



Information Technology Software Contract

between

The Virginia Information Technologies Agency

on behalf of

The Commonwealth of Virginia

and

SHI International Corp

**INFORMATION TECHNOLOGY SOFTWARE CONTRACT
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INFORMATION TECHNOLOGY SOFTWARE CONTRACT

THIS INFORMATION TECHNOLOGY SOFTWARE CONTRACT ("**Contract**") is entered into by and between the Virginia Information Technologies Agency ("**VITA**") pursuant to §2.2-2012 of the Code of Virginia and on behalf of the Commonwealth of Virginia ("Commonwealth"), and SHI International Corp. ("**Supplier**"), a corporation headquartered at 290 Davidson Ave, Somerset, NJ, 08873 to be effective as of Contract Award Date ("**Effective Date**").

1. PURPOSE AND SCOPE

VITA, on behalf of the Commonwealth, is seeking [a] solution that will provide Commercial Off-The-Shelf ("COTS") Software, installation services, training services and manufacturer's software maintenance. This Contract sets forth the terms and conditions under which Supplier shall provide a COTS Software solution to the Authorized Users.

2. DEFINITIONS

A. **Acceptance**

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

B. **Agent**

Any third Party independent agent of any Authorized User.

C. **Authorized Users**

Except for telecommunications contracts, means all public bodies, including VITA, as defined by §2.2-4301 and referenced by §2.2-4304 and §2.2-2012 of the Code of Virginia. Authorized Users shall include private institutions of higher education that are listed at: <http://www.cicv.org/Our-Colleges/Profiles.aspx>.

D. **Claim**

Any and all losses, damages, claims, demands, proceedings, suits and actions, including any related liabilities, obligations, losses, damages, assessments, fines, penalties (whether criminal or civil), judgments, settlements, expenses (including attorneys' and accountants' fees and disbursements), and costs. Collectively, "Claims".

E. **Computer Virus**

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

F. **Commercial Off-The-Shelf ("COTS") Software**

Software that is general in nature, not broad enterprise applications, non-developmental software which has been created for specific uses and is available to the general public in commercial marketplaces. COTS Software are designed to be implemented easily into existing systems without the need for customization. Programs and code, and any subsequent releases, provided by Supplier under this Contract as set forth in Exhibit B or as described on Supplier's US and International price lists in effect at time of Authorized User's placement

G. **Commonwealth**

The Commonwealth of Virginia

H. **Commonwealth Indemnified Parties**

Means, collectively and individually, the Commonwealth, VITA, any Authorized User, their officers, directors, agents, and employees.

I. Confidential Information

Any confidential or proprietary information of a Party that is disclosed in any manner, including oral or written, graphic, machine readable or other tangible form, to any other Party in connection with or as a result of discussions related to this Contract or any order or SOW issued hereunder, and which at the time of disclosure either:

- (i) is marked as being “Confidential” or “Proprietary”;
- (ii) is otherwise reasonably identifiable as the confidential or proprietary information of the disclosing Party;
- (iii) under the circumstances of disclosure should reasonably be considered as confidential or proprietary information of the disclosing Party;
- (iv) is identifiable or should be reasonably considered as protected health information; or
- (v) any personally identifiable information, including information about VITA’s employees, contractors, and customers, that is protected by statute or other applicable law.

J. Contract

This agreement, including all exhibits, schedules, and attachments, entered into by VITA and Supplier.

K. Contractor

The use of the term “Contractor” in any of the following terms, conditions, links, or IRS Publication 1075 means the same as the term “Supplier,” as defined and used in this Contract.

L. Documentation

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

M. Electronic Self-Help

Any use of electronic means to exercise Supplier’s license termination rights, if allowable pursuant to the Contract, upon breach or cancellation, termination or expiration of this Contract or any Statement of Work or order placed hereunder.

N. Effective Date

The date this Contract goes into full force and effect. This Effective Date will be the later date, if applicable, of the dates upon which this Contract is signed by authorized representatives of VITA and Supplier below.

