

**STATE OF CALIFORNIA DEPARTMENT OF GENERAL SERVICE
CONTRACT NO. 1-22-70-31A
GRANITE DATA SOLUTIONS**

APPROVED:
CITY OF MERCED
A California Charter Municipal
Corporation

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BY: Craig Cornwell 4-11-2024
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Verified by Finance Officer



Department of General Services
Procurement Division
707 Third Street, 2nd Floor
West Sacramento, CA 95605-2811

State of California
STATEWIDE CONTRACT
USER INSTRUCTIONS
MANDATORY

Supplement 16

(Incorporates Supplements 1-16)

ISSUE AND EFFECTIVE DATE: ***February 10, 2026***

CONTRACT NUMBER: 1-22-70-31A

DESCRIPTION: PC Goods - Dell Products
(Desktops, Thin Desktops, Thin
Laptops, Rugged Laptops)

CONTRACTOR: Granite Data Solutions

CONTRACT TERM: 07/01/2022 through 06/30/2027

STATE CONTRACT ADMINISTRATOR: Amanda Lewis
279-946-7876

Amanda.Lewis@dgs.ca.gov

The contract user instructions, products, and pricing are included herein. All purchase documents issued under this contract incorporate the contract terms and applicable California General Provisions:

[IT General Provisions, rev 09/05/2014](#)

Cal eProcure link: www.caleprocure.ca.gov

ORDER PLACEMENT INFORMATION

Mailing Address: Granite Data Solutions 5321 Luce Avenue McClellan Park, CA 95652	Fax/Email: Fax: (916) 735-3551 Email: sales@granitedatasolutions.com	Contact Information: Granite Data Solutions Sales Phone: (916) 735-3550 Email: sales@granitedatasolutions.com
Contractor Website: www.granitedata.com <i>OEM MSRP/Price List is contained within the Contractor's website.</i>		

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All changes to most recent Supplement are in ***bold red italic***. Additions are enclosed in asterisks; deletions are enclosed in brackets with strikethrough.

SUMMARY OF CHANGES

Supplement Number	Description/Articles	Supplement Date
<i>*16*</i>	<i>*Subject contract for PC Goods, Dell is hereby modified to reflect the following changes: ➤ Attachments A1, A2, A3, and A4 – Contract Pricing (Desktops Thin Desktops, Thin Laptops, and Rugged Laptops): Changed pricing structure for specific core items.*</i>	<i>*2/17/2026*</i>
15	Subject contract for PC Goods, Dell is hereby modified to reflect the following changes: ➤ Cover Page and Article 32: Updated State Contract Administrator.	10/08/2025
14	Subject contract for PC Goods, Dell is hereby modified to reflect the following changes: ➤ Attachment A1 – Contract Pricing (Desktops): Refresh of desktops. ➤ Attachment C – PCRC Workbook: Addition of refresh products.	6/25/2025
13	Subject contract for PC Goods, Dell is hereby modified to reflect the following changes: ➤ Front Page: Extend contract.	5/1/2025
12	Subject contract for PC Goods, Dell is hereby modified to reflect the following changes: ➤ Article 49, GenAI Procurement Procedures: updated language.	4/24/2025
11	Subject contract for PC Goods, Dell is hereby modified to reflect the following changes: ➤ Article 5 – Exempt Purchases: updated language and the Statewide Contract Exemption website link. ➤ Attachment A4 – Contract Pricing (Rugged Laptops): Refresh of rugged laptops. ➤ Attachment C – PCRC Workbook: Addition of refresh products.	2/18/2025
10	Subject contract for PC Goods, Dell is hereby modified to reflect the following changes: ➤ Front Cover: Updated Contractor website. ➤ Article 47: Updated SB/DVBE Participation percentage.	8/23/2024
9	Subject contract for PC Goods, Dell is hereby modified to reflect the following changes: ➤ Front Cover and Article 32: Updated State Contract Administrator.	7/31/2024

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Supplement Number	Description/Articles	Supplement Date
	➤ Article 49: Added Generative AI Procurement Procedures.	

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8	<p>Subject contract for PC Goods, Dell is hereby modified to reflect the following changes:</p> <ul style="list-style-type: none"> ➤ Front Page: Extend contract. ➤ Attachment A1 – Contract Pricing (Desktops): Refresh of desktops. ➤ Attachment C – PCRC Workbook: Add new refresh products. 	4/16/2024
7	<p>Subject contract for PC Goods, Dell is hereby modified to reflect the following changes:</p> <ul style="list-style-type: none"> ➤ Attachment A4 – Contract Pricing (Rugged Laptops): Update operating systems and docking stations. 	12/12/2023
6	<p>Subject contract for PC Goods, Dell is hereby modified to reflect the following changes:</p> <ul style="list-style-type: none"> ➤ Attachment A1 – Contract Pricing (Desktops): Update Workstation. ➤ Attachment A3 – Contract Pricing (Thin Laptops): Update Thin Laptop. ➤ Attachment C – PCRC Workbook: Update with replacement product. 	7/27/2023
5	<p>Subject contract for PC Goods, Dell is hereby modified to reflect the following changes:</p> <ul style="list-style-type: none"> ➤ Attachment A1, A2, A3 and A4 – Contract Pricing Page, (Desktops, Thin Desktops, Thin Laptops, and Rugged Laptops), Configuration tab: Correct Display specification – Add LCD. ➤ Attachment A1 – Contract Pricing (Desktops), Configuration tab: Update Workstation processor specification. ➤ Attachment A3 and A4 – Contract Pricing, (Thin Laptops and Rugged Laptops), Configuration tab: Update Network Connection and Docking Station specification. ➤ Attachment B – PC Goods Specification (70-31A): Update Display, Desktop Workstation Processor, Network Connection, and Docking Station specification throughout configurations where applicable. 	5/26/2023
4	<p>Subject contract for PC Goods, Granite Data Solutions – Dell, is hereby modified to reflect the following changes:</p> <ul style="list-style-type: none"> ➤ Attach. A1, Contract Pricing, Desktops: Refresh of desktops. ➤ Attach. C – PCRC: Add new refresh products. 	5/1/2023
3	<p>Subject contract for PC Goods, Granite Data Solutions – Dell, is hereby modified to reflect the following changes:</p> <ul style="list-style-type: none"> ➤ Front page and Article 32: Change State Contract Administrator. 	12/22/2022
2	<p>Subject contract for PC Goods, Granite Data Solutions – Dell, is hereby modified to reflect the following changes:</p> <ul style="list-style-type: none"> ➤ Article 17: Clarify purchasing guidelines for optional accessories, VAS, and extended warranties. 	10/12/2022

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1	Subject contract for PC Goods, Granite Data Solutions – Dell, is hereby modified to reflect the following changes: <ul style="list-style-type: none">➤ Article 12: Add timeframe for quotes.➤ Article 17: Clarify minimum order requirements.➤ Attachment A1-A4: Add Microsoft Auto-Pilot Service/Registration to the VAS; update OEM URL background links; correct Unit of Measure for D&L and Emergency Services.	8/18/2022
N/A	Original Contract Posted	7/1/2022

All other terms and conditions remain the same.

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1. SCOPE

The State's contract with Granite Data Solutions (GDS) (Contractor) provides Dell PC Goods, Desktops, Thin Desktops, Thin Laptops, and Rugged Laptops at contracted pricing to the State of California and local governmental agencies in accordance with the requirements of Contract # 1-22-70-31A. The Contractor shall supply the entire portfolio of products as identified in the contract and will be the primary point of contact for data collection, reporting, and distribution of this contract to the State.

The contract term is for three (3) years with an option to extend the contract for two (2) additional one (1) year period or portion thereof. The terms, conditions, and prices for the contract extension option shall be by mutual agreement between the Contractor and the State. If a mutual agreement cannot be met the contract may be terminated at the end of the current contract term.

2. CONTRACT USAGE/RULES

A. State Departments

- The use of this contract is mandatory for all State of California departments.
- State departments must adhere to all applicable State laws, regulations, policies, best practices, and purchasing authority requirements, e.g., California Codes, Code of Regulations, State Administrative Manual, Management Memos, and State Contracting Manual Volume 2, as applicable.
- Prior to placing orders against this contract, State departments must have been granted IT purchasing authority by the Department of General Services, Procurement Division (DGS-PD) for the use of this statewide contract. State departments that have not been granted purchasing authority by DGS-PD for the use of the State's statewide contracts may contact DGS-PD's Purchasing Authority Management Section by e-mail at pams@dgs.ca.gov.
- State departments must have a Department of General Services (DGS) agency billing code prior to placing orders against this contract. Ordering departments may contact their Purchasing Authority contact or their department's fiscal office to obtain this information.

B. Local Governmental Agencies

- Local governmental agency use of this contract is optional.
- Local government agencies are defined in Public Contract Code Chapter 2, Section 10298 (a) (b) and 10299 (b); this includes the California State Universities (CSU) and University of California (UC) systems, K-12 schools and community colleges empowered to expend public funds for the acquisition of products While the State makes this contract available to local governmental agencies, each local governmental agency should determine whether this contract is consistent with its procurement policies and regulations.

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- Local governmental agencies shall have the same rights and privileges as State departments under the terms of this contract. Any local governmental agencies desiring to participate shall be required to adhere to the same responsibilities as do State departments and have no authority to amend, modify or change any condition of the contract.
- A DGS issued billing code is not required for local governmental agencies to place orders against this contract.

C. Unless otherwise specified within this document, the term “ordering agencies” will refer to all State departments and/or local governmental agencies eligible to utilize this contract. Ordering and/or usage instructions exclusive to State departments or local governmental agencies shall be identified within each section.

3. DGS ADMINISTRATIVE FEES

A. State Departments

The DGS will bill each State department an administrative fee for use of this statewide contract. The administrative fee should NOT be included in the order total, nor remitted before an invoice is received from DGS.

Current fees are available online in the [Price Book & Directory of Services](#) (go to Price Book Download and click on Purchasing under Procurement Division).

B. Local Governmental Agencies

For all local government agency transactions issued against the contract, the Contractor is required to remit the DGS-PD an Incentive Fee of an amount equal to 1.25 percent of the total purchase order amount excluding taxes and freight. This Incentive Fee shall not be included in the local governmental agency’s purchase price, nor invoiced or charged to the local governmental agency. All prices quoted to local governmental agencies shall reflect State contract pricing, including any and all applicable discounts, and shall include no other add-on fees.

4. SB/DVBE OFF-RAMP PROVISION

There is no SB/DVBE off ramp associated with this contract.

5. EXEMPT PURCHASES

State departments are required to use mandatory Statewide Contracts. If an exemption is needed, please refer to the [Statewide Contract Exemption webpage](#) for information and the required justification forms regarding the exemption process.

These special exemption purchases must be documented within the individual procurement file and will be acquired under the department-approved IT purchasing authority guidelines stated in the SCM Volume 2.

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6. PROBLEM RESOLUTION/SUPPLIER PERFORMANCE

Ordering agencies and/or Contractor shall inform the State Contract Administrator of any technical or contractual difficulties encountered during contract performance in a timely manner. This includes and is not limited to informal disputes, supplier performance, outstanding deliveries, etc. The ordering agency should include all relevant information and/or documentation (e.g., purchase documents).

7. CONTRACT ITEMS

A. Core Items

All items in Attachment A1 through A4, Contract Pricing, must meet or exceed all minimum technical requirements detailed in Attachment B, Minimum Technical Requirements. Option/Upgrades are intended to augment proposed configurations. Offers for core items at a lesser discount will not be considered.

Contractor shall provide the Value-Added Services (VAS) listed in Attachment A1 through A4, Contract Pricing. A statement of work (SOW) may be required when some VAS are ordered.

An SOW is required for all purchases that include Deployment and Logistics (D&L). D&L is limited to the subtasks outlined in Attachment D, Deployment and Logistics Breakdown. The D&L subtasks are broken down into project based and product-based tasks. The product-based tasks have a per unit time-base assigned. The timeframes noted on Attachment D for product-based tasks cannot change. The timeframes for project-based tasks will depend on the scope of the project (number of units ordered, staggered delivery to a single or multiple locations, etc.). Ordering agencies should review the timeframes the Contractor is charging for project-based tasks to determine if they are appropriate.

Once a SOW is submitted to the Contractor, the Contractor shall use Attachment D, Deployment and Logistics Breakdown to identify the specific tasks they will be performing as well as a time breakdown per task/unit. The Contractor's final D&L breakdown should be included in the SOW and the total hours should be listed on the quote. Subtasks not shown in the breakdown shall not be included in the D&L.

B. Non-Core Products

Only products meeting or exceeding the specifications of Attachment B, Minimum Technical Requirements, within the scope this contract may be purchased under this contract. Non-Core items meeting or exceeding the specifications may be quoted by the Contractor. The Contractor must submit non-core configurations to the State Contract Administrator for approval prior to quoting the non-core configuration as a contract item.

The base criteria to consider non-core items are:

- All items are directly related to the common configuration.

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- Items do not conflict with any other mandatory statewide commodities contract.

Non-Core Items must be offered at the same core discount appropriate for the product category group: Core Configuration, Monitors (where applicable), Option/Upgrade, and VAS groups Offers for non-core items may be offered at a greater discount than the contract discount. Offers for non-core items at a lesser discount will not be considered.

Products outside the scope of this contract may not be purchased from this contract.

8. SPECIFICATIONS

All products listed on Attachment A1 through A4, Contract Pricing, conform to Attachment B, PC Goods Specification, dated December 15, 2021.

9. CUSTOMER SERVICE

The Contractor will have a customer service unit that is dedicated to this contract. The customer service unit provides office and personnel resources for responding to inquiries, including telephone and email coverage weekdays during the hours of 8:00 a.m. - 5:00 p.m., PT.

The customer service unit shall be staffed with individuals that:

- Are trained in the requirements of this contract.
- Have the authority to take administrative action to correct problems that may occur.

The Contractor's customer service unit shall respond to all customer inquiries within one (1) business day of initial contact.

Contact	Phone	Email
Sales	(916) 735-3550	sales@granitedatasolutions.com

10. ELECTRONIC CATALOG/CONTRACT WEBSITE CONTENTS

An Electronic Catalog / Contract Website specific to this contract is available and contains the following data elements at minimum:

- Detailed line-item descriptions of the products offered through this contract
- Warranty
- State-specific current contract pricing
- SB/DVBE participation information
- Quote generation
- Contractor's customer service contact information
- OEM/MSRP/Price List (current and archives)

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11. PRE-ORDER CONFIGURATION CONSULTATION (OFFER GENERATION)

The Contractor shall provide pre-sale pre-order technical consultation and configuration assistance to ordering departments in order to ensure acquired configurations are operationally designed for the ordering agency's technology needs. Ordering agencies will ensure that the Contractor has been apprised on the technical needs of the systems and components acquired under the contract.

12. OFFER FORMAT

The Contractor shall provide an offer to ordering agencies in MS Excel spreadsheet format. Quotes from the Contractor must be effective for thirty (30) days after issuance. The quote must include the following data elements:

- Contractor Letterhead
- Quote "Prepared By" Name and Contact Information
- Quote Number
- Date of Quote
- Ordering Agency Name
- Ordering Agency Contact Person
- Contract Number
- Contract Line-Item Number (CLIN)
- Quantity
- Core/Non-Core (Y/N)
- Description of Item
- Manufacturer's Part Number/SKU
- OEM Price List/Index Price
- Contract Discount
- Contract Unit Price
- Extended Price (Quantity x Contract Price)
- Subtotals of Taxable and Non-Taxable Items
- Rate and Calculated Tax
- Applicable Fees
- Grand Total

13. PRODUCT SUBSTITUTIONS

Products and configurations meeting or exceeding the category requirements shall be available throughout the duration of the contract term. The contract provides for technology refresh as models are discontinued or cease production and must be approved by the State Contract Administrator. These changes will be made in the form of a contract supplement and will not be effective until the supplement's release.

The Contractor shall not substitute products or configurations or modify catalog information without written approval from the State Contract Administrator.

The Contractor will maintain the contract discount as bid throughout the original term of the contract and any extensions, including upon approved substitution.

If no substitute product is available that meets or exceeds the specifications due to fundamental technology or market change, the State may alter the common configurations to meet the updated marketplace standards. Obsolescence of a configuration may be determined at the discretion of the State.

Items with the same model number or SKU available elsewhere on the contract shall be made available to the State at the highest discount.

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14. PROMOTIONAL PRICING

During special pricing promotions, the Contractor shall offer the ordering agency the promotional pricing or the discount percentage off list, whichever is lower.

The Contractor shall notify the State Contract Administrator of all promotional pricing changes. Notification shall include at a minimum:

- Promotion start and end dates
- Models, products, and services included in the promotion.
- Promotional pricing

Promotional pricing shall not be cause for a permanent change in pricing. Promotional pricing shall not be cause for Contractor refresh.

Promotional items shall come with all benefits of the statewide contract terms and conditions and shall include all provisions such as warranty and delivery.

15. STATE AGENCY INFORMATION TECHNOLOGY CERTIFICATION REQUIREMENT

This requirement does not apply to local government agencies.

For State departments, a signed certification of compliance with state information technology (IT) policies is required for all IT acquisitions of hardware, software, and services that cost \$5,000 or more. The policy and required format is provided in SAM Section 4819.41.

16. PURCHASE EXECUTION

A. State Departments

1) Std. 65 Purchase Documents

State departments not transacting in FISCAL must use the Purchasing Authority Purchase Order (Std. 65) for purchase execution. An electronic version of the Std. 65 is available at the [Office of State Publishing web site](#)

All Purchasing Authority Purchase Orders (Std. 65) must contain the following:

- Agency Order Number (Purchase Order Number)
- Ordering Agency Name
- Agency Billing Code
- Purchasing Authority Number
- Leveraged Procurement Number (Contract Number)
- Supplier Information (Contact Name, Address, Phone Number, Fax Number, E-mail)
- Line-Item number
- Quantity
- Unit of Measure

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- Commodity Code Number
- Product Description
- Unit Price
- Extension Price

2) FI\$CAL Purchase Documents

State departments transacting in FI\$CAL will follow the FI\$CAL procurement and contracting procedures.

3) Blanket Orders

The use of blanket purchase orders against this statewide contract is not allowed.

B. Local Governmental Agencies

Local governmental agencies may use their own purchase document for purchase execution. The purchase documents must include the same data elements as listed above (Exception: Purchasing Authority Number and Billing Code which are used by State departments only).

17. MINIMUM ORDER

This contract contains a minimum order of one (1) complete configuration (i.e., desktop, laptop, etc.).

In the Desktop categories, a maximum of two (2) monitors can be purchased with each system. Monitors cannot be purchased as a stand-alone from the Desktop contracts.

Portable Monitors are treated as a peripheral to a laptop and can only be purchased with a laptop. Portable monitors are not available on stand-alone monitor contracts.

VAS cannot be purchased as a stand-alone item. VAS can only be purchased with the purchase of a complete configuration. If an ordering agency determines there is a need for VAS and it was not included on their initial PO, the ordering agency may purchase after the initial PO, but it can be only for product purchased from this contract.

Optional Accessories cannot be purchased as stand-alone items. They can only be purchased with the purchase of a complete configuration. If an ordering agency determines there is a need for these items and they were not included on their initial PO, the ordering agency may purchase these items after the initial PO, but it must be within ninety (90) days of the initial PO and the items must be for the product purchased from the contract only.

Extended Warranties may be purchased after the initial PO if purchased prior to the current warranty's expiration. Extended Warranties can only be purchased for product purchased from this contract.

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If agencies are unable to amend the initial PO, they may issue a new PO as long as it is tied back to the initial PO (i.e., comment included on new PO). Additional and/or amended PO's must be issued prior to contract expiration.

18. ORDERING PROCEDURE

Ordering agencies are to submit appropriate purchase documents directly to the Contractor via one of the following ordering methods:

- U.S. Mail
- Facsimile
- Email

The Contractor's Order Placement Information is as follows:

ORDER PLACEMENT INFORMATION		
U.S. Mail: Granite Data Solutions 5321 Luce Avenue McClellan Park, CA 95652	Facsimile: (916) 735-3551	Email: sales@granitedatasolutions.com

When using any of the ordering methods specified above, all State departments must conform to proper State procedures.

19. ORDER ACCEPTANCE

The Contractor shall accept orders from any ordering agency. The Contractor shall not accept purchase documents for this contract that:

- Are incomplete.
- Contain non-contract items or items outside the scope of the contract.
- Contain non-contract terms and conditions.

The Contractor must not refuse to accept orders from any ordering agency for any other reason without written authorization from the State Contract Administrator.

20. ORDER RECEIPT CONFIRMATION

The Contractor will provide ordering agencies with an email or facsimile order receipt confirmation within forty-eight (48) hours of receipt of purchase document. The Order Receipt Confirmation shall include the following information:

- Contractor's Order Number
- Ordering Agency Name
- Agency Order Number (Purchase Order Number)
- Description of Goods

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- Total Cost
- Anticipated Delivery Date
- Identification of any Out of Stock/Discontinued Items

21. OUT OF STOCK REMEDY

Upon receipt of an order acknowledgment identifying out of stock items, the ordering agencies shall have the following options:

- Request a back order.
- Cancel the item from the order with no penalty.

The Contractor will provide notification to the ordering agencies regarding out-of-stock items which have been back ordered.

Under no circumstance is the Contractor permitted to make substitutions with non-contract items or unauthorized products.

22. DISCONTINUED ITEM REMEDY

Upon receipt of an order acknowledgment identifying discontinued items, the ordering agencies shall have the following options:

- Amend purchase document to reflect State-approved substitute item (per Section 13, Product Substitutions)
- Cancel the item from the order.

Under no circumstance is the Contractor permitted to make substitutions with non-contract items or unauthorized products without approval from the State Contract Administrator.

23. DELIVERY SCHEDULES

Delivery for orders placed against this contract shall be in accordance with the following:

A. Locations

Deliveries are to be made (statewide) to the location specified on the individual purchase order, which may include, but not limited to inside buildings, high-rise office buildings, and receiving docks.

B. Schedule

Delivery of ordered product shall be completed in full within thirty (30) calendar days after receipt of an order (ARO) unless otherwise agreed to by the ordering agency. Due to the current market conditions, actual delivery schedules may exceed the thirty (30) day delivery requirement. Departments are required to work with Contractors on delivery timelines. If there are any questions, please contact the State Contract Administrator.

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Since receiving hours for each ordering agency will vary by facility, it will be the Contractor's responsibility to check with each ordering agency for their specific delivery hours before delivery occurs. The Contractor must notify the ordering agency within twelve (12) hours of scheduled delivery time, if delivery cannot be made within the time frame specified on the Order Receipt Confirmation.

The Contractor is requested to make deliveries in Los Angeles County, Orange County, San Bernardino Metropolitan Area, and San Diego Metropolitan Area during off-peak hours. Off-peak hours are Monday through Friday, 10:00 AM to 4:00 PM PT.

C. Security Requirements

Deliveries may be made to locations inside secure grounds that require prior clearances or special entry procedures to be followed for delivery drivers.

Security procedures may vary from facility to facility. The Contractor will be responsible for contacting the secure location for security procedures, hours of operation for deliveries and service, dress code, and other rules of delivery.

Deliveries that are delayed due to drivers not being cleared to enter secure grounds may be cause for contract default.

24. FREE ON BOARD (F.O.B.) DESTINATION

All prices are F.O.B. destination, freight prepaid by the Contractor, to the ordering agency's final receiving point. Responsibility and liability for loss or damage for all orders will remain with the Contractor until final inspection and acceptance, when all responsibility will pass to the ordering agency, except the responsibility for latent defects, fraud, and the warranty obligations.

25. PALLETS

Unless otherwise specified on the ordering agency's purchase order document, standard commercially available pallet sizes should be used. All pallets shall be of sturdy construction and adequate condition to assure delivery of the goods without damage to the goods or safety hazards.

Exchange pallets may be available; however, the State assumes no responsibility for the availability to exchange pallets. Delivery drivers shall not remove more pallets from the location than delivering at time of delivery.

26. SHIPPED ORDERS

All shipments shall be in accordance with the General Provisions, Article 12 entitled "Packing and Shipment".

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27. PACKING SLIP

A packing slip will be included with each shipment, which will include at least the following information in no particular order:

- Agency order number (purchase order number)
- Ordering agency name
- Line-item description
- Quantity ordered.
- Quantity included in shipment.
- Any back ordered or out of stock items and availability date of unfilled and partial shipment.
- Number of parcels
- Destination
- All information contained on the packing label.

28. PACKING LABEL

A packing label will also be included with each order shipped and include the following items, visible on the outside of the box:

- Ordering Agency Name
- Delivery Address, Unit, and/or Floor
- Ordering Agency Contact Information

29. INSTALLATION

Contractor shall provide installation as a VAS. Physical installation includes coordination of installation with State representative, power-up, installation of latest firmware, installation of software and updates and removal of trade-in equipment and dunnage. Testing and diagnostics must include execution of a suite of hardware and software. The basic configuration must be completed and accepted by a State representative.

Installation shall include electronic documentation, including configuration instructions, at no additional price.

Installation will require a Statement of Work if D&L is included in the purchase order. Please refer to Section 7A, Contract Items.

30. INSPECTION AND ACCEPTANCE

Inspection and acceptance shall be in accordance with the General Provisions, Article 16 titled Inspection, Acceptance and Rejection.

Contract (Mandatory) 1-22-70-31A
 Contract User Instructions, ***Supplement 16***

31. CUSTOM PRODUCT ACCEPTANCE PROCESS

Contractor shall supply the ordering agency with one (1) complete custom configuration for inspection of the series of units on the Purchase Order, completed in accordance with the specifications, including all requested items and sub-components. Arrangements for inspection shall be made only when customization of the unit is complete.

Contractor shall receive notice within five (5) business days of inspection indicating that the unit is either acceptable or not acceptable. Unacceptable or non-compliant items will be identified at the time of notification. Contractor shall provide the corrected unit for inspection within ten (10) business days after notification from the State.

After inspection and acceptance by the State, the accepted custom unit shall be the criteria or basis for acceptance of the balance of the delivery. This will not constitute final acceptance of each unit remaining on the Purchase Order.

32. CONTRACT ADMINISTRATION

Both the State and the Contractor have assigned contract administrators as the single points of contact for problem resolution and related contract issues.

Administrator Information	DGS-PD	Granite Data Solutions (GDS)
Contact Name:	Amanda Lewis	Scott Mitchell
Telephone:	279-946-7876	(916) 760-4115
Facsimile:	NA	N/A
Email:	Amanda.Lewis@dgs.ca.gov	smitchell@granitedatasolutions.com
Address:	DGS/Procurement Division Attn: Amanda Lewis 707 Third Street, 2 nd Floor, MS 201 West Sacramento, CA 95605	Granite Data Solutions Attn: Scott Mitchell 5321 Luce Avenue McClellan Park, CA 95652

33. RETURN POLICY

Contractor shall accept returns for up to thirty (30) calendar days after delivery. Contractor is not required to accept returns after this time period. Contractor shall offer a credit or refund in accordance with Section 35, Credit Policy. Contractor may impose a Restocking Fee in accordance with Section 36, Restocking Fees.

Products returned should be in the packaging as delivered and include all documentation. Lost or damaged packaging materials and/or documentation shall be supplied by the Contractor. The Contractor shall not charge for these materials in excess of the Contractor's cost or the Restocking Fee, in accordance with Section 36, Restocking Fee, whichever is lower. The Contractor shall provide the State Contract Administrator and/or ordering agency a copy of the Contractor's material cost, if requested, within ten (10) days of request.

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Contract User Instructions, ***Supplement 16***

All returns shall be picked up within seven (7) working days of notification. Notification is defined as notice in writing, by facsimile or e-mail. Shipping or freight costs for returned items that were shipped in error, defective or freight-damaged shall be paid by the Contractor.

34. CUSTOM PRODUCT RETURN POLICY

Order agencies shall accrue no charges for custom product if the product is defective or freight damaged. Any other custom product can be returned by any ordering agency but may be subject to fees to remove customization (VAS), in addition to the fee specified in Section 36, Restocking Fees. These fees may be negotiated between the Contractor, ordering agency and the State Contract Administrator.

35. CREDIT POLICY

The Contractor shall offer a full credit/refund for the following items:

- Items shipped in error.
- Defective or freight-damaged items.
- Unopened product (within fifteen (15) days of delivery).
- Items that are non-compliant with the specification(s)/Purchase Order requirements (within fifteen (15) days of delivery).

All other items returned in accordance with Section 33, Return Policy, shall receive credit or refund, less any applicable restocking fees in accordance with Section 36, Restocking Fees. In all cases, the ordering agency shall have the option of taking an exchange, receiving a credit, or receiving a refund.

The Contractor will be responsible for the credit/refund or replacement of all products, including those covered by manufacturer warranties as stated in Section 42, Warranty. Contractor cannot require the ordering agency to deal directly with the manufacturer.

36. RESTOCKING FEES

The Contractor may impose a restocking fee for returns for reasons not listed in 36, Credit Policy. Re-stocking fee for this contract shall be no greater than 10 percent.

The packaging and documentation provisions of Section 33, Return Policy, shall apply to re-stocked items.

37. INVOICING

Invoices shall be submitted to the ordering agencies within seven (7) calendar days from date of delivery.

Ordering agencies may require separate invoicing, as specified by each ordering agency. Invoices will contain the following information:

- Contractor's name, address, and telephone number

Contract (Mandatory) 1-22-70-31A
Contract User Instructions, ***Supplement 16***

- Leveraged Procurement Agreement Number (Contract Number)
- Agency order number (purchase order number)
- Item and commodity code number
- Quantity purchased.
- Contract price and extension
- State sales and/or use tax.
- Prompt payment discounts/cash discounts, if applicable
- Totals for each order

38. PAYMENT

A. Terms

Payment terms for this contract are net forty-five (45) days. Payment will be made in accordance with the provisions of the California Prompt Payment Act, Government Code Section 927, et seq. Unless expressly exempted by statute, the Act requires State departments to pay properly submitted, undisputed invoices not more than forty-five (45) days after the date of acceptance of goods, performance of services, or receipt of an undisputed invoice, whichever is later.

B. CAL-Card Use

State departments may use the CAL-Card for the payment of invoices. Use of the CAL-Card requires the execution of a Purchasing Authority Purchase Order (Std. 65) in accordance with Section 16, Purchase Execution and must include all required documentation applicable to the purchase.

The CAL-Card is a payment mechanism, not a procurement approach and, therefore, does not relieve State departments from adhering to all procurement laws, regulations, policies, procedures, and best practices, including those discussed in the State Contracting Manual (SCM) Volume 2. This includes but is not limited to the application of all sales and use tax laws, rules, and policies as applicable to the purchase.

C. State Financial Marketplace

State departments reserve the right to select the form of payment for all procurements, be it either an outright purchase with payment rendered directly by the State, or a financing/lease-purchase or operating lease via the State Financial Marketplace (GS \$Mart and/or Lease \$Mart). If payment is via the financial marketplace, the Contractor will invoice the State department and the State department will approve the invoice and the selected Lender/Lessor for all product listed on the State's procurement document will pay the Contractor on behalf of the State.

D. Payee Data Record

Each State department's accounting office must have a copy of the Contractor's Payee Data Record (Std. 204) in order to process payments. State departments should forward a copy of the Std. 204 to their accounting offices. Without the Std. 204, payment may be unnecessarily delayed. State departments should contact the Contractor for copies of the Payee Data Record.

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Contract User Instructions, ***Supplement 16***

39. CAL-CARD INVOICING

All CAL-Card invoices are to be processed separately from other payment methods and include the elements identified in Section 37, Invoicing. CAL-Card invoices shall be submitted to the CAL-Card account holder. The total invoice amount for each CAL-Card order must reflect a zero (0) balance due or credit, if applicable, and state “paid by CAL-Card”.

This website contains additional information regarding [DGS-PD’s CAL-Card program](#).

40. CALIFORNIA SELLER’S PERMIT

The California seller permit number for the Contractor is listed below. Ordering Agencies can verify that permits are currently valid at the following website: www.cdtfa.ca.gov. State departments must adhere to the file documentation identified in the State Contracting Manual Volume 2.

Contractor Name	Seller Permit #
Granite Data Solutions	100-299591

41. ACCESSIBILITY COMPLIANCE/ VOLUNTARY PRODUCT ACCESSIBILITY TEMPLATE (VPAT)

Contract products are compliant with requirements for accessibility based on Section 508 of the Rehabilitation Act of 1973 (29 U.S.C. 794d) are determined to be relevant for this contract.

42. WARRANTY

The Contractor must honor all manufacturers’ warranties and guarantees for a period of three (3) years from the date of acceptance on all products offered as part of this contract. The Contractor shall bear all material and labor costs for repair of equipment defects and failure. The bid price cost shall include the manufacturer’s warranty cost.

During the warranty period, the Contractor must:

- Honor all manufacturers’ warranties and guarantees on all products offered through the contract.
- Continue to provide warranty service after contract termination until expiration of warranties for products that have been sold under the contract.
- Provide all labor, parts, and travel necessary to keep the products in good operating condition and preserve its operating efficiency in accordance with its technical specifications.
- Pay any necessary shipment and insurance costs.

Contract (Mandatory) 1-22-70-31A
Contract User Instructions, ***Supplement 16***

The warranty services listed shall include all products, software and firmware maintenance costs and costs of labor, parts, travel, factory overhaul, rehabilitation, transportation, and substitute products as necessary. If it is necessary to remove any products from an ordering agency's location where on-site warranty is specified, the Contractor will provide substitute products at the time of removal.

Substitute products will be comparable to or better than the products removed. In instances where it is necessary for the Contractor to return the products to the factory, the Contractor will be responsible for all costs of the products from the time it leaves the ordering agency's site until it is returned to the site in good operating condition.

Only new standard parts or parts equal in performance to new parts will be used in effecting repairs. Parts that have been replaced will become the property of the Contractor except in instances where the ordering agency chooses to keep the hard drives. Replacement parts installed will become the property of the ordering agency.

All operating system software and firmware will be considered an integral component of the equipment and the Contractor will respond to all requests for warranty service for any failure.

Warranty services during the warranty period will not include electrical work external to the products, the furnishing of supplies, or adding or removing accessories, attachments, or other devices not provided under this contract. Warranty services also will not include repair of damage resulting from transportation by the ordering agency between State or local sites or from accident unless the accident is caused by negligent or intentional acts or omissions of the Contractor or its agents.

43. QUALITY ASSURANCE GUARANTEES

The Contractor shall represent and warrant that all products provided shall be free from defects in material and workmanship, given normal use and care, over the period of the manufacturer warranty. The terms of this contract will supersede any language to the contrary on purchase orders, invoices, or other sources. Contractors must use new products, parts, and components for all new equipment purchased by the State. The Contractor may use parts that are equal in performance to new parts for warranty replacement repair parts only as long as it does not violate the manufacturer's warranty.

44. EQUIPMENT REPLACEMENT DURING WARRANTY

If the product provided fails to perform in accordance with technical specifications and functional descriptions contained or referenced in the contract agreement and is subject to warranty response three (3) or more times during any ninety (90) day period, the Contractor will upon the ordering agency's request, replace the product at no price. The replacement product(s) will be delivered no later than fifteen (15) working days after the ordering agency's request is received by the Contractor. Replacement goods cannot be used, refurbished, or recycled, and must be of equal or greater value.

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Contract User Instructions, ***Supplement 16***

45. WARRANTY REPAIR RESPONSE TIME

The Contractor must provide warranty in accordance with the following times after notification from an authorized purchaser of a problem with any of the goods included on contract.

Metropolitan Areas shall be 8x5x8 Next Business Day onsite – Eight (8) hours, typically 8:00 am to 5:00 pm, Pacific Time, five (5) days a week, Monday through Friday, eight (8) hour NBD onsite response time in metropolitan areas, excluding State holidays.

Non-Metropolitan Areas shall be 8x5x2 (two (2) hour call back response time, excluding State holidays.) Remediation shall be underway within 48 hours.

Metropolitan Areas:

Counties

San Diego, Orange, Riverside, Los Angeles, San Francisco, Alameda, Sacramento, Santa Clara, San Bernardino, Yolo, Solano, Contra Costa, and San Mateo.

Cities

Redding, Stockton, Bakersfield, Ventura, Tracy, San Quentin, Santa Rosa, Santa Barbara, Frontera, and Fresno.

46. RECYCLED CONTENT

State departments are required to report purchases in many product categories. The Postconsumer-Content Certification Form for the Contractor is attached (Attachment C).

47. SB/DVBE PARTICIPATION

This contract contains no Small Business (SB) participation.

The Disabled Veteran Business Enterprise (DVBE) certifications and percentages for the Contractor and subcontractor(s) are listed below. State departments can verify that the certifications are currently valid at the following website: www.caleprocure.ca.gov

Name	Prime or Subcontractor	OSDS Certification #	DVBE Percent (%)
Granite Data Solutions	Prime	# 26068	100%

DVBE Participation: The Contractor is a California Certified DVBE. For each order placed through this contract, State departments are able to claim 100 percent DVBE participation.

Any irregularities or concerns regarding prime or DVBE sub-contractor responsibilities are to be immediately documented and reported to the State Contract Administrator for further investigation. Information provided to the State Contract Administrator includes, but is not limited to:

Contract (Mandatory) 1-22-70-31A
Contract User Instructions, ***Supplement 16***

- Copy of executed purchase document
- Value-added service description
- Work performance issue or concern
- State department contact name, email, and phone number.

State departments may request from the Contractor a monthly report providing the DVBE participation levels on purchase orders.

48. BIDDER DECLARATION/COMMERCIALLY USEFUL FUNCTION (CUF)/ CERTIFICATIONS

The DGS-PD, as the awarding department, has assessed the Contractor and subcontractor certifications, (i.e. Darfur, Russian Sanctions, SB/DVBE, etc.), Bidder Declaration, and CUF during the solicitation evaluation process. Consequently, when executing purchase documents pursuant to this contract, it is not necessary for State departments operating under statewide contract purchasing authority to request the completion of State required certifications, a Bidder Declaration document, or perform additional CUF analysis. The State department should make a notation of this within their procurement file.

Exception: It is the responsibility of ordering departments to confirm CUF when value-added services are acquired by an ordering department and performed by certified SB/DVBE subcontractors consistent with commitments identified in the table above.

49. GENERATIVE ARTIFICIAL INTELLIGENCE (GENAI) PROCUREMENT PROCEDURES

GenAI contract provisions (rev. 2/20/2025) have been incorporated into the contract. Contract items may utilize, or be customized to utilize, GenAI as a deliverable. If GenAI is disclosed by the Contractor, state departments must follow the required GenAI purchase procedures outlined in SCM Vol.2, Chapter 23, Generative Artificial Intelligence.

50. TAKE-BACK/TRADE IN

Before any Take-Back/Trade-In can occur, State departments must obtain approval for discarding their IT equipment from the DGS Surplus Property and Reutilization Program. In accordance with the State Administrative Manual (SAM), Chapter 5900, Information Technology-Disposal of IT Equipment, each State department must explore the reutilization of surplus IT equipment prior to requesting approval for recycling or attempting to use the equipment as a credit toward the purchase of new equipment.

The Take-Back service is for similar equipment, including other OEM equipment. This service is for non-working equipment.

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Contract User Instructions, ***Supplement 16***

It is not mandatory that the ordering agency use the Take-Back/Trade-In service offered. The equipment returned as part of the Take-Back/Trade-In service shall be environmentally responsibly managed. To the greatest extent feasible, the equipment is to be refurbished for resale or recycled.

GDS has partnered with Prism Electronics, an R2 Certified, ISO14001 and ISO45001, electronics recycling company in Morgan Hill, CA to achieve a secure and zero landfill e-waste recycling process for their clients' retired electronic assets and for their obsolete IT assets. Equipment will be picked up by GDS employees and transported to either GDS or PRISM Electronics for processing.

For any Take Back/Trade-In information, contact:

GDS Pickup Scheduling Contact
Angela Mitchell – Technical Deployment Manager
(916) 839-7670 mobile
ITAD@granitedatasolutions.com

OR

GDS ITAD Program
Devin Holmes – Business Development Manager
(916) 238-1724 office
ITAD@granitedatasolutions.com

51. ELECTRONIC WASTE RECYCLING

The Contractor will comply with the Electronic Waste Recycling Act of 2003 requiring retailers to collect a recycling fee from consumers on covered electronic devices, starting January 1, 2005. California Public Resources Code Section 42463(f) defines a "covered electronic device" as a video display device containing a screen greater than four inches measured diagonally. The fees must be shown on all purchase orders. See the code identified above for more information and exceptions to this definition or go to [CDTFA Tax Rates - Special Taxes and Fees](#) for a breakdown of the fees.

52. ATTACHMENTS

Attachment A1 – Contract Pricing (Desktops) Supplement 16, dated 2/17/2026
Attachment A2 – Contract Pricing (Thin Desktops) Supplement 16, dated 2/17/2026
Attachment A3 – Contract Pricing (Thin Laptops) Supplement 16, dated 2/17/2026
Attachment A4 – Contract Pricing (Rugged Laptops) Supplement 16, dated 2/17/2026

Attachment B – PC Goods Specifications (70-31A) Supplement 5, dated 5/24/2023

Attachment C – PCRC Workbook Supplement 14, dated 6/25/2025

Attachment D – Deployment and Logistics Workbook (D&L)

Contractor: Granite Data Solutions

Contract #: 1-22-70-31A PC Goods, Dell

CLIN	Commodity Description	Manufacturer	MPN	SABRC Sub-Category	PCRC %	SABRC Compliant
DS106A	Dell Pro Micro QCM1250	Dell	210-BPQJ	Plastic products	39	Yes
DS107A	Dell Pro Slim QCS1250	Dell	210-BPQY	Plastic products	39	Yes
DP111A	Dell Pro Micro Plus QBM1250	Dell	210-BPQG	Plastic products	38	Yes
DP112A	Dell Pro Slim Plus QBS1250	Dell	210-BPPM	Plastic products	34	Yes
DP113A	Dell Pro Max Micro FCM2250	Dell	210-BPRY	Plastic products	39	Yes
DP114A	Dell Pro Max Slim FCS1250	Dell	210-BPST	Plastic products	39	Yes
DW101A	Precision 5860 Tower	Dell	210-BFNP	Plastic products	42	Yes
DW102A	Precision 7960 Tower	Dell	210-BFNS	Plastic products	42	Yes
DW104A	Dell Pro Max Tower T2	Dell	210-BPSQ	Plastic products	42	Yes
DA105A	Dell Pro 24 All-in-One QC24251 35W	Dell	210-BPPK	Plastic products	52	Yes
DA106A	Dell Pro 24 All-in-One QC24250 65W	Dell	210-BPNV	Plastic products	52	Yes
MW303	Dell 22" Monitor - P Series 22" P2225H	Dell	210-BLXJ	Plastic products	82	Yes
MW304	Dell 24" Monitor - P Series 24" P2425H	Dell	210-BMGH	Plastic products	82	Yes
MW305	Dell 27" Monitor - P Series 27" P2725H	Dell	210-BMFJ	Plastic products	82	Yes
DT100	Dell Optiplex 3000 Thin Client	Dell	210-BCXB	Plastic products	66	Yes
MP300	Dell 14 Portable Monitor - P1424H	Dell	210-BBIJ	Plastic products	29	Yes
LT101	Dell Latitude 3440 Thin-Client	Dell	210-BHVF	Plastic products	18	No
RL100A	Dell Pro Rugged 13	Dell	210-BNNL	Plastic products	n/a	No
SRL100A	Dell Pro Rugged 14	Dell	210-BNNG	Plastic products	n/a	No

End of Sheet

Desktop (Windows) Specifications

Desktops, Standard

Spec Item #	Product Attribute	Minimum Requirements
DS-1	Standard Desktop	Shall meet/include the following: <ul style="list-style-type: none"> • Business Class • EPEAT Silver • Energy Star (current version) • Mouse and keyboard
DS-2	Operating System:	Microsoft® Windows® 10 Pro (64-bit)
DS-3	Chassis:	Mini/Tiny/Micro Form Factor (M/TFF/M)
DS-4	Processor:	Functionally equivalent (or better) to: Intel Core i5 (10th generation or later)
DS-5	Memory:	<ul style="list-style-type: none"> • 8GB (upgradeable to 16 GB) • DDR4 (or newer) • Non-ECC
DS-6	Video:	Support: <ul style="list-style-type: none"> • DirectX 11 (or later) • Dual monitor support (any combination of DisplayPort, HDMI, and/or USB-C)
DS-7	Storage:	120GB SSD
DS-8	Network Connection:	<ul style="list-style-type: none"> • RJ45 • 10/100/1000 Ethernet
DS-9	Additional I/O Ports:	<ul style="list-style-type: none"> • 2x USB (or later) • Audio out • Microphone
DS-10	Warranty:	3 Year Limited Warranty plus 3 Year NBD On-Site Service (CA Statewide)
DS-11	Processor Option:	Functionally equivalent (or better) to: Intel Core i5 vPro (10th generation or later), if available
DS-12	Processor Option:	Functionally equivalent (or better) to: Intel Core i7 (10th generation or later)
DS-13	Memory Option:	16GB, DDR4 (or newer), Non-ECC
DS-14	Storage Option:	240GB SSD
DS-15	Storage Option:	480GB SSD
DS-16	Chassis Option:	Small Form Factor (SFF)
DS-17	Wi-Fi Option	802.11 ac (or later)
DS-18	Security Option:	TPM 2.0 (or later) functionality

Desktop (Windows) Specifications

Desktops, Power

Spec Item #	Product Attribute	Minimum Requirements
DP-1	Power Desktop	Shall meet/include the following: <ul style="list-style-type: none"> • Business Class • EPEAT Silver • Energy Star (current version) • Mouse and keyboard
DP-2	Operating System:	Microsoft® Windows® 10 Pro (64-bit)
DP-3	Chassis:	Mini/Tiny/Micro Form Factor (M/TFF/M)
DP-4	Processor:	Functionally equivalent (or better) to Intel Core i7 (10th generation)
DP-5	Memory:	<ul style="list-style-type: none"> • 16GB (upgradeable to 32 GB) • DDR4 (or newer) • Non-ECC
DP-6	Video:	Support: <ul style="list-style-type: none"> • DirectX 11 (or later) • Dual monitor support (any combination of DisplayPort, HDMI, and/or USB-C)
DP-7	Storage:	120GB SSD
DP-8	Network Connection:	<ul style="list-style-type: none"> • RJ45 • 10/100/1000 Ethernet
DP-9	Additional I/O Ports:	<ul style="list-style-type: none"> • 2x USB (or later) • Audio out • Microphone
DP-10	Warranty:	3 Year Limited Warranty plus 3 Year NBD On-Site Service (CA Statewide)
DP-11	Processor Option:	Functionally equivalent (or better) to: Intel Core i7 vPro (10th generation or later), if available
DP-12	Memory Option:	32GB, DDR4 (or newer), Non-ECC
DP-13	Storage Option:	240GB SSD
DP-14	Storage Option:	480GB SSD
DP-15	Chassis Option:	Small Form Factor (SFF)
DP-16	Wi-Fi Option	802.11 ac (or later)
DP-17	Security Option:	TPM 2.0 (or later) functionality

Desktop (Windows) Specifications

Desktops, Workstation

Spec Item #	Product Attribute	Minimum Requirements
DW-1	Workstation:	Shall meet/include the following: <ul style="list-style-type: none"> • Business Class • EPEAT Silver • Energy Star (current version) • Mouse and keyboard
DW-2	Operating System:	Microsoft® Windows® 10 Pro (64-bit)
DW-3	Chassis:	Tower
DW-4	Processor:	Functionally equivalent (or better) to: Intel Xeon W or Xeon Silver <i>*or Intel Core i7 (12th generation)*</i>
DW-5	Memory:	<ul style="list-style-type: none"> • 16GB (upgradeable to 32 GB) • DDR4 (or newer) • ECC RDIMM (or equivalent)
DW-6	Video:	<ul style="list-style-type: none"> • Discreet Video Card 2GB GDDR5 (or newer) - professional grade • Dual monitor support (any combination of DisplayPort, HDMI, or USB-C)
DW-7	Storage:	240GB SSD
DW-8	Network Connection:	<ul style="list-style-type: none"> • RJ45 • 10/100/1000 Ethernet
DW-9	Additional I/O Ports:	<ul style="list-style-type: none"> • 2x USB (or later) • Audio out • Microphone
DW-10	Upgrade Slots:	3 PCIe or newer
DW-11	Warranty:	3 Year Limited Warranty plus 3 Year NBD On-Site Service (CA Statewide)
DW-12	Processor Option:	Functionally equivalent (or better) to: Intel Xeon W vPro, if available
DW-13	Memory Option:	32GB, DDR4 (or newer), ECC RDIMM
DW-14	Storage Option:	480GB SSD
DW-15	Video Option:	<ul style="list-style-type: none"> • Discreet Video Card 4GB GDDR5 (or newer) - professional grade • Dual monitors (DisplayPort, HDMI, and/or USB-C)
DW-16	Wi-Fi Option	802.11 ac (or later)
DW-17	Security Option:	TPM 2.0 (or later) functionality

Desktop (Windows) Specifications

Desktops - All-in-One

Spec Item #	Product Attribute	Minimum Requirements
DA-1	Standard Desktop	Shall meet/include the following: <ul style="list-style-type: none"> • Business Class • EPEAT Silver • Energy Star (current version) • Mouse and keyboard
DA-2	Operating System:	Microsoft® Windows® 10 Pro (64-bit)
DA-3	Chassis:	All-In-One Desktop
DA-4	Processor:	Functionally equivalent (or better) to: Intel Core i5 10th generation
DA-5	Memory:	<ul style="list-style-type: none"> • 8GB (upgradeable to 16 GB) • DDR4 (or newer) • Non-ECC
DA-6	Video:	Support: <ul style="list-style-type: none"> • DirectX 11 (or later) • Support dual monitors (USB-C, DisplayPort, or HDMI)
DA-7	Storage:	120GB SSD
DA-8	Network Connection:	<ul style="list-style-type: none"> • RJ45 • 10/100/1000 Ethernet
DA-9	Additional I/O Ports:	<ul style="list-style-type: none"> • 2x USB (or later) • Audio out • Microphone
DA-10	Speaker:	Internal Audio Speaker
DA-11	Display:	<ul style="list-style-type: none"> • Size: 21.5" (diagonal) • FHD
DA-12	Warranty:	3 Year Limited Warranty plus 3 Year NBD On-Site Service (CA Statewide)
DA-13	Processor Option	Functionally equivalent (or better) to: Intel, Core i5 vPro (10th generation or later), if available
DA-14	Processor Option	Functionally equivalent (or better) to: Intel Core i7 (10th generation or later)
DA-15	Memory Option	16GB, DDR4 (or newer), Non-ECC
DA-16	Storage Option	240GB SSD
DA-17	Storage Option	480GB SSD
DA-18	Monitor Option	<ul style="list-style-type: none"> • Touchscreen • Size: 21.5" (diagonal) • FHD
DA-19	Wi-Fi Option	802.11 ac (or later)
DA-20	Security Option	TPM 2.0 (or later) functionality

Thin/Zero Client Desktop Specifications

Desktop, Thin-Client

Spec Item #	Product Attribute	Minimum Requirements
DT-1	Thin Client:	Shall meet/include the following: <ul style="list-style-type: none"> • Business Class • EPEAT Silver • Energy Star (current version) • Keyboard and Mouse
DT-2	Chassis:	Mini/Tiny/Nano
DT-3	Operating System:	Open
DT-4	Client Software:	Preinstalled with (minimum): <ul style="list-style-type: none"> • Remote Desktop Protocol (RDP) or similar • Media Player • Flash file player
DT-5	Processor:	Minimum: <ul style="list-style-type: none"> • Two Cores
DT-6	System Memory:	<ul style="list-style-type: none"> • 4 GB (upgradeable to 8 GB) • DDR3 (or newer) • non-ECC
DT-7	Storage:	16GB
DT-8	Video Output:	Single or Dual monitor support (any combination of USB-C, DisplayPort, or HDMI). Adapter(s) acceptable to meet requirement.
DT-9	Network Connection:	<ul style="list-style-type: none"> • RJ45 • 10/100/1000 Ethernet
DT-10	Additional I/O Ports:	<ul style="list-style-type: none"> • 2x USB (or later) • Audio out • Microphone
DT-11	Warranty:	3 Year Limited Warranty plus 3 Years Exchange service
DT-12	Memory Option	8GB, DDR3 (or newer), Non-ECC
DT-13	Wi-Fi Option:	802.11ac (or later)
DT-14	Security Option	TPM 2.0 (or later) functionality
DT-15	Storage Option	32GB

PC Goods Specifications

Thin/Zero Client Desktop Specifications

Desktop, Zero-Client

Spec Item #	Product Attribute	Minimum Requirements
DZ-1	Zero-Client	Shall meet/include the following: <ul style="list-style-type: none"> • Business Class • Keyboard and Mouse
DZ-2	Chassis:	Mini/Tiny
DZ-3	Processor:	PCoIP Zero Client or equivalent
DZ-4	System Memory:	512MB DDR3 (or newer)
DZ-5	Flash Memory:	32MB
DZ-6	Video Output:	Dual monitor support (any combination of USB-C, DisplayPort, or HDMI). Adapter(s) acceptable to meet requirement.
DZ-7	Network Connection:	<ul style="list-style-type: none"> • RJ45 • 10/100/1000 Ethernet
DZ-8	Additional I/O Ports:	<ul style="list-style-type: none"> • 2x USB (or later) • Audio out • Microphone
DZ-9	Warranty:	3 Year Limited Warranty plus 3 Year Exchange Service

Thin-Client Laptop Specifications

Laptop, Thin Client

Spec Item #	Product Attribute	Minimum Requirements
DT-1	Thin Client Laptop:	Shall meet/include the following: <ul style="list-style-type: none"> • Business Class • EPEAT Silver • Energy Star (current version)
DT-2	Display:	<ul style="list-style-type: none"> • 13" (diagonal) • LCD or LED • HD
DT-3	Operating System:	Open
DT-4	Client Software:	Preinstalled with (minimum): <ul style="list-style-type: none"> • Remote Desktop Protocol (RDP) or similar • Media Player • Adobe Flash Player 10
DT-5	Processor:	Minimum: <ul style="list-style-type: none"> • Two Cores
DT-6	Memory:	<ul style="list-style-type: none"> • 4 GB (upgradeable to 8 GB) • DDR3 (or newer) • non-ECC
DT-7	Storage:	16GB
DT-8	Video:	Includes video out (DisplayPort, USB-C, and/or HDMI)
DT-9	Network Connection:	• RJ45 • 10/100/1000 Ethernet
DT-10	Wireless:	<ul style="list-style-type: none"> • 802.11ac (or later) • Bluetooth 5.0 (or later)
DT-12	Battery:	42Wh
DT-13	Weight:	5lbs (maximum)
DT-14	Warranty:	3 Year Limited Warranty plus 3 Years Exchange service
DT-15	Memory Option:	8GB, DDR3 (or newer), Non-ECC
DT-16	Security Option:	TPM 2.0 (or later) functionality
DT-17	Storage Option	32GB
DT-18	*Network Connection Option:*	<ul style="list-style-type: none"> *• RJ45 • 10/100/1000 Ethernet OR • Compatible docking station that has a RJ45 port for 10/100/1000* Ethernet*

Rugged Laptop Specifications

Laptops, Rugged

Spec Item #	Product Attribute	Minimum Requirements
RL-1	Rugged Laptop	Shall meet/include the following: <ul style="list-style-type: none"> • Business Class • EPEAT Bronze • Energy Star (current version)
RL-2	Display:	<ul style="list-style-type: none"> • 11" (diagonal) • *LCD* LED • HD • Anti-glare • brightness: 400 nits
RL-3	Operating System:	Microsoft® Windows® 10 Pro (64-bit)
RL-4	Processor:	Functionally equivalent (or better) to: Intel Core i5 (7th generation)
RL-5	Memory:	<ul style="list-style-type: none"> • 8GB (upgradeable to 16 GB) • DDR4 (or newer) • Non-ECC
RL-6	Video:	Support: <ul style="list-style-type: none"> • Direct X11 (or later)
RL-7	Storage:	240 GB SSD
[RL-8]	<i>Network Connection:</i>	<i>*RJ45 *10/100/1000 Ethernet*</i>
RL-9	Wireless:	<ul style="list-style-type: none"> • 802.11 ac (or later) • Bluetooth 4.1 (or newer)
RL-10	Additional I/O Ports:	<ul style="list-style-type: none"> • 2 x USB (or later) • 1 x video out (DisplayPort, HDMI, or USB-C) • Audio Out • Microphone in • Docking Port
RL-11	Audio:	Integrated audio with speaker
RL-12	Battery:	40 Wh
RL-13	Weight:	10 Pounds (maximum)
[RL-14]	<i>Docking Station:</i>	<i>Must support a docking station option or a port replicator option that support laptop recharging.]</i>
RL-15	Ruggedness:	Meet the following: <ul style="list-style-type: none"> • MIL-STD-810G testing (Altitude, High Temperature, Low Temperature, Temperature Shock, Water Resistance, Humidity, Dust Resistance, Vibration, Drop/Shock) • IP65 certified • MIL-STD- 461F • Contractor shall provide MIL-STD testing methodology and results to DGS upon DGS's request.
RL-16	Warranty:	3 Year Limited Warranty plus 3 Year NBD On-Site Service (CA Statewide)
RL-17	Processor Option:	Functionally equivalent (or better) to: Intel Core i5 vPro (7th generation or later), if available
RL-18	Processor Option:	Functionally equivalent (or better) to: Intel Core i7 (7th generation or later)
RL-19	Memory Option:	16GB, DDR4 (or newer), Non-ECC
RL-20	Sotorage Option:	480GB SSD
RL-21	Security Option:	TPM 2.0 (or later) functionality
RL-22	<i>*Network Connection Option:*</i>	<i>* RJ45 * 10/100/1000 Ethernet OR * Compatible docking station that has a RJ45 port for 10/100/1000 Ethernet*</i>
RL-23	<i>*Docking Station Option:*</i>	<i>*Docking station that supports laptop recharging.*</i>

Rugged Laptop Specifications

Laptops, Semi-Rugged

Spec Item #	Product Attribute	Minimum Requirements
SRL-1	Semi-Rugged Laptop	Shall meet/include the following: <ul style="list-style-type: none"> • Business Class • EPEAT Bronze • Energy Star (current version)
SRL-2	Display:	<ul style="list-style-type: none"> • 13" (diagonal) • *LCD* LED • HD • Anti-glare • brightness: 400 nits
SRL-3	Operating System:	Microsoft® Windows® 10 Pro (64-bit)
SRL-4	Processor:	Functionally equivalent (or better) to: Intel Core i5 (6th generation)
SRL-5	Memory:	<ul style="list-style-type: none"> • 8GB (upgradeable to 16 GB) • DDR4 (or newer) • Non-ECC
SRL-6	Video:	Support: <ul style="list-style-type: none"> • Direct X11 (or later)
SRL-7	Storage:	240 GB SSD
[SRL-8]	Network Connection:	*RJ45 *10/100/1000 Ethernet]
SRL-9	Wireless:	<ul style="list-style-type: none"> • 802.11 ac (or later) • Bluetooth 4.1 (or newer)
SRL-10	Additional I/O Ports:	<ul style="list-style-type: none"> • 2 x USB (or later) • 1 x video out (DisplayPort, HDMI, or USB-C) • Audio Out • Microphone in • Docking Port
SRL-11	Audio:	Integrated audio with speaker
SRL-12	Battery:	40 Wh
SRL-13	Weight (in lbs):	6 Pounds (maximum)
[SRL-14]	Docking Station:	Must support a docking station option or a port replicator option that support laptop recharging.]
SRL-15	Ruggedness:	Shall meet/include the following: <ul style="list-style-type: none"> • Magnesium alloy (or equivalent) chassis (no plastic) • Moisture/dust-resistant keyboard and touchpad • Port covers on all external ports • IP51 certified
SRL-16	Warranty:	3 Year Limited Warranty plus 3 Year NBD On-Site Service (CA Statewide)
SRL-17	Processor Option:	Functionally equivalent (or better) to: Intel Core i5 Vpro (6th generation or later), if available
SRL-18	Processor Option:	Functionally equivalent (or better) to: Intel Core i7 (6th generation or later)
SRL-19	Memory Option:	16GB, DDR4 (or newer), Non-ECC
SRL-20	Storage Option:	480GB SSD
SRL-21	Security Option:	TPM 2.0 (or later) functionality
SRL-22	*Network Connection Option*:	*RJ45 * 10/100/1000 Ethernet OR * Compatible docking station that has a RJ45 port for 10/100/1000 Ethernet*
SRL-23	*Docking Station Option*:	*Docking station that supports laptop recharging.*

Monitor Specifications

Monitors, Widescreen

Spec Item #	Product Attribute	Minimum Requirements
MW-1	Widescreen Monitor	Shall meet/include the following: • *LCD/*LED • EPEAT Silver • Energy Star (current version)
MW-2	Size:	18.5" diagonal or larger
MW-3	Aspect Ratio (X:Y):	16:9 (or 16:10)
MW-4	Native Resolution:	FHD
MW-5	Contrast Ratio (Static):	1000 to 1
MW-6	Viewing Angle:	170° horizontal, 160° vertical
MW-7	Video Ports:	At least 2 out of the following 3 inputs: HDMI, DisplayPort, or USB-C
MW-8	Video Cable:	1.8 meter DisplayPort, USB-C, or HDMI cable included
MW-9	Tilt & Height Adjustment:	Adjustable stand w/vertical tilt and height adjustment.
MW-10	Warranty:	Three (3)-year warranty, Exchange replacement

Monitor Specifications

Monitors, Touchscreen

Spec Item #	Product Attribute	Minimum Requirements
MT-1	Touchscreen Monitor	Shall meet/include the following: <ul style="list-style-type: none"> • *LCD/*LED • EPEAT Silver • Energy Star (current version)
MT-2	Size:	18.5" diagonal or larger
MT-3	Aspect Ratio (X:Y):	16:9 (or 16:10)
MT-4	Native Resolution:	FHD
MT-5	Contrast Ratio (Static):	1000 to 1
MT-6	Viewing Angle:	170° horizontal, 160° vertical
MT-7	Video Ports:	At least 2 out of the following 3 inputs: HDMI, DisplayPort, or USB-C
MT-8	Video Cable:	1.8 meter DisplayPort, USB-C, or HDMI cable included
MT-9	Tilt & Height Adjustment:	Adjustable stand w/vertical tilt and height adjustment.
MT-10	Warranty:	Three-year warranty, Exchange replacement (CA Statewide)

Monitor Specifications

Monitors, Curved

Spec Item #	Product Attribute	Minimum Requirements
MC-1	Curved Monitor	Shall meet/include the following: • *LCD/*LED
MC-2	Size:	21.5" diagonal or larger
MC-3	Aspect Ratio (X:Y):	16:9, 16:10, or wider
MC-4	Native Resolution:	FHD
MC-5	Contrast Ratio (Static):	1000 to 1
MC-6	Viewing Angle:	170° horizontal, 160° vertical
MC-7	Video Ports:	HDMI, DisplayPort, or USB-C
MC-8	Video Cable:	At least 2 out of the following 3 inputs: HDMI, DisplayPort, or USB-C
MC-9	Tilt & Height Adjustment:	Stand w/adjustable vertical height and tilt.
MC-10	Warranty:	Three-year warranty, Exchange Replacement

Monitor Specifications

Monitors, Portable

Portable Monitors will only be offered in laptop categories, where available. They will not be sold in the monitor categories.

Spec Item #	Product Attribute	Minimum Requirements
MP-1	Portable Monitor	Shall meet/include the following: • *LCD* LED • EPEAT Silver • Energy Star (current version)
MP-2	Size:	13.5" to 15.5" diagonal
MP-3	Native Resolution:	FHD
MP-4	Contrast Ratio (Static):	600 to 1
MP-5	Viewing Angle:	170° horizontal, 160° vertical
MP-6	Video Ports:	USB-C
MP-7	Video Cable:	1.8 meter USB-C cable included
MP-8	Warranty:	Three-year warranty, Exchange Replacement
MP-9	Stand:	Included
MP-10	Weight:	2 lbs maximum

GENERAL PROVISIONS – INFORMATION TECHNOLOGY

1. **Definitions:** Unless otherwise specified in the Statement of Work, the following terms shall be given the meaning shown, unless context requires otherwise.
- a) **“Acceptance Tests”** means those tests performed during the Performance period which are intended to determine compliance of Equipment and Software with the specifications and all other Attachments incorporated herein by reference and to determine the reliability of the Equipment.
 - b) **“Application Program”** means a computer program which is intended to be executed for the purpose of performing useful work for the user of the information being processed. Application programs are developed or otherwise acquired by the user of the Hardware/Software system, but they may be supplied by the Contractor.
 - c) **“Attachment”** means a mechanical, electrical, or electronic interconnection to the Contractor-supplied Machine or System of Equipment, manufactured by other than the original Equipment manufacturer that is not connected by the Contractor.
 - d) **“Business entity”** means 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.
 - e) **“Buyer”** means the State’s authorized contracting official.
 - f) **“Commercial Hardware”** means Hardware developed or regularly used that: (i) has been sold, leased, or licensed to the general public; (ii) has been offered for sale, lease, or license to the general public; (iii) has not been offered, sold, leased, or licensed to the public but will be available for commercial sale, lease, or license in time to satisfy the delivery requirements of this Contract; or (iv) satisfies a criterion expressed in (i), (ii), or (iii) above and would require only minor modifications to meet the requirements of this Contract.
 - g) **“Commercial Software”** means Software developed or regularly used that: (i) has been sold, leased, or licensed to the general public; (ii) has been offered for sale, lease, or license to the general public; (iii) has not been offered, sold, leased, or licensed to the public but will be available for commercial sale, lease, or license in time to satisfy the delivery requirements of this Contract; or (iv) satisfies a criterion expressed in (i), (ii), or (iii) above and would require only minor modifications to meet the requirements of this Contract.
 - h) **“Contract”** means this Contract or agreement (including any purchase order), by whatever name known or in whatever format used.
 - i) **“Custom Software”** means **Software that does not meet the definition of Commercial Software.**
 - j) **“Contractor”** means the Business Entity with whom the State enters into this Contract. Contractor shall be synonymous with “supplier”, “vendor” or other similar term.
 - k) **“Data Processing Subsystem”** means a complement of Contractor furnished individual Machines, including the necessary controlling elements (or the functional equivalent), Operating Software and Software, if any, which are acquired to operate as an integrated group, and which are interconnected entirely by Contractor supplied power and/or signal

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cables, e.g., direct access controller and drives, a cluster of terminals with their controller, etc.

- l) **“Data Processing System (System)”** means the total complement of Contractor-furnished Machines, including one or more central processors (or instruction processors), Operating Software which are acquired to operate as an integrated group.
- m) **“Deliverables”** means Goods, Software, Information Technology, telecommunications technology, Hardware, and other items (e.g., reports) to be delivered pursuant to this Contract, including any such items furnished incident to the provision of services.
- n) **“Designated CPU(s)”** means for each product, if applicable, the central processing unit of the computers or the server unit, including any associated peripheral units. If no specific “Designated CPU(s)” are specified on the Contract, the term shall mean any and all CPUs located at the site specified therein.
- o) **“Documentation”** means manuals and other printed materials necessary or useful to the State in its use or maintenance of the Equipment or Software provided hereunder. Manuals and other printed materials customized for the State hereunder constitute Work Product if such materials are required by the Statement of Work.
- p) **“Equipment”** is an all-inclusive term which refers either to individual Machines or to a complete Data Processing System or Subsystem, including its Hardware and Operating Software (if any).
- q) **“Equipment Failure”** is a malfunction in the Equipment, excluding all external factors, which prevents the accomplishment of the Equipment’s intended function(s). If microcode or Operating Software residing in the Equipment is necessary for the proper operation of the Equipment, a failure of such microcode or Operating Software which prevents the accomplishment of the Equipment’s intended functions shall be deemed to be an Equipment Failure.
- r) **“Facility Readiness Date”** means the date specified in the Statement of Work by which the State must have the site prepared and available for Equipment delivery and installation.
- s) **“Goods”** means all types of tangible personal property, including but not limited to materials, supplies, and Equipment (including computer and telecommunications Equipment).
- t) **“Hardware”** usually refers to computer Equipment and is contrasted with Software. See also Equipment.
- u) **“Installation Date”** means the date specified in the Statement of Work by which the Contractor must have the ordered Equipment ready (certified) for use by the State.
- v) **“Information Technology”** includes, but is not limited to, all electronic technology systems and services, automated information handling, System design and analysis, conversion of data, computer programming, information storage and retrieval, telecommunications which include voice, video, and data communications, requisite System controls, simulation, electronic commerce, and all related interactions between people and Machines.

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- w) **“Machine”** means an individual unit of Data Processing System or Subsystem, separately identified by a type and/or model number, comprised of but not limited to mechanical, electro-mechanical, and electronic parts, microcode, and special features installed thereon and including any necessary Software, e.g., central processing unit, memory module, tape unit, card reader, etc.
- x) **“Machine Alteration”** means any change to a Contractor-supplied Machine which is not made by the Contractor, and which results in the Machine deviating from its physical, mechanical, electrical, or electronic (including microcode) design, whether or not additional devices or parts are employed in making such change.
- y) **“Maintenance Diagnostic Routines”** means the diagnostic programs customarily used by the Contractor to test Equipment for proper functioning and reliability.
- z) **“Manufacturing Materials”** means parts, tools, dies, jigs, fixtures, plans, drawings, and information produced or acquired, or rights acquired, specifically to fulfill obligations set forth herein.
- aa) **“Mean Time Between Failure (MTBF)”** means the average expected or observed time between consecutive failures in a System or component.
- bb) **“Mean Time to Repair (MTTR)”** means the average expected or observed time required to repair a System or component and return it to normal operation.
- cc) **“Operating Software”** means those routines, whether or not identified as Program Products, that reside in the Equipment and are required for the Equipment to perform its intended function(s), and which interface the operator, other Contractor-supplied programs, and user programs to the Equipment.
- dd) **“Operational Use Time”** means for performance measurement purposes, that time during which Equipment is in actual operation by the State. For maintenance Operational Use Time purposes, that time during which Equipment is in actual operation and is not synonymous with power on time.
- ee) **“Period of Maintenance Coverage”** means the period of time, as selected by the State, during which maintenance services are provided by the Contractor for a fixed monthly charge, as opposed to an hourly charge for services rendered. The Period of Maintenance Coverage consists of the Principal Period of Maintenance and any additional hours of coverage per day, and/or increased coverage for weekends and holidays.
- ff) **“Preventive Maintenance”** means that maintenance, performed on a scheduled basis by the Contractor, which is designed to keep the Equipment in proper operating condition.
- gg) **“Principal Period of Maintenance”** means any nine consecutive hours per day (usually between the hours of 7:00 a.m. and 6:00 p.m.) as selected by the State, including an official meal period not to exceed one hour, Monday through Friday, excluding holidays observed at the installation.
- hh) **“Programming Aids”** means Contractor-supplied programs and routines executable on the Contractor’s Equipment which assists a programmer in the development of applications including language processors, sorts, communications modules, data base

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management systems, and utility routines (tape-to-disk routines, disk-to-print routines, etc.).

- ii) **“Program Product”** means programs, routines, subroutines, and related items which are proprietary to the Contractor and which are licensed to the State for its use, usually on the basis of separately stated charges and appropriate contractual provisions.
- jj) **“Remedial Maintenance”** means that maintenance performed by the Contractor which results from Equipment (including Operating Software) failure, and which is performed as required, i.e., on an unscheduled basis.
- kk) **“Software”** means an all-inclusive term which refers to any computer programs, routines, or subroutines supplied by the Contractor, including Operating Software, Programming Aids, Application Programs, and Program Products.
- ll) **“Software Failure”** means a malfunction in the Contractor-supplied Software, other than Operating Software, which prevents the accomplishment of work, even though the Equipment (including its Operating Software) may still be capable of operating properly. For Operating Software failure, see definition of Equipment Failure.
- mm) **“State”** means the government of the State of California, its employees and authorized representatives, including without limitation any department, agency, or other unit of the government of the State of California.
- nn) **“System”** means the complete collection of Hardware, Software and services as described in this Contract, integrated and functioning together, and performing in accordance with this Contract.
- oo) **“U.S. Intellectual Property Rights”** means intellectual property rights enforceable in the United States of America, including without limitation rights in trade secrets, copyrights, and U.S. patents.

2. CONTRACT FORMATION:

- a) If this Contract results from a sealed bid offered in response to a solicitation conducted pursuant to Chapters 2 (commencing with Section 10290), 3 (commencing with Section 12100), and 3.6 (commencing with Section 12125) of Part 2 of Division 2 of the Public Contract Code (PCC), then Contractor’s bid is a firm offer to the State which is accepted by the issuance of this Contract and no further action is required by either party.
- b) If this Contract results from a solicitation other than described in paragraph a), above, the Contractor’s quotation or proposal is deemed a firm offer and this Contract document is the State’s acceptance of that offer.
- c) If this Contract resulted from a joint bid, it shall be deemed one indivisible Contract. Each such joint Contractor will be jointly and severally liable for the performance of the entire Contract. The State assumes no responsibility or obligation for the division of orders or purchases among joint Contractors.

- 3. **COMPLETE INTEGRATION:** This Contract, including any documents incorporated herein by express reference, is intended to be a complete integration and there are no prior or contemporaneous different or additional agreements pertaining to the subject matter of the Contract.

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4. **SEVERABILITY:** The Contractor and the State agree that if any provision of this Contract is found to be illegal or unenforceable, such term or provision shall be deemed stricken and the remainder of the Contract shall remain in full force and effect. Either party having knowledge of such term or provision shall promptly inform the other of the presumed non-applicability of such provision.
5. **INDEPENDENT CONTRACTOR:** Contractor and the agents and employees of the Contractor, in the performance of this Contract, shall act in an independent capacity and not as officers or employees or agents of the State.
6. **APPLICABLE LAW:** This Contract shall be governed by and shall be interpreted in accordance with the laws of the State of California; venue of any action brought with regard to this Contract shall be in Sacramento County, Sacramento California. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Contract.
7. **COMPLIANCE WITH STATUTES AND REGULATIONS:**
 - a) The State and the Contractor warrants and certifies that in the performance of this Contract, it will comply with all applicable statutes, rules, regulations and orders of the United States and the State of California. The Contractor agrees to indemnify the State against any loss, cost, damage or liability by reason of the Contractors violation of this provision.
 - b) The State will notify the Contractor of any such claim in writing and tender the defense thereof within a reasonable time; and
 - c) The Contractor will have sole control of the defense of any action on such claim and all negotiations for its settlement or compromise; provided that (i) when substantial principles of government or public law are involved, when litigation might create precedent affecting future State operations or liability, or when involvement of the State is otherwise mandated by law, the State may participate in such action at its own expense with respect to attorneys' fees and costs (but not liability); (ii) where a settlement would impose liability on the State, affect principles of California government or public law, or impact the authority of the State, the Department of General Services will have the right to approve or disapprove any settlement or compromise, which approval will not unreasonably be withheld or delayed and (iii) the State will reasonably cooperate in the defense and in any related settlement negotiations.
 - d) If this Contract is in excess of \$554,000, it is subject to the requirements of the World Trade Organization (WTO) Government Procurement Agreement (GPA).
 - e) To the extent that this Contract falls within the scope of Government Code Section 11135, the Contractor hereby agrees to respond to and resolve any complaint brought to its attention, regarding accessibility of its products or services.
8. **CONTRACTOR'S POWER AND AUTHORITY:** The Contractor warrants that it has full power and authority to grant the rights herein granted and will hold the State harmless from and against any loss, cost, liability, and expense (including reasonable attorney fees) arising out of any breach of this warranty. Further, the Contractor avers that it will not enter into any

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arrangement with any third-party which might abridge any rights of the State under this Contract.

- a) The State will notify the Contractor of any such claim in writing and tender the defense thereof within a reasonable time; and
- b) The Contractor will have sole control of the defense of any action on such claim and all negotiations for its settlement or compromise; provided that (i) when substantial principles of government or public law are involved, when litigation might create precedent affecting future State operations or liability, or when involvement of the State is otherwise mandated by law, the State may participate in such action at its own expense with respect to attorneys' fees and costs (but not liability); (ii) where a settlement would impose liability on the State, affect principles of California government or public law, or impact the authority of the State, the Department of General Services will have the right to approve or disapprove any settlement or compromise, which approval will not unreasonably be withheld or delayed; and (iii) the State will reasonably cooperate in the defense and in any related settlement negotiations.

9. ASSIGNMENT: This Contract shall not be assignable by the Contractor in whole or in part without the written consent of the State. The State's consent shall not be unreasonably withheld or delayed. For the purpose of this paragraph, the State will not unreasonably prohibit the Contractor from freely assigning its right to payment, provided that the Contractor remains responsible for its obligations hereunder.

10. WAIVER OF RIGHTS: Any action or inaction by the State or the failure of the State on any occasion, to enforce any right or provision of the Contract, shall not be construed to be a waiver by the State of its rights hereunder and shall not prevent the State from enforcing such provision or right on any future occasion. The rights and remedies of the State herein are cumulative and are in addition to any other rights or remedies that the State may have at law or in equity.

11. ORDER OF PRECEDENCE: In the event of any inconsistency between the articles, attachments, specifications, or provisions which constitute this Contract, the following order of precedence shall apply:

- a) These General Provisions – Information Technology (In the instances provided herein where the paragraph begins: "Unless otherwise specified in the Statement of Work" provisions specified in the Statement of Work replacing these paragraphs shall take precedence over the paragraph referenced in these General Provisions);
- b) Contract form, i.e., Purchase Order STD 65, Standard Agreement STD 213, etc., and any amendments thereto;
- c) Other Special Provisions;
- d) Statement of Work, including any specifications incorporated by reference herein;
- e) Cost worksheets; and
- f) All other attachments incorporated in the Contract by reference.

12. PACKING AND SHIPMENT:

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- a) All Goods are to be packed in suitable containers for protection in shipment and storage, and in accordance with applicable specifications. Each container of a multiple container shipment shall be identified to:
 - i. show the number of the container and the total number of containers in the shipment; and
 - ii. the number of the container in which the packing sheet has been enclosed.
- b) All shipments by the Contractor or its subcontractors must include packing sheets identifying: the State's Contract number; item number; quantity and unit of measure; part number and description of the Goods shipped; and appropriate evidence of inspection, if required. Goods for different Contracts shall be listed on separate packing sheets.
- c) Shipments must be made as specified in this Contract, as it may be amended, or otherwise directed in writing by the State's Transportation Management Unit within the Department of General Services, Procurement Division.

13. TRANSPORTATION COSTS AND OTHER FEES OR EXPENSES: No charge for delivery, drayage, express, parcel post, packing, cartage, insurance, license fees, permits, cost of bonds, or for any other purpose will be paid by the State unless expressly included and itemized in the Contract.

- a) The Contractor must strictly follow Contract requirements regarding Free on Board (F.O.B.), freight terms and routing instructions. The State may permit use of an alternate carrier at no additional cost to the State with advance written authorization of the Buyer.
- b) If "prepay and add" is selected, supporting freight bills are required when over \$50, unless an exact freight charge is approved by the Transportation Management Unit within the Department of General Services Procurement Division and a waiver is granted.
- c) On "F.O.B. Shipping Point" transactions, should any shipments under the Contract be received by the State in a damaged condition and any related freight loss and damage claims filed against the carrier or carriers be wholly or partially declined by the carrier or carriers with the inference that damage was the result of the act of the shipper such as inadequate packaging or loading or some inherent defect in the Equipment and/or material, the Contractor, on request of the State, shall at Contractor's own expense assist the State in establishing carrier liability by supplying evidence that the Equipment and/or material was properly constructed, manufactured, packaged, and secured to withstand normal transportation conditions.

14. DELIVERY: The Contractor shall strictly adhere to the delivery and completion schedules specified in this Contract. Time, if stated as a number of days, shall mean calendar days unless otherwise specified. The quantities specified herein are the only quantities required. If the Contractor delivers in excess of the quantities specified herein, the State shall not be required to make any payment for the excess Deliverables, and may return them to Contractor at the Contractor's expense or utilize any other rights available to the State at law or in equity.

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15. SUBSTITUTIONS: Substitution of Deliverables may not be tendered without advance written consent of the Buyer. The Contractor shall not use any specification in lieu of those contained in the Contract without written consent of the Buyer.

16. INSPECTION, ACCEPTANCE AND REJECTION: Unless otherwise specified in the Statement of Work:

- a) When acquiring Commercial Hardware or Commercial Software, the State shall rely on Contractor's existing quality assurance system as a substitute for State inspection and testing. For all other acquisitions, Contractor and its subcontractors will provide and maintain a quality assurance system acceptable to the State covering Deliverables and services under this Contract and will tender to the State only those Deliverables that have been inspected and found to conform to this Contract's requirements. The Contractor will keep records evidencing inspections and their result, and will make these records available to the State during Contract performance and for three years after final payment. The Contractor shall permit the State to review procedures, practices, processes, and related documents to determine the acceptability of the Contractor's quality assurance System or other similar business practices related to performance of the Contract.
- b) All Deliverables may be subject to inspection and test by the State or its authorized representatives.
- c) The Contractor and its subcontractors shall provide all reasonable facilities for the safety and convenience of inspectors at no additional cost to the State. The Contractor shall furnish to inspectors all information and data as may be reasonably required to perform their inspection.
- d) Subject to subsection 16 (a) above, all Deliverables may be subject to final inspection, test and acceptance by the State at destination, notwithstanding any payment or inspection at source.
- e) The State shall give written notice of rejection of Deliverables delivered or services performed hereunder within a reasonable time after receipt of such Deliverables or performance of such services. Such notice of rejection will state the respects in which the Deliverables do not substantially conform to their specifications. If the State does not provide such notice of rejection within fifteen (15) days of delivery for purchases of Commercial Hardware or Commercial Software or thirty (30) days of delivery for all other purchases, such Deliverables and services will be deemed to have been accepted. Acceptance by the State will be final and irreversible, except as it relates to latent defects, fraud, and gross mistakes amounting to fraud. Acceptance shall not be construed to waive any warranty rights that the State might have at law or by express reservation in this Contract with respect to any nonconformity.
- f) Unless otherwise specified in the Statement of Work, title to Equipment shall remain with the Contractor and assigns, if any, until such time as successful acceptance testing has been achieved. Title to a special feature installed on a Machine and for which only a

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single installation charge was paid shall pass to the State at no additional charge, together with title to the Machine on which it was installed.

17. SAMPLES:

- a) Samples of items may be required by the State for inspection and specification testing and must be furnished free of expense to the State. The samples furnished must be identical in all respects to the products bid and/or specified in the Contract.
- b) Samples, if not destroyed by tests, may, upon request made at the time the sample is furnished, be returned at the Contractor's expense.

18. WARRANTY:

- a) Unless otherwise specified in the Statement of Work, the warranties in this subsection a) begin upon delivery of the goods or services in question and end one (1) year thereafter. The Contractor warrants that (i) Deliverables and services furnished hereunder will substantially conform to the requirements of this Contract (including without limitation all descriptions, specifications, and drawings identified in the Statement of Work), and (ii) the Deliverables will be free from material defects in materials and workmanship. Where the parties have agreed to design specifications (such as a Detailed Design Document) and incorporated the same or equivalent in the Statement of Work directly or by reference, the Contractor will warrant that its Deliverables provide all material functionality required thereby. In addition to the other warranties set forth herein, where the Contract calls for delivery of Commercial Software, the Contractor warrants that such Software will perform in accordance with its license and accompanying Documentation. The State's approval of designs or specifications furnished by Contractor shall not relieve the Contractor of its obligations under this warranty.
- b) The Contractor warrants that Deliverables furnished hereunder (i) will be free, at the time of delivery, of harmful code (i.e., computer viruses, worms, trap doors, time bombs, disabling code, or any similar malicious mechanism designed to interfere with the intended operation of, or cause damage to, computers, data, or Software); and (ii) will not infringe or violate any U.S. Intellectual Property Right. Without limiting the generality of the foregoing, if the State believes that harmful code may be present in any Commercial Software delivered hereunder, the Contractor will, upon the State's request, provide a new or clean install of the Software.
- c) Unless otherwise specified in the Statement of Work:
 - i. The Contractor does not warrant that any Software provided hereunder is error-free or that it will run without immaterial interruption.
 - ii. The Contractor does not warrant and will have no responsibility for a claim to the extent that it arises directly from (A) a modification made by the State, unless such modification is approved or directed by the Contractor, (B) use of Software in combination with or on products other than as specified by the Contractor, or (C) misuse by the State.
 - iii. Where the Contractor resells Commercial Hardware or Commercial Software it purchased from a third-party, Contractor, to the extent it is legally able to do so,

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will pass through any such third-party warranties to the State and will reasonably cooperate in enforcing them. Such warranty pass-through will not relieve the Contractor from Contractor's warranty obligations set forth above.

- d) All warranties, including special warranties specified elsewhere herein, shall inure to the State, its successors, assigns, customer agencies, and governmental users of the Deliverables or services.
- e) Except as may be specifically provided in the Statement of Work or elsewhere in this Contract, for any breach of the warranties provided in this Section, the State's exclusive remedy and the Contractor's sole obligation will be limited to:
 - i. re-performance, repair, or replacement of the nonconforming Deliverable (including without limitation an infringing Deliverable) or service; or
 - ii. should the State in its sole discretion consent, refund of all amounts paid by the State for the nonconforming Deliverable or service and payment to the State of any additional amounts necessary to equal the State's Cost to Cover. "Cost to Cover" means the cost, properly mitigated, of procuring Deliverables or services of equivalent capability, function, and performance. The payment obligation in subsection (e)(ii) above will not exceed the limits on the Contractor's liability set forth in the Section entitled "Limitation of Liability."
- f) EXCEPT FOR THE EXPRESS WARRANTIES SPECIFIED IN THIS SECTION, THE CONTRACTOR MAKES NO WARRANTIES EITHER EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

19. SAFETY AND ACCIDENT PREVENTION: In performing work under this Contract on State premises, the Contractor shall conform to any specific safety requirements contained in the Contract or as required by law or regulation. The Contractor shall take any additional precautions as the State may reasonably require for safety and accident prevention purposes. Any violation of such rules and requirements, unless promptly corrected, shall be grounds for termination of this Contract in accordance with the default provisions hereof.

20. INSURANCE: The Contractor shall maintain all commercial general liability insurance, workers' compensation insurance and any other insurance required under the Contract. The Contractor shall furnish insurance certificate(s) evidencing required insurance coverage acceptable to the State, including endorsements showing the State as an "additional insured" if required under the Contract. Any required endorsements requested by the State must be separately provided; merely referring to such coverage on the certificates(s) is insufficient for this purpose. When performing work on state owned or controlled property, Contractor shall provide a waiver of subrogation in favor of the State for its workers' compensation policy.

21. TERMINATION FOR NON-APPROPRIATION OF FUNDS:

- a) If the term of this Contract extends into fiscal years subsequent to that in which it is approved, such continuation of the Contract is contingent on the appropriation of funds for such purpose by the Legislature. If funds to effect such continued payment are not

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appropriated, the Contractor agrees to take back any affected Deliverables furnished under this Contract, terminate any services supplied to the State under this Contract, and relieve the State of any further obligation therefore.

- b) The State agrees that if it appears likely that subsection a) above will be invoked, the State and Contractor shall agree to take all reasonable steps to prioritize work and Deliverables and minimize the incurrence of costs prior to the expiration of funding for this Contract.
- c) THE STATE AGREES THAT IF PARAGRAPH a) ABOVE IS INVOKED, COMMERCIAL HARDWARE AND SOFTWARE THAT HAS NOT BEEN PAID FOR SHALL BE RETURNED TO THE CONTRACTOR IN SUBSTANTIALLY THE SAME CONDITION IN WHICH DELIVERED TO THE STATE, SUBJECT TO NORMAL WEAR AND TEAR. THE STATE FURTHER AGREES TO PAY FOR PACKING, CRATING, TRANSPORTATION TO THE CONTRACTOR'S NEAREST FACILITY AND FOR REIMBURSEMENT TO THE CONTRACTOR FOR EXPENSES INCURRED FOR THEIR ASSISTANCE IN SUCH PACKING AND CRATING.

22. TERMINATION FOR THE CONVENIENCE OF THE STATE:

- a) The State may terminate performance of work under this Contract for its convenience in whole or, from time to time, in part, if the Department of General Services, Deputy Director Procurement Division, or designee, determines that a termination is in the State's interest. The Department of General Services, Deputy Director, Procurement Division, or designee shall terminate by delivering to the Contractor a Notice of Termination specifying the extent of termination and the effective date thereof.
- b) After receipt of a Notice of Termination, and except as directed by the State, the Contractor shall immediately proceed with the following obligations, as applicable, regardless of any delay in determining or adjusting any amounts due under this clause. The Contractor shall:
 - i. Stop work as specified in the Notice of Termination.
 - ii. Place no further subcontracts for materials, services, or facilities, except as necessary to complete the continuing portion of the Contract.
 - iii. Terminate all subcontracts to the extent they relate to the work terminated.
 - iv. Settle all outstanding liabilities and termination settlement proposals arising from the termination of subcontracts.
- c) After termination, the Contractor shall submit a final termination settlement proposal to the State in the form and with the information prescribed by the State. The Contractor shall submit the proposal promptly, but no later than 90 days after the effective date of termination, unless a different time is provided in the Statement of Work or in the Notice of Termination.
- d) The Contractor and the State may agree upon the whole or any part of the amount to be paid as requested under subsection (c) above.
- e) Unless otherwise set forth in the Statement of Work, if the Contractor and the State fail to agree on the amount to be paid because of the termination for convenience, the State will

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pay the Contractor the following amounts; provided that in no event will total payments exceed the amount payable to the Contractor if the Contract had been fully performed:

- i. The Contract price for Deliverables or services accepted or retained by the State and not previously paid for, adjusted for any savings on freight and other charges; and
 - ii. The total of:
 - A. The reasonable costs incurred in the performance of the work terminated, including initial costs and preparatory expenses allocable thereto, but excluding any cost attributable to Deliverables or services paid or to be paid;
 - B. The reasonable cost of settling and paying termination settlement proposals under terminated subcontracts that are properly chargeable to the terminated portion of the Contract; and
 - C. Reasonable storage, transportation, demobilization, unamortized overhead and capital costs, and other costs reasonably incurred by the Contractor in winding down and terminating its work.
- f) The Contractor will use generally accepted accounting principles, or accounting principles otherwise agreed to in writing by the parties, and sound business practices in determining all costs claimed, agreed to, or determined under this clause.

23. TERMINATION FOR DEFAULT:

- a) The State may, subject to the clause titled "Force Majeure" and to sub-section d) below, by written notice of default to the Contractor, terminate this Contract in whole or in part if the Contractor fails to:
 - i. Deliver the Deliverables or perform the services within the time specified in the Contract or any amendment thereto;
 - ii. Make progress, so that the lack of progress endangers performance of this Contract; or
 - iii. Perform any of the other provisions of this Contract.
- b) The State's right to terminate this Contract under sub-section a) above, may be exercised only if the failure constitutes a material breach of this Contract and if the Contractor does not cure such failure within the time frame stated in the State's cure notice, which in no event will be less than fifteen (15) days, unless the Statement of Work calls for a different period.
- c) If the State terminates this Contract in whole or in part pursuant to this Section, it may acquire, under terms and in the manner the Buyer considers appropriate, Deliverables or services similar to those terminated, and the Contractor will be liable to the State for any excess costs for those Deliverables and services, including without limitation costs third-party vendors charge for Manufacturing Materials (but subject to the clause entitled "Limitation of Liability"). However, the Contractor shall continue the work not terminated.

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- d) If the Contract is terminated for default, the State may require the Contractor to transfer title, or in the case of licensed Software, license, and deliver to the State, as directed by the Buyer, any:
- i. completed Deliverables,
 - ii. partially completed Deliverables, and,
 - iii. subject to provisions of sub-section e) below, Manufacturing Materials related to the terminated portion of this Contract. Nothing in this sub-section d) will be construed to grant the State rights to Deliverables that it would not have received had this Contract been fully performed. Upon direction of the Buyer, the Contractor shall also protect and preserve property in its possession in which the State has an interest.
- e) The State shall pay Contract price for completed Deliverables delivered and accepted and items the State requires the Contractor to transfer under section (d) above. Unless the Statement of Work calls for different procedures or requires no-charge delivery of materials, the Contractor and Buyer shall attempt to agree on the amount of payment for Manufacturing Materials and other materials delivered and accepted by the State for the protection and preservation of the property; provided that where the Contractor has billed the State for any such materials, no additional charge will apply. Failure to agree will constitute a dispute under the Disputes clause. The State may withhold from these amounts any sum it determines to be necessary to protect the State against loss because of outstanding liens or claims of former lien holders.
- f) If, after termination, it is determined by a final decision that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the State.
- g) Both parties, State and Contractor, upon any termination for default, have a duty to mitigate the damages suffered by it.
- h) The rights and remedies of the State in this clause are in addition to any other rights and remedies provided by law or under this Contract, and are subject to the clause titled "Limitation of Liability."

24. FORCE MAJEURE: Except for defaults of subcontractors at any tier, the Contractor shall not be liable for any excess costs if the failure to perform the Contract arises from causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include, but are not limited to:

- a) Acts of God or of the public enemy, and
- b) Acts of the federal or State government in either its sovereign or contractual capacity.

If the failure to perform is caused by the default of a subcontractor at any tier, and if the cause of the default is beyond the control of both the Contractor and subcontractor, and without the fault or negligence of either, the Contractor shall not be liable for any excess costs for failure to perform.

25. RIGHTS AND REMEDIES OF STATE FOR DEFAULT:

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- a) In the event any Deliverables furnished or services provided by the Contractor in the performance of the Contract should fail to conform to the requirements herein, or to the sample submitted by the Contractor, the State may reject the same, and it shall become the duty of the Contractor to reclaim and remove the item promptly or to correct the performance of services, without expense to the State, and immediately replace all such rejected items with others conforming to the Contract.
- b) In addition to any other rights and remedies the State may have, the State may require the Contractor, at Contractor's expense, to ship Deliverables via air freight or expedited routing to avoid or minimize actual or potential delay if the delay is the fault of the Contractor.
- c) In the event of the termination of the Contract, either in whole or in part, by reason of default or breach by the Contractor, any loss or damage sustained by the State in procuring any items which the Contractor agreed to supply shall be borne and paid for by the Contractor (but subject to the clause entitled "Limitation of Liability").
- d) The State reserves the right to offset the reasonable cost of all damages caused to the State against any outstanding invoices or amounts owed to the Contractor or to make a claim against the Contractor therefore.

26. LIMITATION OF LIABILITY:

- a) Except as may be otherwise approved by the Department of General Services Deputy Director, Procurement Division or their designee, Contractor's liability for damages to the State for any cause whatsoever, and regardless of the form of action, whether in Contract or in tort, shall be limited to the Purchase Price. For purposes of this sub-section a), "Purchase Price" will mean the aggregate Contract price; except that, with respect to a Contract under which multiple purchase orders will be issued (e.g., a Master Agreement or Multiple Award Schedule contract), "Purchase Price" will mean the total price of the purchase order for the Deliverable(s) or service(s) that gave rise to the loss, such that the Contractor will have a separate limitation of liability for each purchase order.
- b) The foregoing limitation of liability shall not apply (i) to any liability under the General Provisions entitled "Compliance with Statutes and Regulations"; (ii) to liability under the General Provisions, entitled "Patent, Copyright, and Trade Secret Indemnity" or to any other liability (including without limitation indemnification obligations) for infringement of third-party intellectual property rights; (iii) to claims arising under provisions herein calling for indemnification for third-party claims against the State for death, bodily injury to persons or damage to real or tangible personal property caused by the Contractor's negligence or willful misconduct; or (iv) to costs or attorney's fees that the State becomes entitled to recover as a prevailing party in any action.
- c) The State's liability for damages for any cause whatsoever, and regardless of the form of action, whether in Contract or in tort, shall be limited to the Purchase Price, as that term is defined in subsection a) above. Nothing herein shall be construed to waive or limit the State's sovereign immunity or any other immunity from suit provided by law.

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1. **Definitions:** Unless otherwise specified in the Statement of Work, the following terms shall be given the meaning shown, unless context requires otherwise.
- a) **“Acceptance Tests”** means those tests performed during the Performance period which are intended to determine compliance of Equipment and Software with the specifications and all other Attachments incorporated herein by reference and to determine the reliability of the Equipment.
 - b) **“Application Program”** means a computer program which is intended to be executed for the purpose of performing useful work for the user of the information being processed. Application programs are developed or otherwise acquired by the user of the Hardware/Software system, but they may be supplied by the Contractor.
 - c) **“Attachment”** means a mechanical, electrical, or electronic interconnection to the Contractor-supplied Machine or System of Equipment, manufactured by other than the original Equipment manufacturer that is not connected by the Contractor.
 - d) **“Business entity”** means 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.
 - e) **“Buyer”** means the State’s authorized contracting official.
 - f) **“Commercial Hardware”** means Hardware developed or regularly used that: (i) has been sold, leased, or licensed to the general public; (ii) has been offered for sale, lease, or license to the general public; (iii) has not been offered, sold, leased, or licensed to the public but will be available for commercial sale, lease, or license in time to satisfy the delivery requirements of this Contract; or (iv) satisfies a criterion expressed in (i), (ii), or (iii) above and would require only minor modifications to meet the requirements of this Contract.
 - g) **“Commercial Software”** means Software developed or regularly used that: (i) has been sold, leased, or licensed to the general public; (ii) has been offered for sale, lease, or license to the general public; (iii) has not been offered, sold, leased, or licensed to the public but will be available for commercial sale, lease, or license in time to satisfy the delivery requirements of this Contract; or (iv) satisfies a criterion expressed in (i), (ii), or (iii) above and would require only minor modifications to meet the requirements of this Contract.
 - h) **“Contract”** means this Contract or agreement (including any purchase order), by whatever name known or in whatever format used.
 - i) **“Custom Software”** means **Software that does not meet the definition of Commercial Software.**
 - j) **“Contractor”** means the Business Entity with whom the State enters into this Contract. Contractor shall be synonymous with “supplier”, “vendor” or other similar term.
 - k) **“Data Processing Subsystem”** means a complement of Contractor furnished individual Machines, including the necessary controlling elements (or the functional equivalent), Operating Software and Software, if any, which are acquired to operate as an integrated group, and which are interconnected entirely by Contractor supplied power and/or signal

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- cables, e.g., direct access controller and drives, a cluster of terminals with their controller, etc.
- l) **“Data Processing System (System)”** means the total complement of Contractor-furnished Machines, including one or more central processors (or instruction processors), Operating Software which are acquired to operate as an integrated group.
 - m) **“Deliverables”** means Goods, Software, Information Technology, telecommunications technology, Hardware, and other items (e.g., reports) to be delivered pursuant to this Contract, including any such items furnished incident to the provision of services.
 - n) **“Designated CPU(s)”** means for each product, if applicable, the central processing unit of the computers or the server unit, including any associated peripheral units. If no specific “Designated CPU(s)” are specified on the Contract, the term shall mean any and all CPUs located at the site specified therein.
 - o) **“Documentation”** means manuals and other printed materials necessary or useful to the State in its use or maintenance of the Equipment or Software provided hereunder. Manuals and other printed materials customized for the State hereunder constitute Work Product if such materials are required by the Statement of Work.
 - p) **“Equipment”** is an all-inclusive term which refers either to individual Machines or to a complete Data Processing System or Subsystem, including its Hardware and Operating Software (if any).
 - q) **“Equipment Failure”** is a malfunction in the Equipment, excluding all external factors, which prevents the accomplishment of the Equipment’s intended function(s). If microcode or Operating Software residing in the Equipment is necessary for the proper operation of the Equipment, a failure of such microcode or Operating Software which prevents the accomplishment of the Equipment’s intended functions shall be deemed to be an Equipment Failure.
 - r) **“Facility Readiness Date”** means the date specified in the Statement of Work by which the State must have the site prepared and available for Equipment delivery and installation.
 - s) **“Goods”** means all types of tangible personal property, including but not limited to materials, supplies, and Equipment (including computer and telecommunications Equipment).
 - t) **“Hardware”** usually refers to computer Equipment and is contrasted with Software. See also Equipment.
 - u) **“Installation Date”** means the date specified in the Statement of Work by which the Contractor must have the ordered Equipment ready (certified) for use by the State.
 - v) **“Information Technology”** includes, but is not limited to, all electronic technology systems and services, automated information handling, System design and analysis, conversion of data, computer programming, information storage and retrieval, telecommunications which include voice, video, and data communications, requisite System controls, simulation, electronic commerce, and all related interactions between people and Machines.

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- w) **“Machine”** means an individual unit of Data Processing System or Subsystem, separately identified by a type and/or model number, comprised of but not limited to mechanical, electro-mechanical, and electronic parts, microcode, and special features installed thereon and including any necessary Software, e.g., central processing unit, memory module, tape unit, card reader, etc.
- x) **“Machine Alteration”** means any change to a Contractor-supplied Machine which is not made by the Contractor, and which results in the Machine deviating from its physical, mechanical, electrical, or electronic (including microcode) design, whether or not additional devices or parts are employed in making such change.
- y) **“Maintenance Diagnostic Routines”** means the diagnostic programs customarily used by the Contractor to test Equipment for proper functioning and reliability.
- z) **“Manufacturing Materials”** means parts, tools, dies, jigs, fixtures, plans, drawings, and information produced or acquired, or rights acquired, specifically to fulfill obligations set forth herein.
- aa) **“Mean Time Between Failure (MTBF)”** means the average expected or observed time between consecutive failures in a System or component.
- bb) **“Mean Time to Repair (MTTR)”** means the average expected or observed time required to repair a System or component and return it to normal operation.
- cc) **“Operating Software”** means those routines, whether or not identified as Program Products, that reside in the Equipment and are required for the Equipment to perform its intended function(s), and which interface the operator, other Contractor-supplied programs, and user programs to the Equipment.
- dd) **“Operational Use Time”** means for performance measurement purposes, that time during which Equipment is in actual operation by the State. For maintenance Operational Use Time purposes, that time during which Equipment is in actual operation and is not synonymous with power on time.
- ee) **“Period of Maintenance Coverage”** means the period of time, as selected by the State, during which maintenance services are provided by the Contractor for a fixed monthly charge, as opposed to an hourly charge for services rendered. The Period of Maintenance Coverage consists of the Principal Period of Maintenance and any additional hours of coverage per day, and/or increased coverage for weekends and holidays.
- ff) **“Preventive Maintenance”** means that maintenance, performed on a scheduled basis by the Contractor, which is designed to keep the Equipment in proper operating condition.
- gg) **“Principal Period of Maintenance”** means any nine consecutive hours per day (usually between the hours of 7:00 a.m. and 6:00 p.m.) as selected by the State, including an official meal period not to exceed one hour, Monday through Friday, excluding holidays observed at the installation.
- hh) **“Programming Aids”** means Contractor-supplied programs and routines executable on the Contractor’s Equipment which assists a programmer in the development of applications including language processors, sorts, communications modules, data base

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management systems, and utility routines (tape-to-disk routines, disk-to-print routines, etc.).

- ii) **“Program Product”** means programs, routines, subroutines, and related items which are proprietary to the Contractor and which are licensed to the State for its use, usually on the basis of separately stated charges and appropriate contractual provisions.
- jj) **“Remedial Maintenance”** means that maintenance performed by the Contractor which results from Equipment (including Operating Software) failure, and which is performed as required, i.e., on an unscheduled basis.
- kk) **“Software”** means an all-inclusive term which refers to any computer programs, routines, or subroutines supplied by the Contractor, including Operating Software, Programming Aids, Application Programs, and Program Products.
- ll) **“Software Failure”** means a malfunction in the Contractor-supplied Software, other than Operating Software, which prevents the accomplishment of work, even though the Equipment (including its Operating Software) may still be capable of operating properly. For Operating Software failure, see definition of Equipment Failure.
- mm) **“State”** means the government of the State of California, its employees and authorized representatives, including without limitation any department, agency, or other unit of the government of the State of California.
- nn) **“System”** means the complete collection of Hardware, Software and services as described in this Contract, integrated and functioning together, and performing in accordance with this Contract.
- oo) **“U.S. Intellectual Property Rights”** means intellectual property rights enforceable in the United States of America, including without limitation rights in trade secrets, copyrights, and U.S. patents.

2. CONTRACT FORMATION:

- a) If this Contract results from a sealed bid offered in response to a solicitation conducted pursuant to Chapters 2 (commencing with Section 10290), 3 (commencing with Section 12100), and 3.6 (commencing with Section 12125) of Part 2 of Division 2 of the Public Contract Code (PCC), then Contractor’s bid is a firm offer to the State which is accepted by the issuance of this Contract and no further action is required by either party.
- b) If this Contract results from a solicitation other than described in paragraph a), above, the Contractor’s quotation or proposal is deemed a firm offer and this Contract document is the State’s acceptance of that offer.
- c) If this Contract resulted from a joint bid, it shall be deemed one indivisible Contract. Each such joint Contractor will be jointly and severally liable for the performance of the entire Contract. The State assumes no responsibility or obligation for the division of orders or purchases among joint Contractors.

- 3. **COMPLETE INTEGRATION:** This Contract, including any documents incorporated herein by express reference, is intended to be a complete integration and there are no prior or contemporaneous different or additional agreements pertaining to the subject matter of the Contract.

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4. **SEVERABILITY:** The Contractor and the State agree that if any provision of this Contract is found to be illegal or unenforceable, such term or provision shall be deemed stricken and the remainder of the Contract shall remain in full force and effect. Either party having knowledge of such term or provision shall promptly inform the other of the presumed non-applicability of such provision.
5. **INDEPENDENT CONTRACTOR:** Contractor and the agents and employees of the Contractor, in the performance of this Contract, shall act in an independent capacity and not as officers or employees or agents of the State.
6. **APPLICABLE LAW:** This Contract shall be governed by and shall be interpreted in accordance with the laws of the State of California; venue of any action brought with regard to this Contract shall be in Sacramento County, Sacramento California. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Contract.
7. **COMPLIANCE WITH STATUTES AND REGULATIONS:**
 - a) The State and the Contractor warrants and certifies that in the performance of this Contract, it will comply with all applicable statutes, rules, regulations and orders of the United States and the State of California. The Contractor agrees to indemnify the State against any loss, cost, damage or liability by reason of the Contractors violation of this provision.
 - b) The State will notify the Contractor of any such claim in writing and tender the defense thereof within a reasonable time; and
 - c) The Contractor will have sole control of the defense of any action on such claim and all negotiations for its settlement or compromise; provided that (i) when substantial principles of government or public law are involved, when litigation might create precedent affecting future State operations or liability, or when involvement of the State is otherwise mandated by law, the State may participate in such action at its own expense with respect to attorneys' fees and costs (but not liability); (ii) where a settlement would impose liability on the State, affect principles of California government or public law, or impact the authority of the State, the Department of General Services will have the right to approve or disapprove any settlement or compromise, which approval will not unreasonably be withheld or delayed and (iii) the State will reasonably cooperate in the defense and in any related settlement negotiations.
 - d) If this Contract is in excess of \$554,000, it is subject to the requirements of the World Trade Organization (WTO) Government Procurement Agreement (GPA).
 - e) To the extent that this Contract falls within the scope of Government Code Section 11135, the Contractor hereby agrees to respond to and resolve any complaint brought to its attention, regarding accessibility of its products or services.
8. **CONTRACTOR'S POWER AND AUTHORITY:** The Contractor warrants that it has full power and authority to grant the rights herein granted and will hold the State harmless from and against any loss, cost, liability, and expense (including reasonable attorney fees) arising out of any breach of this warranty. Further, the Contractor avers that it will not enter into any

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arrangement with any third-party which might abridge any rights of the State under this Contract.

- a) The State will notify the Contractor of any such claim in writing and tender the defense thereof within a reasonable time; and
- b) The Contractor will have sole control of the defense of any action on such claim and all negotiations for its settlement or compromise; provided that (i) when substantial principles of government or public law are involved, when litigation might create precedent affecting future State operations or liability, or when involvement of the State is otherwise mandated by law, the State may participate in such action at its own expense with respect to attorneys' fees and costs (but not liability); (ii) where a settlement would impose liability on the State, affect principles of California government or public law, or impact the authority of the State, the Department of General Services will have the right to approve or disapprove any settlement or compromise, which approval will not unreasonably be withheld or delayed; and (iii) the State will reasonably cooperate in the defense and in any related settlement negotiations.

9. ASSIGNMENT: This Contract shall not be assignable by the Contractor in whole or in part without the written consent of the State. The State's consent shall not be unreasonably withheld or delayed. For the purpose of this paragraph, the State will not unreasonably prohibit the Contractor from freely assigning its right to payment, provided that the Contractor remains responsible for its obligations hereunder.

10. WAIVER OF RIGHTS: Any action or inaction by the State or the failure of the State on any occasion, to enforce any right or provision of the Contract, shall not be construed to be a waiver by the State of its rights hereunder and shall not prevent the State from enforcing such provision or right on any future occasion. The rights and remedies of the State herein are cumulative and are in addition to any other rights or remedies that the State may have at law or in equity.

11. ORDER OF PRECEDENCE: In the event of any inconsistency between the articles, attachments, specifications, or provisions which constitute this Contract, the following order of precedence shall apply:

- a) These General Provisions – Information Technology (In the instances provided herein where the paragraph begins: "Unless otherwise specified in the Statement of Work" provisions specified in the Statement of Work replacing these paragraphs shall take precedence over the paragraph referenced in these General Provisions);
- b) Contract form, i.e., Purchase Order STD 65, Standard Agreement STD 213, etc., and any amendments thereto;
- c) Other Special Provisions;
- d) Statement of Work, including any specifications incorporated by reference herein;
- e) Cost worksheets; and
- f) All other attachments incorporated in the Contract by reference.

12. PACKING AND SHIPMENT:

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- a) All Goods are to be packed in suitable containers for protection in shipment and storage, and in accordance with applicable specifications. Each container of a multiple container shipment shall be identified to:
 - i. show the number of the container and the total number of containers in the shipment; and
 - ii. the number of the container in which the packing sheet has been enclosed.
- b) All shipments by the Contractor or its subcontractors must include packing sheets identifying: the State's Contract number; item number; quantity and unit of measure; part number and description of the Goods shipped; and appropriate evidence of inspection, if required. Goods for different Contracts shall be listed on separate packing sheets.
- c) Shipments must be made as specified in this Contract, as it may be amended, or otherwise directed in writing by the State's Transportation Management Unit within the Department of General Services, Procurement Division.

13. TRANSPORTATION COSTS AND OTHER FEES OR EXPENSES: No charge for delivery, drayage, express, parcel post, packing, cartage, insurance, license fees, permits, cost of bonds, or for any other purpose will be paid by the State unless expressly included and itemized in the Contract.

- a) The Contractor must strictly follow Contract requirements regarding Free on Board (F.O.B.), freight terms and routing instructions. The State may permit use of an alternate carrier at no additional cost to the State with advance written authorization of the Buyer.
- b) If "prepay and add" is selected, supporting freight bills are required when over \$50, unless an exact freight charge is approved by the Transportation Management Unit within the Department of General Services Procurement Division and a waiver is granted.
- c) On "F.O.B. Shipping Point" transactions, should any shipments under the Contract be received by the State in a damaged condition and any related freight loss and damage claims filed against the carrier or carriers be wholly or partially declined by the carrier or carriers with the inference that damage was the result of the act of the shipper such as inadequate packaging or loading or some inherent defect in the Equipment and/or material, the Contractor, on request of the State, shall at Contractor's own expense assist the State in establishing carrier liability by supplying evidence that the Equipment and/or material was properly constructed, manufactured, packaged, and secured to withstand normal transportation conditions.

14. DELIVERY: The Contractor shall strictly adhere to the delivery and completion schedules specified in this Contract. Time, if stated as a number of days, shall mean calendar days unless otherwise specified. The quantities specified herein are the only quantities required. If the Contractor delivers in excess of the quantities specified herein, the State shall not be required to make any payment for the excess Deliverables, and may return them to Contractor at the Contractor's expense or utilize any other rights available to the State at law or in equity.

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- 15. SUBSTITUTIONS:** Substitution of Deliverables may not be tendered without advance written consent of the Buyer. The Contractor shall not use any specification in lieu of those contained in the Contract without written consent of the Buyer.
- 16. INSPECTION, ACCEPTANCE AND REJECTION:** Unless otherwise specified in the Statement of Work:
- a) When acquiring Commercial Hardware or Commercial Software, the State shall rely on Contractor's existing quality assurance system as a substitute for State inspection and testing. For all other acquisitions, Contractor and its subcontractors will provide and maintain a quality assurance system acceptable to the State covering Deliverables and services under this Contract and will tender to the State only those Deliverables that have been inspected and found to conform to this Contract's requirements. The Contractor will keep records evidencing inspections and their result, and will make these records available to the State during Contract performance and for three years after final payment. The Contractor shall permit the State to review procedures, practices, processes, and related documents to determine the acceptability of the Contractor's quality assurance System or other similar business practices related to performance of the Contract.
 - b) All Deliverables may be subject to inspection and test by the State or its authorized representatives.
 - c) The Contractor and its subcontractors shall provide all reasonable facilities for the safety and convenience of inspectors at no additional cost to the State. The Contractor shall furnish to inspectors all information and data as may be reasonably required to perform their inspection.
 - d) Subject to subsection 16 (a) above, all Deliverables may be subject to final inspection, test and acceptance by the State at destination, notwithstanding any payment or inspection at source.
 - e) The State shall give written notice of rejection of Deliverables delivered or services performed hereunder within a reasonable time after receipt of such Deliverables or performance of such services. Such notice of rejection will state the respects in which the Deliverables do not substantially conform to their specifications. If the State does not provide such notice of rejection within fifteen (15) days of delivery for purchases of Commercial Hardware or Commercial Software or thirty (30) days of delivery for all other purchases, such Deliverables and services will be deemed to have been accepted. Acceptance by the State will be final and irreversible, except as it relates to latent defects, fraud, and gross mistakes amounting to fraud. Acceptance shall not be construed to waive any warranty rights that the State might have at law or by express reservation in this Contract with respect to any nonconformity.
 - f) Unless otherwise specified in the Statement of Work, title to Equipment shall remain with the Contractor and assigns, if any, until such time as successful acceptance testing has been achieved. Title to a special feature installed on a Machine and for which only a

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single installation charge was paid shall pass to the State at no additional charge, together with title to the Machine on which it was installed.

17. SAMPLES:

- a) Samples of items may be required by the State for inspection and specification testing and must be furnished free of expense to the State. The samples furnished must be identical in all respects to the products bid and/or specified in the Contract.
- b) Samples, if not destroyed by tests, may, upon request made at the time the sample is furnished, be returned at the Contractor's expense.

18. WARRANTY:

- a) Unless otherwise specified in the Statement of Work, the warranties in this subsection a) begin upon delivery of the goods or services in question and end one (1) year thereafter. The Contractor warrants that (i) Deliverables and services furnished hereunder will substantially conform to the requirements of this Contract (including without limitation all descriptions, specifications, and drawings identified in the Statement of Work), and (ii) the Deliverables will be free from material defects in materials and workmanship. Where the parties have agreed to design specifications (such as a Detailed Design Document) and incorporated the same or equivalent in the Statement of Work directly or by reference, the Contractor will warrant that its Deliverables provide all material functionality required thereby. In addition to the other warranties set forth herein, where the Contract calls for delivery of Commercial Software, the Contractor warrants that such Software will perform in accordance with its license and accompanying Documentation. The State's approval of designs or specifications furnished by Contractor shall not relieve the Contractor of its obligations under this warranty.
- b) The Contractor warrants that Deliverables furnished hereunder (i) will be free, at the time of delivery, of harmful code (i.e., computer viruses, worms, trap doors, time bombs, disabling code, or any similar malicious mechanism designed to interfere with the intended operation of, or cause damage to, computers, data, or Software); and (ii) will not infringe or violate any U.S. Intellectual Property Right. Without limiting the generality of the foregoing, if the State believes that harmful code may be present in any Commercial Software delivered hereunder, the Contractor will, upon the State's request, provide a new or clean install of the Software.
- c) Unless otherwise specified in the Statement of Work:
 - i. The Contractor does not warrant that any Software provided hereunder is error-free or that it will run without immaterial interruption.
 - ii. The Contractor does not warrant and will have no responsibility for a claim to the extent that it arises directly from (A) a modification made by the State, unless such modification is approved or directed by the Contractor, (B) use of Software in combination with or on products other than as specified by the Contractor, or (C) misuse by the State.
 - iii. Where the Contractor resells Commercial Hardware or Commercial Software it purchased from a third-party, Contractor, to the extent it is legally able to do so,

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will pass through any such third-party warranties to the State and will reasonably cooperate in enforcing them. Such warranty pass-through will not relieve the Contractor from Contractor's warranty obligations set forth above.

- d) All warranties, including special warranties specified elsewhere herein, shall inure to the State, its successors, assigns, customer agencies, and governmental users of the Deliverables or services.
- e) Except as may be specifically provided in the Statement of Work or elsewhere in this Contract, for any breach of the warranties provided in this Section, the State's exclusive remedy and the Contractor's sole obligation will be limited to:
 - i. re-performance, repair, or replacement of the nonconforming Deliverable (including without limitation an infringing Deliverable) or service; or
 - ii. should the State in its sole discretion consent, refund of all amounts paid by the State for the nonconforming Deliverable or service and payment to the State of any additional amounts necessary to equal the State's Cost to Cover. "Cost to Cover" means the cost, properly mitigated, of procuring Deliverables or services of equivalent capability, function, and performance. The payment obligation in subsection (e)(ii) above will not exceed the limits on the Contractor's liability set forth in the Section entitled "Limitation of Liability."
- f) EXCEPT FOR THE EXPRESS WARRANTIES SPECIFIED IN THIS SECTION, THE CONTRACTOR MAKES NO WARRANTIES EITHER EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

19. SAFETY AND ACCIDENT PREVENTION: In performing work under this Contract on State premises, the Contractor shall conform to any specific safety requirements contained in the Contract or as required by law or regulation. The Contractor shall take any additional precautions as the State may reasonably require for safety and accident prevention purposes. Any violation of such rules and requirements, unless promptly corrected, shall be grounds for termination of this Contract in accordance with the default provisions hereof.

20. INSURANCE: The Contractor shall maintain all commercial general liability insurance, workers' compensation insurance and any other insurance required under the Contract. The Contractor shall furnish insurance certificate(s) evidencing required insurance coverage acceptable to the State, including endorsements showing the State as an "additional insured" if required under the Contract. Any required endorsements requested by the State must be separately provided; merely referring to such coverage on the certificates(s) is insufficient for this purpose. When performing work on state owned or controlled property, Contractor shall provide a waiver of subrogation in favor of the State for its workers' compensation policy.

21. TERMINATION FOR NON-APPROPRIATION OF FUNDS:

- a) If the term of this Contract extends into fiscal years subsequent to that in which it is approved, such continuation of the Contract is contingent on the appropriation of funds for such purpose by the Legislature. If funds to effect such continued payment are not

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appropriated, the Contractor agrees to take back any affected Deliverables furnished under this Contract, terminate any services supplied to the State under this Contract, and relieve the State of any further obligation therefore.

- b) The State agrees that if it appears likely that subsection a) above will be invoked, the State and Contractor shall agree to take all reasonable steps to prioritize work and Deliverables and minimize the incurrence of costs prior to the expiration of funding for this Contract.
- c) THE STATE AGREES THAT IF PARAGRAPH a) ABOVE IS INVOKED, COMMERCIAL HARDWARE AND SOFTWARE THAT HAS NOT BEEN PAID FOR SHALL BE RETURNED TO THE CONTRACTOR IN SUBSTANTIALLY THE SAME CONDITION IN WHICH DELIVERED TO THE STATE, SUBJECT TO NORMAL WEAR AND TEAR. THE STATE FURTHER AGREES TO PAY FOR PACKING, CRATING, TRANSPORTATION TO THE CONTRACTOR'S NEAREST FACILITY AND FOR REIMBURSEMENT TO THE CONTRACTOR FOR EXPENSES INCURRED FOR THEIR ASSISTANCE IN SUCH PACKING AND CRATING.

22. TERMINATION FOR THE CONVENIENCE OF THE STATE:

- a) The State may terminate performance of work under this Contract for its convenience in whole or, from time to time, in part, if the Department of General Services, Deputy Director Procurement Division, or designee, determines that a termination is in the State's interest. The Department of General Services, Deputy Director, Procurement Division, or designee shall terminate by delivering to the Contractor a Notice of Termination specifying the extent of termination and the effective date thereof.
- b) After receipt of a Notice of Termination, and except as directed by the State, the Contractor shall immediately proceed with the following obligations, as applicable, regardless of any delay in determining or adjusting any amounts due under this clause. The Contractor shall:
 - i. Stop work as specified in the Notice of Termination.
 - ii. Place no further subcontracts for materials, services, or facilities, except as necessary to complete the continuing portion of the Contract.
 - iii. Terminate all subcontracts to the extent they relate to the work terminated.
 - iv. Settle all outstanding liabilities and termination settlement proposals arising from the termination of subcontracts.
- c) After termination, the Contractor shall submit a final termination settlement proposal to the State in the form and with the information prescribed by the State. The Contractor shall submit the proposal promptly, but no later than 90 days after the effective date of termination, unless a different time is provided in the Statement of Work or in the Notice of Termination.
- d) The Contractor and the State may agree upon the whole or any part of the amount to be paid as requested under subsection (c) above.
- e) Unless otherwise set forth in the Statement of Work, if the Contractor and the State fail to agree on the amount to be paid because of the termination for convenience, the State will

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pay the Contractor the following amounts; provided that in no event will total payments exceed the amount payable to the Contractor if the Contract had been fully performed:

- i. The Contract price for Deliverables or services accepted or retained by the State and not previously paid for, adjusted for any savings on freight and other charges; and
 - ii. The total of:
 - A. The reasonable costs incurred in the performance of the work terminated, including initial costs and preparatory expenses allocable thereto, but excluding any cost attributable to Deliverables or services paid or to be paid;
 - B. The reasonable cost of settling and paying termination settlement proposals under terminated subcontracts that are properly chargeable to the terminated portion of the Contract; and
 - C. Reasonable storage, transportation, demobilization, unamortized overhead and capital costs, and other costs reasonably incurred by the Contractor in winding down and terminating its work.
- f) The Contractor will use generally accepted accounting principles, or accounting principles otherwise agreed to in writing by the parties, and sound business practices in determining all costs claimed, agreed to, or determined under this clause.

23. TERMINATION FOR DEFAULT:

- a) The State may, subject to the clause titled "Force Majeure" and to sub-section d) below, by written notice of default to the Contractor, terminate this Contract in whole or in part if the Contractor fails to:
 - i. Deliver the Deliverables or perform the services within the time specified in the Contract or any amendment thereto;
 - ii. Make progress, so that the lack of progress endangers performance of this Contract; or
 - iii. Perform any of the other provisions of this Contract.
- b) The State's right to terminate this Contract under sub-section a) above, may be exercised only if the failure constitutes a material breach of this Contract and if the Contractor does not cure such failure within the time frame stated in the State's cure notice, which in no event will be less than fifteen (15) days, unless the Statement of Work calls for a different period.
- c) If the State terminates this Contract in whole or in part pursuant to this Section, it may acquire, under terms and in the manner the Buyer considers appropriate, Deliverables or services similar to those terminated, and the Contractor will be liable to the State for any excess costs for those Deliverables and services, including without limitation costs third-party vendors charge for Manufacturing Materials (but subject to the clause entitled "Limitation of Liability"). However, the Contractor shall continue the work not terminated.

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- d) If the Contract is terminated for default, the State may require the Contractor to transfer title, or in the case of licensed Software, license, and deliver to the State, as directed by the Buyer, any:
 - i. completed Deliverables,
 - ii. partially completed Deliverables, and,
 - iii. subject to provisions of sub-section e) below, Manufacturing Materials related to the terminated portion of this Contract. Nothing in this sub-section d) will be construed to grant the State rights to Deliverables that it would not have received had this Contract been fully performed. Upon direction of the Buyer, the Contractor shall also protect and preserve property in its possession in which the State has an interest.
- e) The State shall pay Contract price for completed Deliverables delivered and accepted and items the State requires the Contractor to transfer under section (d) above. Unless the Statement of Work calls for different procedures or requires no-charge delivery of materials, the Contractor and Buyer shall attempt to agree on the amount of payment for Manufacturing Materials and other materials delivered and accepted by the State for the protection and preservation of the property; provided that where the Contractor has billed the State for any such materials, no additional charge will apply. Failure to agree will constitute a dispute under the Disputes clause. The State may withhold from these amounts any sum it determines to be necessary to protect the State against loss because of outstanding liens or claims of former lien holders.
- f) If, after termination, it is determined by a final decision that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the State.
- g) Both parties, State and Contractor, upon any termination for default, have a duty to mitigate the damages suffered by it.
- h) The rights and remedies of the State in this clause are in addition to any other rights and remedies provided by law or under this Contract, and are subject to the clause titled "Limitation of Liability."

24. FORCE MAJEURE: Except for defaults of subcontractors at any tier, the Contractor shall not be liable for any excess costs if the failure to perform the Contract arises from causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include, but are not limited to:

- a) Acts of God or of the public enemy, and
- b) Acts of the federal or State government in either its sovereign or contractual capacity.

If the failure to perform is caused by the default of a subcontractor at any tier, and if the cause of the default is beyond the control of both the Contractor and subcontractor, and without the fault or negligence of either, the Contractor shall not be liable for any excess costs for failure to perform.

25. RIGHTS AND REMEDIES OF STATE FOR DEFAULT:

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- a) In the event any Deliverables furnished or services provided by the Contractor in the performance of the Contract should fail to conform to the requirements herein, or to the sample submitted by the Contractor, the State may reject the same, and it shall become the duty of the Contractor to reclaim and remove the item promptly or to correct the performance of services, without expense to the State, and immediately replace all such rejected items with others conforming to the Contract.
- b) In addition to any other rights and remedies the State may have, the State may require the Contractor, at Contractor's expense, to ship Deliverables via air freight or expedited routing to avoid or minimize actual or potential delay if the delay is the fault of the Contractor.
- c) In the event of the termination of the Contract, either in whole or in part, by reason of default or breach by the Contractor, any loss or damage sustained by the State in procuring any items which the Contractor agreed to supply shall be borne and paid for by the Contractor (but subject to the clause entitled "Limitation of Liability").
- d) The State reserves the right to offset the reasonable cost of all damages caused to the State against any outstanding invoices or amounts owed to the Contractor or to make a claim against the Contractor therefore.

26. LIMITATION OF LIABILITY:

- a) Except as may be otherwise approved by the Department of General Services Deputy Director, Procurement Division or their designee, Contractor's liability for damages to the State for any cause whatsoever, and regardless of the form of action, whether in Contract or in tort, shall be limited to the Purchase Price. For purposes of this sub-section a), "Purchase Price" will mean the aggregate Contract price; except that, with respect to a Contract under which multiple purchase orders will be issued (e.g., a Master Agreement or Multiple Award Schedule contract), "Purchase Price" will mean the total price of the purchase order for the Deliverable(s) or service(s) that gave rise to the loss, such that the Contractor will have a separate limitation of liability for each purchase order.
- b) The foregoing limitation of liability shall not apply (i) to any liability under the General Provisions entitled "Compliance with Statutes and Regulations"; (ii) to liability under the General Provisions, entitled "Patent, Copyright, and Trade Secret Indemnity" or to any other liability (including without limitation indemnification obligations) for infringement of third-party intellectual property rights; (iii) to claims arising under provisions herein calling for indemnification for third-party claims against the State for death, bodily injury to persons or damage to real or tangible personal property caused by the Contractor's negligence or willful misconduct; or (iv) to costs or attorney's fees that the State becomes entitled to recover as a prevailing party in any action.
- c) The State's liability for damages for any cause whatsoever, and regardless of the form of action, whether in Contract or in tort, shall be limited to the Purchase Price, as that term is defined in subsection a) above. Nothing herein shall be construed to waive or limit the State's sovereign immunity or any other immunity from suit provided by law.

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- d) In no event will either the Contractor or the State be liable for consequential, incidental, indirect, special, or punitive damages, even if notification has been given as to the possibility of such damages, except (i) to the extent that the Contractor's liability for such damages is specifically set forth in the Statement of Work or (ii) to the extent that the Contractor's liability for such damages arises out of sub- section b)(i), b)(ii), or b)(iv) above.

27. CONTRACTOR'S LIABILITY FOR INJURY TO PERSONS OR DAMAGE TO PROPERTY:

- a) The Contractor shall be liable for damages arising out of injury to the person and/or damage to the property of the State, employees of the State, persons designated by the State for training, or any other person(s) other than agents or employees of the Contractor, designated by the State for any purpose, prior to, during, or subsequent to delivery, installation, acceptance, and use of the Deliverables either at the Contractor's site or at the State's place of business, provided that the injury or damage was caused by the fault or negligence of the Contractor.
- b) The Contractor shall not be liable for damages arising out of or caused by an alteration or an Attachment not made or installed by the Contractor, or for damage to alterations or Attachments that may result from the normal operation and maintenance of the Deliverables provided by the Contractor during the Contract.

28. INDEMNIFICATION: The Contractor agrees to indemnify, defend and save harmless the State, its officers, agents and employees from any and all third-party claims, costs (including without limitation reasonable attorneys' fees), and losses due to the injury or death of any individual, or the loss or damage to any real or tangible personal property, resulting from the willful misconduct or negligent acts or omissions of the Contractor or any of its affiliates, agents, subcontractors, employees, suppliers, or laborers furnishing or supplying work, services, materials, or supplies in connection with the performance of this Contract. Such defense and payment will be conditional upon the following:

- a) The State will notify the Contractor of any such claim in writing and tender the defense thereof within a reasonable time; and
- b) The Contractor will have sole control of the defense of any action on such claim and all negotiations for its settlement or compromise; provided that (i) when substantial principles of government or public law are involved, when litigation might create precedent affecting future State operations or liability, or when involvement of the State is otherwise mandated by law, the State may participate in such action at its own expense with respect to attorneys' fees and costs (but not liability); (ii) where a settlement would impose liability on the State, affect principles of California government or public law, or impact the authority of the State, the Department of General Services will have the right to approve or disapprove any settlement or compromise, which approval will not unreasonably be withheld or delayed; and (iii) the State will reasonably cooperate in the defense and in any related settlement negotiations.

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- 29. INVOICES:** Unless otherwise specified, invoices shall be sent to the address set forth herein. Invoices shall be submitted in triplicate and shall include the Contract number; release order number (if applicable); item number; unit price, extended item price and invoice total amount. State sales tax and/or use tax shall be itemized separately and added to each invoice as applicable.
- 30. REQUIRED PAYMENT DATE:** Payment will be made in accordance with the provisions of the California Prompt Payment Act, Government Code Section 927 et seq. Unless expressly exempted by statute, the Act requires State agencies to pay properly submitted, undisputed invoices not more than 45 days after (i) the date of acceptance of Deliverables or performance of services; or (ii) receipt of an undisputed invoice, whichever is later.
- 31. TAXES:** Unless otherwise required by law, the State of California is exempt from Federal excise taxes. The State will only pay for any State or local sales or use taxes on the services rendered or Goods supplied to the State pursuant to this Contract.
- 32. NEWLY MANUFACTURED GOODS:** All Goods furnished under this Contract shall be newly manufactured Goods or certified as new and warranted as new by the manufacturer; used or reconditioned Goods are prohibited, unless otherwise specified.
- 33. CONTRACT MODIFICATION:** No amendment or variation of the terms of this Contract shall be valid unless made in writing, signed by the parties and approved as required. No oral understanding or agreement not incorporated in the Contract is binding on any of the parties.
- 34. CONFIDENTIALITY OF DATA:** All financial statistical, personal, technical and other data and information relating to the State's operation which are designated confidential by the state and made available to the Contractor in order to carry out this Contract, or which become available to the Contractor in carrying out this Contract, shall be protected by the Contractor from unauthorized use and disclosure through the observance of the same or more effective procedural requirements as are applicable to the State. The identification of all such confidential data and information as well as the State's procedural requirements for protection of such data and information from unauthorized use and disclosure shall be provided by the State in writing to the Contractor. If the methods and procedures employed by the Contractor for the protection of the Contractor's data and information are deemed by the State to be adequate for the protection of the State's confidential information, such methods and procedures may be used, with the written consent of the State, to carry out the intent of this paragraph. The Contractor shall not be required under the provisions of this paragraph to keep confidential any data or information which is or becomes publicly available, is already rightfully in the Contractor's possession without obligation of confidentiality, is independently developed by the Contractor outside the scope of this Contract, or is rightfully obtained from third parties.
- 35. NEWS RELEASES:** Unless otherwise exempted, news releases, endorsements, advertising, and social media content pertaining to this Contract shall not be made without prior written approval of the Department of General Services.
- 36. DOCUMENTATION:**

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- a) The Contractor agrees to provide to the State, at no charge, all Documentation as described within the Statement of Work, and updated versions thereof, which are necessary or useful to the State in its use of the Equipment or Software provided hereunder. The Contractor agrees to provide additional Documentation at prices not in excess of charges made by the Contractor to its other customers for similar Documentation.
- b) If the Contractor is unable to perform maintenance or the State desires to perform its own maintenance on Equipment purchased under this Contract then upon written notice by the State the Contractor will provide at Contractor's then current rates and fees adequate and reasonable assistance including relevant Documentation to allow the State to maintain the Equipment based on the Contractor's methodology. The Contractor agrees that the State may reproduce such Documentation for its own use in maintaining the Equipment. If the Contractor is unable to perform maintenance, the Contractor agrees to license any other Contractor that the State may have hired to maintain the Equipment to use the above noted Documentation. The State agrees to include the Contractor's copyright notice on any such Documentation reproduced, in accordance with copyright instructions to be provided by the Contractor.

37. RIGHTS IN WORK PRODUCT:

- a) All inventions, discoveries, intellectual property, technical communications and records originated or prepared by the Contractor pursuant to this Contract including papers, reports, charts, computer programs, and other Documentation or improvements thereto, and including the Contractor's administrative communications and records relating to this Contract (collectively, the "Work Product"), shall be the Contractor's exclusive property. The provisions of this sub-section a) may be revised in a Statement of Work.
- b) Software and other materials developed or otherwise obtained by or for the Contractor or its affiliates independently of this Contract or applicable purchase order ("Pre-Existing Materials") do not constitute Work Product. If the Contractor creates derivative works of Pre-Existing Materials, the elements of such derivative works created pursuant to this Contract constitute Work Product, but other elements do not. Nothing in this Section 37 will be construed to interfere with the Contractor's or its affiliates' ownership of Pre-Existing Materials.
- c) The State will have Government Purpose Rights to the Work Product as Deliverable or delivered to the State hereunder. "Government Purpose Rights" are the unlimited, irrevocable, worldwide, perpetual, royalty-free, non-exclusive rights and licenses to use, modify, reproduce, perform, release, display, create derivative works from, and disclose the Work Product. "Government Purpose Rights" also include the right to release or disclose the Work Product outside the State for any State government purpose and to authorize recipients to use, modify, reproduce, perform, release, display, create derivative works from, and disclose the Work Product for any State government purpose. Such recipients of the Work Product may include, without limitation, State Contractors, California local governments, the U.S. federal government, and the State and local

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governments of other states. "Government Purpose Rights" do not include any rights to use, modify, reproduce, perform, release, display, create derivative works from, or disclose the Work Product for any commercial purpose.

- d) The ideas, concepts, know-how, or techniques relating to data processing, developed during the course of this Contract by the Contractor or jointly by the Contractor and the State may be used by either party without obligation of notice or accounting.
- e) This Contract shall not preclude the Contractor from developing materials outside this Contract that are competitive, irrespective of their similarity to materials which might be delivered to the State pursuant to this Contract.

38. SOFTWARE LICENSE: Unless otherwise specified in the Statement of Work, the Contractor hereby grants to the State and the State accepts from the Contractor, subject to the terms and conditions of this Contract, a perpetual, irrevocable, royalty-free, non-exclusive, license to use the Software Products in this Contract (hereinafter referred to as "Software Products").

- a) The State may use the Software Products in the conduct of its own business, and any division thereof.
- b) The license granted above authorizes the State to use the Software Products in machine-readable form on the Computer System located at the site(s) specified in the Statement of Work. Said Computer System and its associated units (collectively referred to as CPU) are as designated in the Statement of Work. If the designated CPU is inoperative due to malfunction, the license herein granted shall be temporarily extended to authorize the State to use the Software Products, in machine-readable form, on any other State CPU until the designated CPU is returned to operation.
- c) By prior written notice, the State may redesignate the CPU in which the Software Products are to be used provided that the redesignated CPU is substantially similar in size and scale at no additional cost. The redesignation shall not be limited to the original site and will be effective upon the date specified in the notice of redesignation.
- d) Acceptance of Commercial Software (including third-party Software) and Custom Software will be governed by the terms and conditions of this Contract.

39. PROTECTION OF PROPRIETARY SOFTWARE AND OTHER PROPRIETARY DATA:

- a) The State agrees that all material appropriately marked or identified in writing as proprietary, and furnished hereunder are provided for the State's exclusive use for the purposes of this Contract only. All such proprietary data shall remain the property of the Contractor. The State agrees to take all reasonable steps to insure that such proprietary data are not disclosed to others, without prior written consent of the Contractor, subject to the California Public Records Act.
- b) The State will insure, prior to disposing of any media, that any licensed materials contained thereon have been erased or otherwise destroyed.
- c) The State agrees that it will take appropriate action by instruction, agreement or otherwise with its employees or other persons permitted access to licensed software and other proprietary data to satisfy its obligations in this Contract with respect to use, copying, modification, protection and security of proprietary software and other proprietary data.

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40. RIGHT TO COPY OR MODIFY:

- a) Any Software Product provided by the Contractor in machine-readable form may be copied, in whole or in part, in printed or machine-readable form for use by the State with the designated CPU, to perform one-time benchmark tests, for archival or emergency restart purposes, to replace a worn copy, to understand the contents of such machine-readable material, or to modify the Software Product as provided below; provided, however, that no more than the number of printed copies and machine-readable copies as specified in the Statement of Work will be in existence under this Contract at any time without prior written consent of the Contractor. Such consent shall not be unreasonably withheld by the Contractor. The original, and any copies of the Software Product, in whole or in part, which are made hereunder shall be the property of the Contractor.
- b) The State may modify any non-personal computer Software Product, in machine-readable form, for its own use and merge it into other program material. Any portion of the Software Product included in any merged program material shall be used only on the designated CPUs and shall be subject to the terms and conditions of the Contract.

41. FUTURE RELEASES: Unless otherwise specifically provided in this Contract, or the Statement of Work, if improved versions, e.g., patches, bug fixes, updates or releases, of any Software Product are developed by the contractor, and are made available to other licensees, they will be made available to the State at no additional cost only if such are made available to other licensees at no additional cost. If the Contractor offers new versions or upgrades to the Software Product, they shall be made available to the State at the State's option at a price no greater than the Contract price plus a price increase proportionate to the increase from the list price of the original version to that of the new version, if any. If the Software Product has no list price, such price increase will be proportionate to the increase in average price from the original to the new version, if any, as estimated by the Contractor in good faith.

42. ENCRYPTION/CPU ID AUTHORIZATION CODES:

- a) When Encryption/CPU Identification (ID) authorization codes are required to operate the Software Products, the Contractor will provide all codes to the State with delivery of the Software.
- b) In case of inoperative CPU, the Contractor will provide a temporary encryption/CPU ID authorization code to the State for use on a temporarily authorized CPU until the designated CPU is returned to operation.
- c) When changes in designated CPUs occur, the State will notify the Contractor via telephone and/or facsimile/e-mail of such change. Upon receipt of such notice, the Contractor will issue via telephone and/or facsimile/e-mail to the State within 24 hours, a temporary encryption ID authorization code for use on the newly designated CPU until such time as permanent code is assigned.

43. PATENT, COPYRIGHT AND TRADE SECRET INDEMNITY:

- a) Contractor will indemnify, defend, and save harmless the State, its officers, agents, and employees, from any and all third-party claims, costs (including without limitation

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reasonable attorneys' fees), and losses for infringement or violation of any U.S. Intellectual Property Right by any product or service provided hereunder. With respect to claims arising from computer Hardware or Software manufactured by a third-party and sold by Contractor as a reseller, Contractor will pass through to the State such indemnity rights as it receives from such third-party ("Third-Party Obligation") and will cooperate in enforcing them; provided that if the third-party manufacturer fails to honor the Third-Party Obligation, Contractor will provide the State with indemnity protection equal to that called for by the Third-Party Obligation, but in no event greater than that called for in the first sentence of this Section). The provisions of the preceding sentence apply only to third-party computer Hardware or Software sold as a distinct unit and accepted by the State.

Unless a Third-Party Obligation provides otherwise, the defense and payment obligations set forth in this Section will be conditional upon the following:

- i. The State will notify the Contractor of any such claim in writing and tender the defense thereof within a reasonable time; and
 - ii. The Contractor will have sole control of the defense of any action on such claim and all negotiations for its settlement or compromise; provided that (a) when substantial principles of government or public law are involved, when litigation might create precedent affecting future State operations or liability, or when involvement of the State is otherwise mandated by law, the State may participate in such action at its own expense with respect to attorneys' fees and costs (but not liability); (b) where a settlement would impose liability on the State, affect principles of California government or public law, or impact the authority of the State, the Department of General Services will have the right to approve or disapprove any settlement or compromise which approval will not unreasonably be withheld or delayed; and (c) the State will reasonably cooperate in the defense and in any related settlement negotiations.
- b) Should the Deliverables, or the operation thereof, become, or in the Contractor's opinion are likely to become, the subject of a claim of infringement or violation of a U.S. Intellectual Property Right, the State shall permit the Contractor, at its option and expense, either to procure for the State the right to continue using the Deliverables, or to replace or modify the same so that they become non-infringing. If none of these options can reasonably be taken, or if the use of such Deliverables by the State shall be prevented by injunction the Contractor agrees to take back such Deliverables and make every reasonable effort to assist the State in procuring substitute Deliverables. If, in the sole opinion of the State, the return of such infringing Deliverables makes the retention of other Deliverables acquired from the Contractor under this Contract impractical, the State shall then have the option of terminating such Contracts, or applicable portions thereof, without penalty or termination charge. The Contractor agrees to take back such Deliverables and refund any sums the State has paid the Contractor less any reasonable amount for use or damage.

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- c) The Contractor shall have no liability to the State under any provision of this clause with respect to any claim of patent, copyright or trade secret infringement which is based upon:
 - i. The combination or utilization of Deliverables furnished hereunder with Equipment, Software or devices not made or furnished by the Contractor; or,
 - ii. The operation of Equipment furnished by the Contractor under the control of any Operating Software other than, or in addition to, the current version of Contractor-supplied Operating Software; or
 - iii. The modification initiated by the State, or a third-party at the State's direction, of any Deliverable furnished hereunder; or
 - iv. The combination or utilization of Software furnished hereunder with non-contractor supplied Software.
- d) The Contractor certifies that it has appropriate systems and controls in place to ensure that State funds will not be used in the performance of this Contract for the acquisition, operation or maintenance of computer Software in violation of copyright laws.

44. DISPUTES:

- a) The parties shall deal in good faith and attempt to resolve potential disputes informally. If the dispute persists, the Contractor shall submit to the contracting Department Director or designee a written demand for a final decision regarding the disposition of any dispute between the parties arising under, related to or involving this Contract. Contractor's written demand shall be fully supported by factual information, and if such demand involves a cost adjustment to the Contract, the Contractor shall include with the demand a written statement signed by an authorized person indicating that the demand is made in good faith, that the supporting data are accurate and complete and that the amount requested accurately reflects the Contract adjustment for which Contractor believes the State is liable. The contracting Department Director or designee shall have 30 days after receipt of Contractor's written demand invoking this Section "Disputes" to render a written decision. If a written decision is not rendered within 30 days after receipt of the Contractor's demand, it shall be deemed a decision adverse to the Contractor's contention. If the Contractor is not satisfied with the decision of the contracting Department Director or designee, the Contractor may appeal the decision, in writing, within 15 days of its issuance (or the expiration of the 30 day period in the event no decision is rendered by the contracting department), to the Department of General Services, Deputy Director, Procurement Division, who shall have 45 days to render a final decision. If the Contractor does not appeal the decision of the contracting Department Director or designee, the decision shall be conclusive and binding regarding the dispute and the Contractor shall be barred from commencing an action in court, or with the Victims Compensation Government Claims Board, for failure to exhaust Contractor's administrative remedies.
- b) Pending the final resolution of any dispute arising under, related to or involving this Contract, Contractor agrees to diligently proceed with the performance of this Contract,

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including the delivery of Goods or providing of services in accordance with the State's instructions regarding this Contract. Contractor's failure to diligently proceed in accordance with the State's instructions regarding this Contract shall be considered a material breach of this Contract.

- c) Any final decision of the State shall be expressly identified as such, shall be in writing, and shall be signed by the Deputy Director, Procurement Division if an appeal was made. If the Deputy Director, Procurement Division fails to render a final decision within 45 days after receipt of the Contractor's appeal for a final decision, it shall be deemed a final decision adverse to the Contractor's contentions. The State's final decision shall be conclusive and binding regarding the dispute unless the Contractor commences an action in a court of competent jurisdiction to contest such decision within 90 days following the date of the final decision or one (1) year following the accrual of the cause of action, whichever is later.
- d) For disputes involving purchases made by the Department of General Services, Procurement Division, the Contractor shall submit to the Department Director or designee a written demand for a final decision, which shall be fully supported in the manner described in subsection a) above. The Department Director or designee shall have 30 days to render a final decision. If a final decision is not rendered within 30 days after receipt of the Contractor's demand, it shall be deemed a final decision adverse to the Contractor's contention. The final decision shall be conclusive and binding regarding the dispute unless the Contractor commences an action in a court of competent jurisdiction to contest such decision within 90 days following the date of the final decision or one (1) year following the accrual of the cause of action, whichever is later.
- e) The dates of decision and appeal in this section may be modified by mutual consent, as applicable, excepting the time to commence an action in a court of competent jurisdiction.

45. STOP WORK:

- a) The State may, at any time, by written Stop Work Order to the Contractor, require the Contractor to stop all, or any part, of the work called for by this Contract for a period up to 45 days after the Stop Work Order is delivered to the Contractor, and for any further period to which the parties may agree. The Stop Work Order shall be specifically identified as such and shall indicate it is issued under this clause. Upon receipt of the Stop Work Order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the Stop Work Order during the period of work stoppage. Within a period of 45 days after a Stop Work Order is delivered to the Contractor, or within any extension of that period to which the parties shall have agreed, the State shall either:
 - i. Cancel the Stop Work Order; or
 - ii. Terminate the work covered by the Stop Work Order as provided for in the termination for default or the termination for convenience clause of this Contract.
- b) If a Stop Work Order issued under this clause is canceled or the period of the Stop Work Order or any extension thereof expires, the Contractor shall resume work. The State shall

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make an equitable adjustment in the delivery schedule, the Contract price, or both, and the Contract shall be modified, in writing, accordingly, if:

- i. The Stop Work Order results in an increase in the time required for, or in the Contractor's cost properly allocable to the performance of any part of this Contract; and
 - ii. The Contractor asserts its right to an equitable adjustment within 60 days after the end of the period of work stoppage; provided, that if the State decides the facts justify the action, the State may receive and act upon a proposal submitted at any time before final payment under this Contract.
- c) If a Stop Work Order is not canceled and the work covered by the Stop Work Order is terminated in accordance with the provision entitled Termination for the Convenience of the State, the State shall allow reasonable costs resulting from the Stop Work Order in arriving at the termination settlement.
- d) The State shall not be liable to the Contractor for loss of profits because of a Stop Work Order issued under this clause.

46. EXAMINATION AND AUDIT: The Contractor agrees that the State or its designated representative shall have the right to review and copy any records and supporting documentation directly pertaining to performance of this Contract. The Contractor agrees to maintain such records for possible audit for a minimum of three (3) years after final payment, unless a longer period of records retention is stipulated. The Contractor agrees to allow the auditor(s) access to such records during normal business hours and in such a manner so as to not interfere unreasonably with normal business activities and to allow interviews of any employees or others who might reasonably have information related to such records. Further, the Contractor agrees to include a similar right of the State to audit records and interview staff in any subcontract related to performance of this Contract. The State shall provide reasonable advance written notice of such audit(s) to the Contractor.

47. FOLLOW-ON CONTRACTS:

- a) If the Contractor or its affiliates provides Technical Consulting and Direction (as defined below), the Contractor and its affiliates:
- i. will not be awarded a subsequent Contract to supply the service or system, or any significant component thereof, that is used for or in connection with any subject of such Technical Consulting and Direction; and
 - ii. will not act as consultant to any person or entity that does receive a Contract described in sub-section (i). This prohibition will continue for one (1) year after termination of this Contract or completion of the Technical Consulting and Direction, whichever comes later.
- b) "Technical Consulting and Direction" means services for which the Contractor received compensation from the State and includes:
- i. development of or assistance in the development of work statements, specifications, solicitations, or feasibility studies;
 - ii. development or design of test requirements;

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- iii. evaluation of test data;
 - iv. direction of or evaluation of another Contractor;
 - v. provision of formal recommendations regarding the acquisition of Information Technology products or services; or
 - vi. provisions of formal recommendations regarding any of the above. For purposes of this Section, “affiliates” are employees, directors, partners, joint venture participants, parent corporations, subsidiaries, or any other entity controlled by, controlling, or under common control with the Contractor. Control exists when an entity owns or directs more than fifty percent (50%) of the outstanding shares or securities representing the right to vote for the election of directors or other managing authority.
- c) To the extent permissible by law, the Director of the Department of General Services, or designee, may waive the restrictions set forth in this Section by written notice to the Contractor if the Director determines their application would not be in the State’s best interest. Except as prohibited by law, the restrictions of this Section will not apply:
- i. to follow-on advice given by vendors of commercial off-the-shelf products, including Software and Hardware, on the operation, integration, repair, or maintenance of such products after sale; or
 - ii. where the State has entered into a master agreement for Software or services and the scope of work at the time of Contract execution expressly calls for future recommendations among the Contractor’s own products.
- d) The restrictions set forth in this Section are in addition to conflict of interest restrictions imposed on public Contractors by California law (“Conflict Laws”). In the event of any inconsistency, such Conflict Laws override the provisions of this Section, even if enacted after execution of this Contract.

48. PRIORITY HIRING CONSIDERATIONS: If this Contract includes services in excess of \$200,000, the Contractor shall give priority consideration in filling vacancies in positions funded by the Contract to qualified recipients of aid under Welfare and Institutions Code Section 11200 in accordance with PCC Section 10353.

49. COVENANT AGAINST GRATUITIES: The Contractor warrants that no gratuities (in the form of entertainment, gifts, or otherwise) were offered or given by the Contractor, or any agent or representative of the Contractor, to any officer or employee of the State with a view toward securing the Contract or securing favorable treatment with respect to any determinations concerning the performance of the Contract. For breach or violation of this warranty, the State shall have the right to terminate the Contract, either in whole or in part, and any loss or damage sustained by the State in procuring on the open market any items which the Contractor agreed to supply shall be borne and paid for by the Contractor. The rights and remedies of the State provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or in equity.

50. NONDISCRIMINATION CLAUSE:

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- a) During the performance of this Contract, the Contractor and its subcontractors shall not unlawfully discriminate, harass or allow harassment, against any employee or applicant for employment because of sex, sexual orientation, race, color, ancestry, religious creed, national origin, disability (including HIV and AIDS), medical condition (cancer), age, marital status, and denial of family care leave. The Contractor and subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. The Contractor and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Government Code, Section 12990 et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285.0 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations are incorporated into this Contract by reference and made a part hereof as if set forth in full. The Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement.
- b) The Contractor shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the Contract.

51. NATIONAL LABOR RELATIONS BOARD CERTIFICATION: The Contractor swears under penalty of perjury that no more than one final, unappealable finding of contempt of court by a federal court has been issued against the Contractor within the immediately preceding two-year period because of the Contractor's failure to comply with an order of the National Labor Relations Board. This provision is required by, and shall be construed in accordance with, PCC Section 10296.

52. ASSIGNMENT OF ANTITRUST ACTIONS: Pursuant to Government Code Sections 4552, 4553, and 4554, the following provisions are incorporated herein:

- a) In submitting a bid to the State, the supplier offers and agrees that if the bid is accepted, it will assign to the State all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. 15) or under the Cartwright Act (Chapter 2, commencing with Section 16700, of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of Goods, material or other items, or services by the supplier for sale to the State pursuant to the solicitation. Such assignment shall be made and become effective at the time the State tenders final payment to the supplier.
- b) If the State receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this chapter, the assignor shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the State any portion of the recovery, including treble damages, attributable to overcharges that were paid by the assignor but were not paid by the State as part of the bid price, less the expenses incurred in obtaining that portion of the recovery.

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- c) Upon demand in writing by the assignor, the assignee shall, within one year from such demand, reassign the cause of action assigned under this part if the assignor has been or may have been injured by the violation of law for which the cause of action arose and
 - i. the assignee has not been injured thereby, or
 - ii. the assignee declines to file a court action for the cause of action.

53. DRUG-FREE WORKPLACE CERTIFICATION: The Contractor certifies under penalty of perjury under the laws of the State of California that the Contractor will comply with the requirements of the Drug-Free Workplace Act of 1990 (Government Code Section 8350 et seq.) and will provide a drug-free workplace by taking the following actions:

- a) Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations, as required by Government Code Section 8355(a).
- b) Establish a Drug-Free Awareness Program as required by Government Code Section 8355(b) to inform employees about all of the following:
 - i. the dangers of drug abuse in the workplace;
 - ii. the person's or organization's policy of maintaining a drug-free workplace;
 - iii. any available counseling, rehabilitation and employee assistance programs; and,
 - iv. penalties that may be imposed upon employees for drug abuse violations.
- c) Provide, as required by Government Code Section 8355(c), that every employee who works on the proposed or resulting Contract:
 - i. will receive a copy of the company's drug-free policy statement; and,
 - ii. will agree to abide by the terms of the company's statement as a condition of employment on the Contract.

54. FOUR-DIGIT DATE COMPLIANCE: Contractor warrants that it will provide only Four-Digit Date Compliant (as defined below) Deliverables and/or services to the State. "Four Digit Date Compliant" Deliverables and services can accurately process, calculate, compare, and sequence date data, including without limitation date data arising out of or relating to leap years and changes in centuries. This warranty and representation is subject to the warranty terms and conditions of this Contract and does not limit the generality of warranty obligations set forth elsewhere herein.

55. SWEATFREE CODE OF CONDUCT:

- a) Contractor declares under penalty of perjury that no equipment, materials, or supplies furnished to the State pursuant to the Contract have been produced in whole or in part by sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor, or with the benefit of sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor. The Contractor further declares under penalty of perjury that they adhere to the Sweatfree

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Code of Conduct as set forth on the California Department of Industrial Relations website located at www.dir.ca.gov, and Public Contract Code Section 6108.

- b) The Contractor agrees to cooperate fully in providing reasonable access to its records, documents, agents or employees, or premises if reasonably required by authorized officials of the State, the Department of Industrial Relations, or the Department of Justice to determine the Contractor's compliance with the requirements under paragraph (a).

56. RECYCLED CONTENT REQUIREMENTS: The Contractor shall certify in writing under penalty of perjury, the minimum, if not exact, percentage of post-consumer material (as defined in the Public Contract Code (PCC) Section 12200-12209), in products, materials, goods, or supplies offered or sold to the State that fall under any of the statutory categories regardless of whether the product meets the requirements of Section 12209. The certification shall be provided by the contractor, even if the product or good contains no postconsumer recycled material, and even if the postconsumer content is unknown. With respect to printer or duplication cartridges that comply with the requirements of Section 12156(e), the certification required by this subdivision shall specify that the cartridges so comply (PCC 12205 (b)(2)). A state agency contracting officer may waive the certification requirements if the percentage of postconsumer material in the products, materials, goods, or supplies can be verified in a written advertisement, including, but not limited to, a product label, a catalog, or a manufacturer or vendor Internet web site. Contractors are to use, to the maximum extent economically feasible in the performance of the contract work, recycled content products (PCC 12203(d)).

57. CHILD SUPPORT COMPLIANCE ACT: For any Contract in excess of \$100,000, the Contractor acknowledges in accordance with PCC Section 7110, that:

- a) The Contractor recognizes the importance of child and family support obligations and shall fully comply with all applicable State and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with Section 5200) of Part 5 of Division 9 of the Family Code; and
- b) The Contractor, to the best of its knowledge is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.

58. AMERICANS WITH DISABILITIES ACT: The Contractor assures the State that the Contractor complies with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.).

59. ELECTRONIC WASTE RECYCLING ACT OF 2003: The Contractor certifies that it complies with the applicable requirements of the Electronic Waste Recycling Act of 2003, Chapter 8.5, Part 3 of Division 30, commencing with Section 42460 of the Public Resources Code. The Contractor shall maintain documentation and provide reasonable access to its records and documents that evidence compliance.

60. USE TAX COLLECTION: In accordance with PCC Section 10295.1, the Contractor certifies that it complies with the requirements of Section 7101 of the Revenue and Taxation Code.

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Contractor further certifies that it will immediately advise the State of any change in its retailer's seller's permit or certification of registration or applicable affiliate's seller's permit or certificate of registration as described in subdivision (a) of PCC Section 10295.1.

- 61. EXPATRIATE CORPORATIONS:** Contractor hereby declares that it is not an expatriate corporation or subsidiary of an expatriate corporation within the meaning of PCC Sections 10286 and 10286.1, and is eligible to contract with the State.
- 62. DOMESTIC PARTNERS:** For contracts over \$100,000 executed or amended after January 1, 2007, the contractor certifies that the contractor is in compliance with Public Contract Code Section 10295.3.
- 63. SMALL BUSINESS PARTICIPATION AND DVBE PARTICIPATION REPORTING REQUIREMENTS:**
- a) If for this Contract the Contractor made a commitment to achieve small business participation, then the Contractor must within 60 days of receiving final payment under this Contract (or within such other time period as may be specified elsewhere in this Contract) report to the awarding department the actual percentage of small business participation that was achieved. (Govt. Code § 14841.)
 - b) If for this Contract the Contractor made a commitment to achieve disabled veteran business enterprise (DVBE) participation, then Contractor must within 60 days of receiving final payment under this Contract (or within such other time period as may be specified elsewhere in this Contract) certify in a report to the awarding department: (1) the total amount the prime Contractor received under the Contract; (2) the name and address of the DVBE(s) that participated in the performance of the Contract; (3) the amount each DVBE received from the prime Contractor; (4) that all payments under the Contract have been made to the DVBE; and (5) the actual percentage of DVBE participation that was achieved. A person or entity that knowingly provides false information shall be subject to a civil penalty for each violation. (Mil. & Vets. Code § 999.5(d); Govt. Code § 14841.)
- 64. LOSS LEADER:** It is unlawful for any person engaged in business within this state to sell or use any article or product as a "loss leader" as defined in Section 17030 of the Business and Professions Code. (PCC 12104.5(b)).