

**3.7.3.** Delivery shall be made in accordance with instructions on purchase order from each Customer. If there is a discrepancy between the purchase order and what is listed on the Contract; it is the Supplier's obligation to seek clarification from the Customer and, if applicable, from the Central Purchasing Contracting officer.

**3.7.4.** Delivery on parts is to be made within 30 days.

**3.7.5.** One Operating Manual, an illustrated parts manual or List, and the Warranty, shall be furnished for each new item purchased, as well as any proprietary tools necessary to perform routine service or adjustments, all at no additional cost.

**3.8. Price Adjustments**

**3.8.1.** Supplier is to notify the Central Purchasing Contracting officer at least 30 days before a price adjustment will occur, or as soon as possible upon notification from the manufacturer.

**3.9. New Products**

**3.9.1.** New products may be added to the Contract as they are introduced by Supplier; however, the discount cannot be lowered throughout the Contract period.

**3.9.2.** If Supplier becomes authorized as a dealer for other products, those products may be added to Supplier's list of equipment offered.

**3.10. Discontinued Products**

Supplier is to notify the Central Purchasing Contracting officer of any changes in the schedule of equipment such as discontinued product or replacement models.

## **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, make of equipment, model of equipment, VIN number of equipment, name of government entity, payment remittance address, and the dates of such provision.

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

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

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

Such proof of coverage shall additionally be provided to the Customer if services will be provided by any of Supplier's employees, agents or subcontractors at any Customer premises and/or employer vehicles will be used in connection with performance of Supplier's obligations under the Contract. Supplier may not commence performance hereunder until such

proof has been provided. Additionally, Supplier shall ensure each insurance policy includes a thirty (30) day notice of cancellation and name the State and its agencies as certificate holder and shall promptly provide proof to the State of any renewals, additions, or changes to such insurance coverage. Supplier's obligation to maintain insurance coverage under the Contract is a continuing obligation until Supplier has no further obligation under the Contract. Any combination of primary and excess or umbrella insurance may be used to satisfy the limits of coverage for Commercial General Liability, Auto Liability and Employers' Liability. Unless agreed between the parties and approved by the State Purchasing Director, the minimum acceptable insurance limits of liability are as follows:

- A.** Workers' Compensation and Employer's Liability Insurance in accordance with and to the extent required by applicable law;
- B.** Commercial General Liability Insurance covering the risks of personal injury, bodily injury (including death) and property damage, including coverage for contractual liability, with a limit of liability of not less than \$5,000,000 per occurrence;
- C.** Automobile Liability Insurance with limits of liability of not less than \$5,000,000 combined single limit each accident;
- D.** Directors and Officers Insurance which shall include Employment Practices Liability as well as Consultant's Computer Errors and Omissions Coverage, if information technology services are provided under the Contract, with limits not less than \$5,000,000 per occurrence;
- E.** Security and Privacy Liability insurance, including coverage for failure to protect confidential information and failure of the security of Supplier's computer systems that results in unauthorized access to Customer data with limits \$5,000,000 per occurrence; and
- F.** Additional coverage required in writing in connection with a particular Acquisition.

- 8.2** Supplier shall be entirely responsible during the existence of the Contract for the liability and payment of taxes payable by or assessed to Supplier or its employees, agents and subcontractors of whatever kind, in connection with the Contract. Supplier further agrees to comply with all state and federal laws applicable to any such persons, including laws regarding

wages, taxes, insurance, and Workers' Compensation. Neither Customer nor the State shall be liable to the Supplier, its employees, agents, or others for the payment of taxes or the provision of unemployment insurance and/or Workers' Compensation or any benefit available to a State or Customer employee.

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

## **9 Compliance with Applicable Laws**

- 9.1** As long as Supplier has an obligation under the terms of the Contract and in connection with performance of its obligations, the Supplier represents its present compliance, and shall have an ongoing obligation to comply, with all applicable federal, State, and local laws, rules, regulations, ordinances, and orders, as amended, including but not limited to the following:
- A.** Drug-Free Workplace Act of 1988 set forth at 41 U.S.C. §81.
  - B.** Section 306 of the Clean Air Act, Section 508 of the Clean Water Act, Executive Order 11738, and Environmental Protection Agency Regulations which prohibit the use of facilities included on the EPA List of Violating Facilities under nonexempt federal contracts, grants or loans;
  - C.** Prospective participant requirements set at 45 C.F.R. part 76 in connection with Debarment, Suspension and other responsibility matters;
  - D.** 1964 Civil Rights Act, Title IX of the Education Amendment of 1972, Section 504 of the Rehabilitation Act of 1973, Americans with Disabilities Act of 1990, and Executive Orders 11246 and 11375;
  - E.** Anti-Lobbying Law set forth at 31 U.S.C. §1325 and as implemented at 45 C.F.R. part 93;

- F.** Requirements of Internal Revenue Service Publication 1075 regarding use, access and disclosure of Federal Tax Information (as defined therein);
- G.** Obtaining certified independent audits conducted in accordance with Government Auditing Standards and Office of Management and Budget Uniform Guidance, 2 CFR 200 Subpart F §200.500 et seq. with approval and work paper examination rights of the applicable procuring entity;
- H.** Requirements of the Oklahoma Taxpayer and Citizen Protection Act of 2007, 25 O.S. §1312 and applicable federal immigration laws and regulations and be registered and participate in the Status Verification System. The Status Verification System is defined at 25 O.S. §1312, includes but is not limited to the free Employment Verification Program (E-Verify) through the Department of Homeland Security, and is available at [www.dhs.gov/E-Verify](http://www.dhs.gov/E-Verify);
- I.** Requirements of the Health Insurance Portability and Accountability Act of 1996; Health Information Technology for Economic and Clinical Health Act; Payment Card Industry Security Standards; Criminal Justice Information System Security Policy and Security Addendum; and Family Educational Rights and Privacy Act; and
- J.** Be registered as a business entity licensed to do business in the State, have obtained a sales tax permit, and be current on franchise tax payments to the State, as applicable.

**9.2** The Supplier's employees, agents and subcontractors shall adhere to applicable Customer policies including, but not limited to acceptable use of Internet and electronic mail, facility and data security, press releases, and public relations. As applicable, the Supplier shall adhere to the State Information Security Policy, Procedures, Guidelines set forth at [https://omes.ok.gov/sites/g/files/gmc316/f/InfoSecPPG\\_0.pdf](https://omes.ok.gov/sites/g/files/gmc316/f/InfoSecPPG_0.pdf). Supplier is responsible for reviewing and relaying such policies covering the above to the Supplier's employees, agents and subcontractors.

**9.3** At no additional cost to Customer, the Supplier shall maintain all applicable licenses and permits required in association with its obligations under the Contract.

- 9.4** In addition to compliance under subsection 9.1 above, Supplier shall have a continuing obligation to comply with applicable Customer-specific mandatory contract provisions required in connection with the receipt of federal funds or other funding source.
- 9.5** The Supplier is responsible to review and inform its employees, agents, and subcontractors who provide a product or perform a service under the Contract of the Supplier's obligations under the Contract and Supplier certifies that its employees and each such subcontractor shall comply with minimum requirements and applicable provisions of the Contract. At the request of the State, Supplier shall promptly provide adequate evidence that such persons are its employees, agents or approved subcontractors and have been informed of their obligations under the Contract.
- 9.6** As applicable, Supplier agrees to comply with the Governor's Executive Orders related to the use of any tobacco product, electronic cigarette or vaping device on any and all properties owned, leased, or contracted for use by the State, including but not limited to all buildings, land and vehicles owned, leased, or contracted for use by agencies or instrumentalities of the State.
- 9.7** The execution, delivery and performance of the Contract and any ancillary documents by Supplier will not, to the best of Supplier's knowledge, violate, conflict with, or result in a breach of any provision of, or constitute a default (or an event which, with notice or lapse of time or both, would constitute a default) under, or result in the termination of, any written contract or other instrument between Supplier and any third party.
- 9.8** Supplier represents that it has the ability to pay its debts when due and it does not anticipate the filing of a voluntary or involuntary bankruptcy petition or appointment of a receiver, liquidator or trustee.
- 9.9** Supplier represents that, to the best of its knowledge, any litigation or claim or any threat thereof involving Supplier has been disclosed in writing to the State and Supplier is not aware of any other litigation, claim or threat thereof.
- 9.10** If services provided by Supplier include delivery of an electronic communication, Supplier shall ensure such communication and any associated support documents are compliant with Section 508 of the Federal Rehabilitation Act and with State standards regarding accessibility. Should any communication or associated support documents be non-compliant,

Supplier shall correct and re-deliver such communication immediately upon discovery or notice, at no additional cost to the State. Additionally, as part of compliance with accessibility requirements where documents are only provided in non-electronic format, Supplier shall promptly provide such communication and any associated support documents in an alternate format usable by individuals with disabilities upon request and at no additional cost, which may originate from an intended recipient or from the State.

## **10 Audits and Records Clause**

- 10.1** As used in this clause and pursuant to 67 O.S. §203, “record” includes a document, book, paper, photograph, microfilm, computer tape, disk, record, sound recording, film recording, video record, accounting procedures and practices, and other data, regardless of type and regardless of whether such items are in written form, in the form of computer data, or in any other form. Supplier agrees any pertinent federal or State agency or governing entity of a Customer shall have the right to examine and audit, at no additional cost to a Customer, all records relevant to the execution and performance of the Contract except, unless otherwise agreed, costs of Supplier that comprise pricing under the Contract.
- 10.2** The Supplier is required to retain records relative to the Contract for the duration of the Contract and for a period of seven (7) years following completion or termination of an Acquisition unless otherwise indicated in the Contract terms. If a claim, audit, litigation or other action involving such records is started before the end of the seven-year period, the records are required to be maintained for two (2) years from the date that all issues arising out of the action are resolved, or until the end of the seven (7) year retention period, whichever is later.
- 10.3** Pursuant to 74 O.S. §85.41, if professional services are provided hereunder, all items of the Supplier that relate to the professional services are subject to examination by the State agency, State Auditor and Inspector and the State Purchasing Director.

## **11 Confidentiality**

- 11.1** The Supplier shall maintain strict security of all State and citizen data and records entrusted to it or to which the Supplier gains access, in accordance with and subject to applicable federal and State laws, rules, regulations, and policies and shall use any such data and records only as necessary for

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

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



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

Information; (iv) is lawfully obtained from a third party (without any confidentiality obligation) who has the right to make such disclosure or (v) résumé, pricing or marketing materials provided to the State. In addition, the obligations in this section shall not apply to the extent that the applicable law or regulation requires disclosure of Supplier Confidential Information, provided that the Customer provides reasonable written notice, pursuant to Contract notice provisions, to the Supplier so that the Supplier may promptly seek a protective order or other appropriate remedy.

## **12 Conflict of Interest**

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

## **13 Assignment and Permitted Subcontractors**

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

**13.2** Notwithstanding the foregoing, the Contract may be assigned by Supplier to any corporation or other entity in connection with a merger, consolidation, sale of all equity interests of the Supplier, or a sale of all or substantially all of the assets of the Supplier to which the Contract relates. In any such case, said corporation or other entity shall by operation of law or expressly in writing assume all obligations of the Supplier as fully as if it had been originally made a party to the Contract. Supplier shall give the



**State of Oklahoma**

**Office of Management and Enterprise Services**

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**STATE OF OKLAHOMA STATEWIDE CONTRACT WITH INDUSTRIAL TRUCK  
EQUIPMENT, INC**

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

**Purpose**

The Contract is awarded for the provision of Snow Removal Equipment, as more particularly described in certain Contract Documents. This Contract memorializes the agreement of the parties with respect to terms of the Contract that is being awarded to Supplier.

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

1. The parties agree that Supplier has not yet begun performance of work under this Contract. Upon full execution of this Contract, Supplier may begin work. Issuance of a purchase order is required prior to payment to a Supplier.
2. The following Contract Documents are attached hereto and incorporated herein:
  - 2.1. Solicitation, Attachment A;
  - 2.2. General Terms, Attachment B;
  - 2.3. Statewide Terms, Attachment C;
  - 2.4. Attachment D intentionally omitted; and
  - 2.5. Portions of the Bid, Attachment E.
3. The parties additionally agree:
  - 3.1. Except for and information deemed confidential by the State pursuant to applicable law, rule, regulation or policy, the parties agree Contract terms and information are not confidential and are disclosable without further approval of or notice to Supplier.

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

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

**INDUSTRIAL TRUCK EQUIPMENT, INC**

By: Dan Sivard

Name: Dan Sivard

Title: State Purchasing Director

Date: 10/23/2020

By: Larry Rose

Name: Larry Rose

Title: Owner/Partner

Date: Oct 22 2021

**ATTACHMENT A**  
**SOLICITATION NO. 090000447**

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 statewide Contract SW0500 for snow removal equipment.

**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 three (3) one-year options to renew the Contract.

**2. Contract Obligations**

In addition to obligations in other Contract Documents, the following obligations are included in the Contract:

- 2.1. Sales of motor vehicles in the State of Oklahoma are subject to the Oklahoma Motor Vehicle Commission Statutes. (Oklahoma Statutes, Title 47 - Motor Vehicles, Chapter 62) It is the Supplier's responsibility to keep all required Oklahoma Motor Vehicle Commission licensing current during the term of the Contract and to furnish copies at any time upon request by Central Purchasing. If the Supplier does not maintain current licensing, Central Purchasing may immediately terminate the Contract upon discovery of the expiration of the license. Contracts for motor vehicles to be sold within the state of Oklahoma may be made only with properly licensed Oklahoma Motor Vehicle Dealers.
- 2.2 Authorized Dealer list, Letter from Manufacturer, and service level agreements are required throughout the duration of the Contract.
- 2.2 Supplier must use best effort to assure product availability through duration of Contract period.
- 2.3 The State recognizes that the pricing of steel can be difficult due to market fluctuations. The initial pricing submitted by the Supplier shall be expected to be held firm for the first 60 days of the Contract. Depending on the date of award, and the changes in the raw material market, pricing may adjust once during a

calendar quarter if necessary, beginning with the next calendar quarter following the award. An advance notice of 30 days prior to either a price increase or decrease along with the new pricing schedule and documentation supporting the increase or decrease shall be sent to the Central Purchasing Contracting officer.

**2.4** All installations must be performed within the State of Oklahoma.

**2.5** Electronic brochures for equipment may be requested from Supplier.

### **3.1. Warranty for Equipment, Options, Accessories & Attachments**

**3.1.1.** The Supplier agrees the products furnished under this Contract shall be covered by all commercial warranties the Contractor provides for such products, and rights and remedies provided herein are in addition to and do not limit any rights afforded to the State of Oklahoma by any other clause of this Contract.

**3.1.2.** The Supplier warrants that at the time of delivery, all equipment and purchased under this Contract will be free from defects in material or workmanship and will conform to the specifications and all other requirements of this Contract

**3.1.4.** All warranty work performed and parts/materials supplied shall meet original equipment manufacturer (OEM) warranty requirements. Equivalent substitutions must be approved by the customer contact person prior to installation

**3.1.5.** Warranty work performed not meeting specifications or found to be defective, shall not be accepted. Supplier shall be required to make repairs or corrections at no additional cost to the customer.

**3.1.6.** Supplier shall furnish a copy of their warranty applicable for the equipment.

**3.1.7.** All equipment warranties shall start on the date of delivery and shall be for the full term of said warranty.

**3.1.8.** Before actual warranty work begins, ownership of the equipment shall be established to ensure the equipment in need of repair belongs to the Customer requesting the service. The following information shall be provided in order to determine ownership of the equipment:

**3.1.9.** Name of Customer and division, if applicable

**3.1.10.** Make, Model, and VIN of equipment

**3.1.11.** Control number of Customer (Inventory number)

**3.1.12** Repairs made that are covered by a warranty shall not be paid for by the Customer.

**3.1.13.** The Supplier shall furnish all necessary supervision, labor, equipment, tools, parts, materials, and supplies needed for the warranty repair work.

**3.1.14.** All persons utilized in the performance of this Contract shall be employees of the Supplier and be fully qualified to perform the warranty work required. Warranty work shall be performed by certified or trained or authorized service technicians.

- 3.1.15.** Equipment that will remain in the Supplier's possession overnight and for extended periods shall be stored in a safe and secure location for protection from theft and environmental dangers. The Supplier shall be responsible for the proper care and custody of any state owned equipment in the supplier's possession.

## **3.2 Quality of Parts**

- 3.2.1** Parts under these specifications should be name brand, nationally advertised merchandise. Equivalent substitutions must be approved by the customer contact person.
- 3.2.2** After Market Repair parts must be equal to, or exceed original equipment manufacturer's specifications.
- 3.2.3** Repair parts must be packaged and distributed under their respective nationally known name brands.
- 3.2.4** All rebuilt or remanufactured parts must meet the same requirements as listed above.
- 3.2.5** Some repair parts may be required to be original equipment manufactured repair parts. Supplier must carry a complete line of OEM parts for all models of equipment they carry.
- 3.2.6** Preservation, packaging, and packing and marking will be in accordance with best standard industry practice to provide adequate protection against shipping damage.

## **3.3 Warranty-Parts**

- 3.2.1.** Supplier is required to provide any buy-back, trade-in, or exchange policy concerning repair parts sold to government Entities.
- 3.2.2.** Supplier shall correct ordering errors without further cost to the ordering entity.
- 3.2.3.** A copy of the Warranty shall be included for replacement parts purchased.

## **3.4. Ordering**

- 3.4.1.** Options, accessories and/or attachments on ordered equipment shall include all standard items normally furnished by the Supplier for the basic equipment purchased, prior to any options, accessories and/or attachments that enhance the equipment to where it becomes specialized or customized to the customer's requirements.
- 3.4.2** The Customer will determine how and when the truck to be outfitted is to arrive at the Supplier location.
- 3.4.3** While the truck to be outfitted is on the Supplier property, Supplier will be fully responsible for the truck and will ensure that it shall be stored in a safe and secure location for protection from theft and environmental dangers. The Supplier shall

be responsible for the proper care and custody of any Customer-owned equipment in the Supplier's possession.

**3.4.4** Supplier shall identify any websites that can be of assistance in determining needs and calculating total cost of items purchased.

**3.4.5** Any trade-in allowances determined by the Supplier shall be deducted from the established current price after the discount is applied. The formula will be to deduct the discount from the established current price and then take off the trade-in allowance.

Example: List price is \$17,199, and the discount is 23% and the trade-in is \$6,000.  $\$17,199 - 23\% = \$13,243.23$ .  $\$13,243 - \$6000 = \$7,243.23$ , final price.

**3.4.6** Supplier shall provide catalogs and current price lists at no charge upon customer or OMES request.

**3.4.8.** All equipment shall be delivered with one copy of the operator's manual, and an illustrated repair parts manual or list. If other manuals are required by the customer, they shall be offered at the discount offered in the Price Sheets.

### **3.5 Inventory**

**3.5.1.** Supplier shall maintain inventory to ensure compliance with delivery requirements of the Contract.

### **3.6. Invoices**

To ensure prompt payment, the invoice shall include the following information:

**3.6.1.** Supplier's suggested retail price less any trade-in allowance if applicable, Contract percentage discount off, freight cost, set-up fees, any allied or incidentals used to customize the equipment, and the final price for each item delivered.

**3.6.2.** The copy of the current, dated Supplier's Price List showing the price of the equipment if requested by the ordering party for their accounting purposes.

**3.6.3.** Name of company who provided the products/services.

**3.6.4.** Supplier shall be the only office authorized to receive orders, invoice and receive payment. Supplier shall be responsible for the equipment and chassis when being transported between locations for additional installations performed.

### **3.7. Delivery**

**3.7.1.** Delivery of equipment is to be made within 120 calendar days after receipt of order unless other arrangements are made between the Customer and the Supplier. Earlier deliveries are encouraged; however, there shall be no change in Contract price or discount terms because of the earlier delivery.

**3.7.2.** All equipment is to be delivered new, unused, assembled, serviced, oiled and ready for immediate use, unless otherwise requested by the Customer. Liability for product delivery remains with the Supplier until delivered and accepted.



**3.7.3.** Delivery shall be made in accordance with instructions on purchase order from each Customer. If there is a discrepancy between the purchase order and what is listed on the Contract; it is the Supplier's obligation to seek clarification from the Customer and, if applicable, from the Central Purchasing Contracting officer.

**3.7.4.** Delivery on parts is to be made within 30 days.

**3.7.5.** One Operating Manual, an illustrated parts manual or List, and the Warranty, shall be furnished for each new item purchased, as well as any proprietary tools necessary to perform routine service or adjustments, all at no additional cost.

**3.8. Price Adjustments**

**3.8.1.** Supplier is to notify the Central Purchasing Contracting officer at least 30 days before a price adjustment will occur, or as soon as possible upon notification from the manufacturer.

**3.9. New Products**

**3.9.1.** New products may be added to the Contract as they are introduced by Supplier; however, the discount cannot be lowered throughout the Contract period.

**3.9.2.** If Supplier becomes authorized as a dealer for other products, those products may be added to Supplier's list of equipment offered.

**3.10. Discontinued Products**

Supplier is to notify the Central Purchasing Contracting officer of any changes in the schedule of equipment such as discontinued product or replacement models.

## **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, make of equipment, model of equipment, VIN number of equipment, name of government entity, payment remittance address, and the dates of such provision.

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

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

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

Such proof of coverage shall additionally be provided to the Customer if services will be provided by any of Supplier's employees, agents or subcontractors at any Customer premises and/or employer vehicles will be used in connection with performance of Supplier's obligations under the Contract. Supplier may not commence performance hereunder until such

proof has been provided. Additionally, Supplier shall ensure each insurance policy includes a thirty (30) day notice of cancellation and name the State and its agencies as certificate holder and shall promptly provide proof to the State of any renewals, additions, or changes to such insurance coverage. Supplier's obligation to maintain insurance coverage under the Contract is a continuing obligation until Supplier has no further obligation under the Contract. Any combination of primary and excess or umbrella insurance may be used to satisfy the limits of coverage for Commercial General Liability, Auto Liability and Employers' Liability. Unless agreed between the parties and approved by the State Purchasing Director, the minimum acceptable insurance limits of liability are as follows:

- A.** Workers' Compensation and Employer's Liability Insurance in accordance with and to the extent required by applicable law;
- B.** Commercial General Liability Insurance covering the risks of personal injury, bodily injury (including death) and property damage, including coverage for contractual liability, with a limit of liability of not less than \$5,000,000 per occurrence;
- C.** Automobile Liability Insurance with limits of liability of not less than \$5,000,000 combined single limit each accident;
- D.** Directors and Officers Insurance which shall include Employment Practices Liability as well as Consultant's Computer Errors and Omissions Coverage, if information technology services are provided under the Contract, with limits not less than \$5,000,000 per occurrence;
- E.** Security and Privacy Liability insurance, including coverage for failure to protect confidential information and failure of the security of Supplier's computer systems that results in unauthorized access to Customer data with limits \$5,000,000 per occurrence; and
- F.** Additional coverage required in writing in connection with a particular Acquisition.

- 8.2** Supplier shall be entirely responsible during the existence of the Contract for the liability and payment of taxes payable by or assessed to Supplier or its employees, agents and subcontractors of whatever kind, in connection with the Contract. Supplier further agrees to comply with all state and federal laws applicable to any such persons, including laws regarding

wages, taxes, insurance, and Workers' Compensation. Neither Customer nor the State shall be liable to the Supplier, its employees, agents, or others for the payment of taxes or the provision of unemployment insurance and/or Workers' Compensation or any benefit available to a State or Customer employee.

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

## **9 Compliance with Applicable Laws**

- 9.1** As long as Supplier has an obligation under the terms of the Contract and in connection with performance of its obligations, the Supplier represents its present compliance, and shall have an ongoing obligation to comply, with all applicable federal, State, and local laws, rules, regulations, ordinances, and orders, as amended, including but not limited to the following:
- A.** Drug-Free Workplace Act of 1988 set forth at 41 U.S.C. §81.
  - B.** Section 306 of the Clean Air Act, Section 508 of the Clean Water Act, Executive Order 11738, and Environmental Protection Agency Regulations which prohibit the use of facilities included on the EPA List of Violating Facilities under nonexempt federal contracts, grants or loans;
  - C.** Prospective participant requirements set at 45 C.F.R. part 76 in connection with Debarment, Suspension and other responsibility matters;
  - D.** 1964 Civil Rights Act, Title IX of the Education Amendment of 1972, Section 504 of the Rehabilitation Act of 1973, Americans with Disabilities Act of 1990, and Executive Orders 11246 and 11375;
  - E.** Anti-Lobbying Law set forth at 31 U.S.C. §1325 and as implemented at 45 C.F.R. part 93;

- F.** Requirements of Internal Revenue Service Publication 1075 regarding use, access and disclosure of Federal Tax Information (as defined therein);
- G.** Obtaining certified independent audits conducted in accordance with Government Auditing Standards and Office of Management and Budget Uniform Guidance, 2 CFR 200 Subpart F §200.500 et seq. with approval and work paper examination rights of the applicable procuring entity;
- H.** Requirements of the Oklahoma Taxpayer and Citizen Protection Act of 2007, 25 O.S. §1312 and applicable federal immigration laws and regulations and be registered and participate in the Status Verification System. The Status Verification System is defined at 25 O.S. §1312, includes but is not limited to the free Employment Verification Program (E-Verify) through the Department of Homeland Security, and is available at [www.dhs.gov/E-Verify](http://www.dhs.gov/E-Verify);
- I.** Requirements of the Health Insurance Portability and Accountability Act of 1996; Health Information Technology for Economic and Clinical Health Act; Payment Card Industry Security Standards; Criminal Justice Information System Security Policy and Security Addendum; and Family Educational Rights and Privacy Act; and
- J.** Be registered as a business entity licensed to do business in the State, have obtained a sales tax permit, and be current on franchise tax payments to the State, as applicable.

**9.2** The Supplier's employees, agents and subcontractors shall adhere to applicable Customer policies including, but not limited to acceptable use of Internet and electronic mail, facility and data security, press releases, and public relations. As applicable, the Supplier shall adhere to the State Information Security Policy, Procedures, Guidelines set forth at [https://omes.ok.gov/sites/g/files/gmc316/f/InfoSecPPG\\_0.pdf](https://omes.ok.gov/sites/g/files/gmc316/f/InfoSecPPG_0.pdf). Supplier is responsible for reviewing and relaying such policies covering the above to the Supplier's employees, agents and subcontractors.

**9.3** At no additional cost to Customer, the Supplier shall maintain all applicable licenses and permits required in association with its obligations under the Contract.

- 9.4** In addition to compliance under subsection 9.1 above, Supplier shall have a continuing obligation to comply with applicable Customer-specific mandatory contract provisions required in connection with the receipt of federal funds or other funding source.
- 9.5** The Supplier is responsible to review and inform its employees, agents, and subcontractors who provide a product or perform a service under the Contract of the Supplier's obligations under the Contract and Supplier certifies that its employees and each such subcontractor shall comply with minimum requirements and applicable provisions of the Contract. At the request of the State, Supplier shall promptly provide adequate evidence that such persons are its employees, agents or approved subcontractors and have been informed of their obligations under the Contract.
- 9.6** As applicable, Supplier agrees to comply with the Governor's Executive Orders related to the use of any tobacco product, electronic cigarette or vaping device on any and all properties owned, leased, or contracted for use by the State, including but not limited to all buildings, land and vehicles owned, leased, or contracted for use by agencies or instrumentalities of the State.
- 9.7** The execution, delivery and performance of the Contract and any ancillary documents by Supplier will not, to the best of Supplier's knowledge, violate, conflict with, or result in a breach of any provision of, or constitute a default (or an event which, with notice or lapse of time or both, would constitute a default) under, or result in the termination of, any written contract or other instrument between Supplier and any third party.
- 9.8** Supplier represents that it has the ability to pay its debts when due and it does not anticipate the filing of a voluntary or involuntary bankruptcy petition or appointment of a receiver, liquidator or trustee.
- 9.9** Supplier represents that, to the best of its knowledge, any litigation or claim or any threat thereof involving Supplier has been disclosed in writing to the State and Supplier is not aware of any other litigation, claim or threat thereof.
- 9.10** If services provided by Supplier include delivery of an electronic communication, Supplier shall ensure such communication and any associated support documents are compliant with Section 508 of the Federal Rehabilitation Act and with State standards regarding accessibility. Should any communication or associated support documents be non-compliant,

Supplier shall correct and re-deliver such communication immediately upon discovery or notice, at no additional cost to the State. Additionally, as part of compliance with accessibility requirements where documents are only provided in non-electronic format, Supplier shall promptly provide such communication and any associated support documents in an alternate format usable by individuals with disabilities upon request and at no additional cost, which may originate from an intended recipient or from the State.

## **10 Audits and Records Clause**

- 10.1** As used in this clause and pursuant to 67 O.S. §203, “record” includes a document, book, paper, photograph, microfilm, computer tape, disk, record, sound recording, film recording, video record, accounting procedures and practices, and other data, regardless of type and regardless of whether such items are in written form, in the form of computer data, or in any other form. Supplier agrees any pertinent federal or State agency or governing entity of a Customer shall have the right to examine and audit, at no additional cost to a Customer, all records relevant to the execution and performance of the Contract except, unless otherwise agreed, costs of Supplier that comprise pricing under the Contract.
- 10.2** The Supplier is required to retain records relative to the Contract for the duration of the Contract and for a period of seven (7) years following completion or termination of an Acquisition unless otherwise indicated in the Contract terms. If a claim, audit, litigation or other action involving such records is started before the end of the seven-year period, the records are required to be maintained for two (2) years from the date that all issues arising out of the action are resolved, or until the end of the seven (7) year retention period, whichever is later.
- 10.3** Pursuant to 74 O.S. §85.41, if professional services are provided hereunder, all items of the Supplier that relate to the professional services are subject to examination by the State agency, State Auditor and Inspector and the State Purchasing Director.

## **11 Confidentiality**

- 11.1** The Supplier shall maintain strict security of all State and citizen data and records entrusted to it or to which the Supplier gains access, in accordance with and subject to applicable federal and State laws, rules, regulations, and policies and shall use any such data and records only as necessary for

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

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



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

Information; (iv) is lawfully obtained from a third party (without any confidentiality obligation) who has the right to make such disclosure or (v) résumé, pricing or marketing materials provided to the State. In addition, the obligations in this section shall not apply to the extent that the applicable law or regulation requires disclosure of Supplier Confidential Information, provided that the Customer provides reasonable written notice, pursuant to Contract notice provisions, to the Supplier so that the Supplier may promptly seek a protective order or other appropriate remedy.

## **12 Conflict of Interest**

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

## **13 Assignment and Permitted Subcontractors**

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

**13.2** Notwithstanding the foregoing, the Contract may be assigned by Supplier to any corporation or other entity in connection with a merger, consolidation, sale of all equity interests of the Supplier, or a sale of all or substantially all of the assets of the Supplier to which the Contract relates. In any such case, said corporation or other entity shall by operation of law or expressly in writing assume all obligations of the Supplier as fully as if it had been originally made a party to the Contract. Supplier shall give the

State and all affected Customers prior written notice of said assignment. Any assignment or delegation in violation of this subsection shall be void.

- 13.3** If the Supplier is permitted to utilize subcontractors in support of the Contract, the Supplier shall remain solely responsible for its obligations under the terms of the Contract, for its actions and omissions and those of its agents, employees and subcontractors and for payments to such persons or entities. Prior to a subcontractor being utilized by the Supplier, the Supplier shall obtain written approval of the State of such subcontractor and each employee, as applicable to a particular Acquisition, of such subcontractor proposed for use by the Supplier. Such approval is within the sole discretion of the State. Any proposed subcontractor shall be identified by entity name, and by employee name, if required by the particular Acquisition, in the applicable proposal and shall include the nature of the services to be performed. As part of the approval request, the Supplier shall provide a copy of a written agreement executed by the Supplier and subcontractor setting forth that such subcontractor is bound by and agrees, as applicable, to perform the same covenants and be subject to the same conditions and make identical certifications to the same facts and criteria, as the Supplier under the terms of all applicable Contract Documents. Supplier agrees that maintaining such agreement with any subcontractor and obtaining prior written approval by the State of any subcontractor and associated employees shall be a continuing obligation. The State further reserves the right to revoke approval of a subcontractor or an employee thereof in instances of poor performance, misconduct or for other similar reasons.
- 13.4** All payments under the Contract shall be made directly to the Supplier, except as provided in subsection A above regarding the Supplier's assignment of payment. No payment shall be made to the Supplier for performance by unapproved or disapproved employees of the Supplier or a subcontractor.
- 13.5** Rights and obligations of the State or a Customer under the terms of this Contract may be assigned or transferred, at no additional cost, to other Customer entities.

#### **14 Background Checks and Criminal History Investigations**

Prior to the commencement of any services, background checks and criminal history investigations of the Supplier's employees and subcontractors who will be providing services may be required and, if so, the required information shall be

provided to the State in a timely manner. Supplier's access to facilities, data and information may be withheld prior to completion of background verification acceptable to the State. The costs of additional background checks beyond Supplier's normal hiring practices shall be the responsibility of the Customer unless such additional background checks are required solely because Supplier will not provide results of its otherwise acceptable normal background checks; in such an instance, Supplier shall pay for the additional background checks. Supplier will coordinate with the State and its employees to complete the necessary background checks and criminal history investigations. Should any employee or subcontractor of the Supplier who will be providing services under the Contract not be acceptable as a result of the background check or criminal history investigation, the Customer may require replacement of the employee or subcontractor in question and, if no suitable replacement is made within a reasonable time, terminate the purchase order or other payment mechanism associated with the project or services.

## **15 Patents and Copyrights**

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

## **16 Indemnification**

### **16.1 Acts or Omissions**

- A. Supplier shall defend and indemnify the Indemnified Parties, as applicable, for any and all liability, claims, damages, losses, costs, expenses, demands, suits and actions of third parties (including without limitation reasonable attorneys' fees and costs required to establish the right to indemnification) arising out of, or resulting from any action or claim for bodily injury, death, or property damage brought against any of the Indemnified parties to the extent arising from any negligent act or omission or willful misconduct of the Supplier or its agents, employees, or subcontractors in the execution or performance of the Contract.
- B. To the extent Supplier is found liable for loss, damage, or destruction of any property of Customer due to negligence, misconduct, wrongful act, or omission on the part of the Supplier, its employees, agents, representatives, or subcontractors, the Supplier and Customer shall use best efforts to mutually negotiate an equitable settlement amount to repair or replace the property unless such loss, damage or destruction is of such a magnitude that repair or replacement is not a reasonable option. Such amount shall be invoiced to, and is payable by, Supplier sixty (60) calendar days after the date of Supplier's receipt of an invoice for the negotiated settlement amount.

## **16.2 Infringement**

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

with products Supplier provides to or develops for the State or a Customer as a system.

### **16.3 Notice and Cooperation**

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

### **16.4 Coordination of Defense**

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

### **16.5 Limitation of Liability**

- A. With respect to any claim or cause of action arising under or related to the Contract, neither the State nor any Customer shall be liable to Supplier for lost profits, lost sales or business expenditures, investments, or commitments in connection with any business, loss of any goodwill, or for any other indirect, incidental, punitive, special or consequential damages, even if advised of the possibility of such damages.

- B.** Notwithstanding anything to the contrary in the Contract, no provision shall limit damages, expenses, costs, actions, claims, and liabilities arising from or related to property damage, bodily injury or death caused by Supplier or its employees, agents or subcontractors; indemnity, security or confidentiality obligations under the Contract; the bad faith, negligence, intentional misconduct or other acts for which applicable law does not allow exemption from liability of Supplier or its employees, agents or subcontractors.
- C.** The limitation of liability and disclaimers set forth in the Contract will apply regardless of whether Customer has accepted a product or service. The parties agree that Supplier has set its fees and entered into the Contract in reliance on the disclaimers and limitations set forth herein, that the same reflect an allocation of risk between the parties and form an essential basis of the bargain between the parties. These limitations shall apply notwithstanding any failure of essential purpose of any limited remedy.

## **17 Termination for Funding Insufficiency**

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

fees that are unused when the Contractor certain obligations are terminated shall be refunded.

- 17.3** The State's exercise of its right to terminate the Contract under this section shall not be considered a default or breach under the Contract or relieve the Supplier of any liability for claims arising under the Contract.

## **18 Termination for Cause**

- 18.1** Supplier may terminate the Contract if (i) it has provided the State with written notice of material breach and (ii) the State fails to cure such material breach within thirty (30) days of receipt of written notice. If there is more than one Customer, material breach by a Customer does not give rise to a claim of material breach as grounds for termination by Supplier of the Contract as a whole. The State may terminate the Contract in whole or in part if (i) it has provided Supplier with written notice of material breach, and (ii) Supplier fails to cure such material breach within thirty (30) days of receipt of written notice. Any partial termination of the Contract under this section shall not be construed as a waiver of, and shall not affect, the rights and obligations of any party regarding portions of the Contract that are not terminated.
- 18.2** The State may terminate the Contract in whole or in part immediately without a thirty (30) day written notice to Supplier if (i) Supplier fails to comply with confidentiality, privacy, security, environmental or safety requirements applicable to Supplier's performance or obligations under the Contract; (ii) Supplier's material breach is reasonably determined to be an impediment to the function of the State and detrimental to the State or to cause a condition precluding the thirty (30) day notice or (iii) when the State determines that an administrative error in connection with award of the Contract occurred prior to Contract performance.
- 18.3** Upon receipt of notice of a termination, Supplier shall immediately comply with the notice terms and take all necessary steps to minimize the incurrence of costs allocable to the work affected by the notice. If a purchase order or other payment mechanism has been issued and a product or service has been accepted as satisfactory prior to the effective date of termination, the termination does not relieve an obligation to pay for the product or service but there shall not be any liability for further payments ordinarily due under the Contract or for any damages or other amounts caused by or associated with such termination. Such termination is not an exclusive remedy but is



in addition to any other rights and remedies provided for by law. Any amount paid to Supplier in the form of prepaid fees that are unused when the Contract or certain obligations are terminated shall be refunded. Termination of the Contract under this section, in whole or in part, shall not relieve the Supplier of liability for claims arising under the Contract.

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

## **19 Termination for Convenience**

- 19.1** The State may terminate the Contract, in whole or in part, for convenience if it is determined that termination is in the State's best interest. In the event of a termination for convenience, Supplier will be provided at least thirty (30) days' written notice of termination. Any partial termination of the Contract shall not be construed as a waiver of, and shall not affect, the rights and obligations of any party regarding portions of the Contract that remain in effect.
- 19.2** Upon receipt of notice of such termination, Supplier shall immediately comply with the notice terms and take all necessary steps to minimize the incurrence of costs allocable to the work affected by the notice. If a purchase order or other payment mechanism has been issued and a product or service has been accepted as satisfactory prior to the effective date of termination, the termination does not relieve an obligation to pay for the product or service but there shall not be any liability for further payments ordinarily due under the Contract or for any damages or other amounts caused by or associated with such termination. Such termination shall not be an exclusive remedy but shall be in addition to any other rights and

remedies provided for by law. Any amount paid to Supplier in the form of prepaid fees that are unused when the Contract or certain obligations are terminated shall be refunded. Termination of the Contract under this section, in whole or in part, shall not relieve the Supplier of liability for claims arising under the Contract.

## **20 Suspension of Supplier**

- 20.1** Supplier may be subject to Suspension without advance notice and may additionally be suspended from activities under the Contract if Supplier fails to comply with confidentiality, privacy, security, environmental or safety requirements applicable to Supplier's performance or obligations under the Contract.
- 20.2** Upon receipt of a notice pursuant to this section, Supplier shall immediately comply with the notice terms and take all necessary steps to minimize the incurrence of costs allocable to the work affected by the notice. If a purchase order or other payment mechanism has been issued and a product or service has been accepted as satisfactory prior to receipt of notice by Supplier, the Suspension does not relieve an obligation to pay for the product or service but there shall not be any liability for further payments ordinarily due under the Contract during a period of Suspension or suspended activity or for any damages or other amounts caused by or associated with such Suspension or suspended activity. A right exercised under this section shall not be an exclusive remedy but shall be in addition to any other rights and remedies provided for by law. Any amount paid to Supplier in the form of prepaid fees attributable to a period of Suspension or suspended activity shall be refunded.
- 20.3** Such Suspension may be removed, or suspended activity may resume, at the earlier of such time as a formal notice is issued that authorizes the resumption of performance under the Contract or at such time as a purchase order or other appropriate encumbrance document is issued. This subsection is not intended to operate as an affirmative statement that such resumption will occur.

## **21 Certification Regarding Debarment, Suspension, and Other Responsibility Matters**

The certification made by Supplier with respect to Debarment, Suspension, certain indictments, convictions, civil judgments and terminated public contracts is a material representation of fact upon which reliance was placed when entering into

the Contract. A determination that Supplier knowingly rendered an erroneous certification, in addition to other available remedies, may result in whole or partial termination of the Contract for Supplier's default. Additionally, Supplier shall promptly provide written notice to the State Purchasing Director if the certification becomes erroneous due to changed circumstances.

## **22 Certification Regarding State Employees Prohibition From Fulfilling Services**

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

## **23 Force Majeure**

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

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

**23.3** Notwithstanding the foregoing or any other provision in the Contract, (i) the following are not a force majeure event under the Contract: (a) shutdowns, disruptions or malfunctions in Supplier's system or any of Supplier's telecommunication or internet services other than as a result of general and

widespread internet or telecommunications failures that are not limited to Supplier's systems or (b) the delay or failure of Supplier or subcontractor personnel to perform any obligation of Supplier hereunder unless such delay or failure to perform is itself by reason of a force majeure event and (ii) no force majeure event modifies or excuses Supplier's obligations related to confidentiality, indemnification, data security or breach notification obligations set forth herein.

## **24 Security of Property and Personnel**

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

## **25 Notices**

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

### **If sent to the State:**

State Purchasing Director  
2401 North Lincoln Boulevard, Suite 116  
Oklahoma City, Oklahoma 73105

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

Purchasing Division Deputy General Counsel  
2401 North Lincoln Boulevard, Suite 116

**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 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.

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

**6.3** All Contract Usage Reports shall meet the following criteria:

- i.** Electronic submission in Microsoft Excel format to [strategic.sourcing@omes.ok.gov](mailto:strategic.sourcing@omes.ok.gov);
- ii.** Quarterly submission regardless of whether there were Acquisitions 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 Acquisition 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.