O. Federal Tax Information (“FTI”)

FTI consists of federal tax returns and return information (and information derived from it) that is in the possession or control of any Authorized User, which is covered by the confidentiality protections of the Internal Revenue Code (“IRC”) and subject to the IRC § 6103(p)(4) safeguarding requirements including IRS oversight. FTI is categorized as “Sensitive” but “Unclassified” information and may contain personally identifiable information.

P. Industrial Funding Adjustment (“IFA”)

A fee paid by Supplier to cover VITA’s cost of managing the Contract.

Q. Installation Services

Services limited to the installation of the COTS Software with only the configuration necessary to ensure that the COTS Software operates properly in an Authorized User’s environment. Installation Services shall not include customization or installation of specific enhancements.

R. Maintenance Coverage Period (“MCP”)

The term during which maintenance is to be provided for a unit of Software or Product.

- S. Maintenance Level**
The defined parameters of Maintenance Services, including the times during which and time-frames in which Supplier shall respond to a request for Maintenance Services. The available Maintenance Levels shall be as defined in Exhibit C hereto or as defined in any Statement of Work or order issued hereunder. The actual Maintenance Level for a unit of Software or Product shall be set forth in the executed order or Statement of Work for Maintenance of that Software or Product referencing this Contract.
- T. Maintenance Services**
- U. Those services, preventive and remedial, provided or performed by the Software Publisher under the Contract or for an Authorized User in order to ensure continued operation of the Software. Maintenance Services shall include support services. Party**
Supplier, VITA or any Authorized User.
- V. Realized Sales**
Sales under this Contract for which Supplier has received full and complete payment.
- W. Requirements**
The functional, performance, operational, compatibility, Acceptance testing criteria and other parameters and characteristics of the Product, Software, Solution, Component, Service(s), Application and Licensed Services and Deliverables, as authorized by the Contract and/or as set forth in Exhibit A and/or the applicable Statement of Work or order and such other parameters, characteristics, or performance standards that may be agreed upon in writing by the Parties.
- X. Services**
- Y. Supplier's reseller services, i.e. sourcing and fulfilling Software as ordered under this Contract. Software Publisher**
The licensor of the Software, other than Supplier, provided by Supplier under this Contract.
- Z. Statement of Work ("SOW")**
Any document in substantially the form of Exhibit D (describing the deliverables, due dates, assignment duration and payment obligations for a specific project, engagement, or assignment that Supplier commits to provide to an Authorized User), which, upon signing by both Parties, shall be deemed a part of the Contract.
- AA. Subcontractor**
Any group or person that furnishes supplies or services to the Commonwealth on behalf of Supplier or another Subcontractor in performance of this Contract.
- BB. Supplier**
The entity set forth in the preamble of this Contract and any entity that controls, is controlled by, or is under common control with Supplier.
- CC. Supplier Personnel**
Any and all of Supplier's employees, agents, contractors, or subcontractors performing under this Contract.
- DD. Supplier Reporting System ("SRS")**
The VITA system used by Supplier to fulfill reporting obligations under this Contract. The SRS can be accessed at the following URL(s): <http://vita2.virginia.gov/procurement/srs/>, or any successor URL(s).
- EE. SWaM**
Any entity certified by the Commonwealth's Department of Small Business and Supplier Diversity as a small, women-owned, or minority-owned business, or a small service disabled veteran-owned business, as defined in § 2.2-4310 or § 2.2-1401 of the Code of Virginia, or a certified micro business as defined in Executive Order Number 20 (2014).

FF. Term

The period of time beginning with the Effective Date and lasting for the length of time, including any extension periods, set forth in the "Contract Term" section below during which this Contract will be in full force and effect.

GG. Transition Out Plan

The written plan developed by Supplier addressing the transition of Supplier's contractual obligations, in whole or in part, away from the Supplier and to Authorized User, or its designee, after the expiration or termination of the Contract.

