



## **STATE OF OKLAHOMA STATEWIDE CONTRACT WITH IRONCLAD INC.**

This State of Oklahoma Statewide Contract No. 1067 (“Contract”) is entered into between the state of Oklahoma by and through the Office of Management and Enterprise Services and Ironclad, Inc. (“Supplier”) and is effective as of the date of last signature to this Contract. The initial Contract term, which begins on the effective date of the Contract, is one year and there are four (4) one-year options to renew the Contract.

### **Purpose**

The State is awarding this Contract to Supplier for the provision of for the provision of a cloud-based legal process management and management system to support state agencies and other eligible customers, as more particularly described in certain Contract Documents. Supplier submitted a proposal which contained additional terms. This Contract memorializes the agreement of the parties with respect to negotiated 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;
  - 2.2. General Terms, Attachment B;
  - 2.3. Statewide Specific Terms, Attachment C;
  - 2.4. Information Technology Terms, Attachment D;
  - 2.5. Revisions to Portions of the Bid, Attachment E;
    - i. Enterprise Services Agreement, Attachment E-1;
    - ii. Data Processing Addendum, Attachment E-2;
    - iii. Pricing Proposal, Attachment E-3; and
  - 2.6. Negotiated Exceptions to the Contract, Attachment F.

3. The parties additionally agree:


- 3.1. except for and information deemed confidential by the State pursuant to applicable law, rule, regulation or policy, the parties agree Contract terms and information are not confidential and are disclosable without further approval of or notice to Supplier.

Attachments referenced in this section are attached hereto and incorporated herein.

4. 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**

**IRONCLAD, INC.**

By:   
Jerry Moore  
Name: \_\_\_\_\_  
CIO  
Title: \_\_\_\_\_  
03 / 06 / 2023  
Date: \_\_\_\_\_

By: *Sean Cook*  
Sean Cook  
Name: \_\_\_\_\_  
Controller  
Title: \_\_\_\_\_  
03 / 06 / 2023  
Date: \_\_\_\_\_

**ATTACHMENT A**  
**SOLICITATION NO. 0900000557**

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 to ensure compliance with all industry and regulatory data security standards. The solution combines all communications, redlines, and work product together for a collaborative contracting process. The Contract excludes professional and/or consulting 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 four (4) 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.

## **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 debarring 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  
2401 N. Lincoln Blvd., Suite 116  
Oklahoma City, Oklahoma 73105

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

Purchasing Division Deputy General Counsel  
2401 N. Lincoln Blvd., Suite 116  
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 118  
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.



## ATTACHMENT D

### STATE OF OKLAHOMA INFORMATION TECHNOLOGY TERMS

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

#### 1 Definitions

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

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

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

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

## **2 Termination of Maintenance and Support Services**

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

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

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

## **3 Compliance and Electronic and Information Technology Accessibility**

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

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

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

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

#### **5 Offshore Services**

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

#### **6 Compliance with Technology Policies**

- 6.1** The Supplier agrees to adhere to the State of Oklahoma "Information Security Policy, Procedures, and Guidelines" available at [https://omes.ok.gov/s/g/files/gmc316/f/InfoSecPPG\\_0.pdf](https://omes.ok.gov/s/g/files/gmc316/f/InfoSecPPG_0.pdf).

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

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

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

## **7 Emerging Technologies**

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

## **8 Extension Right**

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

## **9 Source Code Escrow**

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

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

## **10 Commercial Off The Shelf Software**

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

## **11 Ownership Rights**

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

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

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

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

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

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

## **12 Intellectual Property Ownership**

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

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

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

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



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

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

## **13     Hosting Services**

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

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

## **14 Change Management**

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

## **15 Service Level Deficiency**

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

## **16 Notices**

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

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

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

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

## **Appendix 1 to State of Oklahoma Information Technology Terms**

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

### **A. Customer Data**

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

### **B. Data Security**

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

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

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

### **C. Security Assessment**

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

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

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

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

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

d. Document all Security Incidents and their outcomes.

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

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

1. Supplier shall (1) cooperate with Customer as reasonably requested by Customer to investigate and resolve the Data Breach, (2) promptly implement necessary remedial measures, if necessary, and (3) document responsive actions taken related to the Data Breach, including any post-incident review of events and actions taken to make changes in business practices in providing the services, if necessary.
2. Unless otherwise stipulated, if a Data Breach is a direct result of Supplier's breach of its obligation to encrypt Personal Data and Non-Public Data or otherwise prevent its release, Supplier shall bear the costs associated with (1) the investigation and resolution of the Data Breach; (2) notifications to individuals, regulators or others required by state law; (3) credit monitoring services required by state or federal law; (4) a website or toll-free numbers and call center for affected individuals required by state law – all not to exceed the agency per record per person cost calculated for data breaches in the United States on the most recent Cost of Data breach Study: Global Analysis published by the Ponemon Institute at the time of the data breach; and (5) complete all corrective actions as reasonably determined by Supplier based on root cause.
3. If a Data Breach is a direct result of Supplier's breach of its obligations to encrypt Personal Data and Non-Public Data or otherwise prevent its release, Supplier shall indemnify and hold harmless the Customer against all penalties assessed to Indemnified Parties by governmental authorities in connection with the Data Breach.

F. **Notices**

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

Chief Information Security Officer

3115 N. Lincoln Blvd

Oklahoma City, OK 73105

and

servicedesk@omes.ok.gov.

## **G. Supplier Representations and Warranties**

Supplier represents and warrants the following:

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

## **H. Indemnity**

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

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

## **I. Termination, Expiration and Suspension of Service**

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

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

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

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

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

c. a combination of the two immediately preceding options.

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

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

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

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

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

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

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



## Appendix 2 to State of Oklahoma Information Technology Terms

### INTRODUCTION

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

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

### CJIS SECURITY POLICY REQUIREMENTS GENERALLY

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

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

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

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

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

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

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

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

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

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

**Attachment E-1 to  
STATE OF OKLAHOMA CONTRACT WITH IRONCLAD, INC.  
RESULTING FROM SOLICITATION NO. 0900000557**

The Enterprise Services Agreement is hereby amended as set forth below and supersedes all prior documents submitted by Ironclad, Inc. or discussed by the parties.

## ENTERPRISE SERVICES AGREEMENT

This Enterprise Services Agreement is entered into by and between Ironclad, Inc. (“**Ironclad**”) and the organization (“**Customer**”) executing an Order Form or similar form referencing or otherwise incorporating this Agreement (“**Order Form**”). This Agreement shall be effective as of the “Effective Date” of the first Order Form between Customer and Ironclad.

### 1. DEFINITIONS

- a. “**Affiliate**” means a legal entity that controls, is controlled by, or is under common control with a party, where “control” is defined as owning more than 50% of the voting shares of such entity.
- b. “**Agreement**” means this Enterprise Services Agreement, any Exhibits, and each Order Form(s). This Agreement is an attachment and incorporated into the Contract.
- c. “**Authorized User**” means an employee or contractor of Customer or its Affiliates that Customer has registered to access and use the Enterprise Services.
- d. “**Confidential Information**” means any business or technical information disclosed by one party to the other party, provided that it is identified as confidential at the time of disclosure or that under the circumstances, a person exercising reasonable business judgment would understand it to be confidential or proprietary. It also means Customer Data.
- e. “**Contract**” means the State of Oklahoma Statewide Contract No. 1067, by and between the State of Oklahoma (by and through the Office of Management and Enterprise Services) and Ironclad, dated 03 / 06 / 2023.
- f. “**Customer Data**” means the data and information input or uploaded into the Enterprise Services by Customer or Authorized Users.
- g. “**Enterprise Services**” means the cloud-based web platform delivered and accessible through <https://www.ironcladapp.com> that provides contract management and workflow-related services (the “**CLM Services**”), and/or the cloud-based web platform delivered and accessible through Ironclad’s website located at: <https://app.pactsafe.com> that provides contract acceptance, clickwrap, and legal term-management-related services (the “**Clickwrap Services**”), and the services performed by Ironclad to configure and rollout the platform(s) to Customer and Authorized Users, as described in an applicable Order Form.
- h. “**Order Form**” means the document that Customer uses to order the Enterprise Services that is signed by both Customer and Ironclad.
- i. “**Intellectual Property Rights**” means patent rights (including, without limitation, patent applications and disclosures), copyrights, trade secrets, moral rights, know-how, and any other intellectual property rights recognized in any country or jurisdiction.

### 2. ENTERPRISE SERVICES

- a. **Enterprise Services.** Customer and its Authorized Users may access and use the Enterprise Services solely for Customer’s own business purposes in accordance with the Agreement.
- b. **Cooperation and Assistance.** Customer will cooperate with Ironclad in good faith and provide to Ironclad the information and personnel that Ironclad reasonably requests and requires to provide the Enterprise Services. Customer, at its option, may utilize certain third-party software and services with the Enterprise Services and is responsible for acquiring and maintaining all such third-party software and services required to access, use, or integrate with the Enterprise Services, including all costs related to the foregoing.
- c. **Authorized Users.** Customer will keep its user IDs and passwords for the Enterprise Services confidential and will be responsible for all actions taken under an Authorized User’s account. Customer will comply with all applicable laws, rules and regulations in connection with its use of the Enterprise Services. Customer will promptly notify Ironclad of any suspected violation of this Agreement by an Authorized User and will cooperate with Ironclad to address the suspected violation. Ironclad may suspend an Authorized User’s

access to the Enterprise Services upon notice to Customer in the event that Ironclad reasonably determines that such Authorized User violated this Agreement.

- d. **Restrictions.** Customer will not allow anyone other than Authorized Users to access or use the Enterprise Services from Customer's accounts. Customer will not and will ensure that its Authorized Users do not: (i) attempt to interfere with or disrupt the Enterprise Services (or any related systems or networks) or use the Enterprise Services other than directly for Customer's benefit; (ii) copy, modify or distribute any portion of the Enterprise Services; (iii) rent, lease, or resell the Enterprise Services; (iv) transfer any of its rights hereunder except as provided in the Contract; or (v) reverse-engineer or access the Enterprise Services in order to build a competitive product or service.
- e. **Customer Data.** Customer is responsible for obtaining any necessary right and licenses for use of the Customer Data by Customer and Ironclad as contemplated in this Agreement. Customer agrees that it has the legal right and authority to access, use and disclose to Ironclad any Customer Data. Customer authorizes Ironclad to access, process, and use the Customer Data as necessary to perform and fulfill its obligations hereunder. Ironclad will process and maintain Customer Data consistent with the Data Processing Addendum attached to the Contract as Attachment E-2.
- f. **Information Security.** Ironclad will use commercially reasonable and industry standard technical and organizational measures designed to prevent unauthorized access, use, alteration or disclosure of the Enterprise Services or Customer Data.
- g. **Usage Data.** Ironclad may collect and analyze data and other information relating to the provision, use and performance of the Enterprise Services and related systems and technologies therefrom ("**Usage Data**") in order to improve and enhance the Enterprise Services. Insights drawn from Usage Data may be disclosed to Customer and other users of the Enterprise Services in connection with their respective use of the Enterprise Services; provided that, if Ironclad discloses insights drawn from Usage Data, then all Usage Data in such disclosures will be anonymized and aggregated, will not identify Customer or Customer's users, and will not be disclosed in a manner that would permit a third party to determine Customer's or Customer's users' identity.
- h. **Electronic Signatures.** Customer acknowledges and agrees that: (i) as between Ironclad and Customer, Customer has exclusive control and responsibility for the content, quality, and format of any documents used with the Enterprise Services; (ii) certain types of documents, agreements, or contracts may be excluded from general electronic signature laws (such as wills, trusts, court orders, or family law matters), or may have specific regulations that are applicable to them; (iii) Customer is solely responsible for ensuring that the documents, agreements or contracts it uses with the Enterprise Services are appropriate for electronic signatures, and Ironclad is not responsible or liable for any such determination or use; (iv) consumer protection laws or regulations may impose specific requirements for electronic transactions involving consumers, Customer is solely responsible for ensuring it complies with all such laws/regulations, and Ironclad has no obligations to make such determination or assist with fulfilling any requirements therein; (v) Ironclad is not responsible for determining how long any contracts, documents, or other records are required to be retained or stored under any applicable laws; and (vi) Ironclad is not responsible for or liable to produce any of Customer's contracts or other documents to any third parties. If Customer is using an API or other service that allows Customer to perform any end user/participant/signer authentication, then Customer is solely responsible and liable for such authentication.

