



FLORIDA DEPARTMENT OF MANAGEMENT SERVICES

state purchasing

"We serve those who serve Florida"

AMENDMENT NO.: 4

Contract No.: 43220000-WSCA-14-ACS

Contract Name: Data Communication Products & Services

This Amendment ("Amendment") effective upon the date of the last signature below for the Data Communication Products & Services agreement between the State of Florida, Department of Management Services ("Department") and (Hewlett Packard Enterprises) ("Contractor") are collectively referred to herein as the "Parties." All capitalized terms used herein shall have the meaning assigned to them in the Master Agreement and the Participating Addendum unless otherwise defined herein.

WHEREAS, on July 15, 2015, the Department entered into an Alternate Contract Source agreement with Hewlett Packard Enterprises for the provisions of Data Communication Products and Services; and

WHEREAS, the Utah NASPO Value Point (VP) Master Agreement (AR1464) was amended to extend the term of the Master Agreement through May 31, 2020; and

WHEREAS, the Parties agreed that the Contract may be amended by mutual agreement as provided in section 42 ("Modification of Terms") of the PUR 1000 incorporated into the Contract; and

THEREFORE, in consideration of the mutual promises contained below, and other good and valuable consideration, receipt, and sufficiency of which are hereby acknowledged, the Parties agree to the following:

I. Amendment. The Participating Addendum is hereby amended to replace Subsection (B.3.d) in its entirety with the following:

Effective Date: The Participating Addendum became effective July 15, 2015 and will expire on May 31, 2020, unless terminated earlier by the Department.

II. Conflict. To the extent any of the terms of this Amendment conflict with the terms of the Participating Addendum, the terms of this Amendment shall control.

III. Warranty of Authority. Each person signing this Amendment warrants that he or she is duly authorized to do so and to bind the respective party.

IV. Effect. Unless otherwise modified by this Amendment, all terms and conditions contained in the Participating Addendum shall continue in full force and effect.

State of Florida:
Department of Management Services

By: 

Name: David Clark
Title: Chief of Staff
Date: 4/30/19

Contractor:
Hewlett Packard Enterprises

By: 

Name: Mary A. Reuss
Title: Contract Negotiator
Date: April 24, 2019

PARTICIPATING ADDENDUM
WSCA-NASPO COOPERATIVE PURCHASING ORGANIZATION
DATA COMMUNICATIONS PRODUCTS AND SERVICES 14-19
Administered by the State of Utah (hereinafter "Lead State")

MASTER AGREEMENT
Hewlett-Packard Company
Master Agreement No: AR1464
(hereinafter "Contractor")

And

[State of Florida Alternate Contract Source Number 43220000-WSCA-14-ACS]
(hereinafter "Participating State/Entity")

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1. Scope: This addendum covers the Data Communications Products and Services 14-19 contracts led by the State of Utah for use by state agencies and other entities located in the Participating **State/Entity** authorized by that state's statutes to utilize **state/entity** contracts with the prior approval of the state's chief procurement official.

2. Participation: Use of specific WSCA-NASPO cooperative contracts by agencies, political subdivisions and other entities (including cooperatives) authorized by an individual state's statutes to use **state/entity** contracts are subject to the prior approval of the respective State Chief Procurement Official. Issues of interpretation and eligibility for participation are solely within the authority of the State Chief Procurement Official.

3. Participating State Modifications or Additions to Master Agreement:
(These modifications or additions apply only to actions and relationships within the Participating Entity.)

A. Eligible Users

State agencies and other eligible users (hereinafter collectively referred to as "Eligible Users" or an "Eligible User") may make purchases from this Agreement pursuant to the terms and conditions of the Contract as modified and supplemented herein.

B. Changes and Additions to the Contract

1. Upon execution of this Alternate Contract Source (ACS) agreement, the Department of Management Services (Department) and all Eligible Users may purchase products and services under the WSCA-NASPO contract No. AR1464 for Data Communications Equipment & Services, Exhibit A.
2. The Department and Eligible Users acknowledge and agree to be bound by the terms and conditions of Exhibit A, except as otherwise specified in this ACS.
3. The following are modifications to Exhibit A.

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- a. Prices: The prices of the ACS are set forth in the attached Exhibit B, "State of Florida Price List," and are incorporated herein.
- b. PUR 1000 Form: The Department Purchasing Form PUR 1000 is attached hereto and incorporated herein as Exhibit C.
- c. Discriminatory Vendors. An entity or affiliate placed on the discriminatory vendor list pursuant to section 287.134 of the Florida Statutes may not:
 - submit a bid on a contract to provide any goods or services to a public entity;
 - submit a bid on a contract with a public entity for the construction or repair of a public building or public work;
 - submit bids on leases of real property to a public entity;
 - be awarded or perform work as a contractor, supplier, sub-contractor, or consultant under a contract with any public entity; or
 - transact business with any public entity.
- d. Effective Date: The ACS shall become effective on the last date signed below and is coterminous with Exhibit A, unless terminated earlier by the Department. Exhibit A specifies the term as June 1, 2014 through May 31, 2019 with no renewal options identified.
- e. Vendor Registration and Transaction Fees: In order to complete any transaction between a Buyer and the Vendor, the Vendor must be registered with the Department of State, Division of Corporations (www.sunbiz.org) and in [MyFloridaMarketPlace](#). Section 287.042(1)(h), Florida Statutes, and Rule 60A-1.031, Florida Administrative Code, is hereby incorporated by reference. All transactions are subject to a transaction fee pursuant to the rule.
- f. Orders: In order to procure products and services hereunder, Eligible Users shall issue purchase orders or use a Purchasing Card which shall reference this ACS. Eligible Users are responsible for reviewing the terms and conditions of this ACS

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and Exhibit A. Neither the Department nor WSCA-NASPO is a party to any purchase order issued hereunder.

- g. Compliance with Laws: The Contractor shall comply with all laws, rules, codes, ordinances, and licensing requirements that are applicable to the conduct of its business, including those of federal, State, and local agencies having jurisdiction and authority. By way of non-exhaustive example, Chapter 287 of the Florida Statutes and Rule 60A-1 of the Florida Administrative Code govern the ACS. By way of further non-exhaustive example, the Contractor shall comply with section 274A of the Immigration and Nationalization Act, the Americans with Disabilities Act, and all prohibitions against discrimination on the basis of race, religion, sex, creed, national origin, handicap, marital status, or veteran's status. Violation of any laws, rules, codes, ordinances, or licensing requirements shall be grounds for Contract termination or nonrenewal of the contract.
- h. Other Eligible Users: If any additional ordinance, rule, or other local governmental authority requires additional contract language before an Eligible User can make a purchase from the ACS referenced above, in lieu of this ACS, the Eligible User is responsible for signing a separate contract with the Contractor, capturing that additional contract language.
- i. Provisions of section 287.058, Florida Statutes: The provisions of section 287.058(1)(a)-(c) and (g), Florida Statutes, are hereby incorporated by reference.
- j. Public Records: If, under this contract, the Contractor is providing services and is acting on behalf of the Department as provided under subsection 119.011(2), Florida Statutes, the Contractor, subject to the terms of paragraph 287.058(1)(c), Florida Statutes, and any other applicable legal and equitable remedies, shall:
 - (a) Keep and maintain public records that ordinarily and necessarily would be required by the Department in order to perform the service.
 - (b) Provide the public with access to public records on the same terms and conditions that the Department would provide the records and at a cost that does

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not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.

(c) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law.

(d) Meet all requirements for retaining public records and transfer, at no cost, to the Department all public records in possession of the Contractor upon termination of the contract and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the Department in a format that is compatible with the information technology systems of the Department.

The Department may unilaterally cancel this Contract for refusal by the Service Provider to comply with this section by not allowing public access to all documents, papers, letters, or other material made or received by the contractor in conjunction with the contract, unless the records are exempt from s. 24(a) of Article I of the State Constitution and subsection 119.07(1).

- k. The State of Florida's performance and obligation to pay under this contract is contingent upon an annual appropriation by the Legislature. The vendor shall comply with section 11.062, Florida Statutes and section 216.347, Florida Statutes, prohibiting use of funds to lobby the Legislature, Judicial, or state agencies.

C. Contract Number

All purchase orders issued by Eligible Users within the State of Florida shall include the Department of Management Service's contract number, 43220000-WSCA-14-ACS, unless otherwise provided by Florida Law, statute, rule or this ACS. State agencies will not be required to submit an ACS form for purchases related to this ACS.

D. Contract Document

This ACS and its Exhibits set forth the entire agreement between the parties with respect to the subject matter of this ACS. The terms and conditions of this ACS and its exhibits shall prevail and govern in the case of any such inconsistent or additional terms.

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E. Event of Dispute

In the case of an ambiguity which requires extrinsic evidence to determine the intent of the parties, the following documents shall have priority in the order set forth below:

1. This Participating Addenda
2. Exhibit B, State of Florida Price List
3. Exhibit C, PUR 1000
4. Exhibit A, State of Utah WSCA-NASPO Agreement AR1464, Data Communications Equipment & Services
5. Exhibit D, Preferred Pricing Affidavit

F. Intellectual Property

The parties do not anticipate that any intellectual property will be developed as a result of this ACS. However, any intellectual property developed as a result of this ACS will belong to and be the sole property of the Eligible User. This provision will survive the termination or expiration of the ACS.

G. Employment Eligibility Verification

Pursuant to State of Florida Executive Orders Nos.: 11-02 and 11-116, Contractor is required to utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment of all new employees hired by the Contractor during the ACS term. Also, Contractor shall include in related subcontracts a requirement that subcontractors performing work or providing services pursuant to the state ACS utilize the E-Verify system to verify employment of all new employees hired by the subcontractor during the ACS term.

H. State of Florida Price List

The Contractor shall provide, as Exhibit B, to the Department's Contract Administrator (Participating Entity Contact) a copy of the product and services price list, which shall be posted on the Department's website. If the Contractor's price list will be the same as the WSCA-NASPO price list, the Contractor must advise the Contract Administrator and the Department will post a link on the Department's website to the price list posted on the WSCA-

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NASPO website. Contractors are encouraged to provide special pricing and/or tiered discount rates applicable to State of Florida Eligible Users wherever possible.

I. Preferred Price Affidavit Requirement

The Department will provide the Preferred Pricing Affidavit, incorporated by reference as the attached Exhibit D, for completion by an authorized representative of the Contractor attesting that the Contractor is in compliance with the best pricing provision in Section 4(b) of the PUR 1000 form. The Contractor agrees to submit to the Department, at least annually, the completed Preferred Pricing Affidavit.

J. Scrutinized Company List

In executing this ACS, Contractor certifies that it is not listed on either the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, created pursuant to section 215.473, Florida Statutes. Pursuant to subsection 287.135(5), Florida Statutes, Contractor agrees the Department may immediately terminate this ACS for cause if the Contractor is found to have submitted a false certification or if Contractor is placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List during the term of the ACS.

K. Ordering Instructions

The focus is to direct the Eligible User with the proper method of purchasing the goods and/or services awarded based on direction from the Eligible User and previous experience with such commodities.

1. The Contractor agrees to meet the following requirements:
 - a. Provide appropriate contact information for Eligible Users to use for product and/or service inquiries and purchases, as well as the most up-to-date product/service offering the Contractor is authorized to provide in accordance with the statewide contract; and
 - b. If orders are to be sent to resellers or distributors for fulfillment then the Contractor is responsible for providing this list of authorized resellers or

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distributors for use; and

- c. The accuracy of this information must be maintained by Contractor throughout the duration of the ACS; and
2. Contractor must be able to accept Purchase Orders (PO) via fax, e-mail, or cXML as identified in L.1 below.

L. Electronic Invoicing

The Contractor shall supply electronic invoices in lieu of paper-based invoices for those transactions processed through the MFMP within ninety (90) days from contract effective date. Electronic invoices shall be submitted to the agency through the Ariba Supplier Network (ASN) in one of three mechanisms as listed below:

1. cXML (commerce eXtensible Markup Language)
This standard establishes the data contents required for invoicing via cXML within the context of an electronic environment. This transaction set can be used for invoicing via the ASN for catalog and non-catalog goods and services. The cXML format is the Ariba preferred method for e-Invoicing.
2. EDI (Electronic Data Interchange)
This standard establishes the data contents of the Invoice Transaction Set (810) for use within the context of an Electronic Data Interchange (EDI) environment. This transaction set can be used for invoicing via the ASN for catalog and non-catalog goods and services.
3. PO Flip via ASN
The online process allows Contractors to submit invoices via the AN for catalog and non-catalog goods and services. Contractors have the ability to create an invoice directly from their Inbox in their AN account by simply "flipping" the PO into an invoice. This option does not require any special software or technical capabilities.

For the purposes of this section, the Contractor warrants and represents that it is

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authorized and empowered to and hereby grants the State and the third party provider of MFMP, a state contractor, the right and license to use, reproduce, transmit, distribute, and publicly display within the system the information outlined above. In addition, the Contractor warrants and represents that it is authorized and empowered to and hereby grants the State and the third party provider the right and license to reproduce and display within the system the Contractor's trademarks, system marks, logos, trade dress, or other branding designation that identifies the products made available by the Contractor under the ACS.

The Contractor will work with the MFMP management team to obtain specific requirements for the electronic invoicing upon contract award.

M. Contract Quarterly Reports

Each Contractor shall submit a Quarterly Report in the required format electronically to the Department Contract Manager within 30 days of the end of the quarter. The Department reserves the right to require the Contractor to provide additional reports within 30 days written notice. Failure to provide the Quarterly Report or other reports requested by the Department may result in the Contractor being found in default and may result in termination of the ACS.

Initiation and submission of the Report are the responsibility of the Contractor without prompting or notification by the Contract Manager.

Sales will be reviewed on a quarterly basis. Should no sales be recorded in two consecutive contract quarters, the Department may terminate the contract.

N. Business Review Meetings

The Department reserves the right to schedule business review meetings as frequently as necessary. The Department will provide the format for the Contractor's agenda. Prior to the meeting, the Contractor shall submit the completed agenda to the Department for review and acceptance. The Contractor shall address the agenda items and any of the Department's additional concerns at the meeting. Failure to comply with this section may result in the Contractor being found in default and contract termination.

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O. Commitment to Diversity in Government Contracting

The State of Florida is committed to supporting its diverse business industry and population through ensuring participation by minority-, women-, wartime-, and service-disabled veteran business enterprises in the economic life of the State. The State of Florida Mentor Protégé Program connects minority-, women-, wartime-, and service-disabled veteran business enterprises with private corporations for business development mentoring. We strongly encourage firms doing business with the State of Florida to consider this initiative. For more information on the Mentor Protégé Program., please contact the Office of Supplier Diversity at (850) 487-0915 or osdhelp@dms.myflorida.com.

Upon request, the Contractor shall report to the Department spend with certified and other minority business enterprises. These reports will include the period covered, the name, minority code and Federal Employer Identification Number of each minority vendor utilized during the period. Commodities and services provided by the minority business enterprise, and the amount paid to each minority vendor on behalf of each purchasing agency ordering under the terms of this Contract.

P. Subcontractors

The contractor may use a subcontractor in order to provide adequate network infrastructure equipment and services. All subcontractors shall be the direct responsibility of the Contractor that entered into such subcontract. The Contractor is responsible for all liability, terms and conditions within the contract. If a subcontractor is authorized to conduct business on behalf of the Contractor and the subcontractor is to receive compensation from the Contractor for its services, then any dispute between the Contractor and the subcontractor shall be resolved between the Contractor and the subcontractor. The State of Florida is not a party to any agreement entered into between the Contractor and its subcontractor(s). The Contractor shall be responsible to report all contract sales (and pay any associated MFMP transaction fees), including those of any such subcontractors and shall ensure that all such subcontractors meet the following requirements:

- Have an ACTIVE Registration with the Department of State, Division of Corporations (www.sunbiz.org)

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- Registered in the MFMP Vendor Information Portal
(<https://vendor.myfloridamarketplace.com>)
- Not be on the State of Florida's Convicted, Suspended, or Discriminatory lists
http://www.dms.myflorida.com/business_operations/State_purchasing/vendor_information/convicted_suspended_discriminatory_complaints_vendor_lists
- Have a copy of e-Verify Status on file
- Have a current W-9 filed with the Florida Department of Financial Services
(<https://flvendor.myfloridacfo.com>)

Q. Warrant of Authority

Each person signing this Participating Addendum warrants that he or she is duly authorized to do so and to bind the respective party.

4. Lease Agreements: Agencies may lease equipment through alternative financing arrangements other than through the State of Florida Consolidated Equipment Financing Program (CEFP). This option is governed by sections 287.063 and 287.064, Florida Statutes, and Rule 69I-3, Florida Administrative Code. The Department of Financial Services (DFS) Finance and leasing Section will review proposed leases to determine compliance with all requirements and to ensure leases are economical and cost effective. The Contractor and Eligible User (working together) will be required to complete and submit to DFS the Checklist – Approval to Lease Equipment form. A copy of the form may be found at the DFS website: <http://www.myfloridacfo.com/Division/AA/Forms/default.htm>

Prior approval of the Chief Financial Officer (as defined in Section 17.001, Florida Statutes) is required for State agencies to enter into or to extend any lease or installment-purchase agreement in excess of the Category Two amount established by section 287.017 of the Florida Statutes. All State agencies are urged to review the Chief Financial Officer's latest memorandum addressing leases and deferred-payment purchases of equipment when considering the leasing or purchasing of equipment. DFS memos can be found at: <http://www.myfloridacfo.com/Division/AA/Memos/default.htm>.

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5. Primary Contacts: The primary contact individuals for this Participating Addendum are as follows (or their named successors):

<u>Contractor</u>	Stacey Kearns
Name	Veronica Mendez , Hewlett-Packard Company
Address	Hewlett-Packard Company 355 LedgeLawn Drive Conway, Arkansas 72034 Attention: Elizabeth Leach
Telephone	650.258.2822 501.205.6277
Fax	501.339.2377
E-mail	veronicam@hp.com stacey.lyn.kearns@hp.com

Participating Entity

Name	Brian Leger
Address	4050 Esplanade Way, Suite 360, Tallahassee, FL 32399-0950
Telephone	(850) 410-0978
Fax	(850) 414-6122
E-mail	Brian.Leger@dms.myflorida.com

6. Subcontractors: All **[contractor]** dealers and resellers authorized in the State of Florida, as shown on the dedicated **[contractor's]** (cooperative contract) website, are approved to provide sales and service support to participants in the WSCA-NASPO Master Price Agreement. The **[contractor]** dealer's participation will be in accordance with the terms and conditions set forth in the aforementioned Master Agreement.

7. Orders: Any Order placed by a Participating Entity or Purchasing Entity for a Product and/or Service available from this Master Agreement shall be deemed to be a sale under (and governed by the prices and other terms and conditions) of the Master Agreement unless the parties to the Order agree in writing that another contract or agreement applies to such Order.

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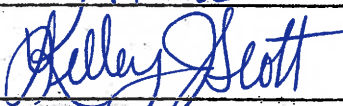
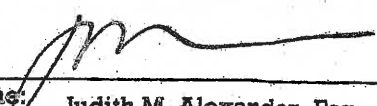
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IN WITNESS WHEREOF, the parties have executed this Addendum as of the date of execution by both parties below.

Participating State: <u>Florida</u>	Contractor: HEWLETT-PACKARD COMPANY
By: 	By: 
Name: Kelley Scott	Name: Judith M. Alexander, Esq.
Title: Director of State Purchasing and Chief Procurement Officer	Title: Public Sector Contracts Negotiator
Date: <u>1/16/15</u>	Date: December 22, 2014

[Additional signatures as required by Participating State]

For questions on executing a participating addendum, please contact:

WSCA-NASPO

Cooperative Development Coordinator	Paul Stembler
Telephone	651-206-3858
E-mail	pstembler@wsca-naspo.org

[Please email fully executed PDF copy of this document to
PA@wsca-naspo.org to support documentation of participation and
posting in appropriate data bases]

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Exhibit A
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Exhibit B
State of Florida Price List

Section of HP Master Agreement No. AR1464	EQUIPMENT AND SERVICES CATEGORY	Discount Percent off HP US List Price
5.2.1	Data Center Application Servers	
	Atalla	30%
5.2.2	Networking Software	
	HP Network Management and Software	38%
	ArcSight Term & Perpetual SW licenses	34%
	Atalla	30%
5.2.3	Network Optimization and Acceleration	
	HP Networking Enterprise Routing and Switching	40%
	WLAN	40%
5.2.4	Optical Networking	
	HP Network Accessories	40%
5.2.5	Routers	
	HP Networking Enterprise Routing and Switching	40%
	HP Networking Routing	40%
5.2.6	Security	
	Procurve Security	40%
	ArcSight Appliance	34%
	Tipping Point Hardware and Software	20%
5.2.7	Storage Networking	
	Blade Virtual Connect	29%
	Blade Servers and Options, other than Virtual Connect	31%
	BladeSystem Accessories - Networking	31%
	PD-ProLiant Blades - Processors	31%
	HP BladeSystem - c-Class Encl - CTO	31%

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	BladeSystem Acc - Infrastructure - CTO	31%
	SERVERS - Blade Series - MidRange (BTO)	31%
	SERVERS - Blade Series - MidRange (CTO)	31%
	Blade System Storage Switches, Commercial Switches and Switch SW, Commercial Host Bus Adapters	25%
	Enterprise Switches and Host Bus Adapters	43%
5.2.8	Switches	
	HP Networking Switching and SBN Networking	31%
	HP Networking Enterprise Routing and Switching	40%
5.2.9	Wireless	
	HP Networking Switching and SBN Networking	31%
	WLAN	40%
5.3.0	Unified Communications	
	HP Telephony	34%
5.3.1	Services	
	Hardware Services	24%
	Hardware Services	24%
	Installation Services	24%
	Support & Professional Services	20%
	Tipping Point Support	20%
	Education Online Training	20%
	Education Classroom-based Training	20%

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Exhibit C
State of Florida PUR 1000
General Contract Conditions

1. Definitions. The definitions contained in s. 60A-1.001, F.A.C. shall apply to this agreement. The following additional terms are also defined:

(a) "Contract" means the legally enforceable agreement that results from a successful solicitation. The parties to the Contract will be the Customer and Contractor.

(b) "Customer" means the State agency or other entity identified in a contract as the party to receive commodities or contractual services pursuant to a contract or that orders commodities or contractual services via purchase order or other contractual instrument from the Contractor under the Contract. The "Customer" may also be the "Buyer" as defined in the PUR 1001 if it meets the definition of both terms.

(c) "Product" means any deliverable under the Contract, which may include commodities, services, technology or software.

(d) "Purchase order" means the form or format a Customer uses to make a purchase under the Contract (e.g., a formal written purchase order, electronic purchase order, procurement card, contract or other authorized means).

2. Purchase Orders. In contracts where commodities or services are ordered by the Customer via purchase order, Contractor shall not deliver or furnish products until a Customer transmits a purchase order. All purchase orders shall bear the Contract or solicitation number, shall be placed by the Customer directly with the Contractor, and shall be deemed to incorporate by reference the Contract and solicitation terms and conditions. Any discrepancy between the Contract terms and the terms stated on the Contractor's order form, confirmation, or acknowledgement shall be resolved in favor of terms most favorable to the Customer. A purchase order for services within the ambit of section 287.058(1) of the Florida Statutes shall be deemed to incorporate by reference the requirements of subparagraphs (a) through (f) thereof. Customers shall designate a contract manager and a contract administrator as required by subsections 287.057(15) and (16) of the Florida Statutes.

3. Product Version. Purchase orders shall be deemed to reference a manufacturer's most recently release model or version of the product at the time of the order, unless the Customer

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specifically requests in writing an earlier model or version and the contractor is willing to provide such model or version.

4. Price Changes Applicable only to Term Contracts. If this is a term contract for commodities or services, the following provisions apply.

(a) Quantity Discounts. Contractors are urged to offer additional discounts for one time delivery of large single orders. Customers should seek to negotiate additional price concessions on quantity purchases of any products offered under the Contract. State Customers shall document their files accordingly.

(b) Best Pricing Offer. During the Contract term, if the Customer becomes aware of better pricing offered by the Contractor for substantially the same or a smaller quantity of a product outside the Contract, but upon the same or similar terms of the Contract, then at the discretion of the Customer the price under the Contract shall be immediately reduced to the lower price.

(c) Sales Promotions. In addition to decreasing prices for the balance of the Contract term due to a change in market conditions, a Contractor may conduct sales promotions involving price reductions for a specified lesser period. A Contractor shall submit to the Contract Specialist documentation identifying the proposed (1) starting and ending dates of the promotion, (2) products involved, and (3) promotional prices compared to then-authorized prices. Promotional prices shall be available to all Customers. Upon approval, the Contractor shall provide conspicuous notice of the promotion.

(d) Trade-In. Customers may trade-in equipment when making purchases from the Contract. A trade-in shall be negotiated between the Customer and the Contractor. Customers are obligated to actively seek current fair market value when trading equipment, and to keep accurate records of the process. For State agencies, it may be necessary to provide documentation to the Department of Financial Services and to the agency property custodian pursuant to Chapter 273, F.S.

(e) Equitable Adjustment. The Customer may, in its sole discretion, make an equitable adjustment in the Contract terms or pricing if pricing or availability of supply is affected by extreme and unforeseen volatility in the marketplace, that is, by circumstances that satisfy all the following criteria: (1) the volatility is due to causes wholly beyond the Contractor's control, (2) the volatility affects the marketplace or industry, not just the particular Contract source of supply, (3) the effect

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on pricing or availability of supply is substantial, and (4) the volatility so affects the Contractor that continued performance of the Contract would result in a substantial loss.

5. Additional Quantities. For a period not exceeding ninety (90) days from the date of solicitation award, the Customer reserves the right to acquire additional quantities up to the amount shown on the solicitation but not to exceed the threshold for Category Two at the prices submitted in the response to the solicitation.

6. Packaging. Tangible product shall be securely and properly packed for shipment, storage, and stocking in appropriate, clearly labeled, shipping containers and according to accepted commercial practice, without extra charge for packing materials, cases, or other types of containers. All containers and packaging shall become and remain Customer's property.

7. Inspection at Contractor's Site. The Customer reserves the right to inspect, at any reasonable time with prior notice, the equipment or product or plant or other facilities of a Contractor to assess conformity with Contract requirements and to determine whether they are adequate and suitable for proper and effective Contract performance.

8. Safety Standards. All manufactured items and fabricated assemblies subject to operation under pressure, operation by connection to an electric source, or operation involving connection to a manufactured, natural, or LP gas source shall be constructed and approved in a manner acceptable to the appropriate State inspector. Acceptability customarily requires, at a minimum, identification marking of the appropriate safety standard organization, where such approvals of listings have been established for the type of device offered and furnished, for example: the American Society of Mechanical Engineers for pressure vessels; the Underwriters Laboratories and/or National Electrical Manufacturers' Association for electrically operated assemblies; and the American Gas Association for gas-operated assemblies. In addition, all items furnished shall meet all applicable requirements of the Occupational Safety and Health Act and state and federal requirements relating to clean air and water pollution.

9. Americans with Disabilities Act. Contractors should identify any products that may be used or adapted for use by visually, hearing, or other physically impaired individuals.

10. Literature. Upon request, the Contractor shall furnish literature reasonably related to the product offered, for example, user manuals, price schedules, catalogs, descriptive brochures, etc.

11. Transportation and Delivery. Prices shall include all charges for packing, handling, freight, distribution, and inside delivery. Transportation of goods shall be FOB Destination to any point

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within thirty (30) days after the Customer places an Order. A Contractor, within five (5) days after receiving a purchase order, shall notify the Customer of any potential delivery delays. Evidence of inability or intentional delays shall be cause for Contract cancellation and Contractor suspension.

12. Installation. Where installation is required, Contractor shall be responsible for placing and installing the product in the required locations at no additional charge, unless otherwise designated on the Contract or purchase order. Contractor's authorized product and price list shall clearly and separately identify any additional installation charges. All materials used in the installation shall be of good quality and shall be free of defects that would diminish the appearance of the product or render it structurally or operationally unsound. Installation includes the furnishing of any equipment, rigging, and materials required to install or replace the product in the proper location. Contractor shall protect the site from damage and shall repair damages or injury caused during installation by Contractor or its employees or agents. If any alteration, dismantling, excavation, etc., is required to achieve installation, the Contractor shall promptly restore the structure or site to its original condition. Contractor shall perform installation work so as to cause the least inconvenience and interference with Customers and with proper consideration of others on site. Upon completion of the installation, the location and surrounding area of work shall be left clean and in a neat and unobstructed condition, with everything in satisfactory repair and order.

13. Risk of Loss. Matters of inspection and acceptance are addressed in s. 215.422, F.S. Until acceptance, risk of loss or damage shall remain with the Contractor. The Contractor shall be responsible for filing, processing, and collecting all damage claims. To assist the Contractor with damage claims, the Customer shall: record any evidence of visible damage on all copies of the delivering carrier's Bill of Lading; report damages to the carrier and the Contractor; and provide the Contractor with a copy of the carrier's Bill of Lading and damage inspection report. When a Customer rejects a product, Contractor shall remove it from the premises within ten days after notification or rejection. Upon rejection notification, the risk of loss of rejected or non-conforming product shall remain with the Contractor. Rejected product not removed by the Contractor within ten days shall be deemed abandoned by the Contractor, and the Customer shall have the right to dispose of it as its own property. Contractor shall reimburse the Customer for costs and expenses incurred in storing or effecting removal or disposition of rejected product.

14. Transaction Fee. The State of Florida has instituted MyFloridaMarketPlace, a statewide eProcurement System ("System"). Pursuant to section 287.057(23), Florida Statutes (2002), all payments shall be assessed a Transaction Fee of one percent (1.0%), which the Contractor shall pay to the State, unless exempt pursuant to 60A-1.032, F.A.C.

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For payments within the State accounting system (FLAIR or its successor), the Transaction Fee shall, when possible, be automatically deducted from payments to the Contractor. If automatic deduction is not possible, the Contractor shall pay the Transaction Fee pursuant to Rule 60A-1.031(2), F.A.C. By submission of these reports and corresponding payments, Contractor certifies their correctness. All such reports and payments shall be subject to audit by the State or its designee.

Contractor shall receive a credit for any Transaction Fee paid by the Contractor for the purchase of any item(s) if such item(s) are returned to the Contractor through no fault, act, or omission of the Contractor. Notwithstanding the foregoing, a Transaction Fee is non-refundable when an item is rejected or returned, or declined, due to the Contractor's failure to perform or comply with specifications or requirements of the agreement.

Failure to comply with these requirements shall constitute grounds for declaring the Contractor in default and recovering procurement costs from the Contractor in addition to all outstanding fees.
CONTRACTORS DELINQUENT IN PAYING TRANSACTION FEES MAY BE SUBJECT TO BEING REMOVED FROM THE DEPARTMENT OF MANAGEMENT SERVICES' VENDOR LIST AS PROVIDED IN RULE 60A-1.006, F.A.C.

15. Invoicing and Payment. Invoices shall contain the Contract number, purchase order number if applicable, and the appropriate vendor identification number. The State may require any other information from the Contractor that the State deems necessary to verify any purchase order placed under the Contract.

At the State's option, Contractors may be required to invoice electronically pursuant to guidelines of the Department of Management Services. Current guidelines require that Contractor supply electronic invoices in lieu of paper-based invoices for those transactions processed through the system. Electronic invoices shall be submitted to the Customer through the Ariba Supplier Network (ASN) in one of the following mechanisms – EDI 810, cXML, or web-based invoice entry within the ASN.

Payment shall be made in accordance with sections 215.422 and 287.0585 of the Florida Statutes, which govern time limits for payment of invoices. Invoices that must be returned to a Contractor due to preparation errors will result in a delay in payment. Contractors may call (850) 413-7269 Monday through Friday to inquire about the status of payments by State Agencies. The Customer is responsible for all payments under the Contract. A Customer's failure to pay, or delay in payment, shall not constitute a breach of the Contract and shall not relieve the Contractor of its obligations to the Department or to other Customers.

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16. Taxes. The State does not pay Federal excise or sales taxes on direct purchases of tangible personal property. The State will not pay for any personal property taxes levied on the Contractor or for any taxes levied on employees' wages. Any exceptions to this paragraph shall be explicitly noted by the Customer in the special contract conditions section of the solicitation or in the Contract or purchase order.

17. Governmental Restrictions. If the Contractor believes that any governmental restrictions have been imposed that require alteration of the material, quality, workmanship or performance of the products offered under the Contract, the Contractor shall immediately notify the Customer in writing, indicating the specific restriction. The Customer reserves the right and the complete discretion to accept any such alteration or to cancel the Contract at no further expense to the Customer.

18. Lobbying and Integrity. Customers shall ensure compliance with Section 11.062, FS and Section 216.347, FS. The Contractor shall not, in connection with this or any other agreement with the State, directly or indirectly (1) offer, confer, or agree to confer any pecuniary benefit on anyone as consideration for any State officer or employee's decision, opinion, recommendation, vote, other exercise of discretion, or violation of a known legal duty, or (2) offer, give, or agree to give to anyone any gratuity for the benefit of, or at the direction or request of, any State officer or employee. For purposes of clause (2), "gratuity" means any payment of more than nominal monetary value in the form of cash, travel, entertainment, gifts, meals, lodging, loans, subscriptions, advances, deposits of money, services, employment, or contracts of any kind. Upon request of the Customer's Inspector General, or other authorized State official, the Contractor shall provide any type of information the Inspector General deems relevant to the Contractor's integrity or responsibility. Such information may include, but shall not be limited to, the Contractor's business or financial records, documents, or files of any type or form that refer to or relate to the Contract. The Contractor shall retain such records for the longer of (1) three years after the expiration of the Contract or (2) the period required by the General Records Schedules maintained by the Florida Department of State (available at: <http://dliis.dos.state.fl.us/barm/genschedules/gensched.htm>). The Contractor agrees to reimburse the State for the reasonable costs of investigation incurred by the Inspector General or other authorized State official for investigations of the Contractor's compliance with the terms of this or any other agreement between the Contractor and the State which results in the suspension or debarment of the Contractor. Such costs shall include, but shall not be limited to: salaries of investigators, including overtime; travel and lodging expenses; and expert witness and documentary fees. The Contractor shall not be responsible for any costs of investigations that do not result in the Contractor's suspension or debarment.

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19. Indemnification. The Contractor shall be fully liable for the actions of its agents, employees, partners, or subcontractors and shall fully indemnify, defend, and hold harmless the State and Customers, and their officers, agents, and employees, from suits, actions, damages, and costs of every name and description, including attorneys' fees, arising from or relating to personal injury and damage to real or personal tangible property alleged to be caused in whole or in part by Contractor, its agents, employees, partners, or subcontractors, provided, however, that the Contractor shall not indemnify for that portion of any loss or damages proximately caused by the negligent act or omission of the State or a Customer.

Further, the Contractor shall fully indemnify, defend, and hold harmless the State and Customers from any suits, actions, damages, and costs of every name and description, including attorneys' fees, arising from or relating to violation or infringement of a trademark, copyright, patent, trade secret or intellectual property right, provided, however, that the foregoing obligation shall not apply to a Customer's misuse or modification of Contractor's products or a Customer's operation or use of Contractor's products in a manner not contemplated by the Contract or the purchase order. If any product is the subject of an infringement suit, or in the Contractor's opinion is likely to become the subject of such a suit, the Contractor may at its sole expense procure for the Customer the right to continue using the product or to modify it to become non-infringing. If the Contractor is not reasonably able to modify or otherwise secure the Customer the right to continue using the product, the Contractor shall remove the product and refund the Customer the amounts paid in excess of a reasonable rental for past use. The customer shall not be liable for any royalties.

The Contractor's obligations under the preceding two paragraphs with respect to any legal action are contingent upon the State or Customer giving the Contractor (1) written notice of any action or threatened action, (2) the opportunity to take over and settle or defend any such action at Contractor's sole expense, and (3) assistance in defending the action at Contractor's sole expense. The Contractor shall not be liable for any cost, expense, or compromise incurred or made by the State or Customer in any legal action without the Contractor's prior written consent, which shall not be unreasonably withheld.

20. Limitation of Liability. For all claims against the Contractor under any contract or purchase order, and regardless of the basis on which the claim is made, the Contractor's liability under a contract or purchase order for direct damages shall be limited to the greater of \$100,000, the dollar amount of the contract or purchase order, or two times the charges rendered by the Contractor under the purchase order. This limitation shall not apply to claims arising under the Indemnity paragraph contain in this agreement.

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Unless otherwise specifically enumerated in the Contract or in the purchase order, no party shall be liable to another for special, indirect, punitive, or consequential damages, including lost data or records (unless the contract or purchase order requires the Contractor to back-up data or records), even if the party has been advised that such damages are possible. No party shall be liable for lost profits, lost revenue, or lost institutional operating savings. The State and Customer may, in addition to other remedies available to them at law or equity and upon notice to the Contractor, retain such monies from amounts due Contractor as may be necessary to satisfy any claim for damages, penalties, costs and the like asserted by or against them. The State may set off any liability or other obligation of the Contractor or its affiliates to the State against any payments due the Contractor under any contract with the State.

21. Suspension of Work. The Customer may in its sole discretion suspend any or all activities under the Contract or purchase order, at any time, when in the best interests of the State to do so. The Customer shall provide the Contractor written notice outlining the particulars of suspension. Examples of the reason for suspension include, but are not limited to, budgetary constraints, declaration of emergency, or other such circumstances. After receiving a suspension notice, the Contractor shall comply with the notice and shall not accept any purchase orders. Within ninety days, or any longer period agreed to by the Contractor, the Customer shall either (1) issue a notice authorizing resumption of work, at which time activity shall resume, or (2) terminate the Contract or purchase order. Suspension of work shall not entitle the Contractor to any additional compensation.

22. Termination for Convenience. The Customer, by written notice to the Contractor, may terminate the Contract in whole or in part when the Customer determines in its sole discretion that it is in the State's interest to do so. The Contractor shall not furnish any product after it receives the notice of termination, except as necessary to complete the continued portion of the Contract, if any. The Contractor shall not be entitled to recover any cancellation charges or lost profits.

23. Termination for Cause. The Customer may terminate the Contract if the Contractor fails to (1) deliver the product within the time specified in the Contract or any extension, (2) maintain adequate progress, thus endangering performance of the Contract, (3) honor any term of the Contract, or (4) abide by any statutory, regulatory, or licensing requirement. Rule 60A-1.006(3), F.A.C., governs the procedure and consequences of default. The Contractor shall continue work on any work not terminated. Except for defaults of subcontractors at any tier, the Contractor shall not be liable for any excess costs if the failure to perform the Contract arises from events completely beyond the control, and without the fault or negligence, of the Contractor. If the failure

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to perform is caused by the default of a subcontractor at any tier, and if the cause of the default is completely beyond the control of both the Contractor and the subcontractor, and without the fault or negligence of either, the Contractor shall not be liable for any excess costs for failure to perform, unless the subcontracted products were obtainable from other sources in sufficient time for the Contractor to meet the required delivery schedule. If, after termination, it is determined that the Contractor was not in default, or that the default was excusable, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the Customer. The rights and remedies of the Customer in this clause are in addition to any other rights and remedies provided by law or under the Contract.

24. Force Majeure, Notice of Delay, and No Damages for Delay. The Contractor shall not be responsible for delay resulting from its failure to perform if neither the fault nor the negligence of the Contractor or its employees or agents contributed to the delay and the delay is due directly to acts of God, wars, acts of public enemies, strikes, fires, floods, or other similar cause wholly beyond the Contractor's control, or for any of the foregoing that affect subcontractors or suppliers if no alternate source of supply is available to the Contractor. In case of any delay the Contractor believes is excusable, the Contractor shall notify the Customer in writing of the delay or potential delay and describe the cause of the delay either (1) within ten (10) days after the cause that creates or will create the delay first arose, if the Contractor could reasonably foresee that a delay could occur as a result, or (2) if delay is not reasonably foreseeable, within five (5) days after the date the Contractor first had reason to believe that a delay could result. **THE FOREGOING SHALL CONSTITUTE THE CONTRACTOR'S SOLE REMEDY OR EXCUSE WITH RESPECT TO DELAY.** Providing notice in strict accordance with this paragraph is a condition precedent to such remedy. No claim for damages, other than for an extension of time, shall be asserted against the Customer. The Contractor shall not be entitled to an increase in the Contract price or payment of any kind from the Customer for direct, indirect, consequential, impact or other costs, expenses or damages, including but not limited to costs of acceleration or inefficiency, arising because of delay, disruption, interference, or hindrance from any cause whatsoever. If performance is suspended or delayed, in whole or in part, due to any of the causes described in this paragraph, after the causes have ceased to exist the Contractor shall perform at no increased cost, unless the Customer determines, in its sole discretion, that the delay will significantly impair the value of the Contract to the State or to Customers, in which case the Customer may (1) accept allocated performance or deliveries from the Contractor, provided that the Contractor grants preferential treatment to Customers with respect to products subjected to allocation, or (2) purchase from other sources (without recourse to and by the Contractor for the related costs and expenses) to replace all or part of the products that are the subject of the delay, which purchases may be deducted from the Contract quantity, or (3) terminate the Contract in whole or in part.

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25. Changes. The Customer may unilaterally require, by written order, changes altering, adding to, or deducting from the Contract specifications, provided that such changes are within the general scope of the Contract. The Customer may make an equitable adjustment in the Contract price or delivery date if the change affects the cost or time of performance. Such equitable adjustments require the written consent of the Contractor, which shall not be unreasonably withheld. If unusual quantity requirements arise, the Customer may solicit separate bids to satisfy them.

26. Renewal. Upon mutual agreement, the Customer and the Contractor may renew the Contract, in whole or in part, for a period that may not exceed 3 years or the term of the contract, whichever period is longer. Any renewal shall specify the renewal price, as set forth in the solicitation response. The renewal must be in writing and signed by both parties, and is contingent upon satisfactory performance evaluations and subject to availability of funds.

27. Purchase Order Duration. Purchase orders issued pursuant to a state term or agency contract must be received by the Contractor no later than close of business on the last day of the contract's term to be considered timely. The Contractor is obliged to fill those orders in accordance with the contract's terms and conditions. Purchase orders received by the contractor after close of business on the last day of the state term or agency contract's term shall be considered void.

Purchase orders for a one-time delivery of commodities or performance of contractual services shall be valid through the performance by the Contractor, and all terms and conditions of the state term or agency contract shall apply to the single delivery/performance, and shall survive the termination of the Contract.

Contractors are required to accept purchase orders specifying delivery schedules exceeding the contracted schedule even when such extended delivery will occur after expiration of the state term or agency contract. For example, if a state term contract calls for delivery 30 days after receipt of order (ARO), and an order specifies delivery will occur both in excess of 30 days ARO and after expiration of the state term contract, the Contractor will accept the order. However, if the Contractor expressly and in writing notifies the ordering office within ten (10) calendar days of receipt of the purchase order that Contractor will not accept the extended delivery terms beyond the expiration of the state term contract, then the purchase order will either be amended in writing by the ordering entity within ten (10) calendar days of receipt of the contractor's notice to reflect the state term contract delivery schedule, or it shall be considered withdrawn.

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The duration of purchase orders for recurring deliveries of commodities or performance of services shall not exceed the expiration of the state term or agency contract by more than twelve months. However, if an extended pricing plan offered in the state term or agency contract is selected by the ordering entity, the contract terms on pricing plans and renewals shall govern the maximum duration of purchase orders reflecting such pricing plans and renewals.

Timely purchase orders shall be valid through their specified term and performance by the Contractor, and all terms and conditions of the state term or agency contract shall apply to the recurring delivery/performance as provided herein, and shall survive the termination of the Contract.

Ordering offices shall not renew a purchase order issued pursuant to a state term or agency contract if the underlying contract expires prior to the effective date of the renewal.

28. Advertising. Subject to Chapter 119, Florida Statutes, the Contractor shall not publicly disseminate any information concerning the Contract without prior written approval from the Customer, including, but not limited to mentioning the Contract in a press release or other promotional material, identifying the Customer or the State as a reference, or otherwise linking the Contractor's name and either a description of the Contract or the name of the State or the Customer in any material published, either in print or electronically, to any entity that is not a party to Contract, except potential or actual authorized distributors, dealers, resellers, or service representative.

29. Assignment. The Contractor shall not sell, assign or transfer any of its rights, duties or obligations under the Contract, or under any purchase order issued pursuant to the Contract, without the prior written consent of the Customer. In the event of any assignment, the Contractor remains secondarily liable for performance of the contract, unless the Customer expressly waives such secondary liability. The Customer may assign the Contract with prior written notice to Contractor of its intent to do so.

30. Antitrust Assignment. The Contractor and the State of Florida recognize that in actual economic practice, overcharges resulting from antitrust violations are in fact usually borne by the State of Florida. Therefore, the contractor hereby assigns to the State of Florida any and all claims for such overcharges as to goods, materials or services purchased in connection with the Contract.

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31. Dispute Resolution. Any dispute concerning performance of the Contract shall be decided by the Customer's designated contract manager, who shall reduce the decision to writing and serve a copy on the Contractor. The decision shall be final and conclusive unless within twenty one (21) days from the date of receipt, the Contractor files with the Customer a petition for administrative hearing. The Customer's decision on the petition shall be final, subject to the Contractor's right to review pursuant to Chapter 120 of the Florida Statutes. Exhaustion of administrative remedies is an absolute condition precedent to the Contractor's ability to pursue any other form of dispute resolution; provided, however, that the parties may employ the alternative dispute resolution procedures outlined in Chapter 120.

Without limiting the foregoing, the exclusive venue of any legal or equitable action that arises out of or relates to the Contract shall be the appropriate state court in Leon County, Florida; in any such action, Florida law shall apply and the parties waive any right to jury trial.

32. Employees, Subcontractors, and Agents. All Contractor employees, subcontractors, or agents performing work under the Contract shall be properly trained technicians who meet or exceed any specified training qualifications. Upon request, Contractor shall furnish a copy of technical certification or other proof of qualification. All employees, subcontractors, or agents performing work under the Contract must comply with all security and administrative requirements of the Customer and shall comply with all controlling laws and regulations relevant to the services they are providing under the Contract. The State may conduct, and the Contractor shall cooperate in, a security background check or otherwise assess any employee, subcontractor, or agent furnished by the Contractor. The State may refuse access to, or require replacement of, any personnel for cause, including, but not limited to, technical or training qualifications, quality of work, change in security status, or non-compliance with a Customer's security or other requirements. Such approval shall not relieve the Contractor of its obligation to perform all work in compliance with the Contract. The State may reject and bar from any facility for cause any of the Contractor's employees, subcontractors, or agents.

33. Security and Confidentiality. The Contractor shall comply fully with all security procedures of the United States, State of Florida and Customer in performance of the Contract. The Contractor shall not divulge to third parties any confidential information obtained by the Contractor or its agents, distributors, resellers, subcontractors, officers or employees in the course of performing Contract work, including, but not limited to, security procedures, business operations information, or commercial proprietary information in the possession of the State or Customer. The Contractor shall not be required to keep confidential information or material that is publicly available through no fault of the Contractor, material that the Contractor developed independently

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Administered by the State of Utah (hereinafter "Lead State")

MASTER AGREEMENT
Hewlett-Packard Company
Master Agreement No: AR 1464
(hereinafter "Contractor")

And

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without relying on the State's or Customer's confidential information, or material that is otherwise obtainable under State law as a public record. To insure confidentiality, the Contractor shall take appropriate steps as to its personnel, agents, and subcontractors. The warranties of this paragraph shall survive the Contract.

34. Contractor Employees, Subcontractors, and Other Agents. The Customer and the State shall take all actions necessary to ensure that Contractor's employees, subcontractors and other agents are not employees of the State of Florida. Such actions include, but are not limited to, ensuring that Contractor's employees, subcontractors, and other agents receive benefits and necessary insurance (health, workers' compensations, and unemployment) from an employer other than the State of Florida.

35. Insurance Requirements. During the Contract term, the Contractor at its sole expense shall provide commercial insurance of such a type and with such terms and limits as may be reasonably associated with the Contract. Providing and maintaining adequate insurance coverage is a material obligation of the Contractor. Upon request, the Contractor shall provide certificate of insurance. The limits of coverage under each policy maintained by the Contractor shall not be interpreted as limiting the Contractor's liability and obligations under the Contract. All insurance policies shall be through insurers authorized or eligible to write policies in Florida.

36. Warranty of Authority. Each person signing the Contract warrants that he or she is duly authorized to do so and to bind the respective party to the Contract.

37. Warranty of Ability to Perform. The Contractor warrants that, to the best of its knowledge, there is no pending or threatened action, proceeding, or investigation, or any other legal or financial condition, that would in any way prohibit, restrain, or diminish the Contractor's ability to satisfy its Contract obligations. The Contractor warrants that neither it nor any affiliate is currently on the convicted vendor list maintained pursuant to section 287.133 of the Florida Statutes, or on any similar list maintained by any other state or the federal government. The Contractor shall immediately notify the Customer in writing if its ability to perform is compromised in any manner during the term of the Contract.

38. Notices. All notices required under the Contract shall be delivered by certified mail, return receipt requested, by reputable air courier service, or by personal delivery to the agency designee identified in the original solicitation, or as otherwise identified by the Customer. Notices to the Contractor shall be delivered to the person who signs the Contract. Either designated recipient may notify the other, in writing, if someone else is designated to receive notice.

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39. Leases and Installment Purchases. Prior approval of the Chief Financial Officer (as defined in Section 17.001, F.S.) is required for State agencies to enter into or to extend any lease or installment-purchase agreement in excess of the Category Two amount established by section 287.017 of the Florida Statutes.

40. Prison Rehabilitative Industries and Diversified Enterprises, Inc. (PRIDE). Section 946.515(2), F.S. requires the following statement to be included in the solicitation: "It is expressly understood and agreed that any articles which are the subject of, or required to carry out, the Contract shall be purchased from the corporation identified under Chapter 946 of the Florida Statutes (PRIDE) in the same manner and under the same procedures set forth in section 946.515(2) and (4) of the Florida Statutes; and for purposes of the Contract the person, firm, or other business entity carrying out the provisions of the Contract shall be deemed to be substituted for the agency insofar as dealings with such corporation are concerned." Additional information about PRIDE and the products it offers is available at <http://www.pridefl.com>.

41. Products Available from the Blind or Other Handicapped. Section 413.036(3), F.S. requires the following statement to be included in the solicitation: "It is expressly understood and agreed that any articles that are the subject of, or required to carry out, this contract shall be purchased from a nonprofit agency for the Blind or for the Severely Handicapped that is qualified pursuant to Chapter 413, Florida Statutes, in the same manner and under the same procedures set forth in section 413.036(1) and (2), Florida Statutes; and for purposes of this contract the person, firm, or other business entity carrying out the provisions of this contract shall be deemed to be substituted for the State agency insofar as dealings with such qualified nonprofit agency are concerned." Additional information about the designated nonprofit agency and the products it offers is available at <http://www.respectofflorida.org>.

42. Modification of Terms. The Contract contains all the terms and conditions agreed upon by the parties, which terms and conditions shall govern all transactions between the Customer and the Contractor. The Contract may only be modified or amended upon mutual written agreement of the Customer and the Contractor. No oral agreements or representations shall be valid or binding upon the Customer or the Contractor. No alteration or modification of the Contract terms, including substitution of product, shall be valid or binding against the Customer. The Contractor may not unilaterally modify the terms of the Contract by affixing additional terms to product upon delivery (e.g., attachment or inclusion of standard preprinted forms, product literature, "shrink wrap" terms accompanying or affixed to a product, whether written or electronic) or by incorporating such terms onto the Contractor's order or fiscal forms or other documents forwarded by the Contractor for payment. The Customer's acceptance of product or processing of

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documentation on forms furnished by the Contractor for approval or payment shall not constitute acceptance of the proposed modification to terms and conditions.

43. Cooperative Purchasing. Pursuant to their own governing laws, and subject to the agreement of the Contractor, other entities may be permitted to make purchases at the terms and conditions contained herein. Non-Customer purchases are independent of the agreement between Customer and Contractor, and Customer shall not be a party to any transaction between the Contractor and any other purchaser.

State agencies wishing to make purchases from this agreement are required to follow the provisions of s. 287.042(16)(a), F.S. This statute requires the Department of Management Services to determine that the requestor's use of the contract is cost-effective and in the best interest of the State.

44. Waiver. The delay or failure by the Customer to exercise or enforce any of its rights under this Contract shall not constitute or be deemed a waiver of the Customer's right thereafter to enforce those rights, nor shall any single or partial exercise of any such right preclude any other or further exercise thereof or the exercise of any other right.

45. Annual Appropriations. The State's performance and obligation to pay under this contract are contingent upon an annual appropriation by the Legislature.

46. Execution in Counterparts. The Contract may be executed in counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

47. Severability. If a court deems any provision of the Contract void or unenforceable, that provision shall be enforced only to the extent that it is not in violation of law or is not otherwise unenforceable and all other provisions shall remain in full force and effect.