



STATE OF OKLAHOMA STATEWIDE CONTRACT WITH Kaplan Early Learning Company, Inc.

This State of Oklahoma Statewide Contract (“Contract”) No. SW1072 is entered into between the state of Oklahoma by and through the Office of Management and Enterprise Services and Kaplan Early Learning Company, 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 (1) year and there are (4) one-year options to renew the contract.

Purpose

This Non-Mandatory Statewide contract is awarding this Contract to Supplier for the provision of Science, Technology, Engineering and Math (STEM) related educational tools and products for ages K-12, and Higher education, as more particularly described in certain Contract Documents. Supplier submitted a proposal with no exceptions, or confidentiality requests. This Contract memorializes the agreement of the parties with respect to the 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, #EV0000183 Attachment A;
 - 2.2. General Terms, Attachment B;
 - 2.3. Statewide Contract Terms, Attachment C;
 - 2.4. Information Technology terms, Attachment D;
 - 2.5. Portions of the Bid response to include Exhibit I- Pricing, Value Add, Attachment E
3. Any reference to a Contract Document refers to such Contract Document as it may have been amended. If and to the extent any provision is in multiple documents and addresses the same or substantially the same subject matter but does not create an actual conflict, the more recent provision is deemed to supersede earlier versions.

STATE OF OKLAHOMA
by and through the
OFFICE OF MANAGEMENT AND ENTERPRISE
SERVICES

KAPLAN EARLY LEARNING COMPANY,
INC.

By: *Amanda L. Otis*
Amanda Otis (Nov 4, 2023 10:28 CDT)

Name: Amanda Otis

Title: State Purchasing Director

Date: 11/04/2023

By: *Elizabeth Patterson*
Elizabeth Patterson (Nov 3, 2023 13:08 EDT)

Name: Elizabeth Patterson

Title: Assoc. Dir. Bids & Contracts

Date: 11/03/2023

OMES Legal Review: *Tim Tuck*
Tim Tuck (Nov 3, 2023 13:16 CDT)

Date: 11/03/2023

ATTACHMENT A
SOLICITATION / EVENT NO. EV00000183

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

PURPOSE

The Contract is awarded as a non-mandatory statewide contract for Science, Technology, Engineering & Math (STEM) related educational tools and products for ages K-12, and Higher Education. Proposers may include related services to the extent that these solutions are complementary to the offering of the equipment and products being proposed.

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 [4] one-year options to renew the Contract.

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 State 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. §1352 and as implemented at 45 C.F.R. part 93;

- F.** Requirements of Internal Revenue Service Publication 1075 regarding use, access and disclosure of Federal Tax Information (as defined therein);
 - G.** Obtaining certified independent audits conducted in accordance with Government Auditing Standards and Office of Management and Budget Uniform Guidance, 2 CFR 200 Subpart F §200.500 et seq. with approval and work paper examination rights of the applicable procuring entity;
 - H.** Requirements of the Oklahoma Taxpayer and Citizen Protection Act of 2007, 25 O.S. §1312 and applicable federal immigration laws and regulations and be registered and participate in the Status Verification System. The Status Verification System is defined at 25 O.S. §1312, includes but is not limited to the free Employment Verification Program (E-Verify) through the Department of Homeland Security, and is available at www.dhs.gov/E-Verify;
 - I.** Requirements of the Health Insurance Portability and Accountability Act of 1996; Health Information Technology for Economic and Clinical Health Act; Payment Card Industry Security Standards; Criminal Justice Information System Security Policy and Security Addendum; and Family Educational Rights and Privacy Act; and
 - J.** Be registered as a business entity licensed to do business in the State, have obtained a sales tax permit, and be current on franchise tax payments to the State, as applicable.
- 9.2** The Supplier's employees, agents and subcontractors shall adhere to applicable Customer policies including, but not limited to acceptable use of Internet and electronic mail, facility and data security, press releases, and public relations. As applicable, the Supplier shall adhere to the State Information Security Policy, Procedures, Guidelines set forth at:
- <https://oklahoma.gov/content/dam/ok/en/omes/documents/InfoSecPPG.pdf>
- 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.

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 North Lincoln Boulevard, Suite 204
Oklahoma City, Oklahoma 73105

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

Purchasing Division Deputy General Counsel
2401 North Lincoln Boulevard, Suite 204
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;
- ii. Quarterly submission regardless of whether there were transactions under the Contract during the applicable quarterly reporting period;
- iii. Submission no later than forty-five (45) days following the end of each calendar quarter;
- iv. Contract quarterly reporting periods shall be as follows:
 - a. January 01 through March 31;
 - b. April 01 through June 30;
 - c. July 01 through September 30; and
 - d. October 01 through December 31.
- v. Reports must include the following information:

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

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

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

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

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.

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://oklahoma.gov/omes/services/information-services/accessibility-standards.html>. 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://oklahoma.gov/content/dam/ok/en/omes/documents/InfoSecPPG.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:

<https://oklahoma.gov/omes/services/information-services/policy-standards-publications.html>

- 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 Made 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:

1. Maintain processes and procedures to identify, respond to and analyze Security Incidents;
 2. Make summary information regarding such procedures available to Customer at Customer's request;
 3. Mitigate, to the extent practicable, harmful effects of Security Incidents that are known to Supplier; and
 4. Document all Security Incidents and their outcomes.
4. If Supplier has reasonable belief or actual knowledge of a Data Breach, Supplier shall (1) promptly notify the appropriate Customer identified contact set forth herein within 24 hours or sooner, unless shorter time is required by applicable law, and (2) take commercially reasonable measures to address the Data Breach in a timely manner.

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

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

F. Notices

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

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

and

servicedesk@omes.ok.gov

G. Supplier Representations and Warranties

Supplier represents and warrants the following:

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

H. Indemnity

Supplier agrees to defend, indemnify and hold the State, its officers, directors, employees, and agents harmless from all liabilities, claims, damages, losses, costs, expenses, demands, suits and actions (including without limitation reasonable attorneys' fees and costs required to establish the right to indemnification), excluding damages that are the sole fault of

Customer, arising from or in connection with Supplier's breach of its express representations and warranties in these Information Technology Terms and the Contract. If a third party claims that any portion of the products or services provided by Supplier under the terms of another Contract Document or these Information Technology Terms infringes that party's patent or copyright, Supplier shall defend, indemnify and hold harmless the State and Customer against the claim at Supplier's expense and pay all related costs, damages, and attorney's fees incurred by or assessed to, the State and/or Customer. The State and/or Customer shall promptly notify Supplier of any third party claims and to the extent authorized by the Attorney General of the State, allow Supplier to control the defense and any related settlement negotiations. If the Attorney General of the State does not authorize sole control of the defense and settlement negotiations to Supplier, Supplier shall be granted authorization to equally participate in any proceeding related to this section but Supplier shall remain responsible to indemnify Customer and the State for all associated costs, damages and fees incurred by or assessed to the State and/or Customer. Should the software become, or in Supplier's opinion, be likely to become the subject of a claim or an injunction preventing its use as contemplated in connection with Hosting services, Supplier may, at its option (i) procure for the State the right to continue using the software or (ii) replace or modify the software with a like or similar product so that it becomes non-infringing.