### 3. FEES; EXPENSES; TAXES

- a. **Fees.** Customer will pay to Ironclad the fees due to Ironclad in accordance with the terms set forth in the Contract, the applicable Order Form(s) and this **Section 3**.
- b. **Invoices; Payment.** Unless otherwise set forth in an Order Form, Ironclad will invoice Customer annually in advance for the Enterprise Services and each invoice will be due and payable within forty-five (45) days of receipt by Customer. Other than as provided in the Contract, all payment obligations are non-cancellable, and all amounts paid are non-refundable. If any undisputed amounts payable by Customer are still outstanding more than fifteen (15) days after Customer receives notice of non-payment, Ironclad will be entitled, in its sole

discretion, to withhold performance and discontinue Customer's access to the Enterprise Services until all undisputed amounts past due are paid in full.

c. **Intentionally Omitted.**

4. **PROPRIETARY RIGHTS.**

- a. Customer owns and retains: (i) the Customer Data; (ii) Customer's name, logo and other trademarks; and (iii) all Intellectual Property Rights in and to any of the foregoing.
- b. Ironclad owns and retains: (i) the Enterprise Services, and all improvements, enhancements or modifications made by any party; (ii) the Usage Data; (iii) any software, applications, inventions or other technology developed by Ironclad in connection with providing the Enterprise Services; (iv) Ironclad's name, logo, and other trademarks; and (v) all Intellectual Property Rights in and to any of the foregoing.

5. **CONFIDENTIALITY**

- a. **Use and Nondisclosure.** A receiving party will not use the disclosing party's Confidential Information except as necessary under this Agreement and will not disclose Confidential Information to any third party except: (a) to those of its employees and contractors who have a business need to know such Confidential Information; provided that each such employee and contractor is bound to confidentiality restrictions at least as restrictive as the terms set forth in this Agreement or (b) as further described in the Data Processing Addendum. Each receiving party will protect the disclosing party's Confidential Information from unauthorized use and disclosure using efforts equivalent to the efforts that the receiving party uses with respect to its own confidential information and in no event less than a reasonable standard of care. The provisions of this **Section 5(a)** will remain in effect during the Term and for a period of seven (7) years after the expiration or termination thereof, except with regard to trade secrets of the disclosing party, which will be held in confidence for as long as such information remains a trade secret. After the end of the seven-year period, Ironclad will either promptly return or destroy any of the Customer's Confidential Information still in Ironclad's possession and control.
- b. **Exclusions.** The obligations and restrictions set forth in **Section 5(a)** will not apply to any information that: (i) is or becomes generally known to the public through no fault of or breach of this Agreement by the receiving party; (ii) is rightfully known by the receiving party at the time of disclosure; (iii) is independently developed by the receiving party without access to the disclosing party's Confidential Information; or (iv) the receiving party rightfully obtains from a third party who has the right to disclose such information without breach of any confidentiality obligation to the disclosing party.
- c. **Permitted Disclosures.** The provisions of this **Section 5** will not restrict either party from disclosing the other party's Confidential Information: (i) pursuant to the order or requirement of a court, administrative agency, or other governmental body; provided that to the extent legally permitted, the party required to make such a disclosure gives reasonable notice to the other party to enable it to contest such order or requirement or limit the scope of such request; (ii) on a confidential basis to its legal or professional financial advisors; (iii) as required under applicable securities regulations; or (iv) as described in the Contract, required to be disclosed by Customer under the Oklahoma Open Records Act.
- d. **Injunctive Relief.** The receiving party acknowledges that disclosure of Confidential Information could cause substantial harm for which damages alone may not be a sufficient remedy, and therefore that upon any such disclosure by the receiving party, the disclosing party will be entitled to seek appropriate equitable relief in addition to whatever other remedies it might have at law.

6. **WARRANTY**

- a. **Warranty for Enterprise Services.** Ironclad warrants solely to Customer that (i) the Enterprise Services will materially conform to the description set forth in this Agreement and the Applicable Order Form; and (ii) the Enterprise Services will materially comply with all applicable laws, including federal, state, and local; in each case under normal use and circumstances when used consistently with the terms of this Agreement. As Ironclad's sole and exclusive liability and Customer's sole and exclusive remedy for any breach of the

warranties set forth in this **Section 6(a)** Ironclad will use commercially reasonable efforts to modify the Enterprise Services to correct the non-conformity.

- b. **Disclaimer.** EXCEPT AS EXPRESSLY PROVIDED IN SECTION 6(a) or in the Contract, IRONCLAD MAKES NO REPRESENTATIONS OR WARRANTIES OF ANY KIND WHATSOEVER, EXPRESS OR IMPLIED, IN CONNECTION WITH THIS AGREEMENT OR THE ENTERPRISE SERVICES AND IRONCLAD HEREBY DISCLAIMS ANY IMPLIED WARRANTIES OF MERCHANTABILITY, ACCURACY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT, AND ANY WARRANTIES ARISING FROM COURSE OF DEALING OR USAGE OF TRADE. IRONCLAD DISCLAIMS ANY WARRANTY THAT THE ENTERPRISE SERVICES WILL BE ERROR FREE OR UNINTERRUPTED OR THAT ALL ERRORS WILL BE CORRECTED. NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED FROM IRONCLAD OR ELSEWHERE SHALL CREATE ANY WARRANTY NOT EXPRESSLY STATED IN THIS AGREEMENT. Customer assumes sole responsibility and liability for results obtained from the use of the Enterprise Services and for conclusions drawn from such use. Ironclad will have no liability for any claims, losses, or damages caused by errors or omissions in any Customer Data or other information provided to Ironclad by Customer in connection with the Enterprise Services, so long as not caused by Ironclad, or any actions taken by Ironclad at Customer's direction. Ironclad will have no liability for any claims, losses or damages arising out of or in connection with Customer's or any Authorized User's use of any third-party products, services, software or web sites that Customer may choose to integrate or use with the Enterprise Services.

## 7. TERM AND TERMINATION

- a. **Term.** This Agreement will commence on the Effective Date and continue for the period specified in the Order Form (the "**Term**"), unless terminated earlier as provided in the Contract (including this Agreement).
- b. **Termination for Cause.** Either party may terminate this Agreement upon written notice if the other party breaches any material terms of this Agreement and fails to correct the breach within thirty (30) days following written notice from the non-breaching party specifying the breach.
- c. **Rights and Obligations Upon Expiration or Termination.** Upon expiration or termination of this Agreement, Customer's and Authorized Users' right to access and use the Enterprise Services will immediately terminate and each will immediately cease all use of the Enterprise Services. Upon expiration or termination of this Agreement, Ironclad will deliver a then-current export of the Customer Data to Customer.
- d. **Survival.** The rights and obligations of Ironclad and Customer contained in **Sections 2(g)** (Usage Data), **3** (Fees; Expenses; Taxes), **4** (Proprietary Rights), **5** (Confidentiality), **7(c)** (Rights and Obligations Upon Expiration or Termination), **7(d)** (Survival), **8** (Indemnification), **9** (Limitation of Liability), and **10** (General) will survive any expiration or termination of this Agreement.

8. **INDEMNIFICATION.** Any obligations of Ironclad to defend or indemnify Customer are set forth in Attachment B (State of Oklahoma General Terms) to the Contract.

9. **LIMITATION OF LIABILITY.** Limitations on the parties' liability are set forth in Attachment B (State of Oklahoma General Terms) to the Contract.

## 10. GENERAL

a. **Intentionally Omitted**

b. **Intentionally Omitted**

c. **Waiver.** The waiver by either party of any default or breach of this Agreement will not constitute a waiver of any other or subsequent default or breach. No waiver of any provision of this Agreement will be effective unless it is in writing and signed by the party granting the waiver.

d. **Notices.** Notices will be sent to the addresses set forth in the Order Form and, as applicable, as set forth in the Contract. The notices will be deemed to have been given upon: (i) the date actually delivered in person;

(ii) the day after the date sent by overnight courier; (iii) three (3) days following the date such notice was mailed by first class mail; or (iv) the date sent by email to Ironclad at [legal@ironcladhq.com](mailto:legal@ironcladhq.com) or Customer at the Customer's email address specified in the Order Form.

- e. **Severability.** In the event any provision of this Agreement is held to be invalid or unenforceable, the remaining provisions of this Agreement will remain in full force and effect.
- f. **Intentionally Omitted**
- g. **Relationship Between the Parties.** Nothing in this Agreement will be construed to create a partnership, joint venture or agency relationship between the parties.
- h. **Assignment.** Except as provided in the Contract, neither party may assign its rights or obligations under this Agreement without the other party's prior written consent. Notwithstanding the foregoing, either party may assign its rights and obligations under this Agreement to an Affiliate as part of a reorganization, or to a purchaser of its business entity or substantially all of its assets or business to which rights and obligations pertain without the other party's consent, provided that it complies with the applicable provisions in the Contract and: (a) the purchaser is not insolvent or otherwise unable to pay its debts as they become due; (b) the purchaser is not a competitor of the other party; and (c) any assignee is bound hereby. Other than the foregoing, any attempt by either party to transfer its rights or obligations under this Agreement will be void.
- i. **Intentionally Omitted.**
- j. **Amendment.** This Agreement may not be modified or amended except in a writing signed by a duly authorized representative of each party.
- k. **No Third-Party Beneficiaries.** Other than as identified in the Contract, this Agreement is intended for the sole and exclusive benefit of the signatories and is not intended to benefit any third party. Only the parties to this Agreement may enforce it.



## Exhibit A

### IRONCLAD SERVICE LEVEL AGREEMENT & TECHNICAL SUPPORT SCHEDULE

This Ironclad Service Level Agreement ("SLA") & Technical Support Schedule ("TSS") shall be governed by and incorporated by reference into the Enterprise Services Agreement and the applicable Order Form entered into between the parties. All capitalized terms contained but not defined herein shall have the meaning ascribed to them in the Agreement.

#### A. CLM Services - Service Level Agreement. This Section A shall apply solely to CLM.

##### 1. Defined Terms.

- a. "Emergency Maintenance" means maintenance performed to fix critical functionality, vulnerabilities, or material defects that may substantially impair the usability or performance of the CLM Services.
- b. "Excused Maintenance" means Emergency Maintenance and Scheduled Maintenance.
- c. "Scheduled Availability Time" means twenty-four (24) hours a day, seven (7) days a week, excluding: (i) Excused Maintenance, (ii) any downtime due to defects caused by Customer, one of its vendors, third party connections, utilities, or equipment, or caused by other forces beyond the reasonable control of Ironclad (such as denial of service attacks, internet or third-party service outages or outages with respect to Customer's network or internet access).
- d. "Scheduled Maintenance" is any system maintenance performed during a Maintenance Window. The Maintenance Window, if one is scheduled, will be available at <https://status.ironcladapp.com/> at least two weeks prior to the Maintenance Window.
- e. "Service Credits" are credits for which Customer may be eligible if Ironclad fails to meet the Target Uptime. The availability of the CLM Services per calendar month and corresponding Service Credits are set forth in the table below.

