Commonwealth of Virginia
Virginia Information Technologies Agency

IT PRODUCT REPAIR SERVICES

Optional Use Contract

Date:	August 2, 2010
Contract #:	VA-100729-DOMT
Authorized User:	State Agencies, Institutions and other Public Bodies as defined in §2.2-4301 and referenced in §2.2-4304 of the *Code of Virginia*
Contractor:	DominionTek, Inc. 2496 Cedar Cone Drive Richmond, VA 23233
FIN:	54-2056454
Contact Person	Ansar Malik Phone: 804-402-4903 Fax: 757-257-8845 Email: ansar@dominiontek.com
Term:	July 29, 2010 – July 28, 2013
Payment:	Net 30 days

For Additional Contract Information, Please Contact:

Virginia Information Technologies Agency
Supply Chain Management

John Tackley
Strategic Sourcing Specialist
Phone: 804-416-6165
E-Mail: john.tackley@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.

CONTRACT #**VA-100729-DOMT**

EXTRACT CHANGE LOG

Change No.	Description of Change	Effective Date

Virginia Information Technologies Agency

Supply Chain Management (SCM)

SOLICITATION - OFFER -and- AWARD

Information Technology / Telecommunications / Products / Services

Invitation for Bid (IFB)

IT Product Repair Services

IFB #:	Date Issued:	Date Due:	REQ #:
2010-24	June 16, 2010	**July 15, 2010**	n/a

For more information, please send e-mail to Single Point of Contact (SPOC): John.Tackley@vita.virginia.gov, or call (804) 416-6165

ISSUING OFFICE:	SHIP TO:
VITA - Supply Chain Management 11751 Meadowville Lane Chester, VA 23836	...as specified in each order **BILL TO:** ...as specified in each order

1) SOLICITATION

This procurement is being conducted on behalf of VITA and other Public Bodies as defined in §2.2-4301 and referenced by §2.2-4304 of the Code of Virginia. Sealed Bids for furnishing the Products and/or Services set forth in Exhibit A Pricing Schedule will be returned to the Issuing Office. If hand carried, deliver to the SCM receptionist located at the Issuing Office address above. Bids must be received prior to 2:00 PM local time on the Date Due indicated above (Public bid opening at 2:30 PM). Please read and understand the attached Solicitation Instructions. This is an advertised solicitation consisting of this cover page, the Solicitation Instructions, Requirements, Pricing Schedule, Certification Regarding Lobbying and the Mandatory Contractual Terms and Conditions, and any other files, exhibits, attachments, provisions, representations, certifications or specifications as are attached or incorporated herein by reference, or any subsequent amendments issued.

2) OFFER

In compliance with the Terms and Conditions set forth in this solicitation, the undersigned agrees, if this offer is accepted within 90 days from the Date Due above, to furnish any or all Bid Items awarded at the prices offered in the Pricing Schedule, delivered to the Ship To address within the time specified in individual orders. All offers are subject to the Mandatory Terms and Conditions set forth herein. Electronic signatures will be considered as if original signatures.

BIDDER INFORMATION

Supplier's FEIN:	54-2056454
Suppliers SCC#:	0566796-9
Firm Name:	DOMINIONTEK INC
Address:	2496 CEDAR CONE DR
City/State/ZIP:	RICHMOND, VA 23233
E-mail:	ansar@dominiontek.com
Voice #:	804-402-4903
Fax #:	757-257-8845

BIDDER's Binding SIGNATURE

NAME: ANSAR MALIK

3) AWARD

BID ITEMS AWARDED:	AWARDED BY:	AWARD DATE:	CONTRACT #:
1, 2 and 3 only 1, 2 and 3 only	...for the Chief Information Officer (CIO) of the *Commonwealth of Virginia*	7/29/2010 7/29/2010	VA-100729-DOMT VA-100729-DOMT

NOTE: This public body does not discriminate against faith-based organizations in accordance with the Code of Virginia, §2.2-4343.1 or against any Bidder because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment.

IFB 2010-24 - IT Products - Per Call Repair Services

please populate only shaded regions

PRICE SCHEDULE BY ZONE AWARD

Supplier Name: Dominiontek Inc.

F.E.I.N. 54-2056454

Supplier Contact: Ansar Malik

Contact email & phone ansar@dominiontek.com 804-402-4903

Instructions: In the table below, you are required to submit a Price List for hourly per call Labor Services, by zone, at the response time service levels indicated.

Bid Item No.	Description	Quantity	Unit	Next Day Response	Four (4) Hour Response
1	Zone 97	1	hour	$55.95	$85.99
2	Zone 98	1	hour	$39.99	$52.50
3	Zone 99	1	hour	$44.95	$67.50
4	Zone 100	1	hour	Not on contract	
5	Zone 101	1	hour		
6	Zone 102	1	hour		
7	Zone 103	1	hour		
8	Zone 104	1	hour		
9	Zone 105	1	hour		
10	Zone 106	1	hour		

One award will be made for each zone to the supplier with the lowest cost per zone using the formula: The aggregate lowest cost of each zone (next day hr. rate * 75) + (4 hour hr. rate * 25)/100.

Exhibit A

VA-100729-DOMT

IFB 2010-24 - IT Products - Per Call Repair Services

A+ Technician List

Technician		Certifications		
Ben Meador		A+, Net+, HP APS, MCP		
Robert Ash		A+,HP APS		
Eric Baker		MCSE, HP APS, Sonicwall, Palo Alto		
Ansar Malik		HP ASE, IBM PSE, MCSE,CCNA		

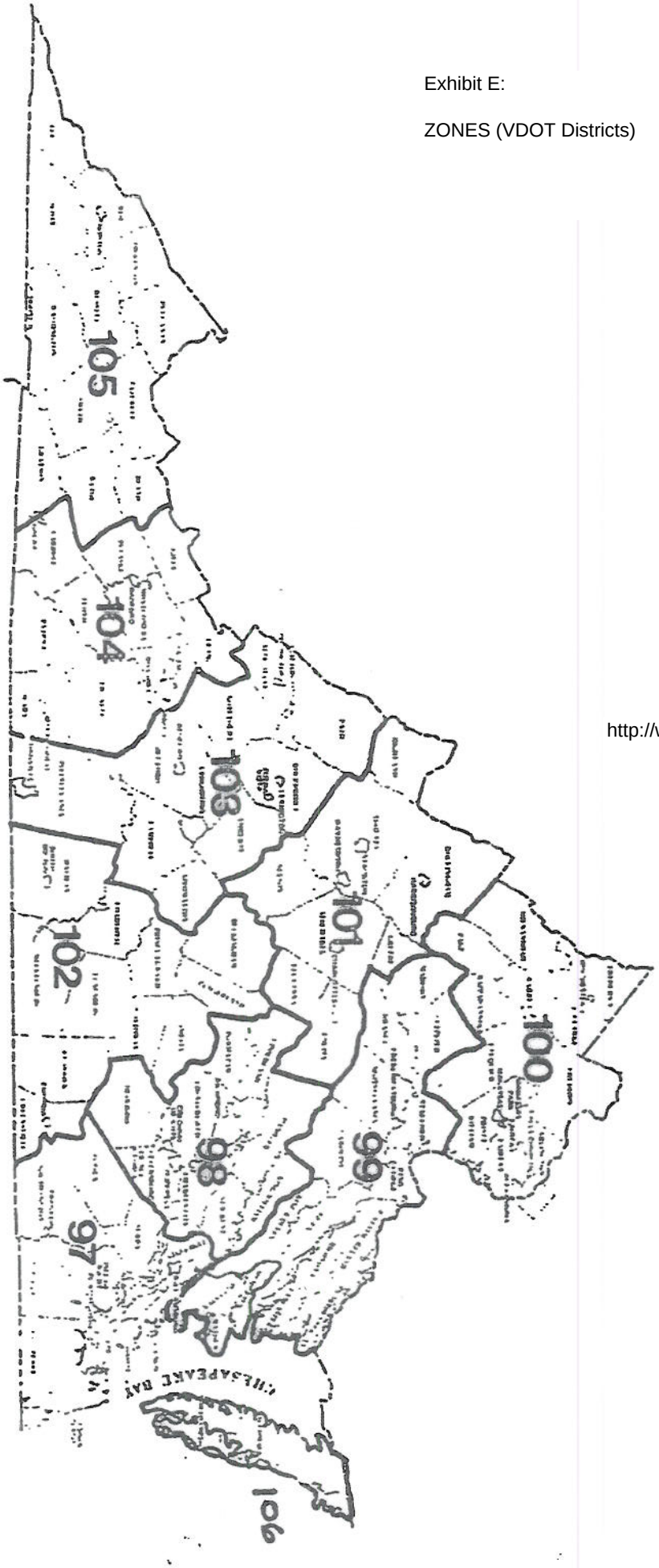
statewide - 5 technichians per firm subcontractors are permitted
by zone - 2 technichians per firm subcontractors are permitted

Repair Brands

Brand		Category		
HP		Desktops		
HP		Notebooks		
HP		Servers		
Sonicwall		Firewalls		
IBM		Desktops/Servers		
Palo Alto		Firewalls		
Cisco		Routers/Switches		

Exhibit E:

ZONES (VDOT Districts)



http://www.virginiadot.org/projects/fxn_class/maps.asp

REQUIREMENTS

The *Commonwealth of Virginia* desires to establish a statewide contract for time and material repair of Information Technology computer and peripheral equipment. The Authorized Users of this contract are Virginia Agencies, Institutions and other public bodies as defined in Sections 2.2-4301 and 2.2-4304 of the Code of Virginia.

The Supplier shall provide on-site time and materials repairs of Information Technology computer and peripheral equipment in accordance with the following provisions:

1. The Contractor shall furnish all labor, equipment, tools, parts, materials and transportation necessary to repair the equipment at each agency's site in accordance with the Original Equipment Manufacturers' (OEM) service manual.
2. The Contractor must provide a toll-free hot line/dispatching service available for calls from "Authorized User" during business hours, as stated above. If awarded a contract, Contractor must provide a contact name and a toll-free telephone number.
3. The Contactor shall furnish, on a 'per-call' basis, qualified service personnel at the requesting agency's site, not later than the end of the next business day following a call for service. This service shall be available during normal business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday, excluding State holidays. Please note that some "Authorized Users" have expanded business hours which supplier may observe in responding to service calls. The list of State Holidays can be found at: http://www.dhrm.state.va.us/calendar2010.pdf
4. Service call requests for next business day response received after 2:00 p.m. will require the service technician to be on-site by 2:00 p.m. the next business day.
5. Authorized Users may request a four (4) business hour response time from the Contractor. If an Authorized User requests a four hour response, Contractor must adhere to the same provisions as for next business day response, except that a qualified service Technician must be at the requesting agency or institution's site within four (4) business Hours from the time the call for service was received. A service call received after 2:00 p. m. requesting a four hour response time will require a service technician to be on-site by 9:00 a. m. the next business day.
6. The Contactor is required to make repairs during normal business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday excluding State holidays. However, if requested and mutually agreed to in writing by the "Authorized User" and Contractor, repairs may be during hours other than 8 AM to 5 PM at a rate not to exceed 1.5 times the next business day hourly rate.
7. Labor rates paid under this contract shall be only for productive hours at the job site. Time spent for transportation of workers or the acquisition, handling and delivery of materials is not a direct charge but must be considered an overhead charge and included in the hourly rates bid for labor. If the service technician has to return to the repair site due to lack of parts, the Contractor will not be entitled to the minimum hourly charge for the subsequent visit. The subsequent visit will be billed based on the time spent on repair, at the quarterly hourly rate, plus the appropriate parts fee.
8. If a service call is requested for the specific purpose of inspecting equipment and making a cost estimate to repair equipment, the time required visiting end inspecting (excluding travel) is chargeable.
9. Service shall be on a per-call basis as needed and will be charged at an hourly rate with increments of quarter hour (fifteen (15) minutes) after the first hour.
10. Per-call shall mean a service visit to the office requesting the repair. It the service technician can repair more than one piece of equipment per service call at the same location, the Contractor is not entitled to one hour minimum labor charge for each machine repaired but is only entitled to bill for a total time for repair of all machines during the visit. Per-call does not mean a telephone call to the Contractor for service.
11. The Contractor shall provide a Service Call Receipt signed by the person having custody of the equipment upon completion of each service call. The Service Call Receipt must contain at a minimum the following: Authorized User name; Date & Time of arrival; Location; Description of service performed and parts replaced; Hours billed; Name of service provider. If a custodian is not available to sign the call receipt then the Repair Coordinator will be contacted tor a signature during the visit.
12. The length of time allowed for service charge will be measured from the time the service technician reports to the Repair Coordinator (or the custodian of the first machine to be repaired, as directed by the Repair Coordinator) until completion of the last equipment repaired during the service call. The Contractor will not be allowed to charge for time spent during lunch or break periods.
13. No equipment that stores data can be taken off-site. In the event a hard drive, or any other type of storage device be replaced, the replaced drive/device must be retained by, the agency so that COV's Surplus Property and Security guidelines can be followed for proper data destruction and equipment disposal.

14. All repairs will be made on-site whenever possible. In the event major repairs require removal of equipment to the Contractor's place of business, or it is estimated that total repair cost will exceed $250.00, the Contractor must provide a written estimate of the cost of repair and time required for the repair to the Repair Coordinator and receive written authorization to proceed with repair. In either case, repairs made without written authorization will not be processed for payment In the event repairs exceed seven (7) calendar days, and at the agency's request, the Contractor must provide a similar and compatible piece of equipment until the repaired equipment is returned. COV Security guidelines must be followed by the Contractor.

15. Prior authorization by the Repair Coordinator must be obtained by the service technician it any piece of equipment will require longer than two (2) hours of repair time. Immediately upon discovery of a condition, by the service technician, indicating a piece of equipment may require longer than two (2) hours for repair the service technician must contact the Repair Coordinator for repair authorization and note the authorization on the Service Call Receipt. Invoices for repairs exceeding two (2) hours on a single piece of equipment, without prior authorization, may not be processed tor payment.

16. All replacement parts for a specific device must be that of the original manufacturer, new or reconditioned like new, or a fully compatible unit from another manufacturer. A fully compatible repair part is defined as any component that meets or exceeds the original manufacture's specifications for that item. Parts repaired and certified by the Contactor may be utilized, however, only a fair market value may be charged for such parts.

17. A description of how the supplier determined a fair market value for a part may be required by an Authorized User. All parts must be warranted against defect for a period of 90 days from the date of repair or standard warranty period of the OEM manufacturer whichever is longer.

18. Any repeated service required within this warranty period because of a defective replacement part shall be performed at no charge to the agency or institution.

19. Cost of parts to complete a repair will be the actual price paid by the Contractor for the repair part. Each invoice submitted to the state for payment shall contain a copy of the Contractors parts documentation consisting of a paid invoice or account statement for parts. The documentation provided will contain the part-Supplier's name, address, date of invoice, part number and the line item amount paid by the Contractor for the part. A parts handling fee, to offset administrative cost underwriting by the supplier, to order, track and deliver a part is reimbursable subject to the following schedule:

    - **Part costs up to $100.00 dollars are authorized a handling fee of $10.00**
    - **Part costs from $101.00 to $200.00 dollars are authorized a handling fee of $20.00**
    - **Part costs from $201.00 dollars and greater are authorized a handling fee of $25.00**

20. If the cost of repair parts is expected to exceed $200.00, the Repair Coordinator must authorize this expenditure prior to the repair. The authorization must be noted on the Service Call Receipt.

21. Payment for repair shall be made monthly in arrears. The Contractor shall provide an invoice to each agency or institution that reflects the total cost for each piece of equipment repaired during the preceding month. Invoices shall contain the VITA contract number, the type, the model and serial number of each piece of equipment repaired. The invoice for repaired items will be the sum of: the hourly labor cost and the cost of repair parts plus handling fees.

22. The Contractor shall certify that technicians repairing this equipment have the necessary training and experience to perform the services identified in this solicitation. At minimum certification requires Supplier's service technician to have earned CompTiA A+ certification, or OEM manufacturer certification (or successful completion of formal repair course) to be considered qualified to provide maintenance service.

23. For Statewide award, the Contractor must have a minimum of five (5) technicians who are trained and certified to perform repair on the equipment shown on the A-Plus Technician and Brand List tab. For individual Zone Awards the Contractor must have a minimum of two (2) technicians who are trained and certified to perform repair on the equipment shown on the A-Plus Technician and Brand List tab. Service personnel certification(s) must be placed on the same tab.

24. The bidder must complete the A-Plus Technician and Brand List tab for the equipment your firm is Certified, Authorized, OEM trained or has experience in servicing, by equipment category and manufacturer.

25. Contractual Terms and Conditions are attached. VITA will not sign or execute any additional contacts, license or other agreements containing contractual terms and conditions as a result of this procurement. Any document signed by persons other than the Contacts Manager, VITA or his assign, shall have no validity and the attached Terms and Conditions shall supersede all such agreements. Bidders should read and understand all of the terms and conditions prior to submission of a bid.

26. Pricing and other requested data is to be entered into the tabs in the MS Excel spreadsheet file provided, entitled "IFB 2010-24.xlsx.

Resulting from IFB 2010-24

CONTRACTUAL TERMS AND CONDITIONS
HARDWARE AND MAINTENANCE CONTRACT
TABLE OF CONTENTS

1. PURPOSE AND SCOPE 3
2. DEFINITIONS 3
A. Acceptance 3
B. Agent 3
C. Authorized Users 3
D. Confidential Information 3
E. Maintenance Period 3
F. Operating Condition 3
G. Party 3
H. Principal Period of Maintenance (PPM) 3
I. Product 3
J. Receipt (of Product) 3
K. Requirements 4
L. Service 4
M. Software Publisher 4
N. Supplier 4
O. Software 4
P. Warranty Period 4
3. TERM AND TERMINATION 4
A. Contract Term 4
B. Termination for Convenience 4
C. Termination for Breach or Default 4
D. Termination for Non-Appropriation of Funds 5
E. Effect of Termination 5
F. Transition of Services 5
G. Contract Kick-Off Meeting 5
H. Contract Closeout 5
4. PURCHASE, DELIVERY, INSTALLATION AND ACCEPTANCE 5
A. Orders 5
B. Purchase Price and Price Protection 6
C. Purchase Payment Terms 6
D. Invoice Procedure 7
E. Supplier's Report of Sales and Industrial Funding Adjustment 7
F. Small Business Participation 7
5. GENERAL WARRANTY 7
A. Supplier 7
B. Ownership 8
C. Supplier's Viability 8
D. Supplier's Past Experience 8
6. CONFIDENTIALITY 8
A. Treatment and Protection 8
B. Exclusions 8
C. Return or Destruction 8
7. INDEMNIFICATION AND LIABILITY 8
D. Indemnification 8
E. Liability 9
8. SECURITY COMPLIANCE 9
9. BANKRUPTCY 10
10. GENERAL PROVISIONS 10
A. Relationship Between VITA, Authorized Users, and Supplier 10
B. Licensing Within the Commonwealth 10

C. Licenses and Permits **10**
D. Incorporated Contractual Provisions **11**
E. Compliance with the Federal Lobbying Act **11**
F. Governing Law **11**
G. Dispute Resolution **11**
H. Advertising and Use of Proprietary Marks **12**
I. Notices **12**
J. No Waiver **12**
K. Assignment **12**
L. Captions **12**
M. Severability **12**
N. Survival **12**
O. Force Majeure **12**
P. Remedies **12**
Q. Right to Audit **12**
R. Taxes—Federal, State, and Local **12**
S. Travel **13**
T. Contract Administration and Account Management **13**
U. Entire Contract **13**

CONTRACTUAL TERMS AND CONDITIONS
HARDWARE AND MAINTENANCE CONTRACT

THIS HARDWARE AND MAINTENANCE 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 Supplier to be effective as of the date in set forth on the signature page of this Contract ("Effective Date" or "Award Date").

1. PURPOSE AND SCOPE

This Contract sets forth the terms and conditions under which Supplier agrees to sell the Product identified in the Pricing Exhibit and referenced on the signature page of this Contract, and to provide various Services to the Authorized Users.

2. DEFINITIONS

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

B. Agent
Any third party independent agent of any Authorized User.

C. Authorized Users
All Public Bodies, including VITA and all Commonwealth agencies, 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 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. Maintenance Period
One (1) year after the expiration of the Warranty Period or Authorized User's purchase or renewal of maintenance services.

F. Operating Condition
That condition which allows the Product to function in a normal, acceptable working manner, as designed by the Original Equipment Manufacturer (OEM).

G. Party
Supplier, VITA, or any Authorized User.

H. Principal Period of Maintenance (PPM)
Days and times during which Supplier shall answer or respond to Authorized User's calls or emails for warranty or maintenance services.

I. Product
Hardware, peripherals, and any other equipment, including all provided Software, all upgrades, all applicable user documentation and related accessories, as set forth in the Pricing Exhibit and referenced on the signature page of this Contract, provided by Supplier pursuant to this Contract.

J. Receipt (of Product)
An Authorized User or its Agent has physically received, by means of inside delivery, the Product at the correct "ship-to" location, as verified by signature of the Authorized User or Agent on a document provided by the Supplier's shipping agent or organization.

K. Requirements
The functional, performance, operational, compatibility, Acceptance testing criteria and other parameters and characteristics of the Product described in the applicable Original Equipment Manufacturer's (OEM) documentation, an Authorized User's order, and such other parameters, characteristics, or performance standards for the Product that may be agreed upon in writing by VITA and Supplier or the Parties to an order issued hereunder.

L. Service
Any Product-related service provided by Supplier under this Contract, including certain maintenance and/or support services for the Product.

M. Software Publisher
The licensor of the Software provided by Supplier under this Contract. Software Publisher may be the Supplier under this Contract.

N. 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).

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

P. Warranty Period
The greater of the manufacturer's Standard Warranty, or as specified in the Requirements Exhibit. Warranty Period shall commence upon Acceptance.

3. TERM AND TERMINATION

A. Contract Term
This Contract is effective and legally binding as of the Effective Date and, unless terminated as provided for in this section, shall continue to be effective and legally binding for a period of three (3) years. VITA, in its sole discretion, may extend this Contract for up to three (3) additional one (1) year periods after the expiration of the initial three (3) year period. VITA will issue a written notification to the Supplier stating the extension period, not less than thirty (30) days prior to the expiration of any current term. 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. Warranty or maintenance on any Product ordered during the term of the Contract may extend beyond the term of this Contract. Expiration of the term of this Contract or any order shall not affect any perpetual license granted pursuant to this Contract, provided all fees for such license have been paid.

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 Nonprocurement Programs, VITA may immediately terminate this Contract, in whole or in part, for breach. VITA shall provide written notice to Supplier of such termination and Supplier shall provide 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 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 or a termination due to Supplier's status as a party excluded from Federal Procurement and Nonprocurement Programs, Supplier shall provide such assistance at no charge or fee to VITA or any Authorized User; otherwise, Supplier shall provide such assistance at a reasonable hourly rate or a charge agreed upon by Supplier and VITA or an Authorized User.

G. Contract Kick-Off Meeting

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

H. Contract Closeout

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

4. PURCHASE, DELIVERY, INSTALLATION AND ACCEPTANCE

A. 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 (http://www.eva.state.va.us). eVA is the Commonwealth of Virginia's e-procurement system. Commonwealth 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 and canceling 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 Nonprocurement Programs.

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

B. Purchase Price and Price Protection

The Pricing Exhibit sets forth the fees and the applicable discounts. Neither VITA nor any Authorized User will pay any additional costs above those costs provided for in the Pricing Exhibit. Supplier may submit to VITA a request for an increase in such fees or a decrease in such discounts. Such request must be accompanied by written documentation to VITA demonstrating the additional value reflected by such increase in fee or decrease in discount. VITA may, in its sole discretion, agree to a modification of this Contract to effectuate such increase in fees or decrease in discounts.

Any price decrease effectuated during the Contract term, or any extension thereto, by reason of market change shall be passed on to VITA and all Authorized Users. This decrease will be effective on the date the price decrease is announced to the general public.

Authorized charges do not include operational supplies (e.g. paper, tape) unless such supplies are specifically identified in the Pricing Exhibit. All supplies used by the Authorized User shall conform to the Supplier's published specifications provided to such Authorized User at time of Product installation. The Authorized User reserves the right to acquire such supplies from any vendor of its choice.

C. Purchase Payment Terms

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 this Contract, in whole or in part, or any order, in whole or in part, or an Authorized User may terminate an 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. Termination for lack of appropriations shall not affect any perpetual license granted pursuant to this Contract, provided all fees for such license have been paid.

Supplier is responsible for the accuracy of its billing information. Supplier agrees not to issue invoices hereunder until Product has been delivered. 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.

In the event Product is delivered without the applicable Documentation, payment shall not be due until the required Documentation is provided or otherwise made available to the Authorized User.

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 30 days after Acceptance.

D. 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 Product Maintenance Services shall be monthly 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 the Pricing Exhibit. Without limiting the foregoing, all shipping costs are the Supplier's responsibility except to the extent such charges are identified in the Pricing Exhibit, or as noted in the executed order. Invoices issued by the Supplier shall identify at a minimum:

i). Product or Service type and description

ii). Product serial number, if any

iii). Quantity, charge and extended pricing for each Product and/or Service item

iv). This Contract number and the applicable order number

v). Supplier's Federal Employer Identification Number (FEIN).

No invoice will be paid without adequate billing details. If available, charges should be provided on electronic media at the detail level.

Any credits due any Authorized User under the terms of this Contract may be applied against Supplier's invoices with appropriate information attached.

The Parties agree that 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. 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.

F. 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.

5. GENERAL WARRANTY

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

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, to the best of its knowledge, the right to grant to the Commonwealth or any Authorized User title to or the right to use the Product provided hereunder. Upon receipt of payment, the Commonwealth or the ordering Authorized User, as applicable, shall obtain good and clear title to the Product, excluding the Software, free and clear of all liens, claims, security interests and encumbrances. In addition, Supplier has the right to provide the Services offered hereunder.

C. 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.

D. Supplier's Past Experience

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

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.

6. 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, VITA or any Authorized User, may disclose the Confidential Information as delivered by Supplier to subcontractors, contractors or agents of VITA or such Authorized User that are bound by non-disclosure contracts with VITA or 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 other 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.

7. INDEMNIFICATION AND LIABILITY

D. 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.

E. Liability

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's liability shall be limited to twice the aggregate value of the Products and Services provided under this Contract. 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.

FOR ALL OTHER CONTRACTUAL CLAIMS, 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.

8. 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 or Personal information by the Supplier or an employee or agent of Supplier shall constitute a breach of its obligations under this Section and the Contract.

Supplier shall immediately notify VITA and Authorized User, if applicable, of any Breach of Unencrypted and Unredacted Personal Information, as those terms are defined in Virginia Code 18.2-186.6, and other personal identifying information, such as insurance data or date of birth, provided by VITA or Authorized User to Supplier. Supplier shall provide VITA the opportunity to participate in the investigation of the Breach and to exercise control over reporting the unauthorized disclosure, to the extent permitted by law.

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.

9. BANKRUPTCY

If Supplier becomes insolvent, takes any step leading to its cessation as a going concern, fails to pay its debts as they become due, or ceases business operations continuously for longer than fifteen (15) business days, then VITA may immediately terminate this Contract, 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 this Contract and provides adequate assurance of performance thereof or rejects this Contract pursuant to Section 365 of the Bankruptcy Code or any similar or successor provision, it being agreed by VITA and Supplier that this is an executory contract. Any such suspension of further performance by VITA pending Supplier's assumption or rejection shall not be a breach of this Contract, and shall not affect the rights of VITA or any Authorized User right to pursue or enforce any of its rights under this Contract or otherwise.

10. GENERAL PROVISIONS

A. Relationship Between VITA, Authorized Users, 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 an Authorized User, shall be reimbursed by Supplier upon demand by VITA or such Authorized User.

B. Licensing Within the Commonwealth

For any license provided pursuant to this Contract, whether to Software or any other software, the following shall apply. 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.

C. Licenses and Permits

Supplier shall be responsible for obtaining all rights-of-way, licenses, and/or permits required by applicable authorities in order to perform installation Services at the location(s) specified on any order issued pursuant to this Contract.

D. Incorporated Contractual Provisions

The Core Contractual Terms found at the following URL are mandatory contractual provisions, required by law or by VITA, that are hereby incorporated by reference:
http://www.vita.virginia.gov/uploadedFiles/SCM/StatutorilyMandatedTsandCs.pdf

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

The then-current contractual provisions at the following URL are required contractual provisions, required by law or by VITA, that apply to all orders placed under this Contract that are partially or wholly funded by the American Recovery and Reinvestment Act of 2009 (ARRA) and are hereby incorporated by reference:
http://www.vita.virginia.gov/uploadedFiles/SCM/ARRA_Ts_and_Cs.pdf

The terms and conditions in the document 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.

E. Compliance with the Federal Lobbying Act

Supplier shall not, in connection with this Contract, engage in any activity prohibited by 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"), and shall promptly perform all obligations mandated by the Lobbying Act in connection with this Contract, including, without limitation, obtaining and delivering to the Commonwealth all necessary certifications and disclosures.

Supplier is hereby advised that a significant percentage of the funds used to pay Supplier's invoices under this Contract may be federal funds. Under no circumstances shall any provision of this Contract be construed as requiring or requesting the Supplier to influence or attempt to influence any person identified in 31 USC 1352(a)(1) in any matter.

Supplier's signed certification of compliance with the foregoing is incorporated as hereto.

F. 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.

G. 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.

H. 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.

I. 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 cover page of this Contract. VITA or Supplier may change its address for notice purposes by giving the other Party notice of such change in accordance with this Section.

J. No Waiver

Any failure to enforce any terms of this Contract, including termination for breach, shall not constitute a waiver.

K. 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.

L. Captions

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

M. 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.

N. Survival

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

O. 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.

P. Remedies

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

Q. 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.

R. Taxes—Federal, State, and Local

The Commonwealth of Virginia is exempt from Federal excise and all State and Local taxes. Such taxes shall not be included in Contract prices. Tax certificates of exemption, Form ST-12 can be obtained online at http://www.tax.state.va.us/. Deliveries against this Contract shall be free of Federal excise and transportation

taxes. The Commonwealth's excise tax exemption registration number is 54-73-0076K. The Commonwealth is also exempt from paying E-911 charges.

S. Travel

Any travel expenses incurred by Supplier pursuant to this Contract shall 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 at: www.doa.va.gov, or a successor URL(s)).

T. Contract Administration and Account Management

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

The Account Manager's responsibilities should include (i) resolution of technical support questions and issues which have not been resolved by Supplier's technical support division; (ii) preparation of account information and response to and resolution of inquiries regarding billing and payment; and (iii) investigation and resolution of customer service issues and complaints.

U. Entire Contract

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

i). Exhibit A Pricing Exhibit/Schedule
ii). Exhibit B Requirements
iii). Exhibit C reserved
iv). Exhibit D List of state holidays
v). Exhibit E Zone Chart
vi). Exhibit F Brand List
vii). Exhibit G Certification Regarding Lobbying

This Contract, all 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, referenced by or provided with the Supplier's bid shall be deemed invalid. The provisions of the Virginia Department of General Services, Division of Purchases and Supply Vendor's Manual do not apply to this Contract. 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, Requirements Exhibit, the Pricing Exhibit, then any specific order. 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.

Commonwealth of Virginia
2010 Pay and Holiday Calendar

January

S	M	T	W	T	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

February

S	M	T	W	T	F	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28						

March

S	M	T	W	T	F	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

April

S	M	T	W	T	F	S
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	

May

S	M	T	W	T	F	S
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

June

S	M	T	W	T	F	S
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30			

July

S	M	T	W	T	F	S
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

August

S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

September

S	M	T	W	T	F	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30		

October

S	M	T	W	T	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

November

S	M	T	W	T	F	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30				

December

S	M	T	W	T	F	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

January 1 - New Year's Day
January 15 - Lee-Jackson Day
January 18 - Martin Luther King, Jr. Day
February 15 - George Washington Day
May 31 - Memorial Day
July 5 - Independence Day
September 6 - Labor Day
October 11 - Columbus Day
November 11 - Veterans Day
November 24 - Close At Noon
November 25 - Thanksgiving
November 26 - Day After Thanksgiving
December 24 - Christmas (Observed)
December 31 - New Year's Day (observed)

Please note: In some agencies, the holiday and payday schedule may vary from what is shown here. If you have questions, see your agency human resources officer.

Denotes Payday

Denotes Holiday

Denotes Additional Time Off

Published by the Virginia Department of Human Resource Management. An equal opportunity employer.
© 2009 Commonwealth of Virginia

dhrm
Virginia Department of
HUMAN RESOURCE
MANAGEMENT

EXHIBIT G: 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: _____

Printed Name: ANSAR MALIK

Organization: DOMINIONTEK INC.

Date: 7-10-10

Small Business Subcontracting Plan

All small businesses must be certified by the Commonwealth of Virginia, Department of Minority Business Enterprise (DMBE) by the contract award date to participate in the SWAM program. Certification applications are available through DMBE online at www.dmbe.virginia.gov.

Offeror Name: DOMINIONTEK INC

Preparer Name: ANSAR MALIK **Date:** 7-10-2010

Instructions:

A. If you are certified by the Department of Minority Business Enterprise (DMBE) as a small business, complete only Section A of this form. This shall not exclude DMBE-certified women, minority or service-disabled veterans-owned businesses when they have received DMBE small business certification.

B. If you are not a DMBE-certified small business, complete Section B of this form.

Section A

If your firm is certified by the Department of Minority Business Enterprise (DMBE), are you certified as a (**check only one below**):

- _____ Small Business
- _____ Small and Women-owned Business
- ✓ Small and Minority-owned Business
- _____ Small Service Disabled Veteran-owned Business

Certification Number: 005560

Certification Date: 05-26-2010

Section B

Populate the table below to show your firm's plans for utilization of DMBE-certified small businesses in the performance of this contract. This shall not exclude DMBE-certified women, minority or service disabled veteran-owned businesses when they have received the DMBE small business certification. Include plans to utilize small businesses as part of joint ventures, partnerships, subcontractors, suppliers, etc.