HH. Transition Period

The period of time after the expiration or termination of the Contract that, Supplier is obligated to continue providing assistance to Authorized Users so as to transition the Supplier's contractual obligations, or any portion thereof, to any other supplier.

II. Update

Any update, modification or new release of the Software, System Software, Application, Documentation, or Supplier Product that Supplier makes generally available to its customers at no additional cost. Software Updates include patches, fixes, upgrades, enhancements, improvements, or access mode, including without limitation additional capabilities to or otherwise improve the functionality, increase the speed, efficiency, or base operation of the Software.

JJ. VITA

The Virginia Information Technologies Agency, an agency of the Commonwealth of Virginia pursuant to Chapter 20.1 (§§ 2.2-2005 et seq.) of the Code of Virginia, or any successor agency.

KK. Warranty Period

The term during which maintenance is to be provided by Supplier for a unit of Software.

3. TERM AND TERMINATION

A. Contract Term

This Contract is effective and legally binding as of the Effective Date and, unless terminated as provided for in this section, shall continue to be effective and legally binding for a period of two (2) years. VITA, in its sole discretion, may extend this Contract for up to three (3) additional 1-year periods after the expiration of the initial two (2) year period. VITA will issue a written notification to the Supplier stating the extension period 30 days prior to the expiration of any current term. In addition, performance of an order or SOW issued during the term of this Contract may survive the expiration of the term of this Contract, in which case all contractual terms and conditions required for the operation of such order or SOW shall remain in full force and effect until all of Supplier's obligations pursuant to such order or SOW have met the final Acceptance criteria of the applicable Authorized User.

B. Termination for Convenience

VITA may terminate this Contract, in whole or in part, or any order or SOW issued hereunder, in whole or in part, or an Authorized User may terminate an order or SOW, in whole or in part, upon not less than 30 days prior written notice at any time for any reason. Any termination under this provision will not affect the rights and obligations attending any order or SOW outstanding at the termination date. The parties agree that termination of this Contract does not terminate any Maintenance Services.

C. Termination for Breach

In the event of breach by the Supplier, VITA alone will have the right to terminate this Contract, in whole or in part, and VITA or an Authorized User alone may terminate an order or SOW issued hereunder, in whole or in part. Supplier will be deemed in breach in the event that Supplier fails to meet any material obligation set forth in this Contract or in any order or SOW issued hereunder. Any termination under the provisions of this section will be deemed a "Termination for Breach".

- D. If VITA deems the Supplier to be in breach, VITA shall provide Supplier with notice of breach and allow Supplier 15 business days to cure the breach. If Supplier fails to cure the breach as noted, VITA may immediately terminate this Contract or any order or SOW issued pursuant to this Contract, in whole or in part. If an Authorized User deems the Supplier to be in breach of an order or SOW, that Authorized User shall provide Supplier with notice of breach and allow Supplier 15 business days to cure the breach. If Supplier fails to cure the breach as noted, the Authorized User may immediately terminate its order or SOW, in whole or in part. In addition, if Supplier is found by a court of competent jurisdiction to be in violation of or to have violated 31 U.S.C. § 1352, or if Supplier becomes a party excluded from Federal Procurement and Nonprocurement Programs, VITA may immediately terminate this Contract, in whole or in part, for breach, and VITA shall provide written notice to Supplier of such termination. Supplier shall provide prompt written notice to VITA if Supplier is charged with violation of 31 U.S.C. § 1352, or if federal debarment**

Termination for Non-Appropriation of Funds
All payment obligations from public bodies under this Contract are subject to the availability of legislative appropriations at the federal, state, or local level, for this purpose. In the event of non-appropriation of funds, irrespective of the source of funds, for the items under this Contract, VITA may terminate this Contract, in whole or in part, or any order or SOW, in whole or in part, or an Authorized User may terminate an order or SOW, in whole or in part, for those goods or services for which funds have not been appropriated. Written notice will be provided to the Supplier as soon as possible after legislative action is completed.