Availability Per Calendar Month	Service Credit
< 99.7% - >= 99.0%	1% of the Annual Subscription Fee
< 99.0% - >= 95.0%	2% of the Annual Subscription Fee
< 95.0%	3% of the Annual Subscription Fee

- f. "Service Credit Request" means a request to Ironclad at [support@ironcladhq.com](mailto:support@ironcladhq.com) stating that Customer believes that Ironclad has failed to meet the Target Uptime.
- 2. Target Uptime. During the Term of the Agreement, Ironclad will use all commercially reasonable efforts to make the CLM Services available and operational to the Customer for 99.7% of the Scheduled Availability Time (the "Target Uptime"). If Ironclad does not meet the Target Uptime, and if Customer meets its obligations below, Customer will be eligible to receive the applicable Service Credits.
- 3. Service Credits. To receive a Service Credit, Customer must issue a Service Credit Request within 7 days of the last day of the month in which Customer believes Ironclad's failure to meet the Target Uptime occurred. Promptly after receipt of a Service Credit Request, Ironclad will investigate the request and notify Customer that either: (i) a Service Credit is due; or (ii) no Service Credit is due and state the basis of this determination. If Ironclad determines a Service Credit is due, then

Ironclad will apply the applicable Service Credits to Customer's account for future fees due. Service Credits have no cash value.

**B. Clickwrap Services - Service Level Agreement.** This Section B shall apply solely to Clickwrap Services.

1. Defined Terms.

- a. "Activity API" means the portions of the Clickwrap Services that programmatically display contracts inside of a web page or mobile app, retrieve acceptance data for individual users, and send acceptance of contracts.
- b. "Emergency Maintenance" means maintenance performed to fix critical functionality, vulnerabilities, or material defects that may substantially impair the usability or performance of the Clickwrap Services.
- c. "Excused Maintenance" means Emergency Maintenance and Scheduled Maintenance.
- d. "REST API" means the portions of the Clickwrap Services that are accessed programmatically for integrations into third party applications.
- e. "Scheduled Availability Time" means twenty-four (24) hours a day, seven (7) days a week, excluding: (i) Excused Maintenance, (ii) any downtime due to defects caused by Customer, one of its vendors, third party connections, utilities, or equipment, or caused by other forces beyond the reasonable control of Ironclad (such as denial of service attacks, internet or third-party service outages or outages with respect to Customer's network or internet access).
- f. "Scheduled Maintenance" is any system maintenance performed during a Maintenance Window. The Maintenance Window, if one is scheduled, will be available at <https://status.pactsafe.com/> at least two weeks prior to the Maintenance Window.
- g. "Service Credits" are credits for which Customer may be eligible if Ironclad fails to meet the Target Uptime. The availability of the Clickwrap Services per calendar month and corresponding Service Credits are set forth in the table below.

Availability Per Calendar Month	Service Credit
< 99.5% - >= 99.0%	1% of the Annual Subscription Fee
< 99.0% - >= 95.0%	2% of the Annual Subscription Fee
< 95.0%	3% of the Annual Subscription Fee

- h. "Service Credit Request" means a request to Ironclad at [support@ironcladhq.com](mailto:support@ironcladhq.com) stating that Customer believes that Ironclad has failed to meet the Target Uptime.
- i. "Application User Interface" means the dashboard portion of the Clickwrap Services accessed via the Internet through a web browser to create and publish contracts, download electronic records of acceptance, and send contracts.

2. Target Uptime. During the Term of the Agreement, Ironclad will use all commercially reasonable efforts to make the Application User Interface, REST API, and Activity API available and operational to the Customer for 99.5% of the Scheduled Availability Time (the "Target Uptime"), as tracked by each such measure on <https://status.pactsafe.com/>. If

Ironclad does not meet the Target Uptime as to any of the three measures, and if Customer meets its obligations below, Customer will be eligible to receive the applicable Service Credits.

3. Service Credits. To receive a Service Credit, Customer must issue a Service Credit Request within 7 days of the last day of the month in which Customer believes Ironclad's failure to meet the Target Uptime occurred. Promptly after receipt of a Service Credit Request, Ironclad will investigate the request and notify Customer that either: (i) a Service Credit is due; or (ii) no Service Credit is due and state the basis of this determination. If Ironclad determines a Service Credit is due, then Ironclad will apply the applicable Service Credits to Customer's account for future fees due. Service Credits have no cash value.

**C. Ironclad Technical Support Schedule.**

1. Maintenance. Ironclad will make available to Customer all generally available updates and bug fixes to the Enterprise Services. Ironclad will take commercially reasonable efforts to perform Scheduled Maintenance during off-peak hours.
2. Support. Ironclad is available to receive Enterprise Services support inquiries via email ([support@ironcladhq.com](mailto:support@ironcladhq.com)). Live Chat support on Clickwrap Services is available through <https://app.pactsafe.com> during support hours. Ironclad's support hours are 08:00 AM to 8:00 PM Eastern Standard Time Monday through Friday (excluding standard U.S. holidays) for technical information, technical advice, and technical consultation regarding Customer's use of the Enterprise Services.
3. Help Center Access. Customer shall have 24x7 access to our online Help Center (<https://support.ironcladapp.com>) for any best practices, integration instructions, or product questions.
4. Email & Web Form Cases. Customer shall have the ability to submit support requests 24x7 through email ([support@ironcladhq.com](mailto:support@ironcladhq.com)) or the web form accessible via the Ironclad website or Help Center (<https://support.ironcladapp.com>).

**Attachment E-2 to  
STATE OF OKLAHOMA CONTRACT WITH IRONCLAD, INC.  
RESULTING FROM SOLICITATION NO. 0900000557**

The Data Processing Addendum is hereby amended as set forth below and supersedes all prior documents submitted by Ironclad, Inc. or discussed by the parties.

Please reach out to your account representative if you need to amend your DPA with Ironclad to include the 2021 EU or UK SCCs.

This Data Processing Addendum (“**Addendum**”) may be referenced and incorporated by reference into an Enterprise Services Agreement (the “**Agreement**”) between Ironclad, Inc. (“**Ironclad**”) and a customer (“**Customer**” (collectively the “**Parties**”)) and the Contract.

1. **Subject Matter and Duration.**

- a. **Subject Matter.** This Addendum reflects the Parties’ commitment to abide by Applicable Data Protection Laws concerning the Processing of Customer Personal Data in connection with Ironclad’s execution of the Agreement. All capitalized terms that are not expressly defined in this Data Processing Addendum will have the meanings given to them in the Agreement. If and to the extent language in this Addendum or any of its Exhibits conflicts with the Agreement, this Addendum shall control.
- b. **Duration and Survival.** This Addendum will become legally binding upon the Effective Date of the Agreement or upon the date upon which both Parties have signed this Addendum, if it is completed after the Effective Date of the Agreement. Ironclad will Process Customer Personal Data until the relationship terminates as specified in the Agreement. Ironclad’s obligations and Customer’s rights under this Addendum will continue in effect so long as Ironclad Processes Customer Personal Data.

2. **Definitions.** For the purposes of this Addendum, the following terms and those defined within the body of this Addendum apply.

- a. “**Applicable Data Protection Law(s)**” means the relevant data protection and data privacy laws, rules and regulations to which the Customer Personal Data are subject. “Applicable Data Protection Law(s)” shall include, but not be limited to, EU General Data Protection Regulation 2016/679 (“GDPR”) principles and requirements, the United Kingdom Data Protection Act 2018, and the California Consumer Privacy Act of 2018 (“CCPA”), and its implementing regulations. For the avoidance of doubt, if Ironclad’s processing activities involving Customer Personal Data are not within the scope of an Applicable Data Protection Law, such law is not applicable for purposes of this Addendum.
- b. “**Customer Personal Data**” means Personal Data pertaining to Customer’s users or employees Processed by Ironclad to provide the Services. The Customer Personal Data and the specific uses of the Customer Personal Data are detailed in **Exhibit 1** attached hereto, as required by the GDPR.
- c. “**Controller**” means the natural or legal person, public authority, agency or other body which, alone or jointly with others, determines the purposes and means of the Processing of Personal Data.
- d. “**Personal Data**” shall have the meaning assigned to the terms “personal data” or “personal information” under Applicable Data Protection Law(s).
- e. “**Process,**” “**Processes,**” “**Processing,**” “**Processed**” means any operation or set of operations which is performed on data or sets of data, whether or not by automated means, such as collection, recording, organization, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination, or otherwise making available, alignment or combination, restriction, erasure, or destruction.
- f. “**Processor**” means a natural or legal person, public authority, agency or other body which Processes Customer Personal Data on behalf of Customer subject to this Addendum.
- g. “**Security Incident(s)**” means the breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to Customer Personal Data Processed by Ironclad.

- h. **“Services”** means any and all services that Ironclad performs under the Agreement.
- i. **“Standard Contractual Clauses”** means the UK Standard Contractual Clauses, and/or the 2021 Standard Contractual Clauses.
- j. **“Third Party(ies)”** means Ironclad’s authorized contractors, agents, vendors and third party service providers that Process Customer Personal Data.
- k. **“UK Standard Contractual Clauses”** means the International Data Transfer Addendum to the EU Commission Standard Contractual Clauses, available at <https://ico.org.uk/for-organisations/guide-to-data-protection/guide-to-the-general-data-protection-regulation-gdpr/international-data-transfer-agreement-and-guidance/> and completed as described below.
- l. **“2021 Standard Contractual Clauses”** means the Standard Contractual Clauses issued pursuant to the EU Commission Implementing Decision (EU) 2021/914 of 4 June 2021 *on standard contractual clauses for the transfer of personal data to third countries pursuant to Regulation (EU) 2016/679 of the European Parliament and of the Council*, available at [http://data.europa.eu/eli/dec\\_impl/2021/914/oj](http://data.europa.eu/eli/dec_impl/2021/914/oj) and completed as described below.

### 3. Data Use and Processing.

- a. Compliance with Laws. Customer Personal Data shall be Processed in compliance with the terms of this Addendum and all Applicable Data Protection Law(s).
- b. Purpose Limitation. Ironclad will not Process Customer Personal Data for any purpose other than for the specific purposes set forth in the Agreement, unless obligated to do otherwise by applicable law. In such case, Ironclad will inform Customer of that legal requirement before the Processing unless legally prohibited from doing so.
- c. Documented Instructions. Ironclad and its Third Parties shall Process Customer Personal Data only in accordance with the documented instructions of Customer. The Agreement, including this Addendum, along with any applicable statement of work, constitute Customer’s complete and final instructions to Ironclad regarding the Processing of Customer Personal Data, including for purposes of the Standard Contractual Clauses. Ironclad will, unless legally prohibited from doing so, inform Customer in writing if it reasonably believes that there is a conflict between Customer’s instructions and applicable law or otherwise seeks to Process Customer Personal Data in a manner that is inconsistent with Customer’s instructions.
- d. Authorization to Use Third Parties. To the extent necessary to fulfill Ironclad’s contractual obligations under the Agreement or any statement of work, Customer hereby authorizes (i) Ironclad to engage Third Parties and (ii) Third Parties to engage subprocessors.
- e. Ironclad and Third Party Compliance. Ironclad agrees to (i) enter into a written agreement with Third Parties regarding such Third Parties’ Processing of Customer Personal Data that imposes on such Third Parties (and their subprocessors) data protection and security requirements for Customer Personal Data that are at least as restrictive as the obligations in this Addendum; and (ii) remain responsible to Customer for Ironclad’s Third Parties’ (and their subprocessors if applicable) failure to perform their obligations with respect to the Processing of Customer Personal Data.
- f. Right to Object to Third Parties. Ironclad’s list of Third Parties that Process Customer Personal Data is available at <https://ironcladapp.com/subprocessors/>. Prior to engaging any new Third Parties that Process Customer Personal Data, Ironclad will notify Customer via email and allow Customer thirty (30) days to object. If Customer has legitimate objections to the appointment of any new Third Party, the parties will work together in good faith to resolve the grounds for the objection for no less than thirty (30) days, and failing any such resolution, Customer may terminate the part of the service performed under the Agreement that cannot be performed by Ironclad without use of the objectionable Third Party. Such termination shall not be considered a default or breach.

- g. Confidentiality. Any person or Third Party authorized to Process Customer Personal Data must agree to maintain the confidentiality of such information or be under an appropriate statutory or contractual obligation of confidentiality.
- h. Personal Data Inquiries and Requests. Upon written request from Customer, Ironclad agrees to provide reasonable assistance and comply with all reasonable instructions from Customer related to any requests from individuals exercising their rights in Customer Personal Data granted to them under Applicable Data Protection Laws (e.g., access, rectification, erasure, data portability, etc.). If a request is sent directly to Ironclad, Ironclad shall promptly notify Customer and shall not respond to the request unless Customer has authorized Ironclad to do so.
- i. Government Access Requests. Unless prohibited by applicable law or a legally-binding request of law enforcement, Ironclad shall promptly notify Customer of any request by **government** agency or law enforcement authority for **access** to or seizure of Customer Personal Data, and shall render reasonable assistance to Customer, if Customer wishes to contest the **access** or seizure.
- j. Data Protection Impact Assessment and Prior Consultation. Upon written request from Customer, Ironclad agrees to provide reasonable assistance at Customer's expense to Customer where, in Customer's judgment, the type of Processing performed by Ironclad is likely to result in a high risk to the rights and freedoms of natural persons (e.g., systematic and extensive profiling, Processing sensitive Personal Data on a large scale and systematic monitoring on a large scale, or where the Processing uses new technologies) and thus requires a data protection impact assessment and/or prior consultation with the relevant data protection authorities.
- k. Sale of Customer Personal Data Prohibited. Ironclad shall not sell Customer Personal Data as the term "sell" is defined by the CCPA.
- l. CCPA Certification. Ironclad hereby certifies that it understands its restrictions and obligations set forth in this Addendum and will comply with them.

#### 4. Cross-Border Transfers of Personal Data.

- a. Cross-Border Transfers of Personal Data. Customer authorizes Ironclad and its Third Parties to transfer Customer Personal Data across international borders, including from the European Economic Area (the "EEA"), the United Kingdom, and Switzerland to the United States, and if Customer's Order Form includes Clickwrap Services, from the United States to Japan. Ironclad and Customer agree to use the Standard Contractual Clauses as the adequacy mechanism supporting the transfer and Processing of Customer Personal Data, as further detailed below. For the avoidance of doubt, Ironclad, as otherwise addressed in the Agreement will provide all services solely from locations within the United States unless otherwise authorized by the Customer.
- b. 2021 Standard Contractual Clauses. For transfers of Customer Personal Data out of the EEA that are subject to Section 4(a) of this DPA, the 2021 Standard Contractual Clauses will apply and are incorporated into this Addendum. For purposes of this Addendum, the 2021 Standard Contractual Clauses will apply as set forth in this Section 4(b). "Module Two: Transfer controller to processor" will apply and all other module options will not apply. Under Annex 1 of the 2021 Standard Contractual Clauses, the "data exporter" is Customer and the "data importer" is Ironclad and the information required by Annex 1 can be found in Exhibit 1. For the purposes of Annex 2 of the Standard Contractual Clauses, the technical and organizational measures implemented by the data importer are those listed in Section 5 of this Addendum. Clause 7 will not apply. For clause 9, the Parties choose Option 2 and the Parties agree that the time period for prior notice of Third Party changes will be as set forth in 3(f) of this Addendum. For clause 11, the optional language will not apply. For clause 17, the Parties choose Option 1 and the Parties agree that the governing law will be the Republic of Ireland. For clause 18, the Parties agree that the courts of the Republic of Ireland will apply for subsection (b).
- c. UK Standard Contractual Clauses. For transfers of Customer Personal Data out of the United Kingdom that

are subject to Section 4(a) of this Addendum, the UK Standard Contractual Clauses will apply and are incorporated into this Addendum. For purposes of this Addendum, the UK Standard Contractual Clauses will apply as set forth in this Section 4(c). For Table 1 of the UK Standard Contractual Clauses, (i) the Parties' details shall be the Parties and their affiliates to the extent any of them is involved in such transfer, including those set forth in Annex 1 of the 2021 Standard Contractual Clauses and (ii) the Key Contacts shall be the contacts set forth in Annex 1 of the 2021 Standard Contractual Clauses. The Approved EU SCCs referenced in Table 2 shall be the 2021 Standard Contractual Clauses as executed by the Parties pursuant to this Addendum. For Table 3, Annex 1A, 1B, and II shall be set forth in Annex 1 of the 2021 Standard Contractual Clauses. For Table 4, either party may end the UK Standard Contractual Clauses as set out in Section 19 of the UK Standard Contractual Clauses.

- d. Switzerland Transfers. For transfers of Customer Personal Data out of Switzerland that are subject to Section 4(a) of this DPA, the 2021 Standard Contractual Clauses will apply and will be deemed to have the differences set forth in this Section 4(d), to the extent required by the Swiss Federal Act on Data Protection ("FADP"). References to the GDPR in the 2021 Standard Contractual Clauses are to be understood as references to the FADP insofar as the data transfers are subject exclusively to the FADP and not to the GDPR. The term "member state" in the 2021 Standard Contractual Clauses shall not be interpreted in such a way as to exclude data subjects in Switzerland from the possibility of suing for their rights in their place of habitual residence (Switzerland) in accordance with Clause 18(c) of the 2021 Standard Contractual Clauses. References to personal data in the 2021 Standard Contractual Clauses also refer to data about identifiable legal entities until the entry into force of revisions to the FADP that eliminate this broader scope. Under Annex I(C) of the 2021 Standard Contractual Clauses (Competent supervisory authority): where the transfer is subject exclusively to the FADP and not the GDPR, the supervisory authority is the Swiss Federal Data Protection and Information Commissioner, and where the transfer is subject to both the FADP and the GDPR, the supervisory authority is the Swiss Federal Data Protection and Information Commissioner insofar as the transfer is governed by the FADP, and the supervisory authority is as set forth in the 2021 Standard Contractual Clauses insofar as the transfer is governed by the GDPR.
- e. Each party's signature to this Addendum shall be considered a signature to the Standard Contractual Clauses. If required by the laws or regulatory procedures of any jurisdiction, the Parties shall execute or re-execute the Standard Contractual Clauses as separate documents. In case of conflict between the Standard Contractual Clauses and this Addendum, the Standard Contractual Clauses will prevail.

## 5. Information Security Program.

- a. Ironclad agrees to implement appropriate technical and organizational measures designed to protect Customer Personal Data as required by Applicable Data Protection Law(s) (the "**Information Security Program**"). Such measures shall be designed to include:
  - i. Pseudonymisation of Customer Personal Data where appropriate, and encryption of Customer Personal Data in transit and at rest;
  - ii. The ability to ensure the ongoing confidentiality, integrity, availability of Ironclad's Processing and Customer Personal Data;
  - iii. The ability to restore the availability and access to Customer Personal Data in the event of a physical or technical incident;
  - iv. A process for regularly testing, assessing and evaluating the effectiveness of Ironclad's Information Security Program to ensure the security of Customer Personal Data from reasonably suspected or actual accidental or unlawful destruction, loss, alteration, unauthorized disclosure or access.

## 6. Security Incidents.



- a. Security Incident Procedure. Ironclad will deploy and follow policies and procedures to detect, respond to, and otherwise address Security Incidents including procedures to (i) identify and respond to reasonably suspected or known Security Incidents, mitigate harmful effects of Security Incidents, document Security Incidents and their outcomes, and (ii) restore the availability or access to Customer Personal Data in a timely manner.
- b. Notice. Ironclad agrees to provide prompt written notice without undue delay and within the time frame required under Applicable Data Protection Law(s) (but in no event longer than forty-eight (48) hours) to Customer's Designated POC upon becoming aware that a Security Incident has taken place. Such notice will include all available details required under Applicable Data Protection Law(s) for Customer to comply with its own notification obligations to regulatory authorities or individuals affected by the Security Incident.

## 7. Audits.

- a. Right to Audit; Permitted Audits. Ironclad shall make available to Customer and its regulators all information necessary to demonstrate compliance with Applicable Data Protection Laws and this Addendum. Customer and its regulators shall have the right to inspect Ironclad's architecture, systems, and documentation which are relevant to the security and integrity of Customer Personal Data, or as otherwise required by a governmental regulator:
  - i. Following any notice from Ironclad to Customer of an actual or reasonably suspected Security Incident involving Customer Personal Data;
  - ii. Upon Customer's reasonable belief that Ironclad is not in compliance with Applicable Data Protection Laws, this Addendum or its security policies and procedures under the Agreement;
  - iii. As required by governmental regulators;
  - iv. For any reason, or no reason at all, once annually.
- b. Audit Terms. Any audits described in this Section shall be:
  - i. Conducted by Customer or its regulator, or through a third party independent contractor selected by one of these parties, and to whom Ironclad does not reasonably object.
  - ii. Conducted during reasonable times.
  - iii. Conducted upon reasonable advance notice to Ironclad.
  - iv. Of reasonable duration and scope and shall not unreasonably interfere with Ironclad's day-to-day operations.
  - v. Conducted in such a manner that does not violate any agreement between Ironclad and its service providers, including cloud providers, or violate or cause Ironclad to violate its reasonable policies related to security and confidentiality.
- c. Third Parties. In the event that Customer conducts an audit through a third party independent auditor or a third party accompanies Customer or participates in such audit, such third party shall be required to enter into a non-disclosure agreement containing confidentiality provisions substantially similar to those set forth in the Agreement to protect Ironclad's and Ironclad's customers' confidential and proprietary information. For the avoidance of doubt, regulators shall not be required to enter into a non-disclosure agreement.
- d. Audit Results. Upon Ironclad's request, after conducting an audit, Customer shall notify Ironclad of the manner in which Ironclad does not comply with any of the applicable security, confidentiality or privacy obligations or Applicable Data Protection Laws herein. Upon such notice, Ironclad shall make any necessary changes to ensure compliance with such obligations at its own expense and without unreasonable delay and shall notify Customer when such changes are complete. Notwithstanding anything to the contrary in the

Agreement, Customer may conduct a follow-up audit within six (6) months of Ironclad's notice of completion of any necessary changes. To the extent that a Customer audit identifies any material security vulnerabilities, Ironclad shall promptly remediate those vulnerabilities.

#### 8. Data Storage and Deletion.

- a. Data Storage. Ironclad will not store or retain any Customer Personal Data except as necessary to perform the Services under the Agreement.
- b. Data Deletion. Ironclad will abide by the following with respect to deletion of Customer Personal Data:
  - i. After ninety (90) calendar days of the Agreement's expiration or termination, Ironclad will securely destroy (per subsection (iii) below) all copies of Customer Personal Data (including automatically created archival copies).
  - ii. Upon Customer's request, Ironclad will promptly return to Customer a copy of all Customer Personal Data within thirty (30) calendar days and, if Customer also requests deletion of the Customer Personal Data, will carry that out as set forth above.
  - iii. All deletion of Customer Personal Data will be conducted in accordance with standard industry practices for deletion of sensitive data.
  - iv. Tapes, printed output, optical disks, and other physical media will be physically destroyed by a secure method, such as shredding performed by a bonded provider.
  - v. Upon Customer's request, Ironclad will provide evidence that Ironclad has deleted all Customer Personal Data. Ironclad will provide the "Certificate of Deletion" within thirty (30) calendar days of Customer's request.

