE		15.42
6101858	MP DIS WIPE 6-185CT	ENVIRONMENTAL HYGIENE		85.51
6101890	SMRTPWR PRESOAK FLTWR 3X4LB	MANUAL WAREWASHING		258.36
6101907	SMARTPOWER MANUAL DET 2X3 LB	MANUAL WAREWASHING		203.83
6101929	XPRS NOBOIL FRY CLNR 4X24OZ	KITCHEN HYGIENE		103.88
6101962	VICTORY - 1-58 FL OZ	KITCHEN HYGIENE		175.1
6102046	SMARTPOWER S&S CLNR SANITIZER 1-2.5 GAL	KITCHEN HYGIENE		213.57
6102047	SMARTPOWER S&S CLNR SANITIZER 4-1 GAL	KITCHEN HYGIENE		366.58
6102048	SMARTPOWER S&S CLNR SANITIZER 2-2 L	KITCHEN HYGIENE		207.88
6102117	SMARTPOWER DM DET 4-6.25lb	MACHINE WAREWASHING		#N/A
6110112	TITAN 2-2GL	KITCHEN HYGIENE		27.4
6110123	GREASE EXPRESS FF 4-1GL	KITCHEN HYGIENE		176.72
6110126	GREASE EXPRESS FF 6-32OZ	KITCHEN HYGIENE		110.71
6110127	GREASE EXPRESS HTGC 6-32OZ	KITCHEN HYGIENE		132.81
6110217	ET PH I RINSE 4X1 GAL	MACHINE WAREWASHING		376.14
6110251	GREASE EXPRESS HTGR 60-3.6OZ	KITCHEN HYGIENE		135.89

Ecolab 2020 List Price

PRODUCT CODE	PRODUCT DESCRIPTION	PRODUCT CATEGORY	ECO CERT	Current List Price
6110256	SOLID SUPER IMPACT 4-9LB	MACHINE WAREWASHING		330.7
6110269	MAN BAR GLS SANT 100-.25OZ	MANUAL WAREWASHING		48.95
6110307	GREASE EXPRESS FC 26-8OZ	KITCHEN HYGIENE		96.94
6110354	APEX METAL PROTECT 4-6.75LB	MACHINE WAREWASHING		230.4
6110362	APEX MANUAL DETERG 2-3LB	MANUAL WAREWASHING		179.47
6110364	APEX PRESOAK 3-4LB	MANUAL WAREWASHING		251.27
6110372	MAN BARGLASS DETERG 100PKTS	MANUAL WAREWASHING		44.15
6110378	GREASE EXPRESS HTGR STRKT	KITCHEN HYGIENE		68.13
6110387	PAN DANDY 15GL	MANUAL WAREWASHING		427.31
6110553	GUARDIAN PLUS 60LB	MACHINE WAREWASHING		384.41
6110625	OASIS 115 XP 2.5GL	KITCHEN HYGIENE		151.54
6110648	OASIS 125 XP 2.5GL	KITCHEN HYGIENE		141.73
6110751	SOLID METAL PRO 4-8LB	MACHINE WAREWASHING		255.26
6110884	SOLITAIRE 2-5LB	MANUAL WAREWASHING		252.44
6110906	SCOUT 2-2GL	MANUAL WAREWASHING		216.8
6110934	RINSE DRY 5 GALLON	MACHINE WAREWASHING		480.91
6110942	RINSE DRY 4X1 GALLON	MACHINE WAREWASHING		525.86
6111262	PAN DANDY 4-1GL	MANUAL WAREWASHING		258.94
6111288	PAN DANDY 5GL	MANUAL WAREWASHING		299.94
6111720	INST FINISH 10-50OZ	MACHINE WAREWASHING		168.16
6111817	JET DRY 4-1GL	MACHINE WAREWASHING		281.08
6112224	GENIE PAC PANTASTIC 530-0.7OZ	MANUAL WAREWASHING		515
6112226	GENIE PAC SOILMASTR 530-0.7OZ	MANUAL WAREWASHING		515
6112260	GENIE SOILMASTER RFL150-.70OZ	MANUAL WAREWASHING		462.16
6112294	GENIE PANTASTIC RFL 180-.70OZ	MANUAL WAREWASHING		173.59
6112716	ET ULTRA KLENE 5GL	MACHINE WAREWASHING		231.5
6112740	SUPER TRUMP 4-1GL	MACHINE WAREWASHING		204.29
6112757	SUPER TRUMP 5GL	MACHINE WAREWASHING		207.48
6112807	ET ULTRA KLENE PLUS 5GL	MACHINE WAREWASHING		344.4
6112922	SOLID SILVER POWER 2-8LB	MANUAL WAREWASHING		287.4
6112963	PANTASTIC 4-1GL	MANUAL WAREWASHING		204.94
6112971	PANTASTIC 5GL	MANUAL WAREWASHING		246.41
6113003	PANTASTIC 9-32OZ	MANUAL WAREWASHING		148.57
6113326	ET ULTRA KLENE 4-1GL	MACHINE WAREWASHING		202.26
6113505	MONSOON 5GL	MANUAL WAREWASHING		300.32
6113722	ET ULTRA DRY 4X1 GAL	MACHINE WAREWASHING		322.46
6113920	ET PH I RINSE ADD 5 GAL	MACHINE WAREWASHING		470.17
6113961	ULTRA SAN (ECOTEMP) 5GL	MACHINE WAREWASHING		176.64
6113979	ECO SAN 4-1GL	MACHINE WAREWASHING		108.47
6114050	BAR DANDY 4-1GL	MANUAL WAREWASHING		233.66
6114126	KLENZ-GLIDE 10 5GL	KITCHEN HYGIENE		286.36
6114415	DECARBONIZER MXP 2-8 LB	MANUAL WAREWASHING		207.66
6114522	OAS 100 NEUT FLR CLN2.5GL	KITCHEN HYGIENE		184.47
6114696	OASIS ENFORCE 2.5GL	KITCHEN HYGIENE		115.84
6114821	SOLID SANI (APEX) 4-1000TAB	MACHINE WAREWASHING		116.41
6115099	HSRA (919552) 5GL	MACHINE WAREWASHING		755.25
6115172	ET ULTRA DRY 4.5 GALLON	MACHINE WAREWASHING		336.06
6115210	CLINGING LIME-AWAY 6-32OZ	MACHINE WAREWASHING		130.95
6115461	KOOL KLENE 4-1GL	KITCHEN HYGIENE		219.46
6115651	ENCOMPASS 4-1GL	KITCHEN HYGIENE		133.93
6115755	APEX RINSE ADDITIVE 2-0.95LB	MACHINE WAREWASHING		190.83
6115905	SOLID LIME-A-WAY 6-1.33LB	MACHINE WAREWASHING		175.8
6115932	VICTORY 2-58OZ	KITCHEN HYGIENE		188.92
6116811	APEX RINSE ADD 2-2.5LB	MACHINE WAREWASHING	EPA	512.57
6116818	APEX HD RINSE ADD 2-2.5LB	MACHINE WAREWASHING		557.58
6117051	APEX ULTRA 4-6.75LB	MACHINE WAREWASHING		265.06
6117062	APEX POWER 6-6.75LB	MACHINE WAREWASHING		336.11
6117063	APEX POWER 4-6.75LB	MACHINE WAREWASHING		224.08
6117091	APEX POWER PLUS 4-6.75LB	MACHINE WAREWASHING		232.29

