



Commonwealth of Virginia
Virginia Information Technologies Agency

SECTION 508 SOFTWARE LICENSE AND SUPPORT SERVICES

Optional Use Contract

Date: October 14, 2014

Contract #: VA-090829-SSBB

Authorized User: All Public Bodies to include VITA as defined by §2.2-4301 and referenced by §2.2-4304 of the *Code of Virginia*

Contractor: SSB Bart Group Inc.
300 Brannan Street
Suite 608
San Francisco, CA 94107

FIN: 06-1565704

Contact Person: Tammy Cosseboom
Voice: 703-637-8955
Email: tammy.cosseboom@ssbbartgroup.com

Pricing: Exhibit B

FOB: Destination

Term: September 15, 2013 – September 14, 2014

Payment: Net 30 days

For Additional Information, Please Contact:

Contract Information:

Supply Chain Management
Virginia Information Technologies Agency

Amy Holschuh
Phone: 804-416-6068
Email: amy.holschuh@vita.virginia.gov
Fax: 804-416-6361

NOTES: Individual Commonwealth of Virginia employees are not authorized to purchase equipment or services for their personal use from this Contract.

For updates, please visit our Website at <http://www.vita.virginia.gov/procurement/contracts.cfm>

VIRGINIA INFORMATION TECHNOLOGIES AGENCY (VITA): Prior review and approval by VITA for purchases in excess of \$100,000.00 is required for State Agencies and Institutions only.

**MODIFICATION NO. 1
TO
CONTRACT NUMBER VA-090829-SSBB
BETWEEN THE
COMMONWEALTH OF VIRGINIA
AND
SSB BART GROUP, INC.**

This MODIFICATION No. 1 is hereby incorporated into and made an integral part of Contract VA-090829-SSBB.

The purpose of this Modification is to add the clause(s) and clarifications listed below:

1. Add to the definition of "Authorized Users" in Section 2 Subsection C on Contract Page 5.
"Authorized Users include private institutions of higher education chartered in Virginia and granted tax-exempt status under §501(c)(3) of the Internal Revenue Code. A list of the private institutions eligible to use this contract can be found at <http://www.cicv.org/our-Colleges/Profiles.aspX>
2. Add to the definition of "Software License" in Section 4 on Contract Page 8.
"If Authorized User is a private institution, the license shall be held by that private institution."
3. Add to the definition of "Acceptance" in Section 6 Subsection A on Contract Page 10; "Maintenance Services" in Section 8 on Contract Page 11.
"If the Authorized User is a private institution chartered in Virginia and granted tax-exempt status under §501(c)(3) of the Internal Revenue Code, such private institution may have its own per diem amounts applicable to Supplier's pre-approved travel expenses."
4. Add to the definition of "Indemnification" in Section 16 Subsection A on Contract Pages 19-20.
"In the event of a settlement between Supplier and private institution of higher education who is an Authorized User of this contract, the settlement shall be satisfactory to such institution."
5. Add to the definition of "Dispute Resolution" in Section 20 Subsection E on Contract Pages 22-23.
"In the event of any breach by a public body or a private institution, Supplier's remedies shall be limited to claims for damages and Prompt Payment Act interest and, if available and warranted, equitable relief, all such claims to be processed pursuant to this Section. In no event shall Supplier's remedies include to the right to terminate any license or support services hereunder."

The foregoing is the complete and final expression of the parties' agreement to modify Contract VA-090829-SSBB by this Modification No. 1.

ALL OTHER TERMS AND CONDITIONS REMAIN UNCHANGED.

PERSONS SIGNING THIS CONTRACT ARE AUTHORIZED REPRESENTATIVES OF EACH PARTY TO THIS CONTRACT AND ACKNOWLEDGE THAT EACH PARTY AGREES TO BE BOUND BY THE TERMS AND CONDITIONS OF THE CONTRACT.

NAME OF SUPPLIER

BY: SSB BART Group, Inc.

NAME: Brendan Flannery

TITLE: VP of Operations

DATE: October 13, 2014

COMMONWEALTH OF VIRGINIA

BY: [Signature]

NAME: James MacKenzie

TITLE: Strategic Sourcing Specialist

DATE: 10/14/2014



COMMONWEALTH of VIRGINIA

Virginia Information Technologies Agency

Samuel A. Nixon, Jr.
Chief Information Officer
E-mail: cio@vita.virginia.gov

11751 Meadowville Lane
Chester, Virginia 23836-6315
(804) 416-6100

TDD VOICE -TEL. NO.
711

August 1, 2013

Tammy Cosseboom
SSB Bart Group

Per Section 3.A. ("Contract Term") of contract VA-090829-SSBB , the Virginia Information Technologies Agency has elected to exercise its option to renew the contract for one year, from September 15, 2013 through September 14, 2014. Should you have any questions, please feel free to contact me.

Respectfully,
Doug Crenshaw
Strategic Sourcing Manager
Virginia Information Technologies Agency
(804) 416-6160



COMMONWEALTH of VIRGINIA

Virginia Information Technologies Agency

Samuel A. Nixon, Jr.
Chief Information Officer
E-mail: cio@vita.virginia.gov

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Chester, Virginia 23836-6315
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Respectfully,
Doug Crenshaw
Strategic Sourcing Manager
Virginia Information Technologies Agency
(804) 416-6160



Section 508 Software License Contract

between

The Virginia Information Technologies Agency

on behalf of

The Commonwealth of Virginia

and

SSB BART Group, Inc

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SECTION 508 SOFTWARE LICENSE CONTRACT

THIS SECTION 508 SOFTWARE LICENSE CONTRACT ("Contract") is entered into by and between the Virginia Information Technologies Agency (VITA) pursuant to §2.2-2012 of the Code of Virginia and on behalf of the Commonwealth of Virginia, (hereinafter referred to as "VITA") and SSB BART Group, Inc. ("Supplier"), a corporation headquartered at 300 Brannan St, Suite 608, San Francisco, CA 94107, to be effective as of the date on which all Parties have executed the Contract ("Effective Date").

1. PURPOSE AND SCOPE

This Contract sets forth the terms and conditions under which Supplier will license certain Software products, which aid in making the following compliant with Section 508 of the Rehabilitation Act:

- software applications and operating systems
- web applications
- electronic documents;

and will provide various Services to Authorized Users of the Software.

2. DEFINITIONS

A. Acceptance

Acceptance shall take the form of successful delivery or completed and successful Acceptance testing in conformance with the Requirements as determined by the Authorized User in the applicable order.

B. Agent

Any third party independent agent of any Authorized User.

C. Authorized Users

All public bodies, including VITA, as defined by §2.2-4301 and referenced by §2.2-4304 of the Code of Virginia.

D. Computer Virus

Any malicious code, program, or other internal component (e.g., computer virus, computer worm, computer time bomb, or similar component), which could damage, destroy, alter or disrupt any computer program, firmware, or hardware or which could, in any manner, reveal, damage, destroy, alter or disrupt any data or other information accessed through or processed by such software in any manner.

E. Confidential Information

Any confidential or proprietary information of a Party that is disclosed in any manner, including oral or written, graphic, machine readable or other tangible form, to any other Party in connection with or as a result of discussions related to this Contract or any order issued hereunder, and which at the time of disclosure either (i) is marked as being "Confidential" or "Proprietary", (ii) is otherwise reasonably identifiable as the confidential or proprietary information of the disclosing Party, or (iii) under the circumstances of disclosure should reasonably be considered as confidential or proprietary information of the disclosing Party.

F. Documentation

Those materials detailing the information and instructions needed in order to allow any Authorized User and its Agents to install, implement, and make productive use of the Software.

G. Electronic Self-Help

Any use of electronic means to exercise Supplier's license termination rights, if available pursuant to the Software License section of this Contract, upon breach or cancellation, termination or expiration of this Contract or any order issued hereunder.

H. Maintenance Level

The parameters of Maintenance Services, including the times during which and time-frames in which Supplier shall respond to a request for Maintenance Services. The available Maintenance Levels shall be as defined in Exhibit C hereto. The actual Maintenance Level for a unit of Software shall be set forth in the executed order for Maintenance of that Software referencing this Contract.

I. Maintenance Period

The term during which Maintenance is to be provided for a unit of Software.

J. Maintenance Services (or Maintenance)

Those Services, preventive and remedial, provided by Supplier at Authorized User's request in order to ensure continued operation of the Software. Maintenance Services shall include support services.

K. Party

Supplier, VITA, or any Authorized User.

L. Requirements

The functional, performance, operational, compatibility, Acceptance testing criteria and other parameters and characteristics of the product as set forth in the applicable documentation, Exhibit A and such other parameters, characteristics, or performance standards for the product that may be agreed upon in writing by VITA and Supplier or the Parties to an order issued hereunder. [Note: In case of conflict, see the Entire Contract clause for order of precedence.]

M. Services

Any services, including installation, Software configuration, maintenance, support and training provided by Supplier under this Contract.

N. Software

The programs and code, and any subsequent releases, provided by Supplier under this Contract as set forth in Exhibit A or as described on Supplier's US and International price lists in effect at time of order placement.

O. Software Publisher

The licensor of the Software provided by Supplier under this Contract.

P. Supplier

Means the Supplier and any of its Affiliates (i.e., an entity that controls, is controlled by, or is under common control with Supplier).

3. TERM AND TERMINATION

A. Contract Term

This Contract is effective and legally binding as of the Effective Date and, unless terminated as provided for in this section, shall continue to be effective and legally binding for a period of three (3) years. VITA, in its sole discretion, may extend this Contract for up to two (2) additional one (1) year periods after the expiration of the initial three (3) year period. VITA will issue a written notification to the Supplier stating the extension period, not less than thirty (30) days prior to the expiration of any current term. Warranty on or Maintenance Services for any Software ordered during the term of the Contract may extend beyond the term of this Contract. Performance of an order or SOW issued during the term of this Contract may survive the expiration of the term of

this Contract, in which case all terms and conditions required for the operation of such order or SOW shall remain in full force and effect until Services pursuant to such order or SOW have met the final Acceptance criteria of the applicable Authorized User.

B. Termination for Convenience

VITA may terminate this Contract, in whole or in part, or any order issued hereunder, in whole or in part, or an Authorized User may terminate an order, in whole or in part, upon not less than thirty (30) days prior written notice at any time for any reason.

C. Termination for Breach or Default

VITA shall have the right to terminate this Contract, in whole or in part, or any order issued hereunder, in whole or in part, or an Authorized User may terminate an order, in whole or in part, for breach and/or default of Supplier. Supplier shall be deemed in breach and/or default in the event that Supplier fails to meet any material obligation set forth in this Contract or in any order issued hereunder.

If VITA deems the Supplier to be in breach and/or default, VITA shall provide Supplier with notice of breach and/or default and allow Supplier fifteen (15) days to cure the breach and/or default. If Supplier fails to cure the breach as noted, VITA may immediately terminate this Contract or any order issued hereunder, in whole or in part.

If an Authorized User deems the Supplier to be in breach and/or default of an order, such Authorized User shall provide Supplier with notice of breach and/or default and allow Supplier fifteen (15) days to cure the breach and/or default. If Supplier fails to cure the breach and/or default as noted, such Authorized User may immediately terminate its order, in whole or in part.

Any such termination shall be deemed a Termination for Breach or a Termination for Default. In addition, if Supplier is found by a court of competent jurisdiction to be in violation of or to have violated 31 USC 1352, or if Supplier becomes a party excluded from Federal Procurement and Nonprocurement Programs, VITA may immediately terminate this Contract, in whole or in part, for breach. VITA shall provide written notice to Supplier of such termination, and Supplier shall provide prompt written notice to VITA if Supplier is charged with violation of 31 USC 1352 or if federal debarment proceedings are instituted against Supplier.

D. Termination for Non-Appropriation of Funds

All payment obligations under this Contract are subject to the availability of legislative appropriations at the federal, state, or local level, for this purpose. In the event of non-appropriation of funds, irrespective of the source of funds, for the items under this Contract, VITA may terminate any order, in whole or in part, or an Authorized User may terminate its order, in whole or in part, for those goods or services for which funds have not been appropriated. Written notice will be provided to the Supplier as soon as possible after legislative action is completed. However, payment for all services already provided prior to such notice will become immediately due and payable.

E. Effect of Termination

Upon termination, the Commonwealth shall have no future liability except for Software accepted or Services rendered by Supplier prior to the termination date.

In the event of a Termination for Breach or Termination for Default, Supplier shall accept return of any Software or Services that were not accepted by the Authorized User(s), and Supplier shall refund any monies paid by any Authorized User for such Software or Services, and all costs of de-installation and return of such Software or Services shall be borne by Supplier.

F. Transition of Services

Prior to or upon expiration or termination of this Contract and at the request of VITA, Supplier shall provide all assistance as VITA or an Authorized User may reasonably require to transition Services to any other supplier with whom VITA or such Authorized User contracts for provision of Software-

related services. This obligation may extend beyond expiration or termination of the Contract for a period not to exceed six (6) months. In the event of a termination for breach and/or default of Supplier, Supplier shall provide such assistance at no charge or fee to VITA or any Authorized User; otherwise, Supplier shall provide such assistance at a reasonable hourly rate or a charge agreed upon by Supplier and VITA or an Authorized User.

G. Contract Kick-Off Meeting

Within 30 days of Contract award, Supplier may be required to attend a contract orientation meeting, along with the VITA contract manager/administrator, the VITA and/or other CoVa Agency project manager(s) or authorized representative(s), technical leads, VITA representatives for SWaM and Sales/IFA reporting, as applicable, and any other significant stakeholders who have a part in the successful performance of this Contract. The purpose of this meeting will be to review all contractual obligations for both parties, all administrative and reporting requirements, and to discuss any other relationship, responsibility, communication and performance criteria set forth in the Contract. The Supplier may be required to have its assigned account manager as specified in Section 6.0 and a representative from its contracts department in attendance. The time and location of this meeting will be coordinated with Supplier and other meeting participants by the VITA contract manager.

H. Contract Closeout

Prior to the contract's expiration date, Supplier may be provided contract close out documentation and shall complete, sign and return to VITA Supply Chain Management within 30 days of receipt. This documentation may include, but not be limited to: Patent/Royalty Certificate, Tangible Property/Asset Certificate, Escrow Certificate, SWaM Reports Completion Certificate, Sales Reports/IFA Payments Completion Certificate, and Final Payment Certificate. Supplier is required to process these as requested to ensure completion of close-out administration and to maintain a positive performance reputation with the Commonwealth of Virginia. Any closeout documentation not received within 30 days of Supplier's receipt of our request will be documented in the contract file as Supplier non-compliance. Supplier's non-compliance may affect any pending payments due the Supplier, including final payment, until the documentation is returned.

4. SOFTWARE LICENSE

If Authorized User is a state agency, board, commission, or other quasi-political entity of the Commonwealth of Virginia or other body referenced in Title 2.2 of the Code of Virginia, the license shall be held by the Commonwealth. If Authorized User is a locality, municipality, school, school system, college, university, local board, local commission, or local quasi-political entity, the license shall be held by that public body.