SW500 Snow Plow Blades, Grader Blades, Spreaders, Cross Conveyors,

	Supplier Name:						
	Supplier Website:						
<b>Please note:</b> There are extra columns for you to fill in more than one model number to be considered in your response.							
Item #	Description	Reference Dot Spec #	Dot Date	Vendor's 1st proposed Model #	Price Per Each	Vendor's 2nd proposed Model #	Price Per Each
1	Heavy Duty Spreader, Hopper Type	15-06/10' Stainless	Feb-10	Swenson EV-150 SS 10'	\$7,905.00		\$
1a	Parts-provide discount off list/catalog price				Disc _40__%		Disc ____%
1b	Accessories-provide discount off list/catalog price				Disc _40__%		Disc ____%
2	Heavy Duty Spreader, Hopper Type	15-06	Feb-10	Swenson EV-108 Mild Steel 10'	\$6,729.00		\$
2a	Parts-provide discount off list/catalog price				Disc _40__%		Disc ____%
2b	Accessories-provide discount off list/catalog price				Disc 40 ____%		Disc ____%
3	Heavy Duty Spreader, Hopper Type	15-06	Feb-10	Swenson EV-150 Mild Steel 14'	\$8,011.00		\$
3a	Parts-provide discount off list/catalog price				Disc _40__%		Disc ____%

SW500 Snow Plow Blades, Grader Blades, Spreaders, Cross Conveyors,

3b	Accessories-provide discount off list/catalog price				Disc _40__%		Disc ____%
4	Heavy Duty Spreader, Hopper Type	15-07/13' Stainless	Feb-10	Swenson EV-150 SS 13'	\$10,258		\$
4a	Parts-provide discount off list/catalog price				Disc _40__%		Disc ____%
4b	Accessories-provide discount off list/catalog price				Disc 40____%		Disc ____%
5	Heavy Duty Spreader, Hopper Type	15-07/14' Stainless	Feb-10	Swenson EV-150 SS 14'	\$10,285.00		\$
5a	Parts-provide discount off list/catalog price				Disc 40____%		Disc ____%
5b	Accessories-provide discount off list/catalog price				Disc 40____%		Disc ____%
6	V-box Prewet System w/electric motor	15-Prewet 200 gallons	Feb-10	Swenson LSSE Prewet	\$2,550.00		\$
6a	Parts-provide discount off list/catalog price				Disc 40%		Disc ____%
6b	Accessories-provide discount off list/catalog price				Disc _40__%		Disc ____%
7	V-box Prewet System w/electric motor	15-Prewet 250 gallons	Feb-10	Swenson LSSE Prewet	\$2,550.00		\$
7a	Parts-provide discount off list/catalog price				Disc 40____%		Disc ____%

SW500 Snow Plow Blades, Grader Blades, Spreaders, Cross Conveyors,

7b	Accessories-provide discount off list/catalog price				Disc _40__%		Disc ____%
8	Hydraulic Truck Cross Conveyor	15-SP	Feb-10		\$		\$
8a	Parts-provide discount off list/catalog price				Disc ____%		Disc ____%
8b	Accessories-provide discount off list/catalog price				Disc ____%		Disc ____%
				Brand/Model	Price Per Each	Brand/Model	Price Per Each
9	Snow Plow Front Mounted	78-01-Hvy Duty-Full	Feb-10	Viking / MW41R11	\$9,471.00		\$
9a	Parts-provide discount off list/catalog price				Disc 40____%		Disc ____%
9b	Accessories/options - provide discount off list/catalog price				Disc _40__%		Disc ____%
				Brand/Model	Price Per Each	Brand/Model	Price Per Each
10	Snow Plow Front Mounted	78-01-Lt Duty	Jun-10	Viking/MW30R11	\$10,317.00		\$
10a	Parts-provide discount off list/catalog price				Disc _40__%		Disc ____%
10b	Accessories/options - provide discount off list/catalog price				Disc _40__%		Disc ____%

SW500 Snow Plow Blades, Grader Blades, Spreaders, Cross Conveyors,

				Brand/Model	Price Per Each	Brand/Model	Price Per Each
11	Snow Plow Front Mounted	78-01-Hvy Duty	Feb-10	Viking/MW42J11 with Quick Hitch	\$11,000.00		\$
11a	Parts-provide discount off list/catalog price				Disc _40__%		Disc ____%
11b	Accessories/options - provide discount off list/catalog price				Disc _40__%		Disc ____%
				Brand/Model	Price Per Each	Brand/Model	Price Per Each
12	Snow Plow Front Mounted	78-01-Mid Duty	Jun-10	Viking/MW36R11	\$10,429.40		\$
12a	Parts-provide discount off list/catalog price				Disc _40__%		Disc ____%
12b	Accessories/options - provide discount off list/catalog price				Disc _40__%		Disc ____%
13	Runway Plow	Blue Max or equal	n/a	Brand/Model	Price Per Each	Brand/Model	Price Per Each
13a	Parts-provide discount off list/catalog price			Viking	Disc _25__%		Disc ____%
13b	Accessories/options - provide discount off list/catalog price				Disc _40__%		Disc ____%



## SW500 Snow Plow Blades, Grader Blades, Spreaders, Cross Conveyors,

[illegible]

Supplier Name:							
Supplier Website:							
Grader/Plow blades							
	Size	Brand	Brand #	Price per each			
Bolt & Nut	5/8" x 2" grade 8/Dome	Crest	HW42C-1016	\$1.33			
Bolt & Nut	5/8" x 2 1/2" grade 8/Dome	Crest	HW42C-1020	\$1.46			
Bolt & Nut	5/8" x 3" grade 8/Dome	Crest	HW42C-1024	\$1.66			
Bolt & Nut	5/8" x 3 1/2" grade 8/Dome	Crest	HW42C-1028	\$2.20			
Bolt & Nut	5/8" x 2" grade 8/Flat Head	Crest	HW42B-1016	\$1.33			
Bolt & Nut	5/8" x 2 1/2" grade 8/Flat Head	Crest	HW42B-1020	\$1.36			
Bolt & Nut	5/8" x 3" grade 8/Flat Head	Crest	HW42B-1024	\$1.38			
Bolt & Nut	5/8" x 3 1/2" grade 8/Flat Head	Crest	HW42B-1028	\$1.70			
				Brand	Brand #		
Carbide plow blade		3/4" x 6"				PER EACH	
Carbide plow blade		3/4" x 6"	3'	Kennametal	KMT101842	\$185.55	
Carbide plow blade		3/4" x 6"	4'	Kennametal	KMT101844	252.73	
Carbide plow blade		7/8" x 5"					
Carbide plow blade	Dual-carbide	7/8" x 5"	3'	Kennametal	KMT101848	190.92	
Carbide plow blade	Dual-carbide	7/8" x 5"	4'	Kennametal	KMT101854	254.56	
Grader Blade	Curv dbl Bev. Stand punch.	5/8" x 6"	6'	Valk		73.1	
Grader Blade	Curv dbl Bev. Stand punch.	5/8" x 6"	7'	Valk		85.25	
Grader Blade	Curv dbl Bev. Stand punch.	5/8" x 6"	8'	Valk		103.52	
Grader Blade	Curv dbl Bev. Stand punch.	5/8" x 6"	9'	Valk		116.48	
Grader Blade	Curv dbl Bev. Stand punch.	5/8" x 8"	6'	Valk		113.3	
Grader Blade	Curv dbl Bev. Stand punch.	5/8" x 8"	7'	Valk		131.25	
Grader Blade	Curv dbl Bev. Stand punch.	5/8" x 8"	8'	Valk		142.2	
Grader Blade	Curv dbl Bev. Stand punch.	5/8" x 8"	9'	Valk		159.95	
Grader Blade	Curv dbl Bev. Stand punch.	3/4" x 8"	6'	Valk		138.1	
Grader Blade	Curv dbl Bev. Stand punch.	3/4" x 8"	7'	Valk		150.57	
Grader Blade	Curv dbl Bev. Stand punch.	3/4" x 8"	8'	Valk		182.83	
Grader Blade	Curv dbl Bev. Stand punch.	3/4" x 8"	9'	Valk		193.58	
Grader Blade		7/8" x 5"					
Grader Blade	Dual-carbide	7/8" x 5"	3'	Kennametal	KMT1011872	799.55	
Grader Blade	Dual-carbide	7/8" x 5"	4'	Kennametal	KMT101875	1065.89	
Grader Blade		7/8" x 5"	36"	Kennametal	KMT1231173	138.88	
Grader Blade	Duplicate	7/8" x 5"	36"				
Grader Blade		7/8" x 5"	48"	Kennametal	KMT1180020	483.07	
Grader Blade	Duplicate	7/8" x 5"	48"				

Grader Blade	Sgl Bev Dual Carb	3/4" x 6"	See 7/8 x 5 Dual Carbide				
Plow Blade	stand punch 12" punch w/sq 11/16"	1/2"x6"	10'	Viking	3SK7120		
Plow Blade	stand punch 12" punch w/sq 11/16"	1/2"x6"	11'	Viking	280029B-C		
Plow Blade	stand punch 12" punch w/sq 11/16"	1/2"x6"	12'	Viking	280014A-C		
		REPAIR FACILITIES					
		Name	Address	Phone Number		Email Address	
		Industrial Truck Equipment		OFFICE: 405-688-6100			
		3400 South Thomas Road		CELL# 405-428-6970		<a href="mailto:dwight@iteok.com">dwight@iteok.com</a>	
		Oklahoma City, OK 73179					
				Dwight Anderson			
	Freight will be added at time of order.						

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 116  
Oklahoma City, Oklahoma 73105

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

Purchasing Division Deputy General Counsel  
2401 North Lincoln Boulevard, Suite 116

**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 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.

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

**6.3** All Contract Usage Reports shall meet the following criteria:

- i.** Electronic submission in Microsoft Excel format to [strategic.sourcing@omes.ok.gov](mailto:strategic.sourcing@omes.ok.gov);
- ii.** Quarterly submission regardless of whether there were Acquisitions 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 Acquisition 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.

SW500 Snow Plow Blades, Grader Blades, Spreaders, Cross Conveyors,

	Supplier Name:	Southwest Trailers & Equipment LLC													
	Supplier Website:	<a href="http://www.swtrailer.com">www.swtrailer.com</a>													
<b>Please note:</b> There are extra columns for you to fill in more than one model number to be considered in your response.															
Item #	Description	Reference Dot Spec #	Dot Date	Vendor's 1st proposed Model #	Price Per Each	Vendor's 2nd proposed Model #	Price Per Each	Vendor's 3rd proposed Model #	Price Per Each	Vendor's 4th proposed Model #	Price Per Each	Vendor's 5th proposed Model #	Price Per Each	Vendor's 6th proposed Model #	Price Per Each
1	Heavy Duty Spreader, Hopper Type	15-06/10' Stainless	Feb-10	Good Roads M3-10ss	\$9,955.00	Buyers Products	\$7,854.00	Monroe MCV120-82- 50,201ss	\$10,331.00		\$	Hinke HX- 2000-10	\$14,221.00		\$
1a	Parts-provide discount off list/catalog price				40% off SWT&E List		40% off SWT&E List		40% off SWT&E List		Disc ____%		40% off SWT&E List		Disc ____%
1b	Accessories-provide discount off list/catalog price				40% off SWT&E List		40% off SWT&E List		40% off SWT&E List		Disc ____%		40% off SWT&E List		Disc ____%
2	Heavy Duty Spreader, Hopper Type	15-06 10' MS	Feb-10	Good Roads M3-10ms	\$6,702.00		\$	Monroe MCV120-82- 50,MS	\$8,346.00		\$		\$		\$
2a	Parts-provide discount off list/catalog price				40% off SWT&E List		Disc ____%		40% off SWT&E List		Disc ____%		Disc ____%		Disc ____%
2b	Accessories-provide discount off list/catalog price				40% off SWT&E List		Disc ____%		40% off SWT&E List		Disc ____%		Disc ____%		Disc ____%
3	Heavy Duty Spreader, Hopper Type	15-06 14' MS	Feb-10	Good Roads M3-14MS	\$7,853.00		\$	Monroe MCV168-82- 56,MS	\$9,360.00		\$		\$		\$
3a	Parts-provide discount off list/catalog price				40% off SWT&E List		Disc ____%		40% off SWT&E List		Disc ____%		Disc ____%		Disc ____%
3b	Accessories-provide discount off list/catalog price				40% off SWT&E List		Disc ____%		40% off SWT&E List		Disc ____%		Disc ____%		Disc ____%
4	Heavy Duty Spreader, Hopper Type	15-07/13' Stainless	Feb-10	Good Roads M3-13SS	\$11,367.00	Buyers Products	\$8,736.00	Monroe MCV156-82- 56,201ss	\$11,953.00		\$	Hinke HX- 2000-13	\$15,425.00		\$
4a	Parts-provide discount off list/catalog price				40% off SWT&E List		40% off SWT&E List		40% off SWT&E List		Disc ____%		40% off SWT&E List		Disc ____%

SW500 Snow Plow Blades, Grader Blades, Spreaders, Cross Conveyors,

4b	Accessories-provide discount off list/catalog price				40% off SWT&E List		40% off SWT&E List		40% off SWT&E List		Disc ____%		40% off SWT&E List		Disc ____%
5	Heavy Duty Spreader, Hopper Type	15-07/14' Stainless	Feb-10	Good Roads M3-14SS	\$11,852.00	Buyers Products	\$9,152.00	Monroe MCV168-82-56,201ss	\$12,290.00		\$	Hinke HX-2000-14	\$17,106.00		\$
5a	Parts-provide discount off list/catalog price				40% off SWT&E List		40% off SWT&E List		40% off SWT&E List		Disc ____%		40% off SWT&E List		Disc ____%
5b	Accessories-provide discount off list/catalog price				40% off SWT&E List		40% off SWT&E List		40% off SWT&E List		Disc ____%		40% off SWT&E List		Disc ____%
6	V-box Prewet System w/electric motor	15-Prewet 200 gallons	Feb-10	Good Roads	\$4,080.00	Buyers Products LS-20	\$2,837.00	Monroe LDS333-200	\$3,232.00	Varitech LDS-VB200-EM-SS	\$3,062.00	Henke 6433139	\$2,660.00		
6a	Parts-provide discount off list/catalog price				40% off SWT&E List		40% off SWT&E List		40% off SWT&E List		40% off SWT&E List		40% off SWT&E List		Disc ____%
6b	Accessories-provide discount off list/catalog price				40% off SWT&E List		40% off SWT&E List		40% off SWT&E List		40% off SWT&E List		40% off SWT&E List		Disc ____%
7	V-box Prewet System w/electric motor	15-Prewet 250 gallons	Feb-10		\$			Monroe LDS333-250	\$3,563.00	Varitech LDS-VB300-EM-SS	\$3,462.00				
7a	Parts-provide discount off list/catalog price				Disc ____%		Disc ____%		40% off SWT&E List		40% off SWT&E List		Disc ____%		Disc ____%
7b	Accessories-provide discount off list/catalog price				Disc ____%		Disc ____%		40% off SWT&E List		40% off SWT&E List		Disc ____%		Disc ____%
8	Hydraulic Truck Cross Conveyor	15-SP	Feb-10		\$		\$	Monroe MS10318	\$6,867.00		\$	Henke UTS 9SS	\$5,110.00		\$
8a	Parts-provide discount off list/catalog price				Disc ____%		Disc ____%		40% off SWT&E List		Disc ____%		40% off SWT&E List		Disc ____%
8b	Accessories-provide discount off list/catalog price				Disc ____%		Disc ____%		40% off SWT&E List		Disc ____%		40% off SWT&E List		Disc ____%
				Brand/Model	Price Per Each	Brand/Model	Price Per Each	Brand/Model	Price Per Each	Brand/Model	Price Per Each	Brand/Model	Price Per Each	Brand/Model	Price Per Each
9	Snow Plow Front Mounted	78-01-Hvy Duty-Full	Feb-10		\$		\$		\$		\$	Henke 43R11J SSTE-ISS	\$12,153.00	Valk RVS1142-88PR422LL-EET	\$13,764.00

[illegible]



SW500 Snow Plow Blades, Grader Blades, Spreaders, Cross Conveyors,

13	Runway Plow				\$		\$	Monroe MPPJ42R18-ISRC	\$28,777.00		\$		\$		\$
13a	Parts-provide discount off list/catalog price				Disc ____%		Disc ____%		40% off SWT&E List		Disc ____%		Disc ____%		Disc ____%
13b	Accessories/options - provide discount off list/catalog price				Disc ____%		Disc ____%		40% off SWT&E List		Disc ____%		Disc ____%		Disc ____%

[illegible]

Supplier Name:	Southwest Trailers & Equipment LLC								
Supplier Website:	<a href="http://www.swtrailer.com">www.swtrailer.com</a>								
Grader/Plow blades									
	Size	Brand	Brand #	Price per each					
Bolt & Nut	5/8" x 2" grade 8/Dome	Valk		\$3.50	Each				
Bolt & Nut	5/8" x 2 1/2" grade 8/Dome	Valk		\$3.75	Each				
Bolt & Nut	5/8" x 3" grade 8/Dome	Valk		\$4.00	Each				
Bolt & Nut	5/8" x 3 1/2" grade 8/Dome	Valk		\$4.25	Each				
Bolt & Nut	5/8" x 2" grade 8/Flat Head	Valk		\$3.50	Each				
Bolt & Nut	5/8" x 2 1/2" grade 8/Flat Head	Valk		\$3.75	Each				
Bolt & Nut	5/8" x 3" grade 8/Flat Head	Valk		\$4.00	Each				
Bolt & Nut	5/8" x 3 1/2" grade 8/Flat Head	Valk		\$4.25	Each				
				Brand	Brand #	Price per each or foot (specify each or per foot)			
Carbide plow blade		3/4" x 6"	3'	Valk		\$168.00	Each		
Carbide plow blade		3/4" x 6"		Valk		\$56.00	Per Foot		
Carbide plow blade		3/4" x 6"	4'	Valk		\$224.00	Each		
Carbide plow blade		7/8" x 5"		Valk		\$62.00	Per Foot		
Carbide plow blade	Dual-carbide	7/8" x 5"	3'			N/A			
Carbide plow blade	Dual-carbide	7/8" x 5"	4'			N/A			
Grader Blade	Curv dbl Bev. Stand punch.	5/8" x 6"		Valk		\$11.75	Per Foot		
Grader Blade	Curv dbl Bev. Stand punch.	5/8" x 8"		Valk		\$17.15	Per Foot		
Grader Blade	Curv dbl Bev. Stand punch.	3/4" x 8"		Valk		\$20.75	Per Foot		
Grader Blade		7/8" x 5"x.750		Valk		\$65.00	Per Foot		
Grader Blade	Dual-carbide	7/8" x 5"	3'			N/A			
Grader Blade	Dual-carbide	7/8" x 5"	4'			N/A			
Grader Blade		7/8" x 5" x.635	36"	Valk		\$180.00	Each		
Grader Blade		7/8" x 5"x.750	36"	Valk		\$195.00	Each		
Grader Blade		7/8" x 5" x.635	48"	Valk		\$240.00	Each		
Grader Blade		7/8" x 5"x.750	48"	Valk		\$260.00	Each		
Grader Blade	Sgl Bev Dual Carb	3/4" x 6"				N/A			
Grader Blade	Curv dbl Bev. Stand punch.	3/4" x 8"		Valk		\$20.75	Per Foot		
Grader Blade	Curv dbl Bev. Stand punch.	3/4" x 8"		Valk		\$20.75	Per Foot		
Plow Blade	stand punch 12" punch w/sq 11/16"	1/2"x6"		Valk		\$10.20	Per Foot		
Plow Blade	stand punch 12" punch w/sq 11/16"	1/2"x6"		Valk		\$10.20	Per Foot		
		REPAIR FACILITIES							
		Name	Address	Phone Number		Email Address			
		Southwest Trailers & Equipment LLC	10400 W Reno OKC, OK 73127	(405) 943-9851		<a href="mailto:kolson@swtrailer.com">kolson@swtrailer.com</a>			

Supplier Name:	Southwest Trailers & Equipment LLC				
Supplier Website:	<a href="http://www.swtrailer.com">www.swtrailer.com</a>				
Brand Name	Product Number	Price Per Each			
Varitech Industries	SB600	\$12,135.00			
upgrade	Brine Boss Automation	\$58,641.00			
Varitech Industries	HCSB1400-SS	\$33,428.00			
upgrade	HCSB1400-SS Brine Boss Automation	\$76,068.00			
Attachments/Accessories					
Options					
40% off SWT&E List					
	REPAIR FACILITIES				
	Name	Address	Phone Number		Email Address
	Southwest Trailers & Equipment LLC	10400 W. Reno Oklahoma City, OK 73127	405-943-9851		<a href="mailto:kolson@swtrailer.com">kolson@swtrailer.com</a>

*Official signed contract documents are on file with OMES Central Purchasing.*

**Contract title:** Snow Removal Equipment

**Statewide contract #** SW 0500

**Contract issuance date:** October 29, 2020

**Total number of vendors:** Two (2) *(For details see: Vendor Information Sheet)*

**Contract period:** October 23, 2020 through October 22, 2021

**Agreement period:** October 23, 2020 through October 22, 2024

**Authorized users:** All state departments, boards, commissions, agencies and institutions, in addition to counties, school districts and municipalities which may avail themselves of this contract.

**Contract priority:** This is a Mandatory Contract

**Type of contract:** Fixed Price

**OMES CP contact:** Carol Williams-Downing **Title:** Procurement Specialist

**Phone:** 1 - 405 - 522 - 0432 **Email:** Carol.williamsdowning@omes.ok.gov



**Supplier name:** Southwest Trailers &  
Equipment LLC

**Supplier ID #:** 0000075503

**Supplier address:** 10400 W. Reno

**City:** OKC

**State:** OK

**Zip Code:** 73127 -

**Contact person name:** Kurt Olson

**Phone #:** 1-405-943-9851

**Title:** Truck Equipment Manager

**Fax #:** 1-405-943-4013

**Email:** [kolson@swtrailer.com](mailto:kolson@swtrailer.com)

**Website:** [www.swtrailer.com](http://www.swtrailer.com)

**Authorized location:** ☐ **Locations – list attached as (*attachment title*)**

☐ **Address:**

**City:**

**State:**

**Zip Code:**

**Contract ID #:** 000000000000000000005986

**Delivery:**

**Minimum order:**

**P-card accepted:** ☒ Yes ☐ No

**Other:** Additional Contact Person: Kurt Schroeder

**Supplier name:** Industrial Truck Equipment

**Supplier ID #:** 0000249905

**Supplier address:** P.O. Box 270724

**City:** OKC

**State:** OK

**Zip Code:** 73137 -

**Contact person name:** Dwight Anderson

**Phone #:** 1-405-688-6100

**Title:** Sales Manager

**Fax #:** 1-405-688-6102

**Email:** [dwight@iteok.com](mailto:dwight@iteok.com)

**Website:**

**Authorized location:** ☐ **Locations – list attached as (*attachment title*)**

☐ **Address:**

**City:**

**State:**

**Zip Code:**

**Contract ID #:** 000000000000000000005988

**Delivery:**

**Minimum order:**

**P-card accepted:** ☒ Yes

☐ No

**Other:**



**State of Oklahoma**

**Office of Management and Enterprise Services**

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**STATE OF OKLAHOMA STATEWIDE CONTRACT WITH INDUSTRIAL TRUCK  
EQUIPMENT, INC**

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

**Purpose**

The Contract is awarded for the provision of Snow Removal Equipment, as more particularly described in certain Contract Documents. This Contract memorializes the agreement of the parties with respect to terms of the Contract that is being awarded to Supplier.

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

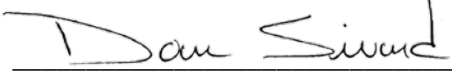
1. The parties agree that Supplier has not yet begun performance of work under this Contract. Upon full execution of this Contract, Supplier may begin work. Issuance of a purchase order is required prior to payment to a Supplier.
2. The following Contract Documents are attached hereto and incorporated herein:
  - 2.1. Solicitation, Attachment A;
  - 2.2. General Terms, Attachment B;
  - 2.3. Statewide Terms, Attachment C;
  - 2.4. Attachment D intentionally omitted; and
  - 2.5. Portions of the Bid, Attachment E.
3. The parties additionally agree:
  - 3.1. Except for and information deemed confidential by the State pursuant to applicable law, rule, regulation or policy, the parties agree Contract terms and information are not confidential and are disclosable without further approval of or notice to Supplier.



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

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

**INDUSTRIAL TRUCK EQUIPMENT, INC**

By: 

Name: Dan Sivard

Title: State Purchasing Director

Date: 10/23/2020

By: 

Name: Larry Rose

Title: Owner/Partner

Date: Oct 22 2021

**ATTACHMENT A**  
**SOLICITATION NO. 090000447**

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 statewide Contract SW0500 for snow removal equipment.

**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 three (3) one-year options to renew the Contract.

**2. Contract Obligations**

In addition to obligations in other Contract Documents, the following obligations are included in the Contract:

- 2.1. Sales of motor vehicles in the State of Oklahoma are subject to the Oklahoma Motor Vehicle Commission Statutes. (Oklahoma Statutes, Title 47 - Motor Vehicles, Chapter 62) It is the Supplier's responsibility to keep all required Oklahoma Motor Vehicle Commission licensing current during the term of the Contract and to furnish copies at any time upon request by Central Purchasing. If the Supplier does not maintain current licensing, Central Purchasing may immediately terminate the Contract upon discovery of the expiration of the license. Contracts for motor vehicles to be sold within the state of Oklahoma may be made only with properly licensed Oklahoma Motor Vehicle Dealers.
- 2.2 Authorized Dealer list, Letter from Manufacturer, and service level agreements are required throughout the duration of the Contract.
- 2.2 Supplier must use best effort to assure product availability through duration of Contract period.
- 2.3 The State recognizes that the pricing of steel can be difficult due to market fluctuations. The initial pricing submitted by the Supplier shall be expected to be held firm for the first 60 days of the Contract. Depending on the date of award, and the changes in the raw material market, pricing may adjust once during a

calendar quarter if necessary, beginning with the next calendar quarter following the award. An advance notice of 30 days prior to either a price increase or decrease along with the new pricing schedule and documentation supporting the increase or decrease shall be sent to the Central Purchasing Contracting officer.

**2.4** All installations must be performed within the State of Oklahoma.

**2.5** Electronic brochures for equipment may be requested from Supplier.

### **3.1. Warranty for Equipment, Options, Accessories & Attachments**

**3.1.1.** The Supplier agrees the products furnished under this Contract shall be covered by all commercial warranties the Contractor provides for such products, and rights and remedies provided herein are in addition to and do not limit any rights afforded to the State of Oklahoma by any other clause of this Contract.

**3.1.2.** The Supplier warrants that at the time of delivery, all equipment and purchased under this Contract will be free from defects in material or workmanship and will conform to the specifications and all other requirements of this Contract

**3.1.4.** All warranty work performed and parts/materials supplied shall meet original equipment manufacturer (OEM) warranty requirements. Equivalent substitutions must be approved by the customer contact person prior to installation

**3.1.5.** Warranty work performed not meeting specifications or found to be defective, shall not be accepted. Supplier shall be required to make repairs or corrections at no additional cost to the customer.

**3.1.6.** Supplier shall furnish a copy of their warranty applicable for the equipment.

**3.1.7.** All equipment warranties shall start on the date of delivery and shall be for the full term of said warranty.

**3.1.8.** Before actual warranty work begins, ownership of the equipment shall be established to ensure the equipment in need of repair belongs to the Customer requesting the service. The following information shall be provided in order to determine ownership of the equipment:

**3.1.9.** Name of Customer and division, if applicable

**3.1.10.** Make, Model, and VIN of equipment

**3.1.11.** Control number of Customer (Inventory number)

**3.1.12** Repairs made that are covered by a warranty shall not be paid for by the Customer.

**3.1.13.** The Supplier shall furnish all necessary supervision, labor, equipment, tools, parts, materials, and supplies needed for the warranty repair work.

**3.1.14.** All persons utilized in the performance of this Contract shall be employees of the Supplier and be fully qualified to perform the warranty work required. Warranty work shall be performed by certified or trained or authorized service technicians.

- 3.1.15.** Equipment that will remain in the Supplier's possession overnight and for extended periods shall be stored in a safe and secure location for protection from theft and environmental dangers. The Supplier shall be responsible for the proper care and custody of any state owned equipment in the supplier's possession.

## **3.2 Quality of Parts**

- 3.2.1** Parts under these specifications should be name brand, nationally advertised merchandise. Equivalent substitutions must be approved by the customer contact person.
- 3.2.2** After Market Repair parts must be equal to, or exceed original equipment manufacturer's specifications.
- 3.2.3** Repair parts must be packaged and distributed under their respective nationally known name brands.
- 3.2.4** All rebuilt or remanufactured parts must meet the same requirements as listed above.
- 3.2.5** Some repair parts may be required to be original equipment manufactured repair parts. Supplier must carry a complete line of OEM parts for all models of equipment they carry.
- 3.2.6** Preservation, packaging, and packing and marking will be in accordance with best standard industry practice to provide adequate protection against shipping damage.

## **3.3 Warranty-Parts**

- 3.2.1.** Supplier is required to provide any buy-back, trade-in, or exchange policy concerning repair parts sold to government Entities.
- 3.2.2.** Supplier shall correct ordering errors without further cost to the ordering entity.
- 3.2.3.** A copy of the Warranty shall be included for replacement parts purchased.

## **3.4. Ordering**

- 3.4.1.** Options, accessories and/or attachments on ordered equipment shall include all standard items normally furnished by the Supplier for the basic equipment purchased, prior to any options, accessories and/or attachments that enhance the equipment to where it becomes specialized or customized to the customer's requirements.
- 3.4.2** The Customer will determine how and when the truck to be outfitted is to arrive at the Supplier location.
- 3.4.3** While the truck to be outfitted is on the Supplier property, Supplier will be fully responsible for the truck and will ensure that it shall be stored in a safe and secure location for protection from theft and environmental dangers. The Supplier shall

be responsible for the proper care and custody of any Customer-owned equipment in the Supplier's possession.

**3.4.4** Supplier shall identify any websites that can be of assistance in determining needs and calculating total cost of items purchased.

**3.4.5** Any trade-in allowances determined by the Supplier shall be deducted from the established current price after the discount is applied. The formula will be to deduct the discount from the established current price and then take off the trade-in allowance.

Example: List price is \$17,199, and the discount is 23% and the trade-in is \$6,000.  $\$17,199 - 23\% = \$13,243.23$ .  $\$13,243 - \$6000 = \$7,243.23$ , final price.

**3.4.6** Supplier shall provide catalogs and current price lists at no charge upon customer or OMES request.

**3.4.8.** All equipment shall be delivered with one copy of the operator's manual, and an illustrated repair parts manual or list. If other manuals are required by the customer, they shall be offered at the discount offered in the Price Sheets.

### **3.5 Inventory**

**3.5.1.** Supplier shall maintain inventory to ensure compliance with delivery requirements of the Contract.

### **3.6. Invoices**

To ensure prompt payment, the invoice shall include the following information:

**3.6.1.** Supplier's suggested retail price less any trade-in allowance if applicable, Contract percentage discount off, freight cost, set-up fees, any allied or incidentals used to customize the equipment, and the final price for each item delivered.

**3.6.2.** The copy of the current, dated Supplier's Price List showing the price of the equipment if requested by the ordering party for their accounting purposes.

**3.6.3.** Name of company who provided the products/services.

**3.6.4.** Supplier shall be the only office authorized to receive orders, invoice and receive payment. Supplier shall be responsible for the equipment and chassis when being transported between locations for additional installations performed.

### **3.7. Delivery**

**3.7.1.** Delivery of equipment is to be made within 120 calendar days after receipt of order unless other arrangements are made between the Customer and the Supplier. Earlier deliveries are encouraged; however, there shall be no change in Contract price or discount terms because of the earlier delivery.

**3.7.2.** All equipment is to be delivered new, unused, assembled, serviced, oiled and ready for immediate use, unless otherwise requested by the Customer. Liability for product delivery remains with the Supplier until delivered and accepted.

**3.7.3.** Delivery shall be made in accordance with instructions on purchase order from each Customer. If there is a discrepancy between the purchase order and what is listed on the Contract; it is the Supplier's obligation to seek clarification from the Customer and, if applicable, from the Central Purchasing Contracting officer.

**3.7.4.** Delivery on parts is to be made within 30 days.

**3.7.5.** One Operating Manual, an illustrated parts manual or List, and the Warranty, shall be furnished for each new item purchased, as well as any proprietary tools necessary to perform routine service or adjustments, all at no additional cost.

**3.8. Price Adjustments**

**3.8.1.** Supplier is to notify the Central Purchasing Contracting officer at least 30 days before a price adjustment will occur, or as soon as possible upon notification from the manufacturer.

**3.9. New Products**

**3.9.1.** New products may be added to the Contract as they are introduced by Supplier; however, the discount cannot be lowered throughout the Contract period.

**3.9.2.** If Supplier becomes authorized as a dealer for other products, those products may be added to Supplier's list of equipment offered.

**3.10. Discontinued Products**

Supplier is to notify the Central Purchasing Contracting officer of any changes in the schedule of equipment such as discontinued product or replacement models.

## **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, make of equipment, model of equipment, VIN number of equipment, name of government entity, payment remittance address, and the dates of such provision.

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

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

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

Such proof of coverage shall additionally be provided to the Customer if services will be provided by any of Supplier's employees, agents or subcontractors at any Customer premises and/or employer vehicles will be used in connection with performance of Supplier's obligations under the Contract. Supplier may not commence performance hereunder until such

proof has been provided. Additionally, Supplier shall ensure each insurance policy includes a thirty (30) day notice of cancellation and name the State and its agencies as certificate holder and shall promptly provide proof to the State of any renewals, additions, or changes to such insurance coverage. Supplier's obligation to maintain insurance coverage under the Contract is a continuing obligation until Supplier has no further obligation under the Contract. Any combination of primary and excess or umbrella insurance may be used to satisfy the limits of coverage for Commercial General Liability, Auto Liability and Employers' Liability. Unless agreed between the parties and approved by the State Purchasing Director, the minimum acceptable insurance limits of liability are as follows:

- A.** Workers' Compensation and Employer's Liability Insurance in accordance with and to the extent required by applicable law;
- B.** Commercial General Liability Insurance covering the risks of personal injury, bodily injury (including death) and property damage, including coverage for contractual liability, with a limit of liability of not less than \$5,000,000 per occurrence;
- C.** Automobile Liability Insurance with limits of liability of not less than \$5,000,000 combined single limit each accident;
- D.** Directors and Officers Insurance which shall include Employment Practices Liability as well as Consultant's Computer Errors and Omissions Coverage, if information technology services are provided under the Contract, with limits not less than \$5,000,000 per occurrence;
- E.** Security and Privacy Liability insurance, including coverage for failure to protect confidential information and failure of the security of Supplier's computer systems that results in unauthorized access to Customer data with limits \$5,000,000 per occurrence; and
- F.** Additional coverage required in writing in connection with a particular Acquisition.

- 8.2** Supplier shall be entirely responsible during the existence of the Contract for the liability and payment of taxes payable by or assessed to Supplier or its employees, agents and subcontractors of whatever kind, in connection with the Contract. Supplier further agrees to comply with all state and federal laws applicable to any such persons, including laws regarding



wages, taxes, insurance, and Workers' Compensation. Neither Customer nor the State shall be liable to the Supplier, its employees, agents, or others for the payment of taxes or the provision of unemployment insurance and/or Workers' Compensation or any benefit available to a State or Customer employee.

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

## **9 Compliance with Applicable Laws**

- 9.1** As long as Supplier has an obligation under the terms of the Contract and in connection with performance of its obligations, the Supplier represents its present compliance, and shall have an ongoing obligation to comply, with all applicable federal, State, and local laws, rules, regulations, ordinances, and orders, as amended, including but not limited to the following:
- A.** Drug-Free Workplace Act of 1988 set forth at 41 U.S.C. §81.
  - B.** Section 306 of the Clean Air Act, Section 508 of the Clean Water Act, Executive Order 11738, and Environmental Protection Agency Regulations which prohibit the use of facilities included on the EPA List of Violating Facilities under nonexempt federal contracts, grants or loans;
  - C.** Prospective participant requirements set at 45 C.F.R. part 76 in connection with Debarment, Suspension and other responsibility matters;
  - D.** 1964 Civil Rights Act, Title IX of the Education Amendment of 1972, Section 504 of the Rehabilitation Act of 1973, Americans with Disabilities Act of 1990, and Executive Orders 11246 and 11375;
  - E.** Anti-Lobbying Law set forth at 31 U.S.C. §1325 and as implemented at 45 C.F.R. part 93;

- F.** Requirements of Internal Revenue Service Publication 1075 regarding use, access and disclosure of Federal Tax Information (as defined therein);
- G.** Obtaining certified independent audits conducted in accordance with Government Auditing Standards and Office of Management and Budget Uniform Guidance, 2 CFR 200 Subpart F §200.500 et seq. with approval and work paper examination rights of the applicable procuring entity;
- H.** Requirements of the Oklahoma Taxpayer and Citizen Protection Act of 2007, 25 O.S. §1312 and applicable federal immigration laws and regulations and be registered and participate in the Status Verification System. The Status Verification System is defined at 25 O.S. §1312, includes but is not limited to the free Employment Verification Program (E-Verify) through the Department of Homeland Security, and is available at [www.dhs.gov/E-Verify](http://www.dhs.gov/E-Verify);
- I.** Requirements of the Health Insurance Portability and Accountability Act of 1996; Health Information Technology for Economic and Clinical Health Act; Payment Card Industry Security Standards; Criminal Justice Information System Security Policy and Security Addendum; and Family Educational Rights and Privacy Act; and
- J.** Be registered as a business entity licensed to do business in the State, have obtained a sales tax permit, and be current on franchise tax payments to the State, as applicable.

**9.2** The Supplier's employees, agents and subcontractors shall adhere to applicable Customer policies including, but not limited to acceptable use of Internet and electronic mail, facility and data security, press releases, and public relations. As applicable, the Supplier shall adhere to the State Information Security Policy, Procedures, Guidelines set forth at [https://omes.ok.gov/sites/g/files/gmc316/f/InfoSecPPG\\_0.pdf](https://omes.ok.gov/sites/g/files/gmc316/f/InfoSecPPG_0.pdf). Supplier is responsible for reviewing and relaying such policies covering the above to the Supplier's employees, agents and subcontractors.

**9.3** At no additional cost to Customer, the Supplier shall maintain all applicable licenses and permits required in association with its obligations under the Contract.

- 9.4** In addition to compliance under subsection 9.1 above, Supplier shall have a continuing obligation to comply with applicable Customer-specific mandatory contract provisions required in connection with the receipt of federal funds or other funding source.
- 9.5** The Supplier is responsible to review and inform its employees, agents, and subcontractors who provide a product or perform a service under the Contract of the Supplier's obligations under the Contract and Supplier certifies that its employees and each such subcontractor shall comply with minimum requirements and applicable provisions of the Contract. At the request of the State, Supplier shall promptly provide adequate evidence that such persons are its employees, agents or approved subcontractors and have been informed of their obligations under the Contract.
- 9.6** As applicable, Supplier agrees to comply with the Governor's Executive Orders related to the use of any tobacco product, electronic cigarette or vaping device on any and all properties owned, leased, or contracted for use by the State, including but not limited to all buildings, land and vehicles owned, leased, or contracted for use by agencies or instrumentalities of the State.
- 9.7** The execution, delivery and performance of the Contract and any ancillary documents by Supplier will not, to the best of Supplier's knowledge, violate, conflict with, or result in a breach of any provision of, or constitute a default (or an event which, with notice or lapse of time or both, would constitute a default) under, or result in the termination of, any written contract or other instrument between Supplier and any third party.
- 9.8** Supplier represents that it has the ability to pay its debts when due and it does not anticipate the filing of a voluntary or involuntary bankruptcy petition or appointment of a receiver, liquidator or trustee.
- 9.9** Supplier represents that, to the best of its knowledge, any litigation or claim or any threat thereof involving Supplier has been disclosed in writing to the State and Supplier is not aware of any other litigation, claim or threat thereof.
- 9.10** If services provided by Supplier include delivery of an electronic communication, Supplier shall ensure such communication and any associated support documents are compliant with Section 508 of the Federal Rehabilitation Act and with State standards regarding accessibility. Should any communication or associated support documents be non-compliant,

Supplier shall correct and re-deliver such communication immediately upon discovery or notice, at no additional cost to the State. Additionally, as part of compliance with accessibility requirements where documents are only provided in non-electronic format, Supplier shall promptly provide such communication and any associated support documents in an alternate format usable by individuals with disabilities upon request and at no additional cost, which may originate from an intended recipient or from the State.

## **10 Audits and Records Clause**

- 10.1** As used in this clause and pursuant to 67 O.S. §203, “record” includes a document, book, paper, photograph, microfilm, computer tape, disk, record, sound recording, film recording, video record, accounting procedures and practices, and other data, regardless of type and regardless of whether such items are in written form, in the form of computer data, or in any other form. Supplier agrees any pertinent federal or State agency or governing entity of a Customer shall have the right to examine and audit, at no additional cost to a Customer, all records relevant to the execution and performance of the Contract except, unless otherwise agreed, costs of Supplier that comprise pricing under the Contract.
- 10.2** The Supplier is required to retain records relative to the Contract for the duration of the Contract and for a period of seven (7) years following completion or termination of an Acquisition unless otherwise indicated in the Contract terms. If a claim, audit, litigation or other action involving such records is started before the end of the seven-year period, the records are required to be maintained for two (2) years from the date that all issues arising out of the action are resolved, or until the end of the seven (7) year retention period, whichever is later.
- 10.3** Pursuant to 74 O.S. §85.41, if professional services are provided hereunder, all items of the Supplier that relate to the professional services are subject to examination by the State agency, State Auditor and Inspector and the State Purchasing Director.

## **11 Confidentiality**

- 11.1** The Supplier shall maintain strict security of all State and citizen data and records entrusted to it or to which the Supplier gains access, in accordance with and subject to applicable federal and State laws, rules, regulations, and policies and shall use any such data and records only as necessary for

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

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

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

Information; (iv) is lawfully obtained from a third party (without any confidentiality obligation) who has the right to make such disclosure or (v) résumé, pricing or marketing materials provided to the State. In addition, the obligations in this section shall not apply to the extent that the applicable law or regulation requires disclosure of Supplier Confidential Information, provided that the Customer provides reasonable written notice, pursuant to Contract notice provisions, to the Supplier so that the Supplier may promptly seek a protective order or other appropriate remedy.

## **12 Conflict of Interest**

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

## **13 Assignment and Permitted Subcontractors**

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

**13.2** Notwithstanding the foregoing, the Contract may be assigned by Supplier to any corporation or other entity in connection with a merger, consolidation, sale of all equity interests of the Supplier, or a sale of all or substantially all of the assets of the Supplier to which the Contract relates. In any such case, said corporation or other entity shall by operation of law or expressly in writing assume all obligations of the Supplier as fully as if it had been originally made a party to the Contract. Supplier shall give the

State and all affected Customers prior written notice of said assignment. Any assignment or delegation in violation of this subsection shall be void.

- 13.3** If the Supplier is permitted to utilize subcontractors in support of the Contract, the Supplier shall remain solely responsible for its obligations under the terms of the Contract, for its actions and omissions and those of its agents, employees and subcontractors and for payments to such persons or entities. Prior to a subcontractor being utilized by the Supplier, the Supplier shall obtain written approval of the State of such subcontractor and each employee, as applicable to a particular Acquisition, of such subcontractor proposed for use by the Supplier. Such approval is within the sole discretion of the State. Any proposed subcontractor shall be identified by entity name, and by employee name, if required by the particular Acquisition, in the applicable proposal and shall include the nature of the services to be performed. As part of the approval request, the Supplier shall provide a copy of a written agreement executed by the Supplier and subcontractor setting forth that such subcontractor is bound by and agrees, as applicable, to perform the same covenants and be subject to the same conditions and make identical certifications to the same facts and criteria, as the Supplier under the terms of all applicable Contract Documents. Supplier agrees that maintaining such agreement with any subcontractor and obtaining prior written approval by the State of any subcontractor and associated employees shall be a continuing obligation. The State further reserves the right to revoke approval of a subcontractor or an employee thereof in instances of poor performance, misconduct or for other similar reasons.
- 13.4** All payments under the Contract shall be made directly to the Supplier, except as provided in subsection A above regarding the Supplier's assignment of payment. No payment shall be made to the Supplier for performance by unapproved or disapproved employees of the Supplier or a subcontractor.
- 13.5** Rights and obligations of the State or a Customer under the terms of this Contract may be assigned or transferred, at no additional cost, to other Customer entities.