E. Effect of Termination

Upon termination, neither the Commonwealth, nor VITA, nor any Authorized User shall have any future liability except for Deliverables accepted by the Authorized User or Services, including as applicable, Licensed Services and Maintenance Services, rendered by Supplier and accepted by the Authorized User prior to the termination date.

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

F. Termination by Supplier

In no instance will termination by Supplier be considered. Failure by an Authorized User to make timely payments owed to Supplier for its performance under this Contract will constitute a breach by that Authorized User. Supplier's remedy for a breach is limited to the remedies set forth in § 2.2-4363 of the Code of Virginia and the "Remedies" section of this Contract below.

G. Transition of Services

Prior to or upon expiration or termination of this Contract and at the request of VITA, Supplier shall provide all assistance as VITA or such Authorized User may reasonably request to transition the Supplier's contractual obligations, or any portion thereof, as requested by VITA or such Authorized User, to any other supplier with whom VITA or such Authorized User contracts for provision of services. This obligation may extend beyond expiration or termination of the Contract for a period not to exceed 6 months. If this Contract includes Supplier's provision of licensed products, Supplier agrees that, without the expressed prior consent of VITA or such Authorized User, no action will be taken by Supplier to restrict or terminate the use of such licensed products after the date of expiration or termination of the Contract and/or during any Transition Period in which Supplier is contractually committed to work with VITA or any Authorized User. VITA or any Authorized User agree to pay for any additional maintenance or licensing fees during any Transition Period at the hourly rate or a charge agreed upon by Supplier and VITA or such Authorized User. Supplier must provide all reasonable transition assistance requested by VITA or such Authorized User to allow for the expired or terminated portion of the Services to continue without interruption or adverse effect, and to facilitate the orderly transfer of such Services to VITA or any Authorized User. Such transition assistance will be deemed by the parties to be governed by the terms and conditions of this Contract, except for those terms or conditions that do not reasonably apply to such transition assistance. Further, any period of transition will not affect VITA's or any Authorized User's rights in regards to any purchased Software Perpetual Licenses which are paid in full.

H. Contract Kick-Off Meeting

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

I. Transition Out Plan

Within three (3) months of the Effective Date, Supplier will develop and distribute to the applicable Authorized User a Transition Out Plan. The Supplier will maintain the Transition Out Plan throughout the Term, and update the Transition Out Plan as needed and subject to Authorized User's approval.

J. Contract Closeout

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

4. SUPPLIER PERSONNEL

A. Selection and Management of Supplier Personnel

Supplier shall ensure that all Supplier Personnel performing under this Contract are competent and knowledgeable of the contractual arrangements and the applicable order or SOW between Authorized User and Supplier. Supplier acknowledges that Supplier is the employer of all Supplier Personnel and shall have the sole responsibility to supervise, counsel, discipline, review, evaluate, set the pay rates of, provide (to the extent required by law) health care and other benefits for, and terminate the employment of Supplier Personnel. Supplier shall be solely responsible for the supervision and conduct of Supplier Personnel, including all acts, omissions, gross negligence, and willful misconduct of Supplier Personnel. Additionally, Supplier shall ensure that Supplier Personnel comply with the appropriate Authorized User's site security, information security and personnel conduct rules, as well as applicable federal, state and local laws, including export regulations. Authorized User reserves the right to require the immediate removal from such Authorized User's premises of any Supplier Personnel whom such Authorized User believes has failed to comply with the above or whose conduct or behavior is unacceptable or unprofessional or results in a security or safety breach.

B. Supplier Personnel Supervision

Supplier acknowledges that Supplier or any of its agents, contractors, or subcontractors, is and shall be the employer of Supplier personnel, and shall have sole responsibility to supervise, counsel, discipline, review, evaluate, set the pay rates of, provide (to the extent required by law) health care and other benefits for, and terminate the employment of Supplier personnel. Neither VITA nor an Authorized User shall have any such responsibilities for Supplier or subcontractor personnel.