A. License Grant

Supplier shall provide Software which is licensed directly from the Software Publisher through the end user licensing agreement (EULA) attached hereto as Exhibit D. If the EULA provides for a "perpetual" license, it is expressly understood that "perpetual" license rights shall commence upon delivery of the Software and shall exist in perpetuity unless otherwise terminated in accordance with the applicable provisions of the Contract. Nothing contained herein shall be construed to restrict or limit an Authorized User's rights to use any technical data which such Authorized User may already possess or acquire under proper authorization from other sources.

Compliance with the terms and conditions of any license granted pursuant to this Contract is solely the responsibility of the Authorized User which purchased such license and not the responsibility of VITA, unless VITA purchased such license on its own behalf.

B. License Type

All licenses granted, regardless of the type, include all uses set forth above. License type may vary by Software product and shall be set forth in Exhibit B and identified on any order issued pursuant to this Contract. [Note: The license types defined herein are examples and are not intended to limit the type of license offered by Supplier or requested by VITA.]

Designated User License

The license(s) granted under this Section authorizes use of the Software to specific users to be identified and listed on Exhibit B or an Order. An Authorized User may transfer the Software to a different machine to the extent that is permitted by the EULA provided in Exhibit D.

Enterprise Wide License

The Enterprise Wide License authorizes use of the Software on any CPU, on any system, and by any user within the "Enterprise", as such term is defined in the applicable order, without limitation as to the quantity or location or project.

C. No Subsequent, Unilateral Modification of Terms by Supplier ("Shrink Wrap")

Notwithstanding any other provision or other unilateral license terms which may be issued by Supplier after the Effective Date of this Contract, and irrespective of whether any such provisions have been proposed prior to or after the issuance of an order for Software licensed under this Contract, or the fact that such other agreement may be affixed to or accompany Software upon delivery ("shrink wrap"), the terms and conditions set forth herein shall supersede and govern licensing and delivery of all products and services hereunder.

5. DELIVERY AND INSTALLATION

A. Scheduling

Supplier shall deliver Software and perform the Services according to the delivery dates set forth on the appropriate order.

B. Installation of Software

1. Supplier Installation of Software

The Software license fee includes initial installation. Supplier is required to install the Software in accordance with the installation schedule set forth on the order. Supplier shall conduct its standard appropriate diagnostic evaluation at the Authorized User's user site to determine that the Software is properly installed and fully ready for productive use, and shall supply the Authorized User with a copy of the results of the diagnostic evaluation promptly after completion of installation.

2. Authorized User Installation of Software

If an Authorized User elects to install the Software itself or to contract with a third party to perform installation services, the Software shall be deemed to be installed when all programs, program libraries and user interfaces are copied to and initialized on the appropriate equipment as executable by having the ordering Authorized User, its Agent, or its third party installer invoke the primary function of each major component of the Software or when Acceptance criteria have been met. Authorized User shall provide to Supplier written notice of Acceptance upon completion of installation and successful Acceptance testing.

C. Documentation of Software Configuration

If the Services include configuration of Software by Supplier, Supplier shall provide to the appropriate Authorized User documentation containing a description of the configuration. Such documentation shall be sufficiently detailed such that any appropriately trained employee or Agent of any Authorized User may reconstruct the configuration of the Software.

6. ACCEPTANCE AND CURE PERIOD

A. Acceptance

Software shall be deemed accepted when the Authorized User determines that such Software successfully operates in accordance with the Requirements. Such Authorized User agrees to commence Acceptance testing within five (5) days after receipt of the Software, or within such other period as set forth in the applicable order, after receipt of the Software. Acceptance testing will be no longer than five (5) days, or such longer period as may be agreed in writing between Authorized User and Supplier, for the first instance of each product type set forth in Exhibit B. Supplier agrees to provide to such Authorized User such assistance and advice as such Authorized User may reasonably require, at no additional cost, during such Acceptance testing, other than travel expenses pre-approved by the Authorized User which will be reimbursable by such Authorized User at the then-current per diem amounts as published by the Virginia Department of Accounts (http://www.doa.virginia.gov/Admin_Services/CAPP/CAPP_Topics/20335_Meals_Lodging_102007.pdf, or a successor URL(s)). Authorized User shall provide to Supplier written notice of Acceptance upon completion of successful Acceptance testing. Should Authorized User fail to provide Supplier written notice of successful or unsuccessful Acceptance testing within five (5) days following the Acceptance testing period, the Software shall be deemed Accepted.

B. Cure Period

Supplier shall correct any non-conformities identified during Acceptance testing and re-submit such non-conforming Software for re-testing within seven (7) days of the appropriate Authorized User's written notice of non-conformance, or as otherwise agreed between such Authorized User and Supplier in the applicable order. Should Supplier fail to cure the non-conformity or deliver Software which meets the Requirements, such Authorized User may, in its sole discretion: (i) reject the Software in its entirety and recover amounts previously paid hereunder; (ii) issue a "partial Acceptance" of the Software with an equitable adjustment in the price to account for such deficiency; or (iii) conditionally accept the applicable Software while reserving its right to revoke Acceptance if timely correction is not forthcoming. Failure of the Software to meet, in all material respects, the Requirements after the second set of acceptance tests may constitute a default by Supplier. In the event of such default, the Authorized User may, at its sole discretion, terminate its order, in whole or in part, for the Software and Services to be provided thereunder by Supplier.

7. WARRANTY SERVICES

At any time during the Warranty Period of one year (12) months after Acceptance, Supplier shall provide the following warranty services (including unlimited telephonic support and all necessary travel and labor) without additional charge to any Authorized User to maintain the Software in accordance with the Requirements:

A. Known Defects

Promptly notify all Authorized Users of any defects or malfunctions in the Software or Documentation of which it learns from any source other than an Authorized User and provide to all Authorized Users a correction of any such defects or malfunctions, or a work around until a correction is available, within ten (10) days of Supplier's knowledge of such defect or malfunction.

B. Coverage

Monday through Friday, 8 a.m. to 5 p.m., excluding Commonwealth holidays, provide to any Authorized Users all reasonably necessary telephone or written consultation requested by such Authorized Users in connection with use, problems and operation of the Software.

C. Service Levels

Respond to problems with the Software identified by an Authorized User in no more than one (1) hour after notification. Resolve all problems according to the following:

Priority 1 (Software inoperable) within two days (48) hours

Priority 2 (certain processing interrupted or malfunctioning but Software able to process) within four days (96) hours

Priority 3 (minor intermittent malfunctioning, Software able to process data) within five days (5) days.

The level of severity (e.g., 1, 2, 3), shall be defined by such Authorized User.

D. Remedies

If Supplier is unable to make the Software conform, in all material respects, to the Requirements within thirty (30) days following written notification by an Authorized User, Supplier shall, at such Authorized User's request, cancel the license to such Software, accept return of such Software and Documentation, if applicable, rendered unusable, and return all monies paid by such Authorized User for the non-conforming Software and Documentation and such other related Service(s) rendered unusable.

Supplier agrees that failure to make the Software conform, in all material respects, to the Requirements within ten (10) days following notification by an Authorized User shall constitute a material breach of this Contract resulting in damages to the Authorized User. As an estimate of the damages such Authorized User shall suffer, Supplier agrees to credit such Authorized User an amount equal to three percent (3%) of the total license fee, for each day that the Software is non-conforming, for a period of up to thirty (30) days. If after such thirty (30) day period Supplier is unable to make the Software conform, Supplier shall, at such Authorized User's request, cancel the license to such Software, accept return of the Software and Documentation, if applicable, and return all monies paid for the non-conforming Software and Documentation. Such Authorized User reserves any and all other remedies available at law or in equity for delays lasting longer than thirty (30) days.

8. MAINTENANCE SERVICES

Supplier shall provide Maintenance Services during the Maintenance Period at the prices identified in Exhibit B without additional charge to maintain the Software in accordance with the Requirements and to provide upgrades, updates, and new releases as they are made generally available.

The prices identified in Exhibit B are inclusive of all necessary labor and, unless otherwise provided therein, all necessary travel. Should travel not be included in the prices identified in Exhibit B, any travel expense must be pre-approved by the Authorized User and shall be reimbursed in accordance with the then-current per diem rates established by the Virginia Department of Accounts (http://www.doa.virginia.gov/Admin_Services/CAPP/CAPP_Topics/20335_Meals_Lodging_102007.pdf, or a successor URL(s)).

In addition to the minimum Maintenance Services described in this section, Exhibit C provides detailed descriptions of Supplier's additional maintenance offerings, if any, and Supplier's associated responsibilities as well as remedies available to the Authorized User in the event Supplier fails to perform its maintenance obligations. Any monetary remedies shall be paid to the Authorized User on a quarterly basis. Exhibit C defines coverage periods, response times, and restore times.

A. Ordering

An Authorized User may order Maintenance Services for any Software at any time during the term of the Contract, irrespective of whether such Software is covered under warranty or maintenance at the time the order is issued to Supplier. Each order shall identify:

Software product and number of units for which Maintenance Services shall be provided,

Maintenance Level to be provided, and

Maintenance Period for Software Maintenance.

Authorized User may elect, at any time, an alternate Maintenance Level offered by Supplier. Such amendment shall take effect within thirty (30) days following Supplier's receipt of Authorized User's written notice, in the form of a modification to an order.

Unless otherwise agreed by the Authorized User and Supplier, the Maintenance Period for a unit of Software shall be one (1) year from the effective date of any executed order for Maintenance on such Software product.

B. Services

At a minimum, Maintenance Services shall include the following:

1. Known Defects

Supplier's offerings and responsibilities related to known defects in the Software are described in Exhibit C.

2. New Releases

Supplier's offerings and responsibilities related to new releases of the Software are described in Exhibit C.

3. Coverage

Supplier's offerings and responsibilities related to coverage for telephonic and written consultation in connection with use, problems, and operation of the Software are described in Exhibit C.

4. Service Levels

Supplier's offerings and responsibilities related to response and restore times for any problems with the Software identified by an Authorized User, and any associated remedies are described in Exhibit C.

5. Additional Maintenance Services

Supplier's additional Maintenance Service offerings are described in Exhibit C.

C. Renewal

Not less than sixty (60) days prior to the expiration of the Maintenance Period for each unit of Software, Supplier shall notify the Authorized User of such expiration, and the Authorized User, at its sole discretion, may issue an order to Supplier to renew Maintenance Services for an additional one (1) year period. The annual fee for Maintenance Services shall not exceed the fee charged for the preceding year's Maintenance Services by more than three percent (3%), or the annual change in CPI, as defined in the Fees and Charges section, in effect at the time, whichever is less. Termination of this Contract or cancellation of Maintenance Services by an Authorized User shall not affect this Contract or the grant of any license.

D. Software Evolution

Should Supplier or Software Publisher merge or splinter the Software previously provided to any Authorized User, such action on the part of Supplier or Software Publisher shall not in any way result in any Authorized User being charged additional license or support fees in order to receive enhancements, releases, upgrade or support for the Software.

If Supplier or Software Publisher reduces or replaces functionality contained in a licensed Software product and provides the same or substantially similar functionality as or within a separate or renamed Software product, then the Commonwealth or the Authorized User shall be entitled to license such Software product at no additional license or maintenance fee, and subject to the terms and conditions herein.

If Supplier or Software Publisher releases an option, future Software product or other release that has substantially the same functionality as the Software products provided under this Contract, and Software Publisher and/or Supplier ceases to provide maintenance for the older Software product,

then Supplier shall offer the Commonwealth or the Authorized User the option to exchange licenses for such replacement Software product or function at no additional charge.

E. Escalation Procedures

Cases submitted via phone or e-mail to Supplier shall be resolved in 24 hours

Cases that are unresolved after 24 hours will be escalated to clients Director of Support Services for resolution

Cases that are unresolved after 48 hours will be escalated to joint resolution council including, but not limited to, CTO of Supplier, VP of Development and Account Manager for account

All cases will be resolved and solutions provided in accordance to Section 7, Exhibit C, and Exhibit D

F. Remedies

In addition to any remedies described in Exhibit C, if Supplier is unable to make the Software conform, in all material respects, to the Requirements within thirty (30) days following notification by an Authorized User, Supplier shall, at such Authorized User's request, accept cancellation of the license to such non-conforming software and (i) return all monies paid by such Authorized User for the cancelled license, pro-rated using the straight-line method for an estimated software life cycle of five (5) years, or, if a term license, shall return the prorated license fee for the remainder of the license term; and (ii) return the prorated maintenance charge for the remainder of the maintenance term. The prorated amount due an Authorized User shall be calculated from the date on which the Software ceased operating in accordance with the Requirements.

9. GENERAL WARRANTY

Supplier warrants and represents to VITA the Software described in Exhibit A as follows:

A. Ownership

Supplier is the owner of the Software or otherwise has the right to grant the license to use the Software granted hereunder without violating or infringing any law, rule, regulation, copyright, patent, trade secret or other proprietary right of any third party.

B. Software and Documentation

Supplier warrants the following with respect to the Software:

The Software is pursuant to a particular Request for Proposal ("RFP"), and therefore, such Software shall be fit for the particular purposes specified by VITA, and Supplier is possessed of superior knowledge with respect to the Software and is aware that all Authorized Users are relying on Supplier's skill and judgment in providing the Software;

If the RFP specified or Exhibit A specifies the hardware equipment an Authorized User shall use to run the Software, then Supplier warrants the Software, and any subsequent release, is compatible with and shall perform as stated with such hardware for a period of three (3) years of the Effective Date. However Supplier will in no event be liable for the failure of Software if such failure is due to changes in the hardware or use of third party software by an Authorized User.

If an order issued by an Authorized User pursuant to this Contract specified the hardware equipment such Authorized User shall use to run the Software, then Supplier warrants the Software, and any subsequent release, is compatible with and shall perform as stated with such hardware for a period of three (3) years of the date of such order. However Supplier will in no event be liable for the failure of Software if such failure is due to changes in the hardware or use of third party software by such Authorized User.

The Software provided hereunder is at the current release level unless an Authorized User specifies an older version in its order, in which case item (iii) shall not apply and the older version

of the Software, and any subsequent release, is compatible with and shall perform as stated with any hardware specified in the applicable order for a period of one year of the date of such order;

No corrections, work arounds or future Software releases provided by Supplier under the warranty provisions or under maintenance or support services shall degrade the Software, cause any other warranty to be breached, or require an Authorized User to acquire additional hardware equipment or software;

Supplier warrants that the Documentation and all modifications or amendments thereto which Supplier is required to provide under this Contract shall be sufficient in detail and content to allow an Authorized User to load/use/operate the Software without reference to any other materials or information.

C. Limited Warranty

During the warranty period of one year (12) months, or as specified in the applicable order, Supplier warrants that the Software shall meet or exceed the Requirements. Supplier shall correct, at no additional cost to any Authorized User, all errors identified during the warranty period that result in a failure of the Software to meet the Requirements.