#### 9. Contact Information.

- a. Ironclad and the Customer agree to designate a point of contact for urgent privacy and security issues (a "**Designated POC**"). The Designated POC for both parties are:
  - Ironclad Designated POC: John Fiedler, support@ironcladhq.com
  - Customer Designated POC: The individual and/or email specified in the Notices section of the Agreement.

#### Exhibit 1

1.1 Subject Matter of Processing	The subject matter of Processing is the Services pursuant to the Agreement.
1.2 Duration of Processing	The Processing will continue until the expiration or termination of the Agreement.
1.3 Categories of Data Subjects	<p>Includes the following:</p> <ul style="list-style-type: none"><li>● Prospects, customers, business partners and vendors of Customer (who are natural persons)</li><li>● Employees or contact persons of Customer's prospects, customers, business partners and vendors</li></ul>

	<ul style="list-style-type: none"> <li>• Employees, agents, advisors, freelancers of Customer (who are natural persons)</li> </ul>
1.4 Nature and Purpose of Processing	<p>Includes the following:</p> <p>Nature: Processing of the data uploaded by Customer to Ironclad's contract management SaaS application.</p> <p>The purpose of Processing of Customer Personal Data by Ironclad is the performance of the Services pursuant to the Agreement.</p>
1.5 Types of Personal Information	<p>Includes the following:</p> <ul style="list-style-type: none"> <li>• First and last name</li> <li>• Title</li> <li>• Position</li> <li>• Employer</li> <li>• Contact information (company, email, phone, physical business address)</li> <li>• Identification Data (notably email addresses and phone numbers)</li> <li>• Electronic identification data (notably IP addresses and mobile device IDs)</li> </ul>

**Attachment E-3 to  
STATE OF OKLAHOMA CONTRACT WITH IRONCLAD, INC.  
RESULTING FROM SOLICITATION NO. 0900000557**

The Pricing Response is hereby amended as set forth below and supersedes all prior documents submitted by Ironclad, Inc. or discussed by the parties.

**SW1067 Legal Case  
Management**

<b>Description</b>	<b>Unit of Measure</b>	<b>List Unit Price</b>	<b>Percent off List</b>	<b>Oklahoma Price</b>
<b>Administrator User(Power User/Legal)</b>	<b>1</b>	<b>\$1200 per user per yr</b>	<b>0%</b>	<b>\$1200 per user per yr</b>
<b>Standard User (Business User)</b>	<b>1</b>	<b>\$750 per user per yr</b>	<b>0%</b>	<b>\$750 per user per yr</b>
<b>Premier Success</b>	<b>1</b>	<b>15% of Software Cost, \$,7,500 Annual Minimum</b>		
<b>Enterprise Success</b>	<b>1</b>	<b>20% of Software Cost, \$25,000 Annual Minimum</b>		
<b>Ironclad API Access</b>	<b>1</b>	<b>\$10,000/Annually</b>		
<b>Ironclad Workflow Designer</b>	<b>1</b>	<b>Included in user pricing</b>		
<b>Ironclad Contract Repository with AI</b>	<b>1</b>	<b>Included in user pricing</b>		
<b>Reporting/Visualization</b>	<b>1</b>	<b>Included in user pricing</b>		
<b>Unlimited Contract Workflows</b>	<b>1</b>	<b>Included in user pricing</b>		
<b>OOTB Integrations (E Signature, Cloud Storage, SSO)</b>	<b>1</b>	<b>Included in user pricing</b>		
<b>Ironclad Clickwrap Professional Package</b>	<b>1</b>	<b>\$36,000</b>		
<b>Clickwrap API, JS, and SDK Access</b>	<b>1</b>	<b>Included in package price</b>		
<b>Online Legal Center and Custom Branding</b>	<b>1</b>	<b>Included in package price</b>		

<b>Multi-language and dynamic contract support</b>	<b>1</b>	<b>Included in package price</b>		
<b>Static Contract Records</b>	<b>TBD</b>	<b>\$0.11 per record</b>	<b>Will negotiate discounts based on volume</b>	<b>TBD</b>
<b>Dynamic Contract Records</b>	<b>TBD</b>	<b>\$0.50 per record</b>	<b>Will negotiate discounts based on volume</b>	<b>TBD</b>
<b>Implementation Quickstart</b>	<b>1</b>	<b>\$6,000</b>		
<b>Implementation Launchpad</b>	<b>1</b>	<b>\$6,000</b>	<b>0%</b>	<b>\$6,000</b>
<b>Implementation Accelerate</b>	<b>1</b>	<b>\$15,000</b>	<b>0%</b>	<b>\$15,000</b>

 Ironclad +



OKLAHOMA

## Ironclad Software, Implementation & Customer Success Options



## Ironclad Packages Explained

### Product Plan

- # of Administrators
- # of Standard Seats
- # of Viewer Seats
- # of Instances
- Storage
- API Access
- Integrations

### Success Plan

- Educational resources
- Feature release planning
- Ironclad Success Team
- Technical Support SLAs
- Joint Success Planning
- Business Reviews

### Professional Services

- Implementation Package
- Contract Migration
- Additional Training
- Additional Consultation
- Additional Integration Consultation & Support

Recurring Investments

One-time Investment

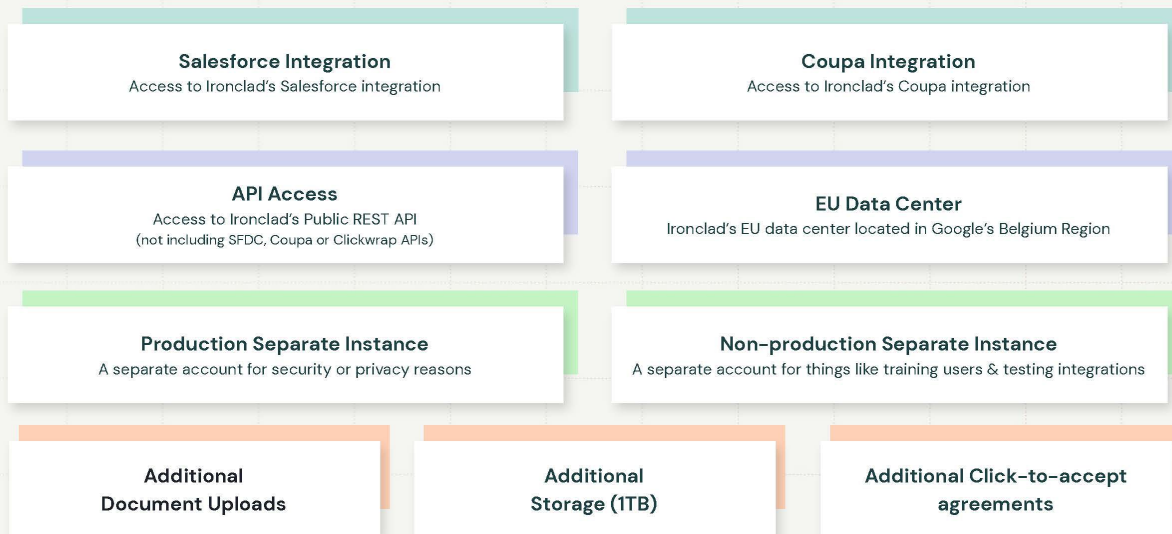


# Ironclad User Types

	Administrator	Standard Seat
View Contract Requests & Repository	✓	✓
Comment (in-doc and activity level commenting)	✓	✓
Sign Contracts (assigned as a signer via Workflow Designer)	✓	✓
Request Contracts (through Ironclad, Salesforce or API)	✓	✓
Negotiate and Redline Agreements (in-doc editing)	✓	✓
Formal Approval (automatic routing defined in Workflow Designer)	✓	✓
Workflow, clause, and template management (In Workflow Designer)	✓	
Manage permissions and settings (if provided Admin role)	✓	
	\$1200 per user per yr	\$750 per user per year



# CLM Add-ons



# Understand your company's contracting needs

## Building a wall to wall contracting program

### Legal

→ Central repository and workflow for all legal documents

### Finance/Accounting

→ Lookup contracts to confirm invoice amounts and schedules  
→ Check and approve based on budget

### Customer Success

### Partnerships

### Compliance

### IT

### Product

### Engineering

### Customer Support

### CISO

### Procurement

→ Review and approve all purchasing activity across company

### Marketing

→ Generate contractor SOWs; identify customers with logo rights

### Human Resources

→ Generate employment documents

### Sales

→ Draft and negotiate contracts with prospects



#### IRONCLAD IN-HOUSE PROFESSIONAL SERVICES IMPLEMENTATION OPTIONS

## Launchpad & Accelerate

Note: For all implementation options not included in Launchpad or Accelerate, Ironclad offers bespoke custom implementation packages, as well as offering an ecosystem of third party implementation consultants certified on the Ironclad platform.





## IMPLEMENTATION

# Launchpad Team & Sessions



### Implementation Consultant

Your point of contact throughout the entire implementation process

DAY 1

#### Welcome

#### Kickoff Prep

**Session 1**  
Kickoff Call and Workflow Designer Walkthrough

#### Customer

##### Homework

- Be prepared with contract templates & business process
- Review deployment guide
- Complete relevant Academy lessons

#### Workflow Build

**Session 2**  
Workflow Designer Build I

**Session 3**  
Workflow Designer Build II

- Appoint a dedicated program manager responsible for workflow builds & continue progress on workflows

#### Iteration

**Session 4**  
Workflow Iteration & Finalization

**Session 5**  
Pre-launch Planning & Admin Setup

- Complete Ironclad Administrator Launch Path in Academy. Set up user groups and permissions + finalize WFs

#### Go-live

**Session 6**  
Project Wrap-up & Transition

- Review and test built workflow(s)
- Develop a Launch Plan

\*Estimated Time Commitment: ~2-4 hrs per week depending on workflow complexity

7



## Launchpad Sessions

Session	Timing	Description
Kickoff Prep	Week 0	Ironclad Implementation team will send the Customer pre-kickoff "homework" including a workflow readiness worksheet, template preparedness details, login credentials for Ironclad, and recommended Ironclad Academy courses.
Kickoff Call and Workflow Designer Walkthrough (One Hour)	Week 1	Ironclad Implementation team will work with the Customer to schedule a kickoff call in which they'll provide an implementation overview, and discuss the business process and desired timeline & goals. Ironclad Implementation team will provide an end to end walkthrough of the platform with Customer's desired template.
Workflow Designer Build Session 1 (One Hour)	Week 2	Ironclad Implementation team will provide an end to end walkthrough of the platform. Customer & Ironclad Implementation team will begin building the Workflow together. Customer will be expected to come prepared with up-to-date template(s) and documented business processes.
Workflow Designer Build Session 2 (One Hour)	Week 3	Customer will continue workflow configuration while Ironclad Implementation team will provide guidance and best practices. This will be done via screen share of Customer's screen. Customer will be expected to have done homework from prior Workflow session to maximize efficiency of meeting time.
Workflow Iteration & Finalization (One Hour)	Week 4	Ironclad Implementation team will work with Customer to finalize the Workflow configuration, ensuring that the Workflow Launch Form, Review Step and Sign Step are completed and built out in an optimal way. Ironclad Implementation team will also provide best practices on file management + storage, Repository access, and workflow roles. Customer will be expected to review workflow end to end to make sure it functions as expected, and falls in line with pre-existing processes.
Pre-launch Planning & Admin Setup (Two 30 min sessions)	Week 5	Ironclad Implementation team will work with Customer to get their Production instance ready for launch. This includes configuring Groups & Permissions as well as Admin settings, testing the integrations, and confirming that the right users have access to the right workflows. Ironclad Implementation team will also provide a toolkit with launch resources, collateral and best practices.
Project Wrap-up & Transition (One Hour)	Week 6	Ironclad Implementation team will conduct one final post-launch check-in meeting to ensure the Workflows are running smoothly before transitioning Customer over to the Digital Success Management team.

8



# Launchpad Roles & Responsibilities

Role	Time Commitment	Responsibilities
Executive Sponsor	1 hour at setup & launch	Set program goals and objectives Provide sign-off on workflow build and rollout strategy
Program Manager	2-4 hours, weekly	Lead deployment activities with Ironclad team. Coordinate with Ironclad on workflow build meetings and working session. It is critical that this individual has bandwidth on a weekly basis to complete Ironclad action items.
Legal Point of Contact	1 hour, weekly	Ensure that workflows are in line with the Customer's legal processes.
Integrations Lead	30 minutes-1 hour, total	Provide appropriate technical information and/or permissions to ensure that cloud storage, eSignature, and SSO integrations* are delivered on time.
Business Representative/Power User	2 hours, total	Provide input in workflow process, and represent business perspective in workflow discussions. Attend a one hour training and then spend one hour testing the workflows.

**\*SFDC Integration Note:** Launchpad customers are entitled to our robust Academy resources and easy to follow, step-by-step instructions for Salesforce integration. 1:1 custom SFDC consultation can be added at a separate cost.

9



IMPLEMENTATION OPTION

## Accelerate

10



# Accelerate Team & Milestones



## Implementation Consultant

Your point of contact throughout the entire implementation process

DAY 1

### Welcome

#### Workflow Readiness + Admin Trainings

**Milestone 1**  
Kickoff Call and Customer Readiness

### Workflow Build

**Milestone 2**  
Workflow Designer Walkthrough & Initial Building

**Milestone 3**  
Workflow Finalization

### Go-live

**Milestone 4**  
Pre-launch Planning & Admin Setup

**Milestone 5**  
User Acceptance Testing

### Adoption

**Milestone 6**  
Adoption Planning and Project Wrap-up

#### Customer Homework (~1-3 hrs per week depending on workflow complexity)

Be prepared with contract templates & business process

Review deployment guide

Complete Academy Courses sent by IC

Learn Workflow Designer by reading content, watching webinar

Co-build workflows with Legal Engineer + continue building outside of sessions.

Set up user groups and permissions + finalize WF

Develop training and deployment plan

Consult with Success Manager on best practices

Build adoption plan & reporting mechanisms

Keep pace with new product features

11



## Accelerate Project Plan

Milestone	Description
<b>0. Workflow &amp; Admin Readiness</b>	Ironclad Implementation team will send the Customer pre-kickoff "homework" including a workflow readiness worksheet, template preparedness details, login credentials for Ironclad, and recommended Ironclad Academy courses to prepare for your workflow build.
<b>1. Welcome!</b>	Kickoff call! Align on Customer's objectives, share implementation methodology and align on key next steps. Overview of Workflow Designer and review Customer's use cases and processes.
<b>2. Workflow Building</b>	Optimize contracting processes and rationalize contract templates using co-build model to ensure solution works for all stakeholders. IC uses Customer business requirements to build v1 of workflow and Customer continues to iterate as homework.. (Repeat for Workflow 2)
<b>3. Workflow Iteration &amp; Repository Setup</b>	Provide soft-launch users access to Ironclad and high-level training. Solicit feedback and decide what to action. Align on record properties to track in Repository.
<b>4. Systems Setup</b>	Setup standard integrations (Google Drive, Okta, DocuSign, SDFC)
<b>5. Launch Planning &amp; Go Live</b>	Determine training schedule and adoption plan. Launch Ironclad training for legal users/admins and business users. Continuously solicit feedback on workflow/process & refine
<b>6. Ongoing Adoption</b>	Subsequent workflows built by customer Program Manager, Ongoing best practices & new Product feature news provided by Ironclad Success Team





# Accelerate Sessions

#	Session	Timing	Description
1	Kickoff & Info Gathering	Week 0-1	Prior to Kickoff Meeting, Customer will provide Ironclad with a copy of a finalized template & documented business process for the highest priority workflow. The Kickoff Meeting will include an intro to Ironclad and an overview of project timelines and an end-to end demo of WFD.
2	Admin Training 1	Weeks 2-3	Ironclad will host two (2) live Admin training sessions. First Admin training session, "Get to Know Ironclad", will provide an overview of Ironclad's interface.
3	V1 of WF built by Ironclad	Week 2	Ironclad IC team builds the first version of the Customer's first Workflow in WFD based on the Customer's Business Requirements.
4	Review & Complete WF 1	Week 3-5	Ironclad IC team will work with the Customer to review and iterate the first Workflow until the workflow is published in the Customer's production environment. Ironclad provides guidance and recommendations for the current workflow and best practices for future workflows.
5	Admin Training 2	Week 5	Second Admin Training, "Design a Workflow and Manage Records", provides an overview of WFD and the Repository.
6	Business Info Gathering for WF 2	Weeks 5-6	Customer will provide Ironclad with a copy of a finalized template & documented business process for the second highest priority workflow. The Ironclad IC team will meet with the Customer to review the submitted Business Requirements relevant to the second Workflow.
7	V1 of WF 2 built by Ironclad	Week 6	Ironclad IC team will build the first version of the Customer's second Workflow in WFD based on the Customer's Business Requirements.
8	Review & Complete WF 2	Week 7-9	Ironclad IC team will work with the Customer to review and iterate the second Workflow until the workflow is published in the Customer's production environment. Ironclad provides guidance and recommendations for the current workflow and best practices for future workflows.
9	SFDC Guided Setup (if needed)	Week 9-10	If the Customer purchased a Salesforce ("SFDC") Integration, the Ironclad IC team will work with the SFDC Admin who will be responsible for self-implementing within its own SFDC instance. The Ironclad IC team will provide self-service materials and documentation to integrate SFDC, and will meet for two (2) sessions to suggest SFDC and Ironclad integration points, and answer related questions.
10	User Acceptance Testing	Weeks 9-11	Ironclad IC team will host one (1) session with the Customer to review UAT feedback and to provide guidance for the Customer to incorporate UAT feedback into the Workflows accordingly.
11	Launch Prep	Week 11	Ironclad IC team will work with the Customer to get their Production instance ready for launch. This includes confirming that the right users have access to the right workflows. Ironclad IC team will also provide a toolkit with launch resources, collateral, and best practices.
12	Completion & Transition	Week 12	Ironclad Implementation team will conduct one (1) final post-launch check-in meeting to ensure the Workflows are running smoothly before transitioning the Customer over to the Digital Success Management ("DSM") team.

## IRONCLAD PROFESSIONAL SERVICES

# Launchpad or Accelerate

	6 Sessions	12 Sessions
<b>Launchpad</b>	<b>Integrations</b>	<b>Accelerate</b>
<b>\$6,000</b>	Cloud storage, eSignature, & SSO	Cloud storage, eSignature, SSO & SFDC
One-time investment	<b>Est. Timeline</b>	One-time investment
6 1:1 collaborative building sessions aimed at enabling you on core product functionality & implementation best practices.	60 Days	90 Days
	Launchpad provides collaborative configuration guidance for straightforward workflows on a speedy timeline, whereas Accelerate provides more hands-on support through our co-build approach.	12 1:1 sessions to scope and then train your team on two workflows built primarily by Ironclad.

# Customer Success: Premier Success

Premier Success is a percentage (15%) of the annual cost of the software .

15



## CUSTOMER SUCCESS

### Premier Success Plan



#### Aligned Success Manager

A CLM adoption expert familiar with your goals will be your main point of contact post implementation

They'll help with:

- Adoption best practices
- Exploring new use cases
- Product feedback/requests
- How-to product questions
- End-user rollout advice



#### Always-on Resources

- Academy
- Community
- In-app guides
- Help Center
- On-demand webinars



#### Strategic Guidance & Best Practices

Join a group training session or schedule a 1:1 call with your ASM



#### Business Review

We'll prepare and conduct an annual business review to align on goals midterm



#### Technical Support

Mon - Fri  
8AM-8PM EST

Cases logged  
in-app or via  
email

2 hr PO response time.

16



# Premier Success Plan – Continued



## **Ironclad Academy**

On-demand learning for admin and business users.



## **Ironclad Community**

Advice and inspiration to advance your contracting process.



## **Always-on Resources**

- In-app guides
- Help Center
- On-demand webinars



## **Technical Support**

Mon – Fri  
8AM – 8PM EST  
Cases logged in-app or via email  
4 hr PO response time.

"What the heck is this Clickwrap thing we're buying?"

## How to talk to your CFO about buying Ironclad Clickwrap

### Comments used by real customers

"Ironclad Clickwrap pays for itself vs. outside counsel cost if we stop **one customer dispute** a year from escalating to litigation."

"Pushing more of our agreements to clickwrap actually decreases our sales cycle time by days to weeks."

"Every contract we clickthrough is one we don't negotiate. We've cut 30% of negotiations, and that's saved us several FTEs."

"We can produce documentable records for SOX audits in a fraction of the time and cost now."

"Asking our devs to build this will delay the project, leave them on the hook to maintain, AND they'll have to certify all the evidence. Think of all the other revenue generating features we'll delay by spending time on that."



Need to put together an ROI worksheet? We can help and have models to share.

### Some benchmarks you can cite, if those don't go far enough

**\$1M** of revenue accelerated by implementing a clickwrap process in five months by Fortune 500 company

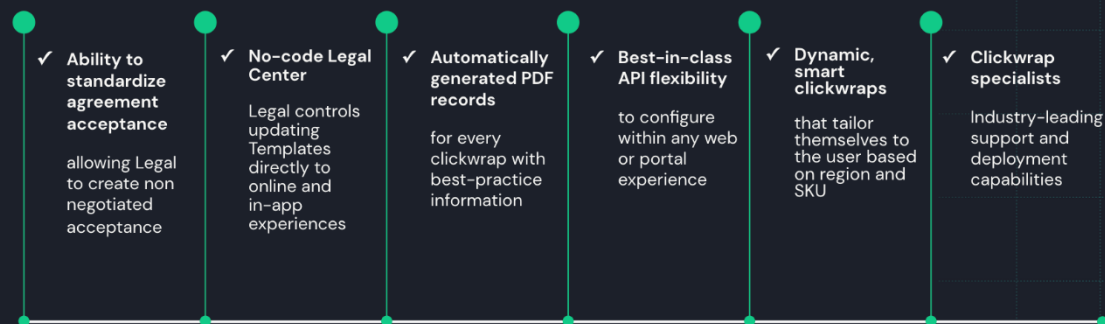
**70%** reduction in time spent by technical teams on maintaining online contracts, mining clickwrap data, and pushing updates

**40%** reductions in overall contract review workload for B2B businesses

**\$22M** size of a recent FTC action when clickwrap evidence could not be reliably produced

## Differentiated Ironclad Capabilities

Ironclad Clickwrap is trusted by innovative start-ups to Fortune 100 companies. We help create enforceable revenue with clickwrap contracts, and streamline new product offerings & GTM motions that demand a transformative agreement experience. Here's how:



# Understand your company's contracting needs

Building a wall to wall contracting program

## Legal

→ Central repository and workflow for all legal documents

## Finance/Accounting

→ Lookup contracts to confirm invoice amounts and schedules  
→ Check and approve based on budget

## Customer Success

## Partnerships

## Compliance

## Procurement

→ Review and approve all purchasing activity across company

## Marketing

→ Generate contractor SOWs; identify customers with logo rights

## IT

## Product

## Engineering

## Sales

→ Draft and negotiate contracts with prospects

## Human Resources

→ Generate employment documents

## Customer Support

## CISO



## 2023 Clickwrap Pricing Overview

Ironclad Clickwrap's pricing structure aims to keep things as simple as possible, removing tiered functionality and instead taking a volume-based approach. Your clickwrap quote is based on 1) **overall volume of executed agreements** and 2) **complexity of those agreements**.