Ecolab 2020 List Price

PRODUCT CODE	PRODUCT DESCRIPTION	PRODUCT CATEGORY	ECO CERT	Current List Price
6117301	SOLITAIRE 4-5LB	MANUAL WAREWASHING		435.58
6117380	TRIPLET PLUS 50-1OZ	KITCHEN HYGIENE		155.44
6117532	R/O FREE RINSE ADD 2-5QT	MACHINE WAREWASHING		544.01
6117583	DIP IT XP 8 X 1.75 LB	MANUAL WAREWASHING		215.1
6117718	OASIS 146 MULTIQUAT 15GL	KITCHEN HYGIENE		828.4
6117781	OASIS 146 MULTIQUAT 4-1GL	KITCHEN HYGIENE		231.5
6118077	SPEARHEAD 30GL	MACHINE WAREWASHING		1902.51
6118405	OASIS 902 2.5GL	KITCHEN HYGIENE		159.49
6118411	OASIS 904 2.5GL	KITCHEN HYGIENE		233.38
6118424	MEDALLION 6-32OZ	KITCHEN HYGIENE		167.57
6118440	ECO SHINE 6-32OZ	KITCHEN HYGIENE		169.79
6119460	SOLID SOILITE 6-9LB	MACHINE WAREWASHING		601.71
6119505	GREASESTRIP PLUS 4-1GL	KITCHEN HYGIENE		244.67
6119513	GREASECUTTER PLUS 4X1 GL	KITCHEN HYGIENE		173.47
6119554	OAS 100 NEUT FLR CLN15GL	KITCHEN HYGIENE		668.78
6124752	INST FINISH 200-1.5	MACHINE WAREWASHING		219.7
6125395	SOLID BRILLIANCE 2-2.5LB	MACHINE WAREWASHING		538.34
6126444	LIQUID CHAMP 4-1GL	MACHINE WAREWASHING		316.26
6129777	GREASESTRIP PLUS 6-32OZ	KITCHEN HYGIENE		140.95
6129810	PATHWAYS DRAIN TREAT2.5GL	KITCHEN HYGIENE		518.85
6130018	OMEGA SOL MACH DET 8-2.75LB	MACHINE WAREWASHING		204.09
6170101	BURNISHING COMPOUND 4-1GL	MANUAL WAREWASHING		323.47

# Contract ECOLAB SW041 signature pending- Statewide

Final Audit Report

2021-11-15

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