D. Malicious Code

Supplier has used its best efforts through quality assurance procedures to ensure that there are no Computer Viruses or undocumented features in the Software at the time of delivery to an Authorized User. Supplier warrants that the Software does not contain any embedded device or code (e.g., time bomb) that is intended to obstruct or prevent any Authorized User's use of the Software. Notwithstanding any rights granted under this Contract or at law, Supplier hereby waives under any and all circumstances any right it may have or may hereafter have to exercise Electronic Self-Help. Supplier agrees an Authorized User may pursue all remedies provided under law in the event of a breach or threatened breach of this Section, including injunctive or other equitable relief.

E. Open Source

Supplier will notify all Authorized Users if the Software contains any Open Source code and identify the specific Open Source License that applies to any embedded code dependent on Open Source code, provided by Supplier under this contract.

F. Supplier's Viability

Supplier warrants that it has the financial capacity to perform and continue to perform its obligations under this Contract; that Supplier has no constructive or actual knowledge of a potential legal proceeding being brought against Supplier that could materially adversely affect performance of this Contract and that entering into this Contract is not prohibited by any contract, or order by any court of competent jurisdiction.

G. Supplier's Past Experience

Supplier warrants that the Software has been installed and is operating in a production environment in a non-related third party's facility without significant problems due to the Software or Supplier.

THE OBLIGATIONS OF SUPPLIER UNDER THIS GENERAL WARRANTY SECTION ARE MATERIAL. EXCEPT AS OUTLINED IN SECTION 7 AND 9, SUPPLIER MAKES NO REPRESENTATION, WARRANTY, OR GUARANTY AS TO THE RELIABILITY, TIMELINESS, QUALITY, SUITABILITY, TRUTH, AVAILABILITY, ACCURACY OR COMPLETENESS OF THE SERVICE OR ANY CONTENT. THE SERVICE AND ALL CONTENT IS PROVIDED TO AUTHORIZED USERS STRICTLY ON AN "AS IS" BASIS. NO OTHER WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, INCLUDING USE OF THE SOFTWARE IN COMMON CARRIERS, CRITICAL SAFETY SYSTEMS OR NUCLEAR FACILITIES, OR NON-INFRINGEMENT OF THIRD PARTY RIGHTS, ARE MADE BY VENDOR AND ARE HEREBY DISCLAIMED TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW BY SUPPLIER AND ITS LICENSORS.

10. TRAINING AND DOCUMENTATION

The license fee includes all costs for the training of one Authorized User trainer at such Authorized User's on the use and operation of the Software, including instruction in any necessary conversion of Authorized User's data for such use. Training will be provided in electronic format and delivered via the Internet pursuant to a mutually agreed upon schedule. Supplier shall provide personnel sufficiently experienced and qualified to conduct such training. Available optional training, and applicable pricing and discounts, are described in Exhibit B.

Authorized User shall have the right, as part of the license granted herein, to make as many additional copies of the Documentation, in whole or in part, for its own use as required. This Documentation shall include, but not be limited to, overview descriptions of all major functions, detailed step-by-step installation and operating procedures for each screen and activity, and technical reference manuals. Authorized User shall have the right, as part of the license granted herein, at its own discretion, to take all or portions of the Documentation, modify or completely customize it in support of the authorized use of the Software and may duplicate such Documentation and include it in an Authorized User document or platform. Authorized User shall continue to include Supplier's copyright notice.

11. FEES, ORDERING AND PAYMENT PROCEDURE

A. Fees and Charges

As consideration for the Software license(s) and Services provided herein, an Authorized User shall pay Supplier the fee(s) set forth on Exhibit B, which lists any and all fees and charges. The fees and any associated discounts shall be applicable throughout the term of this Contract; provided, however, that in the event the fees or discounts apply for any period less than the entire term, Supplier agrees that it shall not increase the fees more than once during any twelve (12) month period, commencing at the end of year one (1). No such increase shall exceed the lesser of three percent (3%) or the annual increase in the Consumer Price Index for All Urban Consumers (CPI-U), U.S. City Average, All Items, Not Seasonally Adjusted, as published by the Bureau of Labor Statistics of the Department of Labor (<http://www.bls.gov/cpi/home.htm>), for the effective date of the increase compared with the same index one (1) year prior. Any such change in price shall be submitted in writing in accordance with the above and shall not become effective for sixty (60) days thereafter. Supplier agrees to offer price reductions to ensure compliance with the Competitive Pricing Section.

B. Reproduction Rights

At an Authorized User's request, Supplier shall provide the Authorized User with a reproducible diskette or CD. Such Authorized User shall be responsible for making copies and distributing the Software as required. Within thirty (30) days of the end of each calendar quarter, such Authorized User shall provide to Supplier a report of the net number of additional copies of the Software deployed during the quarter. Supplier shall invoice such Authorized User for the net number of new licenses reported as deployed.

C. Evaluation Copy of Software

Supplier shall make available to any Authorized User Software for evaluation purposes at no charge. The evaluation period will be determined by the Supplier but will be a period not less than fourteen (14) days. Each new project is entitled to an evaluation copy regardless of whether an Authorized User has previously purchased the Software.

D. Ordering

Notwithstanding all Authorized User's rights to purchase or license Supplier's products or services under this Contract, an Authorized User is under no obligation to purchase or license from Supplier any of Supplier's products or services. This Contract is optional use and non-exclusive and all

Authorized Users may, at their sole discretion, purchase, license or otherwise receive benefits from third party suppliers of products and services similar to, or in competition with, the products and services provided by Supplier.

Supplier is required to accept any order placed by an Authorized User through the eVA electronic procurement website portal ([eVA Home Page](#)). eVA is the Commonwealth of Virginia's e-procurement system. State agencies, as defined in §2.2-2006 of the Code of Virginia, shall order through eVA. All other Authorized Users are encouraged to order through eVA, but may order through the following means:

Purchase Order (PO): An official PO form issued by an Authorized User.

Any other order/payment charge or credit card process, such as AMEX, MASTERCARD, or VISA under contract for use by an Authorized User.

This ordering authority is limited to issuing orders for the Software and Services available under this Contract. Under no circumstances shall any Authorized User have the authority to modify this Contract. An order from an Authorized User may contain additional terms and conditions; however, to the extent that the terms and conditions of the Authorized User's order are inconsistent with the terms and conditions of this Contract, the terms of this Contract shall supersede.

Notwithstanding the foregoing, Supplier shall not accept any order from an Authorized User if such order is to be funded, in whole or in part, by federal funds and if, at the time the order is placed, Supplier is not eligible to be the recipient of federal funds as may be noted on any of the Lists of Parties Excluded from Federal Procurement and Nonprocurement Programs.

ALL CONTRACTUAL OBLIGATIONS UNDER THIS CONTRACT IN CONNECTION WITH AN ORDER PLACED BY ANY AUTHORIZED USER ARE THE SOLE OBLIGATION OF SUCH AUTHORIZED USER AND NOT THE RESPONSIBILITY OF VITA UNLESS VITA IS THE AUTHORIZED USER.

E. Invoice Procedures

Supplier shall remit each invoice to the "bill to" address provided with the order promptly after all Software or Services have been accepted. Payment for Software support Services, including Maintenance, shall be annually in arrears unless otherwise stated herein, or in any order referencing this Contract. No invoice shall include any costs other than those identified in the executed order, which costs shall be in accordance with [Exhibit B](#). Without limiting the foregoing, all shipping costs are the Supplier's responsibility except to the extent such charges are identified in [Exhibit B](#), or as noted in any executed order referencing this Contract. Invoices issued by the Supplier shall identify at a minimum:

Software or Service type and description

Quantity, charge and extended pricing for each Software and/or Service item

Applicable order date

This Contract number and the applicable order number

Supplier's Federal Employer Identification Number (FEIN).

Any terms included on Supplier's invoice shall have no force or effect and will in no way bind VITA or any Authorized User.

F. Purchase Payment Terms

Supplier is responsible for the accuracy of its billing information. Supplier will issue invoices for software upon acceptance by Authorized User of Software.

Charges for Software or Services accepted more than ninety (90) days prior to receipt of a valid invoice may not be paid.

Should Supplier repeatedly over bill Authorized User, Authorized User may assess a one percent (1%) charge for the amount over billed for each month that such over billing continues.

In the event Software is shipped without the applicable Documentation, pursuant to Section 10, payment shall not be due until the required Documentation is provided.

If there are any disputed items, an Authorized User shall pay all undisputed charges and promptly notify Supplier within thirty (30) days of any disputed amount. Supplier shall thereupon review its records, and, if it does not concur with the Authorized User, provide the Authorized User with documentation to support the charge. If such charges remain in dispute, such dispute shall be resolved in accordance with the Dispute Resolution section of this Contract. In the absence of the Supplier's written evidence identifying the merit of the disputed amounts, Authorized User may not pay the disputed amounts and may consider the matter concerning the specific identified amounts closed. All payment terms are net 30 days after Acceptance.

G. Alternate Channel Participation (Resellers/Distributors)

It is the intention of VITA to allow Resellers (including Value Added Resellers (VARs), distributors and dealers) to participate as alternate distribution sources for Supplier under the following conditions:

Supplier shall provide to VITA the names and applicable contact information of its authorized Resellers. VITA may, at its sole discretion, issue a solicitation in accordance with the Virginia Public Procurement Act (VPPA), §§ 2.2-4300 et seq. of the Code of Virginia, for the participation of such Resellers as alternate distribution sources for Supplier.

Once a Reseller is issued a contract in accordance with the VPPA, an Authorized User may issue an order directly to such Reseller, in accordance with the VPPA and/or other applicable statutes or regulations. Reseller shall ship and bill Authorized Users directly in accordance with the terms of its contract with VITA, on behalf of the Commonwealth of Virginia.

Orders placed with Resellers pursuant to a contract awarded in accordance with items (i) and (ii) above may contain only Software previously approved for license under this Contract.

Reseller may invoice and will be paid in accordance with the terms of its contract with VITA.

Supplier agrees that all licenses for the Software acquired by Authorized User through a Reseller shall be governed by the terms and conditions of this Contract in lieu of VITA's execution of a sublicense agreement with Reseller, regardless of whether such Authorized User referenced this Contract in its order.

As to all Software acquired through Resellers, Supplier warrants and represents that all warranties and indemnities set forth in the Contract will be honored by Supplier as to such Software, regardless of whether the ordering Authorized User referenced this Contract in its order.

12. REPORTING

A. Supplier's Report of Sales and Industrial Funding Adjustment

By the 10th day of every month, the Supplier shall submit the "Supplier Monthly Report of Sales". A template showing the format in which the report is to be submitted and contact information for submission is available at <http://www.vita.virginia.gov/uploadedFiles/SCM/SupplierReportofSalesTemplate.xls>. The report shall be submitted via electronic mail to the VITA IFA Coordinator and shall report total sales (defined for purposes of this report as all invoiced payments received by Supplier from all Authorized Users) for this Contract during the preceding month. Supplier shall be responsible for submitting the monthly report of sales even if Supplier has had no sales (i.e., a \$0.00 total sales value) for the reporting period.

The Supplier shall submit the Industrial Funding Adjustment (IFA) payment for the period covered by such "Supplier Monthly Report of Sales" within thirty (30) days after submitting the "Supplier Monthly Report of Sales". The IFA payment is equal to two percent (2%) of total sales reported during the relevant month.

The IFA payment shall be submitted to VITA, Attention VITA Controller in the form of a check or electronic payment, made payable to the Treasurer of Virginia. The IFA payment shall reference this Contract number, "report amounts", and "report period" and shall be accompanied by a copy of the relevant "Supplier Monthly Report of Sales". Contact information for submission of IFA payments is available at <http://www.vita.virginia.gov/uploadedFiles/SCM/SupplierReportofSalesTemplate.xls>.

Failure to comply with reporting, payment and distribution requirements of this section may result in default of the Contract.

B. Small Business Participation

Supplier and VITA agree to meet promptly after the Effective Date of this Contract to discuss the participation of Virginia Department of Minority Business Enterprise (DMBE)-certified Small Businesses as subcontractors and second-tier suppliers under this Contract.

Supplier and VITA agree to meet annually thereafter to review small business subcontracting reports and discuss further action with respect to small business subcontracting and spend.

In addition, by the 10th day of every month, Supplier shall submit to VITA the Small Business Subcontracting Monthly Report (template to be provided). Supplier's report should include spend on all Supplier's contracts with second-tier suppliers which provide products or services under this Contract. The report should specify the amount of such spend provided to small businesses. Supplier shall submit the report to SWaM@vita.virginia.gov.

13. STEERING COMMITTEE

In order to facilitate mutually beneficial contractual relationships with suppliers, VITA has procedures for establishing a steering committee ("Steering Committee"), consisting of senior management personnel, including personnel involved in the contractual relationship, from VITA and Supplier.

Roles of the Steering Committee include but are not be limited to a) identifying potential issues which may arise during the performance of a contract, b) discussing and assigning roles and responsibilities, c) establishing methods for quickly resolving potential disputes, d) setting rules for communication and decision making, e) monitoring and measuring the business relationship between the parties, and f) acting as a final decision board for escalated problems.

A meeting of the Steering Committee is intended to be a forum for brainstorming and sharing ideas, emphasizing respect, cooperation, and access, with the end goal of developing relationships to avoid conflict. A facilitator may, but is not required to, conduct a meeting of the Steering Committee.

A Steering Committee for this Contract will be formed at VITA's option. Meetings may be held at any time during the Contract term, should VITA, at its sole discretion, determine that a meeting(s) would be beneficial to the contractual relationship, and Supplier agrees to participate in such meeting(s). In addition, Supplier may at any time submit a written request to VITA for a meeting of the Steering Committee, which VITA will not unreasonably deny.

Supplier shall ensure the availability of the appropriate personnel to meet with the VITA contract management team. Additional Steering Committee meetings involving representatives from VITA, the Supplier, and an Authorized User may be required prior to or during performance on any specific order issued pursuant to this Contract

14. COMPETITIVE PRICING

Supplier warrants and agrees that each of the charges, economic or product terms or warranties granted pursuant to this Contract are comparable to or better than the equivalent charge, economic or product term or warranty being offered to commercial or government customer of Supplier. If

Supplier enters into any arrangements with another customer of Supplier or with an Authorized User to provide Software or Services under more favorable prices, as the prices may be indicated on Supplier's current U.S. and International price list or comparable document, then this Contract shall be deemed amended as of the date of such other arrangements to incorporate those more favorable prices, and Supplier shall immediately notify VITA of such change.

15. CONFIDENTIALITY

A. Treatment and Protection

Each Party shall (i) hold in strict confidence all Confidential Information of any other Party, (ii) use the Confidential Information solely to perform or to exercise its rights under this Contract, and (iii) not transfer, display, convey or otherwise disclose or make available all or any part of such Confidential Information to any third-party. However, an Authorized User may disclose the Confidential Information as delivered by Supplier to subcontractors, contractors or agents of such Authorized User that are bound by non-disclosure contracts with such Authorized User. Each Party shall take the same measures to protect against the disclosure or use of the Confidential Information as it takes to protect its own proprietary or confidential information (but in no event shall such measures be less than reasonable care).