#### **14 Background Checks and Criminal History Investigations**

Prior to the commencement of any services, background checks and criminal history investigations of the Supplier's employees and subcontractors who will be providing services may be required and, if so, the required information shall be



provided to the State in a timely manner. Supplier's access to facilities, data and information may be withheld prior to completion of background verification acceptable to the State. The costs of additional background checks beyond Supplier's normal hiring practices shall be the responsibility of the Customer unless such additional background checks are required solely because Supplier will not provide results of its otherwise acceptable normal background checks; in such an instance, Supplier shall pay for the additional background checks. Supplier will coordinate with the State and its employees to complete the necessary background checks and criminal history investigations. Should any employee or subcontractor of the Supplier who will be providing services under the Contract not be acceptable as a result of the background check or criminal history investigation, the Customer may require replacement of the employee or subcontractor in question and, if no suitable replacement is made within a reasonable time, terminate the purchase order or other payment mechanism associated with the project or services.

## **15 Patents and Copyrights**

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

## **16 Indemnification**

### **16.1 Acts or Omissions**

- A. Supplier shall defend and indemnify the Indemnified Parties, as applicable, for any and all liability, claims, damages, losses, costs, expenses, demands, suits and actions of third parties (including without limitation reasonable attorneys' fees and costs required to establish the right to indemnification) arising out of, or resulting from any action or claim for bodily injury, death, or property damage brought against any of the Indemnified parties to the extent arising from any negligent act or omission or willful misconduct of the Supplier or its agents, employees, or subcontractors in the execution or performance of the Contract.
- B. To the extent Supplier is found liable for loss, damage, or destruction of any property of Customer due to negligence, misconduct, wrongful act, or omission on the part of the Supplier, its employees, agents, representatives, or subcontractors, the Supplier and Customer shall use best efforts to mutually negotiate an equitable settlement amount to repair or replace the property unless such loss, damage or destruction is of such a magnitude that repair or replacement is not a reasonable option. Such amount shall be invoiced to, and is payable by, Supplier sixty (60) calendar days after the date of Supplier's receipt of an invoice for the negotiated settlement amount.

## **16.2 Infringement**

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

with products Supplier provides to or develops for the State or a Customer as a system.

### **16.3 Notice and Cooperation**

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

### **16.4 Coordination of Defense**

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

### **16.5 Limitation of Liability**

- A. With respect to any claim or cause of action arising under or related to the Contract, neither the State nor any Customer shall be liable to Supplier for lost profits, lost sales or business expenditures, investments, or commitments in connection with any business, loss of any goodwill, or for any other indirect, incidental, punitive, special or consequential damages, even if advised of the possibility of such damages.

- B.** Notwithstanding anything to the contrary in the Contract, no provision shall limit damages, expenses, costs, actions, claims, and liabilities arising from or related to property damage, bodily injury or death caused by Supplier or its employees, agents or subcontractors; indemnity, security or confidentiality obligations under the Contract; the bad faith, negligence, intentional misconduct or other acts for which applicable law does not allow exemption from liability of Supplier or its employees, agents or subcontractors.
- C.** The limitation of liability and disclaimers set forth in the Contract will apply regardless of whether Customer has accepted a product or service. The parties agree that Supplier has set its fees and entered into the Contract in reliance on the disclaimers and limitations set forth herein, that the same reflect an allocation of risk between the parties and form an essential basis of the bargain between the parties. These limitations shall apply notwithstanding any failure of essential purpose of any limited remedy.

## **17 Termination for Funding Insufficiency**

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

fees that are unused when the Contractor certain obligations are terminated shall be refunded.

- 17.3** The State's exercise of its right to terminate the Contract under this section shall not be considered a default or breach under the Contract or relieve the Supplier of any liability for claims arising under the Contract.

## **18 Termination for Cause**

- 18.1** Supplier may terminate the Contract if (i) it has provided the State with written notice of material breach and (ii) the State fails to cure such material breach within thirty (30) days of receipt of written notice. If there is more than one Customer, material breach by a Customer does not give rise to a claim of material breach as grounds for termination by Supplier of the Contract as a whole. The State may terminate the Contract in whole or in part if (i) it has provided Supplier with written notice of material breach, and (ii) Supplier fails to cure such material breach within thirty (30) days of receipt of written notice. Any partial termination of the Contract under this section shall not be construed as a waiver of, and shall not affect, the rights and obligations of any party regarding portions of the Contract that are not terminated.
- 18.2** The State may terminate the Contract in whole or in part immediately without a thirty (30) day written notice to Supplier if (i) Supplier fails to comply with confidentiality, privacy, security, environmental or safety requirements applicable to Supplier's performance or obligations under the Contract; (ii) Supplier's material breach is reasonably determined to be an impediment to the function of the State and detrimental to the State or to cause a condition precluding the thirty (30) day notice or (iii) when the State determines that an administrative error in connection with award of the Contract occurred prior to Contract performance.
- 18.3** Upon receipt of notice of a termination, Supplier shall immediately comply with the notice terms and take all necessary steps to minimize the incurrence of costs allocable to the work affected by the notice. If a purchase order or other payment mechanism has been issued and a product or service has been accepted as satisfactory prior to the effective date of termination, the termination does not relieve an obligation to pay for the product or service but there shall not be any liability for further payments ordinarily due under the Contract or for any damages or other amounts caused by or associated with such termination. Such termination is not an exclusive remedy but is

in addition to any other rights and remedies provided for by law. Any amount paid to Supplier in the form of prepaid fees that are unused when the Contract or certain obligations are terminated shall be refunded. Termination of the Contract under this section, in whole or in part, shall not relieve the Supplier of liability for claims arising under the Contract.

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

## **19 Termination for Convenience**

- 19.1** The State may terminate the Contract, in whole or in part, for convenience if it is determined that termination is in the State's best interest. In the event of a termination for convenience, Supplier will be provided at least thirty (30) days' written notice of termination. Any partial termination of the Contract shall not be construed as a waiver of, and shall not affect, the rights and obligations of any party regarding portions of the Contract that remain in effect.
- 19.2** Upon receipt of notice of such termination, Supplier shall immediately comply with the notice terms and take all necessary steps to minimize the incurrence of costs allocable to the work affected by the notice. If a purchase order or other payment mechanism has been issued and a product or service has been accepted as satisfactory prior to the effective date of termination, the termination does not relieve an obligation to pay for the product or service but there shall not be any liability for further payments ordinarily due under the Contract or for any damages or other amounts caused by or associated with such termination. Such termination shall not be an exclusive remedy but shall be in addition to any other rights and

remedies provided for by law. Any amount paid to Supplier in the form of prepaid fees that are unused when the Contract or certain obligations are terminated shall be refunded. Termination of the Contract under this section, in whole or in part, shall not relieve the Supplier of liability for claims arising under the Contract.

## **20 Suspension of Supplier**

- 20.1** Supplier may be subject to Suspension without advance notice and may additionally be suspended from activities under the Contract if Supplier fails to comply with confidentiality, privacy, security, environmental or safety requirements applicable to Supplier's performance or obligations under the Contract.
- 20.2** Upon receipt of a notice pursuant to this section, Supplier shall immediately comply with the notice terms and take all necessary steps to minimize the incurrence of costs allocable to the work affected by the notice. If a purchase order or other payment mechanism has been issued and a product or service has been accepted as satisfactory prior to receipt of notice by Supplier, the Suspension does not relieve an obligation to pay for the product or service but there shall not be any liability for further payments ordinarily due under the Contract during a period of Suspension or suspended activity or for any damages or other amounts caused by or associated with such Suspension or suspended activity. A right exercised under this section shall not be an exclusive remedy but shall be in addition to any other rights and remedies provided for by law. Any amount paid to Supplier in the form of prepaid fees attributable to a period of Suspension or suspended activity shall be refunded.
- 20.3** Such Suspension may be removed, or suspended activity may resume, at the earlier of such time as a formal notice is issued that authorizes the resumption of performance under the Contract or at such time as a purchase order or other appropriate encumbrance document is issued. This subsection is not intended to operate as an affirmative statement that such resumption will occur.

## **21 Certification Regarding Debarment, Suspension, and Other Responsibility Matters**

The certification made by Supplier with respect to Debarment, Suspension, certain indictments, convictions, civil judgments and terminated public contracts is a material representation of fact upon which reliance was placed when entering into

the Contract. A determination that Supplier knowingly rendered an erroneous certification, in addition to other available remedies, may result in whole or partial termination of the Contract for Supplier's default. Additionally, Supplier shall promptly provide written notice to the State Purchasing Director if the certification becomes erroneous due to changed circumstances.

## **22 Certification Regarding State Employees Prohibition From Fulfilling Services**

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

## **23 Force Majeure**

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

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

**23.3** Notwithstanding the foregoing or any other provision in the Contract, (i) the following are not a force majeure event under the Contract: (a) shutdowns, disruptions or malfunctions in Supplier's system or any of Supplier's telecommunication or internet services other than as a result of general and



widespread internet or telecommunications failures that are not limited to Supplier's systems or (b) the delay or failure of Supplier or subcontractor personnel to perform any obligation of Supplier hereunder unless such delay or failure to perform is itself by reason of a force majeure event and (ii) no force majeure event modifies or excuses Supplier's obligations related to confidentiality, indemnification, data security or breach notification obligations set forth herein.

## **24 Security of Property and Personnel**

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

## **25 Notices**

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

### **If sent to the State:**

State Purchasing Director  
2401 North Lincoln Boulevard, Suite 116  
Oklahoma City, Oklahoma 73105

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

Purchasing Division Deputy General Counsel  
2401 North Lincoln Boulevard, Suite 116

**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 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.

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

**6.3** All Contract Usage Reports shall meet the following criteria:

- i.** Electronic submission in Microsoft Excel format to [strategic.sourcing@omes.ok.gov](mailto:strategic.sourcing@omes.ok.gov);
- ii.** Quarterly submission regardless of whether there were Acquisitions 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 Acquisition 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.

SW500 Snow Plow Blades, Grader Blades, Spreaders, Cross Conveyors,

	Supplier Name:								
	Supplier Website:								
<b>Please note:</b> There are extra columns for you to fill in more than one model number to be considered in your response.									
Item #	Description	Reference Dot Spec #	Dot Date	Vendor's 1st proposed Model #	Price Per Each	Vendor's 2nd proposed Model #	Price Per Each		
1	Heavy Duty Spreader, Hopper Type	15-06/10' Stainless	Feb-10	Swenson EV-150 SS 10'	\$7,905.00		\$		
1a	Parts-provide discount off list/catalog price				Disc _40 _%		Disc _ _%		
1b	Accessories-provide discount off list/catalog price				Disc _40 _%		Disc _ _%		
2	Heavy Duty Spreader, Hopper Type	15-06	Feb-10	Swenson EV-108 Mild Steel 10'	\$6,729.00		\$		
2a	Parts-provide discount off list/catalog price				Disc _40 _%		Disc _ _%		
2b	Accessories-provide discount off list/catalog price				Disc 40 _ _%		Disc _ _%		
3	Heavy Duty Spreader, Hopper Type	15-06	Feb-10	Swenson EV-150 Mild Steel 14'	\$8,011.00		\$		
3a	Parts-provide discount off list/catalog price				Disc _40 _%		Disc _ _%		

SW500 Snow Plow Blades, Grader Blades, Spreaders, Cross Conveyors,

3b	Accessories-provide discount off list/catalog price						Disc __%		Disc __%
4	Heavy Duty Spreader, Hopper Type	15-07/13' Stainless	Feb-10	Swenson EV-150 SS 13'			\$10,258		\$
4a	Parts-provide discount off list/catalog price						Disc __%		Disc __%
4b	Accessories-provide discount off list/catalog price						Disc 40 __%		Disc __%
5	Heavy Duty Spreader, Hopper Type	15-07/14' Stainless	Feb-10	Swenson EV-150 SS 14'			\$10,285.00		\$
5a	Parts-provide discount off list/catalog price						Disc 40 __%		Disc __%
5b	Accessories-provide discount off list/catalog price						Disc 40 __%		Disc __%
6	V-box Prewet System w/electric motor	15-Prewet 200 gallons	Feb-10	Swenson LSSE Prewet			\$2,550.00		\$
6a	Parts-provide discount off list/catalog price						Disc 40%		Disc __%
6b	Accessories-provide discount off list/catalog price						Disc __%		Disc __%
7	V-box Prewet System w/electric motor	15-Prewet 250 gallons	Feb-10	Swenson LSSE Prewet			\$2,550.00		\$
7a	Parts-provide discount off list/catalog price						Disc 40 __%		Disc __%

SW500 Snow Plow Blades, Grader Blades, Spreaders, Cross Conveyors,

7b	Accessories-provide discount off list/catalog price						Disc _40__%		Disc ____%
8	Hydraulic Truck Cross Conveyor	15-SP	Feb-10				\$		\$
8a	Parts-provide discount off list/catalog price						Disc ____%		Disc ____%
8b	Accessories-provide discount off list/catalog price						Disc ____%		Disc ____%
					Brand/Model		Price Per Each	Brand/Model	Price Per Each
9	Snow Plow Front Mounted	78-01-Hvy Duty-Full	Feb-10		Viking / MW41R11		\$9,471.00		\$
9a	Parts-provide discount off list/catalog price						Disc 40 __%		Disc ____%
9b	Accessories/options - provide discount off list/catalog price						Disc _40__%		Disc ____%
					Brand/Model		Price Per Each	Brand/Model	Price Per Each
10	Snow Plow Front Mounted	78-01-Lt Duty	Jun-10		Viking/MW30R11		\$10,317.00		\$
10a	Parts-provide discount off list/catalog price						Disc _40__%		Disc ____%
10b	Accessories/options - provide discount off list/catalog price						Disc _40__%		Disc ____%

SW500 Snow Plow Blades, Grader Blades, Spreaders, Cross Conveyors,

					Brand/Model	Price Per Each	Brand/Model	Price Per Each
11	Snow Plow Front Mounted	78-01-Hvy Duty	Feb-10		Viking/MW42J11 with Quick Hitch	\$11,000.00		\$
11a	Parts-provide discount off list/catalog price					Disc _40_ %		Disc ___ %
11b	Accessories/options - provide discount off list/catalog price					Disc _40_ %		Disc ___ %
12	Snow Plow Front Mounted	78-01-Mid Duty	Jun-10		Brand/Model Viking/MW36R11	\$10,429.40		\$
12a	Parts-provide discount off list/catalog price					Disc _40_ %		Disc ___ %
12b	Accessories/options - provide discount off list/catalog price					Disc _40_ %		Disc ___ %
13	Runway Plow	Blue Max or equal	n/a		Brand/Model	Price Per Each	Brand/Model	Price Per Each
13a	Parts-provide discount off list/catalog price				Viking	Disc _25_ %		Disc ___ %
13b	Accessories/options - provide discount off list/catalog price					Disc _40_ %		Disc ___ %



Supplier Name:

Supplier Website:

Grader/Plow blades

	Size	Brand	Brand #	Price per each
Bolt & Nut	5/8" x 2" grade 8/Dome	Crest	HW42C-1016	\$1.33
Bolt & Nut	5/8" x 2 1/2" grade 8/Dome	Crest	HW42C-1020	\$1.46
Bolt & Nut	5/8" x 3" grade 8/Dome	Crest	HW42C-1024	\$1.66
Bolt & Nut	5/8" x 3 1/2" grade 8/Dome	Crest	HW42C-1028	\$2.20
Bolt & Nut	5/8" x 2" grade 8/Flat Head	Crest	HW42B-1016	\$1.33
Bolt & Nut	5/8" x 2 1/2" grade 8/Flat Head	Crest	HW42B-1020	\$1.36
Bolt & Nut	5/8" x 3" grade 8/Flat Head	Crest	HW42B-1024	\$1.38
Bolt & Nut	5/8" x 3 1/2" grade 8/Flat Head	Crest	HW42B-1028	\$1.70

	Brand	Brand #	PER EACH
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Carbide plow blade 3/4" x 6"

Carbide plow blade	3/4" x 6"	3'	Kennametal	KMT101842	\$185.55
Carbide plow blade	3/4" x 6"	4'	Kennametal	KMT101844	252.73
Carbide plow blade	7/8" x 5"	3'	Kennametal	KMT101848	190.92
Carbide plow blade	7/8" x 5"	4'	Kennametal	KMT101854	254.56

Grader Blade	5/8" x 6"	6'	Valk		73.1
Grader Blade	5/8" x 6"	7'	Valk		85.25
Grader Blade	5/8" x 6"	8'	Valk		103.52
Grader Blade	5/8" x 6"	9'	Valk		116.48

Grader Blade	5/8" x 8"	6'	Valk		113.3
Grader Blade	5/8" x 8"	7'	Valk		131.25
Grader Blade	5/8" x 8"	8'	Valk		142.2
Grader Blade	5/8" x 8"	9'	Valk		159.95

Grader Blade	3/4" x 8"	6'	Valk		138.1
Grader Blade	3/4" x 8"	7'	Valk		150.57
Grader Blade	3/4" x 8"	8'	Valk		182.83
Grader Blade	3/4" x 8"	9'	Valk		193.58

Grader Blade	7/8" x 5"	3'	Kennametal	KMT1011872	799.55
Grader Blade	7/8" x 5"	4'	Kennametal	KMT101875	1065.89
Grader Blade	7/8" x 5"	36"	Kennametal	KMT1231173	138.88
Grader Blade	7/8" x 5"	36"	Kennametal		
Grader Blade	7/8" x 5"	48"	Kennametal	KMT1180020	483.07
Grader Blade	7/8" x 5"	48"	Kennametal		

Grader Blade Sgl Bev Dual Carb See 7/8 x 5 Dual Carbide

Plow Blade	stand punch 12" punch w/sq 11/16"	10'	Viking	3SK7120	
Plow Blade	stand punch 12" punch w/sq 11/16"	11'	Viking	2800298-C	
Plow Blade	stand punch 12" punch w/sq 11/16"	12'	Viking	280014A-C	

REPAIR FACILITIES

Name

Address

Industrial Truck Equipment

3400 South Thomas Road

Oklahoma City, OK 73179

Phone Number

OFFICE: 405-688-6100

CELL# 405-428-6970

Email Address

[dwright@iteok.com](mailto:dwright@iteok.com)

Dwight Anderson

Freight will be added at time of order .



**State of Oklahoma**

**Office of Management and Enterprise Services**

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**STATE OF OKLAHOMA STATEWIDE CONTRACT WITH SOUTHWEST TRAILER  
& EQUIPMENT**

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

**Purpose**

The Contract is awarded for the provision of Snow Removal Equipment, as more particularly described in certain Contract Documents. This Contract memorializes the agreement of the parties with respect to terms of the Contract that is being awarded to Supplier.

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

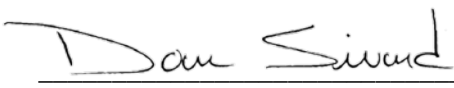
1. The parties agree that Supplier has not yet begun performance of work under this Contract. Upon full execution of this Contract, Supplier may begin work. Issuance of a purchase order is required prior to payment to a Supplier.
2. The following Contract Documents are attached hereto and incorporated herein:
  - 2.1. Solicitation, Attachment A;
  - 2.2. General Terms, Attachment B;
  - 2.3. Statewide Terms, Attachment C;
  - 2.4. Attachment D intentionally omitted; and
  - 2.5. Portions of the Bid, Attachment E.
3. The parties additionally agree:
  - 3.1. Except for and information deemed confidential by the State pursuant to applicable law, rule, regulation or policy, the parties agree Contract terms and information are not confidential and are disclosable without further approval of or notice to Supplier.



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

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

**SOUTHWEST TRAILER & EQUIPMENT**

By: 

Name: Dan Sivard

Title: State Purchasing Director

Date: 10/21/2020

By: 

Name: Kurt Olson

Title: Truck Equip Manager

Date: 10/20/2020

**ATTACHMENT A**  
**SOLICITATION NO. 090000447**

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 statewide Contract SW0500 for snow removal equipment.

**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 three (3) one-year options to renew the Contract.

**2. Contract Obligations**

In addition to obligations in other Contract Documents, the following obligations are included in the Contract:

- 2.1. Sales of motor vehicles in the State of Oklahoma are subject to the Oklahoma Motor Vehicle Commission Statutes. (Oklahoma Statutes, Title 47 - Motor Vehicles, Chapter 62) It is the Supplier's responsibility to keep all required Oklahoma Motor Vehicle Commission licensing current during the term of the Contract and to furnish copies at any time upon request by Central Purchasing. If the Supplier does not maintain current licensing, Central Purchasing may immediately terminate the Contract upon discovery of the expiration of the license. Contracts for motor vehicles to be sold within the state of Oklahoma may be made only with properly licensed Oklahoma Motor Vehicle Dealers.
- 2.2 Authorized Dealer list, Letter from Manufacturer, and service level agreements are required throughout the duration of the Contract.
- 2.2 Supplier must use best effort to assure product availability through duration of Contract period.
- 2.3 The State recognizes that the pricing of steel can be difficult due to market fluctuations. The initial pricing submitted by the Supplier shall be expected to be held firm for the first 60 days of the Contract. Depending on the date of award, and the changes in the raw material market, pricing may adjust once during a

calendar quarter if necessary, beginning with the next calendar quarter following the award. An advance notice of 30 days prior to either a price increase or decrease along with the new pricing schedule and documentation supporting the increase or decrease shall be sent to the Central Purchasing Contracting officer.

**2.4** All installations must be performed within the State of Oklahoma.

**2.5** Electronic brochures for equipment may be requested from Supplier.

### **3.1. Warranty for Equipment, Options, Accessories & Attachments**

**3.1.1.** The Supplier agrees the products furnished under this Contract shall be covered by all commercial warranties the Contractor provides for such products, and rights and remedies provided herein are in addition to and do not limit any rights afforded to the State of Oklahoma by any other clause of this Contract.

**3.1.2.** The Supplier warrants that at the time of delivery, all equipment and purchased under this Contract will be free from defects in material or workmanship and will conform to the specifications and all other requirements of this Contract

**3.1.4.** All warranty work performed and parts/materials supplied shall meet original equipment manufacturer (OEM) warranty requirements. Equivalent substitutions must be approved by the customer contact person prior to installation

**3.1.5.** Warranty work performed not meeting specifications or found to be defective, shall not be accepted. Supplier shall be required to make repairs or corrections at no additional cost to the customer.

**3.1.6.** Supplier shall furnish a copy of their warranty applicable for the equipment.

**3.1.7.** All equipment warranties shall start on the date of delivery and shall be for the full term of said warranty.

**3.1.8.** Before actual warranty work begins, ownership of the equipment shall be established to ensure the equipment in need of repair belongs to the Customer requesting the service. The following information shall be provided in order to determine ownership of the equipment:

**3.1.9.** Name of Customer and division, if applicable

**3.1.10.** Make, Model, and VIN of equipment

**3.1.11.** Control number of Customer (Inventory number)

**3.1.12** Repairs made that are covered by a warranty shall not be paid for by the Customer.

**3.1.13.** The Supplier shall furnish all necessary supervision, labor, equipment, tools, parts, materials, and supplies needed for the warranty repair work.

**3.1.14.** All persons utilized in the performance of this Contract shall be employees of the Supplier and be fully qualified to perform the warranty work required. Warranty work shall be performed by certified or trained or authorized service technicians.

- 3.1.15. Equipment that will remain in the Supplier's possession overnight and for extended periods shall be stored in a safe and secure location for protection from theft and environmental dangers. The Supplier shall be responsible for the proper care and custody of any state owned equipment in the supplier's possession.

### **3.2 Quality of Parts**

- 3.2.1 Parts under these specifications should be name brand, nationally advertised merchandise. Equivalent substitutions must be approved by the customer contact person.
- 3.2.2 After Market Repair parts must be equal to, or exceed original equipment manufacturer's specifications.
- 3.2.3 Repair parts must be packaged and distributed under their respective nationally known name brands.
- 3.2.4 All rebuilt or remanufactured parts must meet the same requirements as listed above.
- 3.2.5 Some repair parts may be required to be original equipment manufactured repair parts. Supplier must carry a complete line of OEM parts for all models of equipment they carry.
- 3.2.6 Preservation, packaging, and packing and marking will be in accordance with best standard industry practice to provide adequate protection against shipping damage.

### **3.3 Warranty-Parts**

- 3.2.1. Supplier is required to provide any buy-back, trade-in, or exchange policy concerning repair parts sold to government Entities.
- 3.2.2. Supplier shall correct ordering errors without further cost to the ordering entity.
- 3.2.3. A copy of the Warranty shall be included for replacement parts purchased.

### **3.4. Ordering**

- 3.4.1. Options, accessories and/or attachments on ordered equipment shall include all standard items normally furnished by the Supplier for the basic equipment purchased, prior to any options, accessories and/or attachments that enhance the equipment to where it becomes specialized or customized to the customer's requirements.
- 3.4.2 The Customer will determine how and when the truck to be outfitted is to arrive at the Supplier location.
- 3.4.3 While the truck to be outfitted is on the Supplier property, Supplier will be fully responsible for the truck and will ensure that it shall be stored in a safe and secure location for protection from theft and environmental dangers. The Supplier shall

be responsible for the proper care and custody of any Customer-owned equipment in the Supplier's possession.

**3.4.4** Supplier shall identify any websites that can be of assistance in determining needs and calculating total cost of items purchased.

**3.4.5** Any trade-in allowances determined by the Supplier shall be deducted from the established current price after the discount is applied. The formula will be to deduct the discount from the established current price and then take off the trade-in allowance.

Example: List price is \$17,199, and the discount is 23% and the trade-in is \$6,000.  $\$17,199 - 23\% = \$13,243.23$ .  $\$13,243 - \$6000 = \$7,243.23$ , final price.

**3.4.6** Supplier shall provide catalogs and current price lists at no charge upon customer or OMES request.

**3.4.8.** All equipment shall be delivered with one copy of the operator's manual, and an illustrated repair parts manual or list. If other manuals are required by the customer, they shall be offered at the discount offered in the Price Sheets.

### **3.5 Inventory**

**3.5.1.** Supplier shall maintain inventory to ensure compliance with delivery requirements of the Contract.

### **3.6. Invoices**

To ensure prompt payment, the invoice shall include the following information:

**3.6.1.** Supplier's suggested retail price less any trade-in allowance if applicable, Contract percentage discount off, freight cost, set-up fees, any allied or incidentals used to customize the equipment, and the final price for each item delivered.

**3.6.2.** The copy of the current, dated Supplier's Price List showing the price of the equipment if requested by the ordering party for their accounting purposes.

**3.6.3.** Name of company who provided the products/services.

**3.6.4.** Supplier shall be the only office authorized to receive orders, invoice and receive payment. Supplier shall be responsible for the equipment and chassis when being transported between locations for additional installations performed.

### **3.7. Delivery**

**3.7.1.** Delivery of equipment is to be made within 120 calendar days after receipt of order unless other arrangements are made between the Customer and the Supplier. Earlier deliveries are encouraged; however, there shall be no change in Contract price or discount terms because of the earlier delivery.

**3.7.2.** All equipment is to be delivered new, unused, assembled, serviced, oiled and ready for immediate use, unless otherwise requested by the Customer. Liability for product delivery remains with the Supplier until delivered and accepted.

**3.7.3.** Delivery shall be made in accordance with instructions on purchase order from each Customer. If there is a discrepancy between the purchase order and what is listed on the Contract; it is the Supplier's obligation to seek clarification from the Customer and, if applicable, from the Central Purchasing Contracting officer.

**3.7.4.** Delivery on parts is to be made within 30 days.

**3.7.5.** One Operating Manual, an illustrated parts manual or List, and the Warranty, shall be furnished for each new item purchased, as well as any proprietary tools necessary to perform routine service or adjustments, all at no additional cost.

**3.8. Price Adjustments**

**3.8.1.** Supplier is to notify the Central Purchasing Contracting officer at least 30 days before a price adjustment will occur, or as soon as possible upon notification from the manufacturer.

**3.9. New Products**

**3.9.1.** New products may be added to the Contract as they are introduced by Supplier; however, the discount cannot be lowered throughout the Contract period.

**3.9.2.** If Supplier becomes authorized as a dealer for other products, those products may be added to Supplier's list of equipment offered.

**3.10. Discontinued Products**

Supplier is to notify the Central Purchasing Contracting officer of any changes in the schedule of equipment such as discontinued product or replacement models.

## **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, make of equipment, model of equipment, VIN number of equipment, name of government entity, payment remittance address, and the dates of such provision.

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

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

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

Such proof of coverage shall additionally be provided to the Customer if services will be provided by any of Supplier's employees, agents or subcontractors at any Customer premises and/or employer vehicles will be used in connection with performance of Supplier's obligations under the Contract. Supplier may not commence performance hereunder until such

proof has been provided. Additionally, Supplier shall ensure each insurance policy includes a thirty (30) day notice of cancellation and name the State and its agencies as certificate holder and shall promptly provide proof to the State of any renewals, additions, or changes to such insurance coverage. Supplier's obligation to maintain insurance coverage under the Contract is a continuing obligation until Supplier has no further obligation under the Contract. Any combination of primary and excess or umbrella insurance may be used to satisfy the limits of coverage for Commercial General Liability, Auto Liability and Employers' Liability. Unless agreed between the parties and approved by the State Purchasing Director, the minimum acceptable insurance limits of liability are as follows:

- A.** Workers' Compensation and Employer's Liability Insurance in accordance with and to the extent required by applicable law;
- B.** Commercial General Liability Insurance covering the risks of personal injury, bodily injury (including death) and property damage, including coverage for contractual liability, with a limit of liability of not less than \$5,000,000 per occurrence;
- C.** Automobile Liability Insurance with limits of liability of not less than \$5,000,000 combined single limit each accident;
- D.** Directors and Officers Insurance which shall include Employment Practices Liability as well as Consultant's Computer Errors and Omissions Coverage, if information technology services are provided under the Contract, with limits not less than \$5,000,000 per occurrence;
- E.** Security and Privacy Liability insurance, including coverage for failure to protect confidential information and failure of the security of Supplier's computer systems that results in unauthorized access to Customer data with limits \$5,000,000 per occurrence; and
- F.** Additional coverage required in writing in connection with a particular Acquisition.

- 8.2** Supplier shall be entirely responsible during the existence of the Contract for the liability and payment of taxes payable by or assessed to Supplier or its employees, agents and subcontractors of whatever kind, in connection with the Contract. Supplier further agrees to comply with all state and federal laws applicable to any such persons, including laws regarding



wages, taxes, insurance, and Workers' Compensation. Neither Customer nor the State shall be liable to the Supplier, its employees, agents, or others for the payment of taxes or the provision of unemployment insurance and/or Workers' Compensation or any benefit available to a State or Customer employee.

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

## **9 Compliance with Applicable Laws**

- 9.1** As long as Supplier has an obligation under the terms of the Contract and in connection with performance of its obligations, the Supplier represents its present compliance, and shall have an ongoing obligation to comply, with all applicable federal, State, and local laws, rules, regulations, ordinances, and orders, as amended, including but not limited to the following:
- A.** Drug-Free Workplace Act of 1988 set forth at 41 U.S.C. §81.
  - B.** Section 306 of the Clean Air Act, Section 508 of the Clean Water Act, Executive Order 11738, and Environmental Protection Agency Regulations which prohibit the use of facilities included on the EPA List of Violating Facilities under nonexempt federal contracts, grants or loans;
  - C.** Prospective participant requirements set at 45 C.F.R. part 76 in connection with Debarment, Suspension and other responsibility matters;
  - D.** 1964 Civil Rights Act, Title IX of the Education Amendment of 1972, Section 504 of the Rehabilitation Act of 1973, Americans with Disabilities Act of 1990, and Executive Orders 11246 and 11375;
  - E.** Anti-Lobbying Law set forth at 31 U.S.C. §1325 and as implemented at 45 C.F.R. part 93;

- F.** Requirements of Internal Revenue Service Publication 1075 regarding use, access and disclosure of Federal Tax Information (as defined therein);
- G.** Obtaining certified independent audits conducted in accordance with Government Auditing Standards and Office of Management and Budget Uniform Guidance, 2 CFR 200 Subpart F §200.500 et seq. with approval and work paper examination rights of the applicable procuring entity;
- H.** Requirements of the Oklahoma Taxpayer and Citizen Protection Act of 2007, 25 O.S. §1312 and applicable federal immigration laws and regulations and be registered and participate in the Status Verification System. The Status Verification System is defined at 25 O.S. §1312, includes but is not limited to the free Employment Verification Program (E-Verify) through the Department of Homeland Security, and is available at [www.dhs.gov/E-Verify](http://www.dhs.gov/E-Verify);
- I.** Requirements of the Health Insurance Portability and Accountability Act of 1996; Health Information Technology for Economic and Clinical Health Act; Payment Card Industry Security Standards; Criminal Justice Information System Security Policy and Security Addendum; and Family Educational Rights and Privacy Act; and
- J.** Be registered as a business entity licensed to do business in the State, have obtained a sales tax permit, and be current on franchise tax payments to the State, as applicable.

**9.2** The Supplier's employees, agents and subcontractors shall adhere to applicable Customer policies including, but not limited to acceptable use of Internet and electronic mail, facility and data security, press releases, and public relations. As applicable, the Supplier shall adhere to the State Information Security Policy, Procedures, Guidelines set forth at [https://omes.ok.gov/sites/g/files/gmc316/f/InfoSecPPG\\_0.pdf](https://omes.ok.gov/sites/g/files/gmc316/f/InfoSecPPG_0.pdf). Supplier is responsible for reviewing and relaying such policies covering the above to the Supplier's employees, agents and subcontractors.

**9.3** At no additional cost to Customer, the Supplier shall maintain all applicable licenses and permits required in association with its obligations under the Contract.

- 9.4** In addition to compliance under subsection 9.1 above, Supplier shall have a continuing obligation to comply with applicable Customer-specific mandatory contract provisions required in connection with the receipt of federal funds or other funding source.
- 9.5** The Supplier is responsible to review and inform its employees, agents, and subcontractors who provide a product or perform a service under the Contract of the Supplier's obligations under the Contract and Supplier certifies that its employees and each such subcontractor shall comply with minimum requirements and applicable provisions of the Contract. At the request of the State, Supplier shall promptly provide adequate evidence that such persons are its employees, agents or approved subcontractors and have been informed of their obligations under the Contract.
- 9.6** As applicable, Supplier agrees to comply with the Governor's Executive Orders related to the use of any tobacco product, electronic cigarette or vaping device on any and all properties owned, leased, or contracted for use by the State, including but not limited to all buildings, land and vehicles owned, leased, or contracted for use by agencies or instrumentalities of the State.
- 9.7** The execution, delivery and performance of the Contract and any ancillary documents by Supplier will not, to the best of Supplier's knowledge, violate, conflict with, or result in a breach of any provision of, or constitute a default (or an event which, with notice or lapse of time or both, would constitute a default) under, or result in the termination of, any written contract or other instrument between Supplier and any third party.
- 9.8** Supplier represents that it has the ability to pay its debts when due and it does not anticipate the filing of a voluntary or involuntary bankruptcy petition or appointment of a receiver, liquidator or trustee.
- 9.9** Supplier represents that, to the best of its knowledge, any litigation or claim or any threat thereof involving Supplier has been disclosed in writing to the State and Supplier is not aware of any other litigation, claim or threat thereof.
- 9.10** If services provided by Supplier include delivery of an electronic communication, Supplier shall ensure such communication and any associated support documents are compliant with Section 508 of the Federal Rehabilitation Act and with State standards regarding accessibility. Should any communication or associated support documents be non-compliant,

Supplier shall correct and re-deliver such communication immediately upon discovery or notice, at no additional cost to the State. Additionally, as part of compliance with accessibility requirements where documents are only provided in non-electronic format, Supplier shall promptly provide such communication and any associated support documents in an alternate format usable by individuals with disabilities upon request and at no additional cost, which may originate from an intended recipient or from the State.

## **10 Audits and Records Clause**

- 10.1** As used in this clause and pursuant to 67 O.S. §203, “record” includes a document, book, paper, photograph, microfilm, computer tape, disk, record, sound recording, film recording, video record, accounting procedures and practices, and other data, regardless of type and regardless of whether such items are in written form, in the form of computer data, or in any other form. Supplier agrees any pertinent federal or State agency or governing entity of a Customer shall have the right to examine and audit, at no additional cost to a Customer, all records relevant to the execution and performance of the Contract except, unless otherwise agreed, costs of Supplier that comprise pricing under the Contract.
- 10.2** The Supplier is required to retain records relative to the Contract for the duration of the Contract and for a period of seven (7) years following completion or termination of an Acquisition unless otherwise indicated in the Contract terms. If a claim, audit, litigation or other action involving such records is started before the end of the seven-year period, the records are required to be maintained for two (2) years from the date that all issues arising out of the action are resolved, or until the end of the seven (7) year retention period, whichever is later.
- 10.3** Pursuant to 74 O.S. §85.41, if professional services are provided hereunder, all items of the Supplier that relate to the professional services are subject to examination by the State agency, State Auditor and Inspector and the State Purchasing Director.

## **11 Confidentiality**

- 11.1** The Supplier shall maintain strict security of all State and citizen data and records entrusted to it or to which the Supplier gains access, in accordance with and subject to applicable federal and State laws, rules, regulations, and policies and shall use any such data and records only as necessary for

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

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

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

Information; (iv) is lawfully obtained from a third party (without any confidentiality obligation) who has the right to make such disclosure or (v) résumé, pricing or marketing materials provided to the State. In addition, the obligations in this section shall not apply to the extent that the applicable law or regulation requires disclosure of Supplier Confidential Information, provided that the Customer provides reasonable written notice, pursuant to Contract notice provisions, to the Supplier so that the Supplier may promptly seek a protective order or other appropriate remedy.

## **12 Conflict of Interest**

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

## **13 Assignment and Permitted Subcontractors**

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

**13.2** Notwithstanding the foregoing, the Contract may be assigned by Supplier to any corporation or other entity in connection with a merger, consolidation, sale of all equity interests of the Supplier, or a sale of all or substantially all of the assets of the Supplier to which the Contract relates. In any such case, said corporation or other entity shall by operation of law or expressly in writing assume all obligations of the Supplier as fully as if it had been originally made a party to the Contract. Supplier shall give the

State and all affected Customers prior written notice of said assignment. Any assignment or delegation in violation of this subsection shall be void.

- 13.3** If the Supplier is permitted to utilize subcontractors in support of the Contract, the Supplier shall remain solely responsible for its obligations under the terms of the Contract, for its actions and omissions and those of its agents, employees and subcontractors and for payments to such persons or entities. Prior to a subcontractor being utilized by the Supplier, the Supplier shall obtain written approval of the State of such subcontractor and each employee, as applicable to a particular Acquisition, of such subcontractor proposed for use by the Supplier. Such approval is within the sole discretion of the State. Any proposed subcontractor shall be identified by entity name, and by employee name, if required by the particular Acquisition, in the applicable proposal and shall include the nature of the services to be performed. As part of the approval request, the Supplier shall provide a copy of a written agreement executed by the Supplier and subcontractor setting forth that such subcontractor is bound by and agrees, as applicable, to perform the same covenants and be subject to the same conditions and make identical certifications to the same facts and criteria, as the Supplier under the terms of all applicable Contract Documents. Supplier agrees that maintaining such agreement with any subcontractor and obtaining prior written approval by the State of any subcontractor and associated employees shall be a continuing obligation. The State further reserves the right to revoke approval of a subcontractor or an employee thereof in instances of poor performance, misconduct or for other similar reasons.
- 13.4** All payments under the Contract shall be made directly to the Supplier, except as provided in subsection A above regarding the Supplier's assignment of payment. No payment shall be made to the Supplier for performance by unapproved or disapproved employees of the Supplier or a subcontractor.
- 13.5** Rights and obligations of the State or a Customer under the terms of this Contract may be assigned or transferred, at no additional cost, to other Customer entities.

#### **14 Background Checks and Criminal History Investigations**

Prior to the commencement of any services, background checks and criminal history investigations of the Supplier's employees and subcontractors who will be providing services may be required and, if so, the required information shall be



provided to the State in a timely manner. Supplier's access to facilities, data and information may be withheld prior to completion of background verification acceptable to the State. The costs of additional background checks beyond Supplier's normal hiring practices shall be the responsibility of the Customer unless such additional background checks are required solely because Supplier will not provide results of its otherwise acceptable normal background checks; in such an instance, Supplier shall pay for the additional background checks. Supplier will coordinate with the State and its employees to complete the necessary background checks and criminal history investigations. Should any employee or subcontractor of the Supplier who will be providing services under the Contract not be acceptable as a result of the background check or criminal history investigation, the Customer may require replacement of the employee or subcontractor in question and, if no suitable replacement is made within a reasonable time, terminate the purchase order or other payment mechanism associated with the project or services.

## **15 Patents and Copyrights**

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

## **16 Indemnification**

### **16.1 Acts or Omissions**

- A. Supplier shall defend and indemnify the Indemnified Parties, as applicable, for any and all liability, claims, damages, losses, costs, expenses, demands, suits and actions of third parties (including without limitation reasonable attorneys' fees and costs required to establish the right to indemnification) arising out of, or resulting from any action or claim for bodily injury, death, or property damage brought against any of the Indemnified parties to the extent arising from any negligent act or omission or willful misconduct of the Supplier or its agents, employees, or subcontractors in the execution or performance of the Contract.
- B. To the extent Supplier is found liable for loss, damage, or destruction of any property of Customer due to negligence, misconduct, wrongful act, or omission on the part of the Supplier, its employees, agents, representatives, or subcontractors, the Supplier and Customer shall use best efforts to mutually negotiate an equitable settlement amount to repair or replace the property unless such loss, damage or destruction is of such a magnitude that repair or replacement is not a reasonable option. Such amount shall be invoiced to, and is payable by, Supplier sixty (60) calendar days after the date of Supplier's receipt of an invoice for the negotiated settlement amount.

## **16.2 Infringement**

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

with products Supplier provides to or develops for the State or a Customer as a system.

### **16.3 Notice and Cooperation**

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

### **16.4 Coordination of Defense**

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

### **16.5 Limitation of Liability**

- A. With respect to any claim or cause of action arising under or related to the Contract, neither the State nor any Customer shall be liable to Supplier for lost profits, lost sales or business expenditures, investments, or commitments in connection with any business, loss of any goodwill, or for any other indirect, incidental, punitive, special or consequential damages, even if advised of the possibility of such damages.

- B.** Notwithstanding anything to the contrary in the Contract, no provision shall limit damages, expenses, costs, actions, claims, and liabilities arising from or related to property damage, bodily injury or death caused by Supplier or its employees, agents or subcontractors; indemnity, security or confidentiality obligations under the Contract; the bad faith, negligence, intentional misconduct or other acts for which applicable law does not allow exemption from liability of Supplier or its employees, agents or subcontractors.
- C.** The limitation of liability and disclaimers set forth in the Contract will apply regardless of whether Customer has accepted a product or service. The parties agree that Supplier has set its fees and entered into the Contract in reliance on the disclaimers and limitations set forth herein, that the same reflect an allocation of risk between the parties and form an essential basis of the bargain between the parties. These limitations shall apply notwithstanding any failure of essential purpose of any limited remedy.

## **17 Termination for Funding Insufficiency**

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

fees that are unused when the Contractor certain obligations are terminated shall be refunded.

- 17.3** The State's exercise of its right to terminate the Contract under this section shall not be considered a default or breach under the Contract or relieve the Supplier of any liability for claims arising under the Contract.