### Enterprise Clickwrap Functionality

- Plug & play JavaScript snippet and React SDK; Back-end SDKs and API access
- Built-in best practices for clickwrap agreements
- Customize legal centers and headless legal CMS
- Branded records for clickwrap agreements
- Automated Snapshots and API capture
- Support for European languages
- Advanced conditionals, repeaters, & formulas

### Static Contracts

Agreements that contain standard, consistent language regardless of who is accepting the agreement or their inputs.

**Examples:** terms & conditions, privacy policies, static NDAs

### Dynamic Contracts

Agreements that contain optionality, can change based on user input, or contain custom information.

**Example:** product order forms, SOWs, pricing amendments



IRONCLAD IN-HOUSE PROFESSIONAL SERVICES IMPLEMENTATION OPTIONS

# Launchpad & Accelerate

Note: For all implementation options not included in Launchpad or Accelerate, Ironclad offers bespoke custom implementation packages, as well as offering an ecosystem of third party implementation consultants certified on the Ironclad platform.

# IMPLEMENTATION

## Launchpad Team & Sessions



### Implementation Consultant

Your point of contact throughout the entire implementation process

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##### Session 6

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# Launchpad Roles & Responsibilities

Role	Time Commitment	Responsibilities
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IMPLEMENTATION OPTION

## Accelerate

10



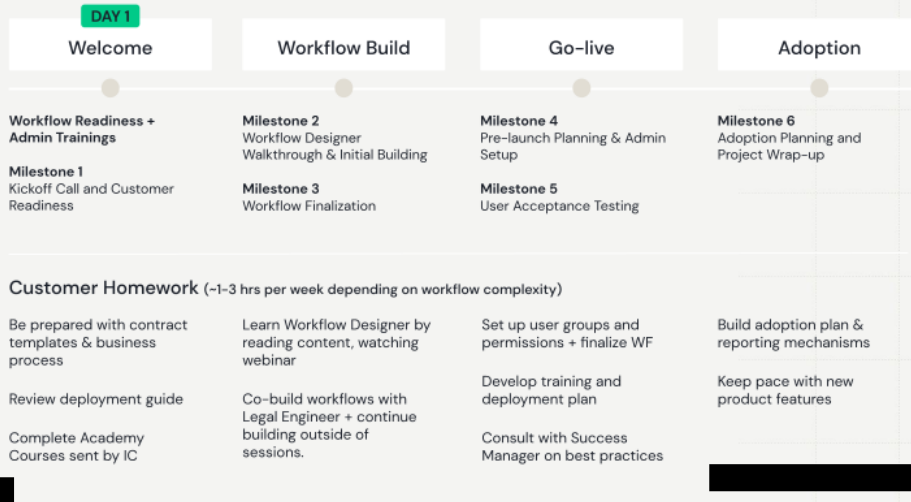
# IMPLEMENTATION

## Accelerate Team & Milestones



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## Accelerate Project Plan

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# Accelerate Sessions

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	<b>Integrations</b>	
60 Days	<b>Est. Timeline</b>	90 Days
6 1:1 collaborative building sessions aimed at enabling you on core product functionality & implementation best practices.	Launchpad provides collaborative configuration guidance for straightforward workflows on a speedy timeline, whereas Accelerate provides more hands-on support through our co-build approach.	12 1:1 sessions to scope and then train your team on two workflows built primarily by Ironclad.

# Clickwrap Implementation Packages

## Quick Start Lite

**\$3,000**

One time investment

3 collaborative 1:1 building sessions aimed at enabling you on core product functionality & implementation best practices.

## Quick Start

**\$6,000**

One time investment

6 collaborative 1:1 building sessions aimed at enabling you on core product functionality & implementation best practices.

## Developer Guidance

**\$15,000**

One time investment

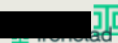
Lean on Ironclad's engineering resources through the collaborative configuration of complex Clickwrap use-cases with 10 sessions totaling no more than 35 hours.



# Customer Success: Premier Success

Premier Success is a percentage (15%) of the annual cost of the software .

15



## CUSTOMER SUCCESS

### Premier Success Plan



#### Aligned Success Manager

A CLM adoption expert familiar with your goals will be your main point of contact post implementation

They'll help with:

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- Exploring new use cases
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#### Always-on Resources

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#### Business Review

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#### Technical Support

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Cases logged  
in-app or via  
email

2 hr PO response time.

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# Premier Success Plan – Continued



**Ironclad Academy**

On-demand learning for admin and business users.



**Ironclad Community**

Advice and inspiration to advance your contracting process.



**Always-on Resources**

- In-app guides
- Help Center
- On-demand webinars



**Technical Support**

Mon – Fri  
8AM – 8PM EST  
Cases logged in-app or via email  
4 hr PO response time.



**Attachment F to  
STATE OF OKLAHOMA CONTRACT WITH IRONCLAD, INC.  
RESULTING FROM SOLICITATION NO. 0900000557**

**Negotiated Exceptions and Additional Terms to the Solicitation and Resulting Contract**

The Solicitation and resulting Contract is hereby amended to include the terms as set forth below and supersedes all prior terms and exceptions and additional terms submitted by **Ironclad, Inc.** or discussed by the parties.

Requested Exceptions and Additional Terms not addressed below are declined by the State of Oklahoma.

RFP Section	Exception
Attachment B – General Terms, Section 1.4	<p>Section 1.4 is hereby deleted and replaced in its entirety with the following:</p> <p>“The State may extend the Contract for ninety (90) days beyond a final renewal term at the Contract compensation rate for the extended period. If the State exercises such option to extend ninety (90) days, the State shall notify the Supplier in writing prior to Contract end date. The State and Supplier, to the extent allowable by law and subject to mutual agreement, may choose to exercise subsequent ninety (90) day extensions, to facilitate the finalization of related terms and conditions of a new award or as needed for transition to a new Supplier.</p>
Attachment B – General Terms, Section 6.1	<p>Section 6.1 is hereby deleted and replaced in its entirety with the following:</p> <p>Any product or service furnished under the Contract shall be ordered by issuance of a valid purchase order or other appropriate payment mechanism, including a pre-encumbrance, or 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. Notwithstanding anything to the contrary, Supplier’s obligation to provide the applicable Customer with products and services under the Contract is subject to the execution of an Order Form (as defined in Attachment E-1 (Enterprise Services</p>

RFP Section	Exception
	Agreement) to the Contract (the “ESA”)) signed by both the Customer and Supplier.”
Attachment B – General Terms, Section 7.1(H)	<p>Section 7.1(H) is hereby deleted and replaced in its entirety with the following:</p> <p>“Supplier shall only accept payment by Automated Clearing House (‘ACH’) or other mutually agreed upon electronic payment mechanism.”</p>
Attachment B – General Terms, Section 8.3	<p>Section 8.3 is hereby deleted and replaced in its entirety with the following:</p> <p>“[Reserved.]”</p>
Attachment B – General Terms, Section 11.3	<p>Section 11.3 is hereby deleted and replaced in its entirety with the following:</p> <p>“Supplier shall (in accordance with the requirements set forth in Section 6(b) (Notice) of Attachment E-2 (Data Processing Addendum) to the Contract) 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 reasonably 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.”</p>
Attachment B – General Terms, Section 16.1	<p>Section 16.1 is hereby deleted and replaced in its entirety with the following:</p>

RFP Section	Exception
	<p>“Terms used in this Section but not defined in this Section or elsewhere in these General Terms have the meanings given to them in the ESA.</p> <p><b>A. Indemnification by Supplier.</b> Supplier will defend Customer, its officers, directors and employees, from and against any suit or action brought by a third-party against Customer: (i) alleging that the Enterprise Services, as provided by Supplier and when used by Customer pursuant to the ESA, infringes any Intellectual Property Right of a third party (the “<b>IP Indemnity</b>”); or (ii) resulting from unauthorized disclosure and misuse of Customer Data directly resulting from Supplier’s breach of its obligations under Section 2(e) (Customer Data) of the ESA or Section 2(f) (Information Security) of the ESA (the “<b>Data Indemnity</b>”). Supplier shall indemnify and hold harmless Customer from and against any damages and costs awarded against Customer or agreed in settlement by Supplier (including reasonable attorneys’ fees) resulting from such claim, provided that: (x) Customer provides Supplier with prompt written notice of such claim; and (ii) Customer provides reasonable cooperation to Supplier, at Supplier’s expense, in the defense and settlement of such claim.</p> <p><b>B. Injunctions.</b> If Customer’s use of the Enterprise Services is, or in Supplier’s opinion is likely to be, enjoined due to the type of claim specified in Section 16.1(A)(i), then Supplier may at its sole option and expense: (i) replace or modify the Enterprise Services to make them non-infringing and of equivalent functionality; (ii) procure for Customer the right to continue using the Enterprise Services under the terms of the ESA; or (iii) if Supplier is unable to accomplish either (i) or (ii) despite using its commercially reasonable efforts, terminate Customer’s rights and Supplier’s obligation under the ESA with respect to such Enterprise Services and refund to Customer a pro-rata portion of the prepaid fees paid by Customer for the remaining portion of the Term during which Customer would have had access to the Enterprise Services.</p>

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	<p><b>C. Exclusions.</b> Notwithstanding the terms of Section 16.1(A), Supplier will have no liability for any claim of any kind to the extent that it results from: (i) the combination, operation or use of the Enterprise Services with equipment, devices, or software not supplied by Supplier, if a claim would not have occurred but for such combination, operation or use; or (ii) Customer’s or an Authorized User’s use of the Enterprise Services other than in accordance with the ESA.</p> <p><b>D. Sole Remedy.</b> THE FOREGOING STATES SUPPLIER’S AND ITS LICENSORS’ SOLE LIABILITY AND CUSTOMER’S SOLE AND EXCLUSIVE REMEDY WITH RESPECT TO ANY ALLEGED OR ACTUAL INFRINGEMENT OR MISAPPROPRIATION OF INTELLECTUAL PROPERTY RIGHTS BY THE ENTERPRISE SERVICES.”</p>
Attachment B – General Terms, Section 16.2	<p>Section 16.2 is hereby deleted and replaced in its entirety with the following:</p> <p>“[Reserved.]”</p>
Attachment B – General Terms, Section 16.5	<p>Section 16.5 is hereby deleted and replaced in its entirety with the following:</p> <p><b>“A. Exclusion of Damages.</b> To the fullest extent permitted by law, except for Excluded Claims (as defined below in Section 16.5(C) and for which there will be no cap on liability), neither Customer nor Supplier, and its Affiliates (as defined in the ESA) and suppliers, will be liable under this Contract for (i) indirect, special, incidental, consequential, exemplary, or punitive damages; or (ii) loss of use, data, business, revenues, or profits (in each case whether direct or indirect), even if the party knew or should have known that such damages were possible, even if a remedy fails of its essential purpose, and regardless of the type of action or theory of liability.</p> <p><b>B. Total Liability.</b> To the fullest extent permitted by law, except for Excluded Claims (for which there shall be no cap on</p>

RFP Section	Exception
	<p>liability) or <b>Special Claims</b> (as defined below in Section 16.5(D) and which are subject to the <b>Enhanced Liability Cap</b> set forth in Section 16.5(D)), neither party's aggregate liability under this Contract will exceed the greater of \$100,000 or the amount paid by Customer to Supplier during the twelve months prior to the event giving rise to liability.</p> <p><b>C. Excluded Claims.</b> "Excluded Claims" means: (i) any intentional misconduct or gross negligence by either party; (ii) any amounts payable to third parties pursuant to Supplier's IP Indemnity obligations under Section 16.1(A)(i); or (iii) for which applicable law does not allow exemption from liability of Supplier or its employees, agents or subcontractors. Notwithstanding the foregoing, Customer's liability is subject to immunity and limits established by state law.</p> <p><b>D. Special Claims.</b> "Special Claims" means (i) any breach by Supplier of Section 2(e) (Customer Data) of the ESA, Section 2(f) (Information Security) of the ESA, or Section 5 (Confidentiality) of the ESA resulting in unauthorized disclosure and misuse of Customer Data (as defined in the ESA); or (ii) any amounts payable to third parties pursuant to Supplier's Data Indemnity obligations under Section 16.1(A)(ii). For any and all Special Claims, Supplier's aggregate liability shall be subject to an enhanced liability cap not to exceed ten times (10x) the amount paid by Customer to Supplier during the twelve months prior to the event giving rise to liability (the "<b>Enhanced Liability Cap</b>"). The Enhanced Liability Cap applies to each of the State's individual agencies or entities who purchase under the Contract as a Customer.</p> <p><b>E.</b> 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."</p>

RFP Section	Exception
Attachment B – General Terms, Section 18.3	<p>Section 18.3 is hereby deleted and replaced in its entirety with the following:</p> <p>“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 by the State or Customer pursuant to this Section 18 (Termination for Cause) shall be refunded. If Supplier has provided written notice of material breach to the State (or Customer), and the State (or Customer) fails to cure such material breach within thirty (30) days of receipt of written notice, Supplier may suspend the services until the State (or Customer) remedies such breach and during that time fees are still owed to Supplier. If after such period, Supplier elects to terminate with State (or Customer) pursuant to this Section 18 (Termination for Cause), the parties, to the extent permitted by law, agree that the State (or Customer) received the full value of the product and services contemplated and the remaining portion of the fees post-termination shall be deemed the benefit of the bargain of which the State owes Supplier hereunder. Termination of the Contract under this Section 18 (Termination for Cause), in whole or in part, shall not relieve either party of liability for claims arising under the Contract.”</p>
Attachment B – General Terms, Section 19.2	<p>Section 19.2 is hereby deleted and replaced in its entirety with the following:</p> <p>“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</p>

RFP Section	Exception
	<p>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 pursuant to this Section 19 (Termination for Convenience) or any other Contract provision allowing Customer to terminate for convenience shall not be refunded. The parties agree that the overall pricing negotiated and as agreed to in this Contract reflects the full value of the subscription of the product or service, in the event of a termination pursuant to this Section 19 (Termination for Convenience). Thus, once the State has accepted the product and/or services as satisfactory, the State (or Customer), to the extent permitted by law, shall be deemed to have received the full value of the terminated product and/or services and the remaining portion of the fees post-termination shall be deemed the benefit of the bargain of which the State owes Supplier hereunder. Termination of the Contract under this Section 19, in whole or in part, shall not relieve either party of liability for claims arising under the Contract.”</p>
Attachment B – General Terms, Section 26.4	<p>Section 26.4 is hereby deleted and replaced in its entirety with the following:</p> <p>“[Reserved.]”</p>
Attachment B – General Terms, Section 26.12	<p>Section 26.12 is hereby deleted and replaced in its entirety with the following:</p> <p>“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. Notwithstanding the foregoing and only to the extent provided by law, the parties expressly agree that this</p>

RFP Section	Exception
	Contract is binding and enforceable and that the State is not immune from suit or liability in connection with this Contract, including enforcement of Supplier's intellectual property rights."
Attachment D – Information Technology Terms, Section 1.9	<p>Section 1.9 is hereby deleted and replaced in its entirety with the following:</p> <p>"Security Incident means the reasonable suspicion of or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with the Hosted environment used to perform the services."</p>
Attachment D – Information Technology Terms, Section 3	<p>Section 3 is hereby deleted and replaced in its entirety with the following:</p> <p>"State procurement of information technology is subject to certain federal and State laws, rules and regulations related to information technology accessibility, including but not limited to Oklahoma Information Technology Accessibility Standards ("<b>Standards</b>") set forth at <a href="https://oklahoma.gov/omes/services/information-services/is/policies-and-standards/accessibility-standards.html">https://oklahoma.gov/omes/services/information-services/is/policies-and-standards/accessibility-standards.html</a>. Supplier is committed to complying with the Standards and providing an offering that is consistent with the Standards. Supplier shall provide a Voluntary Product Accessibility Template ("<b>VPAT</b>") describing accessibility compliance via a URL linking to the VPAT, and shall update the VPAT as necessary in order to allow a Customer to obtain current VPAT information as required by State law. If products require development or customization, additional requirements and documentation may be required and compliance shall be necessary by Supplier. Such requirements may be stated in appropriate documents including but not limited to a statement of work, riders, agreement, purchase order or Addendum. All representations contained in the VPAT provided will be relied upon by the State or a Customer, as applicable, for accessibility compliance purposes."</p>
Attachment D – Information Technology Terms, Section 6.3	<p>Section 6.3 is hereby deleted and replaced in its entirety with the following:</p> <p>"Supplier shall, as applicable, comply with the CJIS Security Policy as more particularly described at Appendix 2 attached hereto and</p>



RFP Section	Exception
	incorporated herein.
Attachment D – Information Technology Terms, Section 8	<p>Section 8 is hereby deleted and replaced in its entirety with the following:</p> <p>In addition to extension rights of the State set forth in the Contract, the State CIO reserves the right to extend any Contract if the State CIO determines such extension to be in the best interest of the State. Such extension shall be subject to mutual agreement by the Supplier.</p>
Attachment D – Information Technology Terms, Section 9	<p>Section 9 is hereby deleted and replaced in its entirety with the following:</p> <p>State and Supplier agree that Supplier is not planning to provide Customer customized computer software developed or modified exclusively for a state agency or the State. Should Supplier and State explicitly agree, in writing, to the acquisition of customized computer software developed or modified exclusively, then the following terms will apply:</p> <p>Pursuant to 62 O.S. § 34.31, if customized computer software is developed or modified exclusively for a State agency, the Supplier has a continuing obligation to comply with such law and place the source code for such software and any modifications thereto into escrow with an independent third party escrow agent. Supplier shall pay all fees charged by the escrow agent and enter into an escrow agreement, the terms of which are subject to the prior written approval of the State, including terms that provide the State receives ownership of all escrowed source code upon the occurrence of any of the following:</p> <p><b>9.1</b> A bona fide material default of the obligations of the Supplier under the agreement with the applicable Customer;</p> <p><b>9.2</b> An assignment by the Supplier for the benefit of its creditors;</p> <p><b>9.3</b> A failure by the Supplier to pay, or an admission by the Supplier of its inability to pay, its debts as they mature;</p>

RFP Section	Exception
	<p><b>9.4</b> The filing of a petition in bankruptcy by or against the Supplier when such petition is not dismissed within sixty (60) days of the filing date;</p> <p><b>9.5</b> The appointment of a receiver, liquidator or trustee appointed for any substantial part of the Supplier's property;</p> <p><b>9.6</b> The inability or unwillingness of the Supplier to provide the maintenance and support services in accordance with the agreement with the agency;</p> <p><b>9.7</b> Supplier's ceasing of maintenance and support of the software; or</p> <p><b>9.8</b> Such other condition as may be statutorily imposed by the future amendment or enactment of applicable Oklahoma law.</p>
Attachment D – Information Technology Terms, Section 11	<p>Section 11 is hereby deleted and replaced in its entirety with the following:</p> <p>“[Reserved.]”</p>
Attachment D – Information Technology Terms, Section 12	<p>Section 12 is hereby deleted and replaced in its entirety with the following:</p> <p>“[Reserved.]”</p>
Attachment D – Information Technology Terms, Section 14	<p>Section 14 is hereby deleted and replaced in its entirety with the following:</p> <p>“[Reserved.]”</p>
Attachment D – Information Technology Terms, Section 15	<p>The following is hereby added to the end of Section 15:</p> <p>“In addition to other terms of the Contract, in instances of the Supplier's repeated failure to provide an acceptable level of service or meet service level agreement metrics, service credits shall be provided by Supplier and may be used as an offset to payment due. All service levels, service level agreement metrics, and service credits will be determined as set forth in Exhibit A (Ironclad Service Level Agreement &amp; Technical Support Schedule) of the ESA.”</p>
Attachment D – Information Technology Terms,	<p>Section B.4 is hereby deleted and replaced in its entirety with the following:</p>

RFP Section	Exception
Appendix 1, Section B.4	<p>“Supplier shall provide its services to Customer and its users solely from data centers in the U.S. Storage of Customer Data at rest shall be located solely in data centers in the U.S. Supplier shall not allow its personnel or contractors to store Customer Data on portable devices, including personal computers, except for devices that are used and kept only at its U.S. data centers. Supplier shall permit its personnel and contractors to access Customer Data remotely only as required to fulfill Supplier’s obligations under the Contract. To avoid doubt, the foregoing shall not restrict the use of laptops by Supplier’s personnel or contractors in performance of activities in connection with the Contract.”</p>
Attachment D – Information Technology Terms, Appendix 1, Section B.5	<p>Section B.5 is hereby deleted and replaced in its entirety with the following:</p> <p>“Supplier shall allow the Customer to audit conformance to the Contract terms. The Customer may perform this audit or contract with a third party at its discretion and at Customer’s expense. Any such audit will be subject to reasonable advance written notice, conducted during normal business hours with as little disruption to Supplier’s business as possible, and limited to no more than once per year.”</p>
Attachment D – Information Technology Terms, Appendix 1, Section C.2	<p>Section C.2 is hereby deleted and replaced in its entirety with the following:</p> <p>“If Supplier changes the Hosting entity, Supplier will notify the State via email and allow the State thirty (30) days to object. If the State has legitimate objections to the appointment of such new Hosting entity, the parties will work together in good faith to resolve the grounds for the objection for no less than thirty (30) days, and failing any such resolution, the State may terminate the part of the services performed under the Contract that cannot be performed by Supplier without use of the objectionable Hosting entity. Such termination shall not be considered a default or breach.”</p>
Attachment D – Information Technology Terms,	<p>Section D.4 is hereby deleted and replaced in its entirety with the following:</p> <p>“If Supplier has reasonable belief or actual knowledge of a Data</p>

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Appendix 1, Section D.4	Breach, Supplier shall (1) promptly notify the appropriate Customer identified contact set forth herein within 48 hours or sooner, unless shorter time is required by applicable law, and (2) take commercially reasonable measures to address the Data Breach in a timely manner.”
Attachment D – Information Technology Terms, Appendix 1, Section E	<p>Section E is hereby deleted and replaced in its entirety with the following:</p> <p><b>“Breach Responsibilities:</b> This section only applies when a Data Breach occurs with respect to Personal Data or Non-Public Data within the possession or control of Supplier.</p> <p>Supplier shall (1) cooperate with Customer as reasonably requested by Customer to investigate and resolve the Data Breach, (2) promptly implement necessary remedial measures, if necessary, and (3) document responsive actions taken related to the Data Breach, including any post-incident review of events and actions taken to make changes in business practices in providing the services, if necessary.”</p>
Attachment D – Information Technology Terms, Appendix 1, Section H	<p>Section H is hereby deleted and replaced in its entirety with the following:</p> <p>“[Reserved.]”</p>
Attachment D – Information Technology Terms, Appendix 1, Section I.2	<p>Section I.2 is hereby deleted and replaced in its entirety with the following:</p> <p>“In the event of a termination or expiration of the Contract, Supplier agrees to return the Customer Data to Customer at no additional cost, at a time agreed to by the parties and the subsequent secure disposal of State Data.”</p>
Attachment D – Information Technology Terms, Appendix 1, Section I.3	<p>Section I.3 is hereby deleted and replaced in its entirety with the following:</p> <p>“Supplier will delete Customer Data after 90 days of the effective date of termination or expiration of the Term (as defined in the ESA), or within 30 days after Customer’s request (if earlier). Supplier will provide a certificate of such deletion upon Customer’s</p>

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	request.”

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