B. Exclusions

The term "Confidential Information" shall not include information that is:

- i). in the public domain through no fault of the receiving Party or of any other person or entity that is similarly contractually or otherwise obligated;
- ii). obtained independently from a third-party without an obligation of confidentiality to the disclosing Party and without breach of this Contract;
- iii). developed independently by the receiving Party without reference to the Confidential Information of the other Party; or
- iv). required to be disclosed under The Virginia Freedom of Information Act (§§2.2-3700 et seq. of the Code of Virginia) or similar laws or pursuant to a court order.

C. Return or Destruction

Authorized User, Supplier shall (i) at its own expense, (a) promptly return to the disclosing Authorized User all tangible Confidential Information (and all copies thereof except the record required by law) of the disclosing Authorized User, or (b) upon written request from the disclosing Authorized User, destroy such Confidential Information and provide the disclosing Authorized User with written certification of such destruction, and (ii) cease all further use of the Authorized User's Confidential Information, whether in tangible or intangible form.

VITA or the Authorized User shall retain and dispose of Supplier's Confidential Information in accordance with the Commonwealth of Virginia's records retention policies or, if Authorized User is not subject to such policies, in accordance with such Authorized User's own records retention policies.

16. INDEMNIFICATION AND LIABILITY

A. Indemnification

Supplier agrees to indemnify, defend and hold harmless the Commonwealth, VITA, any Authorized User, their officers, directors, agents and employees (collectively, "Commonwealth's Indemnified Parties") from and against any and all third party claims, demands, proceedings, suits and actions, including any related liabilities, obligations, losses, damages, assessments, fines, penalties (whether criminal or civil), judgments, settlements, expenses (including attorneys' and accountants' fees and disbursements) and costs (each, a "Claim" and collectively, "Claims"), incurred by, borne by or asserted against any of Commonwealth's Indemnified Parties to the extent such Claims in any way relate to, arise out of or result from: (i) any intentional or willful conduct or negligence of any

employee, agent, or subcontractor of Supplier, (ii) breach of any representation, warranty or covenant of Supplier contained herein, or (iii) any actual or alleged infringement or misappropriation of any third party's intellectual property rights by any of the Software or Services. Selection and approval of counsel and approval of any settlement shall be accomplished in accordance with all applicable laws, rules and regulations. For state agencies the applicable laws include §§ 2.2-510 and 2.2-514 of the Code of Virginia. In all cases the selection and approval of counsel and approval of any settlement shall be satisfactory to VITA or the Authorized User against whom the claim has been asserted.

In the event that a Claim is commenced against any of Commonwealth's Indemnified Parties alleging that use of the Software or that the provision of Services under this Contract infringes any third party's intellectual property rights and Supplier is of the opinion that the allegations in such Claim in whole or in part are not covered by this indemnification provision, Supplier shall immediately notify VITA and the affected Authorized User(s) in writing, via certified mail, specifying to what extent Supplier believes it is obligated to defend and indemnify under the terms and conditions of this Contract. Supplier shall in such event protect the interests of the Commonwealth's Indemnified Parties and secure a continuance to permit VITA and the affected Authorized User(s) to appear and defend their interests in cooperation with Supplier as is appropriate, including any jurisdictional defenses VITA or the affected Authorized User(s) may have.

In the event of a Claim pursuant to any actual or alleged infringement or misappropriation of any third party's intellectual property rights by any of the Software or Services, and in addition to all other obligations of Supplier in this Section, Supplier shall at its expense, either (a) procure for all Authorized Users the right to continue use of such infringing Software or Services, or any component thereof; or (b) replace or modify such infringing Software or Services, or any component thereof, with non-infringing products or services satisfactory to VITA. And in addition, Supplier shall provide any Authorized User with a comparable temporary replacement Software or reimburse VITA or any Authorized User for the reasonable costs incurred by VITA or such Authorized User in obtaining an alternative product in the event such Authorized User cannot use the affected Software. If Supplier cannot accomplish any of the foregoing within a reasonable time and at commercially reasonable rates, then Supplier shall accept the return of the infringing component of the Software or Services, along with any other components of any products rendered unusable by any Authorized User as a result of the infringing component, and refund the price paid to Supplier for such components.

B. Liability

Supplier shall have unlimited liability with respect to (i) any intentional or willful misconduct or negligence of any employee, agent, or subcontractor of Supplier, (ii) claims for bodily injury, including death, and real and tangible property damage, (iii) Supplier's indemnification obligations, (iv) Supplier's confidentiality obligations, and (v) Supplier's security compliance obligations. Supplier agrees that it is fully responsible for all acts and omissions of its employees, agents, and subcontractors, including their gross negligence or willful misconduct

EXCEPT AS PROVIDED ABOVE, IN NO EVENT SHALL EITHER PARTY'S AGGREGATE LIABILITY EXCEED THE AMOUNTS ACTUALLY PAID BY AND/OR DUE FROM AUTHORIZED USERS IN THE THIRTY-SIX (36) MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO SUCH CLAIM. IN NO EVENT SHALL EITHER PARTY AND/OR ITS LICENSORS BE LIABLE TO ANYONE FOR ANY INDIRECT, PUNITIVE, SPECIAL, EXEMPLARY, INCIDENTAL, CONSEQUENTIAL OR OTHER DAMAGES OF ANY TYPE OR KIND (INCLUDING LOSS OF DATA, REVENUE, PROFITS, USE OR OTHER ECONOMIC ADVANTAGE) ARISING OUT OF, OR IN ANY WAY CONNECTED WITH THIS SERVICE, INCLUDING BUT NOT LIMITED TO THE USE OR INABILITY TO USE THE SERVICE, OR FOR ANY CONTENT OBTAINED FROM OR THROUGH THE SERVICE, ANY INTERRUPTION, INACCURACY, ERROR OR OMISSION, REGARDLESS OF CAUSE IN THE CONTENT, EVEN IF THE PARTY FROM WHICH DAMAGES ARE BEING SOUGHT OR SUCH PARTY'S LICENSORS HAVE BEEN PREVIOUSLY ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

17. INSURANCE

In addition to the insurance coverage as referenced in the Incorporated Contractual Provisions section of this Contract, Supplier shall carry errors and omissions insurance coverage in the amount of \$1,000,000 per occurrence.

18. SECURITY COMPLIANCE

Supplier agrees to comply with all provisions of the then-current Commonwealth of Virginia security procedures, published by the Virginia Information Technologies Agency (VITA) and which may be found at (<http://www.vita.virginia.gov/library/default.aspx?id=537#securityPSGs>) or a successor URL(s), as are pertinent to Supplier's operation. Supplier further agrees to comply with all provisions of the relevant Authorized User's then-current security procedures as are pertinent to Supplier's operation and which have been supplied to Supplier by such Authorized User. Supplier shall also comply with all applicable federal, state and local laws and regulations. For any individual Authorized User location, security procedures may include but not be limited to: background checks, records verification, photographing, and fingerprinting of Supplier's employees or agents. Supplier may, at any time, be required to execute and complete, for each individual Supplier employee or agent, additional forms which may include non-disclosure agreements to be signed by Supplier's employees or agents acknowledging that all Authorized User information with which such employees and agents come into contact while at the Authorized User site is confidential and proprietary. Any unauthorized release of proprietary information by the Supplier or an employee or agent of Supplier shall constitute a breach of this Contract.

Supplier shall indemnify, defend, and hold the Commonwealth, VITA, the Authorized User, their officers, directors, employees and agents harmless from and against any and all fines, penalties (whether criminal or civil), judgments, damages and assessments, including reasonable expenses suffered by, accrued against, or charged to or recoverable from the Commonwealth, VITA, the Authorized User, their officers, directors, agents or employees, on account of the failure of Supplier to perform obligations pursuant to this Section.

19. BANKRUPTCY

If Supplier becomes insolvent, takes any step leading to its cessation as a going concern, fails to pay its debts as they become due, or ceases business operations continuously for longer than fifteen (15) business days, then VITA may immediately terminate this Contract, or an Authorized User may terminate an order, on notice to Supplier unless Supplier immediately gives VITA or such Authorized User adequate assurance of the future performance of this Contract or the applicable order. If bankruptcy proceedings are commenced with respect to Supplier, and if this Contract has not otherwise terminated, then VITA may suspend all further performance of this Contract until Supplier assumes this Contract and provides adequate assurance of performance thereof or rejects this Contract pursuant to Section 365 of the Bankruptcy Code or any similar or successor provision, it being agreed by VITA and Supplier that this is an executory contract. Any such suspension of further performance by VITA pending Supplier's assumption or rejection shall not be a breach of this

Contract, and shall not affect the right of VITA or any Authorized User to pursue or enforce any of its rights under this Contract or otherwise.

20. GENERAL PROVISIONS

A. Relationship between VITA, Authorized User, and Supplier

Supplier has no authority to contract for VITA or any Authorized User or in any way to bind, to commit VITA or any Authorized User to any agreement of any kind, or to assume any liabilities of any nature in the name of or on behalf of VITA or any Authorized User. Under no circumstances shall Supplier, or any of its employees, hold itself out as or be considered an agent or an employee of VITA or any Authorized User, and neither VITA nor any Authorized User shall have any duty to provide or maintain any insurance or other employee benefits on behalf of Supplier or its employees. Supplier represents and warrants that it is an independent contractor for purposes of federal, state and local employment taxes and agrees that neither VITA nor any Authorized User is responsible to collect or withhold any federal, state or local employment taxes, including, but not limited to, income tax withholding and social security contributions, for Supplier. Any and all taxes, interest or penalties, including, but not limited to, any federal, state or local withholding or employment taxes, imposed, assessed or levied as a result of this Contract shall be paid or withheld by Supplier or, if assessed against and paid by VITA or any Authorized User, shall be reimbursed by Supplier upon demand by VITA or such Authorized User.

B. Incorporated Contractual Provisions

The then-current contractual provisions at the following URL are core contractual provisions, required by law or by VITA, that are hereby incorporated by reference: [Core Contractual Terms](#).

The contractual claims provision §2.2-4363 of the [Code of Virginia](#) and the required eVA provisions at [eVA Terms and Conditions](#) are also incorporated by reference.

The then-current terms and conditions in documents posted to the aforereferenced URLs are subject to change pursuant to action by the legislature of the Commonwealth of Virginia, change in VITA policy, or the adoption of revised eVA business requirements. If a change is made to the terms and conditions, a new effective date will be noted in the document title. Supplier is advised to check the URLs periodically.

C. Compliance with the Federal Lobbying Act

Supplier's signed certification of compliance with 31 USC 1352 (entitled "Limitation on use of appropriated funds to influence certain Federal Contracting and financial transactions") or by the regulations issued from time to time thereunder (together, the "Lobbying Act") is incorporated as Exhibit F hereto.

D. Governing Law

This Contract shall be governed by and construed in accordance with the laws of the Commonwealth of Virginia without regard to that body of law controlling choice of law. Any and all litigation shall be brought in the circuit courts of the Commonwealth of Virginia. The English language version of this Contract prevails when interpreting this Contract. The United Nations Convention on Contracts for the International Sale of Goods and all other laws and international treaties or conventions relating to the sale of goods are expressly disclaimed. UCITA shall apply to this Contract only to the extent required by §59.1-501.15 of the [Code of Virginia](#).

E. Dispute Resolution

In accordance with §2.2-4363 of the [Code of Virginia](#), Contractual claims, whether for money or other relief, shall be submitted in writing to the public body from whom the relief is sought no later than sixty (60) days after final payment; however, written notice of the Supplier's intention to file such claim must be given to such public body at the time of the occurrence or beginning of the work upon which the claim is based. Pendency of claims shall not delay payment of amounts agreed due in the final

payment. The relevant public body shall render a final decision in writing within thirty (30) days after its receipt of the Supplier's written claim.

The Supplier may not invoke any available administrative procedure under §2.2-4365 of the Code of Virginia nor institute legal action prior to receipt of the decision of the relevant public body on the claim, unless that public body fails to render its decision within thirty (30) days. The decision of the relevant public body shall be final and conclusive unless the Supplier, within six (6) months of the date of the final decision on the claim, invokes appropriate action under §2.2-4364, Code of Virginia or the administrative procedure authorized by §2.2-4365, Code of Virginia.

Upon request from the public body from whom the relief is sought, Supplier agrees to submit any and all contractual disputes arising from this Contract to such public body's alternative dispute resolution (ADR) procedures. Supplier may invoke such public body's ADR procedures, if any, at any time and concurrently with any other statutory remedies prescribed by the Code of Virginia.

In the event of any breach by a public body, Supplier's remedies shall be limited to claims for damages and Prompt Payment Act interest and, if available and warranted, equitable relief, all such claims to be processed pursuant to this Section. In no event shall Supplier's remedies include the right to terminate any license or support services hereunder.

F. Advertising and Use of Proprietary Marks

Supplier shall not use the name of VITA or any Authorized User or refer to VITA or any Authorized User, directly or indirectly, in any press release or formal advertisement without receiving prior written consent of VITA or such Authorized User. In no event may Supplier use a proprietary mark of VITA or an Authorized User without receiving the prior written consent of VITA or such Authorized User.

G. Notices

Any notice required or permitted to be given under this Contract shall be in writing and shall be deemed to have been sufficiently given if delivered in person, or if deposited in the US mails, postage prepaid, for mailing by registered, certified mail, or overnight courier service addressed to the addresses shown on the signature page. VITA or Supplier may change its address for notice purposes by giving the other notice of such change in accordance with this Section.

H. No Waiver

Any failure to enforce any terms of this Contract shall not constitute a waiver.

I. Assignment

This Contract shall be binding upon and shall inure to the benefit of the permitted successors and assigns of VITA and Supplier. Supplier may not assign, subcontract, delegate or otherwise convey this Contract, or any of its rights and obligations hereunder, to any entity without the prior written consent of VITA, and any such attempted assignment or subcontracting without consent shall be void. VITA may assign this Contract to any entity, so long as the assignee agrees in writing to be bound by the all the terms and conditions of this Contract.

If any law limits the right of VITA or Supplier to prohibit assignment or nonconsensual assignments, the effective date of the assignment shall be thirty (30) days after the Supplier gives VITA prompt written notice of the assignment, signed by authorized representatives of both the Supplier and the assignee. Any payments made prior to receipt of such notification shall not be covered by this assignment.

J. Captions

The captions are for convenience and in no way define, limit or enlarge the scope of this Contract or any of its Sections.

K. Severability

Invalidity of any term of this Contract, in whole or in part, shall not affect the validity of any other term. VITA and Supplier further agree that in the event such provision is an essential part of this Contract, they shall immediately begin negotiations for a suitable replacement provision.

L. Survival

The provisions of this Contract regarding Software License, Warranty, Escrow, Confidentiality, Liability and Indemnification, and the General Provisions shall survive the expiration or termination of this Contract.

M. Force Majeure

No Party shall be responsible for failure to meet its obligations under this Contract if the failure arises from causes beyond the control and without the fault or negligence of the non-performing Party. If any performance date under this Contract is postponed or extended pursuant to this section for longer than thirty (30) calendar days, VITA, by written notice given during the postponement or extension, may terminate Supplier's right to render further performance after the effective date of termination without liability for that termination, and in addition an Authorized User may terminate any order affected by such postponement or delay.

N. Remedies

The remedies set forth in this Contract are intended to be cumulative. In addition to any specific remedy, VITA and all Authorized Users reserve any and all other remedies that may be available at law or in equity.

O. Right to Audit

VITA reserves the right to audit those Supplier records that relate to the Software purchased and Services rendered or the amounts due Supplier for such services under this Contract. VITA's right to audit shall be limited as follows:

Three (3) years from Software delivery or Service performance date;

Performed at Supplier's premises, during normal business hours at mutually agreed upon times;
and

Excludes access to Supplier cost information.

In no event shall Supplier have the right to audit, or require to have audited, VITA or any Authorized User.

P. Offers of Employment

During the first twelve (12) months of the Contract, should Supplier hire an employee of an Authorized User who has substantially worked on any project covered by this Contract without prior written consent, the Supplier shall be billed for fifty percent (50%) of the employee's annual salary in effect at the time of termination.

Q. Contract Administration

Supplier agrees that at all times during the term of this Contract an account executive, at Supplier's senior management level, shall be assigned and available to VITA. Supplier reserves the right to change such account executive upon reasonable advance written notice to VITA.

R. Entire Contract

The following Exhibits, including all subparts thereof, are attached to this Contract and are made a part of this Contract for all purposes:

- a). Exhibit A Software Functional Requirements
- b). Exhibit B Software Product List, Software License Fee, Service Charges and Payment Schedule

- c). Exhibit C-1 Software Maintenance Services description
- d). Exhibit C-2 Services support description (AMPS uptime, hosting environment, etc.)
- e). Exhibit D End User Licensing Agreement
- f). Exhibit E Reserved
- g). Exhibit F Certification Regarding Lobbying

This Contract, its Exhibits, and any prior non-disclosure agreement constitute the entire agreement between VITA and Supplier and supersede any and all previous representations, understandings, discussions or agreements between VITA and Supplier as to the subject matter hereof. Any and all terms and conditions contained in, incorporated into, or referenced by the Supplier's Proposal shall be deemed invalid. The provisions of the Virginia Department of General Services, Division of Purchases and Supply Vendor's Manual shall not apply to this Contract or any order issued hereunder. This Contract may only be amended by an instrument in writing signed by VITA and Supplier. In the event of a conflict, the following order of precedence shall apply: this Contract document, Exhibit A, any individual order, Exhibit D.

An Authorized User and Supplier may enter into an ordering agreement pursuant to this Contract. To the extent that such ordering agreement, or any order issued hereunder, include any terms and conditions inconsistent with the terms and conditions of this Contract, such terms and conditions shall be of no force and effect.

VITA and Supplier each acknowledge that it has had the opportunity to review this Contract and to obtain appropriate legal review if it so chose.

Executed as of the last date set forth below by the undersigned authorized representatives of VITA and Supplier.

Supplier
By: _____
(Signature)
Name: _____
(Print)
Title: _____
Date: _____

VITA
By: _____
(Signature)
Name: _____
(Print)
Title: _____
Date: _____

Address for Notice:

Address for Notice:

Supplier
By: Tammy Coaseboorn
(Signature)
Name: Tammy Coaseboorn
(Print)
Title: Director Public Sector Sales
Date: August 24, 2009

VITA
By: [Signature]
(Signature)
Name: George F. Coulter
(Print)
Title: CIO
Date: 9/15/09

Address for Notice:
1489 Chain Bridge Road
Suite 204
McLean VA 22101
Attention: Tammy Coaseboorn

Address for Notice:
VITA

Attention: Contract Administrator

Exhibit A Section 5 from RFP 2009-04

Contract VA-090829-SSBB

Detailed Description of Proposed Solution(S)

Category 1: products which aid in making users' access to software and operating systems compliant

Category 1: Products which aid in making users' access to software and operating systems compliant
These are products that help agencies bring their software applications and operating systems into compliance with Virginia's *Information Technology Accessibility Standard* (GOV103-00) (or to create new compliant software applications). (Note: Web application accessibility products are covered in Category 2 below.) Such products include (but are not limited to):

- Products that analyze applications and operating systems for compliance and provide detailed reports regarding missed requirements

AMP (Accessibility Management Platform) provides testers with a step by step guide specific to testing for software standards according to Section 508 § 1194.21 Software applications and operating systems guidelines. The results are made available in a clear concise report providing pass/fail information in the form of a comprehensive report.

- Products that correct (or suggest corrections to) compliance problems it finds in analyzed applications

AMP provides suggestions to compliance problems as well as additional assistance in the form a knowledge base that provides for suggested remediation and alternatives. For each issue detected this includes a description of the issue, a code level example of a non-compliant implementation, a code level example of a compliant implementation, recommendations for fixing the issue, instructions on how to perform a unit test to validate the issue has been addressed and an overall description of the theoretical issue in the development environment.

- Products that make it easier for developers to bring applications into compliance (e.g. an integrated development environment (IDE) that creates compliant applications or an IDE plug-in).

AMP provides knowledge, techniques and training courses that can readily be applied in any IDE. AMP's validation engine, InFocus, is available in source code form and can be integrated with a variety of IDEs, automatic build testing environments and regression testing environments.

- Products to make compliant software, which lies on top of an existing application or operating systems, interface to make the application or operating system compliant. (e.g. a screen reader).

In general, AMP is focused on making applications directly accessible across a wide range of assistive technologies including screen readers, screen magnification software and voice recognition software. If further customization is required, SSB BART Group provides scripting services that provide customized scripts that govern the manner in which specific applications interact with assistive technologies.

The AMP (Accessibility Management Platform) includes functionality that provides the testing necessary to test for Accessibility compliance with Software and Operating Systems. This functionality is available to user via a browser interface and allows users to audit Software and Operating system for compliance as well as provides them with access to information concerning best practices, eLearning resources, Auditing, Standards Management and a reference library to support them with Software and Operating Accessibility testing.

- **Best practices.** AMP provides more than 800 best practices dealing with IT accessibility. Customized "best practices" can easily be added to the AMP solution specific to VITA Software and Operating testing.

- **eLearning resources.** AMP provides user access to a comprehensive selection of Software and Operating system self-paced online courses and training.
- **Auditing reports.** AMP provides a detailed testing tool to perform Software and Operating System Accessibility compliance. Users perform audits resulting in comprehensive reports that include compliance levels, violations, and priorities.
- **Standards management.** AMP allows you to manage your accessibility development and testing practices across a variety of technology platforms.
- **Reference library.** AMP includes an extensive collection of reference materials, including consulting methodology, Voluntary Product Accessibility Templates (VPAT), and white papers specific to Software and Operating System Compliance.

#	Requirement	A (Y/F /N)	B (comments)
Commonwealth of Virginia STANDARDS			
1.	Is the product written in a language identified in Table APP-S-01 of the Commonwealth's Enterprise Technical Architecture Standard (ITRM Standard EA225-00)? List and describe the language used.	Y	InFocus and all client side applications are written in Java and are launched through Java Web Start. All server side applications are written in PHP and run on the LAMP platform
2.	Does the product run on a platform identified in Table PLA-S-01, Table PLA-S-08, or Table PLA-S-09 of the Commonwealth's Enterprise Technical Architecture Standard (ITRM Standard EA225-00)? For each product offering list and describe the platform(s) used.	Y	AMP runs on the Apache and MySQL application stack. This stack runs a wide-variety of Linux and Windows platforms including many platforms listed in the Commonwealth's Enterprise Technical Architecture Standard
3	Does the product run on a Database Management System (DBMS) identified in Table DB-S-01 of the Commonwealth's Enterprise Technical Architecture Standard (ITRM Standard EA225-00)? Identify the DBMS the product utilizes.	Y	AMP requires a MySQL 4 or 5 series Database Management System.
4.	If the product uses a DBMS, is the data normalized? Please describe to what level.	NA	Not Applicable
5.	Can you provide a Voluntary Product Accessibility Template (VPAT), located in the Commonwealth of Virginia IT Accessibility Standard? Please provide a VPAT and provide an explanation to questions with answers other than yes or no and be specific.	Y	Yes. AMP's VPAT is available online at https://amp.ssbartgroup.com/amp_2008_vpat.php Exhibit A Copy of AMP VPAT
6.	Is the product a Commercial Off the Shelf Software (COTS) solution, i.e., a software package that is ready to implement without additional software design and programming?		AMP is a commercial off the shelf packaged software solution.

	Please describe.	Y	
#	Requirement	A (Y/F /N)	B (comments)
7.	Will your company work with designated VITA staff to submit a VITA Architectural Review (VAR) ¹ application for approval prior to contract signing? Please describe.	Y	A member of SSB's professional service team will work with the designated VITA staff to provide a VITA Architectural Review. This can be done via a series of web meetings, or a scheduled on-site visit.
8.	Is your product Internet based/server based/thin client? (versus a thick client/installed on individual PCs) Please describe.	Y	AMP is a Web-based server solution that allows user access by way of a browser. Individual components of AMP may be launched using Java Web Start to assist with developer testing at their desktop.
OPERATIONAL AND MAINTENANCE			
9	Do you have a system or procedure for product updates and/or releases? Please describe and include how releases and revisions are tested, distributed, and installed.	Y	Upgrades are made available on a seasonal (Winter, Spring, Summer, Fall) upgrade cycle with releases on roughly three month cycles. Exact update schedules and update methods are provided by Supplier but in general are made available for immediate download as soon as an official release is provided and are recommended for client installation as of the first patch release. Product updates are delivered via electronic download.

¹ VAR Explanation: Additions or changes to the VITA infrastructure must undergo an architecture evaluation to prevent negative impact to the infrastructure. The review is performed by the VITA Architectural Review Team (VART) and covers all VAR Domains (subject areas) that could be impacted by the additions or changes.

10.	<p>Does your product have support services and options?</p> <p>Please describe.</p>	Y	<p>Support is provided by way of a member of the SSB support team, the professional service representative and the assigned support contact will work together that both entities are aware of VITA's special needs if any. Support is included as part of the annual license fees for AMP as defined in Exhibit D of the VITA software license agreement.</p>
11.	<p>Does your product have formal service escalation for problem resolution?</p> <p>Please describe escalation and problem resolution procedures?</p>	Y	<p>As an Enterprise account, VITA would be assigned a designated account manager as the primary point of contact. The account manager assigned to the VITA account will serve as the primary contact in regard to escalation; they have been instructed to bring any and all VITA concerns to the attention of the appropriate department executive for review.</p>
12.	<p>Do you provide updates regarding outstanding problems, fixes, modifications, and improvements to the customer?</p> <p>Please describe.</p>	Y	<p>Information concerning outstanding problems, fixes, modification and improvements would be provided by the VITA Account Manager and/or support representative.</p> <p>SSB provides a support portal at reference.ssbartgroup.com that contains the most up-to-date documentation, FAQs, issue notes and related documents for all current and prior AMP releases.</p>
TRAINING			
13.	<p>Do you have a user training plan?</p> <p>Please describe.</p> <p>Please submit a user training plan that is optioned for levels of training and a schedule.</p>		<p>AMP provides online training to all customers as part of the standard license fee for AMP. This includes training both on AMP itself and on the</p>

	Include training costs in Section 7, "Pricing."	Y	<p>testing and development domains covered in AMP.</p> <p>Additional training can be provided onsite at the customer's request based on the training costs outlined in Section 7.</p>
	REMIEDIATION		
14..	<p>Does your product perform automatic remediation of accessibility problems it encounters?</p> <p>Please describe.</p>	N	<p>AMP's focus is on providing detailed, concise guidance to developers on the implementation of accessibility solutions.</p> <p>More generally, as it currently stands no effective automated source code remediation tools currently exist on the market for diagnosing or retrofitting the accessibility of software applications. This is due to the fact that the bulk of accessibility issues in applications stem from run-time issues and cannot readily be identified by software at compile time. This is the nature of the challenge of ensuring the accessibility of software application and not something that is likely to change in the immediate future.</p>
15.	<p>Does your product track remediation from session to session?</p> <p>Please describe.</p>	Y	<p>Yes, remediation tracking is made available by consolidating previous reports, allowing for historical reporting providing bench marked data vs. remediation progress.</p>
#	Requirement	A (Y/ F/N)	B (comments)
15.	<p>Does your product support end users with disabilities?</p> <p>Please describe.</p>		<p>SSB utilizes AMP to perform all delivered Accessibility Services. Over 66% of our Client Services team is made up of individuals with</p>

		Y	<p>disabilities so the accessibility of AMP itself is a requirement for our ongoing business success.</p> <p>In addition, a VPAT is available specific to the AMP product which includes all of the components and functionality made available with this platform.</p>
17.	<p>Does your product support Windows authentication and access protocols?</p> <p>Please describe.</p>	Y	<p>AMP has support for pluggable authentication modules and LDAP. These are implemented on a per client basis as part of a Professional Services agreement.</p>
18.	<p>Have you taken steps with your products usability features to simplify their use for the largest number of users?</p> <p>Please describe.</p>	Y	<p>SSB's number one priority is the Accessibility and Usability of our products and solutions. Studies show that Accessible products rank high in Usability. We strive to meet our customers Usability expectations and welcome usability feedback from our user community.</p>
19.	<p>Does your product have additional features that we have not addressed in the above questions?</p> <p>Please describe.</p>	Y	<p>AMP provides the only solution on the market for supporting a standard accessibility testing, retrofitting and maintenance process across a diverse development environment. A variety of point solutions are available in the market that addresses the accessibility of specific, limited languages or platforms. AMP provides the only standard method for implementing accessibility across all these platforms.</p>

Category 2: Products which aid in making users' access to Web sites and Web applications compliant

Category 2: Products which aid in making users' access to Web sites and Web applications compliant

These are products that help agencies bring their Web sites and Web applications in to compliance with Virginia's *Information Technology Accessibility Standard* (GOV103-00) or that help agencies create new compliant pages and sites. Such products include (but are not limited to):

1. Products that analyzes Web pages for compliance and provide detailed reports regarding missed requirements.

AMP (Accessibility Management Platform) provides Web site and Web Application by way of the InFocus technology. The InFocus Suite is the heart of SSB BART Group's Accessibility Management Platform (AMP). InFocus is an integrated solution that includes testing and analysis tools, a rules builder, a checking engine, and content spidering. The latest version of InFocus, InFocus 5.0, allows you to implement and monitor accessibility initiatives for your Web sites and Web applications.

2. Products that correct (or suggest corrections to) compliance problems it finds in analyzed pages.

AMP provides automated testing by way of the InFocus technology as well as manual/visual inspection guides to provide testers with knowledge and information to perform the visual/manual inspections that are required with performing Section 508 testing.

3. Products that make it easier for developers to bring Web pages into compliance. (e.g. an integrated development environment (IDE) that creates compliant applications or an IDE plug-in)

AMP provides knowledge, techniques and training courses that can readily be applied in any IDE. AMP's validation engine, InFocus, is available in source code form and can be integrated with a variety of IDEs, automatic build testing environments and regression testing environments.