## **18 Termination for Cause**

- 18.1** Supplier may terminate the Contract if (i) it has provided the State with written notice of material breach and (ii) the State fails to cure such material breach within thirty (30) days of receipt of written notice. If there is more than one Customer, material breach by a Customer does not give rise to a claim of material breach as grounds for termination by Supplier of the Contract as a whole. The State may terminate the Contract in whole or in part if (i) it has provided Supplier with written notice of material breach, and (ii) Supplier fails to cure such material breach within thirty (30) days of receipt of written notice. Any partial termination of the Contract under this section shall not be construed as a waiver of, and shall not affect, the rights and obligations of any party regarding portions of the Contract that are not terminated.
- 18.2** The State may terminate the Contract in whole or in part immediately without a thirty (30) day written notice to Supplier if (i) Supplier fails to comply with confidentiality, privacy, security, environmental or safety requirements applicable to Supplier's performance or obligations under the Contract; (ii) Supplier's material breach is reasonably determined to be an impediment to the function of the State and detrimental to the State or to cause a condition precluding the thirty (30) day notice or (iii) when the State determines that an administrative error in connection with award of the Contract occurred prior to Contract performance.
- 18.3** Upon receipt of notice of a termination, Supplier shall immediately comply with the notice terms and take all necessary steps to minimize the incurrence of costs allocable to the work affected by the notice. If a purchase order or other payment mechanism has been issued and a product or service has been accepted as satisfactory prior to the effective date of termination, the termination does not relieve an obligation to pay for the product or service but there shall not be any liability for further payments ordinarily due under the Contract or for any damages or other amounts caused by or associated with such termination. Such termination is not an exclusive remedy but is

in addition to any other rights and remedies provided for by law. Any amount paid to Supplier in the form of prepaid fees that are unused when the Contract or certain obligations are terminated shall be refunded. Termination of the Contract under this section, in whole or in part, shall not relieve the Supplier of liability for claims arising under the Contract.

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

## **19 Termination for Convenience**

- 19.1** The State may terminate the Contract, in whole or in part, for convenience if it is determined that termination is in the State's best interest. In the event of a termination for convenience, Supplier will be provided at least thirty (30) days' written notice of termination. Any partial termination of the Contract shall not be construed as a waiver of, and shall not affect, the rights and obligations of any party regarding portions of the Contract that remain in effect.
- 19.2** Upon receipt of notice of such termination, Supplier shall immediately comply with the notice terms and take all necessary steps to minimize the incurrence of costs allocable to the work affected by the notice. If a purchase order or other payment mechanism has been issued and a product or service has been accepted as satisfactory prior to the effective date of termination, the termination does not relieve an obligation to pay for the product or service but there shall not be any liability for further payments ordinarily due under the Contract or for any damages or other amounts caused by or associated with such termination. Such termination shall not be an exclusive remedy but shall be in addition to any other rights and

remedies provided for by law. Any amount paid to Supplier in the form of prepaid fees that are unused when the Contract or certain obligations are terminated shall be refunded. Termination of the Contract under this section, in whole or in part, shall not relieve the Supplier of liability for claims arising under the Contract.

## **20 Suspension of Supplier**

- 20.1** Supplier may be subject to Suspension without advance notice and may additionally be suspended from activities under the Contract if Supplier fails to comply with confidentiality, privacy, security, environmental or safety requirements applicable to Supplier's performance or obligations under the Contract.
- 20.2** Upon receipt of a notice pursuant to this section, Supplier shall immediately comply with the notice terms and take all necessary steps to minimize the incurrence of costs allocable to the work affected by the notice. If a purchase order or other payment mechanism has been issued and a product or service has been accepted as satisfactory prior to receipt of notice by Supplier, the Suspension does not relieve an obligation to pay for the product or service but there shall not be any liability for further payments ordinarily due under the Contract during a period of Suspension or suspended activity or for any damages or other amounts caused by or associated with such Suspension or suspended activity. A right exercised under this section shall not be an exclusive remedy but shall be in addition to any other rights and remedies provided for by law. Any amount paid to Supplier in the form of prepaid fees attributable to a period of Suspension or suspended activity shall be refunded.
- 20.3** Such Suspension may be removed, or suspended activity may resume, at the earlier of such time as a formal notice is issued that authorizes the resumption of performance under the Contract or at such time as a purchase order or other appropriate encumbrance document is issued. This subsection is not intended to operate as an affirmative statement that such resumption will occur.

## **21 Certification Regarding Debarment, Suspension, and Other Responsibility Matters**

The certification made by Supplier with respect to Debarment, Suspension, certain indictments, convictions, civil judgments and terminated public contracts is a material representation of fact upon which reliance was placed when entering into

the Contract. A determination that Supplier knowingly rendered an erroneous certification, in addition to other available remedies, may result in whole or partial termination of the Contract for Supplier's default. Additionally, Supplier shall promptly provide written notice to the State Purchasing Director if the certification becomes erroneous due to changed circumstances.

## **22 Certification Regarding State Employees Prohibition From Fulfilling Services**

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

## **23 Force Majeure**

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

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

**23.3** Notwithstanding the foregoing or any other provision in the Contract, (i) the following are not a force majeure event under the Contract: (a) shutdowns, disruptions or malfunctions in Supplier's system or any of Supplier's telecommunication or internet services other than as a result of general and



widespread internet or telecommunications failures that are not limited to Supplier's systems or (b) the delay or failure of Supplier or subcontractor personnel to perform any obligation of Supplier hereunder unless such delay or failure to perform is itself by reason of a force majeure event and (ii) no force majeure event modifies or excuses Supplier's obligations related to confidentiality, indemnification, data security or breach notification obligations set forth herein.

## **24 Security of Property and Personnel**

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

## **25 Notices**

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

### **If sent to the State:**

State Purchasing Director  
2401 North Lincoln Boulevard, Suite 116  
Oklahoma City, Oklahoma 73105

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

Purchasing Division Deputy General Counsel  
2401 North Lincoln Boulevard, Suite 116

Oklahoma City, Oklahoma 73105

## **26 Miscellaneous**

### **26.1 Choice of Law and Venue**

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

### **26.2 No Guarantee of Products or Services Required**

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

### **26.3 Employment Relationship**

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

### **26.4 Transition Services**

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

### **26.5 Publicity**

The existence of the Contract or any Acquisition is in no way an endorsement of Supplier, the products or services and shall not be so construed by Supplier in any advertising or publicity materials. Supplier agrees to submit to the State all advertising, sales, promotion, and other

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

#### **26.6 Open Records Act**

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

#### **26.7 Failure to Enforce**

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

#### **26.8 Mutual Responsibilities**

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

- D.** The Customer and Supplier shall reasonably cooperate with each other and any Supplier to which the provision of a product and/or service under the Contract may be transitioned after termination or expiration of the Contract.
- E.** Except as otherwise set forth herein, where approval, acceptance, consent, or similar action by a party is required under the Contract, such action shall not be unreasonably delayed or withheld.

## **26.9 Invalid Term or Condition**

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

## **26.10 Severability**

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

## **26.11 Section Headings**

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

## **26.12 Sovereign Immunity**

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

### **26.13 Survival**

As applicable, performance under all license, subscription, service agreements, statements of work, transition plans and other similar Contract Documents entered into between the parties under the terms of the Contract shall survive Contract expiration. Additionally, rights and obligations under the Contract which by their nature should survive including, without limitation, certain payment obligations invoiced prior to expiration or termination; confidentiality obligations; security incident and data breach obligations and indemnification obligations, remain in effect after expiration or termination of the Contract.

### **26.14 Entire Agreement**

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

### **26.15 Gratuities**

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

### **26.16 Import/Export Controls**

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

## **ATTACHMENT C**

### **OKLAHOMA STATEWIDE CONTRACT TERMS**

#### **1. Statewide Contract Type**

- 1.1** The Contract is a 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.

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

**6.3** All Contract Usage Reports shall meet the following criteria:

- i.** Electronic submission in Microsoft Excel format to [strategic.sourcing@omes.ok.gov](mailto:strategic.sourcing@omes.ok.gov);
- ii.** Quarterly submission regardless of whether there were Acquisitions 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 Acquisition 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.



4b	Accessories-provide discount off list/catalog price				40% off SWT&E List		40% off SWT&E List		Disc ____%		40% off SWT&E List		Disc ____%
5	Heavy Duty Spreader, Hopper Type	15-07/14' Stainless	Feb-10	Good Roads M3-14SS	Buyers Products	Monroe MCV168-82- 56,201ss	\$11,852.00 40% off SWT&E List	\$9,152.00 40% off SWT&E List			Hinke HX- 2000-14	\$17,106.00 40% off SWT&E List	\$
5a	Parts-provide discount off list/catalog price						40% off SWT&E List	40% off SWT&E List		Disc ____%		40% off SWT&E List	Disc ____%
5b	Accessories-provide discount off list/catalog price						40% off SWT&E List	40% off SWT&E List		Disc ____%		40% off SWT&E List	Disc ____%
6	V-box Prewet System w/electric motor	15-Prewet 200 gallons	Feb-10	Good Roads	Buyers Products LS-20	Monroe LDS333- 200	\$4,080.00 40% off SWT&E List	\$2,837.00 40% off SWT&E List			Henke 6433139	\$2,660.00 40% off SWT&E List	
6a	Parts-provide discount off list/catalog price						40% off SWT&E List	40% off SWT&E List		40% off SWT&E List		40% off SWT&E List	Disc ____%
6b	Accessories-provide discount off list/catalog price						40% off SWT&E List	40% off SWT&E List		40% off SWT&E List		40% off SWT&E List	Disc ____%
7	V-box Prewet System w/electric motor	15-Prewet 250 gallons	Feb-10			Monroe LDS333- 250	\$	\$3,563.00 40% off SWT&E List		Varitech LDS- VB300-EM-SS			
7a	Parts-provide discount off list/catalog price						Disc ____%	Disc ____%		40% off SWT&E List		Disc ____%	Disc ____%
7b	Accessories-provide discount off list/catalog price						Disc ____%	Disc ____%		40% off SWT&E List		Disc ____%	Disc ____%
8	Hydraulic Truck Cross Conveyor	15-SP	Feb-10			Monroe MS10318	\$	\$			Henke UTS 9SS	\$5,110.00 40% off SWT&E List	\$
8a	Parts-provide discount off list/catalog price						Disc ____%	Disc ____%		Disc ____%		40% off SWT&E List	Disc ____%
8b	Accessories-provide discount off list/catalog price						Disc ____%	Disc ____%		Disc ____%		40% off SWT&E List	Disc ____%
				Brand/Model	Price Per Each	Brand/Model	Price Per Each	Brand/Model	Price Per Each	Brand/Model	Price Per Each	Brand/Model	Price Per Each
9	Snow Plow Front Mounted	78-01-Hvy Duty-Full	Feb-10				\$	\$			Henke 43R11J SSTE-ISS	\$12,153.00 EET	\$13,764.00







## **ATTACHMENT C**

### **OKLAHOMA STATEWIDE CONTRACT TERMS**

#### **1. Statewide Contract Type**

- 1.1** The Contract is a mandatory 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.

#### **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 Acquisitions under a statewide contract. The payment of such fee will be calculated for all Acquisitions, 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, Acquisitions that occur under the terms of the statewide contract are subject to a one percent (1%) contract management fee to be paid by Supplier. Supplier shall submit a Contract Usage Report on a quarterly basis for each contract using a form provided by the State and such report shall include applicable information for each transaction. Reports shall include usage of the statewide contract by every Customer during the applicable quarter. A singular report provided late will not be considered a breach of the statewide contract; provided,



however, repeated failure to submit accurate quarterly usage reports and submit timely payments may result in suspension or termination, in whole or in part, of the Contract.

**6.3** All Contract Usage Reports shall meet the following criteria:

- i.** Electronic submission in Microsoft Excel format to [strategic.sourcing@omes.ok.gov](mailto:strategic.sourcing@omes.ok.gov);
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- 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 Acquisition 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

**I. 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.

**OFFICE OF MANAGEMENT & ENTERPRISE SERVICES  
EXHIBIT 1**

**EQUIPMENT SPECIFICATION**

**15-06 / 10' Stainless**

**HEAVY DUTY SPREADER  
HOPPER TYPE  
FOR DUMP BED MOUNTING**

**GENERAL:** This spreader shall be capable of spreading a uniform pattern at all widths from four feet to forty feet wide, materials such as sand, salt, chips and other like materials. This spreader must be completely assembled, serviced and ready to operate when it is installed in a State owned dump truck. This spreader must be new and the manufacturer's latest current model complete with all standard accessories and warranty for the make and model indicated below.

**For Comparison Only: Monroe Model MV-120-82-50, 201, 10/7**

**FILL IN ALL SPACES SHOWING SPECIFIC INFORMATION.**

SUPPLIER'S PROPOSED SPREADER: MAKE: \_\_\_\_\_ MODEL: \_\_\_\_\_

	<u><b>MINIMUM REQUIREMENTS</b></u>	<u><b>SUPPLIER'S PROPOSAL</b></u>
<u><b>HOPPER BODY:</b></u>	"V" Type Box, all Welded 201	
<u><b>DUMP BODY &amp; MOUNTING:</b></u>		
	10 feet, approx. 5.2 cubic yards capacity	
	4 adjustable hold-down clamps or 2 – 3" x 12" HD ratchet straps	
<u><b>DISCHARGE CHUTE:</b></u>	201 stainless steel 10 gauge, rearward end mounts. Adjustable height extension with SS bolts  NOTE: Chute to be equipped with diverter Flap to allow unloading material out Front or rear of chute.	
<u><b>COMPONENTS:</b></u>	Mounting brackets	

**OFFICE OF MANAGEMENT & ENTERPRISE SERVICES  
EXHIBIT 1**

**EQUIPMENT SPECIFICATION**

**15-06 / 10' Stainless**

	<b><u>MINIMUM REQUIREMENTS</u></b>	<b><u>SUPPLIER'S PROPOSAL</u></b>
	All necessary hardware to be stainless steel	_____
<b><u>OVER-ALL-HEIGHT:</u></b>	50 " above dump bed floor	_____
<b><u>OUTSIDE WIDTH:</u></b>	82" maximum	_____
<b><u>SILLS:</u></b>	201 stainless steel (7 gauge)	_____
<b><u>BOTTOM EDGE:</u></b>		
	Flanged 90°	_____
	Rest on cross sill supports	_____
<b><u>BOTTOM:</u></b>	201 stainless steel (10 gauge)	_____
<b><u>FRONT &amp; REAR:</u></b>	Rollover lips	_____
<b><u>WIPERS:</u></b>	Front & rear required	_____
<b><u>CROSS SILLS:</u></b>	201 stainless steel welded to sills and side supports (10 gauge)	_____
<b><u>SIDE SUPPORTS:</u></b>	201 stainless steel welded to sides, sills and cross sills (10 gauge)	_____
<b><u>SIDES:</u></b>	201 stainless steel 45°, 2" double crimp top edge (10 gauge)	_____
<b><u>END GATES:</u></b>	201 stainless steel, 2" double crimp top edge (10 gauge)	_____

**OFFICE OF MANAGEMENT & ENTERPRISE SERVICES  
EXHIBIT 1**

**EQUIPMENT SPECIFICATION**

**15-06 / 10' Stainless**

	<b><u>MINIMUM REQUIREMENTS</u></b>	<b><u>SUPPLIER'S PROPOSAL</u></b>
<b><u>REAR END GATE:</u></b>	Welded into position	_____
<b><u>LIFTING LOOPS:</u></b>	4 each, 1 near each outside corner	_____
<b><u>FEED GATE ASSEMBLY:</u></b>	201 stainless steel opening 18"x12" (10 gauge)	_____
<b><u>TAILGATE LATCHING DEVICE:</u></b>	Cross channel with latch pins and mounting brackets.	_____
<b><u>CONTROL:</u></b>	Jack-type with handle on curb side	_____
<b><u>GATE OPENING:</u></b>	201 stainless steel sides (10 gauge)	_____
<b><u>CONVEYOR:</u></b>		
<b>Drag Chain</b>	10-12' conveyor x 24" width self cleaning drag chain.	_____
<b>Conveyor Drive, Idler &amp; Snubber</b>	All must be self cleaning	_____
<b>Idler Adjusting Pulleys</b>	Sealed anti-friction bearings	_____
<b>Gear Box</b>	50.1 worm drive cast iron gearbox or 6:1 spur gear	_____
<b>Edge Seals</b>	Shall form a labyrinth seal with conveyor bottom edge	_____

**OFFICE OF MANAGEMENT & ENTERPRISE SERVICES  
EXHIBIT 1**

**EQUIPMENT SPECIFICATION**

**15-06 / 10' Stainless**

	<b><u>MINIMUM REQUIREMENTS</u></b>	<b><u>SUPPLIER'S PROPOSAL</u></b>
<b><u>NOTE:</u></b> <b>Conveyor Bottom</b>	201 stainless steel slatted type (10 gauge)	_____
<b>Discharge Gate</b>	Adjustable screw jack type	_____
<b>Feed Gate Opening</b>	Maximum 12" high by 18" wide	_____
<b><u>DISTRIBUTOR</u></b>		
<b><u>SPINNER</u></b>		
<b><u>ASSEMBLY:</u></b>		
<b>Type</b>	Tip-up Style without the use of special tools / with diverter chute	_____
<b>Controlled Spread</b>	From 4' to 40'	_____
<b>Baffles</b>	3 section, 201 stainless steel (10 gauge) adjustable	_____
<b>Disc</b>	201 stainless steel (10 gauge) 20", with 6 SS removable fins	_____
<b><u>Warranty:</u></b> Manufacturer's standard with coverage complete on all components.		
<b><u>OPTION 1:</u></b> Screens	Top mounted screens & I-beam	\$ _____
<b><u>OPTION 2:</u></b> Installation	In the state of <u>Oklahoma</u> by a <u>qualified up fitter</u> . To include hoses and quick couplers 1 each, 5602-12-12S, 5601-12- 12S, and 5602-16-16S	\$ _____

**OFFICE OF MANAGEMENT & ENTERPRISE SERVICES  
EXHIBIT 1**

**EQUIPMENT SPECIFICATION**

**15-06 / 10' Stainless**

	<b><u>MINIMUM REQUIREMENTS</u></b>	<b><u>SUPPLIER'S PROPOSAL</u></b>
<b><u>OPTION 3:</u></b> Lights	LED Stop, Tail & Turn Lights including any marker lights needed	\$_____
<b><u>OPTION 4:</u></b> Grease Fitting	Extended Grease fitting to front of Spreader to grease pillow block without removing spreader from dump body.	\$_____
<b><u>OPTION 5:</u></b> Inverted V	Shield to cover pintle chain	\$_____
<b><u>OPTION 6:</u></b> SINGLE AUGER CONVEYOR	Auger screw in lieu of pintle chain Note: Screens required	\$_____
<b><u>OPTION 7:</u></b> Larger Capacity	Increase side height to 62"	\$_____
<b><u>OPTION 8:</u></b> Lights 2	Two (2) Strobes Star model 240SFD Installed Upper rear one each side & Two (2) work lights installed one shining on pintle chain and one shining on spinner chute.	\$_____

Total weight of this complete unit: **2175 lbs (approximate)** \_\_\_\_\_

Supplier must furnish this unit complete with all components including necessary hardware, hose, couplers, lines, fittings, etc.

**NOTE:**

Inspection and/or correction of items listed on the inspection and pre-delivery form are considered a part of this specification; also considered part of selling dealer's new equipment preparation and handling cost, if he contracts the new equipment pre-delivery service inspection out to another authorized dealer, the selling dealer is still liable to all terms of the specification and purchase order except for those corrective operations previously

**OFFICE OF MANAGEMENT & ENTERPRISE SERVICES  
EXHIBIT 1**

**EQUIPMENT SPECIFICATION**

**15-06 / 10' Stainless**

established as eligible for warranty reimbursement according to the current warranty and policy procedure manual.

**Special Requirements:**

The supplier shall provide to the receiving division, factory spreader specifications and dimensions and request bed dimensions prior to ordering spreaders.

**PAINT:** (Non Stainless Components Only)

All exposed metal shall be Powder Coated.

Specify color used \_\_\_\_\_

**WARRANTY:** One Year / From date of delivery.

**SERVICE AND PARTS:**

Supplier shall furnish upon request, a list of established manufacturer's authorized locations within the State Of Oklahoma where an adequate stock of current parts and service are available.

**MANUALS AND PARTS BOOK:**

Supplier shall furnish one (1) Operators Instruction Manual for each machine. In addition, one (1) Parts Book and one (1) Repair manual shall be furnished to each agency purchasing one or more machines.

**SPECIFICATIONS:**

Each supplier shall submit complete manufacturer's specification in duplicate and shall submit all other data to show that his proposal meets these specifications.

**COMPLIANCE:**

Supplier shall furnish a statement in writing on the bid or by attached letter, and in the Supplier's Statement below, if his equipment proposed strictly meets these specifications. If not, he shall list each variation thereof.

SUPPLIER'S STATEMENT (EQUIPMENT PROPOSED COMPLIES): YES: \_\_\_\_\_ NO: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

DEALER: \_\_\_\_\_ PHONE: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

ADDRESS: \_\_\_\_\_



**OFFICE OF MANAGEMENT & ENTERPRISE SERVICES  
EXHIBIT 1**

**EQUIPMENT SPECIFICATION**

**15-06**

**HEAVY DUTY SPREADER  
HOPPER TYPE  
FOR DUMP BED MOUNTING**

**GENERAL:** This spreader shall be capable of spreading a uniform pattern at all widths from four feet to forty feet wide, materials such as sand, salt, chips and other like materials. This spreader must be completely assembled, serviced and ready to operate when it is installed in a State owned dump truck. This spreader must be new and the manufacturer's latest current model complete with all standard accessories and warranty for the make and model indicated below.

**For Comparison Only: Monroe Model MV-120-82-50, MS, 10/7**

**FILL IN ALL SPACES SHOWING SPECIFIC INFORMATION.**

**SUPPLIER'S PROPOSED SPREADER:** MAKE: \_\_\_\_\_ MODEL: \_\_\_\_\_

	<b><u>MINIMUM REQUIREMENTS</u></b>	<b><u>SUPPLIER'S PROPOSAL</u></b>
<b><u>HOPPER BODY:</u></b>	"V" type box, all welded A569 hi-grade steel	_____
<b><u>DUMP BODY &amp; MOUNTING:</u></b>	10 foot, approx. 5.2 cubic yards capacity	_____
<b><u>COMPONENTS:</u></b>	Mounting brackets	_____
<b><u>OVER-ALL HEIGHT:</u></b>	50 inches above dump bed floor	_____
<b><u>OUTSIDE WIDTH:</u></b>	82 inches	_____
<b><u>SILLS:</u></b>	7 gauge steel	_____
<b><u>BOTTOM EDGE:</u></b>	Flanged 90° Rest on cross sill supports	_____
<b><u>BOTTOM:</u></b>	7 gauge steel	_____

**OFFICE OF MANAGEMENT & ENTERPRISE SERVICES  
EXHIBIT 1**

**EQUIPMENT SPECIFICATION**

**15-06**

	<b><u>MINIMUM REQUIREMENTS</u></b>	<b><u>SUPPLIER'S PROPOSAL</u></b>
<b><u>FRONT &amp; REAR:</u></b>	Rollover lips	_____
<b><u>WIPERS:</u></b>	Front & rear required	_____
<b><u>CROSS SILLS:</u></b>	HD steel welded to sills and side supports	_____
<b><u>SIDE SUPPORTS:</u></b>	10 gauge steel welded to sides, sills and cross sills	_____
<b><u>SIDES:</u></b>	10 gauge A569 hi-grade steel set 45°, 2" double crimped top edge	_____
<b><u>END GATES:</u></b>	10 gauge A569 hi-grade steel, 2" double crimped top edge	_____
<b><u>LIFTING LOOPS:</u></b>	4 each, 1 near each outside corner	_____
<b><u>REAR END GATE:</u></b>	Welded into position	_____
<b><u>FEEDGATE ASSEMBLY:</u></b>	10 gauge steel opening 18" x 12"	_____
<b><u>TAILGATE LATCHING DEVICE:</u></b>	Cross channel w/latch pins and mounting brackets	_____
<b><u>CONTROL:</u></b>	Jack type w/handle on curb side	_____
<b><u>GATE OPENING:</u></b>	Cast iron sides or 7 gauge formed steel sides	_____

**OFFICE OF MANAGEMENT & ENTERPRISE SERVICES  
EXHIBIT 1**

**EQUIPMENT SPECIFICATION**

**15-06**

	<b><u>MINIMUM REQUIREMENTS</u></b>	<b><u>SUPPLIER'S PROPOSAL</u></b>
<b><u>CONVEYOR-DRAG CHAIN:</u></b>		
<b><u>Width:</u></b>	24" self-cleaning drag chain	
<b><u>Conveyor Drive, Idler &amp; Snubber</u></b>	All must be self cleaning	
<b><u>Idler Adjusting Pulleys</u></b>	Sealed anti-friction bearings	
<b><u>Gear Box</u></b>	50:1 worm type cast iron gear box or 6:1 Spur gear	
<b><u>Edge Seals</u></b>	Shall form a labyrinth seal w/conveyor bottom edge	
<b><u>Note:</u></b> Conveyor Bottom	Must be replaceable flat 7 gauge floor.	
<b><u>Discharge Gate</u></b>	Adjustable screw jack type	
<b><u>Feed Gate Opening</u></b>	Maximum 12" high by 18" wide	
<b><u>DISTRIBUTOR SPINNER ASSEMBLY:</u></b>		
<b><u>Disc</u></b>	20", w/6 removable fins	
<b><u>Type</u></b>	Tip-up Style without the use of special tools / with diverter chute	

**OFFICE OF MANAGEMENT & ENTERPRISE SERVICES  
EXHIBIT 1**

**EQUIPMENT SPECIFICATION**

**15-06**

	<b><u>MINIMUM REQUIREMENTS</u></b>	<b><u>SUPPLIER'S PROPOSAL</u></b>
<b><u>Controlled Spread</u></b>	From 4' to 40'	_____
<b><u>Baffles</u></b>	3 section	_____
<b><u>Hydraulic Power</u></b>	Complete w/2 motors Note: ½" NPT fittings or Must supply adapters	_____
<b><u>WARRANTY:</u></b>	Manufacturer's standard w/coverage complete on all components	_____
<b><u>OPTION 1:</u></b> Screens	Top mounted screens & beam	\$ _____
<b><u>OPTION 2:</u></b> Installation	In the state of <u>Oklahoma</u> by a <u>qualified up fitter</u> . To include hoses and quick couplers 1 each, 5602-12-12S, 5601-12-12S, and 5602-16-16S	\$ _____
<b><u>OPTION 3:</u></b> Lights	LED Stop, Tail & Turn Lights including any marker lights needed	\$ _____
<b><u>OPTION 4:</u></b> Grease Fitting	Extended Grease fitting to front of Spreader to grease pillow block without removing spreader from dump body.	\$ _____
<b><u>OPTION 5:</u></b> Inverted V	Shield to cover pintle chain to reduce download pressure	\$ _____
<b><u>OPTION 6:</u></b> Larger Capacity	Increase side height to 62"	\$ _____
<b><u>OPTION 7:</u></b>	Two (2) Strokes Star model	_____

**OFFICE OF MANAGEMENT & ENTERPRISE SERVICES  
EXHIBIT 1**

**EQUIPMENT SPECIFICATION**

**15-06**

	<b><u>MINIMUM REQUIREMENTS</u></b>	<b><u>SUPPLIER'S PROPOSAL</u></b>
Lights 2	240SFD Installed Upper rear one each side & Two (2) work lights installed one shining on pintle chain and one shining on spinner chute.	\$ _____
<b><u>OPTION 8:</u></b> Spray liner	Hopper, Top of Sills, Inside of Hopper Body, and Inverted V (if installed) to be Coated with spray on Bed Liner Example: Bullet Linings, Rhino Lining, or Equal	\$ _____

**Total weight of this complete unit: 2175 lbs** \_\_\_\_\_

Supplier must furnish this unit complete with all components including necessary hardware, hoses, couplers, lines, fittings, etc.

**NOTE:**

Inspection and/or correction of items listed on the inspection and pre-delivery form are considered a part of this specification; also considered part of selling dealers new equipment preparation and handling cost, if he contracts the new equipment pre-delivery service inspection out to another authorized dealer, the selling dealer is still liable to all terms of the specification and purchase order, except for those corrective operations previously established as eligible for warranty reimbursement according to the current warranty and policy procedure manual.

**MANUALS AND PARTS BOOKS:**

Service	One (1) per machine	_____
Operator's Manual	One (1) per machine	_____
Parts Book	One (1) per machine	_____

**SPECIAL REQUIREMENTS:**

The supplier shall provide at his own expense, a trained service representative to instruct the mechanic and operators in the care and operation of this unit. The State of Oklahoma will assign one mechanic and two operators to receive the training at the time the machine is put into actual operation.

**OFFICE OF MANAGEMENT & ENTERPRISE SERVICES  
EXHIBIT 1**

**EQUIPMENT SPECIFICATION**

**15-06**

**PAINT:**

All exposed metal shall be Powder Coated.

Specify color used \_\_\_\_\_

**SERVICE AND PARTS:**

Supplier shall furnish upon request, a list of established manufacturer's authorized locations within the State Of Oklahoma where an adequate stock of current parts and service are available.

**INSPECTION AND DELIVERY OF EQUIPMENT MUST COMPLY WITH SUPPLIERS INSTRUCTION SHEET.**

**COMPLIANCE:**

Supplier shall furnish a statement in writing on the bid or by attached letter and in the suppliers statement below if his equipment strictly meets these specifications. If not, he shall list each variation thereof.

**SUPPLIERS STATEMENT: (EQUIPMENT PROPOSED COMPLIES) YES: \_\_NO: \_\_**

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**DEALER:** \_\_\_\_\_ **DATE:** \_\_\_\_\_

**SIGNATURE:** \_\_\_\_\_ **PHONE:** \_\_\_\_\_

**ADDRESS:** \_\_\_\_\_

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**OFFICE OF MANAGEMENT & ENTERPRISE SERVICES  
EXHIBIT 1**

**EQUIPMENT SPECIFICATION**

**15-06**

**HEAVY DUTY SPREADER  
HOPPER TYPE  
FOR DUMP BED MOUNTING**

**GENERAL:** This spreader shall be capable of spreading a uniform pattern at all widths from four feet to forty feet wide, materials such as sand, salt, chips and other like materials. This spreader must be completely assembled, serviced and ready to operate when it is installed in a State owned dump truck. This spreader must be new and the manufacturer's latest current model complete with all standard accessories and warranty for the make and model indicated below.

**For Comparison Only: Monroe Model MV-168-82-56, MS, 10/7**

**FILL IN ALL SPACES SHOWING SPECIFIC INFORMATION.**

**SUPPLIER'S PROPOSED SPREADER: MAKE: \_\_\_\_\_ MODEL: \_\_\_\_\_**

	<b><u>MINIMUM REQUIREMENTS</u></b>	<b><u>SUPPLIER'S PROPOSAL</u></b>
<b><u>HOPPER BODY:</u></b>	"V" type box, all welded A569 hi-grade steel	_____
<b><u>DUMP BODY &amp; MOUNTING:</u></b>	14 foot, approx. 9 cubic yards capacity with a 2 foot setback. Slope front as per doghouse requirements in reference to sloped front dimension sheet.	_____
<b><u>COMPONENTS:</u></b>	Mounting brackets	_____
<b><u>OVER-ALL HEIGHT:</u></b>	56 inches above dump bed floor	_____
<b><u>OUTSIDE WIDTH:</u></b>	82 inches	_____
<b><u>SILLS:</u></b>	7 gauge steel	_____
<b><u>BOTTOM EDGE:</u></b>	Flanged 90° Rest on cross sill supports	_____

**OFFICE OF MANAGEMENT & ENTERPRISE SERVICES  
EXHIBIT 1**

**EQUIPMENT SPECIFICATION**

**15-06**

	<b><u>MINIMUM REQUIREMENTS</u></b>	<b><u>SUPPLIER'S PROPOSAL</u></b>
<b><u>BOTTOM:</u></b>	7 gauge steel	_____
<b><u>FRONT &amp; REAR:</u></b>	Rollover lips	_____
<b><u>WIPERS:</u></b>	Front & rear required	_____
<b><u>CROSS SILLS:</u></b>	HD steel welded to sills and side supports	_____
<b><u>SIDE SUPPORTS:</u></b>	10 gauge steel welded to sides, sills and cross sills	_____
<b><u>SIDES:</u></b>	10 gauge A569 hi-grade steel set 45°, 2" double crimped top edge	_____
<b><u>END GATES:</u></b>	10 gauge A569 hi-grade steel, 2" double crimped top edge	_____
<b><u>LIFTING LOOPS:</u></b>	4 each, 1 near each outside corner	_____
<b><u>REAR END GATE:</u></b>	Welded into position	_____
<b><u>FEEDGATE ASSEMBLY:</u></b>	10 gauge steel opening 18" x 12"	_____
<b><u>TAILGATE LATCHING DEVICE:</u></b>	Cross channel w/latch pins and mounting brackets	_____
<b><u>CONTROL:</u></b>	Jack type w/handle on curb side	_____
<b><u>GATE OPENING:</u></b>	Cast iron sides or 7 gauge	_____



**OFFICE OF MANAGEMENT & ENTERPRISE SERVICES  
EXHIBIT 1**

**EQUIPMENT SPECIFICATION**

**15-06**

	<b><u>MINIMUM REQUIREMENTS</u></b>	<b><u>SUPPLIER'S PROPOSAL</u></b>
	formed steel sides	_____
<b><u>CONVEYOR-DRAG CHAIN:</u></b>		
<b><u>Width:</u></b>	24" self-cleaning drag chain	_____
<b><u>Conveyor Drive, Idler &amp; Snubber</u></b>	All must be self cleaning	_____
<b><u>Idler Adjusting Pulleys</u></b>	Sealed & greasable anti-friction bearings	_____
<b><u>Gear Box</u></b>	50.1 worm type cast iron gear box or 6:1 spur gear	_____
<b><u>Edge Seals</u></b>	Shall form a labyrinth seal w/conveyor bottom edge	_____
<b><u>Note:</u></b> Conveyor Bottom	Must be replaceable flat 7 gauge floor.	_____
<b><u>Discharge Gate</u></b>	Adjustable screw jack type	_____
<b><u>Feed Gate Opening</u></b>	Maximum 12" high by 18" wide	_____
<b><u>DISTRIBUTOR SPINNER ASSEMBLY:</u></b>		
<b><u>Disc</u></b>	20", w/6 removable fins	_____
<b><u>Type</u></b>	Tip-up Style without the use of special tools / with diverter	

**OFFICE OF MANAGEMENT & ENTERPRISE SERVICES  
EXHIBIT 1**

**EQUIPMENT SPECIFICATION**

**15-06**

	<b><u>MINIMUM REQUIREMENTS</u></b>	<b><u>SUPPLIER'S PROPOSAL</u></b>
	chute	_____
<b><u>Controlled Spread</u></b>	From 4' to 40'	_____
<b><u>Baffles</u></b>	3 section	_____
<b><u>Hydraulic Power</u></b>	Complete w/2 motors Note: ½" NPT fittings or Must supply adapters	_____
<b><u>WARRANTY:</u></b>	Manufacturer's standard w/coverage complete on all components	_____
<b><u>OPTION 1:</u></b> Screens	Top mounted screens & beam	\$ _____
<b><u>OPTION 2:</u></b> Installation	In the state of <u>Oklahoma</u> by a <u>qualified up fitter</u> . To include hoses and quick couplers 1 each, 5602-12-12S, 5601-12- 12S, and 5602-16-16S	\$ _____
<b><u>OPTION 3:</u></b> Lights	LED Stop, Tail & Turn Lights including any marker lights needed	\$ _____
<b><u>OPTION 4:</u></b> Grease Fitting	Extended Grease fitting to front of Spreader to grease pillow block without removing spreader from dump body.	\$ _____
<b><u>OPTION 5:</u></b> Inverted V	Shield to cover pintle chain to reduce download pressure.	\$ _____
<b><u>OPTION 6:</u></b>		

**OFFICE OF MANAGEMENT & ENTERPRISE SERVICES**  
**EXHIBIT 1**

**EQUIPMENT SPECIFICATION**

**15-06**

	<b><u>MINIMUM REQUIREMENTS</u></b>	<b><u>SUPPLIER'S PROPOSAL</u></b>
Larger Capacity	Increase side height to 62"	\$ _____
<b><u>OPTION 7:</u></b> Lights 2	Two (2) Strobes Star model 240SFD Installed Upper rear one each side & Two (2) work lights installed one shining on pintle chain and one shining on spinner chute.	\$ _____
<b><u>OPTION 8:</u></b> Spray liner	Hopper, Top of Sills, Inside of Hopper Body, and Inverted V (if installed) to be Coated with spray on Bed Liner Example: Bullet Linings, Rhino Lining, or Equal	\$ _____

**Total weight of this complete unit: 2175 lbs (approximate)** \_\_\_\_\_

Supplier must furnish this unit complete with all components including necessary hardware, hoses, couplers, lines, fittings, etc.

**NOTE:**

Inspection and/or correction of items listed on the inspection and pre-delivery form are considered a part of this specification; also considered part of selling dealers new equipment preparation and handling cost, if he contracts the new equipment pre-delivery service inspection out to another authorized dealer, the selling dealer is still liable to all terms of the specification and purchase order, except for those corrective operations previously established as eligible for warranty reimbursement according to the current warranty and policy procedure manual.

**MANUALS AND PARTS BOOKS:**

Service	One (1) per machine	_____
Operator's Manual	One (1) per machine	_____
Parts Book	One (1) per machine	_____

**SPECIAL REQUIREMENTS:**

The supplier shall provide at his own expense, a trained service representative to instruct the mechanic and operators in the care and operation of this unit. The State of Oklahoma will assign one mechanic and two operators to receive the training at the time the machine is put into actual operation.

**OFFICE OF MANAGEMENT & ENTERPRISE SERVICES  
EXHIBIT 1**

**EQUIPMENT SPECIFICATION**

**15-06**

**PAINT:**

All exposed metal shall be Powder Coated.

Specify color used \_\_\_\_\_

**SERVICE AND PARTS:**

Supplier shall furnish upon request, a list of established manufacturer's authorized locations within the State Of Oklahoma where an adequate stock of current parts and service are available.

**INSPECTION AND DELIVERY OF EQUIPMENT MUST COMPLY WITH SUPPLIERS INSTRUCTION SHEET.**

**COMPLIANCE:**

Supplier shall furnish a statement in writing on the bid or by attached letter and in the suppliers statement below if his equipment strictly meets these specifications. If not, he shall list each variation thereof.

**SUPPLIERS STATEMENT: (EQUIPMENT PROPOSED COMPLIES) YES: \_\_ NO: \_\_**

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**DEALER:** \_\_\_\_\_ **DATE:** \_\_\_\_\_

**SIGNATURE:** \_\_\_\_\_ **PHONE:** \_\_\_\_\_

**ADDRESS:** \_\_\_\_\_

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**OFFICE OF MANAGEMENT & ENTERPRISE SERVICES  
EXHIBIT 1**

**EQUIPMENT SPECIFICATION**

**15-07 / 13' Stainless**

**HEAVY DUTY SPREADER  
HOPPER TYPE  
FOR DUMP BED MOUNTING**

**GENERAL:** This spreader shall be capable of spreading a uniform pattern at all widths from four feet to forty feet wide, materials such as sand, salt, chips and other like materials. This spreader must be completely assembled, serviced and ready to operate when it is installed in a State owned dump truck. This spreader must be new and the manufacturer's latest current model complete with all standard accessories and warranty for the make and model indicated below.

**For Comparison Only: Monroe Model MV-156-82-56, 201, 10/7**

**FILL IN ALL SPACES SHOWING SPECIFIC INFORMATION.**

SUPPLIER'S PROPOSED SPREADER: MAKE: \_\_\_\_\_ MODEL: \_\_\_\_\_

	<b><u>MINIMUM REQUIREMENTS</u></b>	<b><u>SUPPLIER'S PROPOSAL</u></b>
<b><u>HOPPER BODY:</u></b>	"V" Type Box, all Welded 201 stainless steel (10 gauge)	_____
<b><u>DUMP BODY &amp; MOUNTING:</u></b>		
	13 feet, approx. 9 cubic yards capacity with a 2 foot setback. Slope front as per doghouse requirements in reference to sloped front dimension sheet.	_____
	4 adjustable hold-down clamps or 2 – 3" x 12' HD ratchet straps	_____
<b><u>DISCHARGE CHUTE:</u></b>	201 stainless steel 10 gauge, rearward end mounts. Adjustable height extension with SS bolts	_____
	NOTE: Chute to be equipped with diverter Flap to allow unloading material out Front or rear of chute.	

**OFFICE OF MANAGEMENT & ENTERPRISE SERVICES  
EXHIBIT 1**

**EQUIPMENT SPECIFICATION**

**15-07 / 13' Stainless**

	<b><u>MINIMUM REQUIREMENTS</u></b>	<b><u>SUPPLIER'S PROPOSAL</u></b>
<b><u>COMPONENTS:</u></b>	Mounting brackets	_____
	All necessary hardware to be stainless steel	_____
<b><u>OVER-ALL-HEIGHT:</u></b>	56 " above dump bed floor	_____
<b><u>OUTSIDE WIDTH:</u></b>	82" maximum	_____
<b><u>SILLS:</u></b>	201 stainless steel (7 gauge)	_____
<b><u>BOTTOM EDGE:</u></b>		
	Flanged 90°	_____
	Rest on cross sill supports	_____
<b><u>BOTTOM:</u></b>	201 stainless steel (10 gauge)	_____
<b><u>FRONT &amp; REAR:</u></b>	Rollover lips	_____
<b><u>WIPERS:</u></b>	Front & rear required	_____
<b><u>CROSS SILLS:</u></b>	201 stainless steel welded to sills and side supports (10 gauge)	_____
<b><u>SIDE SUPPORTS:</u></b>	201 stainless steel welded to sides, sills and cross sills (10 gauge)	_____
<b><u>SIDES:</u></b>	201 10 gauge stainless steel 45°, 2" double crimped top edge	_____

**OFFICE OF MANAGEMENT & ENTERPRISE SERVICES  
EXHIBIT 1**

**EQUIPMENT SPECIFICATION**

**15-07 / 13' Stainless**

	<b><u>MINIMUM REQUIREMENTS</u></b>	<b><u>SUPPLIER'S PROPOSAL</u></b>
<b><u>END GATES:</u></b>	201 10 gauge stainless steel, 2" double crimped top edge	
<b><u>REAR END GATE:</u></b>	Welded into position	
<b><u>LIFTING LOOPS:</u></b>	4 each, 1 at or near each outside corner	
<b><u>FEED GATE ASSEMBLY:</u></b>	201 stainless steel opening 18"x12" (10 gauge)	
<b><u>TAILGATE LATCHING DEVICE:</u></b>	Cross channel with latch pins and mounting brackets.	
<b><u>CONTROL:</u></b>	Jack-type with handle on curb side	
<b><u>GATE OPENING:</u></b>	201 stainless steel sides (10 gauge)	
<b><u>CONVEYOR:</u></b>		
<b>Drag Chain</b>	Approximately 11' conveyor x 24" width self cleaning drag chain. <b>Note:</b> the chain length will be determined with the slope front dimension sheet	
<b>Conveyor Drive, Idler &amp; Snubber</b>	All must be self cleaning	
<b>Idler Adjusting Pulleys</b>	Sealed anti-friction bearings	
<b>Gear Box</b>	50.1 worm drive cast iron	

**OFFICE OF MANAGEMENT & ENTERPRISE SERVICES  
EXHIBIT 1**

**EQUIPMENT SPECIFICATION**

**15-07 / 13' Stainless**

	<b><u>MINIMUM REQUIREMENTS</u></b>	<b><u>SUPPLIER'S PROPOSAL</u></b>
	gearbox or 6:1 spur gear	_____
		_____
<b>Edge Seals</b>	Shall form a labyrinth seal with conveyor bottom edge	_____
		_____
<b><u>NOTE:</u> Conveyor Bottom</b>	201 stainless steel slatted type (10 gauge)	_____
		_____
<b>Discharge Gate</b>	Adjustable screw jack type	_____
		_____
<b>Feed Gate Opening</b>	Maximum 12" high by 18" wide	_____

**DISTRIBUTOR  
SPINNER ASSEMBLY:**

<b>Disc</b>	201 stainless steel (10 gauge) 20", with 6 SS removable fins	_____
		_____
<b><u>Type</u></b>	Tip-up Style without the use of special tools / with diverter chute	_____
		_____
<b>Controlled Spread</b>	From 4' to 40'	_____
		_____
<b>Baffles</b>	3 section, 201 stainless steel (10 gauge) adjustable	_____
		_____
<b>Hydraulic Power</b>	Complete w/2 motors Note: ½" NPT fittings or Must supply adapters	_____
		_____

**Warranty:**

Manufacturer's standard with coverage complete on all components.