C. Key Personnel

An order or SOW may designate certain of Supplier's personnel as "Key Personnel" or "Project Managers". Supplier's obligations with respect to Key Personnel and Project Managers shall be described in the applicable order or SOW. Failure of Supplier to perform in accordance with such obligations may be deemed a default of this Contract or of the applicable order or SOW.

D. Subcontractors

Supplier shall not use subcontractors to perform its contractual obligations under the Contract or any order or SOW issued thereunder unless specifically authorized in writing to do so by the Authorized User. If an order or SOW issued pursuant to this Contract is supported in whole or in part with federal funds, Supplier shall not subcontract to any subcontractor that is a Party excluded from Federal Procurement and Non-procurement Programs. In no event shall Supplier subcontract to any subcontractor which is debarred by the Commonwealth of Virginia or which owes back taxes to the Commonwealth and has not made arrangements with the Commonwealth for payment of such back taxes.

If Supplier subcontracts the provision of any performance obligation under this Contract to any other Party, Supplier will (i) act as prime contractor and shall be the sole point of contact with regard to all obligations under this Contract, and (ii) hereby represents and warrants that any authorized subcontractors shall perform in accordance with the warranties set forth in this Contract.

5. NEW TECHNOLOGY

A. Access to New Technology

Supplier will bring to VITA's attention any new products or services within the scope of the Contract that it believes will be of interest to VITA and will work to develop proposals for the provision of any such products or services as VITA requests.

B. New Service Offerings Not Available from Supplier

If new or replacement product or service offerings become available to VITA under the scope of the Contract, and cannot be competitively provided by the Supplier, VITA may purchase such new or replacement products or services from a third Party, and Supplier will reasonably assist VITA to migrate to such products or services, if VITA elects to use such new or replacement product or service offerings.

If VITA elects to acquire new products or services as described in the above paragraph and such services replace existing Supplier-provided services, discount tiers and any commitments (as applicable per the Contract) will be reduced to reflect reductions in purchases of the replaced products or services.

6. SOFTWARE LICENSE

If Authorized User is an agency as defined by §2.2-2006 and legislative, judicial and independent agencies of the Commonwealth, board, commission, or other quasi-political entity of the Commonwealth of Virginia or other body referenced in Title 2.2 of the Code of Virginia, the license shall be held by the Commonwealth. If Authorized User is a locality, municipality, school, school system, college, university, local board, local commission, or local quasi-political entity, the license shall be held by that public body. If Authorized User is a private institution of higher education which is listed at: <http://www.cicv.org/Our-Colleges/Profiles.aspx>, the license shall be held by that private institution.

A. License Grant

Any Software provided by Supplier as part of its Solution, that is licensed directly from the Software Publisher shall be subject to VITA's End User License Agreement Addendum (EULA) agreed to between VITA and 3rd party.

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

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

B. License Type

All licenses granted, regardless of the type, include all uses set forth above. License type may vary by Software product and shall be set forth in Exhibit B and identified on any order or SOW issued pursuant to this Contract. [Remember, license applies only to the pre existing code, not the new work created by Supplier for the Commonwealth.] [Note: The license types defined herein are examples and are not intended to limit the type of license offered by Supplier or requested by VITA.]

[option C1 - Designated CPU License]

The license(s) granted under this Section authorizes use of the Software only on the number of CPU(s) listed in the applicable order or SOW. An Authorized User may transfer the Software to a different machine to the extent that the license price for such new CPU(s) is equivalent to the CPU(s) initially licensed. If the licensed CPU is inoperative because of (i) malfunction, (ii) performance of maintenance, or (iii) modification to the licensed CPU, or (iv) because the Software is being transferred to another CPU, such Authorized User may use the Software on a replacement CPU as long as required by the mentioned conditions.

[option C2 - Concurrent User License]

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

[option C3 – Site License]

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

[option C4 – Project Specific License]

The Project Specific License authorizes use of the Software on any CPU; system owned or opted by the Commonwealth or an Authorized User, and by any user, without limitation as to quantity or location for Project _____.

