



THIS CENTRALIZED CONTRACT (hereinafter “Contract”) for the acquisition of Telecommunication Connectivity Services (Statewide and County) is made between the People of the State of New York, acting by and through the Commissioner of the Office of General Services (hereinafter “State” or “OGS”) with offices at the 36th Floor, Corning Tower, The Governor Nelson A. Rockefeller Empire State Plaza, Albany, New York 12242, and **INSERT CONTRACTOR NAME**. (hereinafter “Contractor”), with offices at **INSERT CONTRACTOR ADDRESS**. The foregoing are collectively referred to herein as the “Parties.”

WHEREAS, OGS issued Solicitation 23100 to establish Centralized Contracts to provide Authorized Users with a means of acquiring Voice Connectivity Services (Lot 1), Data Connectivity Services (Lot 2) and Mobile Communication Connectivity Services (Lot 3); and

WHEREAS, Solicitation 23100 permitted Bidders to bid on any combination of Lots, on a Statewide basis or a county basis; and

WHEREAS, Contractor submitted a Proposal in response to Solicitation 23100; and

WHEREAS, OGS evaluated Contractor’s Proposal and determined that Contractor satisfied all of the Solicitation requirements for a contract award for the Lots and Regions (Statewide or County) listed on Attachment 2, Contractor Information; and

WHEREAS, Contractor agrees to the terms and conditions set forth in this Centralized Contract, referenced as PSXXXX.

NOW THEREFORE, in consideration of the terms hereinafter mentioned and also the mutual covenants and obligations moving to each party hereto from the other, the Parties hereby agree as follows:

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Section 1. Introduction

1.1 OVERVIEW

This Contract is awarded and executed by the New York State Office of General Services (OGS), a New York State agency authorized by law to issue Centralized Contracts for use by NYS Agencies and other Authorized Users as defined by State Finance Law § 163(1)(k). This Centralized Contract provides Authorized Users with a means to acquire various Telecommunication Connectivity Services either through a competitive Request for Quotation (RFQ) or by submitting a Purchase Order. Any hyperlink, law, policy, rule and regulation provided or referenced herein is subject to change.

1.2 SCOPE

This section defines the general scope of the Telecommunication Connectivity Services under the suite of contracts resulting from Solicitation 23100, including this Contract. The specific Telecommunication Connectivity Services in scope for this Contract are listed on the Contractor Pricelist, as the same may be modified and approved by OGS from time to time during the term of the Contract through the Contract Modification Process.

The Telecommunication Connectivity Services under the suite of contracts resulting from Solicitation 23100 encompass the following Lots listed below. All Telecommunication Providers holding such a contract must be Telecommunication Providers as defined in Section 1.5 Definitions. Such Telecommunication Providers must hold all applicable licenses or authorizations, or both, from the Federal Communications Commission (FCC), Federal Trade Commission (FTC) or New York State Public Service Commission (PSC), or any combination of the listed commissions required for the Telecommunication Connectivity Services on contract. Contracts resulting from Solicitation 23100 may offer Products and Services in the following combinations of Lots and geographic areas:

1. Lot 1, Lot 2, or Lot 3 individually;
2. A combination of Lot 1, Lot 2, or Lot 3;
3. Telecommunication Connectivity Services within a Lot on a statewide basis;
4. Telecommunication Connectivity Services within a Lot to multiple counties; or
5. Telecommunication Connectivity Services within a Lot to only one county.

The Telecommunication Connectivity Services offered under the Lots below must be commercially released Services and available for purchase through the Telecommunication Provider's normal marketing channels. An alpha, beta, experimental, or unannounced Service shall not be offered.

For Scope exclusions, please refer to Section 1.2.4, Products and Services Excluded from Scope. No Telecommunication Connectivity Services at End-of-Life or within 6 months prior to End-of-Life shall be sold.

1.2.1 LOT 1 – VOICE CONNECTIVITY SERVICES

This Lot includes Voice Connectivity Services as defined in Section 1.5, Definitions, that Authorized Users may require. The Voice Connectivity Services provided must be for both inbound and outbound connectivity. The Voice Connectivity Services provided must be commercially released and available for purchase through the Telecommunication Provider's normal marketing channels. An alpha, beta, experimental, or unannounced Service shall not be offered. The Telecommunication Provider shall only provide Voice Connectivity Services approved by the FCC and the PSC. The Telecommunication Provider shall only collect, store, or act upon Authorized User Data transmitted through its Voice Connectivity Services with the express Written consent of the Authorized User; except, where the Telecommunication Provider is required to collect, store, or act upon Authorized User Data in order to provide the procured Service.

Voice Connectivity Services may include but are not limited to the following:

- Telephone Services,
- Voice Over Internet Protocol (VOIP) Service,
- 911 Services,
- Directory Assistance Service,
- Expanded Local Exchange Service,
- Incoming Toll-Free Service,
- International Service,
- Local Exchange Service, or
- Long Distance Services.

1.2.2 LOT 2 – DATA CONNECTIVITY SERVICES

This Lot includes Data Connectivity Services, as defined in Section 1.5, Definitions, that Authorized Users may require. The Data Connectivity Services provided may include connecting to the internet, connecting to an intranet, transmitting or receiving television programming, transmitting or receiving radio signals, or any other services regulated by the FCC or the PSC. All Data Connectivity Services may be utilized for the transmission of Data, Images, Videos and Voice.

The Data Connectivity Services provided must be commercially released and available for purchase through the Telecommunication Provider's normal marketing channels. An alpha, beta, experimental, or unannounced Service shall not be offered. The Telecommunication Provider shall only provide Data Connectivity Services approved by the FCC, the FTC, or the PSC, or any combination of the three. The Telecommunication Provider shall not collect, store, or act upon any Authorized User Data transmitted through its Data Connectivity Services.

Data Connectivity Services may include but are not limited to the following:

- Internet Access Services,
- Broadband Services,
- Connectivity Services over Cables,
- Fixed Wireless Services,
- Premises Based IP Address Services, or
- Television Services.

1.2.3 LOT 3 – MOBILE COMMUNICATION CONNECTIVITY SERVICES

This Lot includes Mobile Communication Connectivity Services, Accessory Devices, Subsidized Devices, and Unsubsidized Devices as defined in Section 1.5, Definitions, that Authorized Users may require. The Mobile Communication Connectivity Services may include mobile wireless voice, mobile wireless data, Internet Access, messaging, email communications, Accessory Device, Subsidized Device, Unsubsidized Device, or any other mobile communications transmitted over Contractor's Mobile Network.

The Mobile Communication Connectivity Services provided must be commercially released and available for purchase through the Telecommunication Provider's normal marketing channels. An alpha, beta, experimental, or unannounced Service shall not be offered. The Telecommunication Provider shall only provide Mobile Communication Connectivity Services approved by the FCC, the FTC, or the PSC, or any combination of the three. The Telecommunication Provider shall provide Mobile Communication Connectivity Services transmitted over Contractor's Mobile Network. The Telecommunication Provider shall not collect, store, or act upon any Authorized User Data transmitted through its Mobile Communication Connectivity Services except where Telecommunication Provider is required to collect, store, or act upon Authorized User Data in order to provide the procured Service. For example, in order to provide VOIP services, a Telecommunication Provider may need to convert data from one format to another format in order for a telephone call to be completed.

All Devices shall be compatible with the Telecommunication Provider's Mobile Communication Connectivity Services.

The Telecommunication Provider may offer Accessory Devices, Subsidized Devices, or Unsubsidized Devices as defined in Section 1.5, Definitions. If the Telecommunication Provider offers Subsidized Devices or Unsubsidized Devices, then its Mobile Communication Connectivity Service offerings must be labeled as Subsidized or Unsubsidized. The Telecommunication Provider's Subsidized Mobile Communication Connectivity Service offerings may include the cost of a Subsidized Device. The Telecommunication Provider's Unsubsidized Mobile Communication Connectivity Service offerings shall not include the cost of any Devices.

The Telecommunication Provider shall not offer any tablets, laptops, desktops, routers, security devices, or printers as an Accessory Device, Subsidized Device, or Unsubsidized Device. All Devices must meet the requirements of Section 4.13, Devices..

Mobile Communication Connectivity Services may include but are not limited to the following:

- Voice Service for Cellular Devices,
- Data Service for Cellular Devices,
- Data Service for Non-Cellular Mobile Communication Devices,
- Multimedia Messaging,

- Paging,
- Text Messaging,
- Accessory Devices,
- Subsidized Devices,
- Unsubsidized Devices,
- Mobile Voice Services, or
- Mobile Hot Spots.

1.2.4 PRODUCTS AND SERVICES EXCLUDED FROM SCOPE

This Contract expressly excludes the following from its scope:

1. Alpha, beta, experimental, or unannounced Services;
2. Managed Services
3. Cloud Based Services except for Services sold through Lot 3 – Mobile Communication Connectivity Services;
4. Cloud Solutions;
5. Consulting Services;
6. Installation other than installation associated with a Physical Service Connection Charge;
7. Implementation Services;
8. Products and Services that are available for purchase under other OGS Centralized Contracts;
9. Stand-alone Products (including Software) or Services which are offered for sale or lease with a separate SKU and not necessary to use the Telecommunication Connectivity Services or embedded on the Devices;
10. Leasing or renting of Hardware, Equipment, or Devices;
11. All Hardware which is offered for sale or lease with a separate SKU and not necessary to deliver the Telecommunication Connectivity Services, except Accessory Devices, Subsidized Devices, or Unsubsidized Devices sold through Lot 3 – Mobile Communication Connectivity Service;
12. SKUs that Equate to Blocks of Hours;
13. Use of Resellers; and
14. Staff Augmentation (Stand-Alone Hourly Based Services).

Information Technology Products and Services sold through other OGS Centralized Contracts are excluded from the Scope of this Contract. For illustrative purposes, the following are examples of Products and Services that are currently available for purchase under other OGS Centralized Contracts, and therefore are expressly excluded from the scope of this Contract:

Products and/or Service	OGS Centralized Contract(s)*
Software	Information Technology Umbrella Contract – Distributor Based (Group 73600 Award 22876) Information Technology Umbrella Contract – Manufacturer Based (Group 73600 Award 22802)
Hardware, including all tablets, laptops, desktops, or printers	Information Technology Umbrella Contract – Distributor Based (Group 73600 Award 22876) Information Technology Umbrella Contract – Manufacturer Based (Group 73600 Award 22802)
Cloud Products	Information Technology Umbrella Contract – Manufacturer Based (Group 73600 Award 22802)
Contact Center as a Service	Aggregate Buy RFQ 16.2 under the Information Technology Umbrella Contract – Manufacturer Based (Group 73600 Award 22802)
Colocation Services	Information Technology Umbrella Contract – Manufacturer Based (Group 73600 Award 22802)

1.3 COVERAGE AREAS

The coverage areas for this Contract are listed on Attachment 2, Contractor Information.

1.4 ESTIMATED QUANTITIES

This Contract is an estimated quantity Contract. No specific quantities are represented or guaranteed, and the State provides no guarantee of individual Authorized User participation. The Contractor must furnish all quantities ordered at the Contract prices. The individual value of this Contract is indeterminate and will depend upon the number of

other Group 77017 Telecommunication Connectivity Services (Statewide and County) Contracts issued and the competitiveness of the pricing offered in this Contract. Authorized Users will procure Telecommunication Connectivity Services through a formal RFQ, or informal RFQ prior to issuing a Purchase Order. Authorized Users will be encouraged to purchase from Contractors who offer the Services and pricing that best meet their needs in the most practical and economical manner. See Appendix B, Estimated/Specific Quantity Contracts and Participation in Centralized Contracts.

Numerous factors could cause the actual quantities of Services purchased under this Contract to vary substantially from the estimates in Solicitation 23100. Such factors include, but are not limited to, the following:

- All Group 77017 Telecommunication Connectivity Services (Statewide and County) Contracts will be non-exclusive Contracts.
- There is no guarantee of quantities of Services to be purchased, nor is there any guarantee that demand will continue in any manner consistent with previous telecommunications services purchases.
- The individual value of each Group 77017 Telecommunication Connectivity Services (Statewide and County) Contract is indeterminate and will depend upon actual Authorized User demand and actual Services provided during the Contract Term.
- The State reserves the right to terminate any Group 77017 Telecommunication Connectivity Services (Statewide and County) Contract for cause or convenience prior to the end of the term pursuant to the terms and conditions herein.
- Contract pricing that is lower than anticipated could result in a higher use of Services by Authorized Users than anticipated.
- Contract pricing that is higher than anticipated could result in a lower use of Services by Authorized Users than anticipated.

Contractor acknowledges the foregoing and agrees that actual good faith purchasing volumes during the term of this Contract could vary substantially from the estimates provided in Solicitation 23100.

1.5 DEFINITIONS

Capitalized terms used in this Contract shall be defined according to Appendix B, Definitions, or as below:

Term	Definition
Accessory Device	Device provided at no additional cost to the Authorized User as listed on Contractor Pricelist. See also "Device."
Activation Date	The date agreed upon by the Authorized User and Contractor by which the Contractor must have the ordered Service ready for use by the Authorized User.
Authorized User Agreement	Authorized User Agreement shall mean the document memorializing the Contractor's obligations with respect to a given transaction resulting from an RFQ, whether formal or informal, issued by an Authorized User.
Best Value	The basis for awarding all service and technology Contracts to the Bidder that optimizes quality, cost and efficiency, among responsive and responsible Bidders. (State Finance Law §163 (1) (j)).
Business Day	Monday through Friday from 8:00 AM – 5:00 PM ET, excluding New York State Holidays or Federal Holidays.
Business Entity	Any individual, business, partnership, joint venture, corporation, S-corporation, limited liability company, sole proprietorship, joint stock company, consortium, or other private legal entity recognized by statute.
Cloud Based	Any Service sold as an off premise offering and having one or more of the following characteristics: (a) Authorized User Data is collected, acted upon, or stored on Hardware not owned by an Authorized User; (b) Allows a Contractor access to Authorized User Data from a location other than the Authorized User's premises; (c) The offering is based entirely in a virtual environment accessed by the Authorized User through the internet.

Term	Definition
Cloud Solution	Any Product or Service sold as an “as a service” offering and has one or more of the following characteristics: (a) Authorized User Data is collected, acted upon, or stored on Hardware not owned byan Authorized User; (b) Allows a Contractor access to Authorized User Data from a location other than the Authorized User’s premises; (c) the offering is based entirely in a virtual environment accessed by the Authorized User through the internet.
Consulting Services	The providing of expert knowledge for a fee.
Continental United States (CONUS)	The 48 contiguous States, and the District of Columbia.
Contract Term	The initial term of the Contract and any renewals, or extensions, or both.
Customer Premise Equipment (CPE)	Equipment employed on the premises of another (other than a Telecommunication Provider) to originate, route, or terminate Telecommunication Connectivity Services.
Data	Any information, formula, algorithms, or other content that the Authorized User may directly or indirectly provide to the Contractor pursuant to this Contract.
Data Connectivity Services	Telecommunication Connectivity Services that allows customers to receive or transmit information through CPE or Device. A customer’s request for information is transmitted from the customer between or among points to a specified location. If the customer is requesting to receive the information, then the requested information is transmitted from the specified location between or among points to the customer. If the customer is requesting to transmit the information, then the requested information is transmitted to the specified location. The Telecommunication Provider, for purposes of transmitting or receiving information, will convert such information into Data, so long as there is no change in the form or content of the information. To receive or transmit information a customer’s Hardware may be connected to a Telecommunication Provider’s Network.
Days	Unless otherwise specified reference to days in this Contract shall mean Business Days, not Calendar Days.
Demarcation Point	The physical point at which a Telecommunication Provider’s public Network ends and the Customer’s private Network begins. The Demarcation Point is often the point at which the cable physically enters the building, but this varies from one site to another. The Demarcation Point defines where the Telecommunication Provider’s responsibility for Maintenance ends and the Consumer’s responsibility begins. The Maintenance of the Demarcation Point is the responsibility of the Telecommunication Provider.
Device	A piece of electronic Equipment (such as a mobile telephone, cellular telephone, satellite communicator, pager, SIM card, or portable hot spot) to be used with a Mobile Communication Connectivity Service offering on a Contractor’s Mobile Network. See also “Equipment.” Contractor must label Devices on its Contractor Pricelist as either Accessory, Subsidized, or Unsubsidized.
Discount	An allowance, reduction or deduction from a selling price or list price extended by a seller to a buyer in order for the net price to become more competitive.
End-of-Life	When a Service is no longer being marketed or sold.
Equal Employment Opportunity (EEO)	Policies and procedures of the jurisdiction to ensure non-discrimination against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status.
Equipment	An all-inclusive term which refers either to individual Devices or to a complete Data Processing System or Subsystem, including its Hardware and Operating Software (if any). See also “Device” and “Hardware.”
E-Rate Program	The common term used in place of the Schools and Libraries Program. The E-Rate Program provides Discounts to schools and libraries for eligible Products and Services.

Term	Definition
Federal Communications Commission (FCC)	A federal government agency authorized by the Communications Act of 1934 to regulate interstate and international telecommunications (radio, television, satellite and cable) originating in the United States.
General Services Administration (GSA)	The department within the U.S. government that is responsible for procurement of goods and services.
Government Entity	A federal, state, municipal entity or tribal government located in the United States.
Hardware	The physical, tangible, parts, or components aspect of Telecommunication Connectivity Services.
Internet Access	Connection to the Internet.
Last Mile	<p>The final portion of the Telecommunications Network chain that delivers Telecommunication Connectivity Services to an Authorized User. The Last Mile shall connect an Authorized User's premises to the Telecommunication Network. Also referred to as the First Mile.</p> <p>Note: The usage of the word "mile" is figurative. The actual distance may be more or less than a mile.</p>
Legacy Service	Once OGS and the Authorized User have been notified by a Telecommunication Provider that a Service is nearing End-of-Life, the Service will be considered Legacy and must be supported for a period no less than 12 months. Telecommunication Providers may not begin service agreements with Authorized Users within 6 months of End-of-Life.
Maintenance	The upkeep of Service that neither adds to its permanent value nor prolongs its intended life appreciably, but instead keeps it in an efficient operating condition.
Managed Services	The outsourcing of Telecommunications or networking functions or applications (other than connectivity) from an Authorized User to a Telecommunication Provider. Examples of Managed Services may include but are not limited to: SD-WAN, web hosting, video networking, audio networking, unified messaging, hosted contact center, managed firewalls, web content management, protection against denial of service, or any combination of the listed services. Managed Services as defined above are expressly outside of the scope of this Contract. Many of these Managed Services are available for purchase through another OGS Centralized Contract.
May	Denotes the permissive in a Contract clause or specification. Refers to items or information that the State has deemed are worthy of obtaining, but not required or obligatory. Also see "Should" and "Will."
Minority and/or Woman-Owned Business (MWBE)	A business certified with Empire State Development (ESD) as a Minority and/or Woman- Owned Business.
Mobile Communication Connectivity Services	Telecommunication Connectivity Services that provides customers Voice Connectivity Services, or Data Connectivity Services, or any combination of both through a Mobile Network.
Mobile Network	A Network that transmits Data exclusively via radio signals, satellite signals, or other wireless signals, or any combination of the listed signals. References in this Contract to "Contractor's Mobile Network" shall mean the Mobile Network identified on the Contractor's mobile service coverage map.
Must	Denotes the imperative in a Contract clause or specification. Means required, being determinative/mandatory, as well as imperative. Also see "Shall."
National Institute of Standards and Technology (NIST)	<p>The federal technology agency that works with industry to develop and apply technology, measurements, and standards.</p> <p>http://www.nist.gov</p>
Network	A group of two or more pieces of Equipment that can transmit Data.

Term	Definition
New York State Holidays (NYS Holidays)	The legal holidays for State employees in the classified service of the executive branch, as more particularly specified on the website of the NYS Department of Civil Service. This includes the following: New Year's Day; Martin Luther King Day; Washington's Birthday (observed); Memorial Day; Independence Day; Labor Day; Columbus Day; Veteran's Day; Thanksgiving Day; and Christmas Day.
New York State Service- Disabled Veteran-Owned Business (SDVOB)	A NYS-certified Service-Disabled Veteran-Owned Business. Please refer to New York Executive Law Article 17-B for additional details.
New York State Small Business Enterprise (NYS SBE)	A company that is a resident to New York State, independently owned and operated, with 100 or fewer employees, and not dominant in its field. See State Finance Law §160(8).
New York State Vendor Identification (NYS Vendor ID)	The ten-character identifier issued by New York State when a vendor is registered on the Vendor File.
New York State Statewide Financial System (SFS)	The NYS Enterprise Resource Planning (ERP) system.
Non-State Agencies	Political subdivisions and other entities authorized by law to make purchases from OGS Centralized Contracts other than those entities that qualify as State Agencies. This includes all entities permitted to participate in Centralized Contracts per Appendix B, §27(b), Non-State Agency Authorized Users and §27(c), Voluntary Extension and State Finance Law Section 163(1)(k).
Number Portability	The ability of users of Services to retain existing Telecommunications numbers without impairing the quality, reliability, or convenience when switching from one Telecommunication Provider to another.
Office of the State Comptroller (OSC)	The New York State Office of the State Comptroller.
Part Number (SKU)	A unique identifier assigned to an individual Product and/or Service or part by the Provider of that Product and/or Service or part; usually includes a combination of alpha and/or numeric characters or may be a unique product name or unique product description. SKUs must be unique and cannot be the same as any other SKU on the Contractor Pricelist.
Physical Service Connection Charge	A charge that covers the initial installation or physical upgrade of the Telecommunication Connectivity Service from the Telecommunication Provider's Network to the Authorized User's Demarcation Point.
Procurement Services	A business unit of OGS, formerly known as New York State Procurement (NYSPRO) and Procurement Services Group (PSG).
Quote	Contractor's response to an Authorized User's Request for Quotation (RFQ).
Reseller	A Business Entity that purchases goods or services with the intention of selling them rather than consuming or using them. Also known as Value Added Reseller (VAR) or channel partner. Resellers are specifically excluded from the Scope of this Contract.
Sales Agent	A Business Entity or individual who may assist the Telecommunication Provider with selling Services, but must not be authorized to accept orders, invoice, or receive payment, or do any combination of the listed actions.
Shall	Denotes the imperative in a Contract clause or specification. Means required, being determinative/mandatory, as well as imperative. Also see "Must."
Should	Denotes the permissive in a Contract clause or specification. Refers to items or information that the State has deemed are worthy of obtaining, but not required or obligatory. Also see "May" and "Will."
Small Business	Please refer to State Finance Law section 160(8) for the definition of "small business concern" or "small business."

Term	Definition
Software	A general term for the various kinds of programs used to operate Hardware. Stand-alone Software is excluded from the Scope of this Contract and shall not be provided directly to Authorized Users under this Contract.
Subsidized Device	Device offered for sale to Authorized Users at an amortized or discounted price as listed on Contractor Pricelist. See also "Device."
System	A collection of elements or components that are organized for a common purpose.
Telecommunications	A general term used to describe a vast range of information transmitting technologies.
Telecommunication Provider	A Business Entity that is authorized by the FCC, the FTC, or the PSC, or any combination of the listed commissions to provide Telecommunication Connectivity Services to customers.
Telecommunication Connectivity Services (Services)	Work performed or provided by a Telecommunication Provider within the scope of this Contract to a customer, for a set fee, that allows the customer to transmit its signal or receive signals from others. A Telecommunication Provider must be authorized to perform or provide such work by the FCC, FTC, or PSC, or any combination of the listed commissions.
Third Party Products	Third Party Intellectual Property or Third Party Products means any intellectual property owned by parties other than Authorized User or Contractor and provided to Authorized Users for use in connection with the Services.
Unsubsidized Device	Device offered for sale to Authorized Users at full price as listed on Contractor Pricelist. See also "Device."
Usage	The quantity of an inventory item consumed over a period of time expressed in units of quantity or of value in dollars.
Voice Connectivity Services	Telecommunication Connectivity Services that allows customers to transmit or receive vocal communications. A customer's vocal communication is transmitted from the customer between or among points to specified end users. In turn, a specified end user's vocal communication is transmitted from the specified end user between or among points to the customer. The Telecommunication Provider, for purposes of transmitting or receiving vocal communications, may convert such vocal communications into Data, so long as there is no change in the form or content of the vocal communications.
Will	Denotes the permissive in a Contract clause or specification. Also see "May" and "Should."
Written / Written Communication	Written Communication makes use of the written word. Examples of Written Communications include email, Internet websites, letters, proposals, and Contracts.

Section 2. Contract Information

2.1 APPENDIX A

The attached Appendix A, Standard Clauses For New York State Contracts, dated January 2014 is hereby incorporated in and expressly made a part of this Contract.

2.2 APPENDIX B

The attached Appendix B, General Specifications, dated April 2016 is hereby incorporated in and expressly made a part of this Contract.

2.3 APPENDIX C

The attached Appendix C, Contract Modification Procedure, is hereby incorporated in and expressly made a part of this Contract.

2.4 ATTACHMENT 1, CONTRACTOR PRICELIST

The attached Attachment 1, Contractor Pricelist, as the same may be modified and approved by OGS from time to time during the term of the Contract through the Contract Modification Process, is hereby incorporated in and expressly made a part of this Contract.

2.5 ATTACHMENT 2, CONTRACTOR INFORMATION

The attached Attachment 2, Contractor Information, as the same may be modified and approved by OGS from time to time during the term of the Contract through the Contract Modification Process, is hereby incorporated in and expressly made a part of this Contract.

2.6 ATTACHMENT 3, INSURANCE REQUIREMENTS

The attached Attachment 3, Insurance Requirements, is hereby incorporated in and expressly made a part of, this Contract.

2.7 ATTACHMENT 4, HOW TO USE

The attached Attachment 4, How to Use, is hereby incorporated in and expressly made a part of this Contract. Included within Attachment 4, How to Use, and expressly made a part of this Contract are Attachments 4a, RFQ Participation of Interest, 4b, RFQ Template, 4c, Financial, and 4d, Physical Service Connection Charge Checklist.

2.8 ATTACHMENT 5, REPORT OF CONTRACT USAGE

The attached Attachment 5, Report of Contract Usage, is hereby incorporated in and expressly made a part of this Contract.

2.9 ATTACHMENT 6, PRIMARY SECURITY AND PRIVACY MANDATES

The attached Attachment 6, Primary Security and Privacy Mandates, is hereby incorporated in and expressly made a part of this Contract.

2.10 CONFLICT OF TERMS

This Contract is comprised of the following documents. Conflicts among these documents shall be resolved in the following order of precedence:

1. Appendix A, Standard Clauses for New York State Contracts (January 2014);
2. This document and Attachment 3, Insurance Requirements;
3. Appendix B, General Specifications (April 2016);
4. Appendix C, Contract Modification Procedure;
5. Attachment 1, Contractor Pricelist;
6. Attachment 2, Contractor Information;
7. Attachment 4, How to Use, including Attachments 4a, 4b, 4c and 4d;
9. Attachment 5, Report of Contract Usage;
10. Attachment 6, Primary Security and Privacy Mandates;
11. Authorized User Agreement or Purchase Order; and
12. Any other Written agreement between the Contractor and the Authorized User.

2.11 CONTRACT TERM AND EXTENSIONS

Contractor shall comply with the following requirements regarding the Contract Term and/or Contract Extensions.

2.11.1 BASE TERM

This Contract will be in effect for a term of up to 5 years from the date of commencement of the first awarded contract resulting from Solicitation 23100. The Contract Term shall commence after all necessary approvals and shall become effective upon mailing or electronic communication of the final executed documents to the Contractor (See Appendix B, Contract Creation/Execution).

All OGS Centralized Contracts resulting from Solicitation 23100 have a coterminous end date, including those Contracts awarded during any subsequent periodic recruitment. At the State's option, this Contract may be extended for 5 years, in increments deemed to be in the best interest of the State. Whether the

optional extensions are exercised is at the sole discretion of the State. A Contractor shall retain the right to decline a Contract extension offered under this section. Any Contract extension will be under the same terms and conditions, subject to any additional applicable statutory and policy requirements. Any extensions provided under this section shall apply in addition to any rights set forth in Appendix B, Contract Term – Extension.

The Contract Term shall extend 6 months beyond its termination date only for Authorized Users whose contracts must be registered with the Office of the New York City Comptroller. During the 6-month period the definition of Authorized User shall be deemed to refer only to Authorized Users whose contracts must be registered with the Office of the New York City Comptroller. This extension is in addition to any other extensions available under the Contract. The extension provided for in this paragraph shall be upon the then-existing terms and conditions; provided, however, during such extension an Authorized User, as defined in this paragraph, may agree to amend such terms and conditions solely to comply with changes in statutory requirements (e.g. changes in minimum, prevailing or living wages, or regulated services).”

2.11.2 SHORT TERM EXTENSION

This section shall apply in addition to any rights set forth in Appendix B, Contract Term – Extension. In the event a replacement Contract has not been issued, any Contract let and awarded hereunder by the State may be extended unilaterally by the State for an additional period of up to ninety (90) Calendar Days upon notice to the Contractor with the same terms and conditions as the original Contract and any approved modifications. With the concurrence of the Contractor, the extension may be for a period of up to one hundred eighty (180) Calendar Days in lieu of ninety (90) Calendar Days. However, this extension automatically terminates should a replacement Contract be issued in the interim.

2.11.3 EXPIRATION OF CONTRACT; SURVIVAL OF AUTHORIZED USER AGREEMENTS AND PURCHASE ORDERS

Authorized User Agreements and Purchase Orders issued prior to the end of the term of this Contract, including any extensions, shall not extend 12 months past the Contract end date.

2.12 PRICING

The prices shown on Contractor Pricelist shall be all-inclusive. The only taxes, surcharges, fees, and other charges that may be billed to Authorized Users are listed on the Pass-through Charges tab of Attachment 1 – Contractor Pricelist. Pricing for Services shall not be payable by using an amortization schedule except for Subsidized – Amortized Plans offered under Lot 3 – Mobile Communication Connectivity Services. Prices for Services shall not include ancillary costs like installation or Equipment that have been incorporated into the Price.

2.12.1 NOT TO EXCEED

The prices shown on this Contract must be not to exceed prices. Authorized Users are encouraged to negotiate with Contractors to obtain lower pricing. Contractor shall not charge Authorized Users prices that exceed the amount listed on the Contractor Pricelist.

2.12.2 PREVAILING MARKET RATES

OGS or the Authorized Users may, either annually or during another time frame established by OGS or the Authorized User, review the prevailing market rates and, when applicable, require Contractors to lower their prices according to the prevailing market rates.

2.12.3 BEST OFFER

During the Contract Term, if OGS becomes aware that the Contractor is selling substantially the same or a smaller quantity of a Service outside of this Contract upon the same or similar terms and conditions as that of this Contract at a lower price to a Government Entity, then OGS reserves the right to consult with the Contractor. After such consultation, OGS may request that Contractor reduce the then current Contract price to the lower price.

OGS reserves the right to request information to verify pricing for the purposes of this clause.

2.12.4 PRICE STRUCTURE

If, during the Contract Term, the Contractor is unable or unwilling to meet contractual requirements in whole or in part based on the price structure of this Contract, it shall immediately notify the Office of General Services, Procurement Services in writing. Such notification shall not relieve the Contractor of its responsibilities under this Contract. The State may, but is not required to, consider an equitable adjustment in the Contract terms or pricing, or both, in the circumstances outlined in Appendix B, Savings/Force Majeure.

Should the Commissioner in his or her sole discretion determine during the Contract Term that (i) the Contract price structure is unworkable, detrimental, or injurious to the State, or (ii) the Contract price structure results in prices which are unreasonable, excessive, or not truly reflective of current market conditions, and no adjustment in the Contract terms, or pricing, or both, is mutually agreeable, the State may terminate this Contract upon ten (10) Business Days Written notice mailed to the Contractor.

2.13 OGS CENTRALIZED CONTRACT MODIFICATION PROCEDURES (CONTRACT UPDATES)

An Authorized User, or the Contractor may suggest modifications to this Contract. These modifications must be made pursuant to Appendix B, Modification of Contract Terms, and Appendix C, Contract Modification Procedure.

OGS reserves the right to unilaterally make revisions, changes and/or updates to any templates, Appendices, (excluding Appendices A and B), and/or Attachments to this Contract without processing a formal amendment and/or modification.

2.14 PERIODIC RECRUITMENT

The State reserves the right to issue one or more periodic recruitments of additional Contractors during the term of this Contract. Recruitment periods are optional at the discretion of the State. The purpose of future Periodic Recruitments may be to:

1. Add new Lots for additional or emerging technologies; or
2. Add new Contractors to existing and new Lots; or
3. Add both.

Periodic Recruitments will be advertised in the NYS Contract Reporter. Prospective Bidders must register with the New York State Contract Reporter at <https://www.nyscr.ny.gov> in order to receive notifications regarding any periodic recruitments under this Solicitation. Unless otherwise deemed necessary by OGS, Bids shall be evaluated under substantially the same terms and conditions as Solicitation 23100. Prospective Bidders shall also be required to submit necessary documentation for any additional applicable statutory requirements in effect at the time of the new Solicitation. For future Contracts awarded according to this section under the provisions of this section, to obtain emerging technologies, where need is proven by Authorized Users, the requirements above may be modified.

Contracts that are awarded under periodic recruitment will co-terminate with this Contract and other Contracts resulting from Solicitation 23100, or at the end of any approved extension or renewal period.

Contractor may not resubmit a Bid for future consideration for Services covered by the scope of this Contract.

Section 3. Contractor Qualifications and Requirements

3.1 REQUIRED QUALIFICATIONS

Contractor shall meet the following qualifications throughout the term of the Contract:

3.1.1 TELECOMMUNICATION PROVIDER

Contractor shall be a Telecommunication Provider as defined in Section 1.5, Definitions.

3.1.2 REQUIRED CERTIFICATIONS

Contractor shall hold an applicable license or authorization, or both, from the FCC, the FTC, or the PSC, or any combination of the three listed commissions as required for the Services offered under this Contract. Upon request from OGS or an Authorized User, Contractor must provide documentation that it is listed as active in the PSC Telecommunications Company Critical Information Database. Upon request from OGS or an Authorized User, Contractor must provide documentation that it is listed as active in the FCC Form 499 Filer Database. Upon request from OGS or an Authorized User, Contractor must submit copies of the licenses or authorizations, or both from the FCC, the FTC, or PSC, or any combination of the three listed commissions they hold.

If the Contractor's naming convention is not an exact match to the naming convention on the submitted FCC, FTC, or PSC documentation Contractor must provide OGS or the requesting Authorized User with a Written explanation as to why the names are different. OGS will determine whether such explanation satisfies the requirement and reserves the right to ask for additional information.

For Services provided under Lot 1 – Voice Connectivity Services Contractor shall provide the above documentation from the FCC or the PSC, or both.

For Services provided under Lot 2 – Data Connectivity Services Contractor shall provide the above documentation from the FCC or the PSC, or both.

For Services provided under Lot 3 – Mobile Communication Connectivity Services Contractor shall provide the above documentation from the FTC or the FCC, or both.

3.2 CONTRACTOR REQUIREMENTS

3.2.1 DESCRIPTION OF SERVICES

The Contractor Pricelist must describe each Telecommunication Connectivity Service offered. Contractor's description must include the following regarding the Service being offered:

1. a detailed narrative;
2. technical specifications;
3. minimum and maximum amount of Data that can be transmitted;
4. information pertaining to the available features;
5. required on premise equipment (column from Attachment 1, Contractor Pricelist) and whether such equipment is included in service charge;
6. required Network or System specifications that allow the Service to operate;
7. how the Service will be provided, including any Physical Service Connection Charges; and
8. an affirmative statement from the Contractor that the described Service is within Scope and does not conflict with the terms and conditions of this Contract.

OGS reserves the right to make the final determination that the Services offered meet the Scope of the Contract.

Contractor's description shall not include any marketing language or marketing materials.

Contractor shall not offer any items excluded from the Scope of this Contract as specified in Section 1.2.4 – Products and Services Excluded from Scope.

3.2.1.1 LOT 2 – DATA CONNECTIVITY SERVICES

The following requirements shall apply to Lot 2 – Data Connectivity Services.

3.2.1.1(a) SPEED

In addition to providing the above Description of Services, Contractor's proposed Data Connectivity Service offering must include the average speed range of the Service.

3.2.1.1(b) INTERNET ACCESS SERVICES

For the purposes of this Contract, Internet Access Services include connectivity and bandwidth options

that provide access to the internet backbone directly or indirectly via peering relationships.

In addition to providing the above Description of Services the Contractor must include the bandwidth, protocol options, and CPE requirements for each Internet Access Service being proposed.

Contractor must indicate if it intends to provide any of the following: data communication services, load balancing services, quality of services (QoS), and the ability to segment traffic in conjunction with the Internet Access Services.

3.2.1.2 LOT 3 – MOBILE COMMUNICATION CONNECTIVITY SERVICES

The following requirements shall apply to Lot 3 – Mobile Communication Connectivity Services.

3.2.1.2(a) REQUIRED COVERAGE

Contractor's proposed Mobile Communication Connectivity Service offering must provide nationwide coverage in the Continental United States.

Contractor must provide service coverage maps for each of the proposed Services. The service coverage map must depict the proposed Service's availability within New York State, and the United States of America.

Contractor must describe potential coverage area limitations as they apply to the coverage requirements of this section.

3.2.1.2(b) DEVICES

All Devices shall be compatible with Contractor's Mobile Communication Connectivity Services. Contractor may offer Accessory Devices, Subsidized Devices, or Unsubsidized Devices as defined in Section 1.5, Definitions. If the Contractor offers Subsidized Devices or Unsubsidized Devices, then its Mobile Communication Connectivity Service offerings must be labeled as Subsidized or Unsubsidized. The Contractor's Subsidized Mobile Communication Connectivity Service offerings may include the cost of a Subsidized Device. The Contractor's Unsubsidized Mobile Communication Connectivity Service offerings shall not include the cost of any Devices. All Devices must meet the requirements of Section 4.13, Devices.

3.2.1.2(c) INTERNET ACCESS SERVICE

For the purposes of this Contract, Internet Access Service includes connectivity and bandwidth options that provide access to the internet backbone directly or indirectly via peering relationships.

In addition to providing the above Description of Services the Contractor must include the bandwidth options being proposed for the Internet Access Service.

Contractor must indicate if it intends to provide any of the following: data communication services, load balancing services, quality of services (QoS), and the ability to segment traffic in conjunction with the Internet Access Service.

3.2.1.2(d) SPEED

In addition to providing the above Description of Services, Contractor's proposed Mobile Communication Connectivity Services offering must include the average speed range of the Service as it relates to the transmission of Data.

3.2.2 GEOGRAPHIC LOCATION OF THE SERVICE

Contractor must advise of the geographic location (statewide, counties, or county) Contractor is able to provide the Telecommunication Connectivity Service being bid on per Lot via the applicable Geographic Location tabs of Attachment 2, Contractor Information.

Contractor is not permitted to remove a county from its serviceable geographic location during the term of this Contract.

3.2.2.1 GEOGRAPHIC SERVICE COVERAGE – LOT 2

For Lot 2 – Data Connectivity Services Contractor must provide a service coverage map for each Services

on the Contractor Pricelist. The service coverage map must depict the proposed Service's availability within New York State.

3.2.2.2 GEOGRAPHIC SERVICE COVERAGE – LOT 3

Pursuant to Section 3.2.1.2(a), for Lot 3 – Mobile Communication Connectivity Services Contractor must provide service coverage maps for each of the proposed Services. The service coverage map must depict the proposed Service's availability within New York State and the United States of America.

3.2.3 NET NEUTRALITY

In accordance with the requirements of Executive Order No. 175, Contractor will be expected to adhere to net neutrality principles in the provision of broadband internet access services under this Contract, regardless of delivery method unless the Commissioner, or her designee, determines that adherence to net neutrality principles for a particular purpose is not in the best interests of the State. Nothing in this provision supersedes any obligation or authorization a provider of broadband Internet access service may have to address the needs of emergency communications or law enforcement, public safety, or national security authorities, consistent with or as permitted by applicable law, or limits the provider's ability to do so. As used herein, "net neutrality" means that Contractor will not block, throttle, or prioritize internet content or applications or require that end users pay different or higher rates to access specific types of content or application. For the purposes of this Contract, the prohibition against blocking, throttling, or prioritization (other than paid prioritization) of internet content or applications does not apply to reasonable Network management practices.

3.2.4 PRICELIST

The prices shown on Contractor Pricelist shall be all-inclusive. The only taxes, surcharges, fees, and other charges that may be billed to Authorized Users are listed on the Pass-through Charges tab of Attachment 1 – Contractor Pricelist.

A SKU Number is to be provided for every Service or Device. Each SKU must be unique. SKUs may be equal to the Service's Name.

Attachment 1 - Contractor Pricelist shall only contain plain text and shall not include any pictures, photographs, marketing language, marketing materials, or any additional terms and conditions.

3.2.4.1 MONETARY VALUES

All monetary values shall be in U.S. Dollar amounts and not exceed 4 decimal points (For Example - \$1.1234).

3.2.4.2 DISCOUNT PERCENTAGE VALUES

All Discount percentage values shall not exceed two decimal places (for example: 20.25222% shall be rounded to nearest one hundredth 20.25%). A Discount Percentage value cannot be expressed as a range (for example: 10%-20%, or "varies").

3.2.4.3 VOLUME DISCOUNTS

Contractor is encouraged to offer Volume Discounts on its Attachment 1 - Contractor Pricelist.

3.2.4.4 DISCOUNTS

All Discounts shown on the Contractor Pricelist shall not be decreased by the Contractor during the term of the Contract, Authorized User Agreements, or Purchase Orders.

Discounts shown on the Contractor Pricelist may be increased by the Contractor at any time during the term of the Contract, Authorized User Agreements, or Purchase Orders.

3.2.4.5 TAXES, SURCHARGES, FEES, AND OTHER CHARGES

Only taxes, surcharges, fees or other charges approved in advance by OGS and listed on the Pass-through Charges tab of Attachment 1 - Contractor Pricelist may be passed through to Authorized Users on the Contractor's Quote and invoice. Contractor shall itemize each OGS approved tax, surcharge, fee or other charge passed through on Authorized User's Quote and invoice. Contractors shall not summarize

or bundle such items on Authorized User's Quote and invoice.

The itemization shall be specific enough to enable the Authorized User to easily cross reference each such tax, surcharge, fee, or other charge to the Pass-through Charges tab of Attachment 1 – Contractor Pricelist. The Authorized User reserves the right to request additional information and require the Contractor to justify the applicability to the Authorized User of any such charge.

Contractor shall not charge Authorized Users for taxes, surcharges, fees or other charges at a rate exceeding the rate shown on Attachment 1, Contractor Pricelist. Contractor may charge Authorized Users for taxes, surcharges, fees or other charges at a rate lower than the rate shown on Attachment 1, Contractor Pricelist. Contractor may seek approval for new pass through charges during the term of the Contract pursuant to Appendix C, Contract Modification Procedure. Contractor shall not charge Authorized Users at the new pass through charge rate until its Appendix C Modification has been approved by OGS.

Contractor represents that:

- a. The pricing listed on the lot pricing tab(s) of Attachment 1 – Contractor Pricelist is net of any taxes, surcharges, fees or other charges listed on the Pass-through Charges tab of Attachment 1 – Contractor Pricelist; and
- b. Contractor has not added and will not add in the future, a mark-up to any items listed on the Pass-through Charges tab of Attachment 1 – Contractor Pricelist; and
- c. Any items listed on the Pass-through Charges tab of Attachment 1 – Contractor Pricelist do not include costs in excess of the exact amounts the Contractor is subject to for these items, and charges listed do not seek to recover the same cost more than once.

OGS reserves the right in its sole discretion to add, remove, or correct any taxes, surcharges, fees, and other charges listed on the Pass-through Charges tab of Attachment 1 - Contractor Pricelist at any time during the term of the Contract. Contractor will be notified of any such changes.

3.2.4.6 PRICE INCREASES

Contractor's pricing shall remain in effect through June 4, 2020. Thereafter, Contractor may request annual price increases to reflect price changes only once every 365 days. Price increases are subject to all Contract update provisions included within Appendix C, Contract Modification Procedure.

3.2.4.7 PHYSICAL SERVICE CONNECTION CHARGE

When applicable, for Voice Connectivity Services or Data Connectivity Services, or both, Contractor may charge a Physical Service Connection Charge to Authorized Users. This Physical Service Connection Charge shall cover the initial installation or physical upgrade of the Telecommunication Connectivity Service from the Contractor's Network to the Authorized User's Demarcation Point.

The work shall only occur on the exterior of a building. However, if an Authorized User's Demarcation Point is located on the interior of a building, then a portion of the work shall also occur on the interior of the building. In this case the interior work shall only occur from the point where the Contractor's public Network enters the building to the Authorized User's Demarcation Point.

Not-to-exceed pricing for the Physical Service Connection Charge, if applicable, is entered as multiple components on the Contractor Pricelist. These components should include all potential aspects of a Physical Service Connection project and may include but are not limited to: poles, trenching, conduits, per-foot cabling, and boring. The Physical Service Connection Charge includes Last Mile. The price for the Physical Service Connection Charge shall not be payable by using an amortization schedule.

3.2.4.8 GSA ASSOCIATED DISCOUNTS

Where the Net NYS Contract Price is based upon an approved GSA supply schedule then New York State shall be entitled to all associated Discounts enumerated in the GSA supply schedule (including, but not limited to Discounts for additional sites and volume Discounts), as well as any other pricing or Discount terms as are expressly enumerated in this NYS Contract or GSA supply schedule, when calculating the NYS Net Price.

3.2.4.9 GSA INDUSTRIAL FUNDING FEE

GSA pricing incorporates a sum referred to as the “GSA Industrial Funding Fee (IFF)”. If the Contractor provides GSA pricing, they shall identify the amount of the IFF.

3.2.4.10 PROMPT PAYMENT DISCOUNTS

Contractor shall include the terms of any prompt payment Discount listed on Attachment 2, Contractor Information on all invoices, the amounts which are due if the Authorized User meets the terms, and the number of days for which the prompt payment Discount offer applies.

3.2.4.11 REQUIRED ON PREMISES EQUIPMENT

For each SKU in Attachment 1, Contractor Pricelist, Contractor must list any required Equipment in the “Required on Premises Equipment” column of each Lot pricing tab included in Contractor Pricelist. Contractor must also designate whether or not the required on premises equipment is included in the pricing for each SKU.

3.2.4.12 REMOVAL OF ITEMS FROM PRICELIST

OGS reserves the right in its sole discretion to remove items from Attachment 1, Contractor Pricelist at any time during the term of the Contract. Contractor will be notified of any such changes.

3.2.5 CONTRACTOR’S INSURANCE REQUIREMENTS

Contractor must procure at its sole cost and expense and provide with its Bidder Submission all proof of required insurance as detailed in Attachment 3, Insurance Requirements.

The Contractor shall maintain in force at all times during the Contract Term, policies of insurance pursuant to the requirements outlined in Attachment 3, Insurance Requirements.

Contractor must provide OGS (and the Authorized Users if requested) with valid proofs of insurance throughout the life of this Contract. For example, prior to the expiration of an existing General Liability Policy Contractor is required to submit proof of coverage for the next applicable time period (i.e. year) to OGS (and Authorized Users if applicable).

3.2.6 CONTRACTOR REQUIREMENTS AND PROCEDURES FOR BUSINESS PARTICIPATION OPPORTUNITIES FOR NYS CERTIFIED MINORITY- AND WOMEN-OWNED BUSINESS ENTERPRISES AND EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITY GROUP MEMBERS AND WOMEN

I. New York State Law

Pursuant to New York State Executive Law Article 15-A and Parts 140-145 of Title 5 of the New York Codes, Rules and Regulations (“NYCRR”), the New York State Office of General Services (“OGS”) is required to promote opportunities for the maximum feasible participation of New York State-certified Minority- and Women-Owned Business Enterprises (“MWBEs”) and the employment of minority group members and women in the performance of OGS Contracts.

II. General Provisions

A. OGS is required to implement the provisions of New York State Executive Law Article 15-A and 5 NYCRR Parts 140-145 (“MWBE Regulations”) for all State Contracts as defined therein, with a value (1) in excess of \$25,000 for labor, services, equipment, materials, or any combination of the foregoing or (2) in excess of \$100,000 for real property renovations and construction.

B. The Contractor agrees, in addition to any other nondiscrimination provision of the Contract and at no additional cost to OGS, to fully comply and cooperate with OGS in the implementation of New York State Executive Law Article 15-A and the regulations promulgated thereunder. These requirements include equal employment opportunities for minority group members and women (“EEO”) and contracting opportunities for MWBEs. Contractor’s demonstration of “good faith efforts” pursuant to 5 NYCRR § 142.8 shall be a part of these requirements. These provisions shall be deemed supplementary to, and not in lieu of, the nondiscrimination provisions required by New York State Executive Law Article 15 (the “Human

Rights Law”) or other applicable federal, State, or local laws.

C. Failure to comply with all of the requirements herein may result in a finding of non-responsiveness, a finding of non-responsibility, breach of Contract, withholding of funds, suspension or termination of the Contract, and/or such other actions or enforcement proceedings as allowed by the Contract and applicable law.

III. Equal Employment Opportunity (EEO)

A. The provisions of Article 15-A of the Executive Law and the rules and regulations promulgated thereunder pertaining to equal employment opportunities for minority group members and women shall apply to all Contractors, and any Subcontractors, awarded a subcontract over \$25,000 for labor, services, including legal, financial and other professional services, travel, supplies, equipment, materials, or any combination of the foregoing, to be performed for, or rendered or furnished to, the contracting State agency (the “Work”) except where the Work is for the beneficial use of the Contractor.

1. Contractor and Subcontractors shall undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability, or marital status. For these purposes, EEO shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff or termination, and rates of pay or other forms of compensation. This requirement does not apply to: (i) the performance of work or the provision of services or any other activity that is unrelated, separate, or distinct from the Contract; or (ii) employment outside New York State.

2. By entering into this Contract, Contractor certifies that the text set forth in clause 12 of Appendix A, attached hereto and made a part hereof, is Contractor’s equal employment opportunity policy. In addition, Contractor agrees to comply with the Non-Discrimination Requirements set forth in clause 5 of Appendix A.

B. Form EEO 100 – Staffing Plan

To ensure compliance with this section, the Contractor agrees to submit, or has submitted with the Bid, a staffing plan on Form EEO 100 to OGS to document the composition of the proposed workforce to be utilized in the performance of the Contract by the specified categories listed, including ethnic background, gender, and federal occupational categories.

C. Form EEO - 101 - Workforce Utilization Reporting Form (Commodities and Services) (“Form EEO-101- Commodities and Services”)

1. The Contractor shall submit, and shall require each of its Subcontractors to submit, a Form EEO-101- Commodities and Services to OGS to report the actual workforce utilized in the performance of the Contract by the specified categories listed including ethnic background, gender, and Federal occupational categories. The Form EEO-101-Commodities and Services must be submitted electronically to OGS at EEO_CentCon@ogs.ny.gov on a quarterly basis during the term of the Contract by the 10th day of April, July, October, and January.

2. Separate forms shall be completed by Contractor and all Subcontractors.

3. In limited instances, the Contractor or Subcontractor may not be able to separate out the workforce utilized in the performance of the Contract from its total workforce. When a separation can be made, the Contractor or Subcontractor shall submit the Form EEO-101-Commodities and Services and indicate that the information provided relates to the actual workforce utilized on the Contract. When the workforce to be utilized on the Contract cannot be separated out from the Contractor's or Subcontractor's total workforce, the Contractor or Subcontractor shall submit the Form EEO-101-Commodities and Services and indicate that the information provided is the Contractor's or Subcontractor's total workforce during the subject time frame, not limited to work specifically performed under the Contract.

D. Contractor shall comply with the provisions of the Human Rights Law and all other State and federal statutory and constitutional non-discrimination provisions. Contractor and Subcontractors shall not

discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status, or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal and conviction and prior arrest.

IV. Contract Goals

A. For purposes of this procurement, OGS conducted a comprehensive search and determined that the Contract does not offer sufficient opportunities to set goals for participation by MWBEs as Subcontractors, service providers, or suppliers to Contractor. Contractor is, however, encouraged to make every good faith effort to promote and assist the participation of MWBEs on this Contract for the provision of services and materials. The directory of New York State Certified MWBEs can be viewed at: <https://ny.newycontracts.com/FrontEnd/VendorSearchPublic.asp?TN=ny&XID=2528>. Additionally, following Contract execution, Contractor is encouraged to contact the Division of Minority and Women's Business Development ((518) 292-5250; (212) 803-2414; or (716) 846-8200) to discuss additional methods of maximizing participation by MWBEs on the Contract.

B. Good Faith Efforts

Pursuant to 5 NYCRR § 142.8, evidence of good faith efforts shall include, but not be limited to, the following:

1. A list of the general circulation, trade, and MWBE-oriented publications and dates of publications in which the Contractor solicited the participation of certified MWBEs as Subcontractors/suppliers, copies of such solicitations, and any responses thereto.
2. A list of the certified MWBEs appearing in the Empire State Development ("ESD") MWBE directory that were solicited for this Contract. Provide proof of dates or copies of the solicitations and copies of the responses made by the certified MWBEs. Describe specific reasons that responding certified MWBEs were not selected.
3. Descriptions of the Contract documents/plans/specifications made available to certified MWBEs by the Contractor when soliciting their participation and steps taken to structure the scope of work for the purpose of subcontracting with, or obtaining supplies from, certified MWBEs.
4. A description of the negotiations between the Contractor and certified MWBEs for the purposes of complying with the MWBE goals of this Contract.
5. Dates of any pre-bid, pre-award, or other meetings attended by Contractor, if any, scheduled by OGS with certified MWBEs whom OGS determined were capable of fulfilling the MWBE goals set in the Contract.
6. Other information deemed relevant to the request.

V. Fraud

Any suspicion of fraud, waste, or abuse involving the contracting or certification of MWBEs shall be immediately reported to ESD's Division of Minority and Women's Business Development at (855) 373-4692.

ALL FORMS ARE AVAILABLE AT: <https://ogs.ny.gov/MWBE>

3.3 ADDITIONAL CONTRACTOR REQUIREMENTS

3.3.1 DESIGNATED PERSONNEL / CONTACT INFORMATION

Contractor will provide the following Designated Personnel for the duration of this Contract at no charge to the State. Information regarding the Designated Personnel is set forth in Attachment 2, Contractor Information. During the Contract Term and until the end of any related Authorized User Agreements or Purchase Orders, Contractor must notify OGS within five (5) Business Days if its Designated Personnel change and provide interim contact personnel until the position is filled. Contractor may submit a Designated Personnel change electronically via email per the instructions contained in Appendix C, Contract Modification Procedure. The Designated Personnel must have the authority to act on behalf of the Contractor.

3.3.1.1 ACCOUNT MANAGER

The Account Manager shall be responsible for the overall relationship with the State during the Contract Term and shall act as the central point of contact.

3.3.1.2 CONTRACT ADMINISTRATOR

The Contract Administrator shall be responsible for the updating and management of this Contract on a timely basis.

3.3.1.3 SALES MANAGER

The Sales Manager shall be responsible for the overall relationship with the Authorized Users for matters relating to RFQs or Purchase Order, or both.

3.3.1.4 BILLING CONTACT

The Billing Contact shall be responsible for serving as the single point of contact between the Contractor and the Authorized User for matters related to invoicing, billing and payment.

3.3.1.5 DISCONNECT CONTACT

The Disconnect Contact shall be responsible for serving as the single point of contact between the Contractor and the Authorized User when the Authorized User wishes to disconnect a Service or feature.

3.3.1.6 EMERGENCY CONTACT

The Emergency Contact shall be responsible for being available 24 hours a day, 365 days per year for emergencies occurring after business hours or on weekend/holidays.

3.3.1.7 TOLL FREE NUMBER

Contractor shall provide a toll-free telephone number for use by Authorized Users. Contractor shall staff this toll-free number at a minimum from 9:00 AM to 5:00 PM Monday through Friday Eastern Time, excluding New York State or federal holidays. This number shall be provided at no cost to the State.

3.3.1.8 SINGLE POINT OF CONTACT

The Contractor shall serve as the Single Point of Contact (SPOC) for the Authorized User for all issues regarding Services, even if Contractor uses Sales Agents, Subcontractors, affiliates, or partners to provide such Services.

3.3.2 ESCALATION PROCEDURES DURING SERVICE REPAIR

Contractor shall provide escalation procedures to address inadequate repair of the purchased Service. These escalation procedures must include multiple levels of management personnel. Access to additional management personnel must be made available to OGS upon request. In addition, these procedures must include:

1. a list of personnel at each level of escalation (titles/positions in place of specific individual names is acceptable);
2. contact telephone, email, cellular numbers for the personnel listed above;
3. methods by which escalation is initiated and conducted; and
4. criteria for escalation at each level.

Contractor's escalation procedures will be posted on the OGS website. When responding to an Authorized User's RFQ Contractor shall disclose any additional escalation procedures as part of its Quote.

3.3.3 ORGANIZATIONAL INFORMATION

OGS reserves the right to request a copy of the IRS letter CP575B or a 147C letter, or equivalent, from Contractor at any time during the Contract Term to confirm Contractor's Legal Name and Federal Employer Identification Number.

3.3.4 E-RATE

Authorized Users who receive E-Rate funding are encouraged to review Universal Service Fund rules and regulations to verify the applicability of this Contract to the E-Rate program.

Section 4. Service Terms and Conditions

The following terms and conditions shall apply to all Telecommunication Connectivity Services provided under this Contract, regardless of the Lot they fall under.

4.1 SERVICE DESCRIPTION

In addition to providing a brief description of the offered Service on the Contractor Pricelist, in its response to an Authorized User RFQ, Contractor must provide a detailed description of the Service being proposed, information pertaining to required features, as well as additional features that are available to the Authorized User.

Contractor must describe the Telecommunication Connectivity Services that it will be providing to the Authorized User. Contractor's description must include the following regarding the Service being provided:

1. a detailed narrative;
2. technical specifications;
3. minimum and maximum amount of Data that can be transmitted;
4. information pertaining to the available features;
5. required Network or System specifications that allow the Service to operate;
6. how the Service will be provided, including any Physical Service Connection Charges; and
7. an affirmative statement from Contractor that the described Service is within Scope and does not conflict with the terms and conditions of this Contract.

OGS reserves the right to make the final determination that the Services offered meet the Scope of the Contract. Contractor's description shall not include any marketing language or marketing materials.

Contractor shall not offer any items excluded from the Scope of this Contract as specified in Section 1.2.4 – Products and Services Excluded from Scope.

4.2 PHYSICAL SERVICE CONNECTION CHARGES

When applicable, If Contractor offers Voice Connectivity Services or Data Connectivity Services, or both, Contractor may charge a Physical Service Connection Charge to Authorized Users. This Physical Service Connection Charge shall cover the initial installation or physical upgrade of the Telecommunication Connectivity Service from the Contractor's Network to the Authorized User's Demarcation Point.

The work shall only occur on the exterior of a building. However, if an Authorized User's Demarcation Point is located on the interior of a building, then a portion of the work shall also occur on the interior of the building. In this case the interior work shall only occur from the point where the Contractor's public Network enters the building to the Authorized User's Demarcation Point.

Not-to-exceed pricing for the Physical Service Connection Charge, if applicable, is entered as multiple components on the Contractor Pricelist. These components should include all potential aspects of a Physical Service Connection project and may include but are not limited to: poles, trenching, conduits, per-foot cabling, and boring. The Physical Service Connection Charge includes Last Mile. The price for the Physical Service Connection Charge shall not be payable by using an amortization schedule.

4.2.1 STANDARDS AND CODES

The Contractor shall meet or exceed the standards, or successors thereof, as established by local law, New York State Law, PSC, FCC, or FTC, that apply to providing the Telecommunication Connectivity Service.

4.2.2 LICENSES AND PERMITS

Contractor shall be responsible for obtaining and maintaining in good standing all licenses, permits, inspections, and related fees as required by the State, county, municipality, or any other Authorized User to connect the requested Telecommunication Connectivity Service.

4.2.3 PRE-INSTALLATION SITE VISITS

Under Appendix B, Site Inspection, Authorized User may require a site visit. Contractors shall not charge an Authorized User for a pre-installation site visit.

4.2.4 ON-SITE WORK

Contractor shall, at all times during the progress of the work, keep the site free from accumulation of waste matter, rubbish, and debris. At the completion of the work, all excess materials shall be removed from the site.

The Contractor shall at all times during the progress of the work, keep the corridors free from accumulation of waste matter, rubbish, and debris. Access for Authorized User personnel must be maintained at all times and meet the prescribed fire and safety regulations.

The Contractor shall provide all necessary safety equipment, if applicable or required by prevailing codes. Contractor's employees must wear these items when required. If Contractor's employees do not comply with these requirements, they will be asked to leave, and the Contractor will be responsible to make up any time lost. All safety equipment must be provided at no additional cost to the Authorized User.

Services performed on-site by Contractor's personnel shall be rendered according to additional requirements as determined by the Authorized User.

4.2.5 EXISTING INFRASTRUCTURE

Unless otherwise agreed to in writing by an Authorized User, existing infrastructure shall be utilized to connect the requested Telecommunication Connectivity Service. Contractor shall use the least invasive method possible to install the components necessary to connect an Authorized User's Demarcation Point to the requested Telecommunication Connectivity Services.

If the Contractor encounters subsurface or other latent physical conditions during the installation of the Physical Service Connection, which results in additional charges to complete the Physical Service Connection, Contractor will be responsible for such charges unless the existing infrastructure in question is owned by the Authorized User.

4.2.6 ACCESS TO CABLE

When connecting the requested Telecommunication Connectivity Service, Contractor must install cables in such a way that allows for more than one Telecommunication Provider to provide Telecommunication Connectivity Services to a premise. Competing Telecommunication Providers must be able to access cables located at or prior to the Demarcation Point.

4.2.7 CABLE PLACEMENT RECORDS

Contractor shall provide Authorized Users with details of where the cable is located on the Authorized User's premises. This information should also point out any applicable circuits, boxes, connectors, or adaptors. This may be provided via Written notice, diagrams, formal blueprints or any method as required by the Authorized User.

4.2.8 REPAIR AND MAINTENANCE PLAN

Contractor shall provide for the repair and Maintenance of the cables, wiring, and associated Equipment because connecting the requested Telecommunication Connectivity Service shall only occur from the Contractor's public Network to the Authorized User's Demarcation Point.

4.2.9 RESTORATION OF WORK AREAS

Unless otherwise agreed to in writing with the Authorized User, prior to completing the installation, Contractor is required to reasonably return all work areas back to their original condition. This may include but is not limited to:

1. Reconnecting any utilities, equipment, or appliances; and
2. Removing all debris generated by the installation.

4.3 INTEROPERABILITY

Contractor must allow for interoperability between Devices and Networks unless otherwise agreed to in writing by an Authorized User. When full interoperability is not viable Contractor must advise Authorized User in writing of the Devices, Services, Networks, and Providers that will interoperate with its Services as well as those that will not.

Telecommunication Connectivity Services must interoperate with other services utilized by Authorized Users. Contractor must advise an Authorized User, in writing prior to agreeing to provide a Service, if its offered Service will not interoperate with other services. The Authorized User will determine if the lack of interoperability is acceptable. In the event that the lack of interoperability becomes an issue throughout the Service, the Authorized User retains the right to cancel the Service without incurring a penalty.

Contractor must work with the Authorized User to determine whether or not a particular Service will be sufficient to meet an Authorized User's needs. Contractor shall include a statement regarding interoperability in every response to an Authorized User's RFQ, whether formal or informal.

4.4 NO TERMINATION FEES

Contractor must not impose any termination fees for Services provided under this Contract.

4.5 NO CHANGE SERVICE FEES

Contractor must not impose any fees for changing an existing Service (such as an upgrade or downgrade of plan).

4.6 SERVICE PERIOD

Contractor must not impose any minimum Service period for Services requested pursuant to this Contract, except for promotional pricing available to all Authorized Users which has been approved in advance by OGS through the Appendix C, Contract Modification Procedure process.

4.7 SUBCONTRACTORS

Contractor may permit Subcontractors to provide Services to Authorized Users provided that Authorized Users agree to Contractor's use of Subcontractors. If Contractor is going to use Subcontractors, then the following provisions shall apply.

4.7.1 PRIOR KNOWLEDGE OF AUTHORIZED USER

Contractors shall disclose in its responses to a formal or informal RFQ the legal names and addresses of any Subcontractors that may be used to complete the Services. Subcontractors shall only be permitted to perform the Services if the Authorized User agrees in the Authorized User Agreement, or Purchase Order.

4.7.2 CONTRACTOR RESPONSIBILITY FOR SUBCONTRACTORS

The following requirements shall supplement the requirements of Appendix B, Employees, Subcontractors and Agents, and Subcontractors and Suppliers:

1. The Contractor shall not be relieved of any responsibility under the Contract by any subcontract.
2. The Contractor shall be solely responsible to the State and Authorized User for the acts or defaults of its Subcontractor and of such Subcontractors' officers, agents, and employees, each of whom shall for this purpose, be deemed to be the agent or employee of the Contractor to the extent of its subcontract.
3. Any Services provided or furnished by a Subcontractor shall be deemed for purposes of the Contract to be provided or furnished by the Contractor.
4. The Contractor shall inform each Subcontractor fully and completely of all provisions and requirements of the Contract, including:
 - a. those relating either directly or indirectly to the Services to be provided pursuant to its respective subcontract;
 - b. to maintain and protect against any unauthorized disclosure of records with respect to work performed under the subcontract in the same manner as required of the Contractor;
 - c. those relating to the State's rights to audit records; and
 - d. to cooperate with any investigation, audit, or other inquiry related to the Contract or any litigation relating thereto.

Contractor agrees that every such subcontract shall expressly stipulate that all labor performed pursuant thereto shall strictly comply with the requirements of the Contract and that no subcontract shall impair the

rights of the State or Authorized User or create any contractual relationship between the Subcontractor and the State or Authorized User.

5. Failure to disclose the identity of any and all Subcontractors used by the Contractor as required hereunder may, at the sole discretion of the Authorized User, result in a disqualification of the Subcontractor, if not immediately cured, or may result in termination of the Authorized User Agreement or Purchase Order for cause.

6. The Contractor shall pay all Subcontractors for and on account of Services provided by such Subcontractors according to the terms of their respective subcontracts. If required by the State or Authorized User, the Contractor shall submit satisfactory evidence that it has made such payment.

7. The Contractor shall, within five (5) Business Days of the State or Authorized User Written request, file promptly with the requestor a copy of any subcontract providing Services for an Authorized User Agreement or Purchase Order.

8. The Contractor shall require that the Subcontractor must pass through all terms and conditions of the Contract, including but not limited to Appendix A, to any lower tier subcontractors.

9. The Contractor shall pay invoices to Subcontractors that provide Services during the Contract Term, Authorized User Agreement term, or Purchase Order term, whichever is longer, as well as the audit, confidentiality, document retention, and indemnification obligations of the Contract, shall survive expiration or termination of the Contract and continue in effect until all such obligations are satisfied.

4.8 SALES AGENTS

Contractor may permit Sales Agents to sell Services that are on the Contractor Pricelist on behalf of the Contractor to Authorized Users. Contractor may permit Sales Agents to communicate with Authorized Users. Contractor must directly receive all orders and payments from Authorized Users. Contractor must directly send all invoices to Authorized Users. Contractors must not authorize Sales Agents to accept orders, send invoices, or receive payment from Authorized Users, or do any combination of the three.

4.9 THIRD PARTY NETWORK FACILITIES

Contractor may be requested by OGS or an Authorized User to identify the locations within the State of New York served by 3rd party Network facilities and the identity of the 3rd party Network facilities providers.

4.10 UNIFORM SERVICE DELIVERY

Contractor may advise if it provides a single Network to assure consistent communication and message delivery. Contractor may be requested by OGS or an Authorized User to include in this description how it will provide consistent communication and message delivery statewide, regionally, and nationwide as well as any roaming and travel agreements with other service providers to achieve the required coverage.

4.11 COVERAGE GUARANTEE

Contractor may be required by OGS or an Authorized User to describe how it will maintain comprehensive, dependable, and uniform coverage for its Service. This description must include contingency plans for Network failure, transmission site failure, satellite failure (if applicable) and power failure as well as how Contractor insures survivability and service continuity in the event of natural disasters or acts of God.

If requested, Contractor must describe how it monitors and evaluates its Service's technological ability and performance, how it minimizes gaps in coverage, and its methods of limiting access and insuring authentication. Authentication shall mean the process of establishing confidence in the identity of users or information Systems.

4.12 NETWORK SECURITY ADMINISTRATION

If requested by OGS or an Authorized User, Contractor must have Services in place to ensure security of its Network and to any Devices provided through this Contract to an Authorized User. Contractor must advise the Authorized User of the retention periods for messages (text, voice, image/video) and numbers called/received. As part of an RFQ, whether formal or informal, Authorized Users may require that all Data in

transit shall be handled according to ITS Policy NYS-S14-007 (or successor) or the National Institute of Standards and Technology (NIST) Federal Information Processing Standard (FIPS)-140-2 or Transport Layer Security (TLS) 1, or TLS2 (or successor).

Contractor may be required by OGS or an Authorized User to provide a Service Organization Control 3 (SOC 3) report or a high level narrative detailing information regarding its Network security. This narrative may include, but not be limited to, details regarding the following:

1. Procedures to ensure the security of its Network;
2. Measures employed to limit access to unauthorized users;
3. Policies to eliminate or limit the risk of fraud;
4. Procedures to decrease the risk of sabotage;
5. Address air interface security to prevent unauthorized eavesdropping;
6. Implemented standards for switch site security systems,
7. Utilization of security personnel and patrols;
8. Existence of password-managed Software Systems; and
9. Live continuous monitoring of the Network and all its components.

This information may be shared with Authorized Users or the New York State Office of Information Technology Services.

If requested by OGS or an Authorized User the Contractor must describe, the programs, policies, and standards it has implemented to ensure the security of its Network, including the use of switch site security Systems, security personnel and patrols, password-managed software Systems, and live continuous monitoring of the Network and all components.

4.13 DEVICES

Devices shall only be sold through Lot 3 – Mobile Communication Connectivity Services. Contractor must label Devices on the Contractor Pricelist as either Accessory, Subsidized, or Unsubsidized. Contractor shall only sell Accessory Devices, Subsidized Devices, or Unsubsidized Devices. All Devices shall be compatible with Contractor’s Mobile Communication Connectivity Services.

Contractor shall not offer any tablets, laptops, desktops, routers, security devices, or printers as an Accessory Device, Subsidized Device, or Unsubsidized Device.

If Contractor sells Subsidized Devices or Unsubsidized Devices, then Contractor must label its Mobile Communication Connectivity Service offerings as Subsidized or Unsubsidized.

4.13.1 ACCESSORY DEVICE

If Contractor offers Mobile Communication Connectivity Services, Contractor may offer Accessory Devices that are compatible with its Mobile Communication Connectivity Service offerings.

If an Authorized User selects an Accessory Device, then Contractor shall charge Authorized Users for Unsubsidized Mobile Communication Connectivity Service for the Contract Term, or until Authorized User purchases a new Device or cancels the Service.

4.13.2 SUBSIDIZED DEVICE

If Contractor sells Subsidized Devices, then Contractor must label its Mobile Communication Connectivity Service offerings as Subsidized. Contractor may include the cost of a Subsidized Device in the pricing for its Subsidized Mobile Communication Connectivity Service offerings. If an Authorized User purchases a Subsidized Device, then Contractor shall charge Authorized User for Subsidized Mobile Communication Connectivity Service through either a Subsidized – Amortized Plan or a Subsidized – Discount Plan. Contractor may offer a Subsidized – Amortized Plan, a Subsidized – Discount Plan, or both for each of its Mobile Communication Connectivity Service offerings. Contractor must label all Subsidized Mobile Communication Connectivity Service plans as either Subsidized – Amortized or Subsidized – Discount.

4.13.2.1 SUBSIDIZED – AMORTIZED PLAN

If an Authorized User purchases a Subsidized Device to be used in conjunction with a Subsidized –

Amortized Plan, then Contractor shall charge Authorized User for the selected Subsidized – Amortized Plan for Mobile Communication Connectivity Service for a commercially reasonable term. The commercially reasonable term shall be the period necessary for the Contractor to recover the subsidized amount. On the month after the commercially reasonable term expires, Contractor shall automatically discontinue invoicing Authorized User for a Subsidized – Amortized Plan and begin invoicing Authorized User for Unsubsidized Mobile Communication Connectivity Service for the remainder of the Contract Term, or until Authorized User purchases a new Device or cancels the Service.

4.13.2.2 SUBSIDIZED – DISCOUNTED PLAN

If an Authorized User purchases a Subsidized Device to be used in conjunction with a Subsidized – Discounted Plan, then Contractor shall charge Authorized User for the selected Subsidized – Discounted Plan for Mobile Communication Connectivity Service for the remainder of the Contract Term, or until Authorized User purchases a new Device or cancels the Service.

4.13.3 UNSUBSIDIZED DEVICE

If Contractor sells Unsubsidized Devices, then Contractor must label its Mobile Communication Connectivity Service offerings as Unsubsidized. Contractor shall not include the cost of any Devices in the pricing for its Unsubsidized Mobile Communication Connectivity Service offerings.

If an Authorized User purchases an Unsubsidized Device, then Contractor shall charge Authorized User for Unsubsidized Mobile Communication Connectivity Service for the Contract Term, or until Authorized User purchases a new Device or cancels the Service.

4.13.4 BRING YOUR OWN DEVICE

Authorized Users may desire or require receiving a requested Telecommunication Connectivity Service via a Device that is owned by the Authorized User's employee. Contractor shall not implement undue restrictions or refuse to comply with such a request unless the make and model of the Device in question is not compatible with the Telecommunication Connectivity Service.

If an Authorized User brings their own Device, then Contractor shall charge Authorized User for Unsubsidized Mobile Communication Connectivity Service for the Contract Term, or until Authorized User purchases a new Device or cancels the Service.

4.13.5 ATTACHMENT 1, CONTRACTOR PRICELIST

Contractor shall only include the following Devices on the Contractor Pricelist: Accessory Devices, Subsidized Devices, or Unsubsidized Devices.

4.13.6 TRADE IN ALLOWANCES

If requested by the Authorized User, and commercially available, Contractor must provide a trade in allowance credit for Devices owned by the Authorized User. This trade in allowance must be a credit based on the market value of the Device.

4.13.7 ACCESSORIES TO DEVICES

Contractor may include accessories to approved Devices on the Contractor Pricelist. Each individual accessory must be labeled and must indicate the Device Name that it is compatible with in the Device Specifications column on the Contractor Pricelist.

4.14 VOICE DATA CONVERSION

In order for certain Voice Connectivity Services to function, Contractor may be required to act upon Authorized User Data to convert it from one format to another format in order to transmit voice calls to the public switched telephone Network or another Telecommunications Network. Contractor must provide Authorized User with prior written notice that the Contractor is required to act upon the Authorized User's Data. Contractor shall not collect or store any Authorized User Data transmitted through these Services. Contractor may only act upon Authorized User Data to allow transmission through these Services. For all other Voice Connectivity Services, Contractor shall not act upon Authorized User Data.

Traditional analog Voice Connectivity Services allow Authorized Users to transmit voice calls from their telephone devices to the public switched telephone Network without requiring Contractors to act upon

Authorized Users' Data. Some modern Voice Connectivity Services require the Contractor to first convert the Authorized User's Data from one format to another format in order to transmit voice calls from the Authorized User's telephone device to the public switched telephone Network, or another Telecommunications Network.

For example, Voice Over Internet Protocol (VoIP) Services uses an IP packet format to transmit voice calls. Therefore, the Contractor must first convert the Authorized User's Data into IP packets before the Contractor can transmit the Authorized User's voice call to the Telecommunications Network.

4.15 TELEPHONE NUMBER SELECTION

All telephone numbers provided as a Voice Connectivity Service or applicable Mobile Communication Connectivity Service must be based in the United States of America unless otherwise agreed in writing by the Authorized User.

Contractor will provide the ability for the Authorized Users to select the area code (NPA) with which their mobile wireless telephone number is associated.

Contractor shall include a statement regarding telephone number selection in every response to an Authorized User's RFQ, whether formal or informal.

4.16 DIALING PLAN

All Voice Connectivity Services or applicable Mobile Communication Connectivity Services provided by Contractor must adhere to all standards for the North American and International dialing plans. Contractor must state to the Authorized User whether local calls within the same calling area will require a 7 digit (NXX+XXXX) or 10 digit (NPA+NXX+XXXX) dialing plan.

Contractors offering international calls must provide Services that conform to the international dialing plan of the International Telecommunications Union (ITU).

4.17 NUMBER PORTABILITY

Contractors offering Voice Connectivity Services or applicable Mobile Communication Connectivity Services must provide for Number Portability with its proposed Service at no charge. Number Portability must allow for Authorized Users to retain telephone numbers when changing from current carriers to the Contractor's Services as well as from the Contractor's Service to another carrier.

4.18 VOICEMAIL

If requested by the Authorized User, and if Contractor offers Voice Connectivity Services or applicable Mobile Communication Connectivity Services, Contractor must provide basic voicemail to Authorized Users at no additional cost. Contractor may provide at a minimum two (2) SKUs for each of the Voice Connectivity Services that it offers. One SKU may provide the Voice Connectivity Service with Voicemail. The other SKU may provide the Voice Connectivity Service without Voicemail.

The voicemail must at a minimum provide Authorized User the following: answer an incoming telephone call, allow the incoming caller to record a message, allow the Authorized User to review the incoming caller's message, allow the Authorized User to save or delete the incoming caller's message, allow the Authorized User to record a greeting, allow the Authorized User to use a standard greeting, and provide date and time stamp.

Contractor shall not collect, or act upon any Authorized User Data transmitted through voicemail. Contractor may store Authorized User Data transmitted through voicemail. However, Contractor shall not listen or act upon stored Authorized User Data, unless directed to do so by the Authorized User.

4.19 INTERCEPT MESSAGES

If Contractor offers Voice Connectivity Services or applicable Mobile Communication Connectivity Services, Contractor must provide intercept messages and referrals to be associated with a number that has been disconnected. These intercept messages must include, but not be limited to, the following:

1. Number Dialed Not in Service;

2. Number Dialed Not in Service with Referral to New Number (10 Digit Format);
3. Number Dialed Temporarily Out of Service.

Contractor will advise the Authorized User of the intercept messages that they may provide.

Contractor must provide intercept messages and referrals for a minimum of 6 months from the date of disconnection, unless otherwise specified by the Authorized User Agreement, at no cost.

4.20 ALL-ACCESS TYPE REQUIREMENTS

If Contractor offers Voice Connectivity Services or applicable Mobile Communication Connectivity Services, Contractor must provide for the processing of calls using Dual Tone Multi-Frequency (DTMF) signals or Touch Tone service.

4.21 ACCESS TO NEW YORK STATE AND FEDERAL RELAY SERVICE

If Contractor offers Voice Connectivity Services or applicable Mobile Communication Connectivity Services, Contractor must provide access to the New York State Relay Service and the Federal Relay Service at no cost.

4.22 EMERGENCY 911 CALLS

If Contractor offers Voice Connectivity Services or applicable Mobile Communication Connectivity Services, Contractor must provide a Service that meets the compatibility requirements for all emergency and enhanced 911 services within New York State as well as delivery of required calling number and location identification to the required Public Safety Answering Point (PSAP).

The Americans with Disabilities Act (ADA) requires all PSAPs to provide direct, equal access to their services for people with disabilities who use a TeleTYpewriter (TTY). PBX Systems that support 911 access to emergency services have the necessary programming to enable three-digit dialing to Telecommunications Relay Services (TRS) centers. In response to an Authorized User's RFQ, whether formal or informal, Contractor must describe how it complies with the ADA while allowing for Emergency 911 calls.

4.23 ACCESS TO TOLL FREE SERVICE

If Contractor offers Voice Connectivity Services or applicable Mobile Communication Connectivity Services, Contractor must meet industry standards for compatibility with all toll-free geographic codes and local exchanges. This includes, but is not limited to, 800/888/877/866/855 geographic codes. The Contractor must provide Service that allows the Authorized User to place calls to all toll-free telephone numbers at no cost.

4.24 TEMPORARY SUSPENSION OF SERVICE

Temporary suspension of Telecommunication Connectivity Services may be enacted by Authorized Users. If requested by OGS or an Authorized User, Contractor may suspend and reactivate Telecommunication Connectivity Services to an Authorized User.

Contractor is encouraged to provide Temporary Suspension of Service as a service offering on the Contractor Pricelist. If Contractor offers Temporary Suspension of Service, then Contractor must, as applicable:

- (1) provide an intercept message providing such notification to the general public;
- (2) allow an Authorized User to use the same telephone number upon reactivation of temporarily suspended service;
- (3) not physically terminate the Service installed at the Authorized User location; and
- (4) activate the temporarily suspended Service within 24 to 48 hours notice by the Authorized User.

After the Temporary Suspension of Services period, Authorized Users will be able to continue to use the same level of Telecommunication Connectivity Services that they utilized prior to the Temporary Suspension of Services.

If Contractor charges Authorized User for Temporary Suspension of Services, then Contractor must not charge Authorized User additional reactivation charges for the Temporary Suspension of Services. The time period of the Temporary Suspension of Services may vary and will be determined with Authorized Users at the time that temporarily suspended Service is initiated.

4.25 REQUIRED COVERAGE – MOBILE COMMUNICATION CONNECTIVITY SERVICES

When responding to an Authorized User RFQ, whether formal or informal, and if Contractor offers Mobile Communication Connectivity Services, Contractor must provide nationwide coverage in the Continental United States.

Contractor must provide service coverage maps for each of the proposed Services. The service coverage map must depict the proposed Service's availability within New York State and the United States of America.

Contractor must describe potential coverage area limitations as they apply to the coverage requirements of this section.

4.26 INTERNET ACCESS SERVICES

When responding to an Authorized User RFQ, whether formal or informal, for Internet Access Services, and if Contractor offers Data Connectivity Services or applicable Mobile Communication Connectivity Services, Contractor must briefly describe its Internet Access. Internet Access Services shall include connectivity and bandwidth options that provide access to the internet backbone directly or indirectly via peering relationships.

If requested by an Authorized User, Contractor will provide data communication services, load balancing services, quality of services (QoS), and the ability to segment traffic in conjunction with the Internet Access Services.

4.27 SPEED

When responding to an Authorized User RFQ, whether formal or informal, and if Contractor offers Data Connectivity Service or applicable Mobile Communication Connectivity Service, Contractor must include the average speed range of the Service as it relates to the transmission of Data. The average speed range must match the Description of the Service as included on the Contractor Pricelist. When responding to Authorized User RFQs or Purchase Orders, Contractor must include the method by which Authorized Users may verify the average speed of the Service.

The Authorized User has the right to monitor the speed of the line and require Service credits if the Contractor's average speed falls below the stated average speed range. Service credits must be applied against the next scheduled billing cycle as a separate line item.

4.28 NETWORK MANAGEMENT

If Contractor provides Data Connectivity Services or applicable Mobile Communication Connectivity Services, Contractor must explain in writing information such as its congestion management, application-specific behavior, Device attachment rules, and security practices to the Authorized User and, if requested, to OGS.

Contractor must explain in writing how real-time monitoring of the Service and notification of possible issues is conducted (e.g., alarm notification or performance statistics) to the Authorized User and, if requested, to OGS.

4.28.1 CONTRACTOR'S NETWORK

Contractor must perform control, monitoring, and Maintenance of its Network which supports the Services including, but not limited to, addressing Network failure (full and component), Network overload, Network performance monitoring, or alert management.

Contractor must explain in writing how proactive monitoring, trouble ticketing, and user notification is performed on the Contractor's Network to the Authorized User and, if requested, to OGS.

4.28.2 NETWORK LATENCY/BANDWIDTH

Contractor shall submit a latency guarantee of bandwidth/distance to an Authorized User and, if requested, to OGS.

In addition, Contractor must explain in writing any Network latency in the Telecommunication Connectivity Service to the Authorized User and, if requested, to OGS.

4.28.3 ERROR CHECKING TECHNIQUE

Contractor must explain in writing how the proposed Network supports its error checking technique to the Authorized User and, if requested, to OGS.

4.28.4 SERVICE DISRUPTION DURING INSTALLATION

Contractor must provide an Authorized User with a Written plan to minimize Service disruptions when converting the Authorized User from its existing Service to any new Service.

4.29 SERVICE LEVELS

Contractor must monitor all Telecommunication Connectivity Services that it provides to Authorized Users. At a minimum, Contractor must provide the following service levels for Network uptime and upgrades. In an RFQ Authorized Users may request additional service levels.

4.29.1 NETWORK UPTIME

Unless otherwise agreed to in the Authorized User Agreement, Contractor's Service must have a minimum Network uptime of 99.99% and be available 24 hours a day, 7 days a week. Network uptime shall be calculated using the following formula:

$$U=O/(M-P)*100$$

U is Uptime, O is the amount of minutes that the Service is operational during the month, M is the number of minutes in the month, and P is the number of minutes of actual planned downtime during the month.

Any downtime that may be required for Network Maintenance, upgrade, or changes must be completed during low usage volume times, such as during the Authorized User's non-business hours.

4.29.2 UPGRADES

Unless otherwise agreed to in the Authorized User Agreement, the Contractor shall give a minimum of five (5) Business Days advance Written notice to the designated Authorized User contact of any upgrades, or Network changes that may potentially impact Services.

Upgrades, or Network changes which are required by Network vulnerabilities or emergency situations shall be carried out by the Contractor immediately. Contractor shall notify Authorized User as soon as possible once the Network vulnerabilities or emergency situations have been resolved.

Contractor shall provide Written documentation of upgrades, or Network changes upon request from an Authorized User.

4.30 MAINTENANCE AND SUPPORT

Contractor shall comply with the following requirements regarding Maintenance and support.

4.30.1 MAINTAINING OF CONTRACTED SERVICES

Contractors must provide the necessary labor, parts, materials, and transportation to maintain all Services provided under this Contract in good working order at no cost to the Authorized User.

4.30.2 CATEGORIES OF MAINTENANCE/SUPPORT SERVICES

New York State utilizes various Telecommunications Connectivity Services for a myriad of purposes. Some of these Services are critical to the Authorized User operations and public safety. Contractor must comply with the following categories for Maintenance/support of its Services:

1. Critical Maintenance/Support;
2. Urgent Maintenance/Support; and
3. Low priority Maintenance/Support.

Prior to finalizing an Authorized User Agreement or issuing a Purchase Order, Authorized User and the Contractor must meet to determine which Services are to be designated for each of the Maintenance categories listed above. During this same meeting, Authorized User and the Contractor must determine, for each of the Maintenance categories listed above, any specific criteria that are necessary for maintaining

the Services. The Authorized User must ensure that all purchased Services are placed in one of these Maintenance categories. The Authorized User must include the final determination and specific criteria in the finalized Authorized User Agreement or Purchase Order.

4.30.2.1 CRITICAL MAINTENANCE/SUPPORT REQUIREMENTS

Contractor must provide critical Maintenance/support for those Services designated by the Authorized User as being critical.

For purposes of this Section, critical shall mean those Services that the Authorized User has indicated as being priority for the Authorized User’s operations, or that relate to public health and safety. Contractor must also provide critical Maintenance/support for complete Service outages, or Service issues having a severe impact on Authorized User’s operations or public health and safety.

4.30.2.2 URGENT MAINTENANCE/SUPPORT REQUIREMENTS

Contractor must provide urgent Maintenance/support for those Services designated by the Authorized User as urgent.

For purposes of this Section, urgent Services shall mean all Services that the Authorized User has indicated as being important for the Authorized User’s operations.

Contractor must also provide urgent Maintenance/support for partial Service outages, or Service issues having a significant impact on Authorized User’s operations.

4.30.2.3 LOW PRIORITY MAINTENANCE/SUPPORT REQUIREMENTS

Contractors must provide low priority Maintenance/support for those Services designated by the Authorized User as low priority.

For purposes of this Section, low priority Services shall mean all Services that the Authorized User has indicated as being required for the Authorized User’s operation.

Contractor must also provide low priority Maintenance/support for Service issues having no direct impact on Authorized User’s operations.

4.30.3 RESPONSE AND REPAIR TIMES FOR SERVICE ISSUES

Unless otherwise agreed to in the Authorized User Agreement, the Contractor shall respond to Service issues and repair such issues in accordance with the time frames listed in the following table.

MAINTENANCE/SUPPORT CATEGORY	RESPONSE TIME	REPAIR TIME
Critical	30 minutes or less	3 hours or less
Urgent	1 hour or less	5 hour or less
Low Priority	2 hours or less	24 hours or less

Contractor shall respond and repair Service issues regardless of whether or not the Contractor was at fault in causing such issues. Contractor shall respond and repair Service issues according to the above table regardless of the time of day or day of week (including holidays).

Response time shall begin to be counted at the time that an Authorized User reports a Service issue to the Contractor, or the Contractor determines that a Service issue exists on its own. Response Time ends when the Contractor commences performing repair services on the Service issue.

Repair time shall begin to be counted at the time that the Contractor starts performing repair services on the Service issue. Repair time ends when the Service issue is resolved, and the Authorized User’s Services have returned to good working order by meeting all Service requirements. There may be instances when a Contractor is unable to repair the affected Service within the above time frames. If Contractor is unable to repair a Service issue within the specified time frame, then Contractor must provide a Written plan of

repair to the Authorized User.

Contractor's Written plan of repair must at a minimum include an estimated time of completion, explain why they are unable to meet the time frames, and describe how Contractor will provide alternative Service until completion of the repair.

4.30.4 SERVICE HOURS

Hours of operation vary between Authorized Users. The Contractor must determine the actual hours for Service required by the Authorized User. This may include a request by the Authorized User to provide Service 24 hours-a-day, 7 days-a-week, 365 days a year.

4.30.5 MAINTENANCE/SUPPORT SERVICE SHEETS

Contractor shall furnish a Maintenance/support service sheet for all support requests to the Authorized User and, if requested, to OGS. At a minimum, the Maintenance/support service sheet should include the following information for each request:

1. Maintenance/Support Category
2. Date and time issue began;
3. Date and time issue reported or discovered;
4. Date and time Contractor responded to the issue;
5. Description of the issue;
6. Description of the Maintenance/support performed by Contractor to repair the issue;
7. Date and time Contractor repaired the issue; and
8. Charges for the Maintenance/support, if applicable.

4.30.6 ACCESS TO MAINTENANCE/SUPPORT REPORTING

The Contractor must provide a toll-free telephone number to the Authorized User for the reporting of issues. This issue reporting telephone number must be staffed to receive issue reports 24 hours-a-day, 7 days-a-week, 365 days a year.

Section 5. Requirements for Authorized User Agreements

The following terms and conditions shall apply to all Authorized User formal or informal RFQs and resulting Authorized User Agreements and Purchase Orders.

5.1 REQUEST FOR QUOTATIONS (RFQs)

OGS highly recommends that all Authorized Users develop a formal competitive RFQ that will be distributed to the awarded Contractors in the applicable Lot. Contractors will compete against each other by submitting responses to the Authorized User as directed in the RFQ. The winning Contractor will enter into an Authorized User Agreement with the Authorized User. An award may be based on a Lowest Price or Best Value, as specified in the RFQ. Authorized Users shall give Contractors a minimum of fifteen (15) Business Days to respond to an RFQ.

5.1.1 FORMAL COMPETITIVE RFQ

Formal competitive RFQs should be issued using the instructions provided in Attachment 4 – How To Use. Any proposed Service Level Agreements (SLA) or similar additional terms and conditions must be submitted by Contractor as part of its Quote to be evaluated by the Authorized User. Authorized User shall review to determine if such additional terms and conditions are in the best interest of the Authorized User and whether or not they should be accepted. The awarded Contractor will enter into an Authorized User Agreement with the Authorized User. An award may be based on a Lowest Price or Best Value, as specified in the RFQ.

5.1.2 INFORMAL RFQs

Authorized Users wishing to develop an informal RFQ should solicit, in writing, a minimum of three (3) quotes. In the event the total number of Contractors able to meet the Authorized User's need is less than three, this requirement may be waived. Authorized Users shall base their selection among the quotes

received based on the most practical and economical alternative, which shall be in the best interests of the State. Authorized Users must document the basis for their selection for the procurement record.

OGS reserves the right to issue RFQs to undertake aggregate purchase agreements on behalf of Authorized Users. If undertaken, these will be procured through an RFQ process with all applicable Contract holders. Additional transactions may or may not include a reverse auction process.

Further details and requirements for RFQs and resulting Authorized User Agreements can be found in Attachment 4, How to Use.

5.1.3 RESPONDING TO RFQs

Contractor will provide a Quote to an Authorized User after receiving an RFQ for any Service that is currently on the Contractor's approved Contractor Pricelist. The response must clearly indicate a detailed Service Description, compatible Accessories, included features, available features, "Required on Premises Equipment" (column from Attachment 1, Contractor Pricelist) and whether or not this equipment is included in the service charge, pricing as required in the RFQ and an itemization of all applicable taxes, surcharges, fees or other charges listed on the Pass-through Charges tab of Attachment 1 – Contractor Pricelist which will be invoiced to the Authorized User. The itemization shall be specific enough to enable the Authorized User to easily cross reference each such tax, surcharge, fee, or other charge to the Pass-through Charges tab of Attachment 1 – Contractor Pricelist. The Authorized User reserves the right to request additional information and require the Contractor to justify the applicability to the Authorized User of any such charge. Contractor should provide best and final pricing to Authorized Users.

All prices must be itemized and included in the Contractor's Quote. All itemized prices shown in the Contractor's quote must have SKUs that correspond with SKUs that appear on the Contractor's approved Contractor Pricelist. The prices included in the Contracts are not-to-exceed prices. A Contractor's Quote must reflect equal or better pricing than what appears on the Contractor's OGS approved Contractor Pricelist for each SKU.

The Contractor is required to honor all Quotes for the length of the Service as described in the RFQ, regardless of price increases.

5.1.4 PROTESTS AND DISPUTES

Should a protest be submitted by a Contractor regarding a formal or informal RFQ, the protest must be considered and decided by the Authorized User. Disputes under a resulting Authorized User Agreement must be handled by the Authorized User.

5.1.5 PHYSICAL SERVICE CONNECTION CHARGES – STATEMENT OF WORK

RFQs, whether formal or informal that contain a Physical Service Connection Charge may include a deliverable-based Statement of Work (SOW). RFQs or Purchase Orders should be as detailed as possible, and may, contain the following:

1. Authorized User Information;
2. Current Set Up;
3. Desired Set Up;
4. Location;
5. Projected Time Frame;
6. Anticipated Duration;
7. Hours (start and stop times, and whether overtime is anticipated);
8. Days of the week requested;
9. Estimated Start Date;
10. Security Protocols;
11. Site Information;
12. Site Security Protocols;
13. Pre-Installation Site Visit Details;
14. Project Inspection Criteria;
15. Project Acceptance Criteria;
16. RFQ response details such as due date and time;

17. Mandatory Site Visit (if necessary for accurate Quote submission);
18. RFQ Method of Award;
19. Additional Specifications, Qualifications, Experience or Skill Levels; and
20. Other information and requirements necessary for the particular engagement.

5.1.5.1 DEVELOPMENT OF PROJECT PLAN

Upon the Authorized User's request, the Contractor must develop a Written proposed project plan for connecting the Authorized User to the requested Telecommunication Connectivity Services. Specific requirements of the plan should be defined in the RFQ, whether formal or informal. The Authorized User may require a Contractor to provide information such as the following:

1. Name, Contact Information and Experience of the entity whom will be providing the installation;
2. Name, Contact Information and Experience for the SPOC;
3. Name, Contact Information and Experience of the Project Manager;
4. Names, Contact Information and Experience of the installation personnel;
5. Timeframe for the installation;
6. Installation Milestones;
7. Installation Service Methods;
8. Identification of Potential Safety Issues or Other Problems;
9. Identification of Possible Remediation Ideas;
10. Responsibilities of the Authorized User during the installation;
11. A statement that the Contractor agrees to furnish all labor and supervision necessary to successfully perform the required installation;
12. Escalation procedures including management personnel contact numbers;
13. Full and complete documentation of all installation work;
14. An installation acceptance plan; and
15. Anything else as agreed to with the Authorized User.

If required, this plan shall be approved by the Authorized User, or its designee, in writing prior to the commencement of work.

5.1.5.2 NEGOTIATION OF FINAL PROJECT PLAN

If the Authorized User chooses to require a project plan, the State further reserves the right for Authorized Users to negotiate the final project plan with the apparent RFQ awardee. Such negotiation must not substantively change the scope of the RFQ but can alter timeframes or other incidental factors of the final project plan.

Authorized User should provide the Contractor a minimum of five (5) Business Days notice of the final negotiation date. The Authorized User reserves the right to move to the next responsible and responsive Quote if Contractor negotiations are unsuccessful.

5.1.6 ESCALATION PROCEDURES DURING SERVICE REPAIR

Contractor's escalation procedures will be posted on the OGS website. If an Authorized User requires any additional escalation procedures, then the Authorized User must include the additional escalation procedures as a requirement in the Authorized User's RFQ. When responding to an Authorized User's RFQ Contractor shall disclose any additional escalation procedures as part of its Quote.

5.2 STANDARDS COMPLIANCE

The Services proposed by Contractor must meet or exceed all required national and international standards such as those set forth by the American National Standards Institute (ANSI) and the International Telecommunications Union (ITU).

Contractor may be required to describe the measures they will take to ensure they will comply with all industry standards.

5.3 SERVICE CHANGES

After the Services are initiated, it is expected that an Authorized User's needs will increase and decrease as demands and responsibilities change for the Authorized User. Examples of Service changes include but are

not limited to additional features, bandwidth, circuits, or lines. Authorized Users may submit Service change requests in writing at any time.

Service change requests submitted shall be deemed received by Contractor on the date submitted.

All Authorized User Service change requests shall be in writing to Contractor's Account Manager as listed on the Contractor Information document. Service change requests shall at a minimum include the following information: the Contract Number, the Authorized User's account number, and a brief description of the requested Service changes. Upon Contractor's receipt of a Service change request, Written confirmation shall be provided to the Authorized User. Contractor's Written confirmation will be sufficiently detailed, and include, at a minimum, the following: current Service description, date of the original order, date of the Service change request, delivery information, Authorized User name, Contract Number, and Authorized User's account number.

The Contractor must not charge the Authorized User a fee for submitting a Service change request.

5.3.1 ADDITIONS

Authorized Users may require additional features, bandwidth, circuits, and/or lines of the Service than what was included in the Authorized User Agreement or Purchase Order. Authorized User may request additional features, bandwidth, circuits, and/or lines from the Contractor. Contractor must provide additional features, bandwidth, circuits, and/or lines under the terms and conditions, including pricing, of the Authorized User Agreement or Purchase Order.

5.3.2 REDUCTIONS

Authorized Users may not use every feature, bandwidth, circuit, and/or lines of the Service than what was included in the Authorized User Agreement or Purchase Order. Authorized User may request that Contractor provide a report showing the Authorized User's use of Services. There may be certain instances where Contractor will not have all of the requested information. For example, if a telephone line only receives inbound calls, the Contractor will not know the use of that particular line. When use information is available, Contractor must advise the Authorized User in writing of the features, bandwidth, circuits, and/or lines not in use by the Authorized User. It will be at the Authorized User's discretion to request a reduction in Services to remove or discontinue features, bandwidth, circuits, and/or lines.

5.4 POOR PERFORMANCE

Authorized Users should notify Procurement Services Customer Services promptly if the Contractor fails to meet the requirements of this Contract. Performance which does not comply with requirements or is otherwise unsatisfactory to the Authorized User should also be reported to Customer Services:

Office of General Services
New York State Procurement
38th Floor
Corning Tower
Empire State Plaza
Albany, NY 12242

Customer Services Coordination E-mail: customer.services@ogs.ny.gov
Telephone: (518) 474-6717

5.5 REQUIRED RECORDS

Contractors must, at minimum, maintain and retain all invoicing and service records for a period of 7 years from the payment date of the final invoice date or service, or as provided to the Authorized User via this Contract or unless otherwise statutorily required, whichever is longer. These records may be maintained in hard copy or electronic format.

In the event of any discrepancies involving monthly charges failure to provide required backup copies within thirty (30) Calendar Days from Written notice by OGS and/or an Authorized User may result in additional credits or refunds for any overcharges claimed.

The required invoicing and service records must include, at a minimum, the following:

1. The total number and type of Services initially installed at the Authorized User;
2. A list of account numbers and Authorized User identification associated with the Services initially installed at the Authorized Users location if applicable;
3. A list of all additional Services installed at the Authorized User's location including the date of the new Service order, the projected date of Service installation and the actual date of Service installation;
4. A list of all repair notices since initial Service activation including the date and time of the Service trouble report, the nature of the problem reported, and date/time of problem resolution.

Should the Authorized User have the Services activated in multiple locations, the Contractor must provide the above listed information for each individual location

Unless otherwise agreed to in writing, the Contractor must provide this information, from complete detail to a simple report format understandable to the "lay person," to OGS and/or the Authorized User within ten (10) Business Days of such request.

5.6 ADDITIONAL AUTHORIZED USER REQUIREMENTS

Authorized Users may have additional requirements that must be met by the Contractor. These additional requirements must be presented to the Contractor in the Authorized User's RFQ. Additional requirements must be within the defined scope of the Services included in this Contract.

5.7 AUTHORIZED USER RESERVED RIGHTS

5.7.1 GENERAL RESERVED RIGHTS

Authorized Users reserve the right, in their sole discretion, to:

- A. Reject any or all Quotes received in response to an RFQ;
- B. Withdraw an RFQ at any time at the sole discretion of the Authorized User;
- C. Make an award under an RFQ in whole or in part;
- D. Disqualify any Contractor whose conduct and/or Quote fails to conform to the requirements of the RFQ;
- E. Seek clarifications and revisions of a Quote;
- F. Amend the RFQ prior to the RFQ opening to correct errors or oversights, or to supply additional information as it becomes available;
- G. Direct Contractors, prior to the Quote opening, to submit Quote modifications addressing subsequent RFQ amendments;
- H. Change any of the RFQ schedule dates with notification to Contractors;
- I. Eliminate any mandatory, non-material RFQ requirements that cannot be complied with by all of the prospective responders to the RFQ;
- J. Waive any requirements that are not material;
- K. Utilize any and all ideas submitted in the Quotes received;
- L. Adopt all or any part of a Quote in selecting the optimum configuration;
- M. Negotiate with a Contractor within the RFQ requirements to serve the best interests of the Authorized User. This includes requesting clarifications of any or all Quotes;
- N. Require clarification at any time during the procurement process and/or require correction of arithmetic or other apparent errors for the purpose of assuring a full and complete understanding of a Quote and/or to determine a Contractor's compliance with the requirements of the RFQ;
- O. Select and make an award to other than the selected Contractor in the event of unsuccessful negotiations or in other specified circumstances as detailed in the RFQ;
- P. Accept and consider for award Quotes with non-material Quote Deviations or non-material Quote defects such as errors, technicalities, irregularities, or omissions;
- Q. Use any information which the Authorized User obtains or receives from any source and determines relevant, in the Authorized User's sole discretion, for the purposes of Quote evaluation and Contractor selection;
- R. Consider a proper alternative where an evidently incorrect reference/parameter/component/product/model/code number is stated by the Authorized User or the Contractor;
- S. Reject an obviously unbalanced Quote as determined by the Authorized User;
- T. Conduct negotiations with the next highest scoring Contractor, should the Authorized User be unsuccessful

- in negotiating with the selected Contractor;
- U. Make no award for any Product, region, or lot, as applicable, for reasons including, but not limited to, unbalanced, unrealistic or excessive Contractor pricing, a change in Authorized User requirements and/or Products, or an error in the RFQ (e.g., use of incorrect reference, pack size, description, etc.). In such case, evaluation and ranking of Quotes may be made on the remaining Products, regions, or lots;
- V. Offer a Contractor the opportunity to provide supplemental information or clarify its Quote, including the opportunity to explain or justify the balance, realism, and/or reasonableness of its pricing;
- W. Make RFQ Awards on a rolling or staggered start basis, either in whole or in part.
- X. The Authorized User reserves the right to use on-line processes, such as a reverse auction, to make acquisitions under the Telecommunications Connectivity Services Contracts. Contractor agrees that it will participate in these on-line processes established by Authorized Users;
- Y. Authorized Users reserve the right to incorporate an electronic workflow system that may include elements of the RFQ or other process;
- Z. Upon discovery of non-material completeness or conformance issues with an RFQ response, Authorized Users reserve the right to contact the Contractor to attempt to cure the issue prior to completion of the evaluation of the Quote; and
- AA. Authorized Users reserve the right to request a copy of an IRS letter CP575B, a 147C letter, or equivalent to confirm that Contractor's Legal Name and Federal Employer Identification Number.

5.7.2 ADDITIONAL AUTHORIZED USER RESERVED RIGHTS

In addition to the above reserved rights, the Authorized User shall have the following additional reserved rights:

- A. To add requirements to an Authorized User Agreement that are more advantageous than the terms and conditions in this Contract;
- B. To require the Contractor to identify any Subcontractors, and to approve such Subcontractors; and
- C. To request the Contractor's insurance policy language for purposes of substantiating Contractor's compliance with the Insurance Requirements of this Contract, or such other Insurance Requirements as required by the Authorized User as part of an RFQ.

Section 6. General Terms and Conditions

6.1 PURCHASE ORDERS

Purchase Orders shall be made according to the terms set forth in Appendix B, Purchase Orders.

6.1.1 ORDERING

Purchase Orders shall be made according to the terms set forth in Appendix B, Purchase Orders. Authorized Users may submit Purchase Orders over the phone, and, if available, may submit Purchase Orders electronically via web-based ordering, e-mail, or facsimile at any time. Purchase Orders submitted shall be deemed received by Contractor on the date submitted.

All Purchase Orders shall reference Contract number, requisition, or Purchase Order number (if applicable), or any combination of the three. Upon Contractor's receipt of a Purchase Order, confirmation is to be provided to the Authorized User electronically or via facsimile. Order confirmation should be sufficiently detailed, and include, at a minimum, purchase price, date of order, delivery information (if applicable), Authorized User name, and sales representative (if applicable).

Authorized Users are directed to consult Attachment 4, How to Use as well as their own procurement guidelines pertaining to placing orders.

6.1.1.1 PURCHASE CARD ORDERS

If the Contractor accepts orders using the State's Purchasing Card (see Appendix B, Purchasing Card), also referred to as the Procurement Card, the Contractor shall not charge or bill the Authorized User for any additional charges related to the use of the Purchasing Card, including but not limited to processing charges, surcharges or other fees.

6.1.1.2 MINIMUM ORDER

There is no minimum order for this Contract.

6.1.1.3 AUTHORIZED AGENCY PERSONNEL

The Contractor must only accept Purchase Orders from authorized personnel within each specific Authorized Users organization.

The Authorized User should advise Contractor of authorized personnel during the initial Service initiation process and Contractor shall provide "Authorization Forms" for Authorized Users personnel signatures. These "Authorization Forms" must be updated on an annual basis by the Contractor.

6.1.1.4 CONTRACTOR ORDERING PERSONNEL

The Contractor must provide "order-taking" personnel who are fully trained in the Contractors ordering mechanism and the services offered through this Contract to receive orders for service additions and changes from Authorized Users.

6.2 SERVICE INITIATION AND CHANGE ORDER TIME FRAMES

Delivery shall be expressed in number of Business Days required to make the Service available or reflect a modification to an existing Service after receipt of an Authorized User Agreement, Purchase Order, or Change Order.

Unless otherwise specified in writing by the Authorized User, the following provisions for Service availability and initiation time shall apply:

1. Contractor shall acknowledge receiving an Authorized User Agreement or Purchase Order within two (2) Business Days. Contractor's acknowledgement shall be in writing, and will include a Service order number (or equivalent), the anticipated Service Activation Date, and the monthly invoice date for the Services requested;
2. Contractor shall provide the Authorized User with Written acknowledgement of the Service Activation Date request at least ten (10) Business Days prior to its initiation;
3. If Contractor is unable to activate Service by the Service Activation Date, then the Contractor shall provide Authorized User Written notice as soon as a delay is anticipated, but no less than three (3) Business Days prior to the latest date of the original obligation. This Written notice must include the reasons for the delay and the new Service Activation Date;
4. All correspondence regarding Service availability, modifications, and initiation time shall be directed to the ordering Authorized User's contact person.

6.3 FAILURE TO COMMENCE SERVICE ON DUE DATE

Calculation of uptime shall begin at the time the Service has been obligated to be initiated. Failure to meet such timeframe or mutually agree on an alternative date may result in the Authorized User requesting a credit. Authorized User may provide in their Authorized User Agreement a plan for acceptance of an alternate date for commencement of Services, including consequences for that plan not being met by either party.

6.4 DISCONNECT ORDERS

Disconnect orders placed by the Authorized Users must be implemented upon receipt by the Contractor. The Contractor must confirm receipt of the disconnect order in writing via email to the Authorized User's contact placing the disconnect order. Upon receipt of the disconnect order, the Contractor must disconnect the Service. The Authorized Users shall not be responsible for any charges incurred more than thirty (30) days after the disconnect order request is confirmed by the Contractor.

6.5 INVOICING

Invoicing shall be made according to the terms set forth in Appendix B, Contract Invoicing. The Contractor must provide the Authorized User with one invoice for each Purchase Order at the time of delivery. The invoice must include detailed line item information to allow Authorized Users to verify that pricing at point of receipt matches the Contract price on the original date of order. At a minimum, the following fields must be included on each invoice:

1. Contractor Name;
2. Name of Authorized User indicated on the Purchase Order;
3. Product/Service Descriptions;
4. Quantity;

5. Invoice Amount;

If Contractor fails to include the above information, then an Authorized User must reject the invoice, and notify the Contractor within one (1) Business Day to resubmit a proper invoice with the necessary information. Contractor must not receive payment until a proper invoice is submitted and processed by an Authorized User.

At a minimum, the following fields should be included on each invoice:

1. Contractor Billing Address;
2. Contractor Federal ID Number;
3. NYS Vendor ID Number;
4. Account Number;
5. NYS Contract Number;
6. NYS Agency Unit ID (if applicable);
7. Authorized User's Purchase Order number;
8. Order Date;
9. Invoice Date;
10. Invoice Number;
11. Unit Price;
12. Unit of Measure; and
13. Dates of Service.

If Contractor fails to include the above information, then an Authorized User may work with Contractor to obtain the above information, or return the invoice to the Contractor for correction. When an Authorized User returns an invoice for a Contractor to correct these items, the Authorized User should notify the Contractor within one (1) Business Day to resubmit a proper invoice with the necessary information. Contractor may not receive payment until an invoice with the above requested information is submitted and processed by an Authorized User.

Contractor should note that the Authorized Users that use the Statewide Financial System (SFS) will require a Unique Invoice Number. The Statewide Financial System (SFS) requires Authorized Users to enter a Unique Invoice Number on each Contractor's payment voucher. The SFS has automated validations that prohibit Authorized Users from processing and paying duplicate invoices. Contractor may not receive payment until an invoice with a Unique Invoice Number is submitted and processed by an Authorized User.

6.5.1 INAPPROPRIATE INFORMATION IN INVOICES

Contractor will not include inappropriate or unrelated flyers, brochures, notices or other marketing material in any invoice for the purchased Telecommunication Connectivity Services. Inappropriate inserts include notices for other Telecommunication Connectivity Services not available on this Contract, invoice change notices for Services that the Authorized User has not purchased, or notices for areas outside of New York. Contractor may only include inserts with its invoice that are specifically designed to inform the Authorized User about the purchased Telecommunication Connectivity Services. For example, inserts for new enhancements to those Services, new Services approved for this Contract, or invoicing information specific to the purchased Services may be included with the Contractor's invoice.

6.5.2 REQUIRED INVOICING CYCLE

The Contractor must adhere to a consistent monthly invoicing cycle.

6.5.3 INVOICING FORMAT

Contractor will allow Authorized User to select the format of its monthly invoice. Formats may include:

1. Physical Copy – Via US Postal Service;
2. Electronic Copy – Internet Access by Agency; or
3. Electronic Data Interchange – EDI.

6.5.4 ADDITIONAL MONTHLY INVOICES

The Contractor must provide an additional copy of the monthly invoice as requested by the Authorized User within ten (10) Days upon request. This additional copy may be for a single month or for multiple invoicing months. This additional invoice copy must be provided at no cost to the requesting Authorized User.

6.5.5 INDIVIDUAL AGENCY INVOICING

The Contractor must have the capability of invoicing each Authorized User for those specific Telecommunication Connectivity Services purchased by that particular Authorized User.

6.5.6 SINGLE AGENCY/MULTIPLE LOCATION INVOICING

Authorized User may have offices at multiple locations which may require separate invoicing as specified by each Authorized User. The Contractor's billing System shall be flexible enough to meet the needs of varying ordering Systems in use by different Authorized Users. Visit the following link for further guidance for Vendors on invoicing: <https://bsc.ogs.ny.gov/content/vendor-information>.

6.5.7 SINGLE AGENCY/MULTIPLE LOCATION OPTIONAL INVOICING

Contractor must be capable of providing a single "Master Invoice" to any Authorized User which has purchased Services in multiple locations. This "Master Invoice" must include all required monthly information and Usage broken down by each location of the Authorized User.

6.5.8 UNIQUE ACCOUNT IDENTIFIER

The Contractor should create a "Unique Account Identifier" in its invoicing System that recognizes NYS and its eligible Authorized Users. This "Unique Account Identifier" would allow the Contractor to associate all Authorized Users and thus eliminate and prohibit the application of inappropriate non-applicable fees or actions, or both, such as but not limited to:

1. State and Federal Taxes;
2. Late Payment Fees;
3. Third Party Marketing Sales;
4. Referral to Collection Agencies;
5. Non-Applicable Charges; and
6. Automated Termination of Service.

6.5.9 BASIC SERVICE CHARGE INVOICING

The Contractor must provide an invoice for the basic service charge for any purchased Telecommunication Connectivity Services on a monthly basis. This basic service charge is for those items that are fixed from one invoicing cycle to another.

6.5.10 BASIC SERVICE CHARGE BREAKDOWN

If OGS or an Authorized User request, then the Contractor must provide a simple report listing all items and associated costs included in the basic service charge. This report must include the quantity of each item, a description of each item and the cost for each item in a simple report format understandable to the "lay person". The use of "codes" in place of Service description will not be acceptable in this breakdown report although the Contractor may list associated invoicing codes for its own use.

6.5.11 INVOICING AND ROUNDING OF CHARGES

Contractors must invoice rates within 4 decimal places (\$00.0000). Service increments must first be totaled per Authorized User invoice per type of service provided then multiplied by the rate, then rounding to the nearest penny (two (2) decimal places (\$00.00).

6.5.12 DISCOUNT PERCENTAGE

All Discount percentage values shall not exceed two decimal places (e.g., 20.25222% shall be rounded to nearest one hundredth 20.25%). A Discount percentage value cannot be expressed as a range (ex 10%-20%, or "varies").

6.5.13 INVOICING OF PAST CHARGES

The Contractor may not invoice Authorized Users for any monthly Service or Usage that was utilized sixty (60) Days prior to the beginning of the then current invoicing cycle. This includes all charges, even those allowed under this Contract, but not previously charged.

Disputed charges as described below are exempt from this time frame as long as the charges previously appeared on an invoice within the 60-day period as set forth above.

6.5.14 CHANGES IN MONTHLY COSTS

The Contractor is not allowed to invoice the Authorized User for any new or additional charges (recurring or nonrecurring) beyond those charges listed on its OGS- approved Contractor Pricelist.

6.5.15 INCORRECT INVOICES

Incorrect invoices must be corrected by the Contractor. Such correction should be completed by the Contractor automatically without waiting for an Authorized User to advise of the error. In the event that an Authorized User discovers an incorrect invoice, it must be corrected by the Contractor. The Contractor must advise the Authorized User of the error and supply the Authorized User with a corrected invoice within sixty (60) Days of the error being identified by either party. When applicable, an invoice shall be corrected prior to the Authorized User releasing payment for the same.

In the event that an invoice is not corrected prior to the Authorized User releasing payment for the same, any overpayment for Services from the Authorized User to the Contractor shall be refunded from the Contractor to the Authorized User according to Section 6.6.3 below.

If OGS or an Authorized User request, then Contractor must provide evidence of a permanent solution of the error condition. Non-recurrence of the error condition will be considered an acceptable solution. A correct invoice is still required even if the error is found to be inherent in the Contractors invoicing System.

Future payments will not be made until corrected invoices are provided to the Authorized User.

6.5.16 ACCESS TO PAST INVOICES

At any time during the Contract Term an Authorized User, or OGS, or both may request copies of an Authorized User's invoices from Contractor. OGS, or the Authorized User, or both shall be able to obtain copies of all invoices from the Activation Date of the Service to the date of request. By using this Contract, an Authorized User consents to OGS requesting and receiving copies of an Authorized User's invoices from Contractor.

Pursuant to Section 57.05 of the Arts and Cultural Affairs Law and 8 NYCRR Part 188 State Agencies may not destroy or otherwise dispose of any records unless such disposition is authorized by the State Archives. Contractor must retain all records regarding Centralized Contracts for 7 years after the Contract expires or final payment, whichever occurs later.

6.6 PAYMENTS

Payments shall be made according to the terms set forth in Appendix B, Contract Invoicing.

6.6.1 APPLICATION OF PAYMENTS

It is required that payments received by the Contractor be appropriately posted to the specific Authorized User's account for which the payment was received. The Contractor must not create a single "New York State" account to which it will post received payments. The Contractor is required to provide, at the request of the Authorized User, Written reports to demonstrate a payment history of the Services provided the Authorized User. The Contractor is required to provide, at the request of OGS, a complete Written report of its payment history of all Authorized Users for service(s) provided in an appropriate format to validate Contract invoicing.

6.6.2 FAILURE OF AN AUTHORIZED USER TO MAKE PAYMENTS

Contractor shall not suspend or cancel any Services if an Authorized User fails to pay an invoice except as provided in Appendix B, Default - Authorized User.

6.6.3 DISPUTED CHARGES

A disputed charge shall mean an amount billed that is questioned by an Authorized User. A valid charge shall mean a disputed charge that was provided for under this Contract or Authorized User Agreement, or both. An invalid charge shall mean a disputed charge that was not provided for under this Contract or Authorized User Agreement, or both.

If there is an invoicing dispute between the Authorized User and the Contractor, then either OGS or the Authorized User, or both, retain the right to require an audit of the Usage and invoicing as it has been provided during the Contract Term. At any time during the Contract Term an Authorized User, or OGS, or both may request copies of an Authorized User's invoices from Contractor. Invoices shall be reviewed to compare the information on the invoice to the terms and conditions of the resulting Authorized User Agreement, or Contract, or both. OGS, or the Authorized User, or both shall be able to review all invoices from the Activation Date of the Service to the date of request.

Contractor must not provide an Authorized User with past due notices, or termination notices, or both if there is a disputed charge on the Authorized user's invoice. Contractor must remove a disputed charge from an Authorized User's invoice until the disputed charge is resolved.

If it is determined that a disputed charge is a valid charge, then Contractor will list the valid charge as a separate line item on the Authorized User's next monthly invoice.

If it is determined that a disputed charge is an invalid charge and the Contractor has not already received payment for that invalid charge, then Contractor will not list the invalid charge on the Authorized User's next monthly invoice.

If a Contractor has already received payment for an invalid charge, then the Authorized User shall be entitled to any wrongly-billed amounts from the Activation Date of Service to the date of correction of invalid charges. Authorized User shall direct Contractor to either provide service credits or monetary refund to compensate for any invalid charges.

6.6.4 FEDERAL FUNDING

For an Authorized User using Federal funds, Contractor shall cooperate in adding to the Authorized User's Agreement, or other applicable document, any Federal funding Contract clauses necessary for the Authorized User's Project. An Authorized User shall identify to Contractor, as a condition of using this Contract and during the RFQ process, whether Federal funds will be utilized for the Project.

6.6.5 PERFORMANCE AND BID BONDS

There are no bonds for this Contract. However, an Authorized User may require in an RFQ a performance bond, payment bond, Bid bond, negotiable irrevocable letter of credit, or other form of security for the faithful performance for the resulting Authorized User Agreement.

6.7 SERVICE DELIVERY

Delivery of all Contract Services shall be made according to Appendix B, Product Delivery and Appendix B, Shipping/Receipt of Product.

6.8 CONTRACTOR RESPONSIBILITY

The Contractor shall at all times during the Contract Term remain responsible. The Contractor agrees, if requested by the Commissioner of OGS or their designee, to present evidence of its continuing legal authority to do business in New York State, integrity, experience, ability, prior performance, and organizational and financial capacity.

The Commissioner of OGS or their designee, in his or her sole discretion, reserves the right to suspend any or all activities under this Contract, at any time, when he or she discovers information that calls into question the responsibility of the Contractor. In the event of such suspension, the Contractor will be given Written notice outlining the particulars of such suspension. Upon issuance of such notice, the Contractor must comply with the terms of the suspension order. Contract activity may resume at such time as the Commissioner of OGS or their designee issues a Written notice authorizing a resumption of performance under this Contract.

Upon Written notice to the Contractor, and a reasonable opportunity to be heard with appropriate OGS officials or staff, this Contract may be terminated by the Commissioner of OGS or their designee at the Contractor's expense where the Contractor is determined by the Commissioner of OGS or their designee to be non-responsible. In such event, the Commissioner of OGS or their designee may complete the contractual requirements in any manner he or she may deem advisable and pursue available legal or equitable remedies for breach.

In no case shall such termination of this Contract by the State be deemed a breach thereof, nor shall the State be liable for any damages for lost profits or otherwise, which may be sustained by the Contractor as a result of such termination.

6.9 CONTRACT ADMINISTRATION

Contractor shall provide a sufficient number of Customer Service employees who are knowledgeable and responsive to OGS or Authorized User needs and who can effectively service this Contract. Contractor will provide Designated Personnel as referenced in Section 3.3.1 – Designated Personnel / Contact Information for the duration

of the Contract Term at no charge to the State. Information regarding the Contractor's personnel will be set forth in Attachment 2, Contractor Information.

During the Contract Term and until the end of any related Authorized User Agreements or Purchase Orders, Contractor must notify OGS within five (5) Business Days if its Designated Personnel change and provide interim contact personnel until the position is filled. Contractor may submit a Designated Personnel change electronically via email per the instructions contained in Appendix C, Contract Modification Procedure. The Designated Personnel must have the authority to act on behalf of the Contractor. OGS or Authorized User will not be held liable for changes in Contractor's Contact Information that they were not made aware.

6.10 REQUIRED CERTIFICATIONS

Contractor is responsible for maintaining and updating filings with the Federal Communications Commission (FCC), the New York State Public Service Commission (PSC), the Federal Trade Commission (FTC), and any other regulatory body holding jurisdiction over the Services Contractor is offering under this Contract. Contractor must bear all costs associated with any required filings.

6.11 TARIFF DOCUMENTS

OGS or Authorized Users, or both, retain the right to require Contractor to submit Tariff documents upon request. The terms and conditions of this Contract and any Authorized User Agreement shall prevail and control the Services provided via an Authorized User Agreement.

6.11.1 DE-TARIFFING

If de-tariffing occurs during the term of this Contract, then the terms and conditions of this Contract and any Authorized User Agreement shall prevail and control the previously tariffed Services provided to Authorized Users.

6.12 PERFORMANCE OF SERVICES

The Contractor is responsible for fully meeting all obligations set forth in this Contract and for providing Service according to the terms and conditions of this Contract and any Authorized User Agreement.

Contractor may utilize a company who has an ownership relationship with Contractor such as a parent company, subsidiary, predecessor entity, or other similarly related entity to provide Services according to the terms and conditions of this Contract and any Authorized User Agreement.

The Contractor shall not be relieved of any responsibility under the Contract by any related company.

Contractor may permit related companies to communicate with Authorized Users. Contractor must directly receive all orders and payments from Authorized Users. Contractor must directly send all invoices to Authorized Users.

Contractors must not authorize related companies to accept orders, send invoices, or receive payment from Authorized Users, or do any combination of the three.

The Contractor shall be solely responsible to the State and Authorized User for the acts or defaults of its related company and of such related company's officers, agents, and employees, each of whom shall for this purpose, be deemed to be the agent or employee of the Contractor.

Any Services provided or furnished by a related company shall be deemed for purposes of the Contract to be provided or furnished by the Contractor.

The Contractor shall inform each related company fully and completely of all provisions and requirements of the Contract.

Contractor agrees that every such related company shall expressly stipulate that all labor performed pursuant thereto shall strictly comply with the requirements of the Contract and that no related company shall impair the rights of the State or Authorized User or create any contractual relationship between the related company and the State or Authorized User.

6.13 CONTRACTOR STAFF

All employees of the Contractor who shall perform under an agreement with an Authorized User, including

Maintenance staff who service the Contractor's Network services shall possess the necessary qualifications, training, licenses, and permits as may be required within the jurisdiction where the Services specified are to be provided or performed, and shall be legally entitled to work in such jurisdiction. All Business Entities that perform Services under this Contract shall, in performing the Services, comply with all applicable Federal, State, and local laws concerning employment in the United States, like Section 6-109 of the New York City Administrative Code and other local laws that establish a living wage, or Articles 8 and 9 of the New York State Labor Law that establish a prevailing wage rate.

6.14 TIME TO RETURN PHONE CALLS OR RESPOND TO EMAILS

Contractor must return phone calls or respond to emails within a maximum of four (4) business hours (8:00 AM – 5:00 PM between Monday and Friday) after a phone call is placed or an email is received.

6.15 INTERFACING WITH THIRD PARTY CONTRACTORS

The Contractor must work in conjunction with any Customer Premises Equipment (CPE), voice, data or video Contractor, utilized by the Authorized User, to resolve technical issues that may arise during Authorized User's use of the Contractor's Services thus eliminating the need for the Authorized User to be a mediator in problem resolution.

The Contractor must speak directly with the third-party contractor, when requested by the Authorized User, ensuring the resolution of these technical issues by the time frames detailed in the Maintenance requirements of this Contract. The Contractor is required to attend any meeting arranged by the Authorized User to facilitate the resolution of a technical problem associated with the performance of the purchased Telecommunication Connectivity Services. See Appendix B, Cooperation with Third Parties.

6.16 DOWNSTREAM PROHIBITION

Any and all work from these Contracts that involves developing specifications, establishing a base for other applications, or otherwise gaining information that would give a Contractor an unfair competitive advantage in a future procurement may result in the Contractor being precluded from further work (downstream prohibition) due to conflicts of interest. Authorized User shall provide notification of any downstream prohibitions known at the time the RFQ is released. See State Finance Law §§ 163(2) and 163-a for additional information on the statutory prohibitions. NonState agency Authorized Users may have additional statutory prohibitions.

6.17 DRUG AND ALCOHOL USE PROHIBITED

For reasons of safety and public policy, the use of alcoholic beverages or illegal drugs by the Contractor's personnel shall not be permitted in performance of this Contract.

6.18 TRAFFIC INFRACTIONS

Neither the State nor Authorized Users will be liable for any expense incurred by the Contractor's personnel for any parking fees or as a consequence of any traffic infraction or parking violation attributable to employees of the Contractor in performance of this Contract.

6.19 SEXUAL HARASSMENT

Contractor shall comply with current New York State Governor Andrew M. Cuomo's 18th Proposal of the 2018 State of the State entitled "Combat Sexual Harassment in the Workplace". That compliance currently includes a mandate that private companies that do business with the State report sexual assault and harassment statistics to prevent secrecy.

6.20 ADDITIONAL CONTRACTOR TERMS AND CONDITIONS WITHIN AN AUTHORIZED USER AGREEMENT

The incorporation of Contractor terms and conditions in an Authorized User Agreement shall be governed by Appendix B, Modification of Contract Terms.

6.21 NEW YORK STATE STATEWIDE FINANCIAL SYSTEM (SFS)

New York State is currently operating on an Enterprise Resource Planning (ERP) System, Oracle PeopleSoft software, referred to as the Statewide Financial System (SFS). SFS is currently on PeopleSoft Financials version 9.2. SFS supports requisition-to-payment processing and financial management functions.

The State is also implementing an eProcurement application that supports the requisitioning process for State

Agencies to procure Products/Services in SFS. This application provides catalog capabilities. Contractors with Centralized Contracts have the ability to provide a “hosted” or “punch-out” catalog that integrates with SFS and is available to Authorized Users via a centralized eMarketplace website. Additional information may be found at: <https://ogs.ny.gov/procurement/emarketplace>.

There are no fees required for a Contractor’s participation in the catalog site development or management. Upon completion and activation of an on-line catalog, State Agencies will process their orders through the SFS functionality and other Authorized Users can access the catalog site to fulfill orders directly.

The State is also implementing the PeopleSoft Inventory module in the near future to track inventory items within the item master table. Further information regarding business processes, interfaces, and file layouts may be found at: www.sfs.ny.gov and <http://www.osc.state.ny.us/agencies/guide/MyWebHelp/>.

6.22 ELECTRONIC PROCUREMENT SYSTEMS (EPROCUREMENT)

Contractor shall, in the event the State implements a Web-based System to support catalog purchasing and upon at least one hundred twenty (120) Days notice, participate as directed by Procurement Services to successfully activate and maintain a Contract and technically compliant catalog.

6.23 ACCESSIBILITY OF WEB-BASED INFORMATION AND APPLICATIONS POLICY

Contractor is solely responsible for administration, content, intellectual property rights and all materials at Contractor’s website. Contractor is solely responsible for its actions and those of its agents, employees, Subcontractors or assigns, and agrees that neither Contractor nor any of the foregoing has any authority to act or speak on behalf of the State. As applicable, Contractor agrees to comply with the Office of Information Technology Services policy NYS-P08-005 Accessibility of Web-Based Information and Applications, as may be amended, the stated purpose of which is to make State Agency web-based intranet and internet information accessible for persons with disabilities. The following language is incorporated into this Contract:

Any network-based information and applications development, or programming delivered to or by the State pursuant to this Contract or procurement, will comply with Section 508 of the Rehabilitation Act of 1973, as amended, and be consistent with New York State Enterprise IT Policy NYS-P08-005, Accessibility of Information Communication Technology, as such policy may be amended, modified or superseded (the “Accessibility Policy”). The Accessibility Policy requires that State Entity Information Communication Technology shall be accessible to persons with disabilities as determined by accessibility compliance testing. Such accessibility compliance testing will be conducted by the State and any report on the results of such testing must be satisfactory to the State.

6.24 AMERICANS WITH DISABILITIES ACT (ADA)

The federal ADA bars employment discrimination and requires all levels of government to provide necessary and reasonable accommodations to qualified workers with disabilities. Contractor is required to identify and offer any Products/Services it manufactures or adapts that may be used or adapted for use by persons with visual, hearing, or any other physical disabilities. Although it is not mandatory for Contractor to have these Products/Services in order to receive an award, it is necessary to identify any such Products/Services offered that fall into the above category.

6.25 REPORTS

OGS retains the right to hold the processing of Contract Modification Requests pending the receipt of outstanding completed and accurate Contractor’s sales reports. Such sales reports are needed to understand the scope and implications of such modifications. Failure to provide proper sales reports may result in a Contractor as being found nonresponsive in subsequent transactions. Reports shall be generated throughout the Contract Term, including Contract Extensions, Authorized User Agreements, or Purchase Orders whatever extends the Contract Term the longest amount of time.

6.25.1 REPORT OF CONTRACT USAGE / SALES REPORTS REQUIREMENTS

Contractor shall submit Attachment 5, Report of Contract Usage detailing total sales to Authorized Users from Contractor made under this Contract, to OGS no later than thirty (30) Days after the close of each calendar quarter (January - March, April - June, July - September and October - December). If the Contract Term begins or ends in a fractional portion of a reporting period, only the actual Contract sales for this fractional period should be included in the quarterly report.

Contractors shall specify if any authorized, dealers or distributors are NYS Certified Minority- and/or Women-Owned Business Enterprises (MWBs), Small Business Enterprises (SBEs), or Service-Disabled Veteran-Owned Businesses (SDVOBs).

The report is to be submitted electronically via e-mail in Microsoft Excel to OGS Procurement Services, to the attention of the individual listed on the front page of the Contract Award Notification and shall reference the Contract Group Number, Award Number, Contract Number, Sales Period, and Contractor's name.

The report in Attachment 5, Report of Contract Usage contains the minimum information required. Additional related sales information, such as detailed Authorized User purchases may be required by OGS and must be supplied upon request.

By using this Contract, an Authorized User consents to OGS receiving the information listed on Attachment 5, Report of Contract Usage.

6.25.2 AUTHORIZED USER REQUIRED REPORTS

An Authorized User may require Contractor to provide Management or other Reports. The Authorized User should inform the Contractor of what information would be included in the Report. These Reports must be available to the Authorized User upon request.

6.26 PARTICIPATION OPPORTUNITIES FOR NEW YORK STATE CERTIFIED SERVICE-DISABLED VETERAN OWNED BUSINESSES

Article 17-B of the New York State Executive Law provides for more meaningful participation in public procurement by certified Service-Disabled Veteran-Owned Businesses ("SDVOBs"), thereby further integrating such businesses into New York State's economy. OGS recognizes the need to promote the employment of service-disabled veterans and to ensure that certified service-disabled veteran-owned businesses have opportunities for maximum feasible participation in the performance of OGS contracts.

In recognition of the service and sacrifices made by service-disabled veterans and in recognition of their economic activity in doing business in New York State, Contractor is strongly encouraged and expected to consider SDVOBs in the fulfillment of the requirements of the Contract. Such participation may be as subcontractors or suppliers, as protégés, or in other partnering or supporting roles.

For purposes of this procurement, OGS conducted a comprehensive search and determined that the Contract does not offer sufficient opportunities to set specific goals for participation by SDVOBs as subcontractors, service providers, and suppliers to Contractor. Nevertheless, Contractor is encouraged to make good faith efforts to promote and assist in the participation of SDVOBs on the Contract for the provision of services and materials. The directory of New York State Certified SDVOBs can be viewed at: <https://ogs.ny.gov/Veterans/>

Contractor is encouraged to contact the Office of General Services' Division of Service-Disabled Veteran's Business Development at 518-474-2015 or VeteranDevelopment@ogs.ny.gov to discuss methods of maximizing participation by SDVOBs on the Contract.

ALL FORMS ARE AVAILABLE AT: <https://ogs.ny.gov/Veterans/>

6.27 ENVIRONMENTAL / RECYCLING PROVISIONS

Contractor shall comply with the following requirements regarding environmental concerns or recycling.

6.27.1 EPA ENERGY STAR PROGRAM

The Federal EPA, in cooperation with the Manufacturers, continues a program to foster the manufacture of energy efficient equipment. New York State fully supports this effort. The State may discontinue use of and/or delete from this Contract selected Services as mandated by any Federal, State or local energy legislation that is enacted during the term of this Contract. The Contractor shall have no recourse with the State for such discontinuance/deletion.

6.27.2 USE OF RECYCLED OR REMANUFACTURED MATERIALS

New York State supports and encourages Contractors to use recycled, remanufactured or recovered materials in the manufacture of Products and packaging to the maximum extent practicable without jeopardizing the

performance or intended end use of the Product or packaging unless such use is precluded due to health or safety requirements or Product specifications contained herein. Refurbished or remanufactured components or Products are required to be restored to original performance and regulatory standards and functions and are required to meet all other requirements of this Contract. Warranties on refurbished or remanufactured components or Products must be identical to the manufacturer's new equipment warranty or industry's normal warranty when remanufacturer does not offer new equipment. See Appendix B, Remanufactured, Recycled, Recyclable or Recovered Materials.

6.27.3 BULK DELIVERY AND ALTERNATE PACKAGING

New York State encourages the use of innovative packaging that reduces the weight of packaging and the generation of packaging waste. A Contractor is encouraged to use reusable materials and containers and to utilize packaging configurations that take advantage of storage containers designed to be part of the Product for the shipment of multiunit purchases. New York State recognizes that these packaging methods are in the development stage and may not be currently available. Authorized Users are urged to inquire about these programs at the time of purchase and determine the best solution for their needs.

6.27.4 SURPLUS / TAKE-BACK / RECYCLING

I. A State Agency is reminded of its obligation to comply with the NY State Finance Law § 167, Transfer and Disposal of Personal Property, and § 168, The Management of Surplus Computer Equipment, regarding transfer and disposal of surplus personal property before utilizing take-back, recycling, or other options for disposition of equipment that is still in operable condition.

II. If Contractor offers a take-back/recycling program, then Contractor shall provide a record of disposition to each Authorized User who participates in the take-back/recycling program for units transferred for disposition.

Contractor shall provide documentation that the units were disposed of in an environmentally sound manner in compliance with applicable local, state and federal laws. See Section III below for specific requirements governing electronic equipment recycling.

III. The NYS Department of Environmental Conservation ("DEC") Electronic Equipment Recycling and Reuse Act ("Act") (Environmental Conservation Law, Article 27, Title 26, Electronic Equipment Recycling and Reuse), requires manufacturers to establish a convenient system for the collection, handling, and recycling or reuse of electronic waste. If Contractor is a manufacturer of electronic equipment covered by the Act, Contractor agrees to comply with the requirements of the Act. More information regarding the Act can be found on the DEC website at: <http://www.dec.ny.gov/chemical/65583.html>

IV. If a Contractor offers a take-back/recycling program or offers an electronic equipment recycling program pursuant to the Act, and an Authorized User participates in same, then the Authorized User shall ensure the destruction of all data from any hard drives surrendered with the machines/covered electronic equipment. Contractor shall not require an Authorized User to surrender the hard drive, as an Authorized User may wish to retain the hard drive for security purposes. Contractor shall advise the Authorized User in advance if the retention of the hard drive results in additional fees or reduction in trade-in value. It is recommended that an Authorized User use a procedure for ensuring the destruction of confidential data stored on hard drives or other storage media that meets or exceeds the National Institute of Standards and Technology ("NIST") Guidelines for Media Sanitation as found in NIST Special Publication 800-88.

6.27.5 ENVIRONMENTAL ATTRIBUTES AND NYS EXECUTIVE ORDER 4

New York State is committed to environmental sustainability and endeavors to procure Products with reduced environmental impact. One example of this commitment may be found in Executive Order No. 4 (Establishing a State Green Procurement and Agency Sustainability Program), which imposes certain requirements on State Agencies, authorities, and public benefit corporations when procuring Products. More information on Executive Order No. 4, including specifications for offerings covered by this Contract, may be found at <https://ogs.ny.gov/greenny/>. State entities subject to Executive Order No. 4 are advised to become familiar with the specifications that have been developed in accordance with the Order, and to incorporate them, as applicable, when making purchases under this Contract.

6.27.6 CONSUMER PRODUCTS CONTAINING MERCURY

Contractor agrees that it will not sell or distribute fever thermometers containing mercury or any Products containing elemental mercury for any purpose under this Contract.

6.27.7 DIESEL EMISSION REDUCTION ACT

Pursuant to N.Y. Environmental Conservation Law § 19-0323 (the "Law"), it is a requirement that heavy duty diesel vehicles in excess of 8,500 pounds use the best available retrofit technology ("BART") and ultra-low sulfur diesel fuel ("ULSD"). The requirement of the Law applies to all vehicles owned, operated by or on behalf of, or leased by State Agencies and State or regional public authorities. It also requires that such vehicles owned, operated by or on behalf of, or leased by State Agencies and State or regional public authorities with more than half of its governing body appointed by the Governor utilize BART.

The Law may be applicable to vehicles used by Contractors "on behalf of" State Agencies and public authorities and require certain reports from Contractors. All heavy duty diesel vehicles must have BART by the deadline provided in the Law. The Law also provides a list of exempted vehicles. Regulations set forth in 6 NYCRR Parts 248 and 249 provide further guidance. The Contractor hereby certifies and warrants that all heavy duty vehicles, as defined in the Law, to be used under this Contract, will comply with the specifications and provisions of the Law, and 6 NYCRR Parts 248 and 249.

6.27.8 EPEAT

New York State is committed to environmental sustainability and endeavors to procure Products with reduced environmental impact. One example of this commitment may be utilizing EPEAT, or the Electronic Product Environmental Assessment Tool. EPEAT is an environmental rating system and product registry for identifying and purchasing sustainable IT Products. EPEAT-registered Products must meet environmental criteria and the Procurement Services recommends mobile phones be rated silver or better. Products classified as Silver meet the criteria that addresses the life cycle of the Products, including material extraction, hazardous substance reduction, End-of-Life management, packaging, and corporate sustainability. For more information on EPEAT, please visit: <https://www.epeat.net/> .

6.28 OVERLAPPING CONTRACT SERVICES

Services available under this Contract may also be available from other New York State Contracts. Authorized Users shall select the most cost-effective procurement alternative that meets their program requirements and to maintain a procurement record documenting the basis for this selection.

6.29 PREFERRED SOURCE PRODUCTS / SERVICES

Section 162 of the State Finance Law requires that Authorized Users afford first priority to the Products of Preferred Source suppliers such as Corcraft (the marketplace name for the NYS Department of Corrections and Community Supervision, Division of Industries), New York State Preferred Source Program for People who are Blind (NYSPSP), and New York State Industries for the Disabled (NYSID), and others determined by law, when such Products meet the form, function and utility of the Authorized User. Some Products in this Contract may be available from one or more Preferred Sources. An Authorized User must determine if a particular Product is approved for a Preferred Source and follow the requirements of State Finance Law § 162(3) or (4)(b), respectively, before engaging the Contractor.

6.30 PARTICIPATION IN CENTRALIZED CONTRACTS

Contractor shall comply with the following requirements regarding its participation in Centralized Contracts.

6.30.1 COMPLIANCE WITH FEDERAL, STATE AND LOCAL REGULATIONS

If required by OGS or an Authorized User, Contractor will provide verification of compliance with specific Federal, State and local regulations, laws and IT standards that the Authorized User is required to comply with. See Attachment 6, Primary Security and Privacy Mandates.

More specifically, Authorized Users may require Contractor compliance with applicable ITS policies found at: <http://www.its.ny.gov/tables/technologypolicyindex.htm>, or Section 6-109 of the New York City Administrative Code and other local laws that establish a living wage, or New York State Labor Law Articles 8 and 9 that establish a prevailing wage rate.

6.30.2 NON-STATE AGENCIES PARTICIPATION IN CENTRALIZED CONTRACTS

New York State political subdivisions and others authorized by New York State law may participate in Centralized Contracts. These include, but are not limited to, local governments, public authorities, public school and fire districts, public and nonprofit libraries, and certain other nonpublic/nonprofit organizations. See Appendix B,

Participation in Centralized Contracts.

Upon request, all eligible Non-State agencies must furnish Contractors with documentation certifying eligibility to use State Contracts. A list of categories of eligible entities is available on the OGS web site (<https://online.ogs.ny.gov/purchase/snt/othersuse.asp>). Questions regarding an organization's eligibility to purchase from New York State Contracts may also be directed to NYS Procurement Services Customer Services at 518-474-6717.

6.30.3 EXTENSION OF USE

This Contract may be extended to additional States or governmental jurisdictions upon mutual Written agreement between New York State and the Contractor. Political subdivisions and other authorized entities within each participating state or governmental jurisdiction may also participate in this Contract if such state normally allows participation by such entities. New York State reserves the right to negotiate additional Discounts based on any increased volume generated by such extensions.

6.30.4 CONTRACT MIGRATION

The following requirements shall supplement the requirements of Appendix B, Participation in Centralized Contracts §25(e):

All executed Purchase Orders or ordering documents currently held by State Agencies under the Comprehensive Telecommunication Services Contract (Group 77107 Award 20268) with a current Contractor holding a Telecommunication Connectivity Services Contract (Group 77107 Award 23100) for the same Service shall be migrated to the Contractor's Telecommunication Connectivity Services Contract for the balance of that Purchase Order unless the current Purchase Order pricing is lower than the Contractor's price for the Service as listed on its Contractor Pricelist for the Telecommunication Connectivity Services Contract. This migration shall be completed within 90 calendar days from date that the Contractor's Telecommunication Connectivity Services Contract is posted on the OGS website.

All other executed Purchase Orders or ordering documents currently held by Non-State Agency Authorized Users under the Comprehensive Telecommunication Services Contract (Group 77107 Award 20268) with a current Contractor holding a Telecommunication Connectivity Services Contract (Group 77107 Award 23100) for the same Service shall be permitted to migrate to the Contractor's Telecommunication Connectivity Services Contract for the balance of that Purchase Order unless the current Purchase Order pricing is lower than the Contractor's price for the Service as listed on its Contractor Pricelist for the Telecommunication Connectivity Services Contract. This migration shall be completed within 60 calendar days of the date the Authorized User makes their migration request.

Such migrations shall not operate to diminish, alter or eliminate any right that the Authorized User otherwise had under the terms and conditions of the Comprehensive Telecommunication Services Contract. In the event of a conflict between the Comprehensive Telecommunication Services Contract and the Telecommunication Connectivity Services Contract, the terms and conditions of the Telecommunication Connectivity Services Contract shall prevail. In no event shall Services or Products outside the scope of the Telecommunication Connectivity Services Contract be migrated under this section.

6.31 NETWORK SECURITY

In addition to the requirements in Section 4.12, Network Security Administration, above Contractor shall comply with the following requirements regarding Network Security.

6.31.1 ACCESS TO LOGS AND REPORTS

Upon request, the Contractor shall provide access to logs and reports to OGS or an Authorized User in a format as specified by the Authorized User for Services covered under this Contract. Contractor shall provide all requested logs and reports to the Authorized User at no cost. By using this Contract, an Authorized User consents to OGS receiving the information listed on logs and reports.

6.31.2 REQUESTS FOR DATA BY THIRD PARTIES

Unless prohibited by law, Contractor shall notify Authorized User in Writing within 24 hours of any request for the Authorized User's Data (including requestor, nature of Data requested and time frame of response) by a person or entity other than an Authorized User, and the Contractor shall secure Written acknowledgement of such

notification from the Authorized User before responding to the request for Data.

Unless compelled by law, the Contractor shall not release Data without prior Written approval by the Authorized User, as applicable.

6.31.3 FRAUD CONTROL

Contractor must monitor those Services purchased by the Authorized User for any unusual activity like large increases over normal Usage, or abnormal calls to international countries. The Contractor must notify the affected Authorized User immediately upon identifying this Usage increase and make recommendations to end such possible unauthorized Usage or fraud. Should the Contractor fail to identify and resolve the unauthorized Usage or fraud activity with the Authorized User, the Contractor will assume all responsibility for the charges in question. If requested by OGS or Authorized Users, or both, Contractors must provide an established plan for the prevention of unauthorized use of any Telecommunication Connectivity Services purchased pursuant to this Contract. In the plan Contractors must describe the following:

1. the methods they will employ to prevent any unauthorized charges from appearing on the monthly invoice to Authorized Users;
2. the group or department established to assist in the prevention of unauthorized Usage and fraud; and
3. how this group or department will interact with Authorized Users to prevent fraud.

6.31.4 NYS ITS POLICIES

Contractor shall comply with the following NYS ITS Policies, and their successor policies, as requested by Authorized User.

NYS-S15-003 802.11 Wireless Network Security
NYS-S14-009 Mobile Device Security
NYS-S14-012 Bring Your Own Device (BYOD)
NYS-S13-003 Sanitization Secure Disposal Standard
NYS-S14-007 Encryption Standard
NYS-S14-011 Enterprise Mobile Management Technical Standard

The above policies can be found at <https://its.ny.gov/tables/technologypolicyindex>.

6.31.5 CONFIDENTIALITY AND PRIVACY POLICIES AND LAWS

In addition to compliance with all applicable guidelines, laws, policies, rules and regulations on the Federal, State and Local levels, the Contractor shall comply with all State and Authorized User policies regarding compliance with various confidentiality and privacy laws, rules and regulations, including but not limited to the Family Educational Rights and Privacy Act (FERPA), the Health Insurance and Portability Act of 1996 (HIPAA) and the Health Information Technology for Economic and Clinical Health Act (HITECH) throughout the life of this Contract as well as any related Authorized User Agreement or Purchase Order, whichever is longer. As part of such compliance, Contractor shall execute Written confidentiality/non-disclosure agreements as requested by the State or an Authorized User.

6.32 SERVICES

Contractor shall comply with the following requirements regarding the Services provided to Authorized Users.

6.32.1 NEW ACCOUNTS

Contractor may ask Authorized Users to provide information in order to facilitate the opening of a customer account, including documentation of eligibility to use New York State Contracts, agency code, name, address, and contact person. Authorized Users shall not be required to provide credit references.

6.2.2 APPLICATION PROGRAM INTERFACE (API) OR SELF-SERVICE ELECTRONIC PORTAL

Contractor may offer an API or self-service electronic portal for such purposes as allowing the Authorized User to view past and current invoices, view outage and restoration information, access security logs, reports and audit information to import or export Data and for such other purposes agreed to in writing by the Authorized User in any Authorized User Agreement.

6.32.3 BUSINESS CONTINUITY/DISASTER RECOVERY (BC/DR) OPERATIONS

If requested by OGS or an Authorized User, or both, the Contractor shall provide a Business Continuity and Disaster Recovery plan specific to all Telecommunication Connectivity Services provided. The Contractor shall specify how the BC/DR plan will impact access to the required features and functionality of the Services.

6.32.4 CONTRACTOR PERFORMANCE AUDIT

The Contractor shall perform an independent audit of its Telecommunication Service, at least annually, at Contractor expense.

6.32.5 LEGACY SERVICES OR LEGACY DEVICES

Contractor must provide notice to OGS and any affected Authorized Users of the Contractor's decision to deem any Service or Device End-of-Life. Once OGS and the Authorized User have been notified by a Telecommunication Provider that a Service or Device is nearing End-of-Life, the Service or Device will be considered Legacy and must be supported for a period no less than 12 months. Telecommunication Providers may not begin service agreements with or supply Devices to Authorized Users within 6 months of End-of-Life.

If a Telecommunication Connectivity Service is considered Legacy, then the Contractor shall continue to provide the Service for a 12 month period. During this 12 month period Contractor must migrate the Authorized User to an equal or better Telecommunication Connectivity Service at an equal or lower price.

6.32.5.1 MAINTENANCE/SUPPORT

If a Telecommunication Connectivity Service is considered Legacy, then the Contractor shall continue to provide Maintenance/support for a 12 month period, or until all affected Authorized Users have been migrated to equal or better Telecommunication Connectivity Service. Contractor shall continue to provide Maintenance/support in accordance with Section 4.30, Maintenance and Support, of this Contract.

6.33 EMERGING TECHNOLOGIES

Contractors may be continuously testing new Telecommunication Connectivity Services or developing new Services. Therefore, the State reserves the right to allow for Emerging Technology.

A Contractor will have the opportunity to request the addition of Emerging Technologies during the life of this Contract unless stated otherwise by OGS. Acceptance or denial of the Emerging Technologies is at the discretion of OGS. Once the Emerging Technology offering becomes generally available, it will be OGS's sole and absolute discretion whether or not to amend this Contract to include the Emerging Technology or service offering.

6.34 NOTICES

All notices, demands, designations, certificates, requests, offers, consents, approvals and other instruments given pursuant to this Contract shall be in writing and shall be validly given when mailed by registered or certified mail, or hand delivered, (i) if to the State, addressed to the State at its address:

23100 Contract Administrator
Office of General Services
New York State Procurement
38th Floor Corning Tower
Empire State Plaza
Albany, NY 12242

and (ii) if to Contractor, addressed to Contract Administrator at the address included in Attachment 2, Contractor Information. Either Party may from time to time, specify any address in the United States as its address for purpose of notices under this Contract by giving fifteen (15) Days Written notice to the other party. The Parties agree to mutually designate individuals as their respective representatives for purposes of this Contract.

All notices sent shall be effective upon actual receipt by the receiving party. The Contractor will be required to forward a copy of the official notice to an Authorized User that is associated with the subject of the notice. Written notice of any alleged breach by one party to the other shall provide specific facts, circumstances and grounds upon which the breach is being declared.

6.35 PRESS RELEASES / CONTRACTOR ADVERTISEMENT / CONTRACT PUBLICITY

Under Appendix B, Contract Publicity, Contractor agrees that no brochure, news/media/press release, public

announcement, or memorandum containing information of any kind regarding this Contract shall be disseminated in any way to the public. Contractor shall not give any presentation regarding this Contract without prior Written approval from OGS. OGS shall not unreasonably withhold or delay providing Contractor its prior Written approval.

However, Contractor shall be authorized to provide copies of this Contract and answer any questions relating to this Contract to any State regulator, Federal regulator, and/or financial institution in connection with Contractors financial activities and/or any private or public offering.

OGS must review and approve all press or media releases, advertisements, or promotional literature that Contractor wishes to advertise about the Services they provide on Contract. Contractor shall submit a request to advertise to the assigned Contract Management Specialist for review and comment. Contractor shall not distribute press or media releases, advertisements, or promotional literature without prior Written approval to do so by OGS.

6.36 CAPTIONS

The captions contained in this Contract are intended for convenience and reference purposes only and shall in no way be deemed to define or limit any provision thereof.

6.37 SEVERABILITY

If any provision of this Contract is deemed invalid or unenforceable by OGS, such determination shall have no effect on the balance of this Contract, which shall be enforced and interpreted as if such provision was never included in this Contract.

6.38 ENTIRE AGREEMENT

This Contract and any referenced appendices and attachments constitute the entire agreement between the Parties with respect to the subject matter hereof and supersedes all prior agreements and understandings of the Parties, whether written or oral, with respect to the subject matter hereof. No statement, promise, condition, understanding, inducement or representation, oral or written, express or implied, which is not contained herein shall be binding or valid and the Contract may not be changed, modified or altered in any manner except by an instrument in writing executed by the State and the Contractor.

[Signatures appear on next page]

SIGNATURE PAGE

IN WITNESS WHEREOF, the Parties have executed this Contract as of the date last written below. The Parties further hereby certify that original copies of this executed and approved signature page will be affixed, upon final approval, to exact copies of this Contract being executed simultaneously herewith. The acknowledgment must be fully and properly executed by an authorized person. By signing you certify your express authority to sign on behalf of yourself, your company, or other entity and full knowledge and acceptance of this Contract, Appendix A (Standard Clauses For New York State Contracts), Appendix B (General Specifications), and State Finance Law §139-j and §139-k (Procurement Lobbying), and that all information provided is complete, true and accurate. By signing, Contractor affirms that it understands and agrees to comply with the procedures relative to permissible contacts as required by State Finance Law §139-j(3) and §139-j(6)(b).

CONTRACTOR

THE PEOPLE OF THE STATE OF NEW YORK

Signature: _____
Printed Name: _____
Title: _____
Company Name: _____
Federal ID _____
Vendor ID _____
Date _____

Signature: _____
Printed Name: _____
Title: _____
Date: _____