The AMP (Accessibility Management Platform) includes functionality that provides the testing necessary to complete Accessibility compliance testing on Web sites and Web applications. This functionality is available to user via a browser interface and allows users to perform automated testing as well as guides to assist the user in performing the visual/manual testing requirements of Section 508 as well. To further support the user in performing Web site and Web Application testing AMP provides information concerning best practices, eLearning resources, Auditing, Standards Management and a reference library to support them with Web site and Web Application testing.

- **Best practices.** AMP provides more than 800 best practices dealing with IT accessibility. Customized "best practices" can easily be added to the AMP solution specific to Section 508 testing.
- **eLearning resources.** AMP provides user access to a comprehensive selection of Web site and Web Application self-paced online courses and training.
- **Auditing reports.** AMP provides a detailed testing tool to perform Web site and Web Application audits resulting in comprehensive reports that include compliance levels, violations, and priorities.
- **Standards management.** AMP allows you to manage your accessibility development and testing practices across a variety of technology platforms.
- **Reference library.** AMP includes an extensive collection of reference materials, including consulting methodology, Voluntary Product Accessibility Templates (VPAT), and white papers specific to Web site and Web Application Compliance.

#	Requirement	A (Y/F /N)	B (comments)
Commonwealth of Virginia STANDARDS			
1.	Is the product written in a language from the application languages identified in Table APP-S-01 of the Commonwealth's Enterprise Technical Architecture Standard (ITRM Standard EA225-00)?		InFocus and all client side applications are written in Java and are launched through Java

	List and describe the language(s) used.	Y	Web Start. All server side applications are written in PHP and run on the LAMP platform
2.	Does the product run on a platform from the platforms identified in Table PLA-S-01, Table PLA-S-08, or Table PLA-S-09 of the Commonwealth's Enterprise Technical Architecture Standard (ITRM Standard EA225-00)? List and describe the platforms(s) used.	Y	AMP runs on the Apache and MySQL application stack. This stack runs a wide-variety of Linux and Windows platforms including many platforms listed in the Commonwealth's Enterprise Technical Architecture Standard
3.	Does the product run on a DBMS from the Database Management System (DBMS) identified in Table DB-S-01 of the Commonwealth's Enterprise Technical Architecture Standard (ITRM Standard EA225-00)? Identify the DBMS the product utilizes.	Y	AMP requires a MySQL 4 or 5 series Database Management System.
4.	Does the DBMS listed above normalize the data? Please describe to what level.	NA	Not Applicable
5	Can you provide a Voluntary Product Accessibility Template (VPAT), located in the Commonwealth of Virginia IT Accessibility Standard? Please provide a VPAT and provide an explanation to questions with answers other than yes or no and be specific.	Y	Yes. AMP's VPAT is available online at https://amp.ssbbartgroup.com/amp_2008_vpat.php Exhibit A Copy of AMP VPAT
6.	Is the product a Commercial Off the Shelf Software (COTS) solution? (a software package must be ready to implement without additional software design and programming). Please describe.	Y	AMP is a commercial off the shelf packaged software solution.
7.	Will your company work with designated VITA staff to submit a VITA Architectural Review (VAR) [†] for approval prior to contract signing?	Y	A member of SSB's professional service team will work with the designated VITA staff to provide a VITA Architectural Review. This can be done via a series of web meetings, or a scheduled on-site visit.
8.	Is your product Internet based/server based/thin client? (versus a thick client/installed on individual PCs) Please describe.		AMP is a Web-based server solution that allows user access by way of a browser. Individual components of AMP may be launched using Java Web Start to assist with developer testing at their desktop.

#	Requirement		
	OPERATIONAL AND MAINTENANCE		
9.	<p>Do you have a system or procedure for product updates and/or releases?</p> <p>Please describe. Include how releases and revisions are tested, distributed and installed.</p>	Y	<p>Upgrades are made available on a seasonal (Winter, Spring, Summer, Fall) upgrade cycle with releases on roughly three month cycles. Exact update schedules and update methods are provided by Supplier but in general are made available for immediate download as soon as an official release is provided and are recommended for client installation as of the first patch release. Product updates are delivered via electronic download.</p>
10.	<p>Does your product have support services and options?</p> <p>Please describe.</p>	Y	<p>Support is provided by way of a member of the SSB support team, the professional service representative and the assigned support contact will work together that both entities are aware of VITA's special needs if any. Support is included as part of the annual license fees for AMP as defined in Exhibit D of the VITA software license agreement.</p>
11.	<p>Does your product have formal service escalation and problem resolution procedures?</p> <p>Please describe.</p>	Y	<p>As an Enterprise account, VITA would be assigned a designated account manager as the primary point of contact. The account manager assigned to the VITA account will serve as the primary contact in regard to escalation; they have been instructed to bring any and all VITA concerns to the attention of the appropriate department executive for review.</p>
12.	<p>Do you provide updates regarding outstanding problems, fixes, modifications and improvements to the customer?</p>		<p>Upgrades are made available on a seasonal (Winter, Spring, Summer,</p>

	Please describe.	Y	Fail) upgrade cycle with releases on roughly three month cycles. Exact update schedules and update methods are provided by Supplier but in general are made available for immediate download as soon as an official release is provided and are recommended for client installation as of the first patch release. Product updates are delivered via electronic download.
	USER AUTHENTICATION		
13.	Does your product support Windows authentication and access protocols? Please describe.	Y	AMP has support for pluggable authentication modules and LDAP. These are implemented on a per client basis as part of a Professional Services agreement.
14.	Can your product be configured to access pages that require a password? Please describe.	Y	AMP provides support for both interactive general realm authentication (password protected pages) as well as form based logins.
	TRAINING		
15.	Do you have a user training plan? Please describe. Please submit a user training plan that is optioned for levels of training. Include training cost in Section 7, "Pricing".	Y	AMP provides online training to all customers as part of the standard license fee for AMP. This includes training both on AMP itself and on the testing and development domains covered in AMP. Additional training can be provided onsite at the customer's request based on the training costs outlined in Section 7.
	PRODUCT FEATURE/CONFIGURATION		
16.	Can your product process multiple pages at once? (e.g. a whole site or batch of files). Please describe.	Y	AMP's automated testing functionality allows for a tester to set a predetermined set of pages to be included with in a crawl (batch) or a tester to select to crawl an entire site. Crawls can be extended and modified

			through a user interface or directly through Application Programming Interface.
17.	Is there a page/file scan limit? Please describe.	N	AMP contains no limits on the number of pages that can be scanned.
18.	Can your product search an online directory/site for pages to analyze? Please describe.	Y	Yes. InFocus supports automatic page and content type detection and crawling through sites.
19.	Can certain files or directories be excluded? Please describe.	Y	Files and directories can be excluded via regular expression settings, by path, host and domain, and spider depth (links followed).
#	Requirement	A (Y/F /N)	B (comments)
20.	Can your product be configured to access pages that require a form to be filled out and/or require user input? Please describe.	Y	Form authentication is supported via form and forms custom schemes and via session recording.
21.	Can your product automate/schedule monitoring or testing of Web sites? Please describe.	Y	Yes, testers have the option to submit Web crawls for immediate testing or to schedule the crawls at designated intervals.
22.	Is your product able to maintain a list of URLs to crawl from session to session? Please describe.	Y	A list of URLs can be specified for any crawl and persisted from session to session.
23.	Does your product address both Section 508 and WAI WCAG Level A requirements? Please describe.	Y	AMP provides testing for the following standards and guidelines: Section 508 of the Rehabilitation Act Section 504 of the Rehabilitation Act Section 255 of the Telecommunications Act As well as International Standards: Web Content Accessibility Guidelines (WCAG) 1,0 Web Content Accessibility Guidelines (WCAG) 2,0 Common Look & Feel (Canada) Disability Discrimination Act (UK) eEurope Initiative

			(European Union) Japanese Industrial Standard (Japan) KWACG
24.	<p>Does your company track changes applied to Section 508 and WAI and provide parallel updating of your product?</p> <p>Please describe.</p>	Y	<p>As regulations change, and litigation concerns grow it is imperative that compliance tools stay up to date. SSB has the largest and most experienced full time staff of accessibility experts. By way SSB's Accessibility market affiliations both National and International, the SSB Solutions provide the most up to date standards testing available regarding Accessibility. These updates are provided automatically to clients, free of charge on an ongoing, real-time basis.</p>
25.	<p>Can your product integrate with a browser? (for example, be loaded as a plug-in or product bar)</p> <p>Please describe.</p>	Y	<p>InFocus integrates with a browser using InFocus Toolbar.</p>
26.	<p>Does your product address problems with source code? (e.g. .Net, ColdFusion, Perl, Java, etc.)</p> <p>Please describe.</p>	Y	<p>Source code analysis can be provided for any well formed document types. All other source code analysis is provided on the end document produced by the server.</p>

27.	Does your product integrate into a development environment? (e.g. Visual Studio, Dream Weaver, etc.) Please describe.	Y	AMP provides an open source version of InFocus that can be used to integrate with a variety of IDE environments.
28.	Does your product provide on/off parameters for different styles of execution? Please describe.	Y	AMP provides a variety of different style settings for users.
29.	Does your product test for color blindness and appropriate contrast? Please describe.	Y	AMP provides support for user defined contrast settings and does not provide information solely via color.
30.	Can your product analyze/correct files on a protected LAN or intranet? Please describe.	Y	Analysis of all files occurs on the client system allowing the validation system to take advantage of all network authentication the client machine has already achieved.
31.	Can your product validate online forms? (e.g. label tags, tab index) Please describe.	Y	AMP currently supports validation of twenty-seven (27) discrete form best practices covering forty-six (46) discrete validation tests.
32.	Can your product check for "skip navigation" links? Please describe.	Y	AMP supports automatic, manual and assistive technology driven validation of skip navigation links. Best practices include coverage for hidden, visual and keyboard visual only navigation link paradigms.
#	Requirement	A (Y/F /N)	B (comments)
PRODUCT REPORTING			
33.	Can you provide a sample screen-shot and list the items your product addresses? Please describe.	Y	A list of sample development platforms and reports provided by AMP is included.
34.	Can automated alerts or reports be sent? Please describe.	Y	Report access can be granted centrally and users can be notified of reports as they become available to them.
35.	Can a report be printed and/or turned into a single file for distribution? Please describe.	Y	Yes, reports can be saved or printed.

36.	Does the product find and report broken links and orphan files? Please provide a sample report describe the contents.	Y	The product can report on broken (404) links.
37.	Can the product create a summary of the compliance of the batch of files in addition to providing detail on each file? Please describe.	Y	Reports are provided at a report, module, violation and instance level. Analysis against application standards can occur in a variety of different fashions.
38.	Does the product show the line number of inaccessible code? Please describe.	Y	Reports include the line and column number of the source code with failures.
39.	Does the product analyze each of the accessibility requirements in the files it evaluates and provide an itemized error by error report? Please describe.	Y	AMP audits include an analysis of each of the accessibility "rules" contained with the standard. Reports prioritize the results based on a variety of factors that allow for a cost / benefit prioritization by developers on an issue by issue basis.
REMEDATION			
40.	Does the product perform automatic remediation of accessibility problems it encounters? Please describe.	Y	InFocus (included with the AMP solution) 4.2.2 supports manual and automated remediation of files.
41.	Does the product suggest fixes to encountered problems? Please describe.	Y	Yes. All best practices in AMP provide a description of the issue, non-compliant code example, compliant code example, recommended implementation and a variety of unit tests for validating an issue. The integrated training courses, Reference Library and Best Practices provide further detailed information on how to fix accessibility issues.

GENERAL FEATURES			
42.	Does the product support end users with disabilities? Please describe.	Y	A VPAT is available specific to the AMP product which includes all of the components and functionality made available with this platform. Beyond the VPAT, SSB utilizes AMP in performing Accessibility Services. Over 50% of our team is comprised of degreed senior accessibility technologists with disabilities.
43.	Can the product be configured to meet additional agency specific requirements? (for example, the Virginia Web Site Standard) Please describe.	Y	Yes, the Virginia Web Site Standards can easily be added to the standard testing suite. AMP provides for users to perform this task; however SSB professional services are available to assist with this process as well.
44.	Does the product have security features? (for example, checking for OWASP issues) Please describe.	Y	SSB's AMP security policies are defined at https://reference.ssb Bart Group.com/index.php/Security_Policy . A copy of these policies is provided as Exhibit B.
45.	Does the product have additional features that we have not addressed in previous questions? Please describe.	Y	AMP is the leading application for auditing and validating web sites and applications for accessibility compliance. It includes support for full scope, unified accessibility testing including automated, manual and assistive technology validation in a single, unified system.
#	Requirement	A (Y/F/N)	B (comments)
46.	Have you taken steps with the product's usability features to simplify their use for the largest number of users? Please describe.	Y	SSB's number one priority is the Accessibility and Usability of our products and solutions. Studies show that Accessible products rank high in Usability. We strive to

		meet our customers Usability expectations and welcome usability feedback from our user community.
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Category 3: Products which aid in making users' access to electronic

documents compliant

Category 3: Products which aid in making users' access to electronic documents compliant

These are software products that help agencies make existing and future common electronic documents compliant with Virginia's *Information Technology Accessibility Standard* (GOV103-00). Common electronic documents include (but are not limited to):

1. Portable Document Format (PDF)
2. Word documents
3. PowerPoint presentations
4. Excel spreadsheets
5. Hypertext Markup Language

A given product need not cover all document types. Remediation might entail creating an accessible alternative format instead of making the original document compliant. Products include (but are not limited to):

- Products that test and report on the compliance of existing documents
- Products that update existing documents so they become compliant (or creates alternate accessible versions)
- Products that enable users to more easily create compliant documents

AMP provides for the testing and remediation of a variety of different document formats including core Microsoft Office documents (Word, Excel, PowerPoint) and Adobe Acrobat documents. Testing and remediation of documents follows SSB's Unified Audit Methodology and detailed instructions on testing and fixing documents are found both in best practice and training course content. AMP's focus is on providing the specification and training required for users to retrofit documents in the native document creation environment rather than having to use incremental, external tools.

#	Requirement	A (Y/F/N)	B (comments)
COMMONWEALTH OF VIRGINIA STANDARDS			
1	Is the product written in a language identified in Table APP-S-01 of the Commonwealth's Enterprise Technical Architecture Standard (ITRM Standard EA225-00)? List and describe the language used.	Y	InFocus and all client side applications are written in Java and are launched through Java Web Start. All server side applications are written in PHP and run on the LAMP platform
2.	Does the product run on a platform identified in Table PLA-S-01, Table PLA-S-08, or Table PLA-S-09 of the Commonwealth's Enterprise Technical Architecture Standard (ITRM Standard EA225-00)? List and describe the platform(s) used.	Y	AMP runs on the Apache and MySQL application stack. This stack runs a wide-variety of Linux and Windows platforms including many platforms listed in the Commonwealth's Enterprise Technical Architecture Standard
3.	Does the product run on a DBMS identified in Table DB-S-01 of the Commonwealth's Enterprise Technical Architecture Standard (ITRM Standard EA225-00)? Identify the DBMS the product utilizes.	Y	AMP requires a MySQL 4 or 5 series Database Management System.

4.	Does the DBMS listed above normalize the data? Please describe to what level.	NA	Not Applicable
5.	Can you provide a Voluntary Product Accessibility Template (VPAT), located in the Commonwealth of Virginia IT Accessibility Standard? Please provide a VPAT and provide an explanation to questions with answers other than yes or no and be specific.	Y	Yes. AMP's VPAT is available online at https://amp.ssb Bartgroup.com/amp_2008_vpat.php Exhibit A Copy of AMP VPAT
6.	Is the product a Commercial Off the Shelf Software (COTS) solution, i.e., a software package that is ready to implement without additional software design and programming? Please describe.	Y	AMP is a commercial off the shelf packaged software solution.
7.	Will you company work with designated VITA staff to submit a VITA Architectural Review (VAR) prior to contract signing?	Y	A member of SSB's professional service team will work with the designated VITA staff to provide a VITA Architectural Review. This can be done via a series of web meetings, or a scheduled on-site visit.
#	Requirement	A (Y/F/N)	B (comments)
8.	Is your product Internet based/server based/thin client? (versus a thick client/installed on individual PCs) Please describe.		AMP is a Web-based server solution that allows user access by way of a browser. Individual components of AMP may be launched using Java Web Start to assist with developer testing at their desktop.
	TRAINING		

<p>9</p>	<p>Do you have a user training plan? Please describe.</p> <p>Please submit a user training plan that is optioned for levels of training, and a schedule.</p> <p>Please include training costs in Section 7, "Pricing".</p>	<p>Y</p>	<p>AMP provides online training to all customers as part of the standard license fee for AMP. This includes training both on AMP itself and on the testing and development domains covered in AMP.</p> <p>Additional training can be provided onsite at the customer's request based on the training costs outlined in Section 7.</p>
<p>OPERATIONAL AND MAINTENANCE</p>			
<p>10.</p>	<p>Do you have a system or procedure for product updates and/or releases? Please describe.</p>	<p>Y</p>	<p>Upgrades are made available on a seasonal (Winter, Spring, Summer, Fall) upgrade cycle with releases on roughly three month cycles. Exact update schedules and update methods are provided by Supplier but in general are made available for immediate download as soon as an official release is provided and are recommended for client installation as of the first patch release. Product updates are delivered via electronic download.</p>

<p>11.</p>	<p>Does the product have support services and options? Please describe.</p>	<p>Y</p>	<p>Support is provided by way of a member of the SSB support team, the professional service representative and the assigned support contact will work together that both entities are aware of VITA's special needs if any. Support is included as part of the annual license fees for AMP as defined in Exhibit D of the VITA software license agreement.</p>
<p>12.</p>	<p>Do you have formal service escalation and problem resolution procedures for this product? Please describe.</p>	<p>Y</p>	<p>As an Enterprise account, VITA would be assigned a designated account manager as the primary point of contact. The account manager assigned to the VITA account will serve as the primary contact in regard to escalation; they have been instructed to bring any and all VITA concerns to the attention of the appropriate department executive for review.</p>

13.	<p>Do you provide updates regarding outstanding problems, fixes, modifications and improvements for this product to your customers?</p> <p>Please describe.</p>	Y	<p>Upgrades are made available on a seasonal (Winter, Spring, Summer, Fall) upgrade cycle with releases on roughly three month cycles. Exact update schedules and update methods are provided by Supplier but in general are made available for immediate download as soon as an official release is provided and are recommended for client installation as of the first patch release. Product updates are delivered via electronic download.</p>
PRODUCT FEATURES/CONFIGURATION			
14.	<p>Can certain files or directories be excluded?</p> <p>Please describe.</p>	Y	<p>Files and directories can be excluded via regular expression settings, by path, host and domain, and spider depth (links followed).</p>
15.	<p>Can your product be configured to access pages that require a password?</p> <p>Please describe.</p>	Y	<p>AMP provides support for both interactive general realm authentication (password protected pages) as well as form based logins</p>
16.	<p>Can the product be configured to access pages that require a form to be filled out and/or a certain input or user action to reach?</p> <p>Please describe.</p>	Y	<p>Form authentication is supported via form and forms custom schemes and via session recording.</p>
17.	<p>Can lists of files and/or settings be saved so they need not be set or generated in subsequent uses of your product?</p> <p>Please describe.</p>	Y	<p>AMP provides for the ability to automatically detect a set of files on a web server or manually input a set of files on a file system.</p>
18.	<p>Can the product process multiple documents at once?</p> <p>Please describe.</p>	Y	<p>AMP provides support for multiple, concurrent document analysis.</p>

#	Requirement	A (Y/F/N)	B (comments)
19	Can the product create a summary of the compliance of the batch documents in addition to providing detail on each document? Please describe.	Y	AMP provides for summary and page level reporting for all documents.
20	Can the product search an online directory/site for documents to analyze? Please describe.	Y	Yes. InFocus supports automatic page and content type detection and crawling through sites.
21	Does your product address the documents logical reading order? Please describe.	Y	AMP provides for the ability to use either manual testing processes for document linearization tests or create and execute assistive technology tests to validate document reading order.
22	Does your product test for color blindness and appropriate contrast? Please describe.	Y	AMP provides support for user defined contrast settings and does not provide information solely via color.
23	Can your product analyze and/or correct files on a protected LAN or intranet? Please describe.	Y	Analysis of all files occurs on the client system allowing the validation system to take advantage of all network authentication the client machine has already achieved.
	PRODUCT REPORTS		
24	Can the product provide a screen shot and list the items addressed? Please describe.	Y	HTML documents captured through InFocus toolbar automatically include screen shots of the document content - other document types do not.
25	Does the product generate reports for printing and/or turned into a single file distribution? Please describe.	Y	Yes, reports can be saved or printed.
	REMEDICATION		
26	Does your product perform automatic remediation of accessibility problems it encounters? Please describe.	N	

27	Does your product suggest fixes to encountered problems? Please describe.	Y	Yes. All best practices in AMP provide a description of the issue, non-compliant code example, compliant code example, recommended implementation and a variety of unit tests for validating an issue. The integrated training courses, Reference Library and Best Practices provide further detailed information on how to fix accessibility issues.
	GENERAL FEATURES		
28	Does the product support end users with disabilities? Please describe.	Y	A VPAT is available specific to the AMP product which includes all of the components and functionality made available with this platform. Beyond the VPAT, SSB utilizes AMP in performing Accessibility Services. Over 50% of our team is comprised of degreed senior accessibility technologists with disabilities.
29	Does the product support Windows authentication and access protocols? Please describe.	Y	AMP has support for pluggable authentication modules and LDAP. These are implemented on a per client basis as part of a Professional Services agreement.
30	Are there additional features of the product that we have not addressed in the above questions? Please describe.	N	
#	Requirement	A (Y/F/N)	B (comments)

31	Have you taken steps with your product's usability features to simplify their use for the largest number of users? Please describe.	Y	SSB's number one priority is the Accessibility and Usability of our products and solutions. Studies show that Accessible products rank high in Usability. We strive to meet our customers Usability expectations and welcome usability feedback from our user community.
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EXHIBIT B

Revised Pricing Proposal

Virginia Information Technologies Agency



REQUEST FOR PROPOSALS (RFP) 2009-4
for
Products for Section 508 Compliance

As per VITA's request and our earlier discussion concerning the Commonwealth's financial and operational constraints, SSB is submitting revised pricing for your consideration.

The first pricing option pertains to a single implementation of the Accessibility Management Platform (AMP), which would support all of the Commonwealth's individual agency users via a browser-based interface. This implementation method is recommended, as it provides a collaborative environment in which all testers are conducting testing against the same best practices. Roll up reporting can also be utilized to provide VITA with statistics concerning overall Commonwealth accessibility health. This information could be utilized to determine where additional targeted accessibility training may be required to help strengthen the Commonwealth's overall accessibility initiatives. The second pricing option would allow for the individual Commonwealth agencies to procure individual AMP server licenses.

Single implementation of AMP (Accessibility Management Platform)

Self -Hosted (server resides at specified VITA location) or Hosted (server resides at SSB data center facility).

One – time implementation/configuration fee: \$ 9,995.00

- A member of the SSB BART Group professional service team, working with selected VITA personnel, would configure the AMP testing functionality to be specific to VITA's accessibility testing requirements. The individual agency user access would automatically inherit the overall organization default rule settings.
- Individual agency user subscription procurement would be done directly with SSB BART Group. In turn SSB BART Group will set up the appropriate organization (individual agencies) and user accounts.

AMP Single User Annual Subscription License: \$ 885.00

Individual organizations will be set up within AMP. Each organization represents a commonwealth agency. User licenses will be assigned to the organization (or agency) that they represent. This will allow for individual reporting as well as overall agency reporting based on all users associated within the organization.

- Individual subscription licenses allow for the full use of AMP functionality
- Maintenance and email support is included with the annual subscription fee

Individual agency implementation AMP (Accessibility Management Platform)

Self-Hosted (server resides at specified VITA location) or Hosted (server resides at SSB data center facility).

One – time implementation/configuration fee: \$ 4,995.00 (per agency)

- A member of the SSB BART Group professional service team will work with the individual agency to configure the AMP testing functionality

AMP Single User Annual Subscription License: \$ 1,270.00

- Individual subscription licenses allow for the full use of AMP functionality
- Maintenance and email support is included with the annual subscription fee

VITA internal promotion support

If SSB BART Group's new proposal is selected for contract, our philosophy of providing support by way of internal promotion is critical to the success of the Commonwealth's accessibility compliance. This process can be discussed in greater detail. The following are examples of the types of internal promotion that would support this type of initiative.

- VITA supported webinars/seminars, allowing SSB the opportunity to introduce the agencies to AMP and how they may gain access
- VITA supported announcement of the contract, by way of email blast to Commonwealth agencies, as well as participation in SSB BART press release
- Participation in SSB BART Group Commonwealth solution case study

SBSB Bart Group contact information:

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Director of Public Sector Sales
1489 Chain Bridge Road
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McLean VA 22101
703-286-5317 (office)
603-724-7375 (cell)
Tammyc@ssbbartgroup.com

EXHIBIT C1

RFP 2009-04

SOFTWARE MAINTENANCE SERVICES:

Upgrades are made available on a seasonal (Winter, Spring, Summer, Fall) upgrade cycle with releases on roughly three month cycles. Exact update schedules and update methods are provided by Supplier but in general are made available for immediate download as soon as an official release is provided and are recommended for client installation as of the first patch release. Product updates are delivered via electronic download.

EXHIBIT C2

SERVICES SUPPORT:

Support is provided by way of a member of the SSB support team, the professional service representative and the assigned support contact will work together that both entities are aware of VITA's special needs if any. Support is included as part of the annual license fees for AMP as defined in Exhibit D of the VITA software license agreement.

Exhibit D AMP Service Terms

YOU AGREE TO THE FOLLOWING TERMS AND CONDITIONS (THE "AGREEMENT") GOVERNING YOUR USE OF SSB BART GROUP'S ("SSB") AMP SERVICE, INCLUDING OFFLINE COMPONENTS (COLLECTIVELY, THE "SERVICE"). IF YOU ARE ENTERING INTO THIS AGREEMENT ON BEHALF OF A COMPANY OR OTHER LEGAL ENTITY, YOU REPRESENT THAT YOU HAVE THE AUTHORITY TO BIND SUCH ENTITY TO THESE TERMS AND CONDITIONS, IN WHICH CASE THE TERMS "YOU" OR "YOUR" SHALL REFER TO SUCH ENTITY.

As part of the Service, SSB will provide you with use of the Service, including a browser interface and data encryption, transmission, access and storage. For reference, a Definitions section is included at the end of this Agreement.

The Service is offered in two editions:

- Professional Edition – A charged edition which provides full access to the system for a single named user on an annual basis;
- Community Edition – A free edition which provides limited access to the system for a single named user on an indefinite basis.

In addition, SSB offers a 30-day AMP Professional Edition Evaluation with no further obligation. Please see our website for feature differences between the various editions.

1. Definitions

As used in this Agreement and in any related documents associated herewith:

- "**Agreement**" means these Service Terms.;
- "**Content**" means the text, audio and visual information, documents, reference manuals, best practices, standards, products and services contained or made available to you in the course of using the Service;
- "**Customer Data**" means any data, information or material provided or submitted by you to the Service in the course of using the Service;
- "**Effective Date**" means the earlier of either the date this Agreement is accepted by selecting the "I Accept" option presented on the screen after this Agreement is displayed or the date you begin using the Service;
- "**Initial Term**" means the contract term, beginning on the license start date and ending on the license expiration date;
- "**Intellectual Property Rights**" means unpatented inventions, patent applications, patents, design rights, copyrights, trademarks, service marks, trade names, domain name rights, mask work rights, know-how and other trade secret rights, and all other intellectual property rights, derivatives thereof, and forms of protection of a similar nature anywhere in the world;

- **"Organization Administrator(s)"** means those Users designated by you who are authorized to purchase licenses online, create User accounts and otherwise administer your use of the Service;
- **"License Term(s)"** means the period(s) during which you are licensed to use the Service;
- **"SSB Technology"** means all of SSB's proprietary technology including without limitation Service, hardware, products, processes, algorithms, user interfaces, know-how, techniques, designs and other tangible or intangible technical material or information made available to you by SSB in providing the Service;
- **"Service(s)"** means the specific edition of SSB's AMP system you have been provided a license to accessible via <http://amp.ssbgroup.com> or another designated web site or IP address or as hosted by You . The service includes ancillary online or offline products and services provided to you by SSB, including without limitation all editions of InFocus to which you are being granted access under this Agreement, including the SSB Technology and the Content;
- **"User(s)"** means your employees, representatives, consultants, contractors or agents who are authorized to use the Service and have been supplied user identifications and passwords by you or by SSB at your request.
- **"User Licenses"** means the total number of user licenses for AMP Professional Edition within you organization.

2. License Grant

SSB hereby grants you a non-exclusive, non-transferable, worldwide right to use the Service, solely for your own internal business purposes, subject to the terms and conditions of this Agreement. All rights not expressly granted to you are reserved by SSB and its licensors.

The Commonwealth and any Authorized User may allow access to the Software by third party vendors as Named Users who are under contract with an Authorized User to provide services to or on behalf of such Authorized User, or by other entities as required for conducting the business of government. Access includes loading or executing the Software on behalf of such Authorized User or its Agents.

(FOR AGENCY-HOSTED) The license fee includes a test system copy, which consists of the right to use the Software for non-production test purposes, including but not limited to, problem/defect identification, remediation, and resolution, debugging, new version evaluation, Software interface testing, and disaster recovery technique analysis and implementation.

(FOR AGENCY-HOSTED) In the event that all of an Authorized User's copies of the Software, including all backup copies, are destroyed, irreparably damaged or otherwise lost due to fire, explosion, sabotage, flood or other disaster, Supplier shall provide to such Authorized User, at no additional cost, replacement copies of the Software and Documentation. Nothing contained in this Section shall obligate Supplier to replace or assist in the recovery of data lost concurrent with the loss of the Software.

(FOR AGENCY-HOSTED) An Authorized User may make a reasonable number of copies of the Software and Documentation for use in training, support, demonstrations, backup, archiving, disaster recovery and development and may run the Software concurrently at a back-up site for no additional license fees or costs. Such Authorized User agrees that any copies of the Software or Documentation that it makes under this Contract shall bear all copyright, trademark and other proprietary notices included therein by Supplier.

Except as expressly authorized, an Authorized User shall not distribute the Software to any third party without Supplier's prior written consent.

3. License Restrictions

YOU MAY NOT COPY ANY OF THE CONTENT FROM WITHIN THE SERVICE FOR DISTRIBUTION OUTSIDE OF THE SERVICE. THIS INCLUDES WITHOUT LIMITATION COPYING ANY PORTION OF THE CONTENT, INCLUDING BEST PRACTICES, TRAINING CONTENT AND METHODOLOGY CONTENT INTO A ELECTRONIC DOCUMENT, E-MAIL, INSTANT MESSAGE OR ANY FORM OF ELECTRONICALLY DISSEMINABLE MEDIUM FOR USE OUTSIDE OF THE SERVICE. ALL THE CONTENT PROVIDED BY THE SERVICE IS MEANT TO BE ACCESSED SOLELY THROUGH THE SERVICE AND MAY NOT BE PROVIDED OR DISTRIBUTED OUTSIDE THE SERVICE. UPON BREACH OF THIS RESTRICTION YOU AGREE UNCONDITIONALLY TO PURCHASE A NUMBER OF USER LICENSES EQUAL TO THE TOTAL NUMBER OF INDIVIDUALS IN RECEIPT OF SUCH A DISTRIBUTION OF CONTENT AT THE THEN CURRENT LIST PRICE FOR A SINGLE USER LICENSE. THE LICENSES PURCHASED IN THIS FASHION WILL INCLUDE WITHOUT LIMITATION THE TOTAL NUMBER OF INDIVIDUALS INDICATED IN THE TO, CARBON COPY (CC) AND BLIND CARBON COPY OF ANY ELECTRONIC COMMUNICATIONS CONTAINING THE CONTENT.

You may not access the Service if you are a direct competitor of SSB except with SSB's prior written consent. In addition, you may not access the Service for purposes of monitoring its availability, performance or functionality, or for any other benchmarking or competitive purposes.

You shall not:

- (i) license, sublicense, sell, resell, transfer, assign, distribute or otherwise commercially exploit or make available to any third party the Service or the Content in any way;
- (ii) modify or make derivative works based upon the Service, the Content or the SSB Technology;
- (iii) create Internet "links" to the Service or "frame" or "mirror" any Content or SSB Technology on any other server or wireless or Internet-based device;
- (iv) reverse engineer or access the Service in order to (a) build a competitive product or service, (b) build a product using similar ideas, features, functions or graphics of the Service, or (c) copy any ideas, features, functions or graphics of the Service.
- (v) modify, translate, decompile or disassemble the Service or SSB Technology, except and solely to the extent an applicable statute expressly and specifically prohibits such restrictions; or
- (vi) remove any proprietary notices or labels on or in any of the Service or SSB Technology.

You may use the Service only for your internal business purposes and shall not:

- (i) send spam or otherwise duplicative or unsolicited messages in violation of applicable laws;
- (ii) send or store infringing, obscene, threatening, libelous, or otherwise unlawful or tortious material, including material harmful to children or violative of third party privacy rights;
- (iii) send or store material containing software viruses, worms, Trojan horses or other harmful computer code, files, scripts, agents or programs;
- (iv) interfere with or disrupt the integrity or performance of the Service or the data contained therein; or
- (v) attempt to gain unauthorized access to the Service or its related systems or networks.

No right, title or interest in or to any trademark, service mark, logo or trade name of SSB or its licensors is granted under this Agreement.

Only You may use the Service as provided this Agreement. You may not share the Software or Service with others or provide user accounts for use by more than one individual.

All rights not expressly granted to you herein are reserved by SSB and its suppliers.

4. Modification to Terms

SSB reserves the right to modify the terms and conditions of its policies relating to the Service at any time, effective upon posting of an updated version of its policies relating to the Service. You are responsible for regularly reviewing this Agreement. Continued use of the Service after any such changes shall constitute your consent to such changes.

In the event of a conflict between the Contract and the policies, the Contract shall control. In the event of a material, unilateral revision to the policies by Supplier that substantially impedes the lawful use of the Service by VITA or other public body subscribing to the Services, VITA shall have the option to:

- a. request that the revision be rescinded;
- b. request that the revision be waived as to VITA or other public bodies receiving Services under this Agreement;

If Supplier fails to grant a request by VITA per a. or b. above, within 30 days of receiving the request, then VITA may, at its option, terminate this Contract, in whole or in part, or any order, in whole or in part, without termination liability.

5. Ownership

Title, ownership rights, and intellectual property rights in all of the Service shall remain in SSB. The Service is protected by copyright and other intellectual property laws and by international treaties. Title and related rights in the content accessed through the Service are the property of the applicable content owner and is protected by applicable law. The license granted under this Agreement gives you no rights to such content.

6. Limited Warranty and Refunds

SSB warrants that the Service will perform substantially in accordance with the documentation accompanying the Service for a period of thirty (30) days after the Effective Date of this agreement. SSB's entire liability and your exclusive remedy for breach of this warranty shall be, at SSB's option, either to (a) provide a bug-fix, patch or work-around for the non-conforming Software; (b) replace the non-conforming Software with conforming Software; or (c) terminate this Agreement and return to Licensee any fees paid hereunder. This limited warranty shall be void if failure of the Software has resulted from any material accident, abuse, misuse or misapplication by you causing the non-conformance.

7. Disclaimer of Warranties

EXCEPT AS OUTLINED IN SECTION 6, SSB MAKES NO REPRESENTATION, WARRANTY, OR GUARANTY AS TO THE RELIABILITY, TIMELINESS, QUALITY, SUITABILITY, TRUTH, AVAILABILITY, ACCURACY OR COMPLETENESS OF THE SERVICE OR ANY CONTENT. SSB DOES NOT REPRESENT OR WARRANT THAT (A) THE USE OF THE SERVICE WILL BE SECURE, TIMELY, UNINTERRUPTED OR ERROR-FREE OR OPERATE IN COMBINATION WITH ANY OTHER HARDWARE, SOFTWARE, SYSTEM OR DATA, (B) THE SERVICE WILL MEET YOUR REQUIREMENTS OR EXPECTATIONS, (C) ANY STORED DATA WILL BE ACCURATE OR RELIABLE, (D) THE QUALITY OF ANY PRODUCTS, SERVICES, INFORMATION, OR OTHER MATERIAL PURCHASED OR OBTAINED BY YOU THROUGH THE SERVICE WILL MEET YOUR REQUIREMENTS OR EXPECTATIONS, (E) ERRORS OR DEFECTS WILL BE CORRECTED, OR (F) THE SERVICE OR THE SERVER(S) THAT MAKE THE SERVICE AVAILABLE ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS. THE SERVICE AND ALL CONTENT IS PROVIDED TO YOU STRICTLY ON AN "AS IS" BASIS. ALL CONDITIONS, REPRESENTATIONS AND WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, INCLUDING USE OF THE SOFTWARE IN COMMON CARRIERS, CRITICAL SAFETY SYSTEMS OR NUCLEAR FACILITIES, OR NON-INFRINGEMENT OF THIRD PARTY RIGHTS, ARE HEREBY DISCLAIMED TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW BY SSB AND ITS LICENSORS.

8. Internet Delays

SSB'S SERVICES MAY BE SUBJECT TO LIMITATIONS, DELAYS, AND OTHER PROBLEMS INHERENT IN THE USE OF THE INTERNET AND ELECTRONIC COMMUNICATIONS. SSB IS NOT RESPONSIBLE FOR ANY DELAYS, DELIVERY FAILURES, OR OTHER DAMAGE RESULTING FROM SUCH PROBLEMS.

9. Privacy and Security

SSB's privacy and security policies may be viewed from within the Service. SSB reserves the right to modify its privacy and security policies in its reasonable discretion from time to time. Individual users, when they initially register with the service, will be asked whether or not they wish to receive marketing and other non-critical Service-related communications from SSB from time to time. They may opt out of receiving such communications at that time or at any subsequent time by changing their preferences under My E-mail Preferences. Community Edition users will not have the option of opting out unless they terminate their Community Edition account with SSB.

Note that because the Service is a hosted, online application, SSB occasionally may need to notify all users of the Service, whether or not they have opted out as described above, of important announcements regarding the operation of the Service.

If you become a paying customer of the Service, you agree that SSB can disclose the fact that you are a paying customer and the edition of the Service that you are using.

10. Technical Support

SSB will use reasonable efforts to respond to email enquiries solely for users of the AMP Professional Edition. Notwithstanding the foregoing, SSB is under no obligation to refund any amounts paid by you for the Service. This Agreement does not grant you any right to any enhancement, upgrade, update or bug fix release to the Service or any other products or services offered by SSB.

11. Billing and Renewal

SSB charges and collects in advance for use of the Service. The renewal charge will be equal to the then-current number of total User Licenses times the license fee then currently in effect. Fees for other services will be charged on an as-quoted basis. SSB's fees are exclusive of all taxes, levies, or duties imposed by taxing authorities, and you shall be responsible for payment of all such taxes, levies, or duties, excluding only United States (federal or state) taxes based solely on SSB's income.

You agree to provide SSB with complete and accurate billing and contact information. This information includes your legal company name, street address, e-mail address, and name and telephone number of an authorized billing contact and License Administrator. You agree to update this information within 30 days of any change to it. If the contact information you have provided is knowingly false or fraudulent, SSB reserves the right to terminate your access to the Service in addition to any other legal remedies.

Unless SSB in its discretion determines otherwise entities will be billed in U.S. dollars and subject to Net 30 payment terms.

If you believe your bill is incorrect, you must contact us in writing within 30 days of the invoice date of the invoice containing the amount in question.

12. Non-Payment and Suspension

In addition to any other rights granted to SSB herein, SSB reserves the right to suspend or terminate this Agreement and your access to the Service if your account becomes

delinquent (falls into arrears) for amounts not subject to bona fide dispute. Delinquent invoices (accounts in arrears) are subject to interest of 1.0% per month on any outstanding, undisputed balance, or the maximum permitted by law, whichever is less, plus all expenses of collection. You will continue to be charged for User Licenses during any period of suspension. If you or SSB initiates termination of this Agreement, except in the case of SSB's breach or default, you will be obligated to pay the balance due on your account computed in accordance with the Charges and Payment of Fees section above. SSB reserves the right to impose a reconnection fee in the event you are suspended and thereafter request access to the Service. You agree and acknowledge that SSB has no obligation to retain Customer Data and that such Customer Data may be irretrievably deleted if your account is 30 days or more delinquent for undisputed amounts.

13. Termination upon Expiration

This Agreement commences on the Effective Date. You may renew this Agreement or reduce the number of licenses, effective only upon the expiration of the then current License Term, by notifying the other party in writing at least thirty (30) business days prior to the date of the invoice for the following term.

In the event this Agreement is terminated (other than by reason of your breach), SSB will make available to you a file of the Customer Data within 30 days of termination if you so request at the time of termination. You agree and acknowledge that SSB has no obligation to retain the Customer Data, and may delete such Customer Data, more than 30 days after termination.

14. Termination for Cause

Any breach of your payment obligations or unauthorized use of the SSB Technology or the Content or the Service will be deemed a material breach of this Agreement. SSB, in its sole discretion, may suspend your password, account or use of the Service if you breach or otherwise fail to comply with this Agreement, pending 30 days to cure the breach before termination for cause. You agree and acknowledge that SSB has no obligation to retain the Customer Data, and may delete such Customer Data, if you have materially breached this Agreement, including but not limited to failure to pay outstanding fees, not subject to bona fide dispute, and such breach has not been cured within 30 days of notice of such breach.

15. Representations and Warranties

Each party represents and warrants that it has the legal power and authority to enter into this Agreement. SSB represents and warrants that it will provide the Service in a manner consistent with general industry standards reasonably applicable to the provision thereof and that the Service will perform substantially in accordance with the online help documentation under normal use and circumstances. You represent and warrant that you have not falsely identified yourself nor provided any false information to gain access to the Service and that your billing information is correct.

16. Export Regulations

All Service and technical data delivered under this Agreement are subject to US export control laws and may be subject to export or import regulations in other countries. You agree to comply strictly with all such laws and regulations and acknowledge that you have the responsibility to obtain such licenses to export, re-export, or import as may be required after delivery to you.

17. U.S. Government Restricted Rights.

If Service is being acquired by or on behalf of the U.S. Government or by a U.S. Government prime contractor or subcontractor (at any tier), then the Government's rights in Service and accompanying documentation will be only as set forth in this Agreement; this is in accordance with 48 CFR 227.7201 through 227.7202-4 (for Department of Defense (DOD) acquisitions) and with 48 CFR 2.101 and 12.212 (for non-DOD acquisitions).

18. Governing Law

Any action related to this Agreement will be governed by Virginia law and controlling U.S. federal law. No choice of law rules of any jurisdiction will apply. THE APPLICATION THE UNITED NATIONS CONVENTION ON CONTRACTS FOR THE INTERNATIONAL SALE OF GOODS IS EXPRESSLY EXCLUDED. UCITA shall apply to this Contract only to the extent required by §59.1-501.15 of the Code of Virginia.

19. Severability

If any provision of this Agreement is held to be unenforceable, this Agreement will remain in effect with the provision omitted, unless omission would frustrate the intent of the parties, in which case this Agreement will immediately terminate.

20. Confidentiality

You shall hold in the strictest confidence the Service and any related materials or information including, but not limited to, any technical data, trade secrets or know-how provided by SSB to you, either directly or indirectly in writing, orally or by inspection of tangible objects ("Confidential Information"). To the extent permitted by law, You shall not disclose any Confidential Information to third parties, including any of your employees or contractors who do not have a need to know such information and you shall take reasonable measures to protect the secrecy of, and to avoid disclosure and unauthorized use of, the Confidential Information. To the extent permitted by law, You shall immediately notify SSB in the event of any unauthorized or suspected use or disclosure of the Confidential Information.

21. Integration

This Agreement is the entire agreement between you and SSB relating to its subject matter. No modification of this Agreement will be binding, unless in writing and signed by an authorized representative of each party.

EXHIBIT F

CERTIFICATION REGARDING LOBBYING

The undersigned certifies, to the best of his or her knowledge and belief, that:

- i). No Federal appropriated funds have been paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee or an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal Contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal Contract, grant, loan, or cooperative agreement.
- ii). If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal Contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- iii). The undersigned shall require that the language of this certification be included in the award documents for all sub awards at all tiers (including subcontracts, sub grants, and Contracts under grants, loans and cooperative agreements) and that all sub recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Signature:

Jimmy Cosseboom

Printed Name:

Jimmy Cosseboom

Organization:

SSB BART Group

Date:

8-17-2009