



Commonwealth of Virginia  
Virginia Information Technologies Agency

**DESKTOP PRODUCTIVITY SOFTWARE**

**Optional Use Contract**

Date: March 7, 2016

Contract #: VA-140401-SHI

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

Contractor: SHI International Corp  
290 Davidson Ave  
Somerset, NJ 08873

FIN: 22-3009648

Contact Person: Erik Schroeder, Sr Acct Exec  
Voice: 804-379-8157  
Fax: 732-652-0810  
Email: [erik\\_schroeder@shi.com](mailto:erik_schroeder@shi.com)

Pricing: See Exhibit B

FOB: Destination

Term: April 1, 2016 – March 31, 2017

Payment: Net 30 days

For Additional Information, Please Contact:

Contract Information:

Supply Chain Management  
Virginia Information Technologies Agency

Jimmy Mackenzie  
Phone: 804-416-6247  
Email: [james.mackenzie@vita.virginia.gov](mailto:james.mackenzie@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.





## COMMONWEALTH of VIRGINIA

### Virginia Information Technologies Agency

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

TDD VOICE -TEL. NO.  
711

Nelson P. Moe  
Chief Information Officer  
Email: [cio@vita.virginia.gov](mailto:cio@vita.virginia.gov)

March 07, 2016

Erik Schroeder  
SHI International Corporation  
290 Davidson Avenue  
Somerset New Jersey 08873

Mr. Schroeder,

Per Section 3.A. ("Term and Termination") of contract VA-140401-SHI, The Virginia Information Technologies Agency has elected to exercise its option to renew the contract for one year, from April 1, 2016 through March 31, 2017. 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 NO. 2  
TO  
CONTRACT NUMBER VA-140401-SHI  
BETWEEN THE  
COMMONWEALTH OF VIRGINIA  
AND  
SHI INTERNATIONAL CORP**

This MODIFICATION No. 2 is hereby incorporated into and made an integral part of Contract VA-140401-SHI

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

1. Remove Subsection G of "FEES, ORDERING AND PAYMENT PROCEDURE" in Section 11 on Contract Page 15.
2. Add to "FEES, ORDERING AND PAYMENT PROCEDURE" in Section 11 on Contract Page 15.

**"G. Alternate Channel Participation (Resellers/Distributors)**

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

"i.) Designation of Reseller(s): "Supplier (Prime) shall provide to the VITA Contract Manager the names and applicable contact information of the proposed Resellers in order for that third party to be recognized as an alternate distribution source for the Supplier."

"ii.) Conditions of Participation: "Reseller(s) must be approved in advance by VITA as a condition of eligibility under this section. VITA may require certification from Supplier (Prime) that the third party is an authorized reseller acting on behalf of Supplier."

"iii.) Responsibility for Reporting/Performance: Supplier (Prime) shall be fully liable for Reseller(s)' performance and compliance with all Contract terms and conditions. Supplier (Prime) agrees that Reseller shall be governed by the terms and conditions of this Contract." If the Reseller is a Virginia certified SWaM Supplier their sales must be reported as SWaM Sales on the VITA subcontractor report.

"iv.) Payment Responsibility: "All orders will be placed with the Supplier (Prime), and all payments will be made to the Supplier (Prime)."

The foregoing is the complete and final expression of the parties' agreement to modify Contract VA-140401-SHI by this Modification No. 2.

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.

SHI International Corp.



BY: \_\_\_\_\_

NAME: Cassie Skelton

TITLE: Contract Specialist

DATE: 8/28/14

COMMONWEALTH OF VIRGINIA

BY: Day Crenshaw

NAME: Day Crenshaw

TITLE: Int'l Security Mgr

DATE: 8/28/14

**MODIFICATION NO. 1  
TO  
CONTRACT NUMBER VA-140401-SHI  
BETWEEN THE  
COMMONWEALTH OF VIRGINIA  
AND  
SHI INTERNATIONAL CORPORATION**

This MODIFICATION No. 1 is hereby incorporated into and made an integral part of Contract VA-140401-SHI.

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

1. Add to the definition of "Authorized Users" in Section 2 Subsection C on Contract Page 4.  
*"Authorized Users include private institutions of higher education chartered in Virginia and granted tax-exempt status under §501(c)(3) of the Internal Revenue Code. A list of the private institutions eligible to use this contract can be found at <http://www.cicv.org/our-Colleges/Profiles.aspx>*
2. Add to the definition of "Software License" in Section 4 on Contract Page 8.  
*"If Authorized User is a private institution, the license shall be held by that private institution."*
- 3.
4. Add to the definition of "Acceptance" in Section 6 Subsection A on Contract Pages 9-10.  
*"If the Authorized User is a private institution chartered in Virginia and granted tax-exempt status under §501(c)(3) of the Internal Revenue Code, such private institution may have its own per diem amounts applicable to Supplier's pre-approved travel expenses."*
5. Add to the definition of "Indemnification" in Section 14 Subsection A on Contract Pages 17-18.  
*"In the event of a settlement between Supplier and private institution of higher education who is an Authorized User of this contract, the settlement shall be satisfactory to such institution."*
6. Add to the definition of "Dispute Resolution" in Section 18 Subsection E on Contract Pages 20-21.  
*"In the event of any breach by a public body or a private institution, Supplier's remedies shall be limited to claims for damages and Prompt Payment Act interest and, if available and warranted, equitable relief, all such claims to be processed pursuant to this Section. In no event shall Supplier's remedies include to the right to terminate any license or support services hereunder."*

The foregoing is the complete and final expression of the parties' agreement to modify Contract VA-140401-SHI by this Modification No. 1.

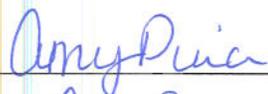
**ALL OTHER TERMS AND CONDITIONS REMAIN UNCHANGED.**

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

SHI International Corp.

BY:   
NAME: Cassie Skelton  
TITLE: Contract Specialist  
DATE: 8/6/14

COMMONWEALTH OF VIRGINIA

BY:   
NAME: Amy Pierce  
TITLE: Strategic Sourcing SP  
DATE: 8/6/14



# **Software License Contract**

between

The Virginia Information Technologies Agency

on behalf of

The Commonwealth of Virginia

and

SHI International Corp

## SOFTWARE LICENSE CONTRACT TABLE OF CONTENTS

1. PURPOSE AND SCOPE	4
2. DEFINITIONS	4
A. Acceptance	4
B. Agent	4
C. Authorized Users	4
D. Computer Virus	4
E. Confidential Information	4
F. Documentation	4
G. Electronic Self-Help	5
H. Maintenance Level	5
I. Maintenance Period	5
J. Maintenance Services (or Maintenance)	5
K. Party	5
L. Requirements	5
M. Services	5
N. Software	5
O. Software Publisher	5
P. Supplier	5
3. TERM AND TERMINATION	6
A. Contract Term	6
B. Termination for Convenience	6
C. Termination for Breach or Default	6
D. Termination for Non-Appropriation of Funds	7
E. Effect of Termination	7
F. Transition of Services	7
G. Contract Kick-Off Meeting	7
H. Contract Closeout	7
4. SOFTWARE LICENSE	8
A. License Type	8
B. No Subsequent, Unilateral Modification of Terms by Supplier (“Shrink Wrap”)	9
5. DELIVERY AND INSTALLATION	9
Scheduling	9
6. ACCEPTANCE AND CURE PERIOD	9
A. Acceptance	9
B. Cure Period	10
7. WARRANTY SERVICES	10
8. MAINTENANCE SERVICES	11
A. Ordering	11
B. Renewal	11
C. Software Evolution	11
D. Escalation Path for Customer Service Issues	12
E. Remedies	12
9. GENERAL WARRANTY	12
A. Ownership	12
B. Software and Documentation	12
C. Open Source	12
D. Supplier’s Viability	12
E. Supplier’s Past Experience	13

---

<b>10. TRAINING AND DOCUMENTATION</b>	<b>13</b>
<b>11. FEES, ORDERING AND PAYMENT PROCEDURE</b>	<b>13</b>
A. Fees and Charges	13
B. Reproduction Rights	13
C. Evaluation Copy of Software	14
D. Ordering	14
E. Invoice Procedures	14
F. Purchase Payment Terms	15
G. Alternate Channel Participation (Resellers/Distributors)	15
<b>12. REPORTING</b>	<b>16</b>
<b>13. CONFIDENTIALITY</b>	<b>16</b>
A. Treatment and Protection	16
B. Exclusions	16
C. Return or Destruction	17
<b>14. INDEMNIFICATION AND LIABILITY</b>	<b>17</b>
A. Indemnification	17
B. Liability	18
<b>15. INSURANCE</b>	<b>18</b>
<b>16. SECURITY COMPLIANCE</b>	<b>18</b>
<b>17. BANKRUPTCY</b>	<b>19</b>
<b>18. GENERAL PROVISIONS</b>	<b>19</b>
A. Relationship between VITA, Authorized User, and Supplier	19
B. Incorporated Contractual Provisions	19
C. Compliance with the Federal Lobbying Act	20
D. Governing Law	20
E. Dispute Resolution	20
F. Advertising and Use of Proprietary Marks	21
G. Notices	21
H. No Waiver	21
I. Assignment	21
J. Captions	21
K. Severability	22
L. Survival	22
M. Force Majeure	22
N. Remedies	22
O. Right to Audit	22
P. Contract Administration	22
Q. Entire Contract	23

## SOFTWARE LICENSE CONTRACT

THIS SOFTWARE LICENSE CONTRACT ("Contract") is entered into by and between the Virginia Information Technologies Agency (VITA) pursuant to §2.2-2012 of the Code of Virginia and on behalf of the Commonwealth of Virginia, (hereinafter referred to as "VITA") and Software House International Corp ("Supplier"), a corporation headquartered at 290 Davidson Ave, Somerset, NJ 08873 to be effective as of April 01, 2014 ("Effective Date").

### 1. PURPOSE AND SCOPE

VITA, on behalf of the Commonwealth, is seeking [a] solution that will provide DPS software, installation services, training services and manufacturer's software maintenance. This Contract sets forth the terms and conditions under which Supplier agrees to grant a license to use certain DPS software, and to provide various Services to the Authorized Users.

### 2. DEFINITIONS

#### A. Acceptance

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

#### B. Agent

Any third party independent agent of any Authorized User.

#### C. Authorized Users

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

#### D. Computer Virus

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

#### E. Confidential Information

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

#### F. Documentation

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

**G. Electronic Self-Help**

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

**H. Maintenance Level**

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

**I. Maintenance Period**

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

**J. Maintenance Services (or Maintenance)**

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

**K. Party**

Supplier, VITA, or any Authorized User.

**L. Requirements**

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

**M. Services**

Supplier's reseller services, i.e. sourcing and fulfilling Software as ordered under this Contract.