[option C5 – Enterprise Wide License]

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

C. Authorized User Compliance

Compliance with the terms and conditions of any license granted pursuant to this Contract is solely the responsibility of the Authorized User that purchased the license or for whom that license was purchased. VITA will have no responsibility for compliance with the terms and conditions of the purchased license, unless VITA purchased the license on its own behalf.

D. Reservation of Rights

Nothing contained in this section will be construed to restrict or limit the rights of the Commonwealth or any Authorized User to use any technical data that the Commonwealth or Authorized User may already possess or acquire under proper authorization from other sources.

7. GENERAL WARRANTY

Supplier warrants and represents to VITA that Supplier will fulfill its contractual obligations and meet all needed requirements as described in Exhibit A as follows:

A. Ownership

Supplier has the right to perform and provide all contractual obligations and provide all needed services and products without violating or infringing any law, rule, regulation, copyright, patent, trade secret or other proprietary right of any third Party.

B. Product Warranty

1. Supplier is a value added reseller ("VAR") of Product, not the Software Publisher or licensor, and therefore disclaims any warranty responsibility regarding Product provided under this Contract. Supplier shall forward the warranties to Commonwealth which are provided to Supplier from the Software Publisher of the Product, and to the extent granted by the Software Publisher, Commonwealth shall be the beneficiary of the Software Publisher's warranties with respect to the Product. Commonwealth agrees to look solely to the Software Publisher for satisfaction of any and all warranty claims related to that Software Publisher's Product.

2. Commonwealth has made and will make its own selection of the Products to be ordered hereunder based on its own evaluation of the character of such Product and its use needs.

3. Supplier shall forward to Commonwealth all associated documentation provided or made available by the Software Publisher at no additional cost, such as operator/user manuals, training materials, guides, and functional/technical specifications, whether in writing, electronic means or otherwise, (collectively "Documentation").

EXCEPT AS OTHERWISE PROVIDED IN THIS AGREEMENT AND/OR ANY ORDER ISSUED HEREUNDER, SUPPLIER HEREBY DISCLAIMS ALL OTHER WARRANTIES, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, WARRANTY OF NONINFRINGEMENT, OR ANY WARRANTY RELATING TO THIRD PARTY SERVICES OR PRODUCTS. THE DISCLAIMER CONTAINED IN THIS PARAGRAPH DOES NOT AFFECT THE TERMS OF ANY WARRANTY PROVIDED BY AN SOFTWARE PUBLISHER.

C. Software License

Software Products resold under this Contract, as well as related maintenance or support services, will be governed by either the license/support agreement between Commonwealth and the Software Publisher or, if no such agreement exists, the Software Publisher's standard license/support agreement, which Supplier shall forward to Commonwealth at the time of delivery of the Products, when provided to Supplier by the manufacturer. Supplier is not a party to any such terms between Commonwealth and manufacturer and Commonwealth agrees to look solely to the Software Publisher for satisfaction of any and all license and support claims or obligations related to that Software Publisher's Product.

D. Supplier's Viability

Supplier warrants that it has the financial capacity to perform and continue to perform its obligations under this Contract; that Supplier has no constructive or actual knowledge of a potential legal proceeding being brought against Supplier that could materially adversely affect performance of this Contract; and that entering into this Contract is not prohibited by any contract, or order by any court of competent jurisdiction.

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

8. DELIVERY AND INSTALLATION

A. Scheduling

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

B. Installation of Software

9. IF THE APPLICABLE SOW INCLUDES INSTALLATION SERVICES, SUPPLIER WILL COMPLETE SUCH SERVICES FOR THE FEE LISTED, AND WITHIN THE TIME FRAME LISTED, ON THE APPLICABLE SOW. ANY ADDITIONAL INSTALLATION REQUIREMENTS SHALL BE AGREED UPON BY THE PARTIES IN THE APPLICABLE SOW. ACCEPTANCE AND CURE PERIOD