**OFFICE OF MANAGEMENT & ENTERPRISE SERVICES  
EXHIBIT 1**

**EQUIPMENT SPECIFICATION**

**15-07 / 13' Stainless**

	<b><u>MINIMUM REQUIREMENTS</u></b>	<b><u>SUPPLIER'S PROPOSAL</u></b>
<b><u>OPTION 1:</u></b> Screens	Top mounted screens & beam	\$ _____
<b><u>OPTION 2:</u></b> Installation	In the state of Oklahoma by a qualified up fitter. To include hoses and quick couplers 1 each, 5602-12-12S, 5601-12-12S, and 5602-16-16S	\$ _____
<b><u>OPTION 3:</u></b> Lights	LED Stop, Tail & Turn Lights including any marker lights needed	\$ _____
<b><u>OPTION 4:</u></b> Grease Fitting	Extended Grease fitting to front of Spreader to grease pillow block without removing spreader from dump body.	\$ _____
<b><u>OPTION 5:</u></b> Inverted V	Shield to cover pintle chain to reduce download pressure.	\$ _____
<b><u>OPTION 6:</u></b> SINGLE AUGER CONVEYOR	Auger screw in lieu of pintle chain Note: Screens required	\$ _____

Total weight of this complete unit: 2600 lbs (approximate) \_\_\_\_\_

Supplier must furnish this unit complete with all components including necessary hardware, hose, couplers, lines, fittings, etc.

**NOTE:**

Inspection and/or correction of items listed on the inspection and pre-delivery form are considered a part of this specification; also considered part of selling dealer's new equipment preparation and handling cost, if he contracts the new equipment pre-delivery service inspection out to another authorized dealer, the selling dealer is still liable to all terms of the specification and purchase order except for those corrective operations previously established as eligible for warranty reimbursement according to the current warranty and policy procedure manual.

**OFFICE OF MANAGEMENT & ENTERPRISE SERVICES  
EXHIBIT 1**

**EQUIPMENT SPECIFICATION**

**15-07 / 13' Stainless**

**Special Requirements:**

The supplier shall provide to the receiving division, factory spreader specifications and dimensions and request bed dimensions prior to ordering spreaders.

**PAINT:** (Non Stainless Components Only)

All exposed metal shall be Powder Coated.

Specify color used \_\_\_\_\_

**WARRANTY:** One Year / From date of delivery.

**SERVICE AND PARTS:**

Supplier shall furnish upon request, a list of established manufacturer's authorized locations within the State Of Oklahoma where an adequate stock of current parts and service are available.

**MANUALS AND PARTS BOOK:**

Supplier shall furnish one (1) Operators Instruction Manual for each machine. In addition, one (1) Parts Book and one (1) Repair manual shall be furnished to each Division purchasing one or more machines.

**SPECIFICATIONS:**

Each supplier shall submit complete manufacturer's specification in duplicate and shall submit all other data to show that his proposal meets these specifications.

**COMPLIANCE:**

Supplier shall furnish a statement in writing on the bid or by attached letter, and in the Supplier's Statement below, if his equipment proposed strictly meets these specifications. If not, he shall list each variation thereof.

SUPPLIER'S STATEMENT (EQUIPMENT PROPOSED COMPLIES): YES: \_\_\_\_\_ NO: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

DEALER: \_\_\_\_\_ PHONE: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

\_\_\_\_\_

**OFFICE OF MANAGEMENT & ENTERPRISE SERVICES  
EXHIBIT 1**

**EQUIPMENT SPECIFICATION**

**15-07 / 14' Stainless**

**HEAVY DUTY SPREADER  
HOPPER TYPE  
FOR DUMP BED MOUNTING**

**GENERAL:** This spreader shall be capable of spreading a uniform pattern at all widths from four feet to forty feet wide, materials such as sand, salt, chips and other like materials. This spreader must be completely assembled, serviced and ready to operate when it is installed in a State owned dump truck. This spreader must be new and the manufacturer's latest current model complete with all standard accessories and warranty for the make and model indicated below.

**For Comparison Only: Monroe Model MV-168-82-56, 201,10/7**

**FILL IN ALL SPACES SHOWING SPECIFIC INFORMATION.**

SUPPLIER'S PROPOSED SPREADER: MAKE: \_\_\_\_\_ MODEL: \_\_\_\_\_

	<b>MINIMUM REQUIREMENTS</b>	<b>SUPPLIER'S PROPOSAL</b>
<b><u>HOPPER BODY:</u></b>	"V" Type Box, all Welded 201 stainless steel (10 gauge)	_____
<b><u>DUMP BODY &amp; MOUNTING:</u></b>		
	14 feet, approx. 9 cubic yards capacity with a 2 foot setback. Slope front as per doghouse requirements in reference to sloped front dimension sheet.	_____
	4 adjustable hold-down clamps or 2 – 3" x 12' HD ratchet straps	_____
<b><u>DISCHARGE CHUTE:</u></b>	201 stainless steel 10 gauges, rearward end mounts. Adjustable height extension with SS bolts  NOTE: Chute to be equipped with diverter Flap to allow unloading material out Front or rear of chute.	_____
<b><u>COMPONENTS:</u></b>	Mounting brackets	_____

**OFFICE OF MANAGEMENT & ENTERPRISE SERVICES  
EXHIBIT 1**

**EQUIPMENT SPECIFICATION**

**15-07 / 14' Stainless**

	<b><u>MINIMUM REQUIREMENTS</u></b>	<b><u>SUPPLIER'S PROPOSAL</u></b>
	All necessary hardware to be stainless steel	
<b><u>OVER-ALL-HEIGHT:</u></b>	56 " above dump bed floor	
<b><u>OUTSIDE WIDTH:</u></b>	82" maximum	
<b><u>SILLS:</u></b>	201 stainless steel (7 gauge)	
<b><u>BOTTOM EDGE:</u></b>		
	Flanged 90°	
	Rest on cross sill supports	
<b><u>BOTTOM:</u></b>	201 stainless steel (10 gauge)	
<b><u>FRONT &amp; REAR:</u></b>	Rollover lips	
<b><u>WIPERS:</u></b>	Front & rear required	
<b><u>CROSS SILLS:</u></b>	201 stainless steel welded to sills and side supports (10 gauge)	
<b><u>SIDE SUPPORTS:</u></b>	201 stainless steel welded to sides, sills and cross sills (10 gauge)	
<b><u>SIDES:</u></b>	201 10 gauge stainless steel 45°, 2" double crimped top edge	
<b><u>END GATES:</u></b>	201 10 gauge stainless steel 2"	

**OFFICE OF MANAGEMENT & ENTERPRISE SERVICES  
EXHIBIT 1**

**EQUIPMENT SPECIFICATION**

**15-07 / 14' Stainless**

	<b><u>MINIMUM REQUIREMENTS</u></b>	<b><u>SUPPLIER'S PROPOSAL</u></b>
	double crimped top edge	_____
		_____
<b><u>REAR END GATE:</u></b>	Welded into position	_____
		_____
<b><u>LIFTING LOOPS:</u></b>	4 each, 1 at or near each outside corner	_____
		_____
<b><u>FEED GATE ASSEMBLY:</u></b>	201 stainless steel opening 18"x12" (10 gauge)	_____
		_____
<b><u>TAILGATE LATCHING DEVICE:</u></b>	Cross channel with latch pins and mounting brackets.	_____
		_____
<b><u>CONTROL:</u></b>	Jack-type with handle on curb side	_____
		_____
<b><u>GATE OPENING:</u></b>	201 stainless steel sides (10 gauge)	_____
		_____
<b><u>CONVEYOR:</u></b>		
		_____
<b>Drag Chain</b>	Approximately 12' conveyor x 24" width self cleaning drag chain. <b>Note:</b> the chain length will be determined with the slope front dimension sheet.	_____
		_____
<b>Conveyor Drive, Idler &amp; Snubber</b>	All must be self cleaning	_____
		_____
<b>Idler Adjusting Pulleys</b>	Sealed anti-friction bearings	_____
		_____

**OFFICE OF MANAGEMENT & ENTERPRISE SERVICES  
EXHIBIT 1**

**EQUIPMENT SPECIFICATION**

**15-07 / 14' Stainless**

	<b><u>MINIMUM REQUIREMENTS</u></b>	<b><u>SUPPLIER'S PROPOSAL</u></b>
<b>Gear Box</b>	50.1 worm drive cast iron gearbox or 6:1 spur gear	_____
<b>Edge Seals</b>	Shall form a labyrinth seal with conveyor bottom edge	_____
<b><u>NOTE:</u> Conveyor Bottom</b>	201 stainless steel slatted type (10 gauge)	_____
<b>Discharge Gate</b>	Adjustable screw jack type	_____
<b>Feed Gate Opening</b>	Maximum 12" high by 18" wide	_____

**DISTRIBUTOR SPINNER ASSEMBLY:**

<b>Disc</b>	201 stainless steel (10 gauge) 20", with 6 SS removable fins	_____
<b><u>Type</u></b>	Tip-up Style without the use of special tools / with diverter chute	_____
<b>Controlled Spread</b>	From 4' to 40'	_____
<b>Baffles</b>	3 section, 201 stainless steel (10 gauge) adjustable	_____
<b>Hydraulic Power</b>	Complete w/2 motors Note: ½" NPT fittings or Must supply adapters	_____

**NOTE:**

90" long hydraulic hoses to have reusable hydraulic fittings. All stainless fittings to include hydraulic pipe bushings, 1 Tee and adaptors to plumb all lines to truck and put two return hoses together.

**OFFICE OF MANAGEMENT & ENTERPRISE SERVICES  
EXHIBIT 1**

**EQUIPMENT SPECIFICATION**

**15-07 / 14' Stainless**

	<b><u>MINIMUM REQUIREMENTS</u></b>	<b><u>SUPPLIER'S PROPOSAL</u></b>
<b><u>Warranty:</u></b> Manufacturer's standard with coverage complete on all components.		
<b><u>OPTION 1:</u></b> Screens	Top mounted screens & beam	\$ _____
<b><u>OPTION 2:</u></b> Installation	In the state of <u>Oklahoma</u> by a <u>qualified up fitter</u> . To include hoses and quick couplers 1 each, 5602-12-12S, 5601-12-12S, and 5602-16-16S	\$ _____
<b><u>OPTION 3:</u></b> Lights	LED Stop, Tail & Turn Lights including any marker lights needed	\$ _____
<b><u>OPTION 4:</u></b> Grease Fitting	Extended Grease fitting to front of Spreader to grease pillow block without removing spreader from dump body.	\$ _____
<b><u>OPTION 5:</u></b> Inverted V	Shield to cover pintle chain to reduce download pressure.	\$ _____
<b><u>OPTION 6:</u></b> SINGLE AUGER CONVEYOR	Auger screw in lieu of pintle chain Note: Screens required	\$ _____
<b><u>OPTION 7:</u></b> Larger Capacity	Increase side height to 62"	\$ _____
<b><u>OPTION 8:</u></b> Lights 2	Two (2) Strobes Star model 240SFD Installed Upper rear one each side & Two (2) work lights	

**OFFICE OF MANAGEMENT & ENTERPRISE SERVICES  
EXHIBIT 1**

**EQUIPMENT SPECIFICATION**

**15-07 / 14' Stainless**

	<b><u>MINIMUM REQUIREMENTS</u></b>	<b><u>SUPPLIER'S PROPOSAL</u></b>
	installed one shining on pintle chain and one shining on spinner chute.	\$ _____

Total weight of this complete unit: **2775 lbs (approximate)** \_\_\_\_\_

Supplier must furnish this unit complete with all components including necessary hardware, hose, couplers, lines, fittings, etc.

**NOTE:**

Inspection and/or correction of items listed on the inspection and pre-delivery form are considered a part of this specification; also considered part of selling dealer's new equipment preparation and handling cost, if he contracts the new equipment pre-delivery service inspection out to another authorized dealer, the selling dealer is still liable to all terms of the specification and purchase order except for those corrective operations previously established as eligible for warranty reimbursement according to the current warranty and policy procedure manual.

**Special Requirements:**

The supplier shall provide to the receiving division, factory spreader specifications and dimensions and request bed dimensions prior to ordering spreaders.

**PAINT:** (Non Stainless Components Only)

All exposed metal shall be Powder Coated.

Specify color used \_\_\_\_\_

**WARRANTY:** One Year / From date of delivery.

**SERVICE AND PARTS:**

Supplier shall furnish upon request, a list of established manufacturer's authorized locations within the State Of Oklahoma where an adequate stock of current parts and service are available.

**MANUALS AND PARTS BOOK:**

Supplier shall furnish one (1) Operators Instruction Manual for each machine. In addition, one (1) Parts Book and one (1) Repair manual shall be furnished to each Division purchasing one or more machines.

**SPECIFICATIONS:**

Each supplier shall submit complete manufacturer's specification in duplicate and shall submit all other data to show that his proposal meets these specifications.



**OFFICE OF MANAGEMENT & ENTERPRISE SERVICES  
EXHIBIT 1**

**EQUIPMENT SPECIFICATION**

**15-07 / 14' Stainless**

**COMPLIANCE:**

Supplier shall furnish a statement in writing on the bid or by attached letter, and in the Supplier's Statement below, if his equipment proposed strictly meets these specifications. If not, he shall list each variation thereof.

SUPPLIER'S STATEMENT (EQUIPMENT PROPOSED COMPLIES): YES: \_\_\_\_\_ NO: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

DEALER: \_\_\_\_\_ PHONE: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

\_\_\_\_\_

**OFFICE OF MANAGEMENT & ENTERPRISE SERVICES**

**EXHIBIT 1**

EQUIPMENT SPECIFICATION

15-Prewet 200 gallons

**V-box Prewet System w/Electric motor**

GENERAL: This specification describes an On Board Pre-wetting system is to be used in the dispensing of measured amounts of Calcium Chloride and other chemicals used in snow and ice control operations.

**For Comparison Only: Monroe Model LDS333 Dual 100 gallon poly tank**

**FILL IN ALL SPACES SHOWING SPECIFIC INFORMATION.**

	<b><u>MINIMUM REQUIREMENTS</u></b>	<b><u>SUPPLIER'S PROPOSAL</u></b>
<b><u>Prewet system</u></b>	<p>Material of construction: Materials and components used in the construction are to be non-ferrous and / or corrosion resistant. Indicate material used in unit bid. The system bid and supplied is to be complete with pump, pump control, nozzles, hoses, tank, fittings, wiring, and mounting hardware as required. The Pump/Motor combination is to be 12 Volts DC, with a rated capacity of 3GPM minimum, and have a positive displacement, three-chamber diaphragm design with integral 45 PSI shut off switch. Indicate GPM of pump bid. Motor is to be permanent magnet design, and Pump components shall be constructed of Polypropylene, Viton and Santoprene.</p> <p>The pump is to be mounted near the rear of the spreader in a NEMA fiberglass enclosure, Located so as not to hinder spreader maintenance or operation. The enclosure shall hold pump assembly and the 4PSI low-pressure sensor. Electrical connections and wiring shall be hard wired within the enclosure. HEAT SHRINK BUTT CONNECTORS (OR</p>	

## OFFICE OF MANAGEMENT & ENTERPRISE SERVICES

### EXHIBIT 1

EQUIPMENT SPECIFICATION

15-Prewet 200 gallons

WEATHERPACK CONNECTORS) WILL BE USED WITH SILICONE TAPE. APPLIED OVER THE ENTIRE SPLICE/CONNECTION. Wire harnesses shall incorporate element resistant weather pack connectors with disconnects at rear end of truck and console. The two (2) reservoirs are to have a minimum capacity of 100 gallons each, (v-box mounting), have internal baffles, and have a minimum of two 3" fill caps, lanyard retained. Reservoirs shall be constructed of a rotationally molded and UV stabilized polypropylene. Material (natural color) and wall thickness shall be 3/8" thick minimum. The tank shall have two (2) 1-1/4" ports and a vent. The ports are to be located as close to the bottom as possible. The tank shall be constructed to fit up to and including 9" radius dump body sides. Tank shall be complete with necessary mounting brackets and hardware. The two (2) brass spray nozzles are to be located in the spinner chute assembly. Five (5)-PSI check valves shall be installed in the nozzles to prevent siphoning of the liquid chemical. Plumbing components are to be constructed of heavy-duty glass reinforced polypropylene or brass except checks valves. The hose for the pump suction line shall be 1/2" EPDM. All pressure hoses shall be 1/2"

	EPDM. One (1) 3/4" filter with 201 stainless steel reinforced screen and clean-out plug is to be installed in the suction line. A single control panel shall include: one (1) on/off switch with a system on indicator backlit variable output control knob and low-pressure indicator. The low-pressure indicator shall be a solid red light style with a audible alarm.	\$ _____
<b><u>OPTION 1:</u></b> Installation	In the state of Oklahoma by a qualified up fitter.	\$ _____

**NOTE:**

THIS UNIT WILL ONLY WORK WITH A 10' V-BOX SPREADER

**INSPECTION AND DELIVERY OF EQUIPMENT MUST BE IN ACCORDANCE WITH SUPPLIER'S INSTRUCTION SHEET.**

**SPECIFICATIONS:**

Each Supplier shall submit complete Manufacturer's Specifications in duplicate and shall submit all other Data to show that his proposal meets these Specifications.

**PAINT:**

All exposed metal shall be Powder Coated or Stainless steel.

Specify color used \_\_\_\_\_

**PARTS:**

Supplier shall furnish upon request, a list of established manufacturer's authorized locations within the State Of Oklahoma where an adequate stock of current parts and service are available.

**OFFICE OF MANAGEMENT & ENTERPRISE SERVICES**

**EXHIBIT 1**

15-Prewet 200 gallons

**EQUIPMENT SPECIFICATION**

**SERVICE POLICY:**

Manufacturer's Standard Service Policy shall be furnished, complete and unaltered, with each Unit delivered.

**MANUALS AND PARTS BOOKS:**

Supplier shall furnish one (1) Operator's Instruction Manual for each Spreader. In addition, one (1) Parts Book and one (1) Illustrated Repair Manual shall be furnished to each Division purchasing one or more spreaders.

**SUPPLIER SHALL FILL IN ALL SPACES UNDER SUPPLIER'S PROPOSAL.**

**COMPLIANCE:**

Supplier shall furnish a statement in writing on the Bid or by attached letter and in the Supplier's Statement below if his Equipment proposed strictly meets these Specifications. If not, he shall list each variation thereof.

SUPPLIER'S STATEMENT (EQUIPMENT PROPOSED COMPLIES): YES: \_\_\_\_\_ NO: \_\_\_\_\_

DEALER: \_\_\_\_\_ PHONE: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**OFFICE OF MANAGEMENT & ENTERPRISE SERVICES  
EXHIBIT 1**

EQUIPMENT SPECIFICATION

15-Prewet 250 gallons

**V-box Prewet System w/Electric motor**

GENERAL: This specification describes an On Board Pre-wetting system is to be used in the dispensing of measured amounts of Calcium Chloride and other chemicals used in snow and ice control operations.

**For Comparison Only: Monroe Model LDS333 Dual 125 gallon poly tank**

**FILL IN ALL SPACES SHOWING SPECIFIC INFORMATION.**

	<b><u>MINIMUM REQUIREMENTS</u></b>	<b><u>SUPPLIER'S PROPOSAL</u></b>
<b><u>Prewet system</u></b>	<p>Material of construction: Materials and components used in the construction are to be non-ferrous and / or corrosion resistant. Indicate material used in unit bid. The system bid and supplied is to be complete with pump, pump control, nozzles, hoses, tank, fittings, wiring, and mounting hardware as required. The Pump/Motor combination is to be 12 Volts DC, with a rated capacity of 3GPM minimum, and have a positive displacement, three-chamber diaphragm design with integral 45 PSI shut off switch. Indicate GPM of pump bid. Motor is to be permanent magnet design, and Pump components shall be constructed of Polypropylene, Viton and Santoprene.</p> <p>The pump is to be mounted near the rear of the spreader in a NEMA fiberglass enclosure, Located so as not to hinder spreader maintenance or operation. The enclosure shall hold pump assembly and the 4PSI low-pressure sensor. Electrical connections and wiring shall be hard wired within the enclosure. HEAT SHRINK BUTT CONNECTORS (OR</p>	

**OFFICE OF MANAGEMENT & ENTERPRISE SERVICES**  
**EXHIBIT 1**

EQUIPMENT SPECIFICATION

15-Prewet 250 gallons

WEATHERPACK CONNECTORS) WILL BE USED WITH SILICONE TAPE. APPLIED OVER THE ENTIRE SPLICE/CONNECTION. Wire harnesses shall incorporate element resistant weather pack connectors with disconnects at rear end of truck and console. The two (2) reservoirs are to have a minimum capacity of 125 gallons each, (v-box mounting), have internal baffles, and have a minimum of two 3" fill caps, lanyard retained. Reservoirs shall be constructed of a rotationally molded and UV stabilized polypropylene. Material (natural color) and wall thickness shall be 3/8" thick minimum. The tank shall have two (2) 1-1/4" ports and a vent. The ports are to be located as close to the bottom as possible. The tank shall be constructed to fit up to and including 9" radius dump body sides. Tank shall be complete with necessary mounting brackets and hardware. The two (2) brass spray nozzles are to be located in the spinner chute assembly. Five (5)-PSI check valves shall be installed in the nozzles to prevent siphoning of the liquid chemical. Plumbing components are to be constructed of heavy-duty glass reinforced polypropylene or brass except checks valves. The hose for the pump suction line shall be 1/2" EPDM. All pressure hoses shall be 1/2"

**OFFICE OF MANAGEMENT & ENTERPRISE SERVICES  
EXHIBIT 1**

EQUIPMENT SPECIFICATION

15-Prewet 250 gallons

EPDM. One (1) 3/4" filter with 304 stainless steel reinforced screen and clean-out plug is to be installed in the suction line. A single control panel shall include: one (1) on/off switch with a system on indicator backlit variable output control knob and low-pressure indicator. The low-pressure indicator shall be a solid red light style with a audible alarm.

\$ \_\_\_\_\_

**OPTION 1:**  
Installation

In the state of Oklahoma by a qualified up fitter.

\$ \_\_\_\_\_

**NOTE:**

THIS UNIT WILL ONLY WORK WITH A 14' V-BOX SPREADER

**INSPECTION AND DELIVERY OF EQUIPMENT MUST BE IN ACCORDANCE WITH  
SUPPLIER'S INSTRUCTION SHEET.**

**SPECIFICATIONS:**

Each Supplier shall submit complete Manufacturer's Specifications in duplicate and shall submit all other Data to show that his proposal meets these Specifications.

**PAINT:**

All exposed metal shall be Powder Coated or Stainless steel.

Specify color used \_\_\_\_\_

**PARTS:**

Supplier shall furnish upon request, a list of established manufacturer's authorized locations within the State Of Oklahoma where an adequate stock of current parts and service are available.



**OFFICE OF MANAGEMENT & ENTERPRISE SERVICES  
EXHIBIT 1**

EQUIPMENT SPECIFICATION

15-Prewet 250 gallons

**SERVICE POLICY:**

Manufacturer's Standard Service Policy shall be furnished, complete and unaltered, with each Unit delivered.

**MANUALS AND PARTS BOOKS:**

Supplier shall furnish one (1) Operator's Instruction Manual for each Spreader. In addition, one (1) Parts Book and one (1) Illustrated Repair Manual shall be furnished to each Division purchasing one or more spreaders.

**SUPPLIER SHALL FILL IN ALL SPACES UNDER SUPPLIER'S PROPOSAL.**

**COMPLIANCE:**

Supplier shall furnish a statement in writing on the Bid or by attached letter and in the Supplier's Statement below if his Equipment proposed strictly meets these Specifications. If not, he shall list each variation thereof.

SUPPLIER'S STATEMENT (EQUIPMENT PROPOSED COMPLIES): YES: \_\_\_\_\_ NO: \_\_\_\_\_

DEALER: \_\_\_\_\_ PHONE: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**OFFICE OF MANAGEMENT & ENTERPRISE SERVICES  
EXHIBIT 1**

EQUIPMENT SPECIFICATION

15-SP

**HYDRAULIC TRUCK CROSS CONVEYOR**

GENERAL: This specification describes an underbody tailgate material spreader designed to distribute material to the left or right edge of the roadway.

**For Comparison Only: Monroe Model MS10318**

**FILL IN ALL SPACES SHOWING SPECIFIC INFORMATION.**

	<u>MINIMUM REQUIREMENTS</u>	<u>SUPPLIER'S PROPOSAL</u>
<u>WIDTH:</u>	103"	
<u>LENGTH:</u>	43"	
<u>HEIGHT:</u>	27"	
<u>WEIGHT:</u>	1100 lbs	
<u>CAPACITY:</u>	120 tons per hour	
<u>GATE OPENING:</u>	16" x 10" right or left	
<u>HYDRAULICS:</u>	15 GPM, 2000 PSI, high torque, low speed	

**NOTES:**

THE TRUCK THIS UNIT WILL BE INSTALLED ON HAS A CENTRAL HYDRAULIC SYSTEM.

**INSPECTION AND DELIVERY OF EQUIPMENT MUST BE IN ACCORDANCE WITH SUPPLIER'S INSTRUCTION SHEET.**

**SPECIFICATIONS:**

Each Supplier shall submit complete Manufacturer's Specifications in duplicate and shall submit all other Data to show that his proposal meets these Specifications.

**OFFICE OF MANAGEMENT & ENTERPRISE SERVICES  
EXHIBIT 1**

EQUIPMENT SPECIFICATION

15-SP

**PAINT:**

All exposed metal shall be Powder Coated.

Specify color used \_\_\_\_\_

**PARTS:**

Supplier shall furnish upon request, a list of established manufacturer's authorized locations within the State Of Oklahoma where an adequate stock of current parts and service are available.

**SERVICE POLICY:**

Manufacturer's Standard Service Policy shall be furnished, complete and unaltered, with each Unit delivered.

**MANUALS AND PARTS BOOKS:**

Supplier shall furnish one (1) Operator's Instruction Manual for each Spreader. In addition, one (1) Parts Book and one (1) Illustrated Repair Manual shall be furnished to each Division purchasing one or more spreaders.

**SUPPLIER SHALL FILL IN ALL SPACES UNDER SUPPLIER'S PROPOSAL.**

**COMPLIANCE:**

Supplier shall furnish a statement in writing on the Bid or by attached letter and in the Supplier's Statement below if his Equipment proposed strictly meets these Specifications. If not, he shall list each variation thereof.

SUPPLIER'S STATEMENT (EQUIPMENT PROPOSED COMPLIES): YES: \_\_\_\_\_ NO: \_\_\_\_\_

DEALER: \_\_\_\_\_ PHONE: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**OFFICE OF MANAGEMENT & ENTERPRISE SERVICES  
EXHIBIT 1**

**EQUIPMENT SPECIFICATION**

**78-01 Lt Duty**

**SNOW PLOW  
FRONT MOUNTED REVERSIBLE  
WITH SAFETY TRIP  
FOR TILT HOOD OR TILT CAB TRUCK**

**GENERAL:** This snow plow shall be adequate for a single or dual axle truck and must be new and the manufacturer's latest current model complete with all standard accessories and warranty for the make and model indicated below.

**For Comparison Only: Valk Model RV111-116 Plow / MD-700T Hitch**

**FILL IN ALL SPACES SHOWING SPECIFIC INFORMATION.**

**SUPPLIER'S PROPOSED SNOW PLOW:** MAKE: \_\_\_\_\_ MODEL: \_\_\_\_\_

	<b><u>MINIMUM REQUIREMENTS</u></b>	<b><u>SUPPLIER'S PROPOSAL</u></b>
<b><u>MOLDBOARD:</u></b>	10 gauge steel 30" x 11'	_____
	8 each vertical ½" x 3" ribs with two ribs at each hinge point	_____
	2 rows of ¼" x 1 ½" x 11' horizontal ribs	_____
	Top reinforced with an integrally formed channel	_____
	Bottom reinforced with a back-up angle of 3 ½" x ½" angle gusseted	_____
	Integral Snow shield	_____
	Blade size ½" x 6" x 11'	_____

**OFFICE OF MANAGEMENT & ENTERPRISE SERVICES  
EXHIBIT 1**

**EQUIPMENT SPECIFICATION**

**78-01 Lt Duty**

	<b><u>MINIMUM REQUIREMENTS</u></b>	<b><u>SUPPLIER'S PROPOSAL</u></b>
<b><u>MOLDBOARD</u></b> , cont	Reversible cutting width 9' at 35°	_____
	8' at 42°	_____
	Flag mounting ability at each end	_____
<b><u>SEMI-CIRCLED:</u></b>	Angle rolled 3 1/2" x 3 1/2" x 1/2" with front angle of 4" x 3" x 1/2" running a length of 120" along rear of moldboard	_____
	Attached to moldboard at 5 points with outside hinge points 116" apart	_____
	Equipped with full swiveling and spring cushioned caster assemblies with 8" x 3" wheels with high speed bearings	_____
<b>Tripping Mechanism</b>	To be attached to trunnion on semi-circle fully enclosed	_____
	Enclosed dual spring I separate tubing	_____
	With external cushion spring	_____
	With automatic trip and return	_____

**OFFICE OF MANAGEMENT & ENTERPRISE SERVICES  
EXHIBIT 1**

**EQUIPMENT SPECIFICATION**

**78-01 Lt Duty**

	<b><u>MINIMUM REQUIREMENTS</u></b>	<b><u>SUPPLIER'S PROPOSAL</u></b>
<b>Weight of Moldboard Semi-circle &amp; Tripping Assembly</b>	1210 lbs	_____
<b>Capacity:</b>	Adequate for 25,000 – 52,000 lbs, GVWR truck	_____
<b>Pushframe &amp; Hitch</b>	Show make	_____
	Show Model	_____
<b>Total Weight</b>	490 lbs	_____
<b><u>Pushframe</u></b>	Legs to be 4" x 3/8" x 72" channel steel with adjustable connector blocks attached on 21" centers with 4 each 1" x 3" mechanical bolts	_____
	2 each axle hooks	_____
<b><u>Hitch</u></b>	Heavy duty for tilt hood with front frame extension, bumper to axle type	_____
	The vertical portion must hinge forward to provide operating clearance for hood or cab	_____
	The lift arm shall accommodate a 4" x 10" hydraulic lift cylinder	_____
	To be equipped with connectors	_____

**OFFICE OF MANAGEMENT & ENTERPRISE SERVICES  
EXHIBIT 1**

**EQUIPMENT SPECIFICATION**

**78-01 Lt Duty**

	<b><u>MINIMUM REQUIREMENTS</u></b>	<b><u>SUPPLIER'S PROPOSAL</u></b>
<b>Hitch, cont</b>	to accept the complete moldboard assembly	_____
	All push shall be through the bumper and truck frame. There shall be no push or strain on the front axle	_____
	Capacity sufficient to lift plow 12" above roadway	_____
<b>Hydraulic Equipment</b>	One (1) each 4" x 10" hydraulic lift cylinder double acting	_____
<b>Misc Parts &amp; Instructions for Assembly &amp; Mounting</b>	Each snow plow unit must be complete with all necessary hardware, fittings and instructions with drawings for proper assembly and truck installation	_____
<b><u>OPTION 1: HYDRAULIC REVERSE MECHANISM</u></b> If this option is specified it shall include two (2) 3" x 10" heavy duty double acting power reverse cylinders. These cylinders must be equipped with a cushion valve to protect the cylinders from damage. (Gresen DXV Double Relief Valve set at 1800 PSI). Include the cost of this option in your bid price.		
<b><u>OPTION 2:</u></b> Deflector	Rubber snow shield installed at factory	\$ _____
<b><u>OPTION 3:</u></b> Installation	In the state of Oklahoma by a qualified up fitter.	\$ _____
<b><u>OPTION 4:</u></b> Plow Lights	Installed	\$ _____

**OFFICE OF MANAGEMENT & ENTERPRISE SERVICES  
EXHIBIT 1**

**EQUIPMENT SPECIFICATION**

**78-01 Lt Duty**

	<b><u>MINIMUM REQUIREMENTS</u></b>	<b><u>SUPPLIER'S PROPOSAL</u></b>
<b><u>OPTION 5:</u></b>	10' Plow	\$ _____
<b><u>OPTION 6:</u></b>	12' Plow	\$ _____
<b><u>OPTION 7:</u></b>	36" Tall Plow	\$ _____

**PAINT:**

All exposed Metal shall be primed and painted with a protective Metal Primer; then painted Oklahoma Department of Transportation Yellow to comply with Federal Standard #595, Chrome Yellow Enamel #13432, DuPont #93-75306, School Bus Yellow or equal in color, shade and tone.

**NOTE:** Front surface of blade to be primed ONLY. Yellow paint MUST NOT be applied to this surface.

**INSPECTION AND DELIVERY OF EQUIPMENT TO COMPLY WITH  
SUPPLIER'S INSTRUCTION SHEET.**

**MANUALS & PARTS BOOKS:**

Supplier shall furnish one (1) Operators Instruction Manual for each plow. In addition, one (1) Parts Book and one (1) Illustrated Repair Manual shall be furnished to each Division purchasing one or more plows.

**SERVICE POLICY:**

Manufacturer's Standard Service Policy shall be furnished, complete and unaltered with each unit delivered.

**SPECIFICATIONS:**

Each supplier shall submit complete manufacturer's specification in duplicate and shall submit all other data to show that his proposal meets these specifications.



**OFFICE OF MANAGEMENT & ENTERPRISE SERVICES  
EXHIBIT 1**

**EQUIPMENT SPECIFICATION**

**78-01 Lt Duty**

**SERVICE AND PARTS:**

Supplier shall furnish upon request, a list of established manufacturer's authorized locations within the State Of Oklahoma where an adequate stock of current parts and service are available. Discount on Parts and Hourly Rate for Labor.

**COMPLIANCE:**

Supplier shall furnish a statement in writing on the Bid, in the Supplier's Statement below, or by an attached letter stating the Equipment proposed strictly meets these Specifications. If not, he shall list each variation thereof.

SUPPLIER'S STATEMENT (EQUIPMENT PROPOSED COMPLIES): YES: \_\_\_\_ NO: \_\_\_\_

**DEALER:** \_\_\_\_\_ **DATE:** \_\_\_\_\_

**SIGNATURE:** \_\_\_\_\_ **PHONE:** \_\_\_\_\_

**ADDRESS:** \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**OFFICE OF MANAGEMENT & ENTERPRISE SERVICES  
EXHIBIT 1**

**EQUIPMENT SPECIFICATION**

**78-01 Md Duty**

**SNOW PLOW  
FRONT MOUNTED REVERSIBLE  
WITH SAFETY TRIP MOLDBOARD  
FOR TILT HOOD OR TILT CAB TRUCK**

**GENERAL:** This snow plow shall be adequate for a single or dual axle truck and must be new and the manufacturer's latest current model complete with all standard accessories and warranty for the make and model indicated below.

**For Comparison Only: Monroe Model MP36R11-ISCT w/MC7082 Truck Hitch**

**FILL IN ALL SPACES SHOWING SPECIFIC INFORMATION.**

SUPPLIER'S PROPOSED SNOW PLOW: MAKE: \_\_\_\_\_ MODEL: \_\_\_\_\_

	<u><b>MINIMUM REQUIREMENTS</b></u>	<u><b>SUPPLIER'S PROPOSAL</b></u>
<u><b>MOLDBOARD:</b></u>	Roll formed 10 gauge steel 36" x 11' with 5/8" x 8" cutting edge strength of 55,000 lbs - 70,000 lbs	_____
		_____
	Integral shield style moldboard	_____
		_____
	6 each 1/2" x 4" vertical ribs, 1 pc flame cut	_____
		_____
	2 rows of 11' horizontal ribs, bottom angle 4" x 4" x 3/4", top angle 2" x 3" x 3/8"	_____
		_____
	3" x 3" x 1/4" non-spring horizontal angle bracing	_____
		_____
	3" x 3" x 1/2" horizontal spring support angle bracing	_____
		_____
	Moldboard and Pushframe 100% continuously welded	_____
		_____
	Stress proof machined pins	_____
		_____
		_____

**OFFICE OF MANAGEMENT & ENTERPRISE SERVICES  
EXHIBIT 1**

**EQUIPMENT SPECIFICATION**

**78-01 Md Duty**

	<b><u>MINIMUM REQUIREMENTS</u></b>	<b><u>VENDOR'S PROPOSAL</u></b>
<b><u>MOLDBOARD, cont.</u></b>	Blade size 5/8" x 8" x 11'	_____
		_____
	Reversible cutting width 9' x 35°	_____
		_____
	36" Markers Fluorescent orange	_____
		_____
<b><u>SEMI-CIRCLED:</u></b>	Angle rolled 3 1/2" x 3 1/2" x 1/2" A36 steel with front tube 3/8" wall of 4" x 4" running a length of 85" along rear of moldboard	_____
		_____
	3 position adjustment for plow cutting angle of attack 5, 10 and 20 degree	_____
		_____
	Two 4" x 10" power reversing cylinders w/cushion valve	_____
		_____
	Built in level lift assembly to allow plow to be parallel to the road surface at all times raised, lowered or angled.	_____
		_____
	Equipped with screw adjustable shoes	_____
		_____
<b>Tripping Mechanism</b>	Dual compression trip spring assemblies with automatic trip and return	_____
		_____
<b>Weight of Moldboard Semi-circle &amp; Tripping Assembly</b>	1680 lbs.	_____
		_____
<b>Capacity:</b>	Adequate for 25,000 – 52,000 lbs, GVWR truck	_____
		_____

**OFFICE OF MANAGEMENT & ENTERPRISE SERVICES  
EXHIBIT 1**

**EQUIPMENT SPECIFICATION**

**78-01 Md Duty**

	<b>MINIMUM REQUIREMENTS</b>	<b>VENDOR'S PROPOSAL</b>
<b>Pushframe &amp; Hitch</b>	Show make	
	Show Model	
<b>Total Weight</b>	480 lbs	
<b><u>Pushframe</u></b>	Main push tub is 4" x 4" x 3/8" A36 steel seamless wall bracing	
<b><u>Hitch</u></b>	Quick hitch plow and high profile truck portion quick hitch design for tilt hood truck	
	Lock mechanisms must be 100% welded to the boxed channel and the latching mechanisms shall be automatic, spring loaded, adjustable and have a single lever to release. Two (2) 1 1/2 x 1045 steel latches that hold the plow portion of hitch to the truck portion. <b>Note:</b> The lever shall be retained in either lock or the released position and in the locked position, the truck must be able to be driven into the hitch and have it lock automatically.	
	A SINGLE LOCK HITCH IS UNACCEPTABLE	
	The plow shall be equipped with a leveling device to allow the plow to be raised by one, center- lifting lug. The plow shall allow plow angle full left and full right while the plow is raised, and shall not be required lowering of plow to level it after angling	
	The level lift frame shall be	

**OFFICE OF MANAGEMENT & ENTERPRISE SERVICES  
EXHIBIT 1**

**EQUIPMENT SPECIFICATION**

**78-01 Md Duty**

	<b><u>MINIMUM REQUIREMENTS</u></b>	<b><u>VENDOR'S PROPOSAL</u></b>
	factory standard appropriate to the model bid	_____
	½" side plate kit for extended frame trucks	_____
	The lift arm shall accommodate a 4" x 10" hydraulic lift cylinder double acting	_____
	To be equipped with connectors to accept the complete moldboard assembly	_____
	All push shall be through the bumper and truck frame. There shall be no push or strain on the front axle	_____
	Capacity sufficient to lift plow 12" above roadway	_____
<b>Hydraulic Equipment</b>	One (1) each 4" x 10" hydraulic lift cylinder double acting.	_____
<b>Misc Parts &amp; Instructions for Assembly &amp; Mounting</b>	Each snow plow unit must be complete with all necessary hardware, fittings and instructions with drawings for proper assembly and truck installation	_____

**HYDRAULIC REVERSE MECHANISM**

The hydraulic reverse mechanism shall function from the truck cab and be capable of holding the plow angle during snow and ice removal operations with requiring additional locks to prevent cylinder failures or hydraulic system damage.

\_\_\_\_\_

The operator shall not be required to get out of the vehicle to unlock mechanism prior to changing plow angle.

**OFFICE OF MANAGEMENT & ENTERPRISE SERVICES  
EXHIBIT 1**

**EQUIPMENT SPECIFICATION**

**78-01 Md Duty**

	<b><u>MINIMUM REQUIREMENTS</u></b>	<b><u>VENDOR'S PROPOSAL</u></b>
<b><u>OPTION 1:</u></b> Deflector	Rubber snow shield installed at factory	\$ _____
<b><u>OPTION 2:</u></b> Installation	In the state of Oklahoma by a qualified Upfitter.	\$ _____
<b><u>OPTION 3:</u></b> Plow Lights	Installed	\$ _____
<b><u>OPTION 4:</u></b> Moldboard	3/16" thick in lieu of 10 gauge	\$ _____
<b><u>OPTION 5:</u></b>	10' Plow	\$ _____
<b><u>OPTION 6:</u></b>	12' Plow	\$ _____
<b><u>OPTION 7:</u></b>	42" Tall Plow	\$ _____

**PAINT:**

All exposed metal shall be Powder Coated.

Specify plow color used \_\_\_\_\_

Specify hitch color used \_\_\_\_\_

**INSPECTION AND DELIVERY OF EQUIPMENT TO COMPLY WITH SUPPLIER'S INSTRUCTION SHEET.**

**SERVICE MANUALS & PARTS BOOKS:**

Supplier shall furnish one (1) Operators Instruction Manual for each plow. In addition, one (1) Parts Book and one (1) Illustrated Repair Manual shall be furnished to each Division purchasing one or more plows.

**OFFICE OF MANAGEMENT & ENTERPRISE SERVICES  
EXHIBIT 1**

**EQUIPMENT SPECIFICATION**

**78-01 Md Duty**

**SERVICE POLICY:**

Manufacturer's Standard Service Policy shall be furnished, complete and unaltered with each unit delivered.

**SPECIFICATIONS:**

Each supplier shall submit complete manufacturer's specification in duplicate and shall submit all other data to show that his proposal meets these specifications.

**SERVICE AND PARTS:**

Supplier shall furnish upon request, a list of established manufacturer's authorized locations within the State Of Oklahoma where an adequate stock of current parts and service are available.

**COMPLIANCE:**

Supplier shall furnish a statement in writing on the Bid, in the Supplier's Statement below, or by an attached letter stating the Equipment proposed strictly meets these Specifications. If not, he shall list each variation thereof.

SUPPLIER'S STATEMENT (EQUIPMENT PROPOSED COMPLIES): YES: \_\_\_\_\_ NO: \_\_\_\_\_

DEALER: \_\_\_\_\_ DATE: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_ PHONE: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**OFFICE OF MANAGEMENT & ENTERPRISE SERVICES  
EXHIBIT 1**

**EQUIPMENT SPECIFICATION**

**78-01 Hvy Duty**

**SNOW PLOW  
FRONT MOUNTED REVERSIBLE  
WITH SAFETY TRIP  
FOR TILT HOOD OR TILT CAB TRUCK**

**GENERAL:** This snow plow shall be adequate for a single or dual axle truck and must be new and the manufacturer's latest current model complete with all standard accessories and warranty for the make and model indicated below.

**For Comparison Only: Gledhill Model 11HSJPR2 Front Plow**

**FILL IN ALL SPACES SHOWING SPECIFIC INFORMATION.**

SUPPLIER'S PROPOSED SNOW PLOW: MAKE: \_\_\_\_\_ MODEL: \_\_\_\_\_

	<u><b>MINIMUM REQUIREMENTS</b></u>	<u><b>SUPPLIER'S PROPOSAL</b></u>
<b><u>MOLDBOARD:</u></b>	Full roll 10 gauge steel 42" x 11' and an integral design	_____
	Power reversing with double acting reversing cylinders	_____
	Four (4) trip springs, open extension	_____
	Six (6) contentious ribs from top to bottom of moldboard	_____
	Cutting blades must be 6" with a 12" hole spacing	_____
<b>Weight of Moldboard Semi-circle &amp; Tripping Assembly</b>	2050 lbs	_____



**OFFICE OF MANAGEMENT & ENTERPRISE SERVICES  
EXHIBIT 1**

**EQUIPMENT SPECIFICATION**

**78-01 Hvy Duty**

	<b><u>MINIMUM REQUIREMENTS</u></b>	<b><u>SUPPLIER'S PROPOSAL</u></b>
<b><u>FRONT FRAME HITCH:</u></b>	To be engineered specific for year make and model of truck. Must mount to truck frame and provide support for front mounted PTO. Hitch must keep plow parallel to road surface in the raised, lowered and angled positions.	
<b><u>MISC PARTS AND INSTRUCTIONS FOR ASSEMBLY AND MOUNTING:</u></b>	Each snow plow unit must be complete with all necessary hardware, fittings and instructions with drawings for proper assembly and truck installation	
<b><u>OPTION 1:</u></b> Deflector	Rubber snow shield installed at factory	\$ _____
<b><u>OPTION 2:</u></b> Installation	In the state of Oklahoma by a qualified up fitter.	\$ _____
<b><u>OPTION 3:</u></b> Plow Lights	Installed	\$ _____

**PAINT:**

All exposed Metal shall be primed and painted with a protective Metal Primer; then painted Oklahoma Department of Transportation Yellow to comply with Federal Standard #595, Chrome Yellow Enamel #13432, DuPont #93-75306, School Bus Yellow or equal in color, shade and tone.

**OFFICE OF MANAGEMENT & ENTERPRISE SERVICES  
EXHIBIT 1**

**EQUIPMENT SPECIFICATION**

**78-01 Hvy Duty**

**INSPECTION AND DELIVERY OF EQUIPMENT TO COMPLY WITH SUPPLIER'S INSTRUCTION SHEET.**

**MANUALS & PARTS BOOKS:**

Supplier shall furnish one (1) Operators Instruction Manual for each plow. In addition, one (1) Parts Book and one (1) Illustrated Repair Manual shall be furnished to each Division purchasing one or more plows.

**SERVICE POLICY:**

Manufacturer's Standard Service Policy shall be furnished, complete and unaltered with each unit delivered.

**SPECIFICATIONS:**

Each supplier shall submit complete manufacturer's specification in duplicate and shall submit all other data to show that his proposal meets these specifications.

**SERVICE AND PARTS:**

Supplier shall furnish upon request, a list of established manufacturer's authorized locations within the State Of Oklahoma where an adequate stock of current parts and service are available.

**COMPLIANCE:**

Supplier shall furnish a statement in writing on the Bid, in the Supplier's Statement below, or by an attached letter stating the Equipment proposed strictly meets these Specifications. If not, he shall list each variation thereof.

SUPPLIER'S STATEMENT (EQUIPMENT PROPOSED COMPLIES): YES: \_\_\_\_\_ NO: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

DEALER: \_\_\_\_\_ DATE: \_\_\_\_\_

**OFFICE OF MANAGEMENT & ENTERPRISE SERVICES  
EXHIBIT 1**

**EQUIPMENT SPECIFICATION**

**78-01 Hvy Duty**

**SIGNATURE:** \_\_\_\_\_ **PHONE:** \_\_\_\_\_

**ADDRESS:** \_\_\_\_\_

\_\_\_\_\_

**OFFICE OF MANAGEMENT & ENTERPRISE SERVICES  
EXHIBIT 1**

**EQUIPMENT SPECIFICATION**

**78-01 Hvy Duty**

**SNOW PLOW  
FRONT MOUNTED REVERSIBLE  
WITH SAFETY TRIP  
FOR TILT HOOD OR TILT CAB TRUCK**

**GENERAL:** This snow plow shall be adequate for a single or dual axle truck and must be new and the manufacturer's latest current model complete with all standard accessories and warranty for the make and model indicated below.

**For Comparison Only: Gledhill Model 11HSJPR2 Front Plow**

**FILL IN ALL SPACES SHOWING SPECIFIC INFORMATION.**

SUPPLIER'S PROPOSED SNOW PLOW: MAKE: \_\_\_\_\_ MODEL: \_\_\_\_\_

	<u><b>MINIMUM REQUIREMENTS</b></u>	<u><b>SUPPLIER'S PROPOSAL</b></u>
<u><b>MOLDBOARD:</b></u>	THE MOLDBOARD SHALL BE A 'J' SHAPED BLADE WITH AT LEAST A 19" RADIUS AND THE LAST 12 INCHES A MINIMUM OF 6" RADIUS. THE MOLDBOARD SHALL BE A MINIMUM OF 42" UNIFORM HEIGHT AND 11' LONG AT THE CUTTING EDGE. THE MOLDBOARD SHALL BE MADE OF NOT LESS THAN *10 GAUGE STEEL PANELLED FOR ADDITIONAL STRENGTH. THE MOLDBOARD SHALL BE REINFORCED AT THE TOP BY A SELF-FORMED CHANNEL AND THE BOTTOM WITH A ONE PIECE STRUCTURAL ANGLE AT LEAST 4" X 4" X 3/8" TO THIS ANGLE, A CUTTING EDGE BACKING OF 5/8" X 3" SHALL BE WELDED AND FURTHER BRACED BY GUSSETS A MINIMUM OF 1/2"X2-1/2" WELDED BETWEEN EACH CUTTING EDGE BOLT POSITION. THIS STRUCTURAL TRIANGLE SHALL BE CONSTRUCTED SO THAT WHEN THE CUTTING EDGE IS BOLTED TO THE BACKING, THE FRONT FACE OF THE CUTTING EDGE WILL BE FLUSH WITH THE MOLDBOARD FACE TO PREVENT THE SNOW BUILD UP ON TOP OF THE BLADE. THE MOLDBOARD	

**OFFICE OF MANAGEMENT & ENTERPRISE SERVICES  
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**EQUIPMENT SPECIFICATION**

**78-01 Hvy Duty**

	<b><u>MINIMUM REQUIREMENTS</u></b>	<b><u>SUPPLIER'S PROPOSAL</u></b>
	SHALL, BE REINFORCED WITH A MINIMUM OF SIX (6) FULL LENGTH VERTICAL RIBS. VERTICAL RIBS SHALL BE AT LEAST 1/2" X 3" FORMED STEEL CONTINUOUSLY WELDED ON BOTH SIDES OF EDGE TO THE MOLDBOARD SHEET AND SECURED AT THE TOP TO THE FORMED CHANNEL AND AT THE BOTTOM, TO THIS STRUCTURAL ANGLE. THE LOWER REAR CROSS ANGLE SHALL BE PROVIDED WITH AT LEAST TEN (10) EARS, 3/4" THICK ON 88" OUTSIDE HINGE POINT CENTERS FOR ATTACHMENT TO THE TABLE ASSEMBLY A FIVE (5) POINTS WITH 1-1/4" DIAMETER, 105,000 POUND TENSILE STRENGTH PINS.	
<b>Weight of Moldboard Semi-circle &amp; Tripping Assembly</b>	2050 lbs	
<b><u>CUTTING EDGE:</u></b>	THE CUTTING EDGE SHALL BE OF ABRASION RESISTANT STEEL C1090 OR EQUAL WITH A BRINELL HARDNESS OF 250 MIN. AND 325 MAX. IT SHALL BE 1/2" THICK X 6" WIDE & FULL LENGTH OF MOLDBOARD, AASHO STANDARD PUNCHED, FLUSH WITH MOLDBOARD AND BE EASILY REPLACEABLE.	
<b><u>TRIPPING MECHANISM:</u></b>	SHALL BE ATTACHED TO THE TABLE AND TO THE MOLDBOARD AND CONSIST OF AT LEAST 4 EXTENSION SPRINGS. THE SPRING MATERIAL MUST BE ASTM-A229 OIL TEMPERED 112" WIRE, 4-1/2" O.D. X 24 ACTIVE COILS WITH THE END HOOKS COLD FORMED TO 90 DEGREE RIGHT ANGLES TO EACH OTHER THE SPRING PULL FORCE AT 30.5" SHALL BE A MINIMUM OF 1,050 POUNDS AND	

**OFFICE OF MANAGEMENT & ENTERPRISE SERVICES  
EXHIBIT 1**

**EQUIPMENT SPECIFICATION**

**78-01 Hvy Duty**

	<b><u>MINIMUM REQUIREMENTS</u></b>	<b><u>SUPPLIER'S PROPOSAL</u></b>
	<p>ALLOW 14" OF STRETCH WITHOUT DEFORMATION. THESE SPRINGS SHALL CONTROL THE TRIP SO THAT THE PLOW WILL BE HELD RIGID FOR PLOWING AND WILL TRIP AUTOMATICALLY WHEN COMING IN CONTACT WITH ANY SOLID OBJECT AND RETURN AUTOMATICALLY TO THE ORIGINAL PLOWING POSITION WHEN 'RELEASED. THE EXTENT OF THE FORWARD MOTION OF THE MOLDBOARD SHALL BE CONTROLLED BY A MECHANICAL TELESCOPIC TRIPPING POST ASSEMBLY CONSTRUCTED OF AT LEAST A 1-1/4" X 2" INSIDE BAR, 3/4" X 2-1/4" OUTSIDE BARS AND FURTHER REINFORCED WITH 1/4" X 2" BARS. THE TRIPPING POST ASSEMBLY SHALL BE INDEPENDENT OF THE SPRINGS AND SHALL PREVENT THE TOP OF THE MOLDBOARD FROM CONTACTING THE ROAD SURFACE. CONNECTING THE TRIPPING POST TO THE MOLDBOARD AND TABLE WILL BE 1" DIAMETER PINS WITH 72,700 POUNDS OF TENSILE STRENGTH.</p>	
<b><u>PLOW MARKERS:</u></b>	<p>SNOW PLOW TO BE EQUIPPED WITH TWO (2) PLOW MARKERS. MARKERS TO BE CONSTRUCTED OF HIGH DENSITY POLYETHYLENE, 1-1/4" O. D. X 1" I.D. BY 24" LONG, SAFETY YELLOW WITH A FLEXIBLE JOINT AT THE BOTTOM AND ATTACHED TO THE PLOW BY MEANS OF COTTER PINS.</p>	
<b><u>TABLE:</u></b>	<p>THE CIRCULAR ARC SHALL BE CONSTRUCTED OF NOT LESS THAN A 4" X 4" X 1/2" ANGLE, COL FORMED, TO A 26" INSIDE RADIUS AND JOINED TO THE MAIN FRONT ANGLE, ADDITIONAL REINFORCEMENTS TO BE INCLUDED SHALL BE A 1/2" X 4-1/2" AND A 1" X 5" BAR. SUPPORTING</p>	

**OFFICE OF MANAGEMENT & ENTERPRISE SERVICES  
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**EQUIPMENT SPECIFICATION**

**78-01 Hvy Duty**

	<b><u>MINIMUM REQUIREMENTS</u></b>	<b><u>SUPPLIER'S PROPOSAL</u></b>
	<p>AND REINFORCING THE CIRCULAR ARC SHALL BE TWO (2) 4" X 4" X 1/2" ANGLES, 1/2" X 3-1/2", BARS, 1/2" X 4" BARS AND 1/2" X 10" CAP PLATES. TWO (2) 3/4" ANGLES WILL BE SO LOCATED TO ACT AS STRUCTURAL STOPS TO THE CORRESPONDING RUBBER BUMPERS THAT ARE ATTACHED TO THE 'A' FRAME AND THE TWO MEMBERS COME INTO CONTACT AT THE 35 DEGREE PLOW ANGLE. ATTACHED TO EACH END WILL BE PLATES OF 1/2" X 7" MATERIAL TO WHICH CARRYING DEVICES SUCH AS CAST SHOES OR CASTER WHEELS CAN BE BOLTED. THE LIFT CHAIN ASSEMBLY SHALL INCLUDE A ZINC PLATED 7/16" PROOF COIL CHAIN ALONG WITH A CAST STEEL CHAIN BLOCK TO HELP FACILITATE REVERSING THE PLOW FROM RIGHT TO LEFT.</p>	<hr/>
<b><u>'A' FRAME:</u></b>	<p>SHALL CONSIST OF TWO (2) 4" 0a 13.8# CAR CHANNEL AND ONE (1) 1-1/2" X 5" BAR. ADDITIONAL BRACING SHALL INCLUDE CROSS ANGLES OF AT LEAST 4" X 4" X 112" AND 4"X3"X1/2" WITH EXTRA STRENGTH PROVIDED BY ATLEAST FOUR (4) GUSSETS OF 1/2" X 5-1/2". THE TWO (2) REAR CHANNELS OF THE 'A' FRAME SHALL BE PROVIDED WITH HEAVY DUTY 1" THICK CAST STEEL ADJUSTABLE EARS FOR ATTACHMENT OF THE 'A' FRAME TO THE TRUCK HITCH BY MEANS OF 1-1/4" DIAMETER BOLTS. EAR SPACING SHALL BE 30 INCHES (OR AS SPECIFIED) TO CORRESPOND WITH THE EAR SPACING OF THE TRUCK HITCH.</p>	<hr/>
<b><u>HYDRAULIC REVERSING CYLINDERS:</u></b>	<p>SHALL CONSIST OF TWO (2) DOUBLE ACTING HYDRAULIC CYLINDERS OF AT LEAST 4" INSIDE DIAMETER WITH PISTON RODS OF AT LEAST 2" DIAMETER, AND A STROKE OF AT LEAST 20" CYLINDER</p>	

**OFFICE OF MANAGEMENT & ENTERPRISE SERVICES  
EXHIBIT 1**

**EQUIPMENT SPECIFICATION**

**78-01 Hvy Duty**

	<b><u>MINIMUM REQUIREMENTS</u></b>	<b><u>SUPPLIER'S PROPOSAL</u></b>
	<p>PISTON RODS TO BE TREATED WITH NITRO STEEL PROCESS TO HELP PREVENT RUSTING. CHROME PISTON RODS NOT ACCEPTABLE. THESE CYLINDERS SHALL BE CAPABLE OF REVERSING THE PLOW FROM 35 DEGREES RIGHT TO 35 DEGREES LEFT OR HOLD THE PLOW AT ANY ANGLE WITHIN THIS ARC. THE CYLINDER GEOMETRY AND COMPONENTS OF THE HYDRAULIC SYSTEM SHALL BE DESIGNED TO HOLD THE PLOW AT ANY DESIRED PLOWING ANGLE WITHOUT RECOURSE TO A LOCKING DEVICE, UNDER MAXIMUM LOAD, WITHOUT OVERLOADING RATED CAPACITIES. THE HYDRAULIC POWER SHALL BE SUFFICIENT TO CHANGE THE PLOWING ANGLE BY ANY AMOUNT WITHIN THE PREVIOUSLY MENTIONED LIMITS WHILE THE TRUCK IS IN MOTION, THE PLOW DOWN, AND PLOWING SNOW AT FULL CAPACITY.</p>	<hr/>
<p><b><u>MUSHROOM SHOE ASSEMBLY. STANDARD ON RH. PCB. PR2. &amp; PRT MODELS:</u></b></p>	<p>SKID SHOE ASSEMBLIES MUST BE OF THE HAND ADJUSTABLE TYPE, ENCLOSED AND FULLY LUBRICATED, WITH REPLACEABLE CHILLED CAST IRON SHOES, MUSHROOM SHAPED, AT LEAST 11" IN DIAMETER AND 2-1/2" THICK. THE ADJUSTMENT SHALL BE ACCOMPLISHED BY AN ACME THREADED SCREW, OPERATED BY A HAND CRANK WITH ROTATING KNOB WHICH SHALL BE SELFLOCKING AND SHALL OPERATE WITHOUT THE USE OF ANY TOOL.</p>	<hr/>
<p><b><u>LEVEL LIFT:</u></b></p>	<p>THE LEVEL-LIFT OPTION SHALL PROVIDE AN AUTOMATIC, MECHANICALLY ACTIVATED MECHANISM THAT WILL HOLD A RAISED PLOW MOLDBOARD EQUAL DISTANCE FROM THE 3ROUND TO THE BOTTOM OF THE CUTTING</p>	



**OFFICE OF MANAGEMENT & ENTERPRISE SERVICES  
EXHIBIT 1**

**EQUIPMENT SPECIFICATION**

**78-01 Hvy Duty**

	<b><u>MINIMUM REQUIREMENTS</u></b>	<b><u>SUPPLIER'S PROPOSAL</u></b>
	<p>EDGE. THE LEVEL-LIFT MECHANISM WILL HOLD AN EQUAL ELEVATION REGARDLESS OF HEIGHT RAISED ABOVE GROUND AND REGARDLESS OF MOLDBOARD PLOWING ANGLE, WHETHER FULL RIGHT, BULLDOZE, FULL LEFT, OR ANYWHERE IN BETWEEN. NOTE THAT MOLDBOARD PLOWING ANGLE CAN BE CHANGED TO ANY DESIRED POSITION MAINTAINING EQUAL ELEVATION WITHOUT FIRST LOWERING PLOW, CHANGING PLOWING ANGLE, AND THEN RE-LIFTING. SHALL BE PROVIDED WITH TWO (2) LIFTING CHAINS, 7/16" PROOF COIL CHAIN X 60" LONG.</p>	<hr/>
<b><u>HITCH:</u></b>	<p>TO BE ENGINEERED, DESIGNED AND BUILT BY A RECOGNIZED SNOW PLOW MANUFACTURER. THE SNOW PLOW HITCH PROVIDES SUPPORT FOR A VARIETY OF FRONT MOUNTED GEAR OR PISTON LOAD SENSING PUMPS. THE DESIGN WILL LIMIT THE AMOUNT OF FRONT OVERHANG TO A MINIMUM. A TRUCK FRAME EXTENSION IS NOT REQUIRED FOR THE MOUNTING OF THE HITCH. HEAVY FRONT FRAME HITCH OF MODULAR DESIGN SHALL ALLOW THE CAB HOOD TO TILT FORWARD A SUFFICIENT AMOUNT TO PROVIDE ENGINE ACCESS. SIDE PLATES WILL TRANSMIT PLOWING FORCES DIRECTLY TO THE TRUCK FRAME SIDE RAILS AND WILL CUSTOM FIT THE SPECIFIED YEAR, MAKE AND MODEL OF THE TRUCK. THE SIDE PLATES ARE CUSTOM FITTED 5/8" STEEL PLATE OF PROPER LENGTH AND CONSTRUCTION FOR HEAVY DUTY SERVICE AND SHALL PROVIDE ADEQUATE CLEARANCE FOR STEERING MECHANISMS AND SPRING SUSPENSIONS. SIDE PLATE MOUNTING ANGLES OR PLATES SHALL MOUNT FLUSH TO THE TRUCK FRAME FOR MAXIMUM</p>	

**OFFICE OF MANAGEMENT & ENTERPRISE SERVICES  
EXHIBIT 1**

**EQUIPMENT SPECIFICATION**

**78-01 Hvy Duty**

	<b><u>MINIMUM REQUIREMENTS</u></b>	<b><u>SUPPLEIR'S PROPOSAL</u></b>
	<p>STRENGTH. PIPE SPACERS ARE NOT ACCEPTABLE. THE FRONT SECTIONS OF THE HITCH ASSEMBLY: LIFT FRAME, CENTER SECTION AND THE LOWER PUSH PLATE SHALL ALL BE WELDED TO THE TWO VERTICAL TUBULAR SUPPORTS. THE TUBULAR SUPPORTS ARE TO BE CONSTRUCTED OF 4"X4" SQUARE TUBING X 1/2" THICK WALL. VERTICAL TUBULAR SUPPORTS TO BE A MINIMUM OF 45" TALL. THE CENTER PUSH SECTION TO BE BUILT OF 7" CHANNEL @ 19#/FT. WITH TWO 1/2"X2" FLAT BAR REINFORCEMENT BRACES. TWO 1/2"X3"X4" LIFT CYLINDER EARS TO BE WELDED TO THIS AND TO 1/2"X2-1/2" FLAT REINFORCEMENT BARS. BAR TO RUN FROM TUBE TO TUBE. THE HITCH LIFT BEAM SHALL CONSIST OF TWO 5/8" X 3" BARS, SECURED BY 10 GAUGE TOP CAP AND A MINIMUM OF THREE 1/2" X 3" SPACERS. THIS BEAM SHALL BE ASSEMBLED SO THE BEAM MAY DROP DOWN TO ALLOW FULL TILTING OF THE TRUCK HOOD WITHOUT ANY INTERFERENCE. PIVOT PINS SHALL BE 1" DIAMETER MINIMUM GRADE 5. IN THE DROP DOWN POSITION THE BEAM SHALL LAY IN A CUT OUT PORTION OF THE FRONT CHANNEL BUMPER. PROPER MOUNTING EARS SHALL BE PROVIDED TO ALLOW FOR A LOCK DOWN PIN TO LOCK THE BEAM TO THE FRONT CHANNEL BUMPER. IN THE DROP DOWN POSITION, THE LIFT CYLINDER SHALL BE SO POSITIONED THAT IF ACCIDENTALLY EXTENDED, WILL NOT CAUSE ANY DAMAGE TO THE HITCH OR TRUCK. THE LIFT RM SHALL ATTACH TO THE TOP ANGLE BY MEANS OF TWO 1" PINS HAVING AT LEAST 72,700 POUNDS OF TENSILE STRENGTH. THE MAIN CYLINDER AND PUMP STRUCTURAL SUPPORT SHALL BE AT LEAST A 6"X4"X3/8" ANGLE GUSSETED</p>	

**OFFICE OF MANAGEMENT & ENTERPRISE SERVICES  
EXHIBIT 1**

**EQUIPMENT SPECIFICATION**

**78-01 Hvy Duty**

	<b><u>MINIMUM REQUIREMENTS</u></b>	<b><u>SUPPLIER'S PROPOSAL</u></b>
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	<p>AND CONNECTED TO THE TWO VERTICAL TUBULAR SUPPORTS. THESE TUBULAR VERTICAL SUPPORTS WILL ATTACH TO THE CUSTOM SIDE PLATES. INCLUDED SHALL BE A MINIMUM OF A 4" DIAMETER HOLE TO ALLOW THE PUMP DRIVELINE TO PASS THROUGH TO CONNECT TO THE HYDRAULIC PUMP, EITHER GEAR TYPE OR PISTON LOAD SENSING. TWO BUMPER SUPPORT ANGLES SHALL BE WELDED TO THE MAIN ANGLE AND SHALL BE AT LEAST 6" X4"X3/8". A FRONT BUMPER SHALL BE INCLUDED AND MADE OF AT LEAST 8" @11.5# CHANNEL. THE LOWER PUSH PLATE MAIN MEMBER WILL BE A 10" @ 25# CAR CHANNEL REINFORCED WITH A 3" X 3" X 3/8" ANGLE AND WELDED TO THE VERTICAL TUBES. THE FOUR PLOW CONNECTING EARS SHALL HAVE THREE EQUALLY SPACED HEIGHT ATTACHING HOLES TO ACCEPT 1-1/4" DIAMETER HITCH PINS WITH HANDLES. THE EARS SHALL BE 1/2" X 3-1/2" AND SPACED ON 30" PUSH CENTERS. THE PLOW HOIST CYLINDER SHALL BE OF PREMIUM GRADE AND SHALL BE A DOUBLE ACTING 3" BOREX10" STROKE. THE PISTON ROD IS TO BE OF STEEL CONSTRUCTION TREATED WITH A NITRO STEEL PROCESS. THE RAM SLEEVE OR OUTER BARREL WILL BE SUCH THAT THE ROD PACKING MAY BE MAINTAINED OR REPLACED AS REQUIRED. A POSITIVE STOP MUST BE INCORPORATED THAT WILL HELP PREVENT MECHANICAL PRESSURE BEING APPLIED TO THE PACKING WHEN THE ROD IS FULLY EXTENDED. THE CYLINDER SHALL BE CAPABLE OF 14,137 POUNDS OF THRUST @ 2,000 PSI AND 16,000 POUNDS OF BURSTING PRESSURE @ 2,000 PSI. MINIMUM WEIGHT OF THE CYLINDER SHALL BE 28 POUNDS. PORTS TO BE 3/8". THE HITCH SHALL HAVE TWO 6"X4"X3/8"</p>	
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**OFFICE OF MANAGEMENT & ENTERPRISE SERVICES  
EXHIBIT 1**

**EQUIPMENT SPECIFICATION**

**78-01 Hvy Duty**

	<b><u>MINIMUM REQUIREMENTS</u></b>	<b><u>SUPPLIER'S PROPOSAL</u></b>
	ANGLES TO BE WELDED TO THE VERTICAL TUBES AND PROJECT OUTWARD TO MOUNT AN 8" @ 11.5# CHANNEL BUMPER. BUMPER TO PROTECT FRONT MOUNTED PUMP. THERE SHALL BE TWO EACH 1/2"X5"X13" LONG GUSSETS WELDED TO VERTICAL TUBES AND BUMPER MOUNTING ANGLE. THERE SHALL BE TWO EACH 1/2" X 5" X 5" LONG GUSSETS WELDED TO BOTTOM SIDE OF BUMPER MOUNTING ANGLE & VERTICAL TUBES. TOP ANGLE TO BE 4"X3"X1/2"X33-3/4" LONG. TOP ANGLE WELDS TO BOTH VERTICAL TUBES. WELDED TO TOP ANGLE WILL BE FOUR EACH 1/2"X3"X6-1/4" EARS FOR LIFT ARM.	

**PAINT:**

All exposed Metal shall be primed and painted with a protective Metal Primer; then painted Oklahoma Department of Transportation Yellow to comply with Federal Standard #595, Chrome Yellow Enamel #13432, DuPont #93-75306, School Bus Yellow or equal in color, shade and tone.

**INSPECTION AND DELIVERY OF EQUIPMENT TO COMPLY WITH  
SUPPLIER'S INSTRUCTION SHEET.**

**MANUALS & PARTS BOOKS:**

Supplier shall furnish one (1) Operators Instruction Manual for each plow. In addition, one (1) Parts Book and one (1) Illustrated Repair Manual shall be furnished to each Division purchasing one or more plows.

**SERVICE POLICY:**

Manufacturer's Standard Service Policy shall be furnished, complete and unaltered with each unit delivered.

**SPECIFICATIONS:**

Each supplier shall submit complete manufacturer's specification in duplicate and shall submit all other data to show that his proposal meets these specifications.

**OFFICE OF MANAGEMENT & ENTERPRISE SERVICES  
EXHIBIT 1**

**EQUIPMENT SPECIFICATION**

**78-01 Hvy Duty**

**SERVICE AND PARTS:**

Supplier shall furnish upon request, a list of established manufacturer's authorized locations within the State Of Oklahoma where an adequate stock of current parts and service are available.

**COMPLIANCE:**

Supplier shall furnish a statement in writing on the Bid, in the Supplier's Statement below, or by an attached letter stating the Equipment proposed strictly meets these Specifications. If not, he shall list each variation thereof.

SUPPLIER'S STATEMENT (EQUIPMENT PROPOSED COMPLIES): YES: \_\_\_\_\_ NO: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

**DEALER:** \_\_\_\_\_ **DATE:** \_\_\_\_\_

**SIGNATURE:** \_\_\_\_\_ **PHONE:** \_\_\_\_\_

**ADDRESS:** \_\_\_\_\_

\_\_\_\_\_

# KENNAMETAL CARBIDE TUNGSTEN INSERT SPECIFICATIONS 12010-20111

## Specifications for Carbide Insert Snow Plow Blades:

### A-Blade

1. Blade shall be (SAE 1020) flat steel (3/4" x 5"); (3/4" x 6"); (7/8" x 5") x (24"; 36"; 48"; 60"; 72") x (+0"4/16" length).
2. Punching shall be 11/16" round holes for (5/8") bolts; or 13/16" round holes for (3/4") bolts.
3. Location of holes shall be per customer's requirements.
4. Tolerance for hole spacings shall be (+/-) 1/16", non-accumulative, from center to center, across full length of blade.
5. The groove for the carbide inserts shall be milled in the center of blade edge.

### B - Carbide Inserts

1. The tungsten carbide insert shall be of trapezoidal design, with the following dimensions :  
Length: 1" nominal  
Width: .365" (+/-) .005"  
Height: .635" (+/-) .005"  
Bottom Angle: 25 degrees (+/-) 1 degree with nose radius of 1-1/6" minimum.  
Optional Insert Dimensions:  
Length: 1" nominal  
Width: .365" (+/-) .005"  
\*Height: .750" (+/-) .005"  
Bottom Angle: 25 degrees (+/-) 1 degree with nose radius of 1-1/16" minimum.
2. The inserts shall be a high shock WC grade of tungsten carbide with (11 to 12-1/2) percent cobalt content.  
Density: 14.1 Minimum to 14.6 Maximum  
Hardness: 87.5 Minimum to 89.0 Maximum RC. "A" Scale  
Transverse Rupture Strength (**P.S.I.**): **350,000 Minimum**  
Porosity: (Based on testing in accordance with ASTM designation B276-79)  
(A06 - BOO - COO)
3. The carbide insert manufacturer to furnish certification to customer that the inserts meet the specifications as set forth in B-2.
4. A Metallurgical evaluation of the carbide insert shall show no evidence of cross grade contamination. Evaluation to be based on a photomicrograph of a polished and etched specimen at 500X magnification.

### C - Braisin

1. The Carbide Inserts shall be brazed on all sides with sound brazing practice, having no evidence of voids, with minimum shear strength of 30,00 PSI. The filler material must not contain any cadmium.
2. The Carbide Inserts shall be placed in line within the milled groove. Spacing shall be no more than .010" between inserts the entire length of cutting edge.

### D - Finished Product

1. Complete snow plow blade lengths (24", 36", 48", 60", 72") shall consist of 1" length inserts determined by blade length (See: D-2).
2. Carbide tip point shall not exceed 1" length of Carbide Insert for each 1" length of blade section.
3. Finished blade shall comply with standard blade manufacturing tolerances.
4. Finished blade will be given one coat of rust resistant paint and marked with manufacturer's identification and date of manufacture. Front edge of blade will be marked to avoid improper mounting.
5. Manufacturer's literature or certifications showing physical properties of grade carbide proposed shall be furnished as required.

### E - Manufacturing In The USA

1. Product shall be manufactured entirely in the United States of America

# MHL SYSTEMS INTERLOCKING SNOW PLOW BLADES INCLUDING KENNAMETAL INC CARBIDE TUNGSTEN INSERT BLADES & SPECIFICATIONS

## WARRANTY & BREAKAGE GUARANTEE:

MHL Systems Warranty states that we guarantee all materials against breakage during the complete wear-life of the Snow Plow Blade. If any part of the (MAG/500) Interlocking material or any welded area breaks while there remains Carbide Tungsten Inserts to be worn, the blade will be replaced along with the adjacent blades which make up the entire length of the Snow Plow Blade. Example: Should one 4-ft MHL Interlocking Carbide Snow Plow Blade break which is a section of a 12-ft Snow Plow Blade consisting of three (3) pcs x 4-ft, MHL Systems will replace all three (3) Carbide Blades making up the 12-ft original Snow Plow Blade. This is an unconditional warranty which helps MHL Systems to stand alone as there are no other manufacturers using this Warranty policy.

1. All MHL Interlocking Snow Plow Blades must consist of Attached Kennametal Carbide Tungsten Insert Specifications. Length & Size to be Determined.
2. The Standard Interlocking Blades use an (MAG/500) Wear-Material that is (3/4") thick x 4" wide. It is positioned so that the abrasion-resistant Carbide Inserts receive maximum protection. The design prevents loss of the Carbide Inserts and Premature failure of the Carbide Blade.
3. A unique feature of our Interlocking Carbide Tungsten Insert Snow Plow Blades is the (MAG/500) can be produced with or without Embedded Carbide Casting. These are Casting segment> that are welded into areas of the (MAG/500) which provide additional Wear-life to the section where the blade with castings is installed.
4. The blades that use Embedded Carbide Castings can be positioned on the Snow Plow so that additional Wear=Life can be provided in any section of the Snow Plow. Therefore, a snow plow with a history of wearing more in a certain area can have the section with the Embedded Casting installed in that area to provide additional wear.
5. Because the top edge of the (MAG/500) Material is positioned above the top edge of the Carbide Inserts, all of the Carbide can be consumed in each blade throughout the entire length of the Snow Plow. There is less to throw away and waste is minimized when the blade is finally worn out.
6. Each 2-ft, 3-ft, 4-ft, **5-ft**, & 6-ft blade section is fabricated with (authentic & verified) Interlocking Joints that provide greater strength at the locations where the blades are joined together. This ensures the blade is uniformly strong throughout the entire length.
7. The "V-Grooves" for welding are provided for each blade. These also serve as "Wear-Indicators" and enable the operator or maintenance crew to see at a glance how much Carbide is left in each blade.
8. The 3-ft, 4-ft, **5-ft**, & 6-ft blades are either 5" or 6" wide and easy to handle when being installed or changed. The Plow Bolts used are also shorter than the Plow Bolts used in typical Carbide Blades with ordinary Impact Blades, requiring less labor and cost.

# KENNAMETAL CARBIDE TUNGSTEN INSERT SPECIFICATIONS 12010-20111

## Specifications for Carbide Insert Snow Plow Blades:

### A-Blade

1. Blade shall be (SAE 1020) flat steel (3/4" x 5"); (3/4" x 6"); (7/8" x 5") x (24"; 36"; 48"; 60"; 72") x (+0"4/16" length).
2. Punching shall be 11/16" round holes for (5/8") bolts; or 13/16" round holes for (3/4") bolts.
3. Location of holes shall be per customer's requirements.
4. Tolerance for hole spacings shall be (+/-) 1/16", non-accumulative, from center to center, across full length of blade.
5. The groove for the carbide inserts shall be milled in the center of blade edge.

### B - Carbide Inserts

1. The tungsten carbide insert shall be of trapezoidal design, with the following dimensions :  
Length: 1" nominal  
Width: .365" (+/-) .005"  
Height: .635" (+/-) .005"  
Bottom Angle: 25 degrees (+/-) 1 degree with nose radius of 1-1/6" minimum.  
Optional Insert Dimensions:  
Length: 1" nominal  
Width: .365" (+/-) .005"  
\*Height: .750" (+/-) .005"  
Bottom Angle: 25 degrees (+/-) 1 degree with nose radius of 1-1/16" minimum.
2. The inserts shall be a high shock WC grade of tungsten carbide with (11 to 12-1/2) percent cobalt content.  
Density: 14.1 Minimum to 14.6 Maximum  
Hardness: 87.5 Minimum to 89.0 Maximum RC. "A" Scale  
Transverse Rupture Strength (**P.S.I.**): **350,000 Minimum**  
Porosity: (Based on testing in accordance with ASTM designation B276-79)  
(A06 - BOO - COO)
3. The carbide insert manufacturer to furnish certification to customer that the inserts meet the specifications as set forth in B-2.
4. A Metallurgical evaluation of the carbide insert shall show no evidence of cross grade contamination. Evaluation to be based on a photomicrograph of a polished and etched specimen at 500X magnification.

### C - Braisin

1. The Carbide Inserts shall be brazed on all sides with sound brazing practice, having no evidence of voids, with minimum shear strength of 30,00 PSI. The filler material must not contain any cadmium.
2. The Carbide Inserts shall be placed in line within the milled groove. Spacing shall be no more than .010" between inserts the entire length of cutting edge.

### D - Finished Product

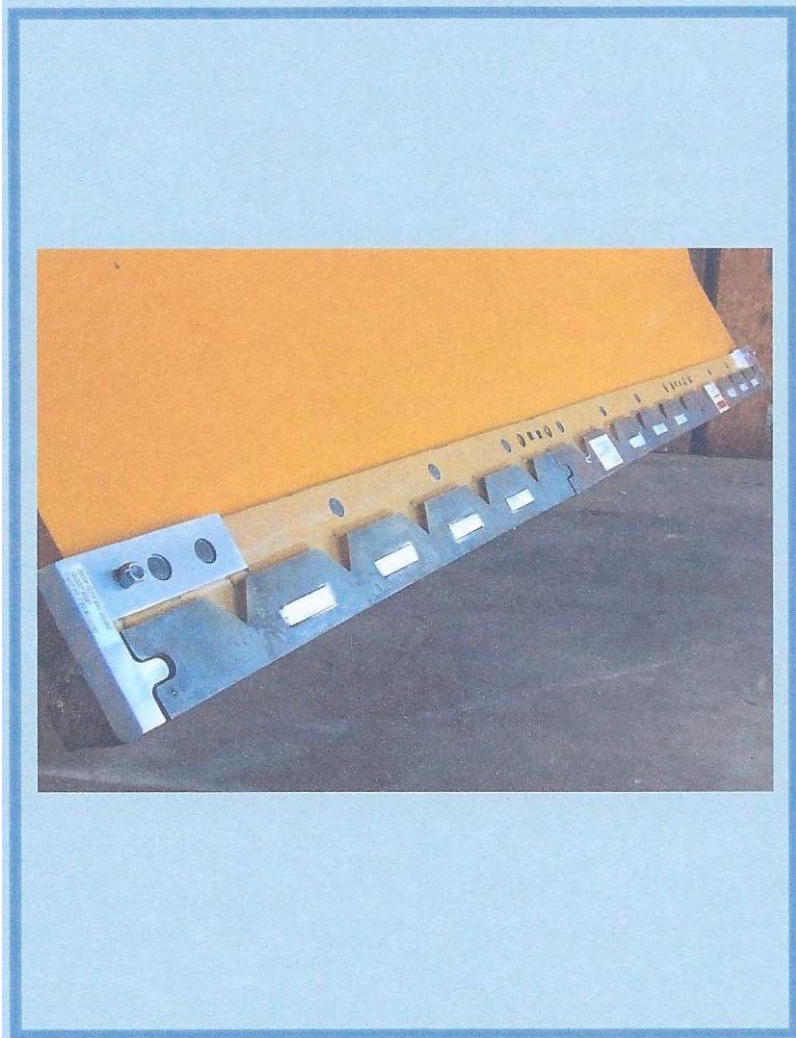
1. Complete snow plow blade lengths (24", 36", 48", 60", 72") shall consist of 1" length inserts determined by blade length (See: D-2).
2. Carbide tip point shall not exceed 1" length of Carbide Insert for each 1" length of blade section.
3. Finished blade shall comply with standard blade manufacturing tolerances.
4. Finished blade will be given one coat of rust resistant paint and marked with manufacturer's identification and date of manufacture. Front edge of blade will be marked to avoid improper mounting.
5. Manufacturer's literature or certifications showing physical properties of grade carbide proposed shall be furnished as required.

### E - Manufacturing In The USA

1. Product shall be manufactured entirely in the United States of America



**MHL Systems\*\*\*P.O. Box 71112**  
**SLC, UT 84171-1112\*\*\*\*\*Tele: 800-999-7517**

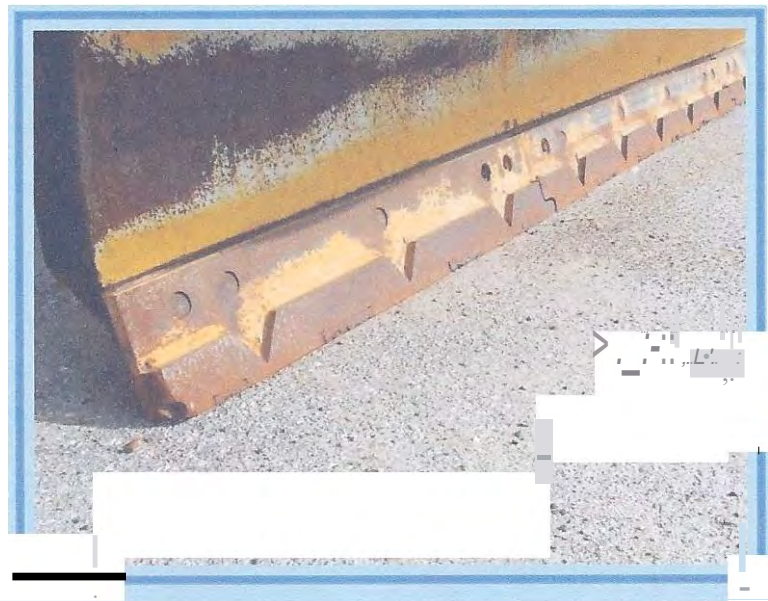


(Above): Left-Side (MAG-500) Carbide Casting End Guard with Maximum-Duty Attachment Bracket. End Guards are Manufactured with Various Degrees of Wear-Angle Depending on Customers Needs.

Above: Oklahoma Turnpike Authority (OTA) 12-ft MHL Interlocking (MAG/500) Snow Plow Blade with Right-End Guard

(Photo-Right):  
(OTA) 11-ft Interlocking (MAG/500) Carbide Insert Snow Plow Blade Installed in (2003).  
In Fall of (2006), this MHL Interlocking Carbide Insert Blade Still Had (25%) of the Total Wear-Life Left in the Blade System.

\*\*\*\*\*  
In January of (2007), (OTA) Determined that MEL Interlocking Carbide Tungsten Insert Blades Out-Lasted other Brands by [2:1] Margin.



\*\*\*\*\*

**OFFICE OF MANAGEMENT & ENTERPRISE SERVICES  
EXHIBIT 1**

**EQUIPMENT SPECIFICATION**

**15-3/4 ton**

**HEAVY DUTY SPREADER  
HOPPER TYPE  
FOR DUMP BED MOUNTING**

GENERAL: Completely self-contained, ultra durable spreader unit designed for ice and snow control. The design allows for use with salt, sand and other materials. The complete assembly mounts easily on pickup, dump and platform trucks making it ideal for municipalities, shopping malls, industries, hospitals and private contractors. This spreader must be completely assembled, serviced and ready to operate when it is installed in a State owned dump truck. **This spreader must be new and the manufacturer's latest current model complete with all standard accessories and warranty for the make and model indicated below.**

**For Comparison Only: Buyers 1400601SS Electric Powered Pintle chain & Spinner**

**FILL IN ALL SPACES SHOWING SPECIFIC INFORMATION.**

SUPPLIER'S PROPOSED SPREADER: MAKE: \_\_\_\_\_ MODEL: \_\_\_\_\_ BASE PRICE: \_\_\_\_\_

	<u><b>MINIMUM REQUIREMENTS</b></u>	<u><b>SUPPLIER'S PROPOSAL</b></u>
<u><b>HOPPER BODY:</b></u>	"V" Type Box, all Welded 304	_____
	113", approx. 1.8 cubic yards capacity	_____
<u><b>SECUREMENT:</b></u>	4 – 2" ratchet straps	_____
<u><b>DISCHARGE CHUTE:</b></u>	304 stainless steel, rearward end mounts. Adjustable height extension with SS bolts	_____
<u><b>COMPONENTS:</b></u>	All necessary hardware to be stainless steel	_____
<u><b>OVER-ALL-HEIGHT:</b></u>	33 " above truck bed floor	_____

**OFFICE OF MANAGEMENT & ENTERPRISE SERVICES  
EXHIBIT 1**

**EQUIPMENT SPECIFICATION**

**15-3/4 ton**

	<b><u>MINIMUM REQUIREMENTS</u></b>	<b><u>SUPPLIER'S PROPOSAL</u></b>
<b><u>OUTSIDE WIDTH:</u></b>	47" maximum	_____
<b><u>DRIVE MOTORS:</u></b>	Two ultra-quiet 12-volt DC direct-drive motors power the conveyor and spinner, and are encased in a heavy-duty housing. The wiring harness is constructed of 10-gauge automotive wire with non-combustible sheathing (-50°C to -105°C). An in-cab console features independent controls for the conveyor and spinner.	_____
<b><u>SILLS:</u></b>	304 stainless steel	_____
<b><u>FRONT &amp; REAR:</u></b>	Rollover lips	_____
<b><u>WIPERS:</u></b>	Front & rear required	_____
<b><u>CROSS SILLS:</u></b>	304 stainless steel welded to sills and side supports	_____
<b><u>SIDE SUPPORTS:</u></b>	304 stainless steel welded to sides, sills and cross sills	_____
<b><u>SIDES:</u></b>	304 stainless steel 45°	_____
<b><u>LIFTING LOOPS:</u></b>	4 each, 1 near each outside corner	_____
<b><u>FEED GATE ASSEMBLY:</u></b>	304 stainless steel Lever operated with a friction lock for	_____

**OFFICE OF MANAGEMENT & ENTERPRISE SERVICES  
EXHIBIT 1**

**EQUIPMENT SPECIFICATION**

**15-3/4 ton**

	<u><b>MINIMUM REQUIREMENTS</b></u>	<u><b>SUPPLIER'S PROPOSAL</b></u>
	accurate adjustment.	_____
<b>Feed Gate Opening</b>	Maximum 12" high by 18" wide	_____
<b>Controlled Spread</b>	From 2' to 30'	_____
<b>Disc</b>	An 11.5" polymer disc with four fins is connected to a 3/4" diameter shaft secured on the pillow block and motor bearing.	_____
<b>Screens:</b>	1/4" black powder coated steel top screen	_____
<u><b>Warranty:</b></u>	Manufacturer's standard with coverage complete on all components.	_____
<u><b>OPTION 1:</b></u> Installation	In the state of <u>Oklahoma</u> by a <u>qualified up fitter</u> .	\$_____
<u><b>OPTION 2:</b></u>	Variation to larger or smaller Spreader	%Off List_____
<u><b>OPTION 3:</b></u> _____	Different Hopper Material	%Off List
<u><b>OPTION 4:</b></u> _____	Gas Powered Units	%Off List

Total weight of this complete unit: **1000 lbs. (approximate)**

\_\_\_\_\_

**OFFICE OF MANAGEMENT & ENTERPRISE SERVICES  
EXHIBIT 1**

**EQUIPMENT SPECIFICATION**

**15-3/4 ton**

Supplier must furnish this unit complete with all components including necessary hardware, etc.

**NOTE:**

Inspection and/or correction of items listed on the inspection and pre-delivery form are considered a part of this specification; also considered part of selling dealer's new equipment preparation and handling cost, if he contracts the new equipment pre-delivery service inspection out to another authorized dealer, the selling dealer is still liable to all terms of the specification and purchase order except for those corrective operations previously established as eligible for warranty reimbursement according to the current warranty and policy procedure manual.

**Special Requirements:**

The supplier shall provide to the receiving division, factory spreader specifications and dimensions and request bed dimensions prior to ordering spreaders.

**PAINT:** (Non Stainless Components Only)

All exposed metal shall be Powder Coated.

Specify color used \_\_\_\_\_

**WARRANTY:** One Year / from date of delivery.

**SERVICE AND PARTS:**

Supplier shall furnish upon request, a list of established manufacturer's authorized locations within the State Of Oklahoma where an adequate stock of current parts and service are available.

**MANUALS AND PARTS BOOK:**

Supplier shall furnish one (1) Operators Instruction Manual for each machine. In addition, one (1) Parts Book and one (1) Repair manual shall be furnished to each Division purchasing one or more machines.

**SPECIFICATIONS:**

Each supplier shall submit complete manufacturer's specification in duplicate and shall submit all other data to show that his proposal meets these specifications.

**COMPLIANCE:**

Supplier shall furnish a statement in writing on the bid or by attached letter, and in the Supplier's Statement below, if his equipment proposed strictly meets these specifications. If not, he shall list each variation thereof.

SUPPLIER'S STATEMENT (EQUIPMENT PROPOSED COMPLIES): YES: \_\_\_\_\_ NO: \_\_\_\_\_

**OFFICE OF MANAGEMENT & ENTERPRISE SERVICES  
EXHIBIT 1**

**EQUIPMENT SPECIFICATION**

**15-3/4 ton**

DEALER: \_\_\_\_\_ PHONE: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

Please use a different sheet for each Brand and Model bid on.

**OFFICE OF MANAGEMENT & ENTERPRISE SERVICES  
EXHIBIT 1**

**EQUIPMENT SPECIFICATION**

**78-¾ Ton**

**SNOW PLOW  
FRONT MOUNTED REVERSIBLE  
WITH SAFETY TRIP  
¾ Ton & 1 Ton Trucks**

**GENERAL:** This snow plow shall be adequate for a single or dual axle truck and must be new and the manufacturer's latest current model complete with all standard accessories and warranty for the make and model indicated below.

**For Comparison Only: Buyers EX75 w/Plow Hitch, Truck Portion Hitch & Light Adapter**

**FILL IN ALL SPACES SHOWING SPECIFIC INFORMATION.**

SUPPLIER'S PROPOSED SNOW PLOW: MAKE: MODEL: Base Price: \$\_\_\_\_\_

	<u><b>MINIMUM REQUIREMENTS</b></u>	<u><b>SUPPLIER'S PROPOSAL</b></u>
<u><b>Plow:</b></u>	.105 gauge Stainless Steel Moldboard 31" x 7'6"	_____
		_____
	9 each 1/4" Laser cut steel ribs	_____
		_____
	Integral Snow shield	_____
		_____
	Blade size ½" x 6" x 7'6"	_____
		_____
	70% Attack angle/cutting width 78"	_____
		_____
	4 Stress-optimized trip springs	_____
		_____
	Plow Markers at each end	_____
		_____
	Covered power unit and hydraulics	_____

**OFFICE OF MANAGEMENT & ENTERPRISE SERVICES  
EXHIBIT 1**

**EQUIPMENT SPECIFICATION**

**78-¾ Ton**

	<b><u>MINIMUM REQUIREMENTS</u></b>	<b><u>SUPPLIER'S PROPOSAL</u></b>
<b><u>LIFT FRAME:</u></b>		
	Lift Arm - 35 degree travel provides exceptional snow stacking	_____
	Quick attach/detach mounting	_____
	powerful, dual beam halogen plow lights with secure double post mounts	_____
	Adjustable/removable jack stand	_____
	Contoured lift frame	_____
<b><u>TRUCK PORTION HITCH:</u></b>	End user will provide Make & Model of Vehicle to be installed on	_____
	When Plow removed lights and lift frame are <u>NOT</u> on truck	_____
<b><u>LIGHT ADAPTERS:</u></b>	End user will provide Make & Model of Vehicle to be installed on	_____
<b><u>CONTROLLER:</u></b>	Hand Held Remote control	_____
<b>Weight of Moldboard &amp; Lift frame</b>	745 lbs	_____
<b>Capacity:</b>	Adequate for 8500-10,000 lbs.,	



**OFFICE OF MANAGEMENT & ENTERPRISE SERVICES  
EXHIBIT 1**

**EQUIPMENT SPECIFICATION**

**78-¾ Ton**

	<b><u>MINIMUM REQUIREMENTS</u></b>	<b><u>SUPPLIER'S PROPOSAL</u></b>
	GVWR truck	_____
<b>Pushframe &amp; Hitch</b>	Show make	_____
	Show Model	_____
<b>Misc. Parts &amp; Instructions for Assembly &amp; Mounting</b>	Each snow plow unit must be complete with all necessary hardware, fittings and instructions with drawings for proper assembly and truck installation	_____
<b><u>OPTION 1:</u></b> Installation	In the state of Oklahoma by a qualified up fitter.	\$ _____
<b><u>OPTION 2:</u></b> Accessories or	Variation to larger or smaller plows	\$ _____

**PAINT:**

All exposed Metal shall be black powder coat unless it is Stainless

**INSPECTION AND DELIVERY OF EQUIPMENT TO COMPLY WITH SUPPLIER'S INSTRUCTION SHEET.**

**MANUALS & PARTS BOOKS:**

Supplier shall furnish one (1) Operators Instruction Manual for each plow. In addition, one (1) Parts Book and one (1) Illustrated Repair Manual shall be furnished to each Division purchasing one or more plows.

**SERVICE POLICY:**

Manufacturer's Standard Service Policy shall be furnished, complete and unaltered with each unit delivered.

**OFFICE OF MANAGEMENT & ENTERPRISE SERVICES  
EXHIBIT 1**

**EQUIPMENT SPECIFICATION**

**78-¾ Ton**

**SPECIFICATIONS:**

Each supplier shall submit complete manufacturer's specification in duplicate and shall submit all other data to show that his proposal meets these specifications.

**SERVICE AND PARTS:**

Supplier shall furnish upon request, a list of established manufacturer's authorized locations within the State Of Oklahoma where an adequate stock of current parts and service are available.

**COMPLIANCE:**

Supplier shall furnish a statement in writing on the Bid, in the Supplier's Statement below, or by an attached letter stating the Equipment proposed strictly meets these Specifications. If not, he shall list each variation thereof.

SUPPLIER'S STATEMENT (EQUIPMENT PROPOSED COMPLIES): YES: \_\_\_\_\_ NO: \_\_\_\_\_

DEALER: \_\_\_\_\_ DATE: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_ PHONE: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

\_\_\_\_\_

Please use a separate sheet for each brand and model bid.

**OFFICE OF MANAGEMENT & ENTERPRISE SERVICES  
EXHIBIT 1**

EQUIPMENT SPECIFICATION

Brine Maker

**Brine Maker**

GENERAL: This specification describes a Brine Making System is to be used in the making of Salt Brine used in snow and ice control operations.

**For Comparison Only: Varitech Industries Model SB600**

**FILL IN ALL SPACES SHOWING SPECIFIC INFORMATION.**

	<b><u>MINIMUM REQUIREMENTS</u></b>	<b><u>SUPPLIER'S PROPOSAL</u></b>
<b><u>Brine Maker</u></b>	<p><b>1.0 Scope:</b> This specification covers requirements for Salt Brine Production Systems (SBPS) intended for use as a generator of quality salt brine that is used as a prewetting, anti-icing, and/or a de-icing agent on pavement or roadways.</p> <p><b>2.0 Dimensions:</b> Model # SB600 - 62" W X 62" H X 119" Long</p> <p><b>3.0 Storage/Holding Capacity (U.S. Gallons):</b> Main Tank Hopper Tank Total Model SB600 600 800 1400 Rock Salt Holding Capacity (Cubic Yards) Model SB600 ..... 3.68</p> <p><b>4.0 Production Rate:</b> Model SB600... ..... 3600 Gallons Per Hour (Based on Customers Water Supply)</p> <p><b>5.0 Materials:</b> The salt brine production systems shall be comprised of rotationally molded, one-piece tanks. Rotationally molded polyethylene SBPS tanks shall be manufactured from a polyethylene compound that conforms to the following properties....Density- ASTM D-1505 .942 g/cm3</p>	<p>Comply_____</p> <p>Comply_____</p> <p>Comply_____</p> <p>Comply_____</p> <p>Comply_____</p> <p>Comply_____</p>

**OFFICE OF MANAGEMENT & ENTERPRISE SERVICES**  
**EXHIBIT 1**

EQUIPMENT SPECIFICATION

Brine Maker

Melt Index- ASTM D-1238 2.0 g/10min.  
Tensile Strength- ASTM D-638 2,700 PSI  
Flexural Modulus- ASTM D-790 103,000 PSI  
Low Temp Impact- ARM-Low Impact (1/4") 175 ft. lbs.

***Main Salt Brine Tank:***

Rotationally molded one piece (no welds, joints, or seams) polyethylene plastic tank- UV stabilized to provide protection from sunlight- 5/8" nominal thickness- Open floor with interior rib to prevent any type of tank bulging - Pitched bottom to lower sump area provides total drainage- 3" schedule 80 PVC drain pipe with threaded plug end

***Hopper/Rock Salt Tank:***

Rotationally molded one - piece (no welds, joints, or seams) polyethylene plastic tank-UV stabilized to provide protection from sunlight- 5/8" nominal thickness-Open floor (No interior floor ribs to hinder cleaning)- Pitched bottom to lower sump area provides total drainage- 6" schedule 80 PVC drain pipe with threaded plug end- Full length 1 1/2" PVC water in-feed manifold provides even filling and salt saturation

***Secondary Containment Tank:***

Rotationally molded one piece (no welds, joints, or seams) polyethylene plastic tank- UV stabilized to provide protection from sunlight- 5/8" nominal thickness- Self supporting, molded in vertical support ribs

**OFFICE OF MANAGEMENT & ENTERPRISE SERVICES**  
**EXHIBIT 1**

EQUIPMENT SPECIFICATION

Brine Maker

and 3" high skid bottoms  
provide easy forklift entry-  
Requires no complex saddling  
or support structures- 2-1" PVC  
threaded plug drain fittings-  
Minimum 110% containment  
capacity

**6.0 Plumbing and Plumbing  
Components:**

Epoxy coated cast iron effluent  
ejector pump- UL Listed -  
thermal overload protected, oil  
filled motor- 1/2 HP- 110 GPM  
at 0 head/ft. - 1 1/2" discharge -  
manually controlled by a 25'  
remote waterproof toggle  
switch. Water service piping is  
1 1/2" PVC throughout entire  
system- Water service is  
controlled by a 1 1/2" Glass  
filled polypropylene, non-  
electric hydraulic diaphragm  
valve- automatically controls  
the water infeed to the hopper  
tank and maintains the level of  
brine in the main tank.

- 1 1/2" PVC water infeed and  
salinity dilution ball valves- One  
piece sealed unit requires no  
adjustments- EPDM O-ring  
seals and Teflon seats.

- Plastic float valve controls  
water to the diaphragm valve-  
Non-hammering- Valve body is  
celcon plastic with Buna-N  
plunger.

- 2-3" Brine overflow pipes to fill  
main brine tank- 1 1/2" PVC  
salinity dilution piping  
connected to the overflow pipes  
provide fine-tuning of salinity  
percentage adjustments.

2-6" Round stainless steel  
overflow screens- #8 mesh

Comply\_\_\_\_\_

**OFFICE OF MANAGEMENT & ENTERPRISE SERVICES**  
**EXHIBIT 1**

EQUIPMENT SPECIFICATION

Brine Maker

1 1/2" glass filled polypropylene quick disconnect cam lock coupling from pump discharge.

**7.0 Electrical Service:**

Entire electrical service to SBPS is protected from hazardous shock through a 15 Amp, 110VAC Ground Fault Interrupter Circuit Receptacle with trip and reset- Enclosed in a waterproof outdoor service PVC plastic junction box and weatherproof plastic outlet cover. 25" 16/3 AWG outdoor, waterproof 15 Amp, 110VAC remote toggle switch to pump- Watertight plastic strain relief connectors on both ends of remote cable.

**8.0 Installation:**

Installation of SBPS is accomplished by connection to the 2" PVC threaded male end of the water infeed piping to customer supplied water service- Electrical connection is made by plugging in the power service cord equipped on the SBPS to the customer supplied, electrically adequate power supply- See instructions manual for detailed start-up, operational and maintenance information.

**8.0 Warranty:**

The unit shall be warranted for a period of 1 year from the date of purchase. The only exception to this would be the tank warranty, which would extend for a period of 2 years.

Comply\_\_\_\_\_

Comply\_\_\_\_\_

Comply\_\_\_\_\_

\$\_\_\_\_\_

**OPTION 1:**  
Automation

Upgrade to an automated unit in lieu of manual.

\$\_\_\_\_\_

**OFFICE OF MANAGEMENT & ENTERPRISE SERVICES  
EXHIBIT 1**

EQUIPMENT SPECIFICATION

Brine Maker

**OPTION 2:**

Accessories or

Variation to larger tank

List Price Less % Discount

\$\_\_\_\_\_

**NOTE:**

END USER WILL SUPPLY FOUNDATION, ELECTRICITY, AND WATER SUPPLY  
TO BE USED WITH BRINE MAKER

**INSPECTION AND DELIVERY OF EQUIPMENT MUST BE IN ACCORDANCE WITH  
SUPPLIER'S INSTRUCTION SHEET.**

**SPECIFICATIONS:**

Each Supplier shall submit complete Manufacturer's Specifications in duplicate and shall submit all other Data to show that his proposal meets these Specifications.

**PAINT:**

All exposed metal shall be Powder Coated or Stainless steel.

**PARTS:**

Supplier shall furnish upon request, a list of established manufacturer's authorized locations within the State Of Oklahoma where parts can be ordered.

**SERVICE POLICY:**

Manufacturer's Standard Service Policy shall be furnished, complete and unaltered, with each Unit delivered.

**MANUALS AND PARTS BOOKS:**

Supplier shall furnish one (1) Operator's Instruction Manual for each Spreader. In addition, one (1) Parts Book and one (1) Illustrated Repair Manual shall be furnished to each Division purchasing one or more spreaders.

**SUPPLIER SHALL FILL IN ALL SPACES UNDER SUPPLIER'S PROPOSAL.**

**OFFICE OF MANAGEMENT & ENTERPRISE SERVICES  
EXHIBIT 1**

EQUIPMENT SPECIFICATION

Brine Maker

**COMPLIANCE:**

Supplier shall furnish a statement in writing on the Bid or by attached letter and in the Supplier's Statement below if his Equipment proposed strictly meets these Specifications. If not, he shall list each variation thereof.

SUPPLIER'S STATEMENT (EQUIPMENT PROPOSED COMPLIES): YES: \_\_\_\_\_ NO: \_\_\_\_\_

DEALER: \_\_\_\_\_ PHONE: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_



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**OFFICE OF MANAGEMENT & ENTERPRISE SERVICES****EXHIBIT 1****EQUIPMENT SPECIFICATION****HIGH CARBON GRADER BLADE**

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High carbon blades steel producing the following analysis:

Carbon:	.80 - .93
Manganese	.60 - .90
Phosphorous:	.04 maximum
Sulfur:	.05 maximum
Silicon:	.35 maximum

<b><u>DESCRIPTION:</u></b>	<b><u>MINIMUM REQUIREMENTS</u></b>	<b><u>SUPPLIER'S PROPOSAL</u></b>
<b><u>Grader Blade:</u></b>	Standard punching, 5/8" x 8" curved double bevel, weight per ft 15.6 lb. (Specify lengths 6', 7', 8', 9')	<hr/>
<b><u>Grader Blade:</u></b>	Standard punching, 5/8" x 6" curved double bevel, weight per ft 11.7 lb. (Specify lengths 6', 7', 8', 9')	<hr/>
<b><u>Grader Blade:</u></b>	Standard punching, 3/4" x 8" curved double bevel, weight per ft 18.4 lb. (Specify lengths 6', 7', 8', 9')	<hr/>
<b><u>Snow Plow Blade:</u></b>	Standard punching, snow plow blades, 1/2" x 6" flat, square edged, weight per ft 10.27 lb. (Specify lengths 10', 11', 12')	<hr/>

**WARRANTY:** One Year / From Date of Delivery

**SPECIFICATIONS:**

Each Supplier shall submit complete manufacturer's specification in duplicate and shall submit all other data to show that his proposal meets these specifications.

**COMPLIANCE:**

Supplier Shall furnish a statement in writing on the Bid or by attached letter, and in the Supplier's Statement below, if his equipment proposed strictly meets these Specifications. If not, he shall list each variation therefrom.

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OFFICE OF MANAGEMENT & ENTERPRISE SERVICES

EXHIBIT 1

EQUIPMENT SPECIFICATIONS

HIGH CARBON

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**INSPECTION AND DELIVERY OF EQUIPMENT MUST COMPLY WITH  
SUPPLIER'S INSTRUCTION SHEET.**

**SPECIAL REQUIREMENTS:**

Supplier will provide at no additional cost a technical representative to instruct the receiving divisions in the proper care, maintenance, and operation of the machine.

**SUPPLIER'S STATEMENT:** (Equipment Proposed Complies:) **YES:**\_\_\_\_\_ **NO:**\_\_\_\_\_

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**DEALER:**\_\_\_\_\_ **DATE:**\_\_\_\_\_

**SIGNATURE:**\_\_\_\_\_ **PHONE:**\_\_\_\_\_

**ADDRESS:**\_\_\_\_\_

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OFFICE OF MANAGEMENT & ENTERPRISE SERVICES  
EXHIBIT 1

EQUIPMENT SPECIFICATIONS

GRADER BLADES

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**KENCOAT GRADER BLADES OR EQUAL**

**DESCRIPTION:**

**MINIMUM REQUIREMENTS**

**SUPPLIER'S PROPOSAL**

**Blade:**

Blade shall be 7/8" thick x 5" wide,  
flat hot-rolled finished steel to meet

or exceed specifications for 1040 type  
steels. The top edge of the blade to be  
beveled as per the attached diagram.  
The length of the blade will be either  
36" or 48" long as specified by the user.  
The tolerance on the length of the blade  
will be +0", -1/16" to insure the blades  
will fit on the grader moldboard when  
used in sets in combination with other  
blades

Punching shall be 11/16" square holes with  
holes with countersink to receive 5/8"  
diameter plow bolts. Hole punching  
to be "standard highway punched: (end  
2 holes on each end of blade on 3"  
centers and remaining holes 12" spaced  
center to center across the middle of the  
blade) as per the attached diagram.

The groove for the carbide inserts  
shall be milled in the center of the  
blade edge

Center of holes shall be in line within  
1/32" of established horizontal center-  
line and 1/16" of established vertical  
centerline

**TUNGSTEN CARBIDE INSERTS:**

The inserts shall be a high stock WC  
grade of tungsten carbide with (11 to 12 ½)  
percent cobalt content

Density: 14.1 Minimum to  
14.6 Maximum

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OFFICE OF MANAGEMENT & ENTERPRISE SERVICES

EXHIBIT 1  
GRADER BLADES

EQUIPMENT SPECIFICATIONS

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**DESCRIPTION:**

**MINIMUM REQUIREMENTS**

**SUPPLIER'S PROPOSAL**

Hardness: 87.0 Minimum to 89.0  
Maximum Rc. "A" Scale

\_\_\_\_\_

Transverse Rupture Strength  
(p.s.i.): 350,000 Minimum

\_\_\_\_\_

Porosity: (Based on testing in accordance  
with ASTM designation B276-79)

A06

\_\_\_\_\_

B02

\_\_\_\_\_

C00

\_\_\_\_\_

The inserts shall be a trapezoid  
design of the following dimensions:

Height: .635" +/- .005 (long side)

\_\_\_\_\_

Width: .365" +/- .010

\_\_\_\_\_

Length: 1" nominal

\_\_\_\_\_

Bottom Angle: 25 degrees with a  
nose radius of 1/16" minimum

\_\_\_\_\_

A metallurgical evaluation of the carbide insert shall show no evidence of cross grade contamination. Evaluation to be based on a photomicrograph of a polished and etched specimen at 500x magnification.

**BRAZING:**

The inserts shall be brazed securely in  
place along the entire length of the blade  
using an alloy type braze material and  
an induction brazing process \_\_\_\_\_

The tungsten carbide inserts shall be  
positioned in the milled groove at  
approximately .010 between the inserts  
the entire length of each cutting edge  
section \_\_\_\_\_

**OFFICE OF MANAGEMENT & ENTERPRISE SERVICES  
EXHIBIT 1**

**EQUIPMENT SPECIFICATIONS**

**GRADER BLADES**

**DESCRIPTION:**

**MINIMUM REQUIREMENTS**

**SUPPLIER'S PROPOSAL**

The inserts shall be brazed on all sides consistent with sound brazing practice with no evidence of voids or use of shims

Each blade section to contain one insert one inch nominal length for each inch of blade section length. Due to the thickness of the braze joints between inserts it may be necessary for several inserts to be slightly shorter or longer than the nominal 1" length to insure the carbide insert runs the entire length of the blade without protruding from the end of the steel body

**CARBIDE IMBEDDING:**

A protective layer of -10, +20 (mesh size) crushed carbide granules imbedded in a weld deposit shall be applied to the lower portion of the blade in front of the carbide inserts. The protective layer shall be a minimum of 1" wide and .188" thick (+/- .060")

**SPECIFIC REQUIREMENTS:**

The finished blade section shall be free of warpage and longitudinal deviation not to exceed 1/8" in a four-foot blade section

Each blade section shall be identified with manufacturer's identification stamp in an area of the blade not subjected to wear so that it will not be destroyed during the use of the blade

The finished blade sections shall have marking showing the front edge of the blade to avoid improper mounting

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**OFFICE OF MANAGEMENT & ENTERPRISE SERVICES  
EXHIBIT 1**

**EQUIPMENT SPECIFICATIONS**

**GRADER BLADES**

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**WARRANTY:** One Year from Date of Delivery

**SPECIFICATIONS:**

Each Supplier shall submit complete manufacturer's specification in duplicate and shall submit all other data to show that his proposal meets these specifications.

**COMPLIANCE:**

Supplier Shall furnish a statement in writing on the Bid or by attached letter, and in the Supplier's Statement below, if his equipment proposed strictly meets these Specifications. If not, he shall list each variation therefrom.

**INSPECTION AND DELIVERY OF EQUIPMENT MUST COMPLY WITH  
SUPPLIER'S INSTRUCTION SHEET.**

**SPECIAL REQUIREMENTS:**

Supplier will provide at no additional cost a technical representative to instruct the receiving divisions in the proper care, maintenance, and operation of the machine.

**SUPPLIER'S STATEMENT:** (Equipment Proposed Complies :) **YES:** \_\_\_\_\_ **NO:** \_\_\_\_\_

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**DEALER:** \_\_\_\_\_ **DATE:** \_\_\_\_\_

**SIGNATURE:** \_\_\_\_\_ **PHONE:** \_\_\_\_\_

**ADDRESS:** \_\_\_\_\_

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**OFFICE OF MANAGEMENT & ENTERPRISE SERVICES  
EXHIBIT 1**

**EQUIPMENT SPECIFICATIONS**

**GRADER CUTTING EDGES**

**KENNAMETAL GRADER CUTTING EDGES OR EQUAL**

<b><u>DESCRIPTION:</u></b>	<b><u>MINIMUM REQUIREMENTS</u></b>	<b><u>SUPPLIER'S PROPOSAL</u></b>
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**Blade:**

Blade shall be 7/8" thick x 5" wide, flat  
hot-rolled finished  
SAE 1040 steel or equal

Punching shall be 11/16" square holes  
with countersink to receive either 5/8" or  
3/4" diameter plow bolts as required.  
Location of holes to be in accordance  
with AASHTO standards for heavy duty  
punching

The groove for the carbide inserts  
shall be milled on the blade edge in  
accordance with attached drawing

Center of holes shall be in line within  
1/32" of established centerline

The tolerance on the length of the  
steel portion of the blade to be  
+0.0/-0.06"

**TUNGSTEN CARBIDE  
INSERTS:**

Face inserts to be grade  
SP341 formulated using  
Macrocrystalline type WC  
manufactured via the menstrum  
process and yielding a stoichiometric  
composition

**Face Insert Characteristics:**

Hardness of Face Inserts: 83.5 –  
85.0 Rockwell A  
Tranverse Rupture Strength:  
330,000 psi min.  
Density: 13.25 – 13.65 (grams/cm)

**OFFICE OF MANAGEMENT & ENTERPRISE SERVICES  
EXHIBIT 1**

**EQUIPMENT SPECIFICATIONS**

**GRADER CUTTING EDGES**

<b><u>DESCRIPTION:</u></b>	<b><u>MINIMUM REQUIREMENTS</u></b>	<b><u>SUPPLIER'S PROPOSAL</u></b>
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	Center Inserts to be a high shock WC grade of tungsten carbide with 11 to 12 ½ percent cobalt content	
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**CENTER INSERT CHARACTERISTICS:**

	Hardness: 87.5 – 89.0 Rockwell A Density: 14.1 – 14.6 (grams/cm) Transverse Rupture Strength: 350,000 psi min	
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**FACE INSERT DIMENSIONS:**

	Height: .745" +/- .005 Width: .310" +/- .010 Length: 2.0" Nominal	
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**CENTER INSERT DIMENSIONS:**

	Height: .635" +/- .005 (long side) Width: .365" +/- .010 Length: 1.0" Nominal Bottom Angle: 25 degrees with a nose radius of 1/16" min.	
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The carbide insert manufacturer to furnish certification to the requisitioning agency that face and center inserts meet all specifications as set forth.

**BRAZING:**

	Braze material shall be a high strength alloy type	
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	The inserts shall be brazed in place using induction brazing consistent with sound brazing practice with no evidence of voids in the braze joint	
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**WARRANTY:** One Year / From Date of Delivery



OFFICE OF MANAGEMENT & ENTERPRISE SERVICES  
EXHIBIT 1

EQUIPMENT SPECIFICATIONS

GRADER CUTTING EDGES

**SPECIFICATIONS:**

---

Each Supplier shall submit complete manufacturer's specification in duplicate and shall submit all other data to show that his proposal meets these specifications.

**COMPLIANCE:**

Supplier Shall furnish a statement in writing on the Bid or by attached letter, and in the Supplier's Statement below, if his equipment proposed strictly meets these Specifications. If not, he shall list each variation therefrom.

**INSPECTION AND DELIVERY OF EQUIPMENT MUST COMPLY WITH  
SUPPLIER'S INSTRUCTION SHEET.**

**SPECIAL REQUIREMENTS:**

Supplier will provide at no additional cost a technical representative to instruct the receiving divisions in the proper care, maintenance, and operation of the machine.

**SUPPLIER'S STATEMENT:** (Equipment Proposed Complies:) **YES:**\_\_\_\_\_ **NO:**\_\_\_\_\_

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**DEALER:**\_\_\_\_\_ **DATE:**\_\_\_\_\_

**SIGNATURE:**\_\_\_\_\_ **PHONE:**\_\_\_\_\_

**ADDRESS:**\_\_\_\_\_

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

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

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

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

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

**F.** Additional coverage required in writing in connection with a particular Acquisition.

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

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

## **9 Compliance with Applicable Laws**

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

- A.** Drug-Free Workplace Act of 1988 set forth at 41 U.S.C. §81.
- B.** Section 306 of the Clean Air Act, Section 508 of the Clean Water Act, Executive Order 11738, and Environmental Protection Agency Regulations which prohibit the use of facilities included on the EPA List of Violating Facilities under nonexempt federal contracts, grants or loans;
- C.** Prospective participant requirements set at 45 C.F.R. part 76 in connection with Debarment, Suspension and other responsibility matters;
- D.** 1964 Civil Rights Act, Title IX of the Education Amendment of 1972, Section 504 of the Rehabilitation Act of 1973, Americans with Disabilities Act of 1990, and Executive Orders 11246 and 11375;

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

**9.2** The Supplier's employees, agents and subcontractors shall adhere to applicable Customer policies including, but not limited to acceptable use of Internet and electronic mail, facility and data security, press releases, and public relations. As applicable, the Supplier shall adhere to the State Information Security Policy, Procedures, Guidelines set forth at [https://omes.ok.gov/sites/g/files/gmc316/f/InfoSecPPG\\_0.pdf](https://omes.ok.gov/sites/g/files/gmc316/f/InfoSecPPG_0.pdf). Supplier is responsible for reviewing and relaying such policies covering the above to the Supplier's employees, agents and subcontractors.

**9.3** At no additional cost to Customer, the Supplier shall maintain all applicable licenses and permits required in association with its obligations under the Contract.

- 9.4** In addition to compliance under subsection 9.1 above, Supplier shall have a continuing obligation to comply with applicable Customer-specific mandatory contract provisions required in connection with the receipt of federal funds or other funding source.
- 9.5** The Supplier is responsible to review and inform its employees, agents, and subcontractors who provide a product or perform a service under the Contract of the Supplier's obligations under the Contract and Supplier certifies that its employees and each such subcontractor shall comply with minimum requirements and applicable provisions of the Contract. At the request of the State, Supplier shall promptly provide adequate evidence that such persons are its employees, agents or approved subcontractors and have been informed of their obligations under the Contract.
- 9.6** As applicable, Supplier agrees to comply with the Governor's Executive Orders related to the use of any tobacco product, electronic cigarette or vaping device on any and all properties owned, leased, or contracted for use by the State, including but not limited to all buildings, land and vehicles owned, leased, or contracted for use by agencies or instrumentalities of the State.
- 9.7** The execution, delivery and performance of the Contract and any ancillary documents by Supplier will not, to the best of Supplier's knowledge, violate, conflict with, or result in a breach of any provision of, or constitute a default (or an event which, with notice or lapse of time or both, would constitute a default) under, or result in the termination of, any written contract or other instrument between Supplier and any third party.
- 9.8** Supplier represents that it has the ability to pay its debts when due and it does not anticipate the filing of a voluntary or involuntary bankruptcy petition or appointment of a receiver, liquidator or trustee.
- 9.9** Supplier represents that, to the best of its knowledge, any litigation or claim or any threat thereof involving Supplier has been disclosed in writing to the State and Supplier is not aware of any other litigation, claim or threat thereof.
- 9.10** If services provided by Supplier include delivery of an electronic communication, Supplier shall ensure such communication and any associated support documents are compliant with Section 508 of the Federal Rehabilitation Act and with State standards regarding accessibility. Should any communication or associated support documents be non-compliant, Supplier shall correct and re-deliver such communication immediately upon discovery or notice, at no additional cost to the State. Additionally, as part of compliance with accessibility requirements where documents are only provided in non-electronic format, Supplier shall promptly provide such

communication and any associated support documents in an alternate format usable by individuals with disabilities upon request and at no additional cost, which may originate from an intended recipient or from the State.

## **10 Audits and Records Clause**

- 10.1** As used in this clause and pursuant to 67 O.S. §203, “record” includes a document, book, paper, photograph, microfilm, computer tape, disk, record, sound recording, film recording, video record, accounting procedures and practices, and other data, regardless of type and regardless of whether such items are in written form, in the form of computer data, or in any other form. Supplier agrees any pertinent federal or State agency or governing entity of a Customer shall have the right to examine and audit, at no additional cost to a Customer, all records relevant to the execution and performance of the Contract except, unless otherwise agreed, costs of Supplier that comprise pricing under the Contract.
- 10.2** The Supplier is required to retain records relative to the Contract for the duration of the Contract and for a period of seven (7) years following completion or termination of an Acquisition unless otherwise indicated in the Contract terms. If a claim, audit, litigation or other action involving such records is started before the end of the seven-year period, the records are required to be maintained for two (2) years from the date that all issues arising out of the action are resolved, or until the end of the seven (7) year retention period, whichever is later.
- 10.3** Pursuant to 74 O.S. §85.41, if professional services are provided hereunder, all items of the Supplier that relate to the professional services are subject to examination by the State agency, State Auditor and Inspector and the State Purchasing Director.

## **11 Confidentiality**

- 11.1** The Supplier shall maintain strict security of all State and citizen data and records entrusted to it or to which the Supplier gains access, in accordance with and subject to applicable federal and State laws, rules, regulations, and policies and shall use any such data and records only as necessary for Supplier to perform its obligations under the Contract. The Supplier further agrees to evidence such confidentiality obligation in a separate writing if required under such applicable federal or State laws, rules and regulations. The Supplier warrants and represents that such information shall not be sold, assigned, conveyed, provided, released, disseminated or otherwise disclosed by Supplier, its employees, officers, directors, subsidiaries, affiliates, agents, representatives, assigns, subcontractors, independent contractors, successor or

any other persons or entities without Customer's prior express written permission. Supplier shall instruct all such persons and entities that the confidential information shall not be disclosed or used without the Customer's prior express written approval except as necessary for Supplier to render services under the Contract. The Supplier further warrants that it has a tested and proven system in effect designed to protect all confidential information.

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

company, subsidiaries, employees, officers, directors, assignees, agents, representatives, independent contractors, and subcontractors improperly use, appropriate, sell, assign, convey, provide, release, access, acquire, disclose or otherwise disseminate such confidential information to any person or entity in violation of the Contract, the Customer will immediately be entitled to injunctive relief and/or any other rights or remedies available under this Contract, at equity or pursuant to applicable statutory, regulatory, and common law without a cure period.

- 11.6** The Supplier shall immediately forward to the State Purchasing Director, and any other applicable person listed in the Notices section(s) of the Contract, any request by a third party for data or records in the possession of the Supplier or any subcontractor or to which the Supplier or subcontractor has access and Supplier shall fully cooperate with all efforts to protect the security and confidentiality of such data or records in response to a third party request.
- 11.7** Customer may be provided access to Supplier Confidential Information. State agencies are subject to the Oklahoma Open Records Act and Supplier acknowledges information marked confidential information will be disclosed to the extent permitted under the Open Records Act and in accordance with this section. Nothing herein is intended to waive the State Purchasing Director's authority under OAC 260:115-3-9 in connection with Bid information requested to be held confidential by a Bidder. Notwithstanding the foregoing, Supplier Confidential Information shall not include information that: (i) is or becomes generally known or available by public disclosure, commercial use or otherwise and is not in contravention of this Contract; (ii) is known and has been reduced to tangible form by the receiving party before the time of disclosure for the first time under this Contract and without other obligations of confidentiality; (iii) is independently developed without the use of any of Supplier Confidential Information; (iv) is lawfully obtained from a third party (without any confidentiality obligation) who has the right to make such disclosure or (v) résumé, pricing or marketing materials provided to the State. In addition, the obligations in this section shall not apply to the extent that the applicable law or regulation requires disclosure of Supplier Confidential Information, provided that the Customer provides reasonable written notice, pursuant to Contract notice provisions, to the Supplier so that the Supplier may promptly seek a protective order or other appropriate remedy.

## **12 Conflict of Interest**

In addition to any requirement of law or of a professional code of ethics or conduct, the Supplier, its employees, agents and subcontractors are required to disclose any outside activity or interest that conflicts or may conflict with the best interest of the



State. Prompt disclosure is required under this section if the activity or interest is related, directly or indirectly, to any person or entity currently under contract with or seeking to do business with the State, its employees or any other third-party individual or entity awarded a contract with the State. Further, as long as the Supplier has an obligation under the Contract, any plan, preparation or engagement in any such activity or interest shall not occur without prior written approval of the State. Any conflict of interest shall, at the sole discretion of the State, be grounds for partial or whole termination of the Contract.

### **13 Assignment and Permitted Subcontractors**

- 13.1** Supplier's obligations under the Contract may not be assigned or transferred to any other person or entity without the prior written consent of the State which may be withheld at the State's sole discretion. Should Supplier assign its rights to payment, in whole or in part, under the Contract, Supplier shall provide the State and all affected Customers with written notice of the assignment. Such written notice shall be delivered timely and contain details sufficient for affected Customers to perform payment obligations without any delay caused by the assignment.
- 13.2** Notwithstanding the foregoing, the Contract may be assigned by Supplier to any corporation or other entity in connection with a merger, consolidation, sale of all equity interests of the Supplier, or a sale of all or substantially all of the assets of the Supplier to which the Contract relates. In any such case, said corporation or other entity shall by operation of law or expressly in writing assume all obligations of the Supplier as fully as if it had been originally made a party to the Contract. Supplier shall give the State and all affected Customers prior written notice of said assignment. Any assignment or delegation in violation of this subsection shall be void.
- 13.3** If the Supplier is permitted to utilize subcontractors in support of the Contract, the Supplier shall remain solely responsible for its obligations under the terms of the Contract, for its actions and omissions and those of its agents, employees and subcontractors and for payments to such persons or entities. Prior to a subcontractor being utilized by the Supplier, the Supplier shall obtain written approval of the State of such subcontractor and each employee, as applicable to a particular Acquisition, of such subcontractor proposed for use by the Supplier. Such approval is within the sole discretion of the State. Any proposed subcontractor shall be identified by entity name, and by employee name, if required by the particular Acquisition, in the applicable proposal and shall include the nature of the services to be performed. As part of the approval request, the Supplier shall provide a copy of a written agreement executed by the Supplier and subcontractor setting forth that such subcontractor is bound

by and agrees, as applicable, to perform the same covenants and be subject to the same conditions and make identical certifications to the same facts and criteria, as the Supplier under the terms of all applicable Contract Documents. Supplier agrees that maintaining such agreement with any subcontractor and obtaining prior written approval by the State of any subcontractor and associated employees shall be a continuing obligation. The State further reserves the right to revoke approval of a subcontractor or an employee thereof in instances of poor performance, misconduct or for other similar reasons.

**13.4** All payments under the Contract shall be made directly to the Supplier, except as provided in subsection A above regarding the Supplier's assignment of payment. No payment shall be made to the Supplier for performance by unapproved or disapproved employees of the Supplier or a subcontractor.

**13.5** Rights and obligations of the State or a Customer under the terms of this Contract may be assigned or transferred, at no additional cost, to other Customer entities.

## **14 Background Checks and Criminal History Investigations**

Prior to the commencement of any services, background checks and criminal history investigations of the Supplier's employees and subcontractors who will be providing services may be required and, if so, the required information shall be provided to the State in a timely manner. Supplier's access to facilities, data and information may be withheld prior to completion of background verification acceptable to the State. The costs of additional background checks beyond Supplier's normal hiring practices shall be the responsibility of the Customer unless such additional background checks are required solely because Supplier will not provide results of its otherwise acceptable normal background checks; in such an instance, Supplier shall pay for the additional background checks. Supplier will coordinate with the State and its employees to complete the necessary background checks and criminal history investigations. Should any employee or subcontractor of the Supplier who will be providing services under the Contract not be acceptable as a result of the background check or criminal history investigation, the Customer may require replacement of the employee or subcontractor in question and, if no suitable replacement is made within a reasonable time, terminate the purchase order or other payment mechanism associated with the project or services.

## **15 Patents and Copyrights**

Without exception, a product or deliverable price shall include all royalties or costs owed by the Supplier to any third party arising from the use of a patent, intellectual property, copyright or other property right held by such third party. Should any third party threaten or make a claim that any portion of a product or service provided by

Supplier under the Contract infringes that party's patent, intellectual property, copyright or other property right, Supplier shall enable each affected Customer to legally continue to use, or modify for use, the portion of the product or service at issue or replace such potentially infringing product, or re-perform or redeliver in the case of a service, with at least a functional non-infringing equivalent. Supplier's duty under this section shall extend to include any other product or service rendered materially unusable as intended due to replacement or modification of the product or service at issue. If the Supplier determines that none of these alternatives are reasonably available, the State shall return such portion of the product or deliverable at issue to the Supplier, upon written request, in exchange for a refund of the price paid for such returned goods as well as a refund or reimbursement, if applicable, of the cost of any other product or deliverable rendered materially unusable as intended due to removal of the portion of product or deliverable at issue. Any remedy provided under this section is not an exclusive remedy and is not intended to operate as a waiver of legal or equitable remedies because of acceptance of relief provided by Supplier.

## **16 Indemnification**

### **16.1 Acts or Omissions**

- A.** Supplier shall defend and indemnify the Indemnified Parties, as applicable, for any and all liability, claims, damages, losses, costs, expenses, demands, suits and actions of third parties (including without limitation reasonable attorneys' fees and costs required to establish the right to indemnification) arising out of, or resulting from any action or claim for bodily injury, death, or property damage brought against any of the Indemnified parties to the extent arising from any negligent act or omission or willful misconduct of the Supplier or its agents, employees, or subcontractors in the execution or performance of the Contract.
- B.** To the extent Supplier is found liable for loss, damage, or destruction of any property of Customer due to negligence, misconduct, wrongful act, or omission on the part of the Supplier, its employees, agents, representatives, or subcontractors, the Supplier and Customer shall use best efforts to mutually negotiate an equitable settlement amount to repair or replace the property unless such loss, damage or destruction is of such a magnitude that repair or replacement is not a reasonable option. Such amount shall be invoiced to, and is payable by, Supplier sixty (60) calendar days after the date of Supplier's receipt of an invoice for the negotiated settlement amount.

### **16.2 Infringement**

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

### **16.3 Notice and Cooperation**

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

### **16.4 Coordination of Defense**

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

participate in any proceeding related to the indemnity obligation under the Contract and shall remain responsible to indemnify the applicable Indemnified Parties.

#### **16.5 Limitation of Liability**

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

### **17 Termination for Funding Insufficiency**

- 17.1** Notwithstanding anything to the contrary in any Contract Document, the State may terminate the Contract in whole or in part if funds sufficient to pay obligations under the Contract are not appropriated or received from an intended third-party funding source. In the event of such insufficiency, Supplier will be provided at least fifteen (15) calendar days' written notice of termination. Any partial termination of the Contract under this section shall not be construed as a waiver of, and shall not affect, the rights and obligations of any party regarding portions of the Contract that are not terminated. The determination by the State of insufficient funding shall be accepted by, and shall be final and binding on, the Supplier.

- 17.2** Upon receipt of notice of a termination, Supplier shall immediately comply with the notice terms and take all necessary steps to minimize the incurrence of costs allocable to the work affected by the notice. If a purchase order or other payment mechanism has been issued and a product or service has been accepted as satisfactory prior to the effective date of termination, the termination does not relieve an obligation to pay for the product or service but there shall not be any liability for further payments ordinarily due under the Contract or for any damages or other amounts caused by or associated with such termination. Any amount paid to Supplier in the form of prepaid fees that are unused when the Contractor certain obligations are terminated shall be refunded.
- 17.3** The State's exercise of its right to terminate the Contract under this section shall not be considered a default or breach under the Contract or relieve the Supplier of any liability for claims arising under the Contract.

## **18 Termination for Cause**

- 18.1** Supplier may terminate the Contract if (i) it has provided the State with written notice of material breach and (ii) the State fails to cure such material breach within thirty (30) days of receipt of written notice. If there is more than one Customer, material breach by a Customer does not give rise to a claim of material breach as grounds for termination by Supplier of the Contract as a whole. The State may terminate the Contract in whole or in part if (i) it has provided Supplier with written notice of material breach, and (ii) Supplier fails to cure such material breach within thirty (30) days of receipt of written notice. Any partial termination of the Contract under this section shall not be construed as a waiver of, and shall not affect, the rights and obligations of any party regarding portions of the Contract that are not terminated.
- 18.2** The State may terminate the Contract in whole or in part immediately without a thirty (30) day written notice to Supplier if (i) Supplier fails to comply with confidentiality, privacy, security, environmental or safety requirements applicable to Supplier's performance or obligations under the Contract; (ii) Supplier's material breach is reasonably determined to be an impediment to the function of the State and detrimental to the State or to cause a condition precluding the thirty (30) day notice or (iii) when the State determines that an administrative error in connection with award of the Contract occurred prior to Contract performance.
- 18.3** Upon receipt of notice of a termination, Supplier shall immediately comply with the notice terms and take all necessary steps to minimize the incurrence

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

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

## **19 Termination for Convenience**

**19.1** The State may terminate the Contract, in whole or in part, for convenience if it is determined that termination is in the State's best interest. In the event of a termination for convenience, Supplier will be provided at least thirty (30) days' written notice of termination. Any partial termination of the Contract shall not be construed as a waiver of, and shall not affect, the rights and obligations of any party regarding portions of the Contract that remain in effect.

**19.2** Upon receipt of notice of such termination, Supplier shall immediately comply with the notice terms and take all necessary steps to minimize the incurrence of costs allocable to the work affected by the notice. If a purchase order or other payment mechanism has been issued and a product or service has been accepted as satisfactory prior to the effective date of termination, the termination does not relieve an obligation to pay for the product or service but

there shall not be any liability for further payments ordinarily due under the Contract or for any damages or other amounts caused by or associated with such termination. Such termination shall not be an exclusive remedy but shall be in addition to any other rights and remedies provided for by law. Any amount paid to Supplier in the form of prepaid fees that are unused when the Contract or certain obligations are terminated shall be refunded. Termination of the Contract under this section, in whole or in part, shall not relieve the Supplier of liability for claims arising under the Contract.

## **20 Suspension of Supplier**

- 20.1** Supplier may be subject to Suspension without advance notice and may additionally be suspended from activities under the Contract if Supplier fails to comply with confidentiality, privacy, security, environmental or safety requirements applicable to Supplier's performance or obligations under the Contract.
- 20.2** Upon receipt of a notice pursuant to this section, Supplier shall immediately comply with the notice terms and take all necessary steps to minimize the incurrence of costs allocable to the work affected by the notice. If a purchase order or other payment mechanism has been issued and a product or service has been accepted as satisfactory prior to receipt of notice by Supplier, the Suspension does not relieve an obligation to pay for the product or service but there shall not be any liability for further payments ordinarily due under the Contract during a period of Suspension or suspended activity or for any damages or other amounts caused by or associated with such Suspension or suspended activity. A right exercised under this section shall not be an exclusive remedy but shall be in addition to any other rights and remedies provided for by law. Any amount paid to Supplier in the form of prepaid fees attributable to a period of Suspension or suspended activity shall be refunded.
- 20.3** Such Suspension may be removed, or suspended activity may resume, at the earlier of such time as a formal notice is issued that authorizes the resumption of performance under the Contract or at such time as a purchase order or other appropriate encumbrance document is issued. This subsection is not intended to operate as an affirmative statement that such resumption will occur.

## **21 Certification Regarding Debarment, Suspension, and Other Responsibility Matters**

The certification made by Supplier with respect to Debarment, Suspension, certain indictments, convictions, civil judgments and terminated public contracts is a material representation of fact upon which reliance was placed when entering into the Contract.



A determination that Supplier knowingly rendered an erroneous certification, in addition to other available remedies, may result in whole or partial termination of the Contract for Supplier's default. Additionally, Supplier shall promptly provide written notice to the State Purchasing Director if the certification becomes erroneous due to changed circumstances.

## **22 Certification Regarding State Employees Prohibition From Fulfilling Services**

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

## **23 Force Majeure**

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

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

**23.3** Notwithstanding the foregoing or any other provision in the Contract, (i) the following are not a force majeure event under the Contract: (a) shutdowns, disruptions or malfunctions in Supplier's system or any of Supplier's telecommunication or internet services other than as a result of general and widespread internet or telecommunications failures that are not limited to Supplier's systems or (b) the delay or failure of Supplier or subcontractor personnel to perform any obligation of Supplier hereunder unless such delay

or failure to perform is itself by reason of a force majeure event and (ii) no force majeure event modifies or excuses Supplier's obligations related to confidentiality, indemnification, data security or breach notification obligations set forth herein.

## **24 Security of Property and Personnel**

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

## **25 Notices**

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

### **If sent to the State:**

State Purchasing Director  
2401 North Lincoln Boulevard, Suite 116  
Oklahoma City, Oklahoma 73105

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

Purchasing Division Deputy General Counsel  
2401 North Lincoln Boulevard, Suite 116  
Oklahoma City, Oklahoma 73105

## **26 Miscellaneous**

### **26.1 Choice of Law and Venue**

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

#### **26.2 No Guarantee of Products or Services Required**

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

#### **26.3 Employment Relationship**

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

#### **26.4 Transition Services**

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

#### **26.5 Publicity**

The existence of the Contract or any Acquisition is in no way an endorsement of Supplier, the products or services and shall not be so construed by Supplier in any advertising or publicity materials. Supplier agrees to submit to the State all advertising, sales, promotion, and other publicity matters relating to the Contract wherein the name of the State or any Customer is mentioned or language used from which, in the State's judgment, an endorsement may be inferred or implied. Supplier further agrees not to publish or use such advertising, sales promotion, or publicity matter or release any informational pamphlets, notices, press releases, research reports, or similar public notices concerning the Contract or any Acquisition hereunder without obtaining the prior written approval of the State.

## **26.6 Open Records Act**

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

## **26.7 Failure to Enforce**

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

## **26.8 Mutual Responsibilities**

- A.** No party to the Contract grants the other the right to use any trademarks, trade names, other designations in any promotion or publication without the express written consent by the other party.
- B.** The Contract is a non-exclusive contract and each party is free to enter into similar agreements with others.
- C.** The Customer and Supplier each grant the other only the licenses and rights specified in the Contract and all other rights and interests are expressly reserved.
- D.** The Customer and Supplier shall reasonably cooperate with each other and any Supplier to which the provision of a product and/or service under the Contract may be transitioned after termination or expiration of the Contract.
- E.** Except as otherwise set forth herein, where approval, acceptance, consent, or similar action by a party is required under the Contract, such action shall not be unreasonably delayed or withheld.

## **26.9 Invalid Term or Condition**

To the extent any term or condition in the Contract conflicts with a compulsory applicable State or United States law or regulation, such Contract term or

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

#### **26.10 Severability**

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

#### **26.11 Section Headings**

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

#### **26.12 Sovereign Immunity**

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

#### **26.13 Survival**

As applicable, performance under all license, subscription, service agreements, statements of work, transition plans and other similar Contract Documents entered into between the parties under the terms of the Contract shall survive Contract expiration. Additionally, rights and obligations under the Contract which by their nature should survive including, without limitation, certain payment obligations invoiced prior to expiration or termination; confidentiality obligations; security incident and data breach obligations and indemnification obligations, remain in effect after expiration or termination of the Contract.

#### **26.14 Entire Agreement**

The Contract Documents taken together as a whole constitute the entire agreement between the parties. No statement, promise, condition,

understanding, inducement or representation, oral or written, expressed or implied, which is not contained in a Contract Document shall be binding or valid. The Supplier's representations and certifications, including any completed electronically, are incorporated by reference into the Contract.

#### **26.15 Gratuities**

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

#### **26.16 Import/Export Controls**

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

## **ATTACHMENT C**

### **OKLAHOMA STATEWIDE CONTRACT TERMS**

#### **1. Statewide Contract Type**

- 1.1** The Contract is a mandatory 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.

#### **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 Acquisitions under a statewide contract. The payment of such fee will be calculated for all Acquisitions, 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, Acquisitions that occur under the terms of the statewide contract are subject to a one percent (1%) contract management fee to be paid by Supplier. Supplier shall submit a Contract Usage Report on a quarterly basis for each contract using a form provided by the State and such report shall include applicable information for each transaction. Reports shall include usage of the statewide contract by every Customer during the applicable quarter. A singular report provided late will not be considered a breach of the statewide contract; provided,



however, repeated failure to submit accurate quarterly usage reports and submit timely payments may result in suspension or termination, in whole or in part, of the Contract.

**6.3** All Contract Usage Reports shall meet the following criteria:

- i.** Electronic submission in Microsoft Excel format to [strategic.sourcing@omes.ok.gov](mailto:strategic.sourcing@omes.ok.gov);
- ii.** Quarterly submission regardless of whether there were Acquisitions 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 Acquisition 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

**I. 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.



**Solicitation#:** 0900000447

**Solicitation Issue Date:** 08/14/2020

**DUE DATES AND TIME (CENTRAL STANDARD TIME):**

**Bid Response:**

3:00 p.m. on 09/17/2020<sup>1</sup>

**Request for administrative review:**

3:00 p.m. on 08/31/2020

**Questions:**

3:00 p.m. on 08/31/2020

**CONTRACT TYPE:**

**Agency:** ☐

**Statewide:** ☒

**Agency Name/Number** \_\_\_\_\_

**SOLICITATION TYPE:**

☒

**Request for Proposal**

☐

**Request for Quote**

☐

**Invitation to Bid**

**Information technology Bidder Instructions are applicable:**

☐

**Yes**

☒

**No**

**Terms regarding sensitive data will be included in the Contract including, but not limited to:**

**HIPAA** \_\_\_\_\_

**CJIS** \_\_\_\_\_

**FERPA** \_\_\_\_\_

**OTHER** \_\_\_\_\_

**1075** \_\_\_\_\_

**RETURN SEALED BID TO:**

OMESCPeBID@omes.ok.gov

**CONTRACTING OFFICER:**

**Name:** Carol Williams-Downing

**Email:** [Carol.williamsdowning@omes.ok.gov](mailto:Carol.williamsdowning@omes.ok.gov)

**Phone No.** 405-522-0432

<sup>1</sup> Amendments may change the Bid Response Due Date (read "Amendments" in these Bidder Instructions)

# Oklahoma Office of Management and Enterprise Services Bidder Instructions

Information related to the Bid submission process is contained in these Bidder Instructions. **Prospective Bidders are urged to read the documents provided by the State and these Bidder Instructions carefully. Failure to do so shall be at the Bidder's risk.**

## 1 Definitions

The following terms, when used in these Bidder Instructions, shall have the following meanings:

- 1.1 **Alternate Bid** means a Bid which contains an intentional substantive variation to a basic provision, specification, term or condition.
- 1.2 **Amendment** means a written change, addition, correction or revision to terms, conditions or requirements by the State agency issuing the Solicitation.
- 1.3 **BAFO** means a best and final offer requested by the State agency issuing the Solicitation.
- 1.4 **Bid** means an offer a Bidder submits in response to the Solicitation.
- 1.5 **Bidder** means an individual or business entity that submits a Bid in response to the Solicitation.
- 1.6 **Bid Packet** means the order described in these Bidder Instructions in which all Bidders shall insert the relevant sections of a Bid and which shall be the format for all submitted Bids.
- 1.7 **OAC** means the Oklahoma Administrative Code.

## 2 Instructions Compliance

These Bidder Instructions are not part of the Contract; however, compliance with these Instructions is material to the determination of whether a Bid is responsive. Terms, requirements and specifications may be stated or phrased differently than in a previous solicitation irrespective of past interpretations, practices or customs. Bid requirements are altered only by written Amendment and verbal communications from any source whatsoever are of no effect. In no event shall the Bidder's failure to read and understand a term, condition or requirement in any of the documents provided by the State constitute grounds for a claim after award of the Contract.

## 3 Communications and Questions

The Contracting Officer listed on the Bidder Instructions Cover Page is the only individual the Bidder should contact, or communicate with, regarding any questions or issues with the Solicitation or a Bid. Failure to comply with this requirement may result in the Bid being considered non-responsive or not considered for further evaluation.

### 3.1 General Questions

- A. Questions should be concise, identify the document, include specific section references and avoid use of tables or special formatting (use simple lists).

**B. Information Technology Bids**

- i If information technology Bidder Instructions are applicable (see Bidder Instructions Cover Page), Bidder may submit general questions concerning Contract or Bid specifications online. Questions received via any other means will not be addressed.
- ii Registration with the State of Oklahoma for wiki access is located at <https://omes.ok.gov/forms/wiki-enrollment-it-procurement>. Access should be requested at least five (5) business days prior to the Questions Due Date. The State is not responsible for a Bidder's lack of access to the wiki.

**C. Non-Information Technology Bids**

If information technology Bidder Instructions are not applicable (see Bidder Instructions Cover Page), Bidder may submit general questions concerning Contract or Bid specifications at the Contracting Officer's email address shown on the Bidder Instructions Cover Page. Questions received via any other means will not be addressed.

**3.2 Clarification Questions**

The State reserves the right, at its sole discretion, to request clarifications of Bid information or to conduct discussions for the purpose of clarification with any or all Bidders. The purpose of any such discussion shall be to ensure full understanding of the Bid. If clarifications are made because of such discussion, the Bidder(s) shall put such clarifications in writing. Bidder answers that are outside scope of the clarification questions shall be disregarded. Oral explanations or instructions provided to a potential Bidder is not binding.

**4 Administrative Review**

- 4.1** A Bidder that believes the Contract or Bid requirements or specifications, or Bid Response Due Date, are unnecessarily restrictive or limit competition may submit a request for administrative review, in writing, to the Contracting Officer. The State shall promptly respond in writing to each written administrative review request, and where appropriate, issue a revision, substitution or clarification through an Amendment. Requests for administrative review of technical or contractual requirements shall include the reason for the request, supported by information, and any proposed changes.
- 4.2** If a Bidder fails to notify the Contracting Officer of an error, ambiguity, conflict, discrepancy, omission or other error in any of the documents provided by the State that is known to Bidder, or that reasonably should be known by Bidder, the Bidder accepts the risk of submitting a Bid and, if awarded the Contract, shall not be entitled to additional compensation, relief or time by reason of the error or its later correction.

## **5 Amendments**

- 5.1** Any Amendment shall be set forth at the same online link as the Solicitation.
- 5.2** It is the Bidder's responsibility to check the State's website frequently for any possible Amendments that may be issued. The State is not responsible for the Bidder's failure to download any amendment documents required to complete a Bid.

## **6 Confidentiality Request**

Unless otherwise specified in the Oklahoma Open Records Act, Central Purchasing Act, or other applicable law, documents and information a Bidder submits as part of or in connection with a Bid are public records and subject to disclosure after contract award pursuant to OAC 260:115-3-9<sup>2</sup>. However, a public Bid opening does not make the Bid immediately accessible to the public. All material submitted by a Bidder becomes the property of the State. No portion of a Bid shall be considered confidential after award of the Contract except, pursuant to 74 O.S. §85.10, information in the Bid determined to be confidential by the State Purchasing Director or delegate. Typically, a properly submitted confidentiality claim of a potential awardee is reviewed and determined prior to award; a properly submitted confidentiality claim of a non-awarded Bidder is reviewed and determined only when responding to an open records request concerning the Bid. Additional information regarding information considered confidential by a Bidder is provided in Section 8.2.C below.

## **7 Acceptance of Content**

Unless otherwise provided in Section Four of a Bidder's response, all Bids shall be firm representations that the responding Bidder has carefully investigated and will comply with all State terms and conditions relating to the Contract. Upon award of a contract to the successful Bidder, such terms and conditions, as may be amended by the Bid after negotiation, shall become contractual obligations between the parties.

## **8 Required Bid Structure**

### **8.1 Preparation of Bid**

- A.** The Bid is required to be structured into separate, labelled and easily identifiable sections using the Bid Packet format provided below. A Bid submitted using any other format may not be accepted. The Bid should not contain duplicative content. Any section of the Bid Packet that is not applicable to the Bid shall have a page inserted to denote the section is not applicable. For instance, if business references are not required, the Bid should contain a page after the "Business References" section heading that reads "Not Applicable", "N/A" or some similar notation.
- B.** Manufacturers as well as Dealers are encouraged to bid directly on the contract, as this will be a multiple award contract for both equipment and warranty work with replacement parts. The provided specifications are for equipment that has been historically purchased. The specifications shown on the pricing pages are for comparison purposes only; to familiarize the bidders with what has been purchased in the past.

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<sup>2</sup> OAC 260:115-3-9 is located at

[http://www.oar.state.ok.us/oar/codedoc02.nsf/frmMain?OpenFrameSet&Frame=Main&Src=\\_75tnm2shfcdnm8pb4dthj0chedppmcbq8dtmmak31ctijujrgcln50ob7ckj42tbkdt374obdcli00](http://www.oar.state.ok.us/oar/codedoc02.nsf/frmMain?OpenFrameSet&Frame=Main&Src=_75tnm2shfcdnm8pb4dthj0chedppmcbq8dtmmak31ctijujrgcln50ob7ckj42tbkdt374obdcli00)

- i** Suppliers may offer any brand for which they are an authorized dealer, distributor or service representative. A current, dated, and signed letter of authorization from the manufacturer that states the Supplier is an authorized distributor, dealer, or service representative and is authorized to sell the manufacturer's products in the State of Oklahoma must be submitted with the response.
  - ii** If the Manufacturer is responding to this solicitation, responses must contain a list of authorized dealers, distributors or service representatives located in the State of Oklahoma and the product line(s) you are the manufacturer of. This list must contain the name of the company, the name of the point of contact, an email address, physical address and phone number.
  - iii** Product proposed must be a current product model and available for general marketing purposes at the opening of this solicitation.
  - iv** Repair facilities that will perform the warranty work of items shall be identified on the Pricing Page.
  - v** Supplier shall furnish any required Safety Data Sheets or a composite concentration list prior to contract award, with the product invoice or at the request of Central Purchasing.
  - vi** Suppliers shall include information concerning their return policy.
  - vii** Suppliers shall include all applicable service level agreements in the Bid response.
- C.** The Bid shall show the ability of the Bidder to meet or exceed the following mandatory specifications:
- i** Price, as shown in the Pricing Spreadsheet;
  - ii** Percent Discount, as shown in the Pricing Spreadsheet; and
  - iii** Meeting Technical Specs, as shown in Exhibit 1.
- D.** Pricing shall be proposed as follows:
- i** Per item pricing;
  - ii** Percentage Discount off of MSRP;
  - iii** Pricing for post-warranty ongoing maintenance and support; and
  - iv** Value-added items may be included.
- E.** Three business references are required to establish that a Bidder has successful implementation experience.
- F.** The following additional company information is required to be included in the Bid:
- i** Length of time the Bidder has been in business;
  - ii** A brief description of the company;
  - iii** Company size and organization.
- G.** If a third-party supplier or authorized reseller is included as part of a submitted Bid, the following information is required to be included in the Bid for each such third-party supplier:

- i** Company history;
- ii** Relationship to Bidder;
- iii** Clients for which the two entities have worked together; and
- iv** Products and/or services proposed to be provided by the third-party supplier and how those products and/or services interface with the Bidder's solution.

## **8.2 Bid Packet Format**

### **A. Section One: Cover Page**

A dated cover page or transmittal letter that identifies the Solicitation and the Bidder and provides Bidder contact information.

### **B. Section Two: Required Forms, Certifications and Disclosures**

- i** Completed "Responding Bidder Information" form set forth and accompanying required documentation.
- ii** Completed "Certification for Competitive Bid and Contract" form.
- iii** Bidder shall additionally provide in this section of its Bid, disclosure of (1) any public contract terminated by a governmental entity or suits or claims against the Bidder for failure to perform in connection with a public contract (including any company which a Bidder has merged with or acquired that will be performing services or providing products if awarded the Contract); (2) any contractual relationship or any other relevant contact with any State personnel or another Bidder or Supplier involved in the development of a Bidder's response to the Solicitation; (3) the name of any officer, director or agent of the Bidder who is also an employee of the State of Oklahoma or any of its agencies; (4) the name of any state employee who owns, directly or indirectly, an interest of five percent (5%) or more in the Bidder firm or any of its branches and (5) 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. Any conflict of interest shall, at the sole discretion of the State, be grounds for rejection of the Bid or partial or whole termination of the Contract.
- iv** Certificate of Insurance and Workers' Compensation form.
- v** Completed Vendor Payee form.
- vi** Any information requested in connection with a Solicitation regarding subcontractors a Bidder proposes to use in performance of the resulting contract.
- vii** Signed Amendment(s), if any, located at the same online link as the Solicitation.



The Bidder shall acknowledge agreement with each Amendment, if any, by inserting the Amendment in this section, signed by or on behalf of the Bidder.

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

- i** If the Bid Packet contains information the Bidder believes to be confidential, the Bid Packet shall be conspicuously marked on the outside to indicate it contains information considered confidential.
- ii** Any portion of the Bid that the Bidder requests be held confidential shall be inserted in this section and the Bidder must specifically identify, on each page, the specific information considered confidential and otherwise fully comply with OAC 260:115-3-9<sup>3</sup> which additionally requires a Bidder to enumerate the specific grounds, based on applicable laws which support treatment of the information as exempt from disclosure and explain why disclosure is not in the best interest of the public. Additional information regarding information considered confidential by a Bidder is provided in Section 6 above.
- iii** A Bid marked in total, as proprietary and/or confidential shall not be considered confidential. Likewise, unless specifically referenced otherwise, resumes, pricing, marketing materials, business references, Voluntary Product Accessibility Templates, additional terms proposed by a Bidder and subcontractor information are not confidential and are not exempt from disclosure under the Oklahoma Open Records Act. The foregoing list is intended to address information often marked confidential that is not exempt from disclosure and is not an exhaustive list.
- iv** **ANY INFORMATION MARKED AS CONFIDENTIAL AND EMBODIED ELSEWHERE IN A BID RATHER THAN INSERTED IN THIS SECTION OF THE BID PACKET WILL NOT BE CONSIDERED CONFIDENTIAL AND WILL BE SUBJECT TO DISCLOSURE WITHOUT FURTHER REVIEW. THE STATE HAS NO RESPONSIBILITY TO INDEPENDENTLY REVIEW AN ENTIRE BID FOR A CONFIDENTIALITY CLAIM. LIKEWISE, CONFIDENTIALITY CLAIMS OF A BIDDER WILL NOT BE CONSIDERED IF A BID DOES NOT COMPLY WITH REQUIREMENTS OF OAC 260:115-3-9 AND THE INFORMATION WILL BE SUBJECT TO DISCLOSURE PURSUANT TO STATE LAW.**

**D. Section Four: Requested Exceptions to Terms**

- i** Any requested exception or revision to terms or conditions provided by the State shall be inserted in this section using the table provided at the end of these Bidder Instructions. If no exceptions or revisions are requested, the Bid should reflect that by either submitting the table with no additions to it or by marking the table “N/A”. Each requested exception or revision shall identify (i) the document and section reference of the specific affected term and (ii) either that the term is inapplicable

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<sup>3</sup> OAC 260:115-3-9 is located at

[http://www.oar.state.ok.us/oar/codedoc02.nsf/frmMain?OpenFrameSet&Frame=Main&Src=\\_75tnm2shfcdnm8pb4dthj0chedppmcqb8dtmmak31ctijurgcln50ob7ckj42tbkdt374obdcli00](http://www.oar.state.ok.us/oar/codedoc02.nsf/frmMain?OpenFrameSet&Frame=Main&Src=_75tnm2shfcdnm8pb4dthj0chedppmcqb8dtmmak31ctijurgcln50ob7ckj42tbkdt374obdcli00)

and should be intentionally omitted or offer alternative language if the Bidder is requesting revision of the term. Some examples are provided on the table for illustrative purposes only and, if not deleted in a submitted Bid, will be disregarded.

- ii A clarification question is not an exception and any clarification included in this section will be disregarded.
- iii If the Bid contains a copy of existing terms between the Bidder and the State that the Bidder believes are applicable to the Acquisition, the Bidder need not take exceptions to the General Terms; however, the remainder of terms and contents of a document provided by the State including, without limitation, all attachments, appendices and exhibits remain applicable and are not supplanted by such existing terms. Therefore, any exception to portions of the Solicitation or other related documents, other than General Terms must be included in this section as an exception.
- iv **THE STATE HAS NO RESPONSIBILITY TO INDEPENDENTLY REVIEW AN ENTIRE BID FOR EXCEPTIONS AND ANY EXCEPTION EMBODIED IN ANOTHER SECTION OF THE BID OR IN A FORMAT OTHER THAN THE PROVIDED TABLE WILL NOT BE CONSIDERED. LIKEWISE, AN EXCEPTION EXPRESSING ONLY GENERAL DISAGREEMENT WITH A TERM OR A GENERAL EXCEPTION TO ANY STATE TERMS OR CONDITIONS, WITHOUT SUGGESTED ALTERNATIVE WORDING OR IDENTIFYING THAT THE TERM SHOULD BE INTENTIONALLY OMITTED, WILL NOT BE CONSIDERED.**

**E. Section Five: Additional Bidder Terms**

Any additional terms that the Bidder requests be applicable to the Contract shall be inserted in this section and shall be provided in Word format. **THE STATE HAS NO RESPONSIBILITY TO INDEPENDENTLY REVIEW AN ENTIRE BID FOR ADDITIONAL TERMS AND ANY SUCH TERMS NOT SUBMITTED IN THIS SECTION OF THE BID SHALL NOT BE CONSIDERED.** Should a Bidder be awarded a Contract, neither the State nor a customer shall be required to execute additional documents not included in a Bid. For example, if a Bidder typically uses an ordering document in connection with an acquisition, the ordering document template shall be included in the Bid.

**F. Section Six: Existing Terms between Bidder and State**

A copy of any existing terms, mutually executed by the Bidder and the State, that the Bidder believes are applicable to the Acquisition shall be inserted in this section. Any existing terms not submitted in this section of the Bid shall not be considered.

**G. Section Seven: Executive Summary**

The Bidder's executive summary shall be inserted in this section. Marketing information, general company information and other similar information should be included in the executive summary and should not be included in other sections of the Bid.

**H. Section Eight: Response to Solicitation Specifications and Requirements**

- i** The portion of the Bid to be inserted in this section shows the ability of the Bidder to meet or exceed any Contract and Bid specifications and requirements.
- ii** If a VPAT is required, the URL link to the Bidder's VPAT shall be inserted in this section at the Bid Packet page referencing the VPAT.
- iii** If an information technology Security Certification and Accreditation Assessment is required, the completed Assessment shall be inserted in this section at a Bid Packet page referencing the Security Accreditation Assessment. The Assessment is located online at [https://omes.ok.gov/sites/g/files/gmc316/f/SecurityCertification-R\\_0.xlsx](https://omes.ok.gov/sites/g/files/gmc316/f/SecurityCertification-R_0.xlsx).
- iv** If service level agreements are required, the proposed service level agreements shall be inserted in this section at a Bid Packet page referencing the proposed Service Level Agreements.
- v** If a Statement of Work is required, the proposed draft shall be inserted in this section at a Bid Packet page referencing the proposed Statement of Work.

**I. Section Nine: Pricing**

Pricing associated with the Bid shall be inserted in this section and shall be in the required structure set forth above in Section 8.1, if any.

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

If a Bid includes an offer of value-added products and/or services, such offer shall be inserted in this section and include associated pricing and any other information relevant to such value-added offer. However, the State is not obligated to purchase value-added products or services

**K. Section Eleven: Business References**

Any required business references and associated information shall be inserted in this section.

**M. Section Twelve: Additional Company Information**

Any additional required company information shall be inserted in this section.

**9 Submission of Bid**

**9.1 IT IS THE BIDDER'S SOLE RESPONSIBILITY TO SUBMIT INFORMATION IN THE BID AS REQUESTED AND IN COMPLIANCE WITH THE OKLAHOMA CENTRAL PURCHASING ACT AND ASSOCIATED OAC TITLE 260 RULES<sup>4</sup> INCLUDING**

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<sup>4</sup> Oklahoma Administrative Code Title 260, Chapter 115 is located at [http://www.oar.state.ok.us/oar/codedoc02.nsf/frmMain?OpenFrameSet&Frame=Main&Src=\\_75tnm2shfcdnm8pb4dthj0chedppmcbq8dtmmak3lctijurgcln50ob7ckj42tbkdt374obdcli00](http://www.oar.state.ok.us/oar/codedoc02.nsf/frmMain?OpenFrameSet&Frame=Main&Src=_75tnm2shfcdnm8pb4dthj0chedppmcbq8dtmmak3lctijurgcln50ob7ckj42tbkdt374obdcli00)

**WITHOUT LIMITATION OAC 260:115-3-7 AND 260:115-3-11<sup>5</sup>.** A submitted Bid is rendered as a legal offer and is required to be in strict conformity with these Bidder Instructions.

- 9.2 Due to the COVID 19 outbreak, a Bid shall be submitted via email to [OMESCPeBID@omes.ok.gov](mailto:OMESCPeBID@omes.ok.gov). In person, commercial carrier or facsimile submittals shall not be accepted. The subject line of the email Bid shall contain the following: To the attention of the Contracting Officer; Solicitation Number and Bid Response Due Date and Time. The State is not responsible for incorrect link information or inability to access a submitted Bid.**
- 9.3** Due to the COVID 19 outbreak, this subsection is intentionally omitted.
- 9.4** Due to the COVID 19 outbreak, this subsection is intentionally omitted.
- 9.5** Unless otherwise specified in the Solicitation, (i) manufacturers' names, brand names, information, and/or catalog numbers listed in a specification are for informational purposes and not intended to limit competition and (ii) a Bidder may offer any brand for which it is an authorized representative, which meets or exceeds the specification for any item(s). Bidder shall offer new items of current design and technology unless a document provided by the State in connection with the Solicitation specifies older models or versions, or used, reconditioned, or remanufactured products are acceptable. Warranties in either case should be the same. However, if a Bid is based on equivalent products, the Bid is required to state the manufacturer's name and number. The Bid shall also explain in detail the reason(s) why the proposed equivalent will meet the specifications and not be considered an exception thereto. Reference to literature submitted with a previous Bid shall not satisfy a specification or requirement associated with the present Bid. Any previous solicitation or resultant contract shall not be depended upon, perceived or interpreted to have any relevance to the present Bid.
- 9.6** Bids shall remain a firm offer for a minimum of one hundred twenty (120) days after the Bid Response Due Date. Any usage amounts provided by the State are estimates and are not guaranteed to be purchased.
- 9.7** Unless specified otherwise, a Bidder shall submit a firm, fixed price for the term, including optional renewal terms, of the Contract. The Bidder guarantees unit prices to be correct.
- 9.8** In accordance with 74 O.S. §85.40, all travel expenses to be incurred by Supplier in performance of the Contract shall be included in the total Bid price/contract amount. Travel expenses include, but are not limited to, transportation, lodging and meals. Examples of other miscellaneous travel expenses are referenced in §10.14 of the Statewide Accounting Manual<sup>6</sup>.
- 9.9** A Bid containing early payment discounts may be evaluated when making an award. If a Bidder wishes to offer an early payment discount, the Bid must include available discount percentages for no less than ten (10) days payment, increasing in five (5) day increments up to thirty (30) days. The discount percentages shall be expressed in a half or whole percentage, with the minimum discount percentage being 0.5%. The State is not obligated to utilize an offered discount.
- 9.10** All costs incurred by the Bidder for Bid preparation and participation shall be the sole responsibility of the Bidder and the Bidder shall not be reimbursed for any such costs. By submitting a Bid,

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<sup>5</sup> OAC 260:115-3-7 and OAC 260:115-3-11 are located at

<http://www.oar.state.ok.us/oar/codedoc02.nsf/frmMain?OpenFrameSet&Frame=Main&Src=75tnm2shfcdnm8pb4dthj0chedppmcbq8dtmmak3lctijurgcln50ob7ckj42tbkdt374obdcli00>

<sup>6</sup> Statewide Accounting Manual is located at <https://omes.ok.gov/sites/g/files/gmc316f/StatewideAccountingManual.pdf>.

Bidder agrees not to make any claims for damages or have any rights to damages in connection with the Bid.

- 9.11 For consistency of contract structure, certain State terms may be marked “Intentionally Omitted”. If so, no response is expected.
- 9.12 After review of a Bidder's submitted documents and information, the State may require additional terms in which customer data will be accessed, processed or stored by a Supplier.
- 9.13 Each Bid is required to include relevant information for a designated contact to receive notice, approvals and requests allowed or required by the terms of the Contract.

## 10 Bid Withdrawal, Bid Change and Alternate Bid

- 10.1 Except as authorized by the State Purchasing Director after proof by the Bidder that a significant error by the Bidder exists in the Bid, a Bid may not be withdrawn after the Bid Response Due Date and Time. If the Bidder wishes to withdraw a Bid prior to the Bid Response Due Date and Time, the Bidder shall submit a written withdrawal request to the State Purchasing Director in accordance with OAC 260:115-3-13<sup>7</sup> except that the request shall be emailed to the email address listed in Section 9 above, due to the COVID 19 outbreak.
- 10.2 Except as requested by the State, a Bid may not be changed after the Bid Response Due Date and Time. If the Bidder needs to change a submitted Bid prior to the Bid Response Due Date and Time, the Bidder shall withdraw the originally submitted Bid and a new Bid shall be submitted to the State by the Bid Response Due Date and Time in accordance with Section 9 and include the following statement on the superseding Bid cover page: **“THIS BID SUPERSEDES THE BID PREVIOUSLY SUBMITTED” AND “SUPERSEDING BID” MUST APPEAR IN THE SUBJECT LINE OF THE EMAIL.**
- 10.3 A Bidder may submit one or more Alternate Bids. Any Alternate Bid submitted shall be a complete Bid and shall be clearly identified as an Alternate Bid in the subject line of the email. If more than one Alternate Bid is submitted, the identification in the email subject line shall refer to Alternate Bid 1, Alternate Bid 2, etc.

## 11 Bid Rejection

- 11.1 The Bidder’s failure to submit required information may cause its Bid to be rejected. Additionally, a Bid received after the Bid Response Due Date and Time **SHALL BE DEEMED NON-RESPONSIVE AND SHALL NOT BE CONSIDERED unless the State Purchasing Director has authorized acceptance of Bids due to a significant error or incident that occurred which affected the receipt of a Bid.**<sup>8</sup> Failure to comply with these Bidder Instructions may result in the

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<sup>7</sup> OAC 260:115-3-13 is located at

<http://www.oar.state.ok.us/oar/codedoc02.nsf/frmMain?OpenFrameSet&Frame=Main&Src=75tnm2shfcdnm8pb4dthj0chedppmcbq8dtmmak3lctijurgcln50ob7ckj42tbkdt374obdcli00.>

<sup>8</sup> OAC 260:115-3-11

Bid being disqualified from evaluation. Unless opened for identification, Bids received late will be returned unopened in a timely manner.

- 11.2** A Bid may be rejected when the Bidder imposes terms or conditions that would modify requirements or limit the Bidder's liability to the State. Other possible reasons for rejection of Bids are listed in OAC 260:115-3-5 and 260:115-7-32(h)<sup>9</sup>.
- 11.3** Attempts to impose unacceptable conditions on the State or impose alternative terms not in the best interest of the State shall not be tolerated. Continued attempts to impose unacceptable conditions or terms on the State shall result in a determination of non-responsiveness of the Bid.
- 11.4** Whenever the terms "shall", "must", "will", or "is required" are used, the specification being referred to is a mandatory specification. Failure to meet any mandatory specification may cause rejection of a Bid.
- 11.5** Whenever the terms "can", "may", or "should" are used, the specification being referred to is a desirable item and failure to provide any item so termed shall not be cause for rejection of a Bid.

## **12 Bid Public Opening**

Due to the COVID 19 outbreak, there will be no physical Bid openings at this time. Public Bid openings will be conducted on a per request basis via Zoom. Zoom information will be provided to anyone requesting a public Bid Opening.

## **13 Evaluation**

- 13.1** A responsive Bid will proceed to the evaluation process. Unless the Solicitation specifies that "best value" criteria will be used to determine award, Bids shall be evaluated on "lowest and best" criteria.
- 13.2** Pursuant to OAC 260:115-7-32, Bidder past performance as a Supplier may be considered when evaluating a Bid.
- 13.3** Pursuant to 74 O.S. §85.44E, a Bid submitted by a service-disabled veteran business that does business in Oklahoma or maintains an Oklahoma office or place of business will be given a three-percentage point bonus preference in scoring the Bid.
- 13.4** The State reserves the right to require demonstrations, clarifications and additional documentation from any or all responding Bidders. Each Bidder should be prepared to participate in oral presentations and demonstrations to define the Bid, to introduce the Bidder's team and to respond to questions regarding the Bid if required by the State prior to award.

## **14 Competitive Negotiations of Offers**

- 14.1** The State reserves the right to negotiate with none or one or more Bidders responding to the Solicitation and may negotiate any or all content of the Bid to obtain the best value for the State.

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<sup>9</sup> OAC 260:115-3-5 and 260:115-7-32 is located at:

[http://www.oar.state.ok.us/oar/codedoc02.nsf/frmMain?OpenFrameSet&Frame=Main&Src=\\_75tnm2shfcdnm8pb4dthj0chedppmcbq8dtmmak31ctijujrgcln50ob7ckj42tbkdt374obdcli00](http://www.oar.state.ok.us/oar/codedoc02.nsf/frmMain?OpenFrameSet&Frame=Main&Src=_75tnm2shfcdnm8pb4dthj0chedppmcbq8dtmmak31ctijujrgcln50ob7ckj42tbkdt374obdcli00)

Negotiations may be conducted in person, in writing or by electronic means and shall only be conducted with potentially acceptable Bids.

- 14.2 Negotiations could entail discussions on products, services, pricing, contract terminology or any other issue material to an award decision or that may mitigate the State's risks. The State shall consider all issues arising from the Bid to be negotiable and will not be artificially constrained by internal corporate policies. In the event of prolonged contract negotiations due to the number and/or significance of exceptions taken, lack of Bidder responsiveness or other failure to close contract negotiations that are not caused by the State, the State may, in its discretion, offer a successful Bidder a shorter contract term.
- 14.3 Firms that contend a lack of flexibility because of corporate policy on a particular negotiation item shall face a significant disadvantage and may not be considered.
- 14.4 Terms, conditions, prices, methodology, or other features of the Bid may be subject to negotiations and subsequent revision. As part of the negotiations, the Bidder may be required to submit supporting financial, pricing, and other data in order to allow a detailed evaluation of the feasibility, reasonableness, and acceptability of the Bid.
- 14.5 Requirements and any terms marked as non-negotiable after the section title shall not be negotiable and shall remain unchanged unless the State determines that a change in such requirements or terms is in the best interest of the State.
- 14.6 The State may request a BAFO and shall determine the scope and subject of any BAFO request. However, the Bidder should not expect an opportunity to otherwise strengthen its Bid and should submit its best Bid based on requirements herein. Any information offered outside the scope of the BAFO request will not be considered and will be disregarded.

## 15 Award of Contract

- 15.1 The State may award the contract to more than one Bidder by awarding the contract(s) by item or groups of items or may award the contract on an all or none basis, whichever is deemed to be in the best interest of the State.
- 15.2 In order to receive an award or payments from the State, a Bidder must be registered **as both a Bidder and as a Supplier** and must maintain the registration prior to any Contract renewal term. The registration process may be completed electronically at the following link: <https://omes.ok.gov/services/purchasing/vendor-registration>.
- 15.3 Pursuant to Oklahoma Attorney General Opinion No. 06-23, any Bidder that has assisted in preparing the Solicitation or developing the procurement terms, either directly or indirectly, is precluded from being awarded the Contract or from securing a sub-contractor that has provided such services.
- 15.4 Prior to award, the State may choose to request information from the Bidder to demonstrate its financial status and performance. If the Bidder is a subsidiary of another entity, the last three years audited financial statements of three years tax returns for the parent company may also be required.

The State reserves the right, in its sole discretion, to determine a Bidder's financial status and to withhold award to a Bidder who is not deemed financially responsible.

- 15.5** A notice of award may be in the form of a purchase order or other payment mechanism or in the form of a mutually executed contract.



**BID PACKET SECTION FOUR: REQUESTED EXCEPTIONS TO TERMS**  
**SOLICITATION NO. 090000447**

Term & Section	Language
General Terms, Pricing (Section 5.2, pg. 7) <b>EXAMPLE</b>	Section 5.2 is deleted in its entirety and replaced with the following:  Pursuant to 74 O.S. §85.40, all travel expenses of Supplier must be included in the total Acquisition price. Travel expenses include, but are not limited to, lodging, transportation and meal expenses.
Information Technology Terms, Appendix 1, Data Security (Section B.2, pg. 12) <b>EXAMPLE</b>	Section B.2 shall be modified to add the following:  Customer is responsible for Personal Data encryption when solely in the Customer's possession.
Information Technology Terms, Source Code Escrow (Section 9, pg. 5) <b>EXAMPLE</b>	Section 9 is deleted in its entirety.