**N. Software**

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

**O. Software Publisher**

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

**P. Supplier**

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

### 3. TERM AND TERMINATION

#### **A. Contract Term**

This Contract is effective and legally binding as of the Effective Date and, unless terminated as provided for in this section, shall continue to be effective and legally binding for a period of 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. Warranty on or Maintenance Services for any Software ordered during the term of the Contract may extend beyond the term of this Contract. Performance of an order or SOW issued during the term of this Contract may survive the expiration of the term of this Contract, in which case all terms and conditions required for the operation of such order or SOW shall remain in full force and effect until Services pursuant to such order or SOW have met the final Acceptance criteria of the applicable Authorized User.

#### **B. Termination for Convenience**

VITA may terminate this Contract, in whole or in part, or any order issued hereunder, in whole or in part, or an Authorized User may terminate an order, in whole or in part, upon not less than thirty (30) days prior written notice at any time for any reason. The Parties agree that termination of this Contract does not terminate any Maintenance Services.

#### **C. Termination for Breach or Default**

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

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

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

Any such termination shall be deemed a Termination for Breach or a Termination for Default. In addition, if Supplier is found by a court of competent jurisdiction to be in violation of or to have violated 31 USC 1352, or if Supplier becomes a party excluded from Federal Procurement and Nonprocurement Programs, VITA may immediately terminate this Contract, in whole or in part, for breach. VITA shall provide written notice to Supplier of such termination, and Supplier shall provide prompt written notice to VITA if Supplier is charged with violation of 31 USC 1352 or if federal debarment proceedings are instituted against Supplier. The Parties agree that termination under this clause does not terminate the Maintenance Services.

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

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

**F. Transition of Services**

Prior to or upon expiration or termination of this Contract and at the request of VITA, Supplier shall provide all assistance as VITA or an Authorized User may reasonably require to transition Services to any other supplier with whom VITA or such Authorized User contracts for provision of services. This obligation may extend beyond expiration or termination of the Contract for a period not to exceed six (6) months. In the event of a termination for breach and/or default of Supplier, Supplier shall provide such assistance at no charge or fee to VITA or any Authorized User; otherwise, Supplier shall provide such assistance at a reasonable hourly rate or a charge agreed upon by Supplier and VITA or an Authorized User.

**G. Contract Kick-Off Meeting**

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

**H. Contract Closeout**

Prior to the contract's expiration date, Supplier may be provided contract close out documentation and shall complete, sign and return to VITA Supply Chain Management within 30 days of receipt. This documentation may include, but not be limited to: Patent/Royalty Certificate, Tangible Property/Asset Certificate, Escrow Certificate, SWaM Reports Completion Certificate, Sales Reports/IFA Payments Completion Certificate, and Final Payment Certificate. Supplier is required to process these as requested to ensure

completion of close-out administration and to maintain a positive performance reputation with the Commonwealth of Virginia. Any closeout documentation not received within 30 days of Supplier's receipt of our request will be documented in the contract file as Supplier non-compliance. Supplier's non-compliance may affect any pending payments due the Supplier, including final payment, until the documentation is returned.

#### **4. SOFTWARE LICENSE**

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

##### License Grant

Software resold under this Agreement, as well as related maintenance or support services, will be governed by the Software Publisher's standard license and support agreements, which Supplier shall forward to Authorized User at the time of delivery of the Software. Supplier is not a party to any such licenses between Authorized User and Software Publisher and will not be liable for any and all claims or obligations related to that Software Publisher's Software, licensing and/or services.

VITA agrees that Supplier is not a publisher or OEM of the Software. Authorized Users will make their own selection of the Software and licenses to be ordered hereunder based on their own evaluation of the character of such Software and use needs.

[Option 2—Software licensed by Software Publisher] Supplier shall provide Software which is licensed directly from the Software Publisher through the end user licensing agreement (EULA) attached hereto as Exhibit D. If the EULA provides for a "perpetual" license, it is expressly understood that "perpetual" license rights shall commence upon delivery of the Software and shall exist in perpetuity unless otherwise terminated in accordance with the applicable provisions of the Contract. [end Option 2]

Nothing contained herein shall be construed to restrict or limit an Authorized User's rights to use any technical data which such Authorized User may already possess or acquire under proper authorization from other sources.

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

##### **A. License Type**

All licenses granted, regardless of the type, include all uses set forth above. License type may vary by Software product and shall be set forth in Exhibit B and identified on any order issued pursuant to this Contract

##### Designated CPU License

The license(s) granted under this Section authorizes use of the Software only on the number of CPU(s) listed on Exhibit B. An Authorized User may transfer the Software to a different machine to the extent that the license price for such new CPU(s) is equivalent to the CPU(s) initially licensed. If the licensed CPU is inoperative because of (i) malfunction, (ii) performance of maintenance, or (iii) modification to the licensed CPU, or (iv) because

the Software is being transferred to another CPU, such Authorized User may use the Software on a replacement CPU as long as required by the mentioned conditions.

#### Concurrent Use license

The license(s) granted under this Section authorizes use of the Software on any system based on the total number of Concurrent Users. The number of "Concurrent Users" is defined as the maximum number of concurrent Sessions connected at a given point in time. A "Session" is defined as an active user executing the Software. The Authorized User shall specify an initial number of Concurrent User licenses in its initial order pursuant to this Contract. An Authorized User may increase the number of Concurrent User licenses upon issuing an order for additional Concurrent User licenses. The license fee for additional Concurrent User licenses and payment of the license fee is set forth on Exhibit B.

#### Site License

The license(s) granted under this Section authorizes use of the Software on any system located at the "Site" as such term is defined in the applicable order.

#### Project Specific License

The Project Specific License authorizes use of the Software on any CPU, on any system, and by any user, without limitation as to quantity or location.

#### Enterprise Wide License

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

#### **B. No Subsequent, Unilateral Modification of Terms by Supplier ("Shrink Wrap")**

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

## **5. DELIVERY AND INSTALLATION**

### **Scheduling**

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

## **6. ACCEPTANCE AND CURE PERIOD**

### **A. Acceptance**

Software shall be deemed accepted when the Authorized User determines that such Software successfully operates in accordance with the Requirements. Such Authorized User agrees to commence Acceptance testing within five (5) days after receipt of the Software, or within such other period as determined by the Software Publisher. Acceptance testing will be no longer than five(5) days, or such longer period as may be agreed in writing between Authorized User and Software Publisher, for the first instance of each product type set forth in Exhibit B. Supplier agrees to provide to such Authorized User such assistance and advice as such Authorized User may reasonably require, during such Acceptance

testing, other than travel expenses pre-approved by the Authorized User which will be reimbursable by such Authorized User at the then-current per diem amounts as published by the Virginia Department of Accounts <http://www.doa.virginia.gov>, or a successor URL(s)). Authorized User shall provide to Supplier written notice of Acceptance upon completion of successful Acceptance testing. Should Authorized User fail to provide Supplier written notice of successful or unsuccessful Acceptance testing within five (5) days following the Acceptance testing period, the Software shall be deemed Accepted.

#### **B. Cure Period**

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

### **7. WARRANTY SERVICES**

Supplier hereby represents and warrants that for the term of this Agreement:

Supplier shall perform the Services in a professional and workmanlike manner and in all material respects in conformance with the specifications, performance standards and criteria set forth in the Order, with the degree of skill and care that is required by customarily accepted good and sound professional practices and procedures of the industry.

Supplier will maintain all necessary local, state, and federal licenses and certifications that may be required in order to legally deliver the License and Deliverables described in the order(s). Supplier understands and acknowledges that Supplier is wholly responsible for ensuring compliance with all federal, state, and local laws associated with the delivery of all Services associated with this Agreement and associated order(s).

Supplier has all rights, approvals, and/or authorizations necessary to perform the Services hereunder, and provide the License and/or deliverables.

Supplier is authorized to execute this Agreement, is qualified to perform the Services, and has good title to the materials, supplies and equipment constituting the Services, free from all liens, encumbrances and claims of others.

#### **Remedy**

If a defect occurs or appears in the Software or Services provided hereunder, it shall be presumed that Supplier failed to meet such standards, and Supplier shall promptly and at its own expense, correct or re-perform any such Services which fail to meet such standards within a reasonable time frame acceptable to VITA at no additional cost.

## Warranty of License

Supplier is a value added reseller (“VAR”) of License, not the OEM or licensor, and therefore disclaims any warranty responsibility regarding License provided under this Agreement. Supplier shall forward the warranties to Authorized User which are provided to Supplier from the OEM of the License, and to the extent granted by the OEM, Authorized User shall be the beneficiary of the OEM’s warranties with respect to the License. Supplier is not a party to any such terms between Authorized User and OEM and Authorized User agrees to look solely to the OEM for satisfaction of any and all warranty claims related to that OEM’s License.

VITA has made and will make its own selection of the License to be ordered hereunder based on its own evaluation of the character of such License and its use needs.

EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THIS AGREEMENT AND/OR ANY ORDER ISSUED HEREUNDER, NO EXPRESS OR IMPLIED WARRANTY IS MADE WITH RESPECT TO THE SERVICES, LICENSE OR DELIVERABLES TO BE PROVIDED BY SUPPLIER HEREUNDER, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR PURPOSE.

## 8. MAINTENANCE SERVICES

Software Products resold under this Agreement will be governed by the maintenance agreement between Authorized User and the OEM or, if no such agreement exists, the OEM’s standard maintenance and support agreements, which Supplier shall forward to Authorized User at the time of delivery of the Products, when provided to Supplier by the manufacturer. Supplier is not a party to any such terms between Authorized User and manufacturer and Authorized User agrees to look solely to the OEM for satisfaction of any and support claims or obligations related to that OEM’s Product.

### A. Ordering

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

- Software product and number of units for which Maintenance Services shall be provided,
- Maintenance Level to be provided, and
- Maintenance Period for Software Maintenance.

### B. Renewal

Not less than sixty (60) days prior to the expiration of the Maintenance Period for each unit of Software, Supplier shall notify the Authorized User of such expiration, and the Authorized User, at its sole discretion, may issue an order to Supplier to renew Maintenance Services for an additional one (1) year period.

### C. Software Evolution

Should Supplier merge or splinter the 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 support fees in order to receive enhancements, releases, upgrade or support for the Software.

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

**D. Escalation Path for Customer Service Issues**

To be provided by Supplier

**E. 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.

**9. GENERAL WARRANTY**

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

**A. Ownership**

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

**B. Software and Documentation**

Supplier warrants the following with respect to the Software:

The Software is pursuant to a particular Request for Proposal (“RFP”), and therefore, such Software shall conform to the description in the purchase order as specified by VITA. The Software provided hereunder is at the current release level unless an Authorized User specifies an older version in its order. Malicious Code

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

**C. Open Source**

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

**D. Supplier’s Viability**

Supplier warrants that it has the financial capacity to perform and continue to perform its obligations under this Contract; that Supplier has no constructive or actual knowledge of a potential legal proceeding being brought against Supplier that could materially adversely

affect performance of this Contract and that entering into this Contract is not prohibited by any contract, or order by any court of competent jurisdiction.

#### **E. Supplier's Past Experience**

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

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

### **10. TRAINING AND DOCUMENTATION**

If requested, training services may be quoted for an additional price. Training services will be performed by the Software Publisher in accordance with their terms and conditions.

Supplier shall deliver to the Authorized User, one (1) complete hard copy or electronic media of Documentation, as requested by such Authorized User and if available from the Software Publisher. Authorized User shall have the right, as part of the license granted herein, to make as many additional copies of the Documentation, in whole or in part, for its own use as required. This Documentation may include, but not be limited to, overview descriptions of all major functions, detailed step-by-step installation and operating procedures for each screen and activity, and technical reference manuals.

### **11. FEES, ORDERING AND PAYMENT PROCEDURE**

#### **A. Fees and Charges**

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

#### **B. Reproduction Rights**

At an Authorized User's request and if available from the Software Publisher, Supplier shall provide the Authorized User with a reproducible diskette or CD.

**C. Evaluation Copy of Software**

If available from the Software Publisher at no additional cost, Supplier shall make available to any Authorized User Software for evaluation purposes at no charge. The evaluation period will be determined by the Software Publisher. Each new project is entitled to a request for an evaluation copy regardless of whether an Authorized User has previously purchased the Software.

**D. Ordering**

Notwithstanding all Authorized User's rights to purchase or license Supplier's products or services under this Contract, an Authorized User is under no obligation to purchase or license from Supplier any of Supplier's products or services. This Contract is optional use and non-exclusive and all Authorized Users may, at their sole discretion, purchase, license or otherwise receive benefits from third party suppliers of products and services similar to, or in competition with, the products and services provided by Supplier.

Supplier is required to accept any order placed by an Authorized User through the eVA electronic procurement website portal (<http://www.eva.virginia.gov>). eVA is the Commonwealth of Virginia's e-procurement system. State agencies, as defined in §2.2-2006 of the Code of Virginia, shall order through eVA. All other Authorized Users are encouraged to order through eVA, but may order through the following means:

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

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

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

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

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

**E. Invoice Procedures**

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

Software or Service type and description

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

Applicable order date

This Contract number and the applicable order number

Supplier's Federal Employer Identification Number (FEIN).

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

#### **F. Purchase Payment Terms**

Supplier is responsible for the accuracy of its billing information. Supplier agrees not to issue invoices hereunder until Software has been accepted. Charges for Software or Services accepted more than ninety (90) days prior to receipt of a valid invoice may not be paid. Should Supplier repeatedly over bill Authorized User, Authorized User may assess a one percent (1%) charge for the amount over billed for each month that such over billing continues.

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

If there are any disputed items, an Authorized User shall pay all undisputed charges and promptly notify Supplier 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.

#### **G. Alternate Channel Participation (Resellers/Distributors)**

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

- i). Supplier shall provide to VITA the names and applicable contact information of its authorized Resellers. VITA may, at its sole discretion, issue a solicitation in accordance with the Virginia Public Procurement Act (VPPA), §§ 2.2-4300 et seq. of the Code of Virginia, for the participation of such Resellers as alternate distribution sources for Supplier.
- ii). Once a Reseller is issued a contract in accordance with the VPPA, an Authorized User may issue an order directly to such Reseller, in accordance with the VPPA and/or other applicable statutes or regulations. Reseller shall ship and bill Authorized Users directly in accordance with the terms of its contract with VITA, on behalf of the Commonwealth of Virginia.
- iii). Orders placed with Resellers pursuant to a contract awarded in accordance with items (i) and (ii) above may contain only Software previously approved for license under this Contract.

- iv). Reseller may invoice and will be paid in accordance with the terms of its contract with VITA.
- v). Supplier agrees that all licenses for the Software acquired by Authorized User through a Reseller shall be governed by the terms and conditions of this Contract in lieu of VITA's execution of a sublicense agreement with Reseller, regardless of whether such Authorized User referenced this Contract in its order.
- vi). As to all Software acquired through Resellers, Supplier warrants and represents that all warranties and indemnities set forth in the Contract will be honored by Supplier as to such Software, regardless of whether the ordering Authorized User referenced this Contract in its order.

## 12. REPORTING

Supplier is required to submit to VITA the following monthly reports:

Report of Sales; and

Small Business Subcontracting Report

These reports must be submitted using the instructions found at the following URL:

<http://www.vita.virginia.gov/scm/default.aspx?id=97>

Failure to comply with all reporting requirements may result in default of the Contract.

Suppliers are encouraged to review the site periodically for updates on Supplier reporting.

## 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. Notwithstanding the foregoing, Supplier may be required to retain Confidential Information to comply with law and/or audit requirements.

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 losses, damages, claims, demands, proceedings, suits and actions, including any related liabilities, obligations, losses, damages, assessments, fines, penalties (whether criminal or civil), judgments, settlements, expenses (including attorneys' and accountants' fees and disbursements) and costs (each, a "Claim" and collectively, "Claims"), incurred by, borne by or asserted against any of Commonwealth's Indemnified Parties to the extent such Claims in any way relate to, arise out of or result from: (i) any intentional or willful conduct or negligence of any employee, agent, or subcontractor of Supplier, (ii) 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 (v) any actual or alleged infringement or misappropriation of any third party's intellectual property rights by any of the 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 the Commonwealth.

In the event that a Claim is commenced against any of Commonwealth's Indemnified Parties alleging 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, 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 any component thereof; or (b) replace or modify such infringing 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 services or reimburse VITA or any Authorized User for the reasonable costs incurred by VITA or such Authorized User in obtaining an alternative services in the event such Authorized User cannot use 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, and refund the price paid to Supplier for such Services.

### **B. Liability**

Supplier shall have unlimited liability with respect to (i) any intentional or willful misconduct or negligence of any employee, agent, or subcontractor of Supplier, (ii) 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.**

### **15. INSURANCE**

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

### **16. SECURITY COMPLIANCE**

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

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

#### **17. BANKRUPTCY**

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

#### **18. GENERAL PROVISIONS**

##### **A. Relationship between VITA, Authorized User, and Supplier**

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

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

**C. Compliance with the Federal Lobbying Act**

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

**D. Governing Law**

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

**E. Dispute Resolution**

In accordance with §2.2-4363 of the Code of Virginia, Contractual claims, whether for money or other relief, shall be submitted in writing to the public body from whom the relief is sought no later than sixty (60) days after final payment; however, written notice of the Supplier's intention to file such claim must be given to such public body at the time of the occurrence or beginning of the work upon which the claim is based. Pendency of claims shall not delay payment of amounts agreed due in the final payment. The relevant public body shall render a final decision in writing within thirty (30) days after its receipt of the Supplier's written claim.

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

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

In the event of any breach by a public body, Supplier's remedies shall be limited to claims for damages and Prompt Payment Act interest and, if available and warranted, equitable

relief, all such claims to be processed pursuant to this Section. In no event shall Supplier's remedies include the right to terminate any license or support services hereunder.

#### **F. Advertising and Use of Proprietary Marks**

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

#### **G. Notices**

Any notice required or permitted to be given under this Contract shall be in writing and shall be deemed to have been sufficiently given if delivered in person, or if deposited in the U.S. mails, postage prepaid, for mailing by registered, certified mail, or overnight courier service addressed to:

- i). To VITA and to Supplier, if Supplier is incorporated in the Commonwealth of Virginia, to the addresses shown on the signature page.
- ii). To Supplier, if Supplier is incorporated outside the Commonwealth of Virginia, to the Registered Agent registered with the Virginia State Corporation Commission.

Pursuant to Title 13.1 of the Code of Virginia, VITA or Supplier may change its address for notice purposes by giving the other notice of such change in accordance with this Section.

Administrative contract renewals, modifications or non-claim related notices are excluded from the above requirement. Such written and/or executed contract administration actions may be processed by the assigned VITA and Supplier points of contact for this Contract and may be given in person, via U.S. mail, courier service or electronically.

#### **H. No Waiver**

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

#### **I. Assignment**

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

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

#### **J. Captions**

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

**K. Severability**

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

**L. Survival**

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

**M. Force Majeure**

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

**N. Remedies**

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

**O. Right to Audit**

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

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

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

Excludes access to Supplier cost information.

In no event shall Supplier have the right to audit, or require to have audited, VITA or any Authorized User. Audits will be limited to once per calendar year.

**P. 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.

**Q. Entire Contract**

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

- a). Exhibit A            Software Functional Requirements
- b). Exhibit B            Software Product List, License Fee and Service Charges
- c). Exhibit C            Software Maintenance Services description
- d). Exhibit D            Certification Regarding Lobbying
- e). Exhibit E            Statement of Work

This Contract, its Exhibits, and any prior non-disclosure agreement constitute the entire agreement between VITA and Supplier and supersede any and all previous representations, understandings, discussions or agreements between VITA and Supplier as to the subject matter hereof. Any and all terms and conditions contained in, incorporated into, or referenced by the Supplier's Proposal shall be deemed invalid. The provisions of the Virginia Department of General Services, Division of Purchases and Supply Vendor's Manual shall not apply to this Contract or any order issued hereunder. This Contract may only be amended by an instrument in writing signed by VITA and Supplier. In the event of a conflict, the following order of precedence shall apply: this Contract document, Exhibit A, Exhibit B, any individual order, Exhibit C, 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 any order issued hereunder include any terms and conditions inconsistent with the terms and conditions of this Contract, such terms and conditions shall be of no force and effect.

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

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

SHI International, Corp.

VITA

By: \_\_\_\_\_

By: \_\_\_\_\_

(Signature)

(Signature)

Name: \_\_\_\_\_

Name: \_\_\_\_\_

(Print)

(Print)

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Address for Notice:

Address for Notice:

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

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

Attention: \_\_\_\_\_

Attention: Contract Administrator

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

SHI International Corp.

By: Natalie Slowik

(Signature)

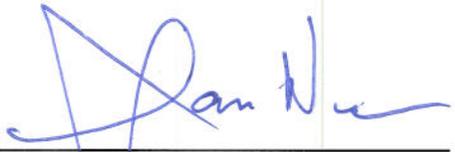
Name: Natalie Slowik

(Print)

Title: Contracts Manager

Date: 3/14/14

VITA

By: 

(Signature)

Name: Samuel A. Nixon, Jr

(Print)

Title: Chief Information Officer

Date: 03-18-2014

Address for Notice:

SHI International Corp.