A. Acceptance

B. Software is deemed accepted when the Authorized User determines, in writing, that the Software successfully operates in accordance with the Requirements. The Authorized User will commence Acceptance testing within five (5) calendar days after receipt of the Software, or within such other period as agreed to by the Authorized User and Software Publisher. The Acceptance testing period for the first instance of each product type set forth in Exhibit B will last no longer than fifteen (15) calendar days, unless a longer period is agreed to in writing between Authorized User and Software Publisher. Supplier shall provide Authorized User with any assistance and advice the Authorized User may reasonably require. Throughout the Acceptance testing period, Supplier shall provide to the Authorized User any assistance and advice as the Authorized User may reasonably require. Authorized User shall provide to Supplier written notice of Acceptance upon completion of successful Acceptance testing. In the event that Authorized User fails to provide Supplier written notice of successful or unsuccessful Acceptance testing within five (5) business days following the end of the Acceptance testing period, the Software will be deemed Accepted. Cure Period

10. SUPPLIER SHALL WORK WITH THE SOFTWARE PUBLISHER TO CORRECT ANY NON-CONFORMITIES IDENTIFIED DURING ACCEPTANCE TESTING AND RE-SUBMIT THE CORRECTED SOFTWARE FOR RE-TESTING WITHIN SEVEN (7) CALENDAR DAYS OF THE APPROPRIATE AUTHORIZED USER'S WRITTEN NOTICE OF NON-CONFORMANCE, OR AS OTHERWISE AGREED BETWEEN THE AUTHORIZED USER AND SOFTWARE PUBLISHER IN THE APPLICABLE ORDER OR SOW. IN THE EVENT THE SOFTWARE PUBLISHER FAILS TO CURE THE NON-CONFORMITY OR DELIVER SOFTWARE THAT MEETS THE REQUIREMENTS, THE AUTHORIZED USER MAY, IN ITS SOLE DISCRETION: (I) REJECT THE SOFTWARE IN ITS ENTIRETY AND RECOVER AMOUNTS PREVIOUSLY PAID TO SUPPLIER; (II) ISSUE A "PARTIAL ACCEPTANCE" OF THE SOFTWARE WITH AN EQUITABLE ADJUSTMENT IN THE PRICE TO ACCOUNT FOR ANY DEFICIENCY; OR (III) CONDITIONALLY ACCEPT THE APPLICABLE SOFTWARE WHILE RESERVING ITS RIGHT TO REVOKE ACCEPTANCE IF TIMELY CORRECTION IS NOT FORTHCOMING. FAILURE OF THE SOFTWARE TO MEET, IN ALL MATERIAL RESPECTS, THE REQUIREMENTS AFTER THE SECOND SET OF ACCEPTANCE TESTS WILL CONSTITUTE A BREACH BY SUPPLIER AND THE AUTHORIZED USER MAY, AT ITS SOLE DISCRETION, TERMINATE ITS ORDER OR SOW, IN WHOLE OR IN PART, FOR THE SOFTWARE AND SERVICES TO BE PROVIDED BY SUPPLIER. WARRANTY SERVICES

A. Known Defects

Supplier shall promptly notify all Authorized Users of any defects or malfunctions in the Software or Documentation of which it learns from any source other than an Authorized User and provide to all Authorized Users a correction of any such defects or malfunctions, or a work around until a correction is available, within 5 days of Supplier's knowledge of such defect or malfunction.

B. New Releases

No later than the first day of general release, Supplier shall provide to all Authorized Users copies of the Software and Documentation revised to reflect any enhancements, including all new releases, upgrades, and access modes, to the Software made by Supplier, including, without limitation, modifications to the Software which can increase the speed, efficiency or base of operation of the Software or add additional capabilities to or otherwise improve the functionality of the Software.

C. Coverage

Supplier shall provide all reasonably necessary telephone or written consultation requested by any Authorized Users in connection with use, problems, and operation of the Software. Supplier is obligated to provide coverage under this provision from 8 a.m. to 5 p.m., Monday through Friday, excluding Commonwealth holidays.

D. Service Levