



Commonwealth of Virginia
Virginia Information Technologies Agency

**HARDWARE & MAINTENANCE CONTRACT
&
INFORMATION TECHNOLOGY SERVICES (Optional Use) CONTRACT**

Date: December 18, 2013

Contract #: VA-100111-CDWG

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

Contractor: CDW-G
230 N. Milwaukee Avenue
Vernon Hills, IL 60061-9740

FIN: 36-3310735

Contact Person: Nicole Tuzzolino
Voice: 866-850-5223
Fax: 847-990-8124
Email: nicotuz@cdw.com

Term: January 11, 2014 - March 31, 2014

Awarded Brand: Hewlett-Packard

Payment: Net 30 days

For Additional Contract Information, Please Contact:

Virginia Information Technologies Agency
Supply Chain Management

Greg Searce
Strategic Sourcing Specialist
Phone: 804-416-6166
E-Mail: gregory.searce@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 #3
TO
CONTRACT NUMBER VA-100111-CDWG
BETWEEN THE
COMMONWEALTH OF VIRGINIA
AND
CDW GOVERNMENT LLC**

This MODIFICATION #3 is an agreement between the Commonwealth of Virginia, hereinafter referred to as "State" or "Commonwealth" or "VITA" (Virginia Information Technologies Agency), and CDW GOVERNMENT LLC, hereinafter referred to as "Contractor" relating to the modification of the above Contract. This Modification #3 is hereby incorporated into and made an integral part of Contract VA-100111-CDWG (the Agreement), as modified.

Modification #3 allows for an extension to the above referenced contract

**The term of the contract is extended under the same terms for the period beginning
January 11, 2014 through March 31, 2014.**

The foregoing is the complete and final expression of the parties' agreement to modify Contract VA-100111-CDWG and cannot be modified, except by a writing signed by duly authorized representatives of both parties.

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.

CDW GOVERNMENT LLC

BY: *Tara K. Barbieri*

NAME: Tara K. Barbieri

TITLE: Director, Program Sales

DATE: 11/25/2013

COMMONWEALTH OF VIRGINIA

BY: *Dana B. Smith*

NAME: DANA B. SMITH

TITLE: DIRECTOR FINANCE ADMINISTRATION

DATE: 12-5-13



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

December 4, 2012

CDW-G
Attn: Nicole Tuzzolino

Per Section 3.A. ("Term and Termination") of contract VA-100111-CDWG, The Virginia Information Technologies Agency has elected to exercise its option to renew the contract for one year, from January 11, 2013 through January 10, 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

**MODIFICATION #2
TO
CONTRACT NUMBER VA-100111-CDWG
BETWEEN THE
COMMONWEALTH OF VIRGINIA
AND
CDW GOVERNMENT LLC**

This MODIFICATION #2 is an agreement between the Commonwealth of Virginia, hereinafter referred to as "State" or "Commonwealth" or "VITA" (Virginia Information Technologies Agency), and CDW GOVERNMENT, INC., hereinafter referred to as "Contractor" relating to the modification of the above Contract. This Modification #2 is hereby incorporated into and made an integral part of Contract VA-100111-CDWG (the Agreement), as modified.

Modification #2 allows for an extension to the above referenced contract

**The term of the contract is extended under the same terms for the period beginning
January 11, 2012 through January 10, 2013.**

The foregoing is the complete and final expression of the parties' agreement to modify Contract VA-100111-CDWG and cannot be modified, except by a writing signed by duly authorized representatives of both parties.

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.

CDW GOVERNMENT LLC

BY: *Tara Barbieri*

NAME: Tara Barbieri

TITLE: Director, Program Sales

DATE: December 9, 2011

COMMONWEALTH OF VIRGINIA

BY: *Dana B. Smith*

NAME: Dana B. Smith

TITLE: Director, Finance & Administration

DATE: 12-15-11

40

**MODIFICATION #1
TO
CONTRACT NUMBER VA-100111-CDWG
BETWEEN THE
COMMONWEALTH OF VIRGINIA
AND
CDW GOVERNMENT LLC (Formerly known as CDW GOVERNMENT, INC)**

This MODIFICATION #1 is an agreement between the Commonwealth of Virginia, hereinafter referred to as "State" or "Commonwealth" or "VITA" (Virginia Information Technologies Agency), and CDW GOVERNMENT LLC, hereinafter referred to as "Contractor" relating to the modification of the above Contract. This Modification #1 is hereby incorporated into and made an integral part of Contract VA-100111-CDWG (the Agreement), as modified.

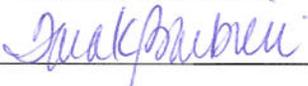
Modification #1 replaces note #1 in Exhibit C with the following:
"The Discount Percentage for each Market Basket Configuration (Tower, Rack and Blade) applies only to that specific configuration and or model. If a modification is made to any one configuration or a different model is selected, it is acceptable for the Contractor's Discount Percentage to change to reflect the new configuration/model."

The foregoing is the complete and final expression of the parties' agreement to modify Contract VA-100111-CDWG and cannot be modified, except by a writing signed by duly authorized representatives of both parties.

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.

CDW GOVERNMENT LLC

BY: 

NAME: Tara K. Barbieri

TITLE: Director, Program Sales

DATE: 9 March 2010

COMMONWEALTH OF VIRGINIA

BY: 

NAME: GREGORY H. SEARLE

TITLE: STRATEGIC SOURCING SPECIALIST

DATE: 3.12.2010

Reviewed
By:
WG



Hardware and Maintenance Contract

between

The Virginia Information Technologies Agency

on behalf of

The Commonwealth of Virginia

and

CDW GOVERNMENT, INC.

**HARDWARE AND MAINTENANCE CONTRACT
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HARDWARE AND MAINTENANCE CONTRACT

THIS HARDWARE AND MAINTENANCE CONTRACT ("Contract") is entered into by and between the Virginia Information Technologies Agency (hereinafter referred to as "VITA"), pursuant to §2.2-2012 of the Code of Virginia and on behalf of the Commonwealth of Virginia, and CDW Government, Inc. ("Supplier"), a corporation headquartered at 230 N. Milwaukee Ave Vernon Hills IL 60061, to be effective as of January 7, 2010 ("Effective Date").

1. PURPOSE

This Contract sets forth the terms and conditions under which Supplier agrees to sell certain of Supplier's Product, and to provide various Services to the Authorized Users.

2. DEFINITIONS

A. Acceptance

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

B. Authorized Users

All Public Bodies, including VITA and all Commonwealth agencies, as defined by §2.2-4301 and referenced by §2.2-4304 of the Code of Virginia.

C. 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.

D. 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 D hereto. The actual Maintenance Level for a unit of Product shall be set forth in the executed order for Maintenance of that Product referencing this Contract.

E. Maintenance Coverage Period (MCP)

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

F. Maintenance Services (or Maintenance)

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

G. Operating Condition

That condition which allows the Product to function in a normal, acceptable working manner, as designed by the Product manufacturer.

H. Party

Supplier, VITA, or any Authorized User.

I. Product

Hardware, peripherals, and any other equipment, including the System Software, all upgrades, all applicable user documentation and related accessories as set forth on Exhibit C provided pursuant to this Contract.

J. Receipt (of Product)

An Authorized User or its Agent has physically received the Product at the correct "ship to" location.

K. 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 the Parties. [Note: In case of conflict, see the Entire Contract clause for order of precedence.]]

L. Response Time

The time between Supplier's receipt of Authorized User's request for Maintenance and the time Supplier commences repair of the Product.

M. Service

Any Product-related work performed or service provided, including certain Maintenance Services or other services for the Product and provision to the Authorized User of any deliverable, by Supplier under this Contract.

N. Software Publisher

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

O. 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).

P. System Software

The operating system code, including software, firmware and microcode, (object code version) for each Product, including any subsequent revisions, as well as any applicable documentation.

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 two (2) years. VITA, at its sole discretion, may extend this Contract for up to three (3) additional one (1) year periods after the expiration of the initial two (2) 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 Product 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 the Warranty or Maintenance 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 for convenience 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 Non-procurement 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 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.

E. Effect of Termination

Upon termination, neither the Commonwealth, nor VITA, nor any Authorized User shall have any future liability except for Products or certain Maintenance or other Services accepted by the Authorized User prior to the termination date.

In the event of a Termination for Breach or Termination for Default, Supplier shall accept return of any Products or services that were not accepted by the Authorized User(s), and Supplier shall refund any monies paid by any Authorized User for such Product or services, including certain Maintenance Services, and all costs of de-installation and return of the Products 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 Product-related Services to any other supplier with whom VITA or such Authorized User contracts for provision of Product-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 the 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. DELIVERY, INSTALLATION AND ACCEPTANCE

A. Delivery Procedure

Supplier shall deliver all Product F.O.B. destination, with such destination being the "ship to" address specified in the applicable order. For orders for which Supplier is to provide installation of the Product, Supplier shall bear all risk of loss of or damage to the Product until Receipt/Acceptance by the Authorized User. For orders for which Supplier is not to provide installation of the Product, Supplier shall bear all risk of loss or damage to the Product until Receipt. In all cases, Supplier shall arrange and pay for all transportation and insurance sufficient to fully protect the Product while in transit. Each shipment shall include a packing slip indicating this Contract number, the Authorized User's order number, the part number, a description of the Product shipped and the quantity shipped. Each package in any shipment shall be numbered, and one side a description of the quantity of Product contained therein by part number and description, and shall conspicuously display the number of the package in that shipment which contains the packing slip. If required by the Authorized User, Supplier shall bar code all packages shipped. If any loss to, or damage of, the Product occurs prior to Acceptance by the Authorized User, Supplier shall immediately provide a replacement item. Title to Product, excluding System Software, shall pass upon Acceptance.

Supplier shall make available all appropriate and/or related user documentation at the time of delivery of the first unit of each different Product type. Product delivered without the appropriate and required documentation shall be considered "shipped short" until the applicable documentation has been received.

B. Late Delivery

Supplier hereby acknowledges and agrees that failure to deliver the Product ordered in strict accordance with the agreed upon delivery schedule determined in accordance with this Section shall result in damages to the ordering Authorized User, the total sum of which would be impracticable or difficult to ascertain as of the Effective Date of this Contract. As an estimate of the minimum amount of damages such Authorized User will suffer, Supplier agrees to credit the Authorized User an amount equal to one half percent (1/2%) of the total purchase price, for each day that the Product is undelivered or unoperational for a period of thirty (30) days following the agreed upon delivery date. If the delay lasts longer than thirty (30) days, the Authorized User may immediately cancel the order and collect as late delivery damages one percent (1%) of the total purchase price. Any credit due the Authorized User will be applied to the next periodic invoice. In addition, in the event the Supplier fails for any reason to deliver within thirty (30) days of the agreed upon delivery date set forth in the order/schedule, the ordering Authorized User, at its own discretion, may give Supplier oral or written notice of breach. Once notice by such Authorized User is sent or given, the Authorized User may immediately procure the undelivered items, or items similar thereto, from another source. Once the Authorized User has effected a purchase from an alternate source (in accordance with the Virginia Public Procurement Act, §§ 2.2-4300 et seq. of the Code of Virginia), the Authorized User may charge-back Supplier, in which case Supplier agrees to reimburse the Authorized User for any difference in cost between the original contract price and the Authorized User's cost to cover from the alternate source. In

no event shall any Authorized User be held to pay Supplier any costs incurred by Supplier, including but not limited to ordering, marketing, manufacturing, or delivering the item(s) which are subject of such Authorized User 's notice of breach. Notwithstanding the foregoing, the Authorized User reserves any and all other remedies available at law or in equity.

C. Product Trade-in and Upgrade

D. Product Installation

Unless otherwise agreed, Supplier shall not provide the initial installation of any Product. Unless otherwise indicated, installation shall include: unpacking, removal of all shipping/packing materials, positioning, connecting to internal utility services, testing, and related necessary services to allow for Acceptance by the Authorized User.

All Product installations shall comply with building and facilities standards established by the ordering Authorized User. If such Authorized User installs the Product, Supplier shall provide all reasonably necessary telephone assistance at no charge.

E. Product Acceptance

Product shall be deemed accepted upon Acceptance by the ordering Authorized User. Such Authorized User shall commence Acceptance testing upon Receipt/installation of the Product. Acceptance testing will be no longer than fifteen (15) days, or such longer period as may be agreed in writing between Authorized User and Supplier. Supplier agrees to provide to the Authorized User such assistance and advice as the Authorized User may reasonably require, at no additional cost, during such Acceptance testing, other than pre-approved travel expenses incurred which are reimbursable by the Authorized User at the then-current per diem amounts as published by the Virginia Department of Accounts. Any such travel expenses must be pre-approved by the Authorized User and shall 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_102009.pdf, or a successor URL(s)). Authorized User shall provide to Supplier written notice of non-Acceptance upon unsuccessful Acceptance testing. Should Authorized User fail to provide Supplier written notice of unsuccessful Acceptance testing within fifteen (15) days following Receipt, the Product(s) shall be deemed to successfully operate in accordance with the Requirements.

F. Cure Period

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

G. Product Discontinuation

During the term of this Contract, if any Product listed on Exhibit C is discontinued and Supplier does not offer a substitute acceptable to VITA, Supplier shall, for each Authorized User who purchased the discontinued Product, continue to meet such Authorized User's needs for the discontinued Product for not less than twelve (12) months. Additionally, Supplier shall make available to the Authorized User maintenance parts for discontinued Product for five (5) years from the date of such discontinuation. In every event, Supplier will provide any Authorized User with 120 days advance written notice of its intent to discontinue any Product type previously ordered by such Authorized User.

5. PRODUCT SUPPORT AND ADDITIONAL SERVICES

A. Authorized User or Third Party Support

1. Documentation and Support Availability

In the event that VITA terminates this Contract, Supplier shall provide all the necessary user and installation documentation and maintenance and repair training reasonably required to enable any Authorized User to maintain and repair the Product itself or to obtain support and maintenance services from a third-party. Supplier shall also provide the documentation and training necessary to allow any Authorized User to self-maintain to the subcomponent level. In addition, Supplier agrees to provide, for a period of five (5) years from the date of the last purchase, spare parts and components at the cost set forth in Exhibit C, including those solely sourced by Supplier, to enable any Authorized User or its designated third-party maintenance provider to provide full maintenance and repair of the Product.

2. Timeliness and Price

Supplier agrees to make the above-referenced documentation, training and spare parts and components available within fifteen (15) days following receipt of a written request, and at a price set forth in Exhibit C, such price not to exceed Supplier's published price list, or the fair market value, but in no event at prices above the lowest price paid by any other customer of Supplier. In addition, Supplier agrees to sell Product, as set forth in Exhibit C attached hereto, to any Authorized User's third-party maintenance provider under contract with such Authorized User, at the prices as set forth in Exhibit C, for the sole purpose of supporting the Authorized User's installed inventory. Supplier agrees to document and provide to all Authorized Users in a timely manner any and all revisions to information and parts and components lists as they are developed or supplied by Supplier.

B. Engineering Changes and Product Modification

For each Authorized User that purchased Product, Supplier agrees to make available to such Authorized User any and all planned engineering changes to the Product ninety (90) days prior to incorporation, when available from the manufacturer. All engineering changes which affect the safety of the Product ("Safety Changes") or the ability of the Product to meet the published specifications ("Performance Changes"), shall be made at no cost to the Authorized User. Supplier shall install all Safety Changes and Performance Changes within thirty (30) days after issuance of the engineering change order by the Product manufacturer. If such engineering changes affect Product processing or operating capability, they shall be scheduled at the Authorized User's request as to time and at the Authorized User's option. The Authorized User shall have the option to waive/pre-approve all other engineering changes planned by Supplier on the Product delivered or planned for delivery to the Authorized User.

C. Training

The Product purchase price includes all costs for the training of one trainer at the ordering Authorized User's designated location on the use and operation of the Product, including instruction in any necessary conversion of such Authorized User's data for such use. Pursuant to a mutually agreed upon schedule, Supplier shall provide sufficient personnel experienced and qualified to conduct such training. Available optional training, and applicable pricing and discounts, are described in Exhibit C.

D. Parts and Maintenance Support

Supplier agrees to make available new/certifiable as new spare parts and the Maintenance Services identified in the Maintenance Services section herein and Exhibit D hereto for each Product type ordered by an Authorized User, for five (5) years from the expiration of the initial Warranty Period of the last unit of any given Product type provided by Supplier to such Authorized User. Thereafter, Supplier shall advise such Authorized User of its intent to discontinue either certain parts or maintenance services for any Product type ordered by the Authorized User.

Supplier shall notify the Authorized User one (1) year prior to the effective date of any such discontinuance, and shall provide to the Authorized User the opportunity to purchase spare parts

in a quantity adequate to support its installed base. Should Supplier advise the Authorized User of its intent to discontinue certain parts for any Product type ordered by the Authorized User, the Authorized User has the option to request and Supplier has the obligation to provide, to the extent permitted by the manufacturer, all documentation, including source code, required to ensure ongoing support, including full maintenance and repair by the Authorized User or its designated third-party maintenance provider within thirty (30) days prior to the discontinuance date or to replace the unsupported Product with a supported Product at a cost to the Authorized User of no more than the cost delta between the supported Product and the unsupported Product.

E. Inventory Record

For certain Products specified by Supplier, Supplier shall maintain, at no additional cost, a record of all units of Product covered under warranty/maintenance by type, quantity and location, including the end date for each unit's Warranty Period or maintenance term ("Inventory Record"). Product quantities and types may vary as Product is added or deleted from coverage, and Authorized User shall notify Supplier in writing of any Product relocated, added, or removed from service. Upon such notification, Supplier shall amend the Inventory Record to reflect such relocation, addition, or deletion of Product. Supplier shall provide, at no additional cost, a copy of the most current Inventory Record to any Authorized User upon request.

F. Product Service Record

Supplier shall maintain, at no additional cost and to the extent provided by the manufacturer, a Product Service Record for each unit of Product covered under warranty or maintenance. The Product Service Record shall record the following for such unit of Product: (i) installation/ relocation/ removal/ modifications; (ii) remedial actions; (iii) preventive actions; (iv) any additional services not covered by warranty or maintenance. Upon request by the Authorized User, Supplier shall provide, at no additional cost, a copy of the Product Service Record.

G. Additional Services

In addition to any on-site warranty or maintenance service obligations, Supplier shall, upon request of an Authorized User by means of an order issued in accordance with the ordering provisions of this Contract, provide additional on-site services which may include: (i) relocation of previously installed hardware; (ii) assistance to Authorized User's communications department in mutually acceptable duties related to the warranty or maintenance services provided under this Contract; and (iii) cabling, if applicable. The Authorized User shall compensate Supplier for such additional on-site services in accordance with the prices identified in Exhibit C.

Furthermore, Supplier shall, upon request of an Authorized User by means of an order issued in accordance with the ordering provisions of this Contract, provide the following services beyond those identified as warranty or maintenance service offerings: (i) service on equipment not covered by this Contract, (ii) repair of damage or replacement of parts of hardware resulting from changes in the hardware environment, extraordinary use of the hardware, or interconnected devices, or (iii) service outside the applicable hours of service specified in an executed order referencing this Contract. The charge for such services shall be at the hourly rate specified in Exhibit C and shall be inclusive of all expenses. Warranty or maintenance services requested for a unit of hardware within the forty-eight (48) hour period immediately following Remedial Maintenance performed on the same unit of hardware for the same problem, shall not be considered an additional service and shall be provided at no charge. Requests for additional services shall only be approved for payment by the Authorized User when a Product Service Record is included with the applicable invoice.

6. WARRANTY AND REMEDY

A. Supplier

Supplier shall perform its obligations hereunder in accordance with the highest professional duty of care.

B. Ownership

Supplier is the owner of the Product or otherwise has the right to grant to the Commonwealth or any Authorized User title to or the right to use the Product provided hereunder without violating or infringing any law, rule, regulation, copyright, patent, trade secret or other proprietary right of any third-party. Upon receipt of payment, the Commonwealth or the ordering Authorized User, as applicable, shall obtain good and clear title to the Product, excluding the System Software, free and clear of all liens, claims, security interests and encumbrances.

C. Supplier Viability

Supplier warrants that it has the financial capacity to perform and continue to perform its obligations under this Contract, that no legal proceedings have been threatened or 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.

D. Compatibility

Supplier warrants that each Product provided hereunder is, and shall continue to be, data, program, and upward compatible with any other Product available or to be available from Supplier within the same family of Products so that data files created for each Product can be utilized without adaptation of the other Products, and so that programs written for the Product shall operate on the next generation of Products, and not result in the need for alteration, emulation, or other loss of efficiency for a period of not less than five (5) years.

E. Product

Supplier warrants the following with respect to the Product:

- i). Product pursuant to a particular Request for Proposal (RFP), quote, or Request for Quote (RFQ), shall be a bona fide article of the type specified in this Contract and in the applicable order;;
- ii). Upon delivery, the Product shall be new and in Operating Condition and shall have all released engineering changes released to date already installed, as provided by the manufacturer;
- iii). Each Product delivered hereunder shall function in conformance with the Product specifications;
- iv). No engineering change made to the Product or System Software revisions shall degrade the performance of the Product to a level below that defined in the applicable Request for Proposal, and in the Product manufacturer's published specifications;
- v). Upon delivery, all System Software shall be at the current release level unless otherwise requested by the ordering Authorized User; and
- vi). The System Software shall not contain any device or code (e.g., time bomb) embed that is intended to obstruct or prevent any Authorized User's use of the System Software, nor shall Supplier disable any Authorized User's use of such System Software through remote access or otherwise. If the System Software contains authorization codes allowing access to a data base or other software, Supplier warrants that such codes shall be perpetual and non-expiring.

F. Performance Standards and Mean Time Between Failure

For a period of five (5) years following acceptance of the Product by an Authorized User, Supplier warrants that the Product's performance standards and Mean Time Between Failure (MTBF) standards, calculated based upon such Authorized User's installed base of Supplier Product, shall be at least as good as the standards set forth in Exhibit B. If the Product fails to satisfy (i) the MTBF standards or (ii) the performance standards for that Product type as set forth herein, Supplier shall pay for any and all additional repairs, parts and labor required to bring Product to the appropriate level set forth in Exhibit B, including the cost to retrofit the entire installed Product base. If Supplier fails to so modify or replace the Product so as to achieve the MTBF standards

within thirty (30) days, the Authorized User may, at its option, return such Product and receive a full refund during the Product warranty period, or if the warranty has expired, receive a straight line pro-rated refund, by year thereafter for the five (5) year period following installation of the Product.

G. Warranty Services

During the warranty period of one year (1) year, or as specified in the applicable order, Supplier warrants that the Product shall meet or exceed the Requirements. Supplier shall provide warranty services (including unlimited telephonic support and all necessary travel and labor) during the Warranty Period at the prices identified in Exhibit C. 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 Product to meet the Requirements.

Exhibit D provides detailed descriptions of the Supplier's warranty and maintenance offerings and responsibilities as well as remedies available to the Authorized User in the event Supplier fails to perform its warranty and maintenance obligations. Any remedies shall be paid to the Authorized User on a quarterly basis. Exhibit D defines coverage periods, response times, and restore times. If multiple warranty levels are available, an Authorized User may elect, at any time, an alternative warranty 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.

Authorized User's designated control organization shall have the exclusive authority to request warranty services. Supplier shall not respond to calls for service from any other source without prior written approval of Authorized User's agreement administrator designated on the relevant order.

1. Product Covered

Exhibit C lists all Product types covered under warranty.

2. Preventive Maintenance

Supplier's Preventive Maintenance offerings and responsibilities, and the Authorized User's associated remedies, are described in Exhibit D.

3. Remedial Maintenance

Supplier's Remedial Maintenance offerings and responsibilities, and the Authorized User's associated remedies, are described in Exhibit D.

4. Replacement Parts

Supplier's offerings and responsibilities related to Replacement Parts, and the Authorized User's associated remedies, are described in Exhibit D.

5. Spares

Supplier's offerings and responsibilities related to Spares, and the Authorized User's associated remedies, are described in Exhibit D.

6. Notification and Correction of Defects

Supplier's offerings and responsibilities related to notification and correction of defects, and the Authorized User's associated remedies, are described in Exhibit D.

7. One-year Depot Warranty

Supplier's depot warranty offerings and responsibilities are described in Exhibit D.

8. On-site Warranty

Supplier's on-site warranty offerings and responsibilities are described in Exhibit D.

9. System Software Warranty

As part of the standard warranty offering, for a period of not less than twelve (12) months beginning on the date of 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 System Software in accordance with the Requirements:

a) New Releases

Supplier's responsibilities related to new releases of System Software and Documentation are described in Exhibit D.

b) Coverage

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

c) Response and Restore Times

Supplier's response and restore times related to use, problems, and operation of the System Software, and Authorized User's associated remedies, are described in Exhibit D.

d) Software Evolution

Should Supplier or Software Publisher merge or splinter the System 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, upgrades or support for the System Software.

Subject to the terms of the manufacturer's end user license agreement, if Supplier or Software Publisher reduces or replaces functionality contained in a licensed System Software product and provides the same or substantially similar functionality as or within a separate or renamed System Software product, then the Commonwealth or the Authorized User shall be entitled to license such System Software product at no additional license or maintenance fee, and subject to the terms and conditions herein.

Subject to the terms of the manufacturer's end user license agreement, if Supplier or Software Publisher releases an option, future System 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 System Software product, then Supplier shall offer the Commonwealth or the Authorized User the option to exchange licenses for such replacement System Software product or function at no additional charge.

10. Escalation Procedures

TBD based on Supplier proposal.

11. Remedies

In addition to any remedies described in Exhibit D, if Supplier is unable to make the Product, including System 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, either (i) replace the non-conforming Product or (ii) accept return of the non-conforming Product and return all monies paid by such Authorized User for the returned Product.

Notwithstanding anything to the contrary in this Contract or in any exhibit hereto, VITA and any Authorized User retain all rights and remedies available at law or in equity.

12. Product Maintenance Services and Renewal Options

At least sixty (60) days prior to the expiration of the Warranty Period, Supplier shall notify the Authorized User, and the Authorized User, at its sole discretion, may order from Supplier Maintenance Services, including System Software Maintenance for a period of one (1) year (Maintenance Coverage Period) and for the annual fee identified in Exhibit C. Supplier

warrants that it shall make Maintenance Services available for all the Product, including System Software, listed in Exhibit C, or which are components of Products listed in Exhibit C, for a period of at least five (5) years from the expiration of the initial Warranty Period of any Product provided to an Authorized User pursuant to this Contract. Termination of this Contract or cancellation of Maintenance Services, including System Software Maintenance Services if provided as a separate offering from Supplier, by an Authorized User shall not affect this Contract or the grant of any license pursuant thereto.

THE OBLIGATIONS OF SUPPLIER UNDER THIS WARRANTY AND REMEDY SECTION ARE MATERIAL. SUPPLIER MAKES NO OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY CONCERNING MERCHANTABILITY OR FITNESS FOR ANY OTHER PARTICULAR PURPOSE.

7. MAINTENANCE SERVICES

Supplier shall provide Maintenance Services (including unlimited telephonic support and all necessary travel and labor) during the Maintenance Coverage Period (MCP) at the prices identified in Exhibit C without additional charge to maintain the Product in accordance with the Requirements.

Exhibit D provides detailed descriptions of the Supplier's warranty and maintenance offerings and responsibilities as well as remedies available to the Authorized User in the event Supplier fails to perform its warranty and maintenance obligations. Any remedies shall be paid to the Authorized User on a quarterly basis. Exhibit D defines coverage periods, response times, and restore times.

Authorized User's designated control organization shall have the exclusive authority to request maintenance services. Supplier shall not respond to calls for service from any other source without prior written approval of Authorized User's agreement administrator designated on the relevant order.

A. Ordering

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

Product and, if applicable, serial number, for which Maintenance Services shall be provided, Maintenance Level to be provided, and MCP for the Product Maintenance.

Authorized User may elect, at any time, an alternative 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 to by the Authorized User and Supplier, the MCP for a unit of Product shall be one (1) year from the effective date of any executed order for Maintenance on such Product.

Co-termination of MCP, TBD based on Supplier proposal.

B. Renewal

At least sixty (60) days prior to the expiration of the MCP for each unit of Product, 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, including System Software 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 Purchase Price and Price Protection section, in effect at the time, whichever is less. Termination of this Contract or cancellation of Maintenance Services, including System Software Maintenance Services if provided as a separate offering from Supplier, by an Authorized User shall not affect this Contract or the grant of any license pursuant thereto.

C. Services

Maintenance Services shall be as follows:

1. Product Covered

Exhibit C lists all Product types for which Supplier offers Maintenance Services. No Authorized User is obligated to continue Maintenance Services on Product that has been removed from service, provided Supplier has been notified in writing of such removal.

2. Preventive Maintenance

Supplier's Preventive Maintenance offerings and responsibilities, and the Authorized User's associated remedies, are described in Exhibit D.

3. Remedial Maintenance

Supplier's Remedial Maintenance offerings and responsibilities, and the Authorized User's associated remedies, are described in Exhibit D.

4. Replacement Parts

Supplier's offerings and responsibilities related to Replacement Parts, and the Authorized User's associated remedies, are described in Exhibit D.

5. Spares

Supplier's offerings and responsibilities related to Spares, and the Authorized User's associated remedies, are described in Exhibit D.

6. Notification and Correction of Defects

Supplier's offerings and responsibilities related to notification and correction of defects, and the Authorized User's associated remedies, are described in Exhibit D.

7. Advanced Replacement Services

Supplier's advanced replacement service offerings and responsibilities are described in Exhibit D.

8. On-site Maintenance Services

Supplier's on-site maintenance service offerings and responsibilities are described in Exhibit D.

9. System Software Maintenance

During the MCP and as part of the standard Maintenance Services offering, Supplier shall provide the following Maintenance Services (including unlimited telephonic support and all necessary travel and labor) without additional charge to any Authorized User to maintain the System Software in accordance with the Requirements:

a) New Releases

Supplier's responsibilities related to new releases of System Software and Documentation are described in Exhibit D.

b) Coverage

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

c) Response and Restore Times

Supplier's response and restore times related to use, problems, and operation of the System Software, and any associated remedies, are described in Exhibit D.

d) Software Evolution

Should Supplier merge or splinter the System Software previously provided to any Authorized User, such action on the part of Supplier shall not in any way result in any

Authorized User being charged additional license or Maintenance fees in order to receive enhancements, releases, upgrades or support for the System Software.

If Supplier or Software Publisher reduces or replaces functionality contained in a licensed System Software product and provides the same or substantially similar functionality as or within a separate or renamed System Software product, then the Commonwealth or the Authorized User shall be entitled to license such System 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 System 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 System Software product, then Supplier shall offer the Commonwealth or the Authorized User the option to exchange licenses for such replacement System Software product or function at no additional charge.

10. Escalation Procedures

TBD based on Supplier proposal.

11. Remedies

In addition to any remedies described in Exhibit D, if Supplier is unable to make the Product, including the System 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, either (i) provide a replacement Product at no additional cost to the Authorized User, or (ii) accept return of the Product and return all monies paid by such Authorized User (a) for Maintenance Services for the returned Product, including System Software, pro-rated on a monthly basis as of the date the Authorized User reported the non-conformity and (b) for the Product, including System Software, pro-rated on a monthly basis as of the date the Authorized User reported the non-conformity and based on the average life of the Product.

Notwithstanding anything to the contrary in this Contract or in any exhibit hereto, VITA and any Authorized User retain all rights and remedies available at law or in equity.

8. SCOPE OF USE

To the extent permitted by the manufacturer, any Authorized User may use the Product, and any software licensed in connection with such Product, on a worldwide basis for the benefit of itself and its agents. To the extent permitted by the manufacturer, Supplier further authorizes use of the Product by third parties who are under contract with an Authorized User to provide outsourcing services, including but not limited to providing application development services, data processing or facilities or infrastructure management services for the benefit of such Authorized User. For Products to which the Commonwealth or an Authorized User takes title, and any System Software which is integral to such Products, to the extent permitted by the manufacturer,, under the terms of this Contract, there are no restrictions on subsequent resale or distribution thereof by the Commonwealth or such Authorized User.

9. 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 hereby grants to the Commonwealth and all Authorized Users a fully paid, perpetual, worldwide, nonexclusive, transferable, irrevocable license to use, and to permit any agent of the Commonwealth or such Authorized User to use, System Software for each Product. Each license granted under this Contract authorizes the Commonwealth or such Authorized User and any agent of the Commonwealth or such Authorized User to use Supplier-licensed programs in machine readable form on any system without limitation. It is expressly understood that “perpetual” license rights shall commence upon delivery of the System Software to the Authorized User and shall exist in perpetuity unless otherwise terminated in accordance with the applicable provisions of the Contract. The System Software is the property of Supplier, and no title or ownership of the System Software or any of its parts, including documentation, is transferred to the Commonwealth or the Authorized User.

B. Limitations on Copying and Disclosure

The Commonwealth, an Authorized User, or any agent of the Commonwealth or such Authorized User may make a reasonable number of backup, archival, and disaster recovery copies of the System Software. Any copies of the software or documentation made by the Commonwealth or an Authorized User pursuant to this Contract shall bear all copyright, trademark and other proprietary notices included therein by Supplier and, except as expressly authorized, neither the Commonwealth nor the Authorized User shall distribute same to any third-party without Supplier's prior written consent. The Commonwealth may distribute the System Software and documentation if such distribution is incidental to transfer of Product to which it has taken title. Neither the Commonwealth nor any Authorized User may resell the System Software except if such resale is incidental to the resale of Product to which the Commonwealth or such Authorized User has taken title.

C. Business Continuity and Recovery

[Option 1] Authorized User or its Agent may run the System Software concurrently at a back-up site. In the event that all of an Authorized User's copies of the System Software, including all backup copies, are destroyed, irreparably damaged or otherwise lost due to fire, explosion, sabotage, flood or other natural disaster not occasioned by the fault of such Authorized User, Supplier shall provide to the Authorized User, at no additional cost, a replacement copy of the System Software and documentation; provided however, that nothing contained in this Section shall obligate Supplier to replace or assist in the recovery of data lost concurrent with the loss of the System Software.

System Software licensed by Software Publisher] Supplier shall provide System Software for Product. Such System Software is licensed directly from the Software Publisher through the end user licensing agreement (EULA), as amended, attached hereto as Exhibit E. [end Option 2]

[The following provisions apply to both Option 1 and Option 2.]

D. Authorized User Compliance

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.

E. 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 System Software licensed under this Contract, or the fact that such other agreement may be affixed to or accompany System 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.

10. ORDERS AND COMPENSATION

A. Supplier Quote and Request for Quote

Should an Authorized User determine that a competitive process is required to ensure it receives the best value, such Authorized User may, at its sole discretion, on a case-by-case basis and upon approval by VITA, use a Request for Quote (RFQ) process to obtain product identical or similar to that provided by Supplier pursuant to this Contract. The RFQ process is typically used when an Authorized User requires a complete solution that may be fulfilled by Products and Services herein, but whose complexity or size may result in economies that could not be passed on to the Authorized User within the confines of the established contract catalog discount pricing. When an RFQ is used, the project timing and requirements will be clearly outlined in the RFQ document. In some situations, the Authorized User may not identify the exact specifications required. If that is the case, the RFQ respondents will be given the opportunity to identify and propose their recommended specifications.

In cases where the RFQ process is invoked, the Authorized User will issue an RFQ describing its requirements to potential suppliers, and suppliers will provide, at their discretion, within the timeframe specified in the RFQ, a detailed Statement of Work (SOW)-based quote. Any quote submitted to the Authorized User as a result of this process shall include (a) a detailed description of each item proposed, at the Exhibit C line item level, (b) the quantity of each such item, (c) the contract price, (d) any additional percentage discount offered, and (e) an extended/total price.

Generally, the Authorized User will select the supplier offering the lowest total cost proposal. However, non-price factors may be included in the evaluation criteria for a given RFQ. Any purchase from Supplier that is a result of the RFQ process shall be subject to the terms and conditions specified and outlined in this Contract and any subsequent modifications. Additional terms and conditions may be requested or mandated within the RFQ document. To the extent that any terms and conditions of the Authorized User are inconsistent with the terms and conditions of this Contract, the terms and conditions of this Contract shall supersede.

B. Orders

Notwithstanding all Authorized User's rights to license or purchase Supplier's products or services under this Contract, an Authorized User is under no obligation to license or purchase 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:

- vii). Purchase Order (PO): An official PO form issued by an Authorized User.
- viii). 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 Products 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 Non-procurement 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 SUCH AUTHORIZED USER IS VITA.

C. Purchase Price and Price Protection

Exhibit C sets forth the prices by Product type (including whole units and repairable major components thereof) and for warranty services and Maintenance Services, and the appropriate Commonwealth discounts. Prices for Product shall not increase and the discounts shall not decrease for a period of not less than two (2) years from the Effective Date of this Contract. Thereafter, any increase in price shall be limited to once per twelve (12) month period and shall not 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, for the expenditure category "Information technology, hardware and services" as published by the Bureau of Labor Statistics of the Department of Labor (<http://www.bls.gov/>), for the effective date of the increase compared with the same index one (1) year prior. Supplier shall demonstrate the added value for any requested price increase. Any change in price shall be submitted in writing in accordance with the above and shall not become effective for sixty (60) days thereafter. Semi-annually, VITA may check the prices for Product against the CPI-U, as defined above, for the expenditure category "Information technology, hardware and services", and the prices in Exhibit C shall be appropriately reduced to ensure continued price competitiveness, if required. Supplier agrees to offer Product price reductions to ensure compliance with the Competitive Pricing Section.

D. Supplier-Sponsored Product Promotions

The Supplier, at its discretion, may sponsor Product and Service promotions during the Contract term or any extensions thereof. Should Supplier choose to sponsor such a promotion, Supplier shall provide in writing to VITA, at least five (5) days prior to the promotion, the following information: (i) the dates of the promotion or the duration of the promotion to include the commencement date and the ending date; (ii) the exact Products or Services covered in the promotion; and (iii) the pricing or percentage discount offered during the promotion. VITA shall communicate to Supplier in writing its agreement to the promotion.

The Supplier shall be in breach of the Contract in the absence of a written agreement regarding the promotion. In any event wherein the Supplier proposes prices that are different than the Contract prices to any Authorized User without first obtaining VITA's agreement, the Supplier shall be in breach of the Contract, and VITA shall have all remedies available under Contract and law and in equity.

All Supplier-sponsored Product or Service promotions shall be available to all Authorized Users. Should the Supplier request a promotion that would be limiting, either through product configuration or quantities of Products and Services, VITA, at its sole discretion, may not provide a written agreement. VITA and Supplier agree that promotions shall not target any one Authorized User, or a few Authorized Users.

VITA and Authorized Users, at their discretion, may assist in advertising the promotion. This assistance may consist of advertising space on Authorized User web sites, or other assistance at an Authorized User's discretion.

E. Invoice Procedure

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

- i). Product or Service type and description
- ii). Product serial number, if any

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- iii). Quantity, charge and extended pricing for each Product and/or Service item
 - iv). Applicable order date
 - v). Ship date
 - vi). Ship-to location contact name
 - vii). This Contract number and the applicable order number
 - viii). Supplier's Federal Employer Identification Number (FEIN).

Supplier shall submit separate invoices for the Maintenance charges (detailing the Product types and quantities by Authorized User site), for billable additional services, and for any installation services, including the appropriate Product Service Record or other agreed upon written instrument. Additional invoices may be required by Authorized User from time to time detailing charges for Product at affiliate locations by corporate department.

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 agrees not to issue invoices hereunder until Product has been accepted. Charges for Product 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.

Product shipped without the applicable Documentation may not meet Acceptance criteria, and payment shall not be due until after the required Documentation is provided.

If there are any disputed items, an Authorized User shall pay all undisputed charges and promptly notify Supplier in writing 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 15 days after Acceptance.

11. 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). The report should specify the amount of such spend provided to small businesses. Supplier shall submit the report to SWaM@vita.virginia.gov.

12. COMPETITIVE PRICING

Subject to applicable law and competitive market consideration, Supplier represents that it will use reasonable commercial efforts to offer prices for products herein that are competitive with the prices offered by Supplier to other similarly situated customers under the same terms and conditions for purchase of a comparable volume of the same products from Supplier.

13. 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.

14. 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 (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) any act or omission of any employee, agent, or subcontractor of Supplier (iii) breach of any representation, warranty or covenant of Supplier contained herein, (iv) any defect in the Product or Services, or (v) any actual or alleged infringement or misappropriation of any third party's intellectual property rights by any of the Product 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 Product or any Product component 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 Product 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 Product or Services, or any component thereof; or (b) replace or modify such infringing Product 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 Product 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 Product. 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 Product 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

IN NO EVENT WILL ANY PARTY BE LIABLE TO ANY OTHER PARTY FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE CONTRACTUAL DAMAGES, INCLUDING (WITHOUT LIMITATION) LOSS OF PROFIT, INCOME OR SAVINGS, EVEN IF ADVISED OF THE POSSIBILITY THEREOF, EXCEPT WHEN SUCH DAMAGES ARE CAUSED BY THE

GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF THE PARTY, ITS EMPLOYEES, AGENTS OR SUBCONTRACTORS.

Except for liability with respect to (i) any intentional or willful misconduct or negligence of any employee, agent, or subcontractor of Supplier, (ii) any act or omission of any employee, agent, or subcontractor of Supplier, (iii) claims for bodily injury, including death, and real and tangible property damage, (iv) Supplier's indemnification obligations, (v) Supplier's confidentiality obligations, and (vi) Supplier's security compliance obligations., SUPPLIER OR ANY OF ITS AFFILIATES, THE ENTIRE LIABILITY OF SUPPLIER AND ITS AFFILIATES FOR CONTRACTUAL DAMAGES WILL NOT EXCEED THE GREATER OF: (A) TWICE THE DOLLAR AMOUNT PAID BY THE AUTHORIZED USER FOR EITHER THE PRODUCT(S) GIVING RISE TO THE CLAIM OR THE SPECIFIC SERVICE GIVING RISE TO THE CLAIM; OR (B) \$100,000.00.

15. 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 its obligations pursuant to this Section.

16. BANKRUPTCY

If Supplier becomes insolvent, takes any step leading to its cessation as a going concern, or ceases business operations for any reason and other than assignment as allowed by this Contract, then VITA may immediately terminate this Contract, and 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 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.

17. GENERAL PROVISIONS

A. Relationship Between VITA and Authorized User and Supplier

Supplier has no authority to contract for VITA or any Authorized User or in any way to bind or 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 mandatory contractual provisions, required by law or by VITA, and that are hereby incorporated by reference: <http://www.vita.virginia.gov/uploadedFiles/SCM/StatutorilyMandatedTsandCs.pdf>

The contractual claims provision §2.2-4363 of the Code of Virginia and the required eVA provisions at <http://www.vita.virginia.gov/uploadedFiles/SCM/eVATsandCs.pdf> are also incorporated by reference. In order to provide agencies with all information available regarding compliance with Section 508 accessibility standards, so that they can make informed decisions, Supplier makes available on its website, www.cdwg.com/508, accessibility features on products and services it offers for sale. Supplier's website includes information and links to manufacturers for each product or service with Section 508 information. This information is compiled using information received from the manufacturer, and Supplier will make all reasonable efforts to ensure that the information is timely and appropriately updated.

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 the 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 U.S. 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, Confidentiality, Liability and Indemnification, and the General Provisions shall survive the expiration or termination of this Contract. In addition, the provisions of this Contract necessary for the use and operation of the Maintenance provisions herein, shall continue in effect through termination of the Maintenance Services ordered pursuant to the Maintenance provisions herein.

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 Product 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:

- ix). Three (3) years from Service performance date;
- x). Performed at Supplier's premises, during normal business hours at mutually agreed upon times; and
- xi). Excludes access to Supplier cost information.

In no event shall the 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, Supplier shall not hire an employee of VITA who has substantially worked on any project covered by this Contract without prior written consent.

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. Roles and responsibilities of the account executive are TBD based on Supplier proposal. 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:

- Exhibit A Request for Proposal
- Exhibit B N/A
- Exhibit C Prices, Fees, Service Charges and Payment Schedule
- Exhibit D Warranty and Maintenance Descriptions
- Exhibit E Software Publisher's EULA, as amended (for reference only)
- Exhibit F Certification Regarding Lobbying
- Exhibit G Awarded Brand

This Contract, its Exhibits, and any prior non-disclosure agreement constitute the entire agreement between VITA and Supplier and supersedes 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 C, Exhibit A, Exhibit D, Exhibit E.

An Authorized User and Supplier may enter into an ordering agreement pursuant to this Contract. To the extent that such ordering agreement, or 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.

Name: __Tara K. Barbieri__

(Print) Tara K Barbieri

Title: __Director, Program Sales__

Date: 12/31/2009

Name: 

(Print)

Title: CIO

Date: 1-11-2010

Reviewed

By:

WG

Address for Notice:

__CDW Government, Inc.____

__230 N. Milwaukee Avenue____

__Vernon Hills, Illinois 60061____

Attention: __Tara K. Barbieri__

Address for Notice:

Attention: Contract Administrator

EXHIBIT A

5. FUNCTIONAL AND TECHNICAL REQUIREMENTS (25 pages)

Suppliers are to indicate their capability of fulfilling each specific requirement below. Each Supplier's responses will be reviewed and compared across Suppliers within each service type in order to determine the best solution for the Commonwealth.

Detailed requirements are presented in questionnaire format to facilitate direct responses and establish accountability regarding delivery of Solution by the Supplier. To respond to each requirement, Supplier is asked to enter, in the space provided in Column A, a code that best corresponds to its intended response for the requirement listed.

The acceptable codes for Column A are as follows:

Y - "Yes" - Supplier can fully meet the requirement as documented with its current application or proposed solution. If applicable, Supplier should provide in Column B an explanation of how it will fulfill the requirement. This may include use of alliances with other suppliers. Supplier may also use Column B to cross-reference a detailed explanation included in an attachment of its proposal.

F - "Yes, Future" - Supplier will be able to fully meet this requirement in the near future (not longer than six months). Supplier should provide a proposed start date and cross-reference any attached documentation in Column B.

N - "No" - Supplier cannot meet the requirement and has no firm plans to be in the position to meet this need within six months.

A blank or any box in will be by VITA "NA" in Column A interpreted as an "N".

VITA has posed some open-ended questions. In those instances, Supplier is to provide adequate information to allow VITA to properly evaluate its proposal.

General

	Requirements	A	B
1.	In order to sell/service the entire Commonwealth of Virginia, will you be incorporating subcontractors or alliances? Please provide the details of your plan.	Y	<p>CDW•G is able to provide services both directly and through our service partner network. We are incorporating subcontractors into the services portion of our response.</p> <p>CDW•G is able to provide all proposed products to the entire Commonwealth of Virginia. CDW•G prides itself on the logistical strength of our distribution centers and in our ability to reach the most metropolitan as well as most remote customers. Please see a virtual tour of our capabilities and services at the following link.</p>

	Requirements	A	B
			http://www.cdwvirtualtours.com/vtx/default.aspx?messageId=21343&userId=303835
2.	<p>VITA strongly encourages Suppliers to develop a catalog website that interfaces with eVA. Can your company produce a punch-out catalog website?</p> <p>Refer to: http://www.eva.virginia.gov/vendors/pages/catalogcreation.htm</p>	Y	<p>Yes, CDW•G has the ability to produce a punch-out catalog website. CDW•G already interfaces with eVA through Ariba.</p>
3.	<p>Can your firm have a catalog website up, functioning and interfacing with eVA within 30 days of contract award?</p>	Y	<p>Yes. CDW•G already interfaces with eVA through Ariba.</p> <p>Since CDW•G is already set up with VITA and eVA, that will allow end users to begin using this contract quickly.</p>
4.	<p>Will your firm have a dedicated account management team on this contract? Please provide details.</p>	Y	<p>VITA has a dedicated inside and field account management team consisting of:</p> <ul style="list-style-type: none"> ● 12 State and Local Account Managers ● 8 Higher Education Account Managers ● 19 K-12 Account Managers ● 3 Sales Managers ● 9 Field Account Executives, detailed in question 5 <p>Your Account Manager will become very knowledgeable regarding your processes, requirements, needs and challenges.</p> <p>The relationship that customers form with their dedicated Account Manager and the level of customer service that they receive are important reasons why our customers come back to us time and time again.</p> <p>A complete list of your dedicated account management team follows.</p>

Dedicated Inside Account Team for VITA is the first point of contact to support a team of over 820 Engineer and Specialists to help develop and support the right product or solution for your individual needs.



State and Local Account Managers			
Name	Title	Email	Phone
Jon Mazella	Sales Manager	jonmaz@cdwg.com	203-851-7222
Nicole Tuzzolino	Account Manager	nicotuz@cdw.com	866-850-5223
Conor Macfarlane	Executive Account Manager	conomac@cdwg.com	866-224-1130
Garry Hickerson	Account Manager	garyhic@cdwg.com	877-325-3393
Billy Thomas	Account Manager	billy.thomas@cdwg.com	866-687-2701
Aneta Podgorska	Account Manager	anetpod@cdwg.com	203-851-7151
Jaime Jusino	Sr. Account Manager	jaimjus@cdw.com	866-643-9336
Joe Barese	Account Manager	josebar@cdw.com	866-819-6497
Andrew Cooling	Account Manager	andrcoo@cdw.com	866-784-1684
Karren Nash	Account Manager	Karnas@cdw.com	866-819-6498
Craig McDonough	Account Manager	craimcd@cdw.com	866-795-3448
Craig Ventrice	Account Manager	craiven@cdw.com	866-849-5216
Andrew Stall	Account Manager	andrsta@cdwg.com	866-723-2011
Higher Education			
Patrick Walsh	Sales Manager	patriwal@cdw.com	877-845-5032
Ed Voiculescu	Account Manager	eddivoi@cdw.com	877-259-4215
Jason Hart	Executive Account Manager	jasohar@cdwg.com	877-530-8815
Jason Guenther	Sr. Account Manager	jasonandmitch@cdwg.com	866-723-3395
Mitch Huffington	Sr. Account Manager	jasonandmitch@cdwg.com	866-723-1550
Gabe Monteleone	Account Manager	gabemon@cdwg.com	877-263-8254
Herson Estrada	Account Manager	hersest@cdwg.com	877-208-2246
Joe Hampton	Account Manager	joeham@cdwg.com	877-500-2985
Chris Colclasure	Sr. Account Manager	jmc@cdwg.com	877-325-2914
K-12			
Joe Kurtz	Sales Manager	Joe.kurtz@cdwg.com	866-339-4895
Paul Tuzzolino	Account Manager	paultuz@cdwg.com	866-795-3457
Ashley Pratt	Sr. Account Manager	ashlpra@cdw.com	866-819-6496
Bill Rose	Account Manager	billros@cdw.com	866-819-6504
Chris Hegan	Account Manager	chriheg@cdw.com	866-806-4964
Chris March	Account Manager	chrimar@cdw.com	866-806-4761
Derek DellaMonica	Account Manager	deredel@cdw.com	866-773-7445
Jeff Rossi	Account Manager	jeffros@cdw.com	866-687-3185
Joe Labadia	Account Manager	joelab@cdw.com	866-806-5190
Juan Adreu	Account Manager	juanand@cdw.com	866-806-4764
Kyle Teahan	Account Manager	Kyletea@cdw.com	866-833-9536
Matt Varin	Sr. Account Manager	mattvar@cdw.com	866-784-1616
Matthew French	Sr. Account Manager	mattfre@cdw.com	866-643-9284
Michael Durand	Sr. Account Manager	michdur@cdw.com	866-785-2649
Robyn Musicant	Account Manager	Robyn.musicant@cdwg.com	866-773-7440
Sean Galligan	Account Manager	seangal@cdw.com	866-785-2654
Anthony Defala Jr.	Account Manager	anthdef@cdw.com	866-849-5211
Danny Ajro	Account Manager	dritajr@cdw.com	866-769-8477



Justin Sikora	Account Manager	justsik@cdw.com	866-785-2593
Mark Russo	Account Manager	markrus@cdw.com	866-769-8475

5.	Will your firm have an account executive on this contract? Please provide details.	Y	<p>Yes CDW•G currently has Field Account Executives in Virginia.</p> <p>VITA's Field Account Executives (FAEs) works in tandem with your Account Manager and Account Specialists to provide comprehensive solutions and outstanding sales support. Your FAEs are able to visit your site(s) for business reviews and other meetings, as needed. They will also work with System Engineers to provide onsite road mapping, project development and technical expertise.</p> <p>Local Virginia Field Coverage: Carl Dodson, Field Account Executive, carldod@cdw.com, 804-627-3788</p> <p>Sam Holder, Field Account Executive, samhol@cdw.com, 877-846-9174</p> <p>Thu Stubbs, Services Field Account Executive, tstubbs@cdwg.com, 866-904-2394</p> <p>Joe Mangano, Utilities/Transportation BDM, jmangano@cdwg.com, 800-975-1381</p> <p>Houston Thomas III, Public Safety BDM, hthomas@cdwg.com, 866-667-2394</p> <p>Clarissa Jackson, Storage Specialist 1, clarjac@cdwg.com, 703-262-8018</p> <p>Frank Gladden, Solution Architect, frangla@cdw.com, 703-262-8020</p> <p>Paul Schaapman, Server/Storage/Virtualization Solution Architect, paulsch@cdw.com, 866-309-2397</p> <p>Randy Stapleton, Server/Storage Solution Architect,</p>
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<p>6.</p>	<p>Does your firm have the marketing ability and resources to promote this contract to schools, universities, local and state agencies? Please provide marketing plan and examples of marketing tools.</p>	<p>Y</p>	<p>randsta@cdw.com</p> <p>Yes. CDW•G will help develop a mutually beneficial marketing campaign for VITA as well as individual entities, institutions and schools.</p> <p>We currently have a deployed Marketing Plan for VITA which will expand with this award. We will continue to market our contracts in order to help increase the visibility with VITA users.</p> <p>We can promote this contract through email and phone campaigns, web site listings, vendor promotional events, print advertising, conferences, and on-site sales calls.</p> <p>Account Managers average approximately 50 calls a day. With 39 Account Managers, when this contract is awarded, we plan to make more than 1,000 calls a day to Virginia customers</p> <p>CDW•G participates in several Trade Shows each year in Virginia which also helps to create awareness of our contracts.</p> <p>We have participated in the following:</p> <ul style="list-style-type: none"> • COVITS – Commonwealth of Virginia’s Innovative Technology Symposium – 3 years • Virginia Interoperability – 3 years • VaCo – 1 year • Virginia Association of Regional Jails – last year • Virginia Educational Technology Conference – 5 years <p>CDW•G has supported the Virginia Chapter of the FBI National Training Academy Association regarding Local and State Law Enforcement approximately 2-3 times per year over the last 3 years.</p>
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		<p>VITA may review more detailed information behind Tab 4 Appendices.</p> <p>Please see an example of our marketing collateral on the following page.</p>
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Streamline document management

with Adobe software solutions from CDW•G.

The Adobe family of software helps you communicate the way you've always wanted to using PDF files, the standard for electronic document exchange. With PDF portfolios, you can assemble files from multiple applications into a single, compressed PDF file — organized in just the right order and presented with your own custom design and visual look. And now you can get all this and more from CDW•G, the IT partner you trust, at the contract prices you need to help your organization succeed.



CDW•G is pleased to be an authorized reseller of Adobe technology for the Commonwealth of Virginia. To view all available products, please visit CDWG.com/stateandlocal and select Virginia or call your dedicated CDW•G account manager at 800.808.4239.

Please note your Adobe CLP 4.5 membership number: 4400130583

VITA COTS contract # VA-090202-CDWG



Adobe® Acrobat® 9 Pro

Protect documents and accelerate information exchange with PDF

Adobe® Acrobat® 9 Pro software helps agency professionals communicate and collaborate more effectively and securely with virtually anyone, anywhere. Unify a wide range of content in a single organized PDF Portfolio.

\$220.21¹ CDWG 1472290



Adobe Photoshop® CS4

Adobe Photoshop® CS4 software provides a more intuitive user interface and includes tools that let you enhance images and create composites. It also allows for smooth integration with other Adobe software.

\$637.94¹ CDWG 1573265



Adobe Creative Suite® 4 Web Premium

Redefine the extraordinary in web design and development

Reach new creative heights with the extended feature set in Adobe Creative Suite® 4 Web Premium software. Code interactively with new Live View in Adobe Dreamweaver® CS4, paint in 3D in Adobe Photoshop CS4 Extended, or animate quickly with new object-based animation in Adobe Flash® CS4 Professional.

\$1534.61¹ CDWG 1573293



Adobe Creative Suite 4 Design Premium

Deliver innovative ideas in print, web and mobile design

Adobe Creative Suite 4 Design Premium software is the ultimate toolkit for crafting precise page layouts, creating stunning images and graphics, developing eye-catching web pages and rich interactive experiences, and producing them all with utmost fidelity. Realize the full promise of cross-media design and discover innovative ways to collaborate, all within a single unified creative environment.

\$1661.02¹ CDWG 1573385

¹Reflects VITA COTS contract # VA-090202-CDWG pricing only; pricing subject to change without notice; call your CDW•G account manager for details

7.	Does your firm offer any product incentives, credits and or rebate programs? Please provide details.	Y	CDW•G offers many product incentives, credits and rebate programs as they become available. We also receive some of these special programs on an ongoing basis through our strong relationships with manufacturers. These offers are contingent on the manufacturers offers available.
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Reports

	Requirements	A	B
1.	Can your firm provide reports on request to users detailing products that have been placed in any of their locations? Please provide examples.	Y	Customized reports are available on request on VITA's CDW•G website for authorized buyers. At pre determined intervals, CDW•G will provide purchase summary reports that summarize total spend, spend by category, days to ship, ship-to address and more. CDW•G has included sample reports after this section. Please see Report – Sample 1 and Report – Sample 2 behind Tab 4.
2.	Does your firm maintain an electronic service log that is available to users on specific computer hardware? Please provide examples.	Y	Technical Support cases can be entered on CDWG.com. We have service logs available. Plus, if available, we can post manufacturer logs online. Please see an example repair request form in Tab 4.
3.	Does your firm provide any additional reports that would be an added value to the Commonwealth? Please describe and provide examples.	Y	CDW•G's reporting capabilities are extremely flexible and comprehensive. Your CDW•G Extranet provides real-time information in a way that is convenient and easy to use. VITA authorized users have access 24 hours per day, 7 days per week. Authorized users have the ability to generate a variety of reports. Data fields include, but are not limited to: Product name Item description Part number Cost per unit Order quantity Delivery location Date ordered Date shipped Purchase Order#

		<p>Purchased by</p> <p>VITA can view standard reports and create and save custom reports. Reports can be generated for a variety of timeframes and differentiated by site, division, department, buyer, city, state, product, etc. Reports can be downloaded into Microsoft Excel, CSV and tab-delimited files.</p> <p>In the <i>My Account</i> section there are several features that facilitate flexible and comprehensive reporting include:</p> <p>Order Center The <i>Order Center</i> drop down menu offers a full breadth of tools to track order status, leasing information, order history, financing options and pending PAS orders. The system lets you automatically save this data in your spreadsheet or database applications. You can readily search your order, get your tracking number and check shipping status. By using the <i>Order History</i> feature, VITA can view standard reports and create and save custom reports that provide you with a variety of information. Order history is maintained online for the past three years. These reports can be downloaded into Microsoft Excel, CSV and tab-delimited files.</p> <p>Order Status All authorized users will be able to access real-time order status updates directly from your CDW•G Extranet. You can access orders according to their status; open, closed, backordered and cancelled. You can also access orders for specific time periods, for example, previous day, last month, last quarter, 2006, etc. The <i>Order Status</i> feature will show orders for the last 45 days.</p> <p>Account Linking This feature of your CDW•G Extranet lets you view, place and track orders, across multiple bill-to</p>
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		<p>addresses. You can view all purchases via one extranet without having to log onto more than one CDW•G Extranet. Once linked, the administrators of both the parent and related accounts can view purchases for its location and, if granted, for all other locations.</p> <p>Asset Management Our asset management tool will allow VITA to keep track of your equipment efficiently. You can create and download detailed reports of your organization's equipment sorted by order number, asset tag ID, serial number, CDW•G number or location. The Asset Editor lets you modify records to reflect the transfer of equipment from one location to another. Furthermore, you may add IT items that were not purchased from CDW•G to your inventory list to keep track of all of your assets.</p> <p>Please see Report – Sample 3 behind Tab 4 as another example of a report we can provide.</p>
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Related Services

	Requirements	A	B
1.	Does your firm have a customer support program? Please describe your firm's ability to keep users informed of new products, changes in technology, advanced specification documentation and other market information.	Y	<p>CDW•G will help keep VITA customers informed of new products, changes in technology, advanced specification documentation and other market information by communications with our inside/outside account teams and through coordinated communications/initiatives with our marketing department. Additionally we will arrange meetings with VITA and vendor partners to discuss product roadmaps and assist with future planning. See more information about our marketing initiatives as previously referenced in 5. FUNCTIONAL AND TECHNICAL REQUIREMENTS, General, 7.</p> <p>CDW•G has a customer relations</p>

			department that is available 7:00 a.m. until 10:00 p.m. - EST, Monday through Friday. We service customers through phone support, email, and live chat.
2.	Does your firm provide installation services? Please provide details.	Y	Yes, CDW•G can provide installation services as specified behind Tab 5. Our service partners, including SWAM partners will provide installation services associated with this contract. Please see a complete list of services/pricing we offer to VITA behind Tab 5
3.	Is your firm willing to commit to service-levels agreements? If so, please refer to Appendix A.	Y	Yes, See Appendix A.
4.	For security reasons, will your firm allow the user to keep a failed hard drive while receiving a new hard drive that is covered under warranty? Please provide details and pricing if necessary.	Y	Yes, CDW•G can offer this service. Pricing depends on several variables which can be discussed on a case-by-case basis. HP's Response – HP provides an optional HP Defective Media Retention service, where VITA can keep the malfunctioned hard drive while receiving a replacement hard drive under warranty. For more information, please see HP Defective Media Retention behind Tab 4.
5.	Does your firm provide in-house quality assurance and testing processes for all hardware? Please provide details.	Y	Yes, VITA can rely on CDW•G to build preconfigured technology solutions in our state-of-the-art ISO 2000-certified Configuration Center that arrive at your location(s) ready to plug and play. All configured units go through bench testing and Quality Control checks before shipping to the Buyer. CDW•G has the experienced staff and resources to provide a complete spectrum of customized configuration services. Our 24,000 square foot Configuration Center in Vernon Hills, IL includes an 8,000 square foot enclosed area for enterprise configurations. The Enterprise Configuration Area (ECA) is an environmentally controlled room with extremely

		<p>rigorous standards. In addition, we have 25,000 square feet of enclosed, environmentally designed configuration space in our North Las Vegas, NV Distribution Center.</p> <p>CDW•G has more than 150 technicians that can install hardware and software, test the installations, and affix asset tags.</p> <p>CDW•G configuration service offerings are highlighted below.</p> <p><u>Hardware Configuration</u> We offer custom hardware configuration for desktops, notebooks, printers, PDAs, servers and Netcom products.</p> <p><u>Rack Configuration</u> Our technicians can construct complete rack assemblies for servers, KVMs, UPSs, blade servers and 21U and 42U rack enclosures. We also provide networking hardware solutions around switches, routers, access points, WAN interface cards, and cabling. All hardware is tested for functionality and compatibility, and shipped on a shock pallet to ensure your rack arrives in perfect working order.</p> <p><u>Software Configuration</u> CDW•G provides software installation and configuration for desktops, notebooks, PDAs, servers and more, which includes complete operating system and application setup. We can install and configure most commercially available network operating systems on to servers such as Microsoft® Windows® platforms and variations of UNIX. We also perform application installations for Microsoft Office, Adobe® Acrobat®, Symantec™ Norton AntiVirus™ and other popular applications. Other service offerings we consider 'Software Configuration' are clustering and router configuration.</p>
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			<p>Burn-In Diagnostics For an additional fee, Burn-in diagnostics are performed as requested for the purpose of identifying devices with inherent defects or defects resulting from manufacturing flaws which cause time and stress dependent failures. In the absence of burn-in, these defective devices would be expected to result in early lifetime failures under normal usage conditions. It is the intent of the diagnostics test to stress components at or above maximum rated operating conditions which will reveal those time and stress dependent failures. This service is extremely helpful for avoiding DOAs. Devices are tested for at least 12 hours. Requests for longer burn-ins are also available for a fee in additional increments of 12 hours.</p> <p>Quality Assurance (QA) A product does not leave the Configuration Center until it goes through a comprehensive quality assurance check. First, we guarantee that the correct products and quantity have been picked for the order. Second, we verify that the hardware installation is complete and the products are fully functional.</p> <p>HP's Response – Please see “The HP Commitment to Product Quality for Servers” behind Tab 4.</p> <p>Sun's Response – Sun does have QA processes and testing for it's equipment. The details are proprietary and can only be shared under a Non-Disclosure Agreement (NDA).</p>
6.	Do your service and maintenance technicians have and maintain current industry certifications? Please provide details and types of certifications.	Y	CDW•G's technicians carry the breadth and depth of the IT industries' certifications. CDW•G has 7 CompTIA Server+ certified technicians. Because of space constraints these certifications are included behind Tab 4.

			<p>HP's Response – HP professionals offer VITA a wide spectrum of skill levels. The list is provides behind Tab 4.</p> <p>Sun's Response - Sun does not require our field delivery engineers/technicians to carry any specific industry certifications. Some may have earned these in the past (MCSE, etc) but it is not a requirement. All of our Systems Support Engineers in Virginia are Solaris 10 Certified and we provide in-house training for all our hardware technicians. While no official industry certification is issued as a result of that training they are recognized by Sun as certified to maintain Sun equipment.</p>
7.	If you not the manufacturer or OEM certified to service/repair units, have you partnered with an organization that is OEM certified for the devices that you are proposing? Please provide details.	Y	We are an authorized repair center for HP. CDW•G will utilize OEM certified technicians for required services. We will follow the manufacturer standard warranty or enhanced service plans.
8.	Does your firm have an in-house order tracking system that can be accessed 24x7 by a user? Please provide details.	Y	<p>All VITA authorized users can get automatic real-time order status updates directly from your CDW•G extranet site at any time. The <i>Order Status</i> utility gives VITA the ability to track all orders from beginning to end. You can filter by open, completed, backordered and cancelled orders.</p> <p>Once the order is shipped, VITA can find the tracking information along with the tracking number under the <i>Order Status</i> or <i>My Purchases</i> section. If the order was shipped by UPS, Fed Ex, DHL, or AIT, there will be a hotlink directly to the appropriate shipper's site. This link will automatically bring up the shipment information, proof of delivery information and/or provide the tracking information. This saves VITA time because there is no need to cut and paste the tracking information into the carrier site.</p>
9.	Does your firm have the ability to deliver large quantities of equipment to multiple locations? Please describe your firm's process and experience including delivery time and	Y	CDW•G excels at delivering large quantities of equipment to multiple locations.

	scheduling procedures.	<p>For in-stock items, VITA customers can expect to receive product in 3-5 days when shipping via ground. Additional expedited shipping options are also available.</p> <p>A key factor that differentiates CDW•G is our ability to deliver the right products right away. We currently carry more than 100,000 top brand-name products from more than 1,000 leading manufacturers so we have the products you need, when you need them.</p> <p>CDW•G has two state-of-the-art Distribution Centers; a 450,000 square foot Distribution Center located at our headquarters in Vernon Hills, IL and a 513,000 square foot Distribution Center located in North Las Vegas, NV enabling us to ship your products to your U.S. locations quickly and cost-effectively.</p> <p>Our proximity to our principal distributors enables us to obtain competitively priced, non-stocked items for quick turnaround.</p> <p>Our ISO certified distribution centers automated systems provide 99% shipping accuracy.</p> <p>Our Configuration Centers are able to handle 2100 configurations per day with a surge capacity of 3000. Our Enterprise Configuration Centers can deliver racks of equipment palletized and ready to plug and play.</p>
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10.	Does your firm have a return policy? Please provide details.	Y	<p>Yes, our standard return policy follows:</p> <p>Please contact CDW Customer Relations at 866.782.4239 or via e-mail at Customer Relations to obtain a Return Merchandise Authorization (RMA) before shipping product back to CDW. This will expedite and help ensure the</p>
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		<p>proper action or credit upon processing.</p> <p>In order to expedite a return, please have the following information on hand when requesting an RMA number: Customer number, invoice number, serial number, reason for return, action to take (replacement/repair/credit) and whether the box has been opened or is manufacturer sealed.</p> <p>Please return all products 100% complete including all original manufacturer boxes with the UPC code and packing materials, all manuals, blank warranty cards, accessories and any other documentation included with the original shipment. RMA approval is contingent upon, among other things, the products being 100% complete.</p> <p>Customer is responsible for shipping charges to CDW's distribution center for all products being shipped for return, exchange or replacement. Products exchanged or replaced will be shipped by CDW to Customer, at CDW's expense, using the same shipping method as was used by Customer to ship the original products back to CDW. If the carrier selected by Customer is not used by CDW, a comparable shipping method will be selected.</p> <p>Customer is responsible for all risk of loss and damage to products being shipped for return, exchange or replacement. Please fully insure return shipment in case of loss or damage. Please use a carrier that is able to provide you with proof of delivery such as UPS, Federal Express or Airborne Express. This is for your protection as well as to ensure quick action on your return.</p> <p>Return privileges vary by manufacturer. Please contact CDW Customer Relations at <u>Customer</u></p>
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			<p><u>Relations</u> for details.</p> <p>Return shipping address: CDW Attn: Returns Dept. / RMA #</p> <hr/> 220 North Milwaukee Ave. Vernon Hills, IL 60061
11.	Does your firm charge a re-stocking fee on returned equipment? Please provide details.	N	No, as long as the product is returned within 30 days.
12.	Does your firm offer IT equipment disposal and recycling services? Please provide details.	Y	Yes, when your equipment reaches the end of its lifecycle, CDW•G can refer you to industry-leading service providers to help you properly dispose of the hardware.
13.	Does your firm adhere to Energy Star 4.0 energy efficiency standards for computer hardware products? Please provide list of qualified products.	Y	<p>Yes, CDW•G is offering Energy Star Certified Servers in this proposal.</p> <p>Many CDW•G products are Energy Star compliant and are marked accordingly. The actual Energy Star certifications are typically stamped on the product itself. The CDW•G website shows whether or not products are EPA Energy Star compliant and provides specific power consumption data where available. The buyer can compare Energy Star compliancy between products by comparing the technical specifications.</p> <p>HP's Response - HP has partnered with ENERGY STAR®, a voluntary energy efficiency program sponsored by the U.S. Environmental Protection Agency, to offer the most energy efficient servers available in the industry. Starting with the best selling servers in the industry, the HP ProLiant DL 360 and DL380 G6 servers come embedded with energy efficient features based on HP Thermal Logic technology and now qualify with Energy Star® specifications for Computer Servers version 1.0 released on May 15, 2009. HP will quickly add the DL180, DL160,</p>



			DL320, DL350, DL370, DL385G5P, and ML150 servers to the list of qualified servers.
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Exhibit C
CDW-G HP Price Offer--BAFO 12-9-09
Intel/ AMD Based

Pricing is to include the Industrial Funding Adjustment (see Section 8 of RFP), eVA fees and all FOB Destination Charges

A. Tower Server Offering	Unit Price (Provide a link to public site to verify this cost)	Discount % from Unit (see note #1 at bottom)	Unit Discounted Price
(2) Quad Core 2.4GHz			
Minimum 2 Processor Sockets			
16GB ECC Memory			
(3) 100GB Hot Plug SAS 15K Hard Drives			
Dual embedded gigabit network adapters			
Raid 5 SAS Controller with battery backup			
DVD ROM Drive			
Redundant power supply			
Integrated Server Management			
3 Year Onsite Parts and Labor Warranty (Next Business Day)			
Total Tower Offering	\$ 4,911.68	3.5%	\$ 4,739.77
B. Rack Server Offering	Unit Price (Provide a link to public site to verify this cost)	Discount % (see note #1 at bottom)	Unit Discounted Price
(4) Quad Core 2.4GHz			
Minimum 4 Processor Sockets			
32GB ECC Memory			
(5) 140GB Hot Plug SAS 15K Hard Drives			
Raid 5 SAS Controller with battery backup			
Dual Embedded Gigabit Network Adapters			
Redundant Power Supply			
Integrated Server Management			
3 Year Onsite Parts and Labor Warranty (Next Business Day)			
Total Rack Offering	\$ 13,097.52	3.5%	\$ 12,639.10
C. Blade Server Offering	Unit Price (Provide a link to public site to verify this cost)	Discount % (see note #1 at bottom)	Unit Discounted Price
(4) Quad Core 2.4GHz			
Minimum 4 Processor Sockets			
32GB ECC Memory			
(2) 140GB Hot Plug SAS 15K Hard Drives			
Integrated Raid Controller			
2 Integrated Gigabit Network Adapters			
(2) Gigabit Ethernet Pass-Thru Modules			
Enclosure (Fully Powered and Fully Fanned)			
Upgradeable to Ethernet Blade Switch and Fiber Channel Switch			
3 Year Onsite Parts and Labor Warranty (Next Business Day)			
Total Blade Offering	\$ 18,932.78	4.0%	\$ 18,175.47
D. Optional Services (see note #2 at bottom)	Unit Price (Provide a link to public site to verify this cost)	Discount % (see note #3 at bottom)	Unit Discounted Price

Onsite Installation per hour (regardless of server type)			
Data Migration per hour (regardless of server type)			
Imaging per hour (regardless of server type)			
Configuration per hour (regardless of server type)			
Tower Server Cost for 4th year Onsite Parts and Labor Warranty (Next Business Day)			
Tower Server Cost for 5th year Onsite Parts and Labor Warranty (Next Business Day)			
Rack Server Cost for 4th year Onsite Parts and Labor Warranty (Next Business Day)			
Rack Server Cost for 5th year Onsite Parts and Labor Warranty (Next Business Day)			
Blade Server Cost for 4th year Onsite Parts and Labor Warranty (Next Business Day)			
Blade Server Cost for 5th year Onsite Parts and Labor Warranty (Next Business Day)			

Note #1 - The discount proposed for each category (Stand-Alone, Rack and Blade) is the minimum discount level for that category during the term of the contract. The discount is not limited to this configuration. Suppliers may offer higher discounts but may not go below proposed discount level.

Note #2 - Section D is optional for suppliers. If a supplier wishes to offer the items listed in section D, supplier is to fill-out all areas to be considered for award. Suppliers can win both sections (Servers and Optional Services) but cannot win just Optional Services.

Note #3 - The discount proposed for each optional service is the minimum discount level for that service during the term of the contract. Suppliers may offer higher discounts but may not go below proposed discount level.

CDW-G Note: We are providing services as hourly rates and at fixed costs noted in our Services Tab. CDW-G Services are listed at:

<http://www.cdwg.com/content/services/overview.aspx>

Pricing for ALL additional add-on devices that are offered are to include the Industrial Funding Adjustment (see Section 8 of RFP), eVA fees and all FOB Destination Charges (no exceptions)

Manufacturer (see note #1)

Minimum Discount %

3Com	1%
APC Products	1%
Aten Technologies	1%
Avocent	1%
Battery Technology	1%
Belkin	1%
BlueCoat	1%
Cables To Go	1%
CDW Services	1%
CDW Services	1%
Cisco	1%
Crucial Technology	1%
D-Link	1%
EDGE Memory	1%
EXTREME NETWORKS	1%
Hawking Technologies	1%
Hewlett Packard	4%
Hewlett Packard Warranty and Services	1%
Hewlett Packard	(standard configs have higher discount)
Kingston Technology	1%
Emerson/Liebert	1%
PowerWare	1%
SimpleTech	1%
Sun	1%
SUN Servers	3%
SUN Warranty and Services	1%
Tripp Lite	1%
Viking Components	1%
VMware	1%

CDW-G Note: To be compliant with the RFP we are offering the minimum discounts by manufacturer as noted above. However, additional discounts will apply and will be calculated according to the following category structure:

Product Category Code	Description	Discount
B	Battery Backup/Power/Surge	1%
D	Data Storage/Drives	2%
H	Servers/Appliance Servers	3%
I	Keyboard/Mice/Input Devices	7%
N	NetComm Products	4%
Q	Services (3rd Party Delivered)	0%

S	Software	3%
U	Memory/System Components	5%
W	Cables	9%

Services

In the fields below, enter any services you chose to offer, as well as pricing

CDW Hardware Configuration Services

Server Hardware Configuration

- a. \$29.99.00 per unit
- b. Scope of Work
 - i. All equipment required for install will be unboxed
 - ii. All equipment will be thoroughly inspected for physical damage or blemishes
 - iii. Server will be configured to customers' specific requirements
 - iv. Server will be by powered on to check for hardware compatibility and POST errors
 - v. Server will be restarted several times and the installed components are confirmed in BIOS and/or software level, if applicable
 - vi. Any defective separately purchased components will be replaced from CDW's in-stock inventory
 - vii. All configurations undergo a comprehensive Quality Control process
 - viii. Configured server will be re-boxed for shipment.

Server Imaging

- a. \$134.99 per unit
- b. Scope of Work
 - i. Images are uploaded and stored on secure imaging servers
 - ii. Images are processed and tested by an advanced team of server imaging specialists before they are cleared for deployment
 - iii. Instruction sets are individually created for each image to ensure that the unique configuration is carried out the same way each time the image is deployed.
 - iv. All servers will be thoroughly inspected for physical damage or blemishes
 - v. All servers will be powered on and inspected for hardware and/or software errors
 - vi. All servers are restarted and the installed components are confirmed in BIOS
 - vii. All images are verified after installation to ensure that the image load was successful
 - viii. Manufacturer installed components will be tested for compatibility and functionality
 - ix. Defective components will be replaced from CDW's in-stock inventory

- x. All image orders undergo quality control steps to verify customer's exact specifications
- xi. All outdated or unused images are archived for future use

Restore Discs

- a. \$81.99 – per image copy
- b. Scope of Work
 - i. One complete restore DVD set will be created
 - ii. The image may span across multiple discs
 - iii. Images are uploaded and stored on secure imaging servers
 - iv. Images will be processed and tested by an advanced team of imaging specialists before they are cleared for deployment
 - v. Custom labels will be applied to the restore discs
 - vi. All restore media sets will be verified after installation onto a computer system to ensure that the system restore by the media set was successful

Asset Tagging

- a. \$6.99 – CDW Asset Tag install w/o another item being installed onto the systems
- Value Added Service – CDW Asset Tag install WITH other items being installed onto the systems
- \$6.99 - Customer Asset Tag install WITH other items being installed onto the systems
- \$6.99 - Customer Asset Tag install w/o another install on the systems
- \$6.99 – A Basic custom tag that is created by CDW
- \$19.99 - An Advanced custom tag that is created by CDW
- b. Scope of Work
 - i. All hardware will be thoroughly inspected for physical damage or blemishes
 - ii. Asset tag will be applied to system next to serial number unless otherwise specified by customer
 - iii. Asset tag reference number will be captured along with serial number of the product and will be updated to Customer's CDW Extranet Asset Tracking Page
 - iv. Customer asset tags can be sent to CDW and maintained in a secure storage location with limited access
 - v. All systems will be powered on
 - vi. All systems will be inspected for hardware and/or software errors
 - vii. Installed components will be tested for compatibility and functionality

Network Operating System Install

a. \$224.99, per NOS per system

b. Scope of Work

- i. The operating system will be installed onto the systems and verified for functionality
- ii. All drivers will be loaded into the server NOS
- iii. A checklist is filled out by the customer with any special instructions of the NOS install
- iv. All systems will be thoroughly inspected for physical damage or blemishes
- v. All systems will be powered on and inspected for hardware and/or software errors
- vi. Active Directory and/or Exchange Server can be configured upon request by the customer
- vii. Manufacturer installed components will be tested for compatibility and functionality
- viii. Defective components will be replaced from CDW's in-stock inventory
- ix. All network operating system installation orders undergo a series of quality control steps to verify the orders were configured to the customer's exact specifications

Network Application Install

a. \$122.99, per application per server

b. Scope of Work

- i. All network applications will be installed and the systems will be verified for functionality
- ii. All server systems will be thoroughly inspected for physical damage or blemishes
- iii. All server systems will be powered on and inspected for hardware and/or software errors
- iv. Manufacturer installed components will be tested for compatibility and functionality
- v. All network applications that were installed are opened and verified after installation to ensure that the software installation was successful
- vi. Defective components will be replaced from CDW's in-stock inventory
- vii. All network application installation orders undergo a series of quality control steps to verify the orders were configured to the customer's exact specifications

HP ILO Activation

a. \$14.99, per server

b. Scope of Work

- i. All terminal software applications will be installed and will be verified for functionality
- ii. All terminal systems will be thoroughly inspected for physical damage or blemishes
- iii. All terminal systems will be powered on and inspected for hardware and/or software errors
- iv. Manufacturer installed components will be tested for compatibility and functionality
- v. The terminal software applications are opened and verified after installation to ensure that the software installation was successful

- vi. Defective system will be replaced from CDW's in-stock inventory
- vii. All terminal software installation orders undergo a series of quality control steps to verify the orders were configured to the customer's exact specifications

BIOS/Firmware Update

a. \$21.99, per update per system

b. Scope of Work

- i. The requested BIOS/Firmware upgrade/downgrades will be made and verified
- ii. Customers can choose the exact versions that they want to configure on the systems

- iii. All systems will be thoroughly inspected for physical damage or blemishes

- iv. All servers will be powered on and inspected for hardware and/or software errors

- v. Installed components will be tested for compatibility and functionality
- vi. All servers are restarted several times and the installed components are confirmed in BIOS

- vii. Defective components will be replaced from CDW's in-stock inventory verify the BIOS/Firmware upgrades were configured to the customer's exact specifications

BIOS Customization

a. \$6.99, per system

b. Scope of Work

- i. The requested BIOS customizations will be made and verified
- ii. Customers can choose the exact setting changes that they want configured on the systems

- iii. All systems will be thoroughly inspected for physical damage or blemishes

- iv. All systems will be powered on and inspected for hardware and/or software errors

- v. Installed components will be tested for compatibility and functionality

- vi. All systems will be restarted into the BIOS and the settings will be verified during the QC process
- vii. Defective components will be replaced from CDW's in-stock inventory
- viii. All BIOS customization installations undergo a series of quality control steps to verify the BIOS settings were configured to the customer's exact specifications

Burn-in Diagnostics

a. \$14.99 - A 12 hour diagnostics test run on a Server

b. Scope of Work

- i. All systems will be thoroughly inspected for physical damage or blemishes
- ii. All systems will be powered on and inspected for hardware and/or software errors
- iii. Manufacturer installed components will be tested for compatibility and functionality
- iv. A diagnostics application will be run on the systems for the designated burn-in period to test for functionality of components and any hardware failures
- v. The diagnostics tests are analyzed and verified after the burn-in period to ensure that the burn-in test was successful and there are no hardware failures
- vi. Defective components will be replaced from CDW's in-stock inventory
- vii. All burn-in orders undergo a series of quality control steps to verify the systems functionality and that they were configured to the customer's exact specifications

Server Scratch Build

a. \$274.99

b. Scope of Work

- i. All server system components will be thoroughly inspected for physical damage or blemishes
- ii. All components will be installed into the chassis and verified to be physically installed correctly
- iii. A checklist is filled out by the customer with any special instructions of the NOS install
- iv. The network operating system will be installed onto the system and all of the installed devices will be verified as installed correctly in the NOS
- v. All drivers will be loaded into the NOS
- vi. All systems will be powered on and inspected for hardware and/or software errors
- vii. Installed components will be thoroughly tested for compatibility and functionality
- viii. Active Directory and/or Exchange Server can be configured upon request by the customer
- ix. Defective components will be replaced from CDW's in-stock inventory
- x. All server scratch build system installation orders undergo a series of quality control steps to verify the orders were configured to the customer's exact specifications

Creating Master Custom Image-Server

a. \$249.99

b. Scope of Work

- i. Single server image will be created using customer's software.
- ii. Server image will be built by an advanced team of imaging specialists and thoroughly tested before it is cleared for deployment
- iii. The network operating system will be installed onto a server and verified for functionality

- iv. All drivers will be loaded into the OS
- v. Applications that have been requested to be included on the image will be installed and configured as specified.
- vi. OS, drivers and software can be updated and patches can be applied for existing applications on the system upon request
- vii. Detailed instructions for system settings can be carried out and applied to the image

- viii. Updated image will be deployed to a systems and inspected for software errors
- ix. Instruction sets are individually created for each image to ensure that the unique configuration is carried out the same way each time the image is deployed.
- x. All server master images undergo a series of quality control steps to verify they were updated and configured to the customer's exact specifications

- xi. All outdated or unused images are archived for future use, never deleted.

Application Updates and Maintenance

a. \$24.99

b. Scope of Work

- i. Drivers and software can be updated and/or patches applied for existing applications on the systems.
 - a. If additional applications need to be installed, \$46.99 will be required per application
- ii. The OS and/or applications are updated as requested and tested
- iii. All systems will be thoroughly inspected for physical damage or blemishes
- iv. All systems will be powered on and inspected for hardware and/or software errors
- v. Installed components will be tested for compatibility and functionality
- vi. Any installed applications will be opened and verified to ensure that the software installation was successful
- vii. All service orders undergo a series of quality control steps to verify the orders were configured to the customer's exact specifications

- viii. Defective components will be replaced from CDW's in-stock inventory

Server Network Configurations

- a. \$14.99
- b. Scope of Work
 - i. The requested network settings will be made and verified
 - ii. Static IP address, default gateway and subnet masks will be configured on the system
 - iii. All systems will be thoroughly inspected for physical damage or blemishes
 - iv. All systems will be powered on and inspected for hardware and/or system errors
 - v. Manufacturer installed components will be tested for compatibility and functionality
 - vi. The IP/network configurations are checked and verified after installation to ensure that the network configuration on the system was successful
 - vii. Defective system will be replaced from CDW's in-stock inventory
 - viii. All network configurations undergo a series of quality control steps to verify the network settings and configuration were configured to the customer's exact specifications

CDW Professional Services (Project Based)

Servers/Storage

Technical Architect	Storage, Virtualization and Systems	\$250
Senior Engineer	Storage, Virtualization and Systems	\$225
Engineer	Storage, Virtualization and Systems	\$175

Cisco

Technical Architect	Cisco Unified Contact Center – Enterprise	\$250
Technical Architect	Cisco UC – CallManager and Advanced UC Applications	\$250
Technical Architect	Cisco Networking and Wireless	\$225
Security Assessment Eng	Vulnerability assessments, security roadmaps, computer forensics, incident response, application security assessment and training.	\$225
Senior Engineer	Advanced UC Applications - Cisco TelePresence	\$250
Senior Engineer	Wireless Specialty - Wireless Mesh, RFID, AeroScout, VoFi	\$225
Senior Engineer	Cisco UC Suite - Call Manager, Unity, MeetingPlace, etc.	\$225

Senior Engineer	Cisco Security Suite – MARS, IPS, NAC, etc.	\$225
Senior Engineer	Network Engineering and Wireless	\$180
Engineer	Cisco Unified Contact Center – Enterprise or Express	\$225
Engineer	Cisco UC, CallManager, Unity, MeetingPlace, etc.	\$180
Engineer	Cisco Networking	\$160
Associate Engineer	Cisco Networking or Voice	\$135
IPT Trainer	End user training for Cisco UC	\$150

Microsoft

Architect	Information Worker	\$225
Architect	Unified Communications	\$200
Architect	Security	\$195
Architect	Core Infrastructure	\$185
Senior Engineer	Information Worker	\$185
Senior Engineer	Unified Communications, Security	\$185
Senior Engineer	Core Infrastructure	\$175
Engineer	Information Worker, Unified Communications, Security	\$165
Engineer	Core Infrastructure	\$150
Associate Engineer	All	\$100

Cross-Practice

Technical Writer		\$75
Project Manager		\$200
Program Manager		\$225

Staff Augmentation Hourly Rates

Sr. Project Manager	\$135.00
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Project Manager II	\$115.00
Project Manager I	\$105.00
Subject Matter Expert I	\$115.00
Sr. Business Manager	\$92.00
Business Manager	\$85.00
Sr. Business/Financial Analyst	\$82.00
Business/Financial Analyst	\$75.00
Project Administrator	\$73.00
Sr. Systems Analyst/Project Leader	\$104.00
Sr. Producer	\$163.00
Sr. Design Programmer	\$125.00
Sr. Videographer	\$94.00
Sr. Media Specialist	\$94.00
Systems Analyst III	\$82.00
Sr. Network Engineer	\$115.00
Network Engineer III	\$86.00
Network Engineer II	\$65.00
Network Engineer I	\$52.00
Sr. Programmer/Analyst	\$115.00
Programmer/Analyst III	\$86.00
Sr. Web Developer	\$104.00
Web Developer III	\$82.00

Asset Disposition Services

RecycleTodayT-wDoD – Straight Recycle (No Resale) \$16.00 per asset

Main Features: Minimum 20 assets

Logistics - Onsite Packaging & Removal

Detailed asset inventory reporting

Department of Defense (DoD) Data Destruction

EPA Recycling (*where applicable*)

Client asset tag reporting and removal

Certificates of Indemnification

RecycleToday w/ DoD (Resale) – Includes Valuation for Resale \$23.00 per asset

Main Features: Minimum 20 assets

Logistics - Onsite Packaging & Removal

Market Valuation for Resale

Detailed asset inventory reporting

Department of Defense (DoD) Data Destruction

EPA Recycling (*where applicable*)

Client asset tag reporting and removal

Certificates of Indemnification

Additional Services available on a specific project basis



Exhibit E

License Agreement Addendum

between

The Virginia Information Technologies Agency

on behalf of

The Commonwealth of Virginia

and

CDW Government, Inc.

The Virginia Information Technologies Agency (hereinafter referred to as "VITA"), pursuant to §2.2-2012 of the Code of Virginia and on behalf of the Commonwealth of Virginia, and CDW Government, Inc. ("Supplier"), a business incorporated in Illinois, F.E.I.N. 36-4230110, having its principal place of business at 230 N. Milwaukee Ave., Vernon Hills, IL 60061, are this day entering into a contract and, for their mutual convenience, the parties are using the standard form contract ("_____") provided by Supplier. This addendum, duly executed by the parties, is attached to and hereby made a part of Supplier's standard form contract and together shall govern the use of any and all ____ (name of) ____ Software licensed by the Commonwealth under this agreement whether or not specifically referenced in the order document.

Supplier represents and warrants that it is a corporation authorized to do in Virginia the business provided for in this contract. If Supplier is not a U.S.-based entity, Supplier maintains a registered agent and a certification of authority to do business in Virginia.

This contract is executed by VITA on behalf of all public bodies, including VITA, as defined by §2.2-4301 and referenced by §2.2-4304 of the Code of Virginia, and hereinafter referred to as "Authorized Users."

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, any license granted by Supplier 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, such license shall be held by that public body.

As used herein, the term "contract" shall mean the Supplier's standard form contract and any and all exhibits and attachments thereto. The term(s) "Customer," "You," and/or "you," as used in the contract, shall mean, as applicable, VITA, the Commonwealth, any Authorized User, or any of their officers, directors, agents or employees.

Supplier's standard form contract is, with the exceptions noted herein, acceptable to VITA. Nonetheless, because certain standard clauses that may appear in, or be incorporated by reference into, Supplier's standard form contract cannot be accepted by VITA, and in consideration of the convenience of using that form, and this form, without the necessity of specifically negotiating a separate contract document, the parties hereto specifically agree that, notwithstanding any provisions appearing in the attached Supplier's standard form contract, none of the following shall have any effect or be enforceable against VITA, the Commonwealth, any Authorized User, or any of their officers, directors, employees or agents:

- i). Requiring or stating that the terms of the Supplier's standard form contract shall prevail over the terms of this addendum in the event of conflict;
- ii). Requiring the application of the law of any state other than the Commonwealth of Virginia in interpreting or enforcing the contract or requiring or permitting that any dispute under the contract be resolved in any court other than a circuit court of the Commonwealth of Virginia;
- iii). Renewing or extending the contract beyond the initial term or automatically continuing the contract period from term to term;
- iv). Requiring that the contract be "accepted" or endorsed by the home office or by any other officer subsequent to execution by an official of VITA before the contract is considered in effect;
- v). Delaying the acceptance of the contract or its effective date beyond the date of execution;
- vi). Requiring any total or partial compensation or payment for lost profit or liquidated damages by VITA, the Commonwealth, any Authorized User, or their officers, directors, employees or agents if the contract is terminated before its ordinary period;
- vii). Permitting termination by Supplier of the contract or the licenses granted thereunder, or permitting suspension of services by Supplier, except pursuant to an order from a court of competent jurisdiction;

- viii). Defining “perpetual” license rights to have any meaning other than license rights that exist in perpetuity unless otherwise terminated in accordance with the applicable provisions of the contract;
- ix). Permitting unilateral modification of the contract by Supplier;
- x). Permitting modification or replacement of the contract pursuant to any new release, update or upgrade of Software or subsequent renewal of maintenance. If Supplier provides to any Authorized User an update or upgrade subject to additional payment, such Authorized User shall have the right to reject such update or upgrade;
- xi). Requiring purchase of a new release, update, or upgrade of Software or subsequent renewal of maintenance in order for the Commonwealth, VITA, or any Authorized User to receive or maintain the benefits of Supplier’s indemnification of the Commonwealth, VITA, or such Authorized User against any claims of infringement on any third-party intellectual property rights;
- xii). Imposing any interest charge(s) contrary to that specified by §2.2-4347 et seq. of the Code of Virginia;
- xiii). Requiring the Commonwealth, VITA, or any Authorized User to maintain any type of insurance either for the benefit of the Commonwealth, VITA, or such Authorized User or for Supplier’s benefit;
- xiv). Granting Supplier a security interest in property of the Commonwealth, any Authorized User, or any of their officers, directors, employees or agents;
- xv). Requiring the Commonwealth, VITA, any Authorized User, or any of their officers, directors, employees or agents to indemnify or to hold harmless Supplier for any act or omission;
- xvi). Establishing a presumption of severe or irreparable harm to Supplier by the actions or inactions of VITA or any Authorized User;
- xvii). Limiting or adding to the time period within which claims can be made or actions can be brought;
- xviii). Limiting selection and approval of counsel and approval of any settlement in any claim arising under the contract and in which the Commonwealth, VITA, any Authorized User, or any of their officers, directors, employees or agents is a named party;
- xix). Binding the Commonwealth, VITA, any Authorized User, or any of their officers, directors, employees or agents to any arbitration or to the decision of any arbitration board, commission, panel or other entity;
- xx). Obligating the Commonwealth, VITA, any Authorized User, or any of their officers, directors, employees or agents to pay costs of collection or attorney’s fees;
- xxi). Limiting the liability of Supplier for property damage or personal injury;
- xxii). Requiring any dispute resolution procedure(s) other than those in accordance with §2.2-4363 et seq. of the Code of Virginia;
- xxiii). Prohibiting the Commonwealth, VITA, or any Authorized User from transferring or assigning to any entity the contract pursuant to the contract;
- xxiv). Permitting Supplier to assign, subcontract, delegate or otherwise convey the contract, or any of its rights and obligations thereunder, to any entity without the prior written consent of VITA except as follows: Supplier may assign all or any of its rights and obligations to a third party as a result of a merger or acquisition or sale of all or substantially all of its assets to such third party provided assignee agrees in writing to be bound by the terms and conditions set forth in the contract and provided such third party is a U.S.-based entity or maintains a registered agent and a certification of authority to do business in Virginia, or to an affiliate of Supplier, provided Supplier remains liable for affiliate’s compliance with the terms and conditions set forth in this Contract;
- xxv). Granting Supplier or an agent of Supplier the right to audit or examine the books, records, or accounts of VITA or any Authorized User;

- xxvi). Permitting Supplier to access any Commonwealth or Authorized User records or data, except pursuant to court order;
- xxvii). Permitting Supplier to use any information provided by the Commonwealth or any Authorized User except for Supplier's own internal administrative purposes;
- xxviii). Requiring the Commonwealth, VITA, or any Authorized User to limit its rights or waive its remedies at law or in equity, including the right to a trial by jury; and
- xxix). Bestowing any right or incurring any obligation that is beyond the duly granted authority of the undersigned representative of VITA to bestow or incur on behalf of the Commonwealth of Virginia.

The parties further agree as follows:

- i). The contractual provisions at the following URL are mandatory provisions, required by law or by VITA, that are hereby incorporated by reference: <http://www.vita.virginia.gov/uploadedFiles/SCM/StatutorilyMandatedTsandCs.pdf>. In order to provide agencies with all information available regarding compliance with accessibility standards, so that they can make informed decisions, Supplier makes available on its website, www.cdwg.com/508, accessibility features on products and services it offers for sale. Supplier's website includes information and links to manufacturers for each product or service with Section 508 information. This information is compiled using information received from the manufacturer, and Supplier will make all reasonable efforts to ensure that the information is timely and appropriately updated.
- ii). The terms and conditions in documents posted to the aforereferenced URL are subject to change pursuant to action by the legislature of the Commonwealth of Virginia or a change in VITA policy. 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 URL periodically.
- iii). The contractual claims provision §2.2-4363 of the Code of Virginia is also incorporated by reference.
- iv). 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.
- v). Supplier shall comply with all applicable federal, state, and local laws, regulations, and ordinances.
- vi). The Commonwealth does not waive its sovereign immunity or its immunity under the Eleventh Amendment.
- vii). The Commonwealth is tax exempt and shall not be responsible for payment of taxes, duties, or penalties.
- viii). Supplier warrants that it is the owner of the Software or otherwise has the right to grant to all Authorized Users 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.
- ix). Any Authorized User may rely on independent contractors, acting on behalf of such Authorized User, to perform functions requiring the use of and access to the Supplier's Software. Nothing in the Supplier's standard form contract shall limit such third parties' from using or accessing the Software in order to perform such functions. If any invention, work of authorship, or confidential information is developed exclusively by an employee, consultant, contractor, or subcontractor of an Authorized User during the performance of Services by Supplier, Supplier shall have no ownership claim to such invention, work of authorship, or confidential information.
- x). Nothing in this contract shall be construed as conveying any rights or interest in Commonwealth or Authorized User data to Supplier.

- xi). The currency which shall be used for this contract is United States Dollars. Any claim which may arise hereunder shall be settled in United States Dollars.
- xii). Any travel expenses incurred by Supplier in the course of performing the services must be pre-approved by the appropriate Authorized User and shall be reimbursed at the then-current per diem rates published by the Virginia Department of Accounts.
- xiii). All payment obligations under this contract are subject to the availability of federal, state, and/or local appropriations for this purpose. In the event of non-appropriation of funds for the items under this contract, VITA may terminate, in whole or in part, this contract or any order, for those goods or services for which funds have not been appropriated. This may extend to the renewal of maintenance services for only some of the licenses granted by Supplier. Written notice will be provided to the Supplier as soon as possible after legislative action is completed. There shall be no time limit for termination due to termination for lack of appropriations.
- xiv). An Authorized User may require that Supplier personnel submit to a criminal background check prior to performance of any services under this contract.

This contract, consisting of this VITA addendum and the Supplier's standard form contract, constitute the entire agreement between the parties and may not be waived or modified except by written agreement between the parties.

This contract has been reviewed by staff of VITA. Its substantive terms are appropriate to the needs of VITA and sufficient funds have been allocated for its performance by VITA.

IN WITNESS WHEREOF, the parties have caused this contract to be duly executed as of the last date set forth below by the undersigned authorized representatives of the parties, intending thereby to be legally bound.

<p>Supplier <u>Tara K Barbieri</u></p> <p>By: _____ (Signature)</p> <p>Name: Tara K. Barbieri _____ (Print)</p> <p>Title: Director, Program Sales _____</p> <p>Date: <u>12/31/09</u></p>	<p>VITA</p> <p>By: _____ (Signature)</p> <p>Name: <u>GEORGE COULTER</u> (Print)</p> <p>Title: _____ <u>CIO</u></p> <p>Date: <u>1.11.2010</u></p>
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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:

Tara K. Barbieri

Printed Name:

__Tara K. Barbieri__

Organization:

__CDW Government, Inc.

Date:

31 December 2009

EXHIBIT G
AWARDED BRAND

- HP



Information Technology Services Contract

Between

The Virginia Information Technologies Agency

on behalf of

The Commonwealth of Virginia

and

CDW GOVERNMENT, INC.

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INFORMATION TECHNOLOGY SERVICES CONTRACT

THIS INFORMATION TECHNOLOGY SERVICES 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 CDW Government, Inc. ("Supplier"), an Illinois corporation headquartered at 230 N. Milwaukee Ave., Vernon Hills, IL 60061 to be effective as of January 7, 2010 ("Effective Date").

1. PURPOSE AND SCOPE

This Contract sets forth the terms and conditions under which Supplier shall provide services ("Services") to the Authorized Users.

2. DEFINITIONS

A. Acceptance

Successful performance of the Services at the location designated in the applicable Statement of Work, or completed and successful Acceptance testing in conformance with the Requirements in the applicable Statement of Work.

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. 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 or SOW 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.

E. Deliverable

The tangible embodiment of the Services, including the development or creation of Work Product, performed or provided by Supplier as identified in the applicable Statement of Work.

F. Party

Supplier, VITA, or any Authorized User.

G. Requirements

The functional, performance, operational, compatibility, Acceptance testing criteria and other parameters and characteristics of the Service(s) and Deliverables as set forth in Exhibit A and the applicable Statement of Work and such other parameters, characteristics, or performance standards that may be agreed upon in writing by the Parties.

H. Service

Any work performed or service provided, including provision to the Authorized User of any Deliverable, by Supplier under this Contract. Service includes the discovery, creation, or development of Work Product, if any.

I. Statement of Work (SOW)

Any document in substantially the form of Exhibit B (describing the deliverables, due dates, assignment duration and payment obligations for a specific project, engagement, or assignment for which Supplier shall be providing Services to an Authorized User), which, upon signing by both Parties, shall be deemed a part of this Contract.

J. 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).

K. Work Product

Inventions, combinations, machines, methods, formulae, techniques, processes, improvements, software designs, computer programs, strategies, specific computer-related know-how, data and original works of authorship (collectively, the "Work Product") discovered, created, or developed by Supplier, or jointly by Supplier and an Authorized User(s) in the performance of this Contract. Work Product shall not include configuration of software.

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 two (2) years. VITA, in its sole discretion, may extend this Contract for up to three (3) additional one (1) year periods after the expiration of the initial two (2) 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. 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 or SOW issued hereunder, in whole or in part, or an Authorized User may terminate an order or SOW, 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 or SOW issued hereunder, in whole or in part, or an Authorized User may terminate an order or SOW, 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 or SOW 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 or SOW issued hereunder, in whole or in part. If an Authorized User deems the Supplier to be in breach and/or default of an order or SOW, 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 or SOW, 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 Non-procurement 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 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 or SOW, in whole or in part, or an Authorized User may terminate its order or SOW, 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.

E. Effect of Termination

Upon termination, neither the Commonwealth, nor VITA, nor any Authorized User shall have any future liability except for Deliverables accepted by the Authorized User or Services rendered by Supplier and accepted by the Authorized User prior to the termination date.

In the event of a Termination for Breach or Termination for Default, Supplier shall accept return of any Deliverable that was not accepted by the Authorized User(s), and Supplier shall refund any monies paid by any Authorized User for such Deliverable, and all costs of de-installation and return of Deliverables 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 services identical or similar to the Services provided by Supplier pursuant to this Contract. 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 the 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. SERVICES

A. Nature of Services and Engagement

This Contract is optional use and non-exclusive and all Authorized Users may, at their sole discretion, receive benefits from third party suppliers of services similar to, or in competition with, services provided by Supplier.

By operation of this Contract, any SOW resulting in a commitment of any individual employee or contractor of Supplier, whether employed by Supplier or a contractor or subcontractor of Supplier, for more than one thousand (1,000) hours of work during any six (6) month period or of any such individual employee or contractor for more than eight (8) months in any twelve (12) month period shall be voidable by VITA, in its sole discretion. If an SOW is voided by VITA, such SOW shall no longer be binding on either Party and all obligations with respect to such SOW shall expire.

B. Statement of Work (SOW)

All Services shall be performed at the times and locations set forth in the applicable SOW and at the rates set forth in Exhibit D herein. Unless VITA issues a written authorization for a time and materials type SOW, any SOW shall be of a fixed price type but may, with the written approval of VITA, contain a cost-reimbursable line item(s) for pre-approved travel expenses. For time and materials type SOWs, Supplier personnel shall maintain daily time records of hours and tasks performed, which shall be submitted or made available for inspection by the Authorized User upon forty-eight (48) hours advance written notice.

C. Change Orders

All changes to the Services to be provided pursuant to any given SOW must be described in a written change request (template provided as Exhibit C), which includes any appropriate adjustments to the SOW. Either Party to an SOW may issue a change request that will be subject to written approval of the other Party before it becomes part of this Contract. In no event shall any SOW or any modification thereto require the Supplier to perform any work beyond the scope of this Contract as such scope is defined in Exhibit A hereto.

D. Acceptance

Service(s) shall be deemed accepted upon performance of the Requirements set forth in the applicable SOW. If applicable, Supplier shall be responsible for ensuring that any individual Deliverable functions properly with any other Deliverable provided pursuant to the SOW. Should a previously Accepted Deliverable require further modification in order to work properly with any other Deliverable, Supplier shall be responsible for reasonable costs associated with such modification.

Authorized User shall commence Acceptance testing upon receipt of the Service, or within such other period as set forth in the applicable SOW. Acceptance testing will be no longer than fifteen (15) days, or such longer period as may be agreed in writing between Authorized User and Supplier, for each Deliverable or for the first instance of each Service type set forth in Exhibit B. Supplier agrees to provide to the Authorized User such assistance and advice as the Authorized User may reasonably require, at no additional cost, during such Acceptance testing. Authorized User shall provide to Supplier written notice of non-Acceptance within five (5) days of installation and successful Acceptance testing. Should Authorized User fail to provide Supplier written notice of unsuccessful Acceptance testing within five (5) days following the Acceptance testing period, the Service shall be deemed to be successfully performed in accordance with the Requirements. If any Service is not performed substantially in accordance with the Requirements, Supplier will (a) use its reasonable commercial efforts to reperform or cause to be reperformed the Service, or (b) refund amounts paid by the Authorized User related to the portion of the Service not in substantial compliance; provided, in each case, the Authorized User notifies Supplier in writing within five (5) days after performance of the applicable Service.

E. Cure Period

Supplier shall correct any non-conformities identified during Acceptance testing and re-submit such non-conforming Service for re-testing within thirty (30) 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 SOW. Should Supplier fail to cure the non-conformity or deliver a Service which meets the Requirements, the Authorized User may, in its sole discretion: (i) reject the Service in its entirety, and any Service rendered unusable due to the non-conforming Service, and recover amounts previously paid hereunder for all such Services; (ii) issue a "partial Acceptance" of the Service with an equitable adjustment in the price to account for such deficiency; or (iii) conditionally accept the applicable Service while reserving its right to revoke Acceptance if timely correction is not forthcoming. Failure of a Service 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 or SOW, in whole or in part, for the Services to be provided thereunder by Supplier.

5. RIGHTS TO WORK PRODUCT

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, any license to pre-existing work shall be held by, and all rights in, title to, and ownership of Work Product shall vest with the Commonwealth. If Authorized User is a locality, municipality, school, school system, college, university, local board, local commission, or local quasi-political entity, any license to pre-existing work shall be held by, and all rights in, title to, and ownership of Work Product shall vest with that public body.

A. Work Product

VITA and Supplier each acknowledge that performance of this Contract may result in Work Product. The Parties shall document all Work Product specifications and such specifications shall be made an incorporated exhibit to this Contract. Supplier agrees that it shall promptly and fully disclose to the Commonwealth or the Authorized User any and all Work Product generated, conceived, reduced to practice or learned by Supplier or any of its employees, either solely or jointly with others, during the term or performance of this Contract, which in any way relates to the business of the Commonwealth, VITA, or any Authorized User. Supplier further agrees that neither Supplier nor any of Supplier's employees, contractors, agents or subcontractors, nor any party claiming through Supplier or Supplier's employees, shall, other than in the performance of this Contract, make use of or disclose to others any proprietary information relating to the Work Product. All Services performed hereunder shall include delivery of all Work Product source code, object code, executables, and documentation. Supplier shall at no time deny access to the Work Product, regardless of form, by the Commonwealth or the Authorized User.

B. Ownership

Supplier agrees that, whether or not the Services are considered "works made for hire" or an employment to invent, all Work Product discovered, created or developed under this Contract shall be and shall remain the sole and exclusive property of the Commonwealth of Virginia and its assigns or the Authorized User and its assigns. Except as specifically set forth in writing and signed by both VITA and Supplier, or Authorized User and Supplier, Supplier agrees that the Commonwealth or the Authorized User shall have all rights with respect to any Work Product discovered, created or developed under this Contract without regard to the origin of the Work Product.

If and to the extent that Supplier may, under applicable law, be entitled to claim any ownership interest in the Work Product, Supplier hereby irrevocably transfers, grants, conveys, assigns and relinquishes exclusively to the Commonwealth or the Authorized User any and all right, title and interest it now has or may hereafter acquire in and to the Work Product under patent, copyright, trade secret and trademark law in perpetuity or for the longest period otherwise permitted by law. If any moral rights are created, Supplier waives such rights in the Work Product. Supplier further agrees as to the Work Product to assist the Commonwealth or the Authorized User in every reasonable way to obtain and, from time to time, enforce patents, copyrights, and other rights and protection, and in protecting trade secrets, with respect to such Work Product, and to that end, Supplier and its employees shall execute all documents for use in applying for and obtaining such patents, copyrights, and other rights and protection with respect to such Work Product, as the Commonwealth or the Authorized User may reasonably request, together with any assignments thereof to the Commonwealth or the Authorized User or entities designated by the Commonwealth or the Authorized User.

C. Pre-existing Work

If and to the extent that any pre-existing rights are embodied or reflected in the Service Deliverables, Supplier hereby grants to the Commonwealth or the Authorized User an irrevocable, perpetual, non-exclusive, worldwide, royalty-free right and license to (i) use, modify,

transmit, execute, reproduce, display, perform, distribute copies of and prepare derivative works based upon such pre-existing rights and any derivative works thereof, and (ii) authorize others to do any or all of the foregoing. It is expressly understood that "perpetual" license rights shall commence upon delivery of the Service Deliverables and shall exist in perpetuity unless otherwise terminated in accordance with the applicable provisions of the Contract.

D. Return of Materials

Upon termination of this Contract, Supplier shall immediately return to VITA or the appropriate Authorized User all copies, in whatever form, of any and all Confidential Information, Work Product and other properties provided by VITA or such Authorized User, which are in Supplier's possession, custody or control.

6. SUPPLIER PERSONNEL

A. Selection and Management of Supplier Personnel

Supplier shall take such steps as may be necessary to ensure that all Supplier personnel performing Services under this Contract are competent and knowledgeable of the contractual arrangements and the applicable SOW between Authorized User and Supplier. Supplier shall be solely responsible for the conduct of its employees, agents, and subcontractors, including all acts and omissions of such employees, agents, and subcontractors, and shall ensure that such employees and subcontractors comply with the appropriate Authorized User's site security, information security and personnel conduct rules, as well as applicable federal, state and local laws, including export regulations. Authorized User reserves the right to require the immediate removal from such Authorized User's premises of any employee, subcontractor or agent of Supplier whom such Authorized User believes has failed to comply or whose conduct or behavior is unacceptable or unprofessional or results in a security or safety breach.

B. Supplier Personnel Supervision

Supplier acknowledges that Supplier or any of its agents, contractors, or subcontractors, is and shall be the employer of Supplier personnel, and shall have sole responsibility to supervise, counsel, discipline, review, evaluate, set the pay rates of and terminate the employment of Supplier personnel.

C. Key Personnel

An SOW may designate certain of Supplier's personnel as Key Personnel or Project Managers. Supplier's obligations with respect to Key Personnel and Project Managers shall be described in the applicable SOW. Failure of Supplier to perform in accordance with such obligations may be deemed a default of this Contract or of the applicable SOW.

D. Subcontractors

Supplier shall not use subcontractors to perform the Services unless specifically authorized in writing to do so by the Authorized User. If an order or SOW issued pursuant to this Contract is supported in whole or in part with federal funds, Supplier shall not subcontract any Services pursuant to such order or SOW to any subcontractor that is a party excluded from Federal Procurement and Non-procurement Programs. In no event shall Supplier subcontract any Services to any subcontractor which is debarred by the Commonwealth of Virginia or which owes back taxes to the Commonwealth and has not made arrangements with the Commonwealth for payment of such back taxes.

7. GENERAL WARRANTY

With respect to the Services provided by Supplier, Supplier represents and warrants the following:

A. Ownership

Supplier has the right to provide the Services, including Deliverables, without violating or infringing any law, rule, regulation, copyright, patent, trade secret or other proprietary right of any third party.

B. 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 an actual or 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.

C. Supplier's Past Experience

Supplier warrants that the Services have been successfully performed for a non-related third-party without significant problems due to the Services or Supplier.

D. Performance

- i). All Services shall be performed with care, skill and diligence, consistent with or above applicable professional standards currently recognized in its profession, and Supplier shall be responsible for the professional quality, technical accuracy, completeness and coordination of all plans, information, specifications, Deliverables and Services furnished under this Contract;
- ii). Services pursuant to a particular Request for Proposal ("RFP"), quote, or Request for Quote (RFQ), and any associated Deliverables shall be fit for the particular purposes specified by VITA in the RFP and in this Contract and, if applicable, by the Authorized User requesting such quote or issuing such RFQ, and Supplier is possessed of superior knowledge with respect to the Services and Deliverables and is aware that all Authorized Users are relying on Supplier's skill and judgment in providing the Services and Deliverables;
- iii). The Services and Deliverables shall meet or exceed the Requirements;
- iv). The documentation which Supplier is required to provide under this Contract shall be sufficient in detail and content to allow a user/programmer to understand and fully utilize the Deliverables without reference to any other materials or information.

E. Malicious Code

Supplier has used its commercially reasonable efforts through quality assurance procedures to ensure that there are no computer viruses or undocumented features in any of the media or means used to deliver the Services. Supplier has used the best available means to scan any media on which Deliverables are provided to the Authorized User.

F. Limited Warranty Period and Remedy

During the warranty period of one (1) year, or as specified in the applicable SOW, Supplier warrants that the Services 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 Services to meet the Requirements. If Supplier is unable to make the Service/Deliverable conform, in all material respects, to the Requirements within ten (10) days following written notification by an Authorized User, Supplier shall, at such Authorized User's request, accept return of such Deliverable and any other related Deliverable(s) rendered unusable, and return all monies paid by such Authorized User for the non-conforming Services and Deliverable and such other related Deliverable(s) rendered unusable.

THE OBLIGATIONS OF SUPPLIER UNDER THIS GENERAL WARRANTY SECTION ARE MATERIAL. SUPPLIER MAKES NO OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY CONCERNING MERCHANTABILITY OR FITNESS FOR ANY OTHER PARTICULAR PURPOSE.

8. TRAINING AND DOCUMENTATION

Any training or documentation necessary for an Authorized User to have full benefit of the Service shall be deemed included in the scope of the applicable SOW unless expressly excluded.

9. ORDERS AND COMPENSATION

A. Request for Quote

Authorized Users of this Contract, depending on the complexity of services required and/or each supplier's available resources have the option to select one or more suppliers to provide type of services. In addition, an Authorized User may determine that a competitive process is required to ensure it receives the best value. In either or both of such circumstances, the Authorized User may, at its sole discretion, use a Request for Quote (RFQ) process to obtain services identical or similar to those provided by Supplier pursuant to this Contract.

Supplier shall respond to the RFQ by providing a quote, including an estimated total price, and, if requested by the Authorized User, a proposal and documentation of the qualifications of the individual(s) proposed for providing services to the Authorized User. In no event shall Supplier's quote exceed Supplier's Contract pricing. Should Supplier be unable to respond to the RFQ due, for example, to resource constraints, Supplier shall notify Authorized User in writing of its inability to perform the work requested by such Authorized User, and provide the reasons for such inability to perform, prior to the due date for the submission of quotes in response to the RFQ. Supplier's repeated failure to provide a quote in response to an RFQ may be grounds for termination of this Contract.

B. Order

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:

- i). Purchase Order (PO): An official PO form issued by an Authorized User.
- ii). 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 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 Non-procurement 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 SUCH AUTHORIZED USER IS VITA.

C. Purchase Price and Price Protection

Exhibit D sets forth the fees and the appropriate Commonwealth discounts. Fees shall not increase and discounts shall not decrease for a period of not less than two (2) years from the Effective Date. 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.

D. Invoice Procedures

For an order with a period of performance not expected to exceed one (1) month, Supplier shall remit each invoice to the "bill-to" address provided with the order promptly after all Deliverables or

Services have been accepted and in accordance with the milestone payment schedule, if any, in the applicable order. For a time and materials type SOW with a period of performance expected to exceed one (1) month, Supplier shall submit invoices to the ordering Authorized User monthly in arrears, unless otherwise specified in such SOW. For a fixed price type SOW, Supplier shall invoice in accordance with the milestone payment schedule, if any, in the applicable SOW; if such SOW does not include a milestone payment schedule, Supplier shall invoice after all Deliverables or Services have been accepted by the ordering Authorized User. No invoice shall include any costs other than those identified in the executed order or SOW, which costs shall be in accordance with Exhibit D. Without limiting the foregoing, all shipping costs are the Supplier's responsibility except to the extent such charges are identified in Exhibit D, or as noted in any executed order or SOW referencing this Contract. Any cost reimbursable work performed or expenses incurred by Supplier prior to the effective date of the order shall not be billed to or reimbursed by the Authorized User. Invoices issued by the Supplier shall identify at a minimum:

- i). Deliverable or Service type, or project milestone, and description
- ii). Quantity, charge and extended pricing for each Deliverable and/or Service item or milestone; or, for a time and materials type order or SOW, the name(s) of the assigned employee(s), the hourly rate(s), and the number of hours worked;
- iii). Applicable order date or SOW date
- iv). This Contract number and the applicable order number
- v). 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.

E. Purchase Payment Terms

Supplier is responsible for the accuracy of its billing information. Supplier agrees not to issue invoices hereunder until Services have been performed or milestones have met Acceptance criteria. Charges for Services accepted more than ninety (90) days prior to receipt of a valid invoice may not be paid, except in accordance with a milestone payment schedule. 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.

If there are any disputed items, the appropriate Authorized User shall pay all undisputed charges and promptly notify Supplier in writing of any disputed amount. Supplier shall thereupon review its records, and, if it does not concur with such Authorized User, provide such 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.

F. Reimbursement of Expenses

If allowable pursuant to an Authorized User's SOW, such Authorized User shall pay, or reimburse Supplier, for all reasonable and actual travel-related expenses for greater than thirty (30) miles from portal to portal incurred by Supplier during the relevant period; provided, however, that such Authorized User shall only be liable to pay for Supplier's travel-related expenses, including transportation, meals, lodging and incidental expenses, that have been authorized by such Authorized User in advance and 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_102009.pdf), or a successor URL(s).

All reimbursed expenses will be billed to the Authorized User on a pass-through basis without any markup by Supplier. At Authorized User's request, Supplier shall provide copies of receipts for all travel expenses over US\$30.00.

10. 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 [VITA:Supplier / Vendor Reporting Requirements](#). 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 [VITA:Supplier / Vendor Reporting Requirements](#).

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.

11. 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 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 Statement of Work issued pursuant to this Contract.

12. COMPETITIVE PRICING

Subject to applicable law and competitive market consideration, Supplier represents that it will use reasonable commercial efforts to offer prices for products herein that are competitive with the prices offered by Supplier to other similarly situated customers under the same terms and conditions for purchase of a comparable volume of the same products from Supplier.

13. 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

Upon the termination or expiration of this Contract or upon the earlier request of the disclosing 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.

D. Confidentiality Statement

All Supplier personnel, contractors, agents, and subcontractors performing Services pursuant to this Contract shall be required to sign a confidentiality statement or non-disclosure agreement. Any violation of such statement or agreement shall be deemed a breach of this Contract and may result in termination of the Contract or any order or SOW issued hereunder.

14. INDEMNIFICATION AND LIABILITY

A. Indemnification

Supplier agrees to indemnify, defend and hold harmless the Commonwealth, VITA, or 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 misconduct or negligence of any employee, agent, or subcontractor of Supplier, (ii) any act or omission of any employee, agent, or subcontractor of Supplier, (iii) breach of any representation, warranty or covenant of Supplier contained herein, (iv) any defect in the Services or Deliverables provided by Supplier, or (v) any actual or alleged infringement or misappropriation of any third party's intellectual property rights by any of the Services or Deliverables. 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 any Deliverable 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 Services or Deliverables, 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 Services or Deliverables, or any component thereof; or (b) replace or modify such infringing Services or Deliverables, or any component thereof, with non-infringing products or services satisfactory to VITA. And in addition, Supplier shall provide any Authorized User with comparable temporary replacement deliverables and services, or reimburse VITA or any Authorized User for the reasonable costs incurred by VITA or such Authorized User in obtaining alternative products and services in the event such Authorized User cannot use the affected Deliverable or benefit from the affected Services. 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 Services or Deliverable, 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 liability with respect to (i) any intentional or willful misconduct or negligence of any employee, agent, or subcontractor of Supplier, (ii) any act or omission of any employee, agent, or subcontractor of Supplier, (iii) claims for bodily injury, including death, and real and tangible property damage, (iv) Supplier's indemnification obligations, (v) Supplier's confidentiality obligations, and (vi) 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.

IN NO EVENT WILL ANY PARTY BE LIABLE TO ANY OTHER PARTY FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES, INCLUDING (WITHOUT LIMITATION) LOSS OF PROFIT, INCOME OR SAVINGS, EVEN IF ADVISED OF THE POSSIBILITY THEREOF, EXCEPT WHEN SUCH DAMAGES ARE CAUSED BY THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF THE PARTY, ITS EMPLOYEES, AGENTS OR SUBCONTRACTORS. IN THE EVENT OF ANY LIABILITY INCURRED BY SUPPLIER OR ANY OF ITS AFFILIATES, THE ENTIRE LIABILITY OF SUPPLIER AND ITS AFFILIATES FOR DAMAGES FROM ANY CAUSE WHATSOEVER WILL NOT EXCEED THE LESSER OF: (A) THE DOLLAR AMOUNT PAID BY THE AUTHORIZED USER FOR EITHER THE PRODUCT(S) GIVING RISE TO THE CLAIM OR THE SPECIFIC SERVICE GIVING RISE TO THE CLAIM; OR (B) \$100,000.00.

15. 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 its obligations pursuant this Section.

16. IMPORT/EXPORT

In addition to compliance by Supplier with all export laws and regulations, VITA requires that any data deemed "restricted" or "sensitive" by either federal or state authorities, must only be collected, developed, analyzed, or otherwise used or obtained by persons or entities working within the boundaries of the United States.

17. GENERAL PROVISIONS

A. Relationship Between VITA and 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 mandatory contractual provisions, required by law or by VITA, and that are hereby incorporated by reference:

<http://www.vita.virginia.gov/uploadedFiles/SCM/StatutorilyMandatedTsandCs.pdf>

The contractual claims provision §2.2-4363 of the Code of Virginia and the required eVA provisions at <http://www.vita.virginia.gov/uploadedFiles/SCM/eVATsandCs.pdf> are also incorporated by reference.

In order to provide agencies with all information available regarding compliance with Section 508 accessibility standards so that they can make informed decisions, Supplier makes available on its website, www.cdwg.com/508, accessibility features on products and services it offers for sale. Supplier's website includes information and links to manufacturers for each product or service with Section 508 information. This information is compiled using information received from the manufacturer, and Supplier will make all reasonable efforts to ensure that the information is timely and appropriately updated.

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 E 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, if any. Supplier may invoke such public body's ADR procedures 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's name 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 the 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 Party 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 License, Rights To Work Products, Warranty, 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 or SOW 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 Services rendered or the amounts due Supplier for such Services under this Contract. VITA's right to audit shall be limited as follows:

- i). Three (3) years from Service performance date;
- ii). Performed at Supplier's premises, during normal business hours at mutually agreed upon times; and
- iii). Excludes access to Supplier cost information.

The Supplier shall not 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, Supplier shall not hire an employee of an Authorized User who has substantially worked on any project covered by this Contract without prior written consent.

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:

- i). Exhibit A Service Requirements
- ii). Exhibit B Statement of Work (SOW) Template
- iii). Exhibit C Change Order Template
- iv). Exhibit D Service Fees
- v). Exhibit E 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 or SOW 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 SOW, Exhibit D.

Any modification to an SOW that extends the period of performance beyond one (1) year or increases the value of such SOW above US\$100,000 shall, absent the prior written approval of VITA, be voidable by VITA, in its sole discretion. If an SOW is voided by VITA, such SOW shall no longer be binding on either Party and all obligations with respect to such SOW shall expire.

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 or SOW 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: Tara K Barbieri
(Signature)

Name: Tara K. Barbieri
(Print)

Title: Director, Program Sales

Date: 12/31/2009

Address for Notice:

CDW Government, Inc.
230 N. Milwaukee Avenue
Vernon Hills, Illinois 60061-9740

Attention: Tara K. Barbieri

VITA

By: George Coulter
(Signature)

Name: GEORGE COULTER
(Print)

Title: CIO

Date: 1. 11. 2010

Address for Notice:

Attention: Contract Administrator

Reviewed
By: WJG