I. Termination, Expiration and Suspension of Service

1. During any period of service suspension, Supplier shall not take any action to intentionally disclose, alter or erase any Customer Data.
2. In the event of a termination or expiration of the Contract, the parties further agree:

Supplier shall implement an orderly return of Customer Data in a format specified by the Customer and as determined by the Customer:
 - a. return the Customer Data to Customer at no additional cost, at a time agreed to by the parties and the subsequent secure disposal of State Data;
 - b. transitioned to a different Supplier at a mutually agreed cost and in accordance with a mutually agreed data transition plan and the subsequent secure disposal of State Data or
 - c. a combination of the two immediately preceding options.
3. Supplier shall not take any action to intentionally erase any Customer Data for a period of:
 - a. 10 days after the effective date of termination, if the termination is in accordance with the contract period;

- b.** 30 days after the effective date of termination, if the termination is for convenience; or
- c.** 60 days after the effective date of termination if the termination is for cause.

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

- 4.** The State shall be entitled to any post termination or expiration assistance generally made available with respect to the services.
- 5.** Disposal by Supplier of Customer Data in all of its forms, such as disk, CD/DVD, backup tape and paper, when requested by the Customer, shall be performed in a secure manner. Data shall be permanently deleted and shall not be recoverable, according to National Institute of Standards and Technology (NIST)-approved methods. Certificates of destruction shall be provided to Customer within thirty (30) calendar day of its request for disposal of data.

Appendix 2 to State of Oklahoma Information Technology Terms

INTRODUCTION

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

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

CJIS SECURITY POLICY REQUIREMENTS GENERALLY

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

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

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

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

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

1. the Definitions and Acronyms in §3 & Appendices “A” & “B”;
2. the general policies in §4;

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

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

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

Policy Requirement Checklist		Compliance checklist –
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



April 19, 2023

Asha Parks
Contracting Officer
Oklahoma Office of Management & Enterprise Services
5005 N. Lincoln Blvd., Suite 300
Oklahoma City, OK 73105

REF: Solicitation #: EV00000183/Section One: Cover Page

Dear Ms. Parks:

Kaplan Early Learning Company is pleased to respond to this bid opportunity with STEM products for K-5th grade students. While Kaplan Early Learning Company also offers early educational product categories such as literacy, family engagement, active play, dramatic play, classroom furniture for children from Pre-K through grade 3, we are adhering to the specifications of this solicitation focusing on STEM products exclusively.

Kaplan Early Learning Company has been a market leader in the early childhood educational marketplace for over 50 years. We have a respected, well-known presence in the State of Oklahoma.

We look forward to this opportunity to supply inventive STEM products to enhance the success of Oklahoma students.

Respectfully,

A handwritten signature in blue ink that reads "Brenda Roberts".

Brenda Roberts
Senior Bid Manager
800-334-2014
broberts@kaplanco.com

Required Bid Packet Information

A. Section One: Cover Page

Cover Page enclosed

B. Section Two: Required Forms, Certifications and Disclosures

- i See enclosed "Responding Bidder Information" form
- ii See enclosed "Certification for Competitive Bid and Contract" form
- iii
 - (1) Kaplan has never been terminated by a governmental entity nor have any litigations been filed for failure to perform duties on a contract.
 - (2) Kaplan does not have any contractual relationship or any other contact with any State personnel or another bidder or supplier involved in the response to this solicitation.
 - (3) Kaplan does not have any officers, directors or agents who are an employee of the State or any of its agencies.
 - (4) There are not any state employees who own, directly or indirectly, any interest of five percent or more in Kaplan Early Learning Company.
 - (5) There aren't any activity or interest that conflicts or may conflict with the best interest of the State, including but not limited 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.
- iv See enclosed "Certificate of Insurance"
- v Kaplan Early Learning Company does not use Subcontractors
- vi See enclosed Signed Amendments for Solicitation #EV00000183

C. Section Three: Bid Portions Requested to be Held Confidential

Kaplan Early Learning Company is not submitting any portions of this bid as confidential information.

D. Section Four: Requested Exceptions to Terms

No exceptions to terms are requested from Kaplan Early Learning Company.

E. Section Five: Additional Bidder Terms

N/A

F. Section Six: Master Terms between Bidder and State

N/A

G. Section Seven: Executive Summary

Kaplan Early Learning Company had its beginning in 1949 when Leon Kaplan opened a toy store in downtown Greensboro, North Carolina, for the holiday buying season. In 1950 he and his wife moved the store, Tiny Town, to West Fifth Street in Winston-Salem, North Carolina. Tiny Town carried toys, juvenile furniture, and games. It wasn't long before the store outgrew the modest space and moved to West Fourth Street. One of the reasons for the store's success was that Mr. Kaplan made a point of offering unique and out-of-the-ordinary toys. Another Tiny Town opened in the Thruway Shopping Center in Winston-Salem, North Carolina, in 1955. Mr. Kaplan had several stores located in Atlanta, Georgia, Boca Raton, Florida, and Washington, DC.

Mr. Kaplan's interest in educational books and toys led him to form the School Supply Division (known today as Kaplan Early Learning Company) in 1968. The School Supply division distributed early childhood educational materials and unique toys, showing the learning experience children can get from each one. Kaplan Early Learning Company sells products to school systems, childcare centers, and federal groups such as military child development centers and recreational programs, special needs programs and to private companies as well as the general public. Kaplan Early Learning Company has become a major distributor of early childhood educational materials in the United States.

Kaplan Early Learning Company is located at 1310 Lewisville-Clemmons Road in Lewisville, North Carolina. The site includes 2 office buildings, a 160,000 square foot warehouse, a 204,000 square foot distribution center, and a catalog showroom. There have been several additions to the original site including 60,000 square feet added to the warehouse in 1991, a four story addition in 1993 for more office, warehouse, and training space, and the new distribution center in 1995.

Kaplan currently has over 50 educational sales consultants located throughout the United States assisting customers with their educational material requirements and classroom setups. Kaplan Early Learning Company is a major supplier for Head Start (a federal program that provides disadvantaged infants and preschoolers with educational, health, nutritional, and social services), school districts across the U.S., and U.S. military bases' child care programs around the world.

Kaplan has a Marketing Department that employs 10 full-time marketing specialists supported by a professional photographer and website programmers. Anna Wilmouth, Vice President/Director of Marketing, has been with Kaplan for almost 7 years in a full-time capacity.

Kaplan Early Learning Company has been a leader in the early childhood market for over 50 years that enhance children's learning with a stellar reputation in our market. We contribute our continued growth to the trust and appreciation of our customers in our products, our service, and our integrity.

Kaplan is known for quality products and exceptional service. And, as Hal Kaplan says: "Kaplan never discounts quality". We stand behind our products and take pride in our reputation as a valuable partner to our customers.

H. Section Eight: Response to Specifications and Requirements

- i Kaplan Early Learning Company has the ability to provide the following items for Solicitation #EV00000183 STEM Tools Products:
 - Robotics and Coding
 - Audio Visual Items
 - Science/Microscopes
 - Engineering and Building
 - Math, Measurement and Counting
- ii N/A
- iii N/A
- iv N/A
- v Kaplan Early Learning Company will receive orders from the State of Oklahoma. Orders will be processed within 24-48 hours. Requester will receive an email confirmation as well shipping confirmation once order ships. State of Oklahoma will be invoiced at time of order shipment. Delivery will take 7-10 business days ARO for in-stock items; 2-6 weeks ARO for drop ship items; backorders normally ship within 30 business days ARO.

I. Section Nine: Pricing

Kaplan Early Learning Company will hold pricing for the first annual requirement, see enclosed Kaplan price list for RFP SW1072 STEM Tools Products. We will continue to extend the 15% discount on discountable items throughout the contract term. The discount will be applied to orders of \$300 or more on current list pricing in effect at time of order. Web pricing prevails over catalog pricing. Some exclusions apply.

Free freight is offered on orders of \$500 or more per shipping location. Orders under \$500 will be charged 15% of order value or \$6.75, whichever is greater, for freight costs. Next Day Air, 2nd Day Air, and K-Truck delivery services are excluded from free freight.

Exclusions From Our Offer

Offer is not valid with any other sales offers, bids, quotes, coupons or discounts. This offer cannot be used toward purchases of gift certificates. This offer does not apply to outdoor playground structures, parts, surfacings or services of playground. It does not apply to lofts, technology products, computers & accessories, curriculum, assessments & screening materials, "All About ECERS-R", "All About ITERS-R", professional development, Tot Tree (#96616), Gaggie Buggy & accessories, LEGO products, laminators & accessories, all Maple Line furniture, sterilizers, all PPE items, and custom kitting (special order items). Product exclusions are subject to change.

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

Kaplan Early Learning Company offers early childhood educational materials for Pre-K through Grade 5. While these items are outside of the specific list of items for Solicitation #EV00000183, their value to teachers and educators in enhancing learning for young children cannot be overstated. Kaplan Early Learning has been in the forefront of advancing early childhood education with our products, curriculum, and professional development trainings. With over 5,000 products to choose from, teachers have the advantage of incorporating play to make more meaningful classroom lessons. Most of our products are discountable. Kaplan Early Learning Company will extend the 15% discount to all eligible products. The discount will be applied to orders of \$300 or more on list pricing in effect at time of order. Kaplan also offers via our website www.kaplanco.com insights for teachers to handle such issues as: challenging behaviors in the classroom, family engagement, and bullying, etc. Kaplan also offer activity activities to incorporate with classroom curriculum.

K. Section Eleven: Financial Information

Kaplan Early Learning Company is a financially stable company. Audited financial information can be provided upon request. This information is proprietary.

L. Section Twelve: Business References

- 1) Victory Child Care
4300 N MacArthur Blvd
Warr Acres, OK 73122
256-457-6978
Kimberly Wilks

Kswconsultant2-@gmail.com

- 2) Rainbow Fleet
1105 NW 45th St
Oklahoma City, OK 73118
405-441-0364
Ramona Johnson
ramona@rainbowfleet.org
- 3) Trumann School District
221 N Pine Ave
Trumann, AR 72472
870-483-6444
Deanna Ballard
Deanna.ballard@trummannwildcat.com

M. Section Thirteen: Additional Company Information

N/A

N. Section Fourteen: Third Part Vendor Information

N/A

Catalog Code	Page Number	Product ID	Description	List Price	Discountable	Discounted Price
53	42	62969	BEE BOT DOCKING STATION	\$80.95	N	\$80.95
53	42	62984	BEE BOT SET OF 6	\$799.95	N	\$799.95
13	145	91473	SMALL COMPUTER MOUSE/BLACK	\$31.95	N	\$31.95
13	148	35072	PLUGO STEM WIZ PACK	\$119.95	N	\$119.95
13	148	55563	BLUE BOT FLOOR ROBOT	\$139.95	N	\$139.95
13	148	62966	RECHARGEABLE BEEBOT	\$120.95	N	\$120.95
13	148	62968	BEE BOT STARTER PACK	\$279.95	N	\$279.95
13	151	89854	TECH MACHINES	\$279.95	N	\$279.95
53	78	74282	MAKING AND TINKERING STEM	\$34.95	N	\$34.95
53	48	53886	FORCE AND MOTION STEM ACTSET	\$36.95	Y	\$31.41
53	48	53887	MAGNETS STEM ACTIVITY SET	\$41.95	Y	\$35.66
53	48	53888	SIMPLE MACHINES STEM ACTIV SET	\$36.95	Y	\$31.41
53	48	53889	SINK FLOAT STEM ACTIVITY SET	\$36.95	Y	\$31.41
53	48	53891	STEM CLASSROOM BUNDLE	\$139.95	Y	\$118.96
53	49	145895	GEARS GEARS ROBOT FACTORY	\$49.95	Y	\$42.46
53	49	52463	QBA MAZE 2.0 BIG BOX SET	\$49.95	Y	\$42.46
53	52	52467	KEVACONTRAPTIONS 50 PLANKS	\$27.95	Y	\$23.76
53	52	52468	KEVA CONTRAPTIONS 200 PLANKS	\$59.95	Y	\$50.96
53	52	52469	KEVA STRUCTURES 200 PLANKS	\$59.95	Y	\$50.96
53	52	87430	POTATO CLOCK	\$19.95	Y	\$16.96
53	53	146312	CITY ENGINEERING & DESIGN SET	\$32.95	Y	\$28.01
53	53	146917	GRAVITRAX STARTER SET	\$79.95	Y	\$67.96
53	53	24392	PULLEYS DISCOVERY KIT	\$14.95	Y	\$12.71
53	53	87505	SIMPLE MACHINES SET	\$54.95	Y	\$46.71
53	54	33022	DESIGN & DRILL SPACE CIRCUITS	\$59.95	Y	\$50.96
53	55	147501	BLOXELS GAME STUDIO SET	\$109.95	Y	\$93.46
53	55	148185	PLUS-PLUS LEARN BUILD/VEHICLES	\$74.95	Y	\$63.71
53	55	24464	SNAP CIRCUITS JR	\$49.95	Y	\$42.46
53	55	25250	INTRO SMPL MACHINES LVR/PULLEY	\$69.95	Y	\$59.46
53	55	25251	INTRO TO SIMPLE MACHINES GEARS	\$69.95	Y	\$59.46
53	55	53696	LASER MAZE JR	\$49.95	Y	\$42.46
53	57	63221	JUMBO SEE THRU NUMBERS/10	\$7.95	Y	\$6.76
53	58	73732	INVESTIGATING ANSWER BOOK SET	\$62.95	Y	\$53.51
53	58	74726	SCIENTIFIC THINKING BOOK SET	\$84.95	Y	\$72.21
53	59	74174	STEM BOOKS KINDERGARTEN	\$54.95	Y	\$46.71
53	59	74583	LEARNING ECOSYSTEMS PBKS	\$54.95	Y	\$46.71
53	71	21546	GEOVISION MICROPRO	\$69.95	Y	\$59.46
53	80	37491	ELEMENTARY MATH KIT	\$99.95	Y	\$84.96
53	81	21585	JUMBO DOT DICE	\$8.95	Y	\$7.61
53	81	22229	FOAM DOT DICE	\$7.95	Y	\$6.76
53	81	52641	JUMBO DICE IN DICE	\$16.95	Y	\$14.41
53	82	33895	GROUPING CIRCLES SET OF 6	\$9.95	Y	\$8.46
53	82	53682	DOUBLE SIDED MAGNETIC MONEY	\$39.95	Y	\$33.96
53	82	71218	JUMPING JACKS & PATTERN CARDS	\$37.95	Y	\$32.26
53	83	36174	NUMBERLINE CLOCK	\$55.95	Y	\$47.56
53	83	8958	12 ORIGINAL MINI CLOCKS	\$20.95	Y	\$17.81

Catalog Code	Page Number	Product ID	Description	List Price	Discountable	Discounted Price
53	83	9121	ORIGINAL JUDY CLOCK	\$28.95	Y	\$24.61
53	84	13183	PLASTIC GEOBOARDS	\$34.95	Y	\$29.71
53	84	29602	8.5X11IN RULED GRAPH PAPER	\$5.25	Y	\$4.46
53	84	62974	SORTING TRAYS	\$39.95	Y	\$33.96
53	84	83653	DRAWING PAPER 1/2 INCH GRID	\$19.95	Y	\$16.96
53	85	146973	TEN FRAME DOMINOES	\$16.95	Y	\$14.41
53	85	51199	MAGNETIC TEN FRAME BOARDS	\$36.95	Y	\$31.41
53	85	51201	MAGNETIC TEN FRAME SET OF 4	\$20.95	Y	\$17.81
53	85	52590	GIANT MAGNETIC TEN FRAME SET	\$23.95	Y	\$20.36
53	85	74158	TEN FRAMES PLAYING CARDS	\$8.95	Y	\$7.61
53	86	17057	UNIFIX 1-10 STAIR	\$10.95	Y	\$9.31
53	86	21522	COUNTING & PLACE VALUE POCKET	\$16.95	Y	\$14.41
53	86	52593	MAKE A SPLASH 120 MAT	\$36.95	Y	\$31.41
53	86	53659	UNIFIX GRAPHING BASE	\$13.95	Y	\$11.86
53	86	9718	UNIFIX BOX OF 100 CUBES	\$18.95	Y	\$16.11
53	87	23993	MAGNETIC BASE TEN	\$8.95	Y	\$7.61
53	87	47163	MATH IS FUN WITH BOOKS SET	\$67.95	Y	\$57.76
53	87	53386	BASE TEN BLOCKS/111 PCS	\$12.95	Y	\$11.01
53	88	22371	MEASURING WORMS SET OF 72	\$19.95	Y	\$16.96
53	88	47896	PAN BALANCE SCALE	\$41.95	Y	\$35.66
53	89	22291	ULTRAFLEX SAFE-T RULER SET/5	\$11.95	Y	\$10.16
53	89	26599	WOODEN RULERS SET OF 12	\$4.95	Y	\$4.21
53	89	46395	CLASSROOM MEASUREMENT KIT	\$39.95	Y	\$33.96
53	89	91445	MEASURING TAPE 50FT/15M	\$11.95	Y	\$10.16
53	90	52594	TRI FACTA MULT AND DIV GAME	\$31.95	Y	\$27.16
53	90	52595	TRI FACTA ADD AND SUB GAME	\$31.95	Y	\$27.16
53	90	82800	NUMBER BEAN BAGS	\$34.95	Y	\$29.71
53	90	83052	ADD&SUBTRCT UNKWN QTY FLSHCRDS	\$19.95	Y	\$16.96
53	91	145495	MOBI NUMERICAL TILE GAME	\$25.95	Y	\$22.06
53	91	148201	MULTIPLICATION BY HEART	\$26.95	Y	\$22.91
53	91	91307	GIANT MAGNETIC NUMBER BONDS	\$28.95	Y	\$24.61
53	91	91308	NUMBER BONDS ANSWER BOARDS	\$23.95	Y	\$20.36
53	92	34270	POWER PEN CARDS SUBTRACTION	\$12.95	Y	\$11.01
53	92	34271	POWER PEN CARDS MONEY	\$12.95	Y	\$11.01
53	92	34272	POWER PEN CARDS TIME	\$12.95	Y	\$11.01
53	92	34274	POWER PEN CARDS MULTIPLICATION	\$12.95	Y	\$11.01
53	92	34325	POWER PEN CARDS ADDITION	\$12.95	Y	\$11.01
53	92	34332	POWER PEN CARDS FRACTIONS	\$12.95	Y	\$11.01
53	92	36045	POWER PEN	\$14.95	Y	\$12.71
53	92	53283	WRITE ON /OFF 120 NUMBER MATS	\$20.95	Y	\$17.81
53	92	89667	POWER PEN CARDS DIVISION	\$12.95	Y	\$11.01
53	93	11041	WOODEN GEOMTRC SOLDS	\$25.95	Y	\$22.06
53	93	13133	LARGE GEO SHAPES SET OF 10	\$27.95	Y	\$23.76
53	93	25244	VOLUMETRIC SOLIDS-SET OF 15	\$13.95	Y	\$11.86
53	93	87681	24 GAME SINGLE DIGITS	\$28.95	Y	\$24.61
53	93	87682	24 GAME DOUBLE DIGITS	\$28.95	Y	\$24.61

Catalog Code	Page Number	Product ID	Description	List Price	Discountable	Discounted Price
53	93	87683	24 GAME VARIABLES	\$28.95	Y	\$24.61
53	94	24037	RAINBOW FRACTION TILES W/TRAY	\$17.95	Y	\$15.26
53	94	82831	PIZZA FRACTION FUN GAME	\$25.95	Y	\$22.06
53	94	98385	FRACTION FORMULA GAME	\$39.95	Y	\$33.96
53	95	148044	FRACTION & MULTIPL DOMINOES	\$32.95	Y	\$28.01
53	95	23952	MATH WHIZ	\$45.95	Y	\$39.06
53	95	51321	MINUTE MATH ELECTRONIC GAME	\$28.95	Y	\$24.61
53	95	53238	CALC U STORE POCKET CHART	\$24.95	Y	\$21.21
13	122	34024	STEM MOBILE CREATIVITY BOARD	\$659.95	Y	\$560.96
13	122	34396	CORAL CONNECTION - 70 PC SET	\$169.95	Y	\$144.46
13	122	37089	UNIT BLOCK MARBLE 40 PC	\$91.95	Y	\$78.16
13	122	37659	TOWERING WOOD STONES	\$48.95	Y	\$41.61
13	122	63197	BUILD AN ANIMAL	\$49.95	Y	\$42.46
13	122	63198	BUILD A WATERWAY	\$49.95	Y	\$42.46
13	122	93781	STEAM CARPET 8FX12F KVPLUS	\$379.95	Y	\$322.96
13	123	36912	SPACE FOR PRES MAKERSPACES PBK	\$32.95	Y	\$28.01
13	123	37710	DIG IN OUTDOOR STEM LEARN CHD	\$32.95	Y	\$28.01
13	123	37973	MAGNETIC LED STEM CENTER ECE	\$449.95	Y	\$382.46
13	123	86303	STEM JOURNAL SET OF 10	\$24.95	Y	\$21.21
13	123	89713	EXPLORING SCIENCE OF SOUNDS PB	\$16.95	Y	\$14.41
13	123	89773	STEM POSTER SET	\$21.95	Y	\$18.66
13	124	37868	STACKING SORTING TRAYS SET 4	\$189.95	Y	\$161.46
13	124	38013	NATURE GEO LOOSE PARTS	\$168.95	Y	\$143.61
13	124	38014	RANDOM ROBOTS LOOSE PARTS	\$269.95	Y	\$229.46
13	124	38015	TIMELESS TREASURE LOOSE PARTS	\$199.95	Y	\$169.96
13	124	38016	INCLINED EXPLOR LOOSE PARTS	\$199.95	Y	\$169.96
13	125	29425	STEM EXPLORATION TABLE	\$659.95	Y	\$560.96
13	125	33983	LOOSE PARTS 4 PBK	\$39.95	Y	\$33.96
13	125	36913	LOOSE PARTS K-3 PBK	\$34.95	Y	\$29.71
13	125	37864	PLASTIC SORT TRAYS WH SET 4	\$79.95	Y	\$67.96
13	125	37865	PLASTIC SORT TRAYS NT SET 4	\$79.95	Y	\$67.96
13	125	37867	ORGANIC SORT TRAYS SET OF 3	\$129.95	Y	\$110.46
13	125	61039	SEA SHELLS SET OF 48	\$27.95	Y	\$23.76
13	125	70903	COLLECTION DISCOVERY TABLE	\$379.95	Y	\$322.96
13	125	72295	LOOSE PARTS PBK	\$39.95	Y	\$33.96
13	125	85541	LOOSE PARTS 2 PBK	\$39.95	Y	\$33.96
13	125	86109	AGATE SLICES-12	\$21.95	Y	\$18.66
13	125	91275	LOOSE PARTS 3 PBK	\$39.95	Y	\$33.96
13	125	98343	LETS SEE NATURE COLLECTION	\$32.95	Y	\$28.01
13	126	37849	ALL-WEATHER MAG GLASS SET OF 4	\$35.95	Y	\$30.56
13	126	37850	ALL-WEATHER 2 HANDED MAG SET 2	\$39.95	Y	\$33.96
13	126	37851	ALL-WEATHER TABLETOP MAG SET 2	\$62.95	Y	\$53.51
13	126	37852	ALL-WEATHER KALEID LOUPES SET	\$29.95	Y	\$25.46
13	126	37853	ALL-WEATHER JUMBO TWZRS SET 6	\$12.95	Y	\$11.01
13	127	31286	TREASURE TUBES- CLEAR	\$71.95	Y	\$61.16
13	127	31386	TREASURE TUBES - PRIMARY	\$71.95	Y	\$61.16

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13	127	63019	MAGNIFICATION STACKING BLOCKS	\$51.95	Y	\$44.16
13	127	86263	TRANSPARENT STACKING TOWER	\$41.95	Y	\$35.66
13	127	87339	DISCOVERY ACTIVITY BLOCKS	\$36.95	Y	\$31.41
13	127	91346	TREASURE BLOCKS CLEAR	\$61.95	Y	\$52.66
13	127	91353	TREASURE BLOCKS PRIMARY	\$61.95	Y	\$52.66
13	128	31535	TRANSPARENT LIGHT&COLOR BLOCKS	\$71.95	Y	\$61.16
13	128	34222	PERCEPTION CUBES	\$77.95	Y	\$66.26
13	128	37866	PLASTIC SORT TRAYS CL SET 4	\$109.95	Y	\$93.46
13	128	62802	LED ACTIVITY TABLET	\$239.95	Y	\$203.96
13	128	63270	LIGHT TABLE ACCESSORY KIT	\$74.95	Y	\$63.71
13	128	63804	COLOR PADDLES SET/18	\$15.95	Y	\$13.56
13	128	89683	PRESCHOOL LIGHT TABLE	\$394.95	Y	\$335.71
13	128	89684	TABLETOP LIGHT BOX	\$314.95	Y	\$267.71
13	129	147146	COLOR CHANGING LIGHT PANEL A-2	\$469.95	Y	\$399.46
13	129	27915	LIGHT CUBE	\$329.95	Y	\$280.46
13	129	27916	LIGHT CUBE ACCESS KIT	\$69.95	Y	\$59.46
13	129	30769	SCIENCE SENSORY TUBES	\$46.95	Y	\$39.91
13	129	37178	CLEAR CRYSTAL BLOCKS - 25 PCS	\$94.95	Y	\$80.71
13	129	63675	CLICK BUILDERS CLSC PRISM 1000	\$61.95	Y	\$52.66
13	129	63679	CLICK BUILDERS JR PRISM 72 PC	\$36.95	Y	\$31.41
13	129	63829	SENSORY OOZE TUBE SET	\$59.95	Y	\$50.96
13	129	86391	SHAPES AND COLORS DISCOVERY SE	\$22.95	Y	\$19.51
13	130	24015	SENSORY DOME	\$28.95	Y	\$24.61
13	130	36919	POND SENSORY BIN	\$39.95	Y	\$33.96
13	130	36997	ARCTIC SENSORY BIN	\$41.95	Y	\$35.66
13	130	37486	WEATHER SENSORY BIN	\$37.95	Y	\$32.26
13	130	55507	DESERT HOTHOUSE	\$17.95	Y	\$15.26
13	130	55580	FLOOF BUCKET	\$24.95	Y	\$21.21
13	130	86031	SUPER SAND PRIMARY PACK	\$37.95	Y	\$32.26
13	130	95432	MIRACLE SNOW BUCKET 1 LB	\$25.95	Y	\$22.06
13	131	146515	VERY FIRST MAGNET KIT	\$34.95	Y	\$29.71
13	131	24381	MIGHTY MAGNETS - SET OF 6	\$29.95	Y	\$25.46
13	131	61118	MAGNETIC DISCOVERY BOARD	\$47.95	Y	\$40.76
13	131	62578	MAGNETIC MATCH RINGS	\$19.95	Y	\$16.96
13	131	84425	12 SHATTERPROOF SAFETY MIRRORS	\$49.95	Y	\$42.46
13	131	91186	6 MAGNETIC WANDS	\$16.95	Y	\$14.41
13	131	98246	IRON FILINGS	\$29.95	Y	\$25.46
13	132	147582	SPLASHOLOGY WATER LAB SET	\$26.95	Y	\$22.91
13	132	61034	COLOR LENSES	\$34.95	Y	\$29.71
13	132	62610	JUMBO EYEDROPPERS	\$21.95	Y	\$18.66
13	132	63770	GEOSAFARI JR TALKING MICROSCP	\$64.95	Y	\$55.21
13	132	71411	KAPLAN MAGNIFIERS SET OF 3	\$24.95	Y	\$21.21
13	132	90565	STUDENT MAGNIFIERS/SET OF 12	\$17.95	Y	\$15.26
13	132	91172	COLOR GLASS PLAY	\$12.95	Y	\$11.01
13	132	91362	COLOR SAFETY GOOGLES/SET OF6	\$34.95	Y	\$29.71
13	132	98244	PRIMARY SCIENCE SET	\$42.95	Y	\$36.51

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13	132	98245	JUMBO TEST TUBES	\$21.95	Y	\$18.66
13	133	17142	BUTTERFLY GARDEN	\$31.95	Y	\$27.16
13	133	24222	BACKYARD PBK BK SET	\$64.95	Y	\$55.21
13	133	46346	CREATURE PEEPER	\$12.95	Y	\$11.01
13	133	51122	BIG VIEW BUG JARS SET OF 6	\$54.95	Y	\$46.71
13	133	63317	BUZZERKS SET	\$27.95	Y	\$23.76
13	133	86041	INSECT X-RAYS & PICTURE CARDS	\$31.95	Y	\$27.16
13	133	91170	SUPER BUG SET	\$25.95	Y	\$22.06
13	134	148246	INSECT & FISH VIEWER	\$27.95	Y	\$23.76
13	134	17216	FIVE GALLON AQUARIUM SYSTEM	\$89.95	Y	\$76.46
13	134	32921	LIFE CYCLE FIGURINES SET 24 PC	\$51.95	Y	\$44.16
13	134	33012	ANT FACTORY	\$59.95	Y	\$50.96
13	134	37529	BIORB 8 GALLON AQUARIUM-SILVER	\$229.95	Y	\$195.46
13	134	63566	PLAY & EXPLORE BUGS	\$34.95	Y	\$29.71
13	134	71413	LIFE CYCLE PUZZLE SET OF 4	\$51.95	Y	\$44.16
13	134	86390	LADYBUG LAND	\$37.95	Y	\$32.26
13	135	32336	GRASS PLAYMAT	\$91.95	Y	\$78.16
13	135	32337	PEBBLES PLAYMAT	\$91.95	Y	\$78.16
13	135	38033	SPECIMEN STONES BUGS	\$64.95	Y	\$55.21
13	135	38034	SPECIMEN STONES SEA CREATURES	\$87.95	Y	\$74.76
13	135	38035	SPECIMEN STONES PLANTS	\$57.95	Y	\$49.26
13	135	38036	SPECIMEN STONES TABLETOP STAND	\$68.95	Y	\$58.61
13	136	34696	ZOO ANIMALS BINGO	\$31.95	Y	\$27.16
13	136	34697	FARM ANIMALS BINGO	\$31.95	Y	\$27.16
13	136	34699	FOREST ANIMALS BINGO	\$31.95	Y	\$27.16
13	136	35079	OCEAN BINGO	\$31.95	Y	\$27.16
13	136	37782	DINOSAUR PICTURE CARDS & X-RAY	\$34.95	Y	\$29.71
13	136	62613	ANIMAL SKIN MATCH UP	\$19.95	Y	\$16.96
13	136	63294	PEEKABOO SOUNDBOXES	\$55.95	Y	\$47.56
13	136	70482	RECYCLING ZONE	\$44.95	Y	\$38.21
13	136	70502	THE INSECT LIFE CYCLE GAME	\$44.95	Y	\$38.21
13	136	70834	SHADOW MATCH GAME	\$44.95	Y	\$38.21
13	137	147561	REDUCE & REUSE RECYCLING CENTR	\$37.95	Y	\$32.26
13	137	21550	HUMAN X-RAYS	\$44.95	Y	\$38.21
13	137	37271	HUMAN BODY PUZZLE	\$31.95	Y	\$27.16
13	137	37627	NATURAL WORLD EXPLORATION	\$34.95	Y	\$29.71
13	137	51111	THESE ARE MY SENSES PBK	\$34.95	Y	\$29.71
13	137	70470	OUR FIVE SENSES GAME	\$41.95	Y	\$35.66
13	137	92755	CRTV INVEST EARLY SCIENCE PBK	\$18.95	Y	\$16.11
13	138	51266	SCIENCE EXPLORATION BOOK SET	\$64.95	Y	\$55.21
13	138	63716	ANIMALS & NATURE POSTER SET	\$21.95	Y	\$18.66
13	138	70859	MAGNETIC CALENDAR WEATHER CNTR	\$59.95	Y	\$50.96
13	138	91183	WHATS INSIDE ANIMALS	\$41.95	Y	\$35.66
13	139	34603	WEATHER & SEASONS BINGO	\$31.95	Y	\$27.16
13	139	37037	WEATHER POSTERS SET OF 12	\$21.95	Y	\$18.66
13	139	37139	WHATS THE WEATHER BOOKS	\$41.95	Y	\$35.66

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13	139	37167	WEATHER STONES SET OF 10	\$33.95	Y	\$28.86
13	139	73661	LEARN WITH ME SCIENCE BOOK SET	\$37.95	Y	\$32.26
13	139	81903	PET TORNADO	\$7.95	Y	\$6.76
13	139	97275	KAPLAN WEATHER BEAR SET	\$61.95	Y	\$52.66
13	145	37332	AUDIO STAR BOOM BOX	\$184.95	Y	\$157.21
13	145	63308	DLX HEADPHONE W/VOLUME CONTROL	\$24.95	Y	\$21.21
13	145	89641	TECH TUB2 FOR 6 DEVICES	\$364.95	Y	\$310.21
13	145	89971	LISTENING CENTER	\$399.95	Y	\$339.96
13	145	90402	BOOMBOX/BLOCK/CD/CASS/FM	\$194.95	Y	\$165.71
13	148	36832	BOTLEY 2.0 COD ROBOT ACTIV SET	\$84.95	Y	\$72.21
13	148	36833	BOTLEY 2.0 ROBOT CLSSRM BUND	\$329.95	Y	\$280.46
13	148	53884	ROBOT MOUSE STEM ACT KIT	\$65.95	Y	\$56.06
13	148	53885	ROBOT MOUSE SINGLE	\$38.95	Y	\$33.11
13	149	142446	CODING CRITTERS RANGER & ZIP	\$50.95	Y	\$43.31
13	149	142447	CODING CRITTERS SCAMPER SNEAKR	\$50.95	Y	\$43.31
13	149	142448	CODING CRITTERS RUMBLE BUMBLE	\$50.95	Y	\$43.31
13	149	36836	CODING CRITTERS BOPPER HIP HOP	\$50.95	Y	\$43.31
13	149	37387	ARTIE MAX	\$130.95	Y	\$111.31
13	149	55576	ROCKIN ROBOTS	\$629.95	Y	\$535.46
13	150	142466	SCIENCE EXPERIMENT TOOL BOX	\$47.95	Y	\$40.76
13	150	145669	KIDS FIRST ROBOT ENGINEER	\$52.95	Y	\$45.01
13	150	33942	LITTLE BRICKS - 60 PC SET	\$71.95	Y	\$61.16
13	150	35496	LITTLE PAVERS - 60PC	\$65.95	Y	\$56.06
13	150	63780	RAMPTASTIC	\$54.95	Y	\$46.71
13	151	143588	DYNAMO DOMINOES	\$46.95	Y	\$39.91
13	151	17471	STRAWS AND CONNECTORS 230PK	\$31.95	Y	\$27.16
13	151	62997	EARLY ENGINEERING SET	\$162.95	Y	\$138.51
13	151	63176	JUNIOR GEOSTIX	\$27.95	Y	\$23.76
13	151	63611	MAGNETIC POLYDRON CLASS SET	\$199.95	Y	\$169.96
13	151	90591	CREATIVE INVESTIGATIONS TECH P	\$16.95	Y	\$14.41
13	152	31159	CLEAR LARGE BUTTON COUNTERS	\$24.95	Y	\$21.21
13	152	31164	FRUIT COUNTERS	\$24.95	Y	\$21.21
13	152	31168	TRANSPORTATION COUNTERS	\$24.95	Y	\$21.21
13	152	31169	BUG COUNTERS	\$24.95	Y	\$21.21
13	152	63189	COUNT AND COMPARE TOOLBOX	\$49.95	Y	\$42.46
13	152	82147	WOODEN DOMINOES	\$32.95	Y	\$28.01
13	152	82150	LINKING CUBES	\$21.95	Y	\$18.66
13	152	91034	BACKPACK BEAR CNTRS W/6 BOWLS	\$22.95	Y	\$19.51
13	152	91035	BACKPACK BEAR ATTRIB COUNTERS	\$21.95	Y	\$18.66
13	153	142483	TACTILE COUNTING STONES	\$59.95	Y	\$50.96
13	153	31356	NUMBER POPS	\$31.95	Y	\$27.16
13	153	33052	SORT & COUNT VEHICLES	\$32.95	Y	\$28.01
13	153	36911	PATH TO EARLY MATH PBK	\$34.95	Y	\$29.71
13	153	37662	ECO MATH CONNECTING BEARS	\$54.95	Y	\$46.71
13	153	63605	1 TO 10 COUNTING OWLS	\$26.95	Y	\$22.91
13	153	81744	PEG IT NUMBER BOARDS	\$44.95	Y	\$38.21

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13	153	89776	LADYBUG STONES W ACTVY CARDS	\$67.95	Y	\$57.76
13	154	148157	LEARNING TO COUNT CRESCENDO	\$37.95	Y	\$32.26
13	154	31158	ABACUS	\$17.95	Y	\$15.26
13	154	33141	NATURAL STACK AND SORT BOARD	\$68.95	Y	\$58.61
13	154	34023	1-10 NUMBER STACKER	\$84.95	Y	\$72.21
13	154	81891	COUNTING TREE	\$36.95	Y	\$31.41
13	154	86302	COUNTING DOUGH MATS	\$19.95	Y	\$16.96
13	155	22184	PICTURE NUMBER & WORD PUZZLES	\$16.95	Y	\$14.41
13	155	27929	LARGE MAGNETIC NUMBERS	\$39.95	Y	\$33.96
13	155	36160	MAGNATAB NUMBERS SHAPES	\$24.95	Y	\$21.21
13	155	37356	SUMBLOX MATH WOOD BLOCKS-38PCS	\$94.95	Y	\$80.71
13	155	37831	TEDDY BEAR MATH BOOKS SET 4	\$31.95	Y	\$27.16
13	155	62575	TACTILE NUMBER CARDS	\$11.95	Y	\$10.16
13	155	63358	BRAILLE NUMBERS 1-10	\$24.95	Y	\$21.21
13	155	63801	MAGNETIC NUMBER MAZE	\$31.95	Y	\$27.16
13	155	71247	LETS SIZE IT GAME	\$27.95	Y	\$23.76
13	156	1470	MONTESORI SORTING BOX	\$124.95	Y	\$106.21
13	156	30672	SORTING SHAPES CUPCAKES	\$29.95	Y	\$25.46
13	156	37737	SENSORY LEAVES ACTIVITY SET	\$31.95	Y	\$27.16
13	156	51150	SUPER SORTING PIE	\$37.95	Y	\$32.26
13	156	63190	PATTERNS & SORTING TOOLBOX	\$45.95	Y	\$39.06
13	156	63202	MY FIRST FRACTION PUZZLE	\$39.95	Y	\$33.96
13	157	23862	MATCH IT MATH	\$15.95	Y	\$13.56
13	157	30603	MATCH IT COUNTING	\$15.95	Y	\$13.56
13	157	30606	MATCH IT NUMBERS	\$15.95	Y	\$13.56
13	157	31171	PATTERN BLOCKS&ACTIVITY CARDS	\$39.95	Y	\$33.96
13	157	42802	COLORLED GEO FORMS	\$46.95	Y	\$39.91
13	157	46408	BEAD SEQUENCING SET	\$52.95	Y	\$45.01
13	157	55544	CONNECTING CAMELS SET	\$41.95	Y	\$35.66
13	157	60337	PATTERN BLOCKS & BOARDS	\$36.95	Y	\$31.41
13	158	37186	RAINBOW FRACTION MEASURING CUP	\$41.95	Y	\$35.66
13	158	37736	LETS LEARN TO MEASURE SET	\$42.95	Y	\$36.51
13	158	47875	BALANCE SCALE W/CLEAR BUCKETS	\$27.95	Y	\$23.76
13	158	60352	TEACHING CASH REGISTER	\$84.95	Y	\$72.21
13	158	63404	MEGA SAND TIMERS SET OF FOUR	\$71.95	Y	\$61.16
13	158	81603	WOODEN SHAPE SORTING CLOCK	\$24.95	Y	\$21.21
13	158	88401	CREATIVE INVESTIGATIONS MATH	\$16.95	Y	\$14.41
13	158	91112	HOT DOTS JR PEN	\$16.95	Y	\$14.41
13	158	91114	HOT DOTS JR NUMBERS & COUNTING	\$19.95	Y	\$16.96
13	159	15834	MY BIG TAPE	\$12.95	Y	\$11.01
13	159	51151	CROCODILE HOP FLOOR GAME	\$47.95	Y	\$40.76
13	159	63191	MEASUREMENT MATH TOOLBOX	\$45.95	Y	\$39.06
13	159	63232	WOODEN BLOCK BALANCE	\$34.95	Y	\$29.71
13	159	63745	DINOSAUR BONES	\$67.95	Y	\$57.76
13	159	90160	GROWTH CHART	\$24.95	Y	\$21.21
53	60	147581	GREENTHUMB GREENHOUSE	\$84.95	Y	\$72.21

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53	60	89312	SEE THROUGH COMPOSTER	\$54.95	Y	\$46.71
53	61	145608	NANCY B HYDROPONICS KIT	\$30.95	Y	\$26.31
53	61	25519	EARLY LEARNING SITE PACK	\$179.95	Y	\$152.96
53	61	32856	CILANTRO SEEDS 3-PK	\$10.95	Y	\$9.31
53	61	32857	SWEET BASIL SEEDS 3-PK	\$10.95	Y	\$9.31
53	61	32858	OREGANO SEEDS 3-PK	\$10.95	Y	\$9.31
53	61	32859	BEEFSTEAK TOMATOES 3-PK	\$10.95	Y	\$9.31
53	61	32862	BUSH GREEN BEANS SEEDS 3-PK	\$10.95	Y	\$9.31
53	62	86388	BIORB CLEANER PUMP	\$16.95	Y	\$14.41
53	62	86389	BIORB SERVICE KIT	\$16.95	Y	\$14.41
53	63	51502	PLANT LIFE CYCLE	\$25.95	Y	\$22.06
53	63	73784	LETS TAKE WALK EXPLORE NATURE	\$54.95	Y	\$46.71
53	63	73864	BILINGUAL SCIENCE BOOKS	\$39.95	Y	\$33.96
53	64	63565	PLAY & EXPLORE FOSSILS	\$34.95	Y	\$29.71
53	64	74362	LIFE CYCLE THEME BK SET	\$41.95	Y	\$35.66
53	65	63320	BUTTERFLY LIFECYCLE	\$40.95	Y	\$34.81
53	65	82079	INSECT SPECIMEN SET	\$69.95	Y	\$59.46
53	65	82080	MOTH LIFE CYCLE SPECIMEN SET	\$49.95	Y	\$42.46
53	65	82081	PLANT SPECIMEN SET	\$49.95	Y	\$42.46
53	65	86381	SEA LIFE SPECIMEN SET	\$56.95	Y	\$48.41
53	66	24237	ANIMAL X RAYS	\$29.95	Y	\$25.46
53	66	82815	BROKEN BONES X-RAYS	\$39.95	Y	\$33.96
53	67	55505	SEA BEANS 2LB	\$46.95	Y	\$39.91
53	68	32920	STONES&MINERALS LOOSE PRTS KIT	\$99.95	Y	\$84.96
53	68	36852	MINERAL AND FOSSIL COLLECTION	\$51.95	Y	\$44.16
53	69	37214	ENVIRONMENTAL BOOKS SET 3	\$24.95	Y	\$21.21
53	69	74531	REDUCE REUSE RECYCLE BK SET	\$40.95	Y	\$34.81
53	70	37472	GERM TRACKER KIT	\$17.95	Y	\$15.26
53	70	51484	DBL SIDED MAGNETIC HUMAN BODY	\$33.95	Y	\$28.86
53	70	63741	WHATS INSIDE ME DOLL	\$94.95	Y	\$80.71
53	71	51495	HEART ANATOMY MODEL	\$31.95	Y	\$27.16
53	71	51496	HUMAN BODY ANATOMY MODEL	\$31.95	Y	\$27.16
53	71	51497	BRAIN ANATOMY MODEL	\$31.95	Y	\$27.16
53	71	51498	SKELETON MODEL	\$31.95	Y	\$27.16
53	71	51503	ANATOMY MODELS SET	\$126.95	Y	\$107.91
53	72	147579	GEOSAFARI JR KIDNCULARS EXTR	\$34.95	Y	\$29.71
53	72	36492	GEOSAFARI JR FIRST TELESCOPE	\$49.95	Y	\$42.46
53	72	74156	GIANT MAGNETIC SOLAR SYSTEM	\$25.95	Y	\$22.06
53	73	146188-WH	SANDTASTIK THERAPY SAND WHITE	\$31.95	Y	\$27.16
53	73	147597	PLUFFLE 6PK GR-PK-BK-RD-BL-OR	\$59.95	Y	\$50.96
53	73	32457	THERAPY BEACH SAND 10 LBS	\$26.95	Y	\$22.91
53	73	32458	THERAPY BEACH PLAY SAND 25 LBS	\$44.95	Y	\$38.21
53	75	52349	HANDS ON SCIENCE FUN PBK	\$61.95	Y	\$52.66
53	75	53243	SOLAR ROVER	\$25.95	Y	\$22.06
53	75	91130	WINDMILL GENERATOR	\$19.95	Y	\$16.96
53	76	51109	WEATHER BASICS 6 BOOK SET	\$47.95	Y	\$40.76

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53	77	17037	STUDENT THERMOMETERS	\$16.95	Y	\$14.41
53	77	22397	WEEKLY WEATHER/CALENDAR CHART	\$21.95	Y	\$18.66
53	77	31385	EQUILATERAL PRISM 4 INCH	\$8.95	Y	\$7.61
53	77	46332	CLASSROOM THERMOMETER	\$9.95	Y	\$8.46
53	77	74171	PERSPEX PRISM SET OF 7	\$49.95	Y	\$42.46
53	78	200014	CRAFT ROLLS 2 DOZEN/UNIT	\$9.95	Y	\$8.46
53	78	32319	WOODEN CRAFT SPOOLS	\$41.95	Y	\$35.66
53	78	32381	CREATE A SPACE STORAGE CTR	\$27.95	Y	\$23.76
53	78	32447	CRAFTING YARN	\$14.95	Y	\$12.71
53	78	33147	RUBBER BANDS MULTICLRD KIT	\$7.95	Y	\$6.76
53	78	33156	TAPE DISPENSER WITH TAPE	\$103.95	Y	\$88.36
53	78	33618	CLEAR ELASTIC CORD-108 YRDS	\$42.95	Y	\$36.51
53	78	88913	JUMBO NTRL CRAFT STICKS/500CT	\$13.95	Y	\$11.86
53	78	89710	THE PROJECT APPROACH PBK	\$29.95	Y	\$25.46
53	79	146556	MAGNET TAPE STRIP SET OF 4	\$26.95	Y	\$22.91
53	79	26435	PROCELL BATTERIES 9V 12 PACK	\$44.95	Y	\$38.21
53	79	26436	PROCELL BATTERIES AA 24 PACK	\$18.95	Y	\$16.11
53	79	26437	PROCELL BATTERIES AAA 24 PACK	\$18.95	Y	\$16.11
53	79	26438	PROCELL BATTERIES D 12 PACK	\$24.95	Y	\$21.21
53	79	26439	PROCELL BATTERIES C 12 PACK	\$19.95	Y	\$16.96
53	79	32943	DEEP WOODEN BOX WITH LID	\$31.95	Y	\$27.16
53	79	33000	STANLEY TOOLBOX W/5PC TOOLSET	\$57.95	Y	\$49.26
53	79	36089	OOP HIGH TEMP GLUE GUN	\$21.95	Y	\$18.66
53	79	36090	MINI ALL TEMP GLUE STICKS 30CT	\$17.95	Y	\$15.26
53	79	60456	CLEAR JARS W/LIDS SET OF 8	\$22.95	Y	\$19.51
53	79	88609	5LB AIR-DRY CLAY BUCKET	\$15.95	Y	\$13.56