290 Davidson Avenue

Somerset, NJ 08873

Attention: Contracts

Address for Notice:

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

Attention: Contract Administrator

## Exhibit A Requirements

	Description
5.1	General
5.2	Reports
5.3	Related Services

	5.1 General	A	B
5.1.1	<p>Does your Solution comply with all current COV ITRM Policies and Standards, as applicable, found at:  <a href="http://www.vita.virginia.gov/library/default.aspx?id=537">http://www.vita.virginia.gov/library/default.aspx?id=537</a>.</p> <p>If proposed solution does not, please provide details that specify the Standard/Policy and how Supplier's solution does not comply.</p>		<p>SHI will need additional information regarding which policies are applicable to the scope of services to be provided under the contract. We will review and provide feedback to the Commonwealth regarding our ability to comply at that time.</p>
5.1.2	<p>Do your proposed interfaces, to Commonwealth systems, comply with or have approved exceptions to all applicable Commonwealth Data Standards as found at:  <a href="http://www.vita.virginia.gov/oversight/default.aspx?id=10344">http://www.vita.virginia.gov/oversight/default.aspx?id=10344</a></p> <p>If not, please explain.</p>		<p>In the support of the DPS requirements, SHI will not have access to personal data. We will need more information regarding which standards are applicable and we will review them with the Commonwealth.</p>

<p><b>5.1.3</b></p>	<p>Does your Solution provide effective, interactive control and use with nonvisual means and provide 508 Compliance in accordance with the following standard regarding IT Accessibility and 508 Compliance:</p> <p><a href="http://www.vita.virginia.gov/uploadedFiles/Library/AccessibilityStandard_GOV103-00_Eff_11-04-05.pdf">http://www.vita.virginia.gov/uploadedFiles/Library/AccessibilityStandard_GOV103-00_Eff_11-04-05.pdf</a> (Refer to <a href="http://www.section508.gov">www.section508.gov</a> and <a href="http://www.access-board.gov">www.access-board.gov</a> for further information)</p> <p>If yes, please describe how this functionality is achieved and include a completed Voluntary Product Accessibility Template (VPAT) with your proposal: (The VPAT template is located in APPENDIX C of the Accessibility Standard (GOV103-00)).</p> <p>If no, does your solution/application/product provide alternate accessibility functionality? Please describe.</p> <p>If not applicable to this procurement, mark "N/A."</p>		<p>With regard to SHI's web site, we are not fully 508 compliant, but the site was developed with Accessibility in mind. We will review the site with the Commonwealth to identify areas for compliance and to address any shortfalls, as we have with other customers.</p> <p>SHI offers a wide range of products for multiple publishers. Each publisher includes their VPAT certifications on-line at the VPAT main web site: <a href="http://buyaccessible.net/VARC/">http://buyaccessible.net/VARC/</a></p>
<p><b>5.1.4</b></p>	<p>Does your Solution require incorporating subcontractors or alliances to provide sales/service coverage for the entire Commonwealth of Virginia or will you provide all in-house sale/service personnel? Please explain.</p>	<p>N</p>	<p>As an authorized reseller, SHI will not utilize subcontractors in fulfilling the Commonwealth's requirement for DPS. SHI currently provides 2 field Account Executives who travel to the Commonwealth of Virginia to visit our customers and we will add more resources as needed.</p>

5.1.5	<p>VITA encourages Suppliers to develop a catalog website that <i>interfaces</i> with eVA. Can your Solution produce a punch-out catalog website? Refer to:  <a href="http://www.eva.virginia.gov/vendors/pages/catalogcreation.htm">http://www.eva.virginia.gov/vendors/pages/catalogcreation.htm</a>  Please provide either screen shots or a link to serve as an example.</p>	Y	<p>SHI supports a punchout catalog to interface with eVA, today. SHI's open architecture systems allow us to integrate with virtually any eCommerce platform, whether through market leaders or a proprietary solution. Ariba, Perfect Commerce, PeopleSoft, SAP and Oracle are the most popular applications supported by SHI. In general, SHI can support systems that use cXML (commerce extensible mark-up language), or EDI (electronic data interchange) standards. This includes a wide range of applications.</p> <p>In addition, SHI supports the following</p> <p>OCI Based Portals  Hubwoo  SAP</p> <p>CXML Based Portals  Oracle  Ariba  Sciquest  Unimarket  Peoplesoft  Coupa  Lawson</p> <p>SHI's electronic catalogs can be delivered in flexible formats such as:</p> <ul style="list-style-type: none"> <li>• CIF 2.1/3.0—Ariba's Catalog Interface Format. A CIF is simple comma-separated text file of catalog items and their attributes</li> <li>• CUP—Perfect Commerce's catalog format.</li> <li>• Punchout/Roundtrip/OCI—Buyers can use their existing e-commerce applications to access the SHI website and find, select and configure goods for purchase.</li> <li>• EDI</li> <li>• Excel, Tab and comma delimited text files</li> </ul> <p>Please see appendix 1 for screenshots and details of SHI.COM workflow.</p>
5.1.6	<p>Does your Solution include a detailed comprehensive list of DPS software available under each manufacturer that your firm is authorized to sell? Please provide details.</p>	Y	<p>SHI customizes a product catalog to support the DPS contract, allowing users within the Commonwealth to access all products available through SHI under this contract. We automatically include the manufacturers and all of their products, reflecting the contracted pricing between the Commonwealth and SHI. Additionally, some manufacturers offer different pricing structures for education customers and government customers. We establish multiple catalogs under the DPS contract to account for the special pricing programs that are in place. The customer will enter SHI.COM either as a State or Local Government customer, a K-12 Education Customer, or a Higher Education Customer, ensuring he or she is always accessing the correct pricing and programs.</p>
5.1.7	<p>Does your Solution have the ability to have a catalog website up, functioning and interfacing with eVA within 30 days of contract award? Please provide details.</p>	Y	<p>SHI's product catalog is established and available, today. Upon award of contract, we will finalize the contract in compliance with the contract terms and will have the final catalog available to eVA within 5 business days.</p>

5.1.8	Does your Solution have the ability to have individual portals for each agency to view purchase history, updates and expirations to maintain compliance? Please provide details.	Y	<p>SHI's Commonwealth of Virginia website, including contract pricing, is available to all Commonwealth customers without the need for a unique user name and password. This site is updated monthly to incorporate changes in DPS products, pricing and available product lines. Individual agencies and localities have the ability to obtain a unique user name and password to access information and data for just their entity. SHI's website authorization levels and account group design allows us to be very granular in our permissions and access (departments within agencies and cities and counties) as well as by agency/city/county, up to the state-level to access everything within the Commonwealth of Virginia. Entities will receive this authorization by contacting their SHI rep for their Token and Access Key, which will give them authorization to access the following areas of the website for their specific authorization level:</p> <ol style="list-style-type: none"> <li>1. Order Status – Orders are available online to track and to obtain order confirmations</li> <li>2. Tracking – Tracking is available with hyperlinks that take the end user directly to the tracking site</li> <li>3. Custom Catalogs – Catalogs can be customized to include specific items that are purchased on a regular basis. Products can also be displayed as “Featured Items” to allow quick access.</li> <li>4. Quotes – Recent quotes are available to view and convert to Web Orders</li> <li>5. PRO Renewal Timeline – Unique to SHI, this timeline shows upcoming renewals specific to the agency/locality and can be customized and populated with additional manufacturer data</li> <li>6. Newsletters – SHI offer newsletters including a Microsoft specific newsletter that is available to sign up for from the website.</li> <li>7. Events and Webinars – SHI offers local events and Webinars including those specific to Microsoft that are available to sign up for from the website.</li> <li>8. Contract Catalogs – All available Commonwealth Contract catalogs are available in a drop down box to allow for ease of procurement with Contract numbers readily available in the product description. This helps to ensure that agencies are getting contract pricing.</li> </ol> <p>For a real time experience, please use the following log in information at: <a href="https://www.publicsector.shidirect.com/">https://www.publicsector.shidirect.com/</a>  User Name: VITAtest  Password: VITAtest1</p> <p>This catalog is directly linked to the Virginia Information Technologies Agency account so you will experience what any agency, county, school district, state agency or other Commonwealth entity will experience; A unique picture of current business that can be as broad as an entire County or as granular as a dept within that county. The level of customization is entirely up to the customer. Please see attached for screen shots demonstrating the individual portals-SHI Response - Appendix 2 - Agency Portals.</p>
5.1.9	Does your Solution include a dedicated account management team? Please provide details.	Y	<p>SHI has established the dedicated Account Team approach as core in executing an effective customer service strategy. SHI customizes the team structure to meet the individual needs of each of our customers. The VITA Dedicated Account Team includes Account Executives, Inside Account Managers and a dedicated Accounting resource.</p> <p>Please see Appendix 3 for details regarding the structure of VITA's Dedicated Account Team, in place supporting your requirements, today. Also, please see our response to Section 6, Supplier Profile, for details regarding the escalation path and organizational structure for the members of your Account Team.</p>
5.1.10	Does your Solution include an account management team with experience working with State and local government ? Please provide details.	Y	<p>Yes, the members of your Account Team are dedicated to supporting State &amp; Local Government and Education customers. They have vast experience working with Virginia customers, understand your software requirements, and look forward to continuing their relationship with SHI's customers within the Commonwealth. We have included an overview of the experience and resumes for the members of your Account Team in our response to the Supplier Profile, Section 6.</p>

5.1.11	Does your Solution include more than one field account executive? Please provide details.	Y	Yes, SHI currently supports the Commonwealth with 2 field Account Executives. Erik Schroeder is the Account Executive for State & Local Government and Higher Education institutions within Virginia. Angela Mensch is the Account Executive supporting K-12 educations customers in Virginia. It is important to SHI that we are meeting our customers' requirements and maintaining high quality customer service. Additionally, SHI has a dedicated Small/Medium SLED Account Executive, Dianna Modzelewski, to support the needs of the small & medium sized cusotmers within the Commonwealth. We are committed to providing the resources needed to support the Commonwealth. As our relationship grows, SHI continues to review our service levels and volume of business and we will add resources to the Account Team as needed to maintain customer satisfaction.
5.1.12	Does your Solution have the marketing ability and resources to promote this contract to schools, universities, localities and state agencies? Please provide marketing plan and examples of marketing tools.	Y	<p>SHI understands the importance of marketing the contract to maximize participation and the Commonwealth's return on investment. Today, SHI utilizes our marketing tools to get in front of a broad audience with the Commonwealth of VA, including the state agencies, local government, and education customers. Monthly e-mails are sent to our customers that include contract pricing and other important product and licensing information regarding our current contracts. Your Account Executive, Erik Schroeder, manages a list of contacts within the Commonwealth who should receive these Emails, ensuring we are targeting the correct audience. At conferences and in person, we utilize a one page VITA Contract document that highlights, promotes and encourages the use of both VITA and SHI. Recently, SHI joined the Virginia Association of Counties (VACO) in order to promote ourselves and our VITA contracts to the counties in Virginia. Next up for us is joining the Virginia Municipal League to help us get the same information out to the Cities of the Commonwealth as well. Recent work with the Dept of Education has allowed SHI to get out in front of the K-12 community as we are currently the provider of Microsoft IT Academy to all of the districts in the Commonwealth. This will help us to promote our other VITA contract offerings moving forward.</p> <p>Additionally, SHI seeks partner participation in the shows that we sponsor and attend in the Commonwealth. SHI will make every effort to seek sponsorship and participation from our partners to help promote not only the Commonwealth Contracts but also new technology as it is released by our partners. In having our partner reps in our booth with us, we seek to promote our contracts and our dedication to partnership which is vital to the success of SHI, VITA and our customers.</p>
5.1.13	Does your Solution allow the use of purchasing cards, credit cards and eVA for small purchases? Please provide details.	Y	SHI accepts Visa, MasterCard, and American Express for payment. SHI is eVA registered.
5.1.14	Does your Solution provide product incentives, credits and or rebate programs? Please provide details.	Y	<p>SHI will work with the Publishers to identify best pricing available to the Government and Education customers in Virginia. We will look for:</p> <ul style="list-style-type: none"> <li>-Available licensing programs</li> <li>-Manufacturer discount programs</li> <li>-Manufacturer specials and promotional pricing</li> <li>-Volume discounts</li> </ul>
5.1.15	Does you Solution provide additional discounts on software maintenance? Please describe.	Y	When allowed by the Publishers, SHI maintains the proposed discount level for the maintenance purchases as well as the licens purchases.

	5.2 Reports	A	B
5.2.1	Does your Solution include standardized invoicing and reporting formats to VITA and all other public bodies?	Y	<p>SHI prides itself on its reporting excellence and flexibility. We have developed standard reports that meet the needs of most of our customers. If the Commonwealth has additional reporting requirements, SHI will develop custom reports, as we have for some of our largest customers. SHI never charges for the reports we provide, both standard and custom.</p> <p><b>Capturing the Data</b>  Developed and maintained in-house, SHI's order entry system is ever evolving to stay ahead of the changes in the IT industry and our customers' requirements. We have customized the system to track all of the standard information that SHI needs to process an order, as well as the standard information that manufacturers need to track customers' volume purchases. As always, we go one step further; SHI's order entry system is fully customizable to meet individual requirements of each of our customers for custom data collection and reporting. SHI creates custom fields within our order entry system, up to an unlimited number, in order to capture the data. Once the information is collected, it is readily available for reporting and for inclusion on your invoices. SHI's order entry system also has the mechanisms in place to track our customers' maintenance purchases and expiration dates.</p> <p><b>Reporting the Data to the Commonwealth</b>  SHI fully understands your need for flexibility in reporting, as well as your need for reports from the highest organizational level to the most granular. We have created our databases to remain flexible enough to be able to incorporate any organizational structure and to provide reports on any level within the organization. We begin with the most granular reporting level, this can be by division or by bill to or by another criterion specified by the Commonwealth. SHI then groups the ordering units into the next level within your organization. The entities within that level will be grouped to form the next reporting level, and so on until we reach the enterprise-wide level. In addition to providing reports based on the organizational levels within the Commonwealth, SHI also provides reports based on any combination.</p> <p>Please see the attached SHI Response - Appendix 4 - Reporting Details for information regarding the standard reporting fields and report formats, as well as screenshots of sample reports. All of these reports are customizable to meet your specific requirements.</p>

5.2.2	Does your Solution include reports on request to users detailing software products that have been placed in any of their locations? Please provide examples.	Y	<p>SHI's reports are available as both subscription/scheduled reports and on an ad hoc basis. Customers can request reports through your Account Team or authorized users can run reports on-line at SHI.COM. The user's ability to run reports via ReportFactory is based on permissions assigned to the user names; so only authorized users within the Commonwealth will be permitted to run reports. You can run the report yourself, or a member of your Account Team will run the report for delivery directly to the requestor.</p> <p>SHI provides a report request form on our web site. The user will select the report type, the date range for the report, and will enter the Email address for delivery, up to an unlimited number. In addition, he will select the format in which he wants the reports, i.e. Microsoft Excel, html, tab delimited text file, or fixed width text file. Once the form is complete, our server will run the report and send the Email with an attachment in the requested format. Our web-based reporting tool delivers 95% of all reports within 5 minutes.</p> <p>In addition, SHI supports report subscriptions. The user can request a report once for delivery at regular intervals. Most corporations have a standard set of reports that are required monthly, weekly, or even daily or quarterly. The user can select the report parameters once for delivery at the selected interval forever, or until the subscription is removed. Typically, users select report subscriptions to run in the middle of the night, so it will be waiting in his inbox for the morning.</p> <p>Please see the samples included in Appendix 4, above.</p>
5.2.3	Does your Solution include additional reports that would be an added value to the Commonwealth? Please describe and provide examples.	Y	<p>SHI's reports are extensive and customizable to provide the Commonwealth with the information you need to manage your IT purchases. In addition to the regular sell through reports described above, your Account Executive meets with the Commonwealth on an annual basis to review the previous year and discuss future requirements. He is prepared to discuss your purchase history, breakdown of major manufacturer and major segments, SHI's future direction, available services, up-coming renewals, and other topics critical to managing your business. He is available to conduct these meetings either in person or via web conferencing, at the convenience of the customer. Please see SHI Response - Appendix 5 - Annual Business Review.pdf" for the presentation used.</p>

	5.3 Services	A	B
5.3.1	Does your Solution include DPS software installation services? Please provide details.	Y	These services are offered on a case-by-case basis by manufacturer based on the customer requirements. SHI is able to offer these services on behalf of the manufacturer and as a convenience to our customers. The specifics for how these services are provided may vary and we will provide details at the time of request.
5.3.2	Does your Solution include DPS software training services? Please provide details.	Y	These services are offered on a case-by-case basis by manufacturer based on the customer requirements. SHI is able to offer these services on behalf of the manufacturer and as a convenience to our customers. The specifics for how these services are provided may vary and we will provide details at the time of request.
5.3.3	Does your Solution include on-site software training services? Please provide details.	Y	These services are offered on a case-by-case basis by manufacturer based on the customer requirements. SHI is able to offer these services on behalf of the manufacturer and as a convenience to our customers. The specifics for how these services are provided may vary and we will provide details at the time of request.
5.3.4	Does your Solution include web-based software training services ? Please provide details.	Y	These services are offered on a case-by-case basis by manufacturer based on the customer requirements. SHI is able to offer these services on behalf of the manufacturer and as a convenience to our customers. The specifics for how these services are provided may vary and we will provide details at the time of request.
5.3.5	Does your Solution include software maintenance that offers online self help functions? Please provide details.	Y	These services are offered on a case-by-case basis by manufacturer based on the customer requirements. SHI is able to offer these services on behalf of the manufacturer and as a convenience to our customers. The specifics for how these services are provided may vary and we will provide details at the time of request.
5.3.6	Does your Solution include software maintenance support via email? Please provide details.	Y	These services are offered on a case-by-case basis by manufacturer based on the customer requirements. SHI is able to offer these services on behalf of the manufacturer and as a convenience to our customers. The specifics for how these services are provided may vary and we will provide details at the time of request.
5.3.7	Does your Solution include remote technical support? Please provide details.	Y	These services are offered on a case-by-case basis by manufacturer based on the customer requirements. SHI is able to offer these services on behalf of the manufacturer and as a convenience to our customers. The specifics for how these services are provided may vary and we will provide details at the time of request.

5.3.8	Does your Solution include 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>SHI has a long history of supporting Commonwealth Procurement and Technology shows. SHI has sponsored and attended VAGP, CAPA, COVITS, VACO, SWAMFest and VSTE to name a few and will commit to continue sponsoring and attending these shows to both support the buying community as well as to educate them on our VITA Contracts and new technology. Please see attached for a sample marketing piece created for the Commonwealth and distributed at the shows, SHI Response - Appendix 6 - Marketing.pdf.</p> <p>As manufacturer programs change, SHI is committed to educating our customers regarding products, licensing and configuration scenarios, and updates of which they need to be aware in order to efficiently manage their tech environments. We communicate with our customers through several vehicles:</p> <p>Upon award of contract, your Account Executive will create a newsletter notifying users of the new contract, any changes in the workflow or agreement details, with contact information for the members of your Dedicated Account Team.</p> <p>Throughout the term of the contract, SHI provides Newsletters on a monthly basis. Your Account Executive will Email the newsletters to designated contacts within VITA; the newsletter is also available on-line at SHI.COM.</p> <p>SHIBlogs: Customers can always access the most current information regarding the IT industry at SHI's Blog site. Users can subscribe to the blog to receive the latest news to their inbox. Blogs are available at: <a href="http://blog.shi.com/">http://blog.shi.com/</a></p> <p>Webinars: SHI hosts a series of webinars regarding the IT industry, our major publishers, and product and technology releases. The schedule is available on our web site and the webinars are open to all customers.</p>
5.3.9	Does your Solution respond to an order within two (2) business hours? Please provide detail on how this will be accomplished.	Y	<p>Upon order submission, a member of the Commonwealth Inside Sales Team reviews the order for compliance to the contract terms. If there is a problem with the order, the Inside Account Manager will contact the customer within 2 business hours. If the order is found compliant, the Inside Account Manager will process the order through our systems and the customer will receive an automated order confirmation within 2 business hours.</p>
5.3.10	Does your Solution include 8am to 5pm EST software support? Please provide details.	Y	<p>The members of your Inside Account Team and your Account Executives are available between 8am and 5pm to provide pre-sales product support and customer service to our customers. As needed, they will engage the SHI Software &amp; Licensing Department for assistance with product or licensing questions.</p>
5.3.11	Does your Solution include after hours software support? Please provide details.	Y	<p>SHI provides customer service support regarding the software products we sell through our web site. Customers can access product specifications, compatibility and system requirement information, pricing, availability, and place orders on-line.</p>
5.3.12	Does your Solution's installation and maintenance technicians have and maintain current industry certifications? Please provide details and types of certifications.	Y	<p>SHI's employees will not perform the services. With each request, we will ensure the technician has the appropriate certifications to perform the services.</p>
5.3.13	Does your Solution have an in-house order tracking system that can be accessed 24 x7 by a user? Please provide details.	Y	<p>SHI.COM provides detailed tracking information. In order to access the order status and tracking information, the user will create a user ID and password. SHI provides on-line tracking for all orders, whether placed on-line or manually with your Inside Account Managers. Please see attached, "SHI Response - Appendix 7 - Order Tracking". This tracking information is available through your Inside Sales Team during business hours and on-line 24x7.</p>

5.3.14	Does your Solution offer any additional license tracking and inventory management services that would be an added value to the Commonwealth? Please describe and provide examples.	Y	<p>License Management System: Utilizing SHI's License Management System (LMS), we track key contract dates and terms and conditions, including pricing level and milestone requirements. Linked to SHI's order entry and reporting system, LMS provides the checks and balances to ensure your transactions are processed and reported against the correct agreement numbers and discount levels. Furthermore, SHI provides advanced notification for contract milestones and renewals.</p> <p>Renewals Management Services: SHI understands it can be a challenge for organizations to proactively track all expiring IT maintenance and support agreements. With inconsistent renewal dates across manufacturers and/or products, organizations may rely on the publishers and manufacturers to provide renewal notification. SHI provides a more reliable solution: Polaris Renewal Organizer (PRO). Available at no charge to our customers, PRO compiles your technology renewals in a centralized, rolling three year on-line timeline for simplified budgeting and renewal management. Please see SHI Response - Appendix 8 - Renewals Timeline for a sample Renewals Management Timeline.</p>
5.3.15	Does your Solution provide any additional services that would be an added value to the Commonwealth? Please describe and provide examples.	Y	<p>In addition to the value-add license tracking and management services described above, SHI offers fee-based Software Asset Management Services. Take control of your IT assets and manage them properly by implementing SHI's best practice SAM process. Leveraging SHI's volume license expertise, dedicated SAM License Analysts and Discovery Engineers, and our experience with industry best practices, SHI compiles, analyzes, and shares with our customers their entitlements and usage information.</p> <p>Polaris Baseline : The SAM Baseline, a one-time assessment of a single publisher of your choice, identifies trends in your current licensing, surplus license opportunities, and licensing deficiencies to be reconciled. With the baseline, you can make informed decisions regarding license contracts, maintenance renewals, and software procurement for cost savings, reduced risk, and recycled software assets.</p> <p>Install Position : Often the first step towards the Gap Analysis, the Install Position provides a concise view of the software deployed across your organization. Using inventory data collected from SHI's Discovery tools or inventory tools you have in place, the Install Position process de-duplicates and normalizes data for a precise report of your deployed software.</p> <p>License Position : Typically provided for one or more identified Publishers, the License Position provides a dynamic snapshot of your purchases and entitlements, taking into consideration the volume license agreements, maintenance agreements, contract amendments, license types, manufacturer mergers, product transitions. SHI's SAM-certified specialists analyze software entitlement-altering factors to ensure all products, licenses, and customer-specific agreements are addressed. The result: greater control, increased license compliance, and cost-savings/avoidance opportunities.</p> <p>Gap Analysis: The Gap Analysis combines a customer's Install Position with the License Position to identify license deficiencies and excesses. This confidential report provides your organization with the information you need to avoid compliance issues with the Publishers. SHI will assist you with a True-up purchase for licenses that are over-deployed and with allocation assistance for those products that are over-licensed.</p> <p>License Allocation &amp; Redeployment Service: SHI's License Allocation &amp; Redeployment Service (LARS) inventories your surplus licenses, whether discovered in a SAM engagement or purchased in a bulk buy-in, for deployment within your organization and in accordance with the Publishers' license terms and conditions. SHI will track these deployments to help you manage costs and budgets between departments.</p> <p>Polaris Managed Services : SHI provides assistance with establishing a best-practice SAM process to optimize your software investment for continuous compliance and overall cost-savings. The Polaris Managed Services is a continuous subscription service which joins software installations and usage with license entitlements to produce a Polaris Gap Analysis. Completed on a regular schedule, our Managed Services ensures compliance while identifying trends, best-practices, and process breakdowns in a Quarterly Executive SAM summary.</p>

**Exhibit B Software Product List**

**Discount reflects lowest discount that will be offered for each publisher. When SHI can find and offer a greater discount, we will.**

Enter discounts for publishers

Enter discount and price from publicly available price list for individual titles based on the most current versions

Publisher	Gov't Discount %	Academic Discount %
Absolute	20%	20%
Adobe (TLP/CC)	5%	5%
Articulate	0%	0%
Autodesk	14%	3%
Citrix (Excl Online)	19%	19%
Corel	5%	5%
DoubleTake	16%	16%
Intuit	12%	9%
McAfee	22%	22%
Norton	10%	10%
Novell (VLA)	21%	21%
Nuance	6%	5%
ONSSI	20%	20%
Quark Software	2%	6%
Quest Software (Now Dell Software)	7%	7%
Riverdeep	N/A	N/A
Roxio	19%	19%
Symantec	16%	16%
Techsmith	18%	18%
Trend Micro	17%	17%

\*Please provide link to publicly available price list.

\*Warranty is software publisher's warranty.

\*For purposes of evaluation VITA will create a market basket.

Pricing is available at [www.shi.com](http://www.shi.com)

Title	Gov't Discount %	Gov't Unit Price \$	Academic Discount %	Academic Unit Price \$
Absolute Manage	20%	\$ 17.35	20%	\$ 17.35
Adobe Acrobat Standard (Pro Only for Academic)	5%	\$ 230.86	5%	\$ 148.69
Adobe Creative Suite Design Standard	5%	\$ 1,206.97	5%	\$ 417.43
Adobe Creative Cloud Subscription - Annual	5%	\$ 784.85	5%	\$ 443.52
Adobe Photoshop (Extended Only for Academic)	5%	\$ 649.33	5%	\$ 278.28
Articulate Studio 13	0%	\$ 1,030.55	0%	\$ 515.27
Autodesk Sketchbook Pro	14%	\$ 48.62	N/A	N/A
Autodesk Autocad 2014	14%	\$ 3,442.94	3%	\$ 95.19
Citrix Xenapp Advanced **Min Qty 5	19%	\$ 249.55	19%	\$ 249.55
CorelDraw Technical Suite X6	5%	\$ 597.44	5%	\$ 85.79
Double Take Availability Advanced Edition	16%	\$ 3,961.90	16%	\$ 3,961.90
Intuit Quickbooks Pro	12%	\$ 233.59	9%	\$ 233.59
McAfee Active Virus (Now Endpoint Protection Suite) **Min Qty 11	22%	\$ 28.95	22%	\$ 28.95
McAfee Anti-Spyware (Now Endpoint Protection Suite) **Min Qty 11	22%	\$ 28.95	22%	\$ 28.95
Norton Anti Virus	10%	\$ 43.27	10%	\$ 43.27
Norton Anti Virus w/ Internet Security	10%	\$ 69.35	10%	\$ 69.35
Symantec Endpoint Protection v12.1 **Min Qty 5	16%	\$ 36.93	16%	\$ 26.37
Novell Open Workgroup Suite	21%	\$ 179.20	21%	N/A
ONSSI Occularis PS (Base License)	20%	\$ 157.61	20%	\$ 132.20
ONSSI Occularis PS (Camera License)	20%	\$ 79.20	20%	\$ 66.43
Dragon Naturally Speaking **Min Qty 4	6%	\$ 377.48	5%	\$ 266.47
Nuance PDF Conv Pro 5	6%	\$ 69.96	5%	\$ 69.96
Quark Xpress	2%	\$ 737.15	6%	\$ 173.88
Quest Recovery Manager for Exchange **Min Qty 250	7%	\$ 5.83	7%	\$ 5.83
Roxio Creator NXT **Min Qty 5	19%	\$ 51.31	19%	\$ 46.37
Symantec Backup Exec	16%	\$ 570.29	16%	\$ 570.29
Snag IT	18%	\$ 34.46	18%	\$ 24.03
Trend Micro Worry Free Business Security Advanced	17%	\$ 39.07	17%	\$ 39.07
Trend Micro Worry Free Business Security Advanced **Min Qty 2	17%	\$ 29.60	17%	\$ 29.60
WebSense Security Filtering Subscription *Min Qty 25	20%	\$ 37.02	20%	\$ 25.90

\*\*Please note that there are minimum Qty requirements and/or affiliations from certain manufacturers and that best pricing has been provided for Titles sometimes beyond the minimum discount provided on the left.

\*\*SHI has added a supplemental Master Publisher List Tab and will work with VITA to determine contract eligibility for unique manufacturer opportunities - Please see second Tab

## Normal Business Hours

	Position	Description Of Services Provided	Year 1 Hourly Rate	Year 2 Hourly Rate	Year 3 Hourly Rate	Year 4 Hourly Rate	Year 5 Hourly Rate
1	Network Administrator	N/A	N/A	N/A	N/A	N/A	N/A
2	Installation Technician	N/A	N/A	N/A	N/A	N/A	N/A
3	Maintenance Technician	N/A	N/A	N/A	N/A	N/A	N/A
4	Trainer	N/A	N/A	N/A	N/A	N/A	N/A
	<i>(Insert extra lines as needed)</i>						

## After Hours

	Position	Description Of Services Provided	Year 1 Hourly Rate	Year 2 Hourly Rate	Year 3 Hourly Rate	Year 4 Hourly Rate	Year 5 Hourly Rate
1	Network Administrator	N/A	N/A	N/A	N/A	N/A	N/A
2	Installation Technician	N/A	N/A	N/A	N/A	N/A	N/A
3	Maintenance Technician	N/A	N/A	N/A	N/A	N/A	N/A
4	Trainer	N/A	N/A	N/A	N/A	N/A	N/A
	<i>(Insert extra lines as needed)</i>						

**\*Supplier is to fill in the Position, Description and Hourly Rate.**

**\*The line items may be used for future projects.**

Please see the Requirements Section 5.3 - Services - SHI will offer services via the manufacturer on a case by case basis.

## **Exhibit C**

### **Software Maintenance Services Description**

The actual maintenance level for a unit of software shall be set forth in the executed order for maintenance of that software referencing this contract.

Software products resold under this agreement will be governed by the maintenance agreement between authorized user and the software publisher.

**EXHIBIT E**  
**STATEMENT OF WORK (SOW) TEMPLATE**  
**BETWEEN (NAME OF AUTHORIZED USER) AND SHI INTERNATIONAL CORP**

**ISSUED UNDER**

**CONTRACT NUMBER VA-140401-SHI**  
**BETWEEN**  
**VIRGINIA INFORMATION TECHNOLOGIES AGENCY**  
**AND**  
**SHI INTERNATIONAL CORP**

Exhibit E, between (Name of Agency/Institution) and SHI International Corp (“Supplier”) is hereby incorporated into and made an integral part of Contract Number VA-140401-SHI (“Contract”) between the Virginia Information Technologies Agency (“VITA”) on behalf of the Commonwealth of Virginia and Supplier.

In the event of any discrepancy between this Exhibit E and the Contract, the provisions of the Contract shall control.

*[Note to Template Users: Instructions for using this template to draft a Statement of Work are in gray highlight and **italics**. These instructions should be deleted after the appropriate text has been added to the Statement of Work. Contractual language is **not italicized** and should remain in the document. Text that is highlighted in blue is variable based on the nature of the project.]*

**STATEMENT OF WORK**

This Statement of Work (SOW) is issued by the (Name of Agency/Institution), hereinafter referred to as “Authorized User” under the provisions of the Contract.”. The objective of the project described in this SOW is for the Supplier to provide the Authorized User with a Solution (“Solution”) or Services (“Services”) or Software (“Software”) or Hardware and Maintenance or Licensed Application Services” for Authorized User Project Name. *(Customize the last sentence to state what you are getting from the Supplier, based on the VITA Contract language, and with your project name.)*

**1. PERIOD OF PERFORMANCE**

The work authorized in this SOW will occur within XX (XX) months of execution of this Statement of Work. This includes delivery, installation, implementation, integration, testing and acceptance all of products and services necessary to implement the Authorized User’s Solution, training, and any support, other than on-going maintenance services. The period of performance for maintenance services shall be one (1) year after implementation or end of Warranty Period and may be extended for additional one (1) year periods, pursuant to and unless otherwise specified in the Contract. *(Customize this section to match what you are getting from the Supplier, based on the allowable scope of the VITA Contract and your project’s specific needs within that allowable scope.)*

**2. PLACE OF PERFORMANCE**

*(Assign performance locations to major milestones or any other project granularity, depending on your transparency and governance needs, if needed.)*

Tasks associated with this project will be performed at the Authorized User’s location(s) in City/State, at Supplier’s location(s) in City/State, or other locations as required by the effort.

**3. PROJECT DEFINITIONS**

*Provide project unique definitions so that all stakeholders have the same understanding. Ensure these do not conflict with the Contract definition.)*

All definitions of the Contract shall apply to and take precedence over this SOW. Authorized User's specific project definitions are listed below:

**4. PROJECT SCOPE**

*(Provide a description of the scope of your project and carve out what is NOT in the scope of your project. Remember that it must fit within the VITA Contract scope.)*

**A. General Description of the Project Scope**

**B. Project Boundaries**

**5. AUTHORIZED USER'S SPECIFIC REQUIREMENTS**

*(Provide information about your project's and your agency's specific requirements for this particular project including, but not limited to the following subsections):*

**A. Authorized User-Specific Requirements**

**B. Special Considerations for Implementing Technology at Authorized User's Location(s)**

**C. Other Project Characteristics to Insure Success**

**6. CURRENT SITUATION**

*(Provide enough background information to clearly state the current situation to Supplier so that Supplier cannot come back during performance claiming any unknowns or surprises. Some example subsections are provided below. You may collapse/expand as you feel is necessary to provide adequate information and detail.)*

**A. Background of Authorized User's Business Situation**

**B. Current Architecture and Operating System**

**C. Current Work Flow/Business Flow and Processes**

**D. Current Legacy Systems**

**E. Current System Dependencies**

**F. Current Infrastructure (Limitations, Restrictions)**

**G. Usage/Audience Information**

**7. PRODUCTS AND SERVICES TO SUPPORT THE PROJECT REQUIREMENTS (AND/OR SOLUTION)**

**A. Required Products (or Solution Components)**

*(List the products, or if your project is for a Solution, the Solution components, (software, services etc.) provided by Supplier that will be used to support your project requirements. Identify any special configuration requirements, and describe the system infrastructure to be provided by the Authorized User. Provide an overview that reflects how the system will be deployed within the Authorized User's environment. You are urged to refer to the VITA Contract for allowable scope and other guidance in drafting language for this section.)*

**B. Required Services**

*(List the services (e.g., requirements development, Solution design, configuration, interface design, data conversion, installation, implementation, testing, training, risk assessment, performance assessment, support and maintenance) that will be provided by Supplier in the performance of your project. You are urged to refer to the VITA Contract for the definition of Services and for the allowable scope in drafting language for this section. You will notice subsections "C" and "D" below offer areas for expanded detail on training, support and maintenance services. You may add other subsections in which you wish to expand the information/details/requirements for other service areas as well. It is likely some of this detail will be a combination of your known needs and the Supplier's proposal. In all*

cases the provisions should include all negotiated commitments by both parties, even if you reference by incorporation the Supplier's proposal in any subsection.)

**C. Training Requirements and/or Authorized User Self-Sufficiency/Knowledge Transfer**

(Provide an overview and details of training services to be provided for your project and any special requirements for specific knowledge transfer to support successful implementation of the Solution. If the intent is for the Authorized User to become self-sufficient in operating or maintaining the Solution, determine the type of training necessary, and develop a training plan, for such user self-sufficiency. Describe how the Supplier will complete knowledge transfer in the event this Statement of Work is not completed due to actions of Supplier or the non-appropriation of funds for completion affecting the Authorized User. You may refer to the VITA Contract for guidance on the allowable scope for this.)

**D. Support and Maintenance Requirements**

(Document the level of support, as available under the Contract, required by your project to operate and maintain the Solution. This may include conversion support, legacy system integration, transition assistance, Solution maintenance (including maintenance level), or other specialized consulting to facilitate delivery or use of the Solution.)

**E. Personnel Requirements**

(Provide any supplier personnel qualifications, requirements, licenses, certifications or restrictions including project manager, key personnel, subcontractors, etc., but ensure they do not conflict with the VITA Contract terms.)

**F. Transition Phase-In/Phase-Out Requirements**

(Describe any specific requirements for orientation or phasing in and/or phasing out of the project with the Supplier. Be specific on what the project needs and expected results are, the duration and other pertinent detail, but ensure they do not conflict with the VITA Contract provision(s) regarding Transition of Services or with any other training requirements in the SOW.)

**8. TOTAL PROJECT PRICE**

The total Fixed Price for this Project shall not exceed \$US XXX.

Supplier's invoices shall show retainage of ten percent (10%). Following completion of Solution implementation, Supplier shall submit a final invoice to the Authorized User, for the final milestone payment amount shown in the table in section 9 below, plus the total amount retained by the Authorized User. If travel expenses are not included in the fixed price of the Solution, such expenses shall be reimbursed in accordance with Commonwealth of Virginia travel policies as published by the Virginia Department of Accounts (<http://www.doa.virginia.gov>). In order to be reimbursed for travel expenses, Supplier must submit an estimate of such expenses to Authorized User for approval prior to incurring such expenses.

(Sections 9 through 11 should be used or deleted depending on the project's complexity, risk and need for governance. For a simple project you may only need the section 10 table, but for a more complex project, or a major IT project, you may need a combination of or all of the tables for check and balance and redundancy.)

**9. PROJECT DELIVERABLES**

(Provide a list of Supplier's deliverable expectations. The table is to be customized for the Authorized User's project. You may want to categorize deliverables for each phase or major milestone of the project and then categorize other interim deliverables and/or performance and status reports under one of them or under an Administrative or Project Management section.)

The following deliverables are to be provided by Supplier under this SOW. Subsequent sections may include further detail on the content requirements for some deliverables.

No.	Title	Due Date	Format Required (i.e., electronic/hard copy/CD/DVD)	Distribution Recipients	Review Complete Due Date	Final Due Date
	Project Plan					
	Design Plan					
	Implementation Plan					
	Test Plan					
	Training Plan					
	Contingency Plan					
	Disaster Recovery Plan					
	Cutover Plan					
	Change Management Plan					
	Monthly Status Reports					
	Quarterly Performance /SLA Reports					
	Training Manual					
	Final Solution Submission Letter					
	Final Acceptance Letter					

**10. MILESTONES, DELIVERABLES, PAYMENT SCHEDULE, AND HOLDBACKS**

*(This table should include the project’s milestone events, associated deliverables, when due, milestone payments, any retainage amount to be held until final acceptance and the net payment you promise to pay for each completed and accepted milestone event. This table includes sample data only and must be customized for your project needs.)*

The following table identifies milestone events and deliverables, the associated schedule, any associated payments, any retainage amounts, and net payments.

Milestone Event	Associated Milestone Deliverable(s)	Schedule	Payment	Retainage	Net Payment
Project kick-off meeting	---	Execution + 5 days	---	---	---
Site survey	Site survey report	Execution + 10 days	---	---	---
Requirements Analysis & Development	Design Plan	Execution+45 days	\$30,000	\$15,000	\$15,000
	Project Plan	Execution+45 days			
	Implementation Plan	Execution + 45 days			

Begin Implementation		Execution + 60 days			
Installation of software	---	Execution + 90 days	\$10,000	\$1,000	\$9,000
Configuration and testing	---	Execution + 120 days	---	---	---
Training	Training manual	Execution + 130 days	\$10,000	\$1,000	\$9,000
30-Day User Acceptance Testing	---	Execution + 160 days	\$20,000	\$2,000	\$18,000
Implementation complete	Solution	Execution + 160 days	\$10,000	--	\$10,000
Final Acceptance		Execution + 210 days	--	--	\$23,000

**11. EVENTS AND TASKS FOR EACH MILESTONE**

*(If needed, provide a table of detailed project events and tasks to be accomplished to deliver the required milestones and deliverables for the complete Solution. Reference each with the relevant milestone. A Work Breakdown Structure can be used as shown in the table below or at the very least a Project Plan should have this granularity. The Supplier’s proposal should be tailored to the level of detail desired by the Authorized User’s business owner/project manager for project governance.)*

The following table identifies project milestone events and deliverables in a Work Breakdown Structure format.

WBS No.	Milestone	Milestone Event	Milestone Task	Interim Task Deliverables	Duration
1.0	Site survey				
1.1		Conduct interviews			
1.1.1			Schedule interviews	None	20 days after contract start
1.1.2			Complete interviews	Interview Results Report	25 days after contract start
1.2		Receive AU information			

**12. ACCEPTANCE CRITERIA**

*(This section should reflect the mutually agreed upon UAT and Acceptance Criteria specific to this engagement. Please read the VITA contract definitions for the definitions or Requirements and Acceptance. Ensure the language in this section does not conflict with the VITA Contract language.)*

Acceptance Criteria for this Solution will be based on a User Acceptance Test (UAT) designed by Supplier and accepted by the Authorized User. The UAT will ensure that all of the requirements and functionality required for the Solution have been successfully delivered. Supplier will provide the Authorized User with a detailed test plan and acceptance check list based on the mutually agreed upon UAT Plan. This UAT Plan check-list is incorporated into this SOW in Exhibit E-X.

Each deliverable created under this Statement of Work will be delivered to the Authorized User with a Deliverable Acceptance Receipt. This receipt will describe the deliverable and provide the Authorized User’s Project Manager with space to indicate if the deliverable is accepted, rejected, or conditionally accepted. Conditionally Accepted deliverables will contain a list of deficiencies that need to be corrected in order for the deliverable to be accepted by the Project Manager. The Project Manager will have ten (10) days from receipt of the deliverable to provide Supplier with the signed Acceptance

Receipt unless an alternative schedule is mutually agreed to between Supplier and the Authorized User in advance.

**13. PROJECT ASSUMPTIONS AND PROJECT ROLES AND RESPONSIBILITIES**

*(This section contains areas to address project assumptions by both the Supplier and the Authorized User and to assign project-specific roles and responsibilities between the parties. Make sure that all assumptions are included to alleviate surprises during the project. Ensure that all primary and secondary (as needed) roles and responsibilities are included. You will tailor the Responsibility Matrix table below to fit your project's needs.)*

**A. Project Assumptions**

The following assumptions are specific to this project:

**B. Project Roles and Responsibilities**

The following roles and responsibilities have been defined for this project:

**(Sample Responsibility Matrix)**

Responsibility Matrix	Supplier	Authorized User
Infrastructure – Preparing the system infrastructure that meets the recommended configuration defined in <b>Section 2B herein</b>		√
Relational Database Management Software (Installation and Implementation)		√
PC Workstations – Hardware, Operating System, Network Connectivity		√
PC Workstations – Client Software		√
Application Installation on PC Workstations	√	
Cabling, Electric and User Network Connectivity from Access Points		√
Project Planning and Management	√	√
Requirements Analysis	√	√
Application Design and Implementation	√	
Product Installation, Implementation and Testing	√	
Documentation	√	
Training	√	
Product Maintenance and Support	√	
Problem Tracking	√	√
Troubleshooting – IT Infrastructure		√
Troubleshooting – Solution	√	

**14. COMMONWEALTH AND SUPPLIER-FURNISHED MATERIALS, EQUIPMENT, FACILITIES AND PROPERTY**

*(In this section, provide details of any materials, equipment, facilities and property to be provided by your Agency or the Supplier in performance of this project. If none, so state so that the requirements are clear. If delivery of any of these is critical to the schedule, you may want to identify such delivery with hard due dates tied to “business days after project start” or “days after **event/milestone**.” Be sure to specify the delivery and point of contact information.)*

**A. PROVIDED BY THE COMMONWEALTH****B. PROVIDED BY THE SUPPLIER****15. SECURITY REQUIREMENTS**

*(Provide (or reference as an Attachment) Authorized User's security requirements.)*

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 the Contract.

Supplier shall comply with all requirements in the Security Compliance section of the Contract

**16. REQUIRED STANDARDS, CERTIFICATIONS AND SPECIFICATIONS**

In addition to any standards and specifications included in the Contract, Supplier shall follow the standards and specifications listed below during performance of this effort.

*(List any specific Commonwealth, VITA, Federal, engineering, trade/industry or professional standards, certifications and specifications that Supplier is required to follow or possess in performing this work. The first bullet includes a link to COVA-required standards for all Commonwealth technology projects. The rest are examples only and highlighted to reflect this. If you need an exception of any COVA-required standard, please follow the process located at this link: <http://www.vita.virginia.gov/oversight/default.aspx?id=10344> and select the Data Standards Guidance bulleted link. Your AITR can assist you.*

- COV ITRM Policies and Standards: <http://www.vita.virginia.gov/library/default.aspx?id=537>
- IEEE 802®
- HIPAA
- SAS 70 Type II

**17. U.S. ENVIRONMENTAL PROTECTION AGENCY'S AND DEPARTMENT OF ENERGY'S ENERGY STAR GUIDELINES RISK MANAGEMENT**

*(Risk is a function of the probability of an event occurring and the impact of the negative effects if it does occur. Negative effects include schedule delay, increased costs, failure of dependent legacy system interoperability, other project dependencies that don't align with this project's schedule, and poor quality of deliverables. Depending on the level of risk of this project, as assessed by your Project Manager and/or Steering Committee, this section may contain any or all of the following components, at a level of detail commensurate with the level of risk. Remember to add them to the Deliverables table.)*

**C. Initial Risk Assessment**

Authorized User and Supplier shall each provide an initial assessment from their point of view.

**D. Risk Management Strategy**

*(The list below is taken from VITA PMD template discussing what should go into a Risk Management Strategy. Don't forget to consider and plan for any budget contingencies to accommodate potential risks that are identified.)*

1. **Risk Identification Process:** The processes for risk identification.
2. **Risk Evaluation and Prioritization:** How risks are evaluated and prioritized.
3. **Risk Mitigation Options:** Describe the risk mitigation options. They must be realistic and available to the project team.

- 4. Risk Plan Maintenance:** Describe how the risk plan is maintained during the project lifecycle.
- 5. Risk Management Responsibilities:** Identify all project team members with specific risk management responsibilities. (e.g., an individual responsible for updating the plan or an individual assigned as a manager).

#### **E. Risk Management Plan**

*(Include a description of frequency and form of reviews, project team responsibilities, steering and oversight committee responsibilities and documentation. Be sure to add all deliverables associated with risk strategizing and planning to the list of Deliverables.)*

### **18. DISASTER RECOVERY**

*Planning for disaster recovery for your project is paramount to ensure continuity of service. The criticalness and complexity of your project, including its workflow into other dependent systems of the Commonwealth or federal systems, will help you determine if you require a simple contingency plan or a full-blow contingency plan that follows the Commonwealth's ITRM Guideline SEC508-00 found at this link:*

*[http://www.vita.virginia.gov/uploadedFiles/Library/ContingencyPlanningGuideline04\\_18\\_2007.pdf](http://www.vita.virginia.gov/uploadedFiles/Library/ContingencyPlanningGuideline04_18_2007.pdf)*

*It is advisable that you visit the link before making your decision on how you need to address contingency planning and related deliverables in this SOW; as well as, how this will impact your planned budget. A likely deliverable for this section would be a Continuity of Operations Plan. You may choose to include the above link in your final SOW to describe what the Plan will entail. The same link includes the following processes, which you may choose to list in your final requirements for this section, to be performed by your team, the Supplier or both and/or a steering committee if your project warrants such oversight and approval:*

- *Development of the IT components of the Continuity of Operations Plan (COOP)*
- *Development and exercise of the IT Disaster Recovery Plan (IT DRP) within the COOP*
- *Development and exercise of the IT System Backup and Restoration Plan*

### **19. PERFORMANCE BOND**

*(If your project is sizeable, complex and/or critical, and the VITA Contract does not already provide for a performance bond, you may want the Supplier to provide one. The VITA Contract may include an Errors and Omissions insurance requirement, which would cover the Supplier's liability for any breach of the Contract or this SOW. Be sure to read the Contract for this information. However, if you feel that this project warrants further performance incentive due to the project or the Supplier's viability, you may include the following language in this section.)*

*The Supplier shall post performance bond in an amount equal to one hundred percent (100%) of the total contract value and provide a copy of the bond to Authorized user within (10) days of execution of this SOW Agreement. In the event that the Supplier or any subcontractor or any officer, director, employee or agent of the Supplier or any subcontractor or any parent or subsidiary corporation of the Supplier or any subcontractor fails to fully and faithfully perform each material requirement of this SOW Agreement, including without limitation the Supplier's obligation to indemnify the Authorized User, the performance bond shall be forfeited to Authorized User. The bond shall be in a form customarily used in the technology industry and shall be written by a surety authorized to do business in Virginia and that is acceptable to Authorized User.*

### **20. OTHER TECHNICAL/FUNCTIONAL REQUIREMENTS**

*(Provide any other unique project technical and functional requirements and expectations in sufficient detail in this section. Ensure they do not conflict with existing requirements in the VITA Contract. Several examples are listed.)*

**A. Service Level Requirements****B. Mean-Time-Between-Failure Requirements****C. Data Access/Retrieval Requirements****D. Additional Warranties****21. REPORTING**

*(The following are examples of reporting requirements which may be included in your SOW depending on the project's need for governance. In an effort to help VITA monitor Supplier performance, it is strongly recommended that the SOW include "Supplier Performance Assessments". These assessments may be performed at the Project Manager's discretion and are not mandated by VITA.)*

**A. Weekly/Bi-weekly Status Update.**

The weekly/bi-weekly status report, to be submitted by Supplier to the Authorized User, should include: accomplishments to date as compared to the project plan; any changes in tasks, resources or schedule with new target dates, if necessary; all open issues or questions regarding the project; action plan for addressing open issues or questions and potential impacts on the project; risk management reporting.

**B. Supplier Performance Self-Assessment.**

Within thirty (30) days of execution of the project start, the Supplier and the Authorized User will agree on Supplier performance self-assessment criteria. Supplier shall prepare a monthly self-assessment to report on such criteria. Supplier shall submit its self-assessment to the Authorized User who will have five (5) days to respond to Supplier with any comments. If the Authorized User agrees with Supplier's self-assessment, such Authorized User will sign the self-assessment and submit a copy to the VITA Supplier Relationship Manager.

**C. Performance Auditing**

*(If you have included service level requirements in the above section entitled, Other Technical/Functional Requirements, you will want to include a requirement here for your ability to audit the results of the Supplier's fulfillment of all requirements, Likewise, you may want to include your validation audit of the Supplier's performance reporting under this Reporting section. It is important, however, that you read the VITA contract prior to developing this section's content so that conflicts are avoided. Suggested language is provided below, but must be customized for your project.)*

Authorized User (or name of IV&V contractor, if there is one), will audit the results of Supplier's service level obligations and performance requirements on a monthly/quarterly basis, within ten (10) days of receipt of Supplier's self-assessments and service report(s). Any discrepancies will be discussed between the Authorized User and Supplier and any necessary invoice/payment adjustments will be made. If agreement cannot be reached, the Authorized User and Supplier will escalate the matter in accordance with the Escalation provision of the Contract. *(If none, you may add your escalation procedure in this section.)*

**D. Supplier Performance Assessments**

*(You may want to develop assessments of the Supplier's performance and disseminate such assessments to other Authorized Users of the VITA Contract. Prior to dissemination of such assessments, Supplier will have an opportunity to respond to the assessments, and independent verification of the assessment may be utilized in the case of disagreement.)*

**22. CHANGE MANAGEMENT**

*(Changes to the baseline SOW must be documented for proper project oversight. Depending on your project, you may need to manage and capture changes to configuration, incidents, deliverables, schedule, price or other factors your team designates as critical. Any price changes must be done in compliance with the Code of Virginia, § 2.2-4309. Modification of the contract, found at this link:*

<http://leg1.state.va.us/cgi-bin/legp504.exe?000+coh+2.2-4309+500825>. Changes to the scope of this SOW must stay within the boundaries of the scope of the VITA Contract.

For complex and/or major projects, it is recommended that you use the VITA PMD processes and templates located at: <http://www.vita.virginia.gov/oversight/projects/default.aspx?id=567>.

Administrative or non-technical/functional changes (deliverables, schedule, point of contact, reporting, etc.) should extrapolate the affected sections of this SOW in a "from/to" format and be placed in a numbered modification letter referencing this SOW and date, with a new effective date. The VITA Contract may include a template for your use or you may obtain one from the VITA Contract's Point of Contact. It is very important that changes do not conflict with, but do comply with, the VITA Contract, which takes precedence. The following language may be included in this section, but additional language is needed to list any technical/functional change management areas specific to this SOW; i.e., configuration, incident, work flow, or any others of a technical/functional nature.)

All changes to this SOW must comply with the Contract. Price changes must comply with the Code of Virginia, § 2.2-4309. Modification of the contract, found at this link: <http://leg1.state.va.us/cgi-bin/legp504.exe?000+coh+2.2-4309+500825>

All changes to this SOW shall be in written form and fully executed between the Authorized User's and the Supplier's authorized representatives. For administrative changes, the parties agree to use the change template, attached to this SOW. For technical/functional change management requirements, listed below, the parties agree to follow the processes and use the templates provided at this link: <http://www.vita.virginia.gov/oversight/projects/default.aspx?id=567>

**23. POINT OF CONTACT**

For the duration of this project, the following project managers shall serve as the points of contact for day-to-day communication:

Authorized User: [Redacted]

Supplier: [Redacted]

By signing below, both parties agree to the terms of this Exhibit.

**Supplier:**

**Authorized User:**

\_\_\_\_\_  
(Name of Supplier)

\_\_\_\_\_  
(Name of Agency/Institution)

By: \_\_\_\_\_  
(Signature)

By: \_\_\_\_\_  
(Signature)

Name: \_\_\_\_\_  
(Print)

Name: \_\_\_\_\_  
(Print)

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

## 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 of 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:

Natalie Slowik

Printed Name:

Natalie Slowik

Organization:

SHI International Corp.

Date:

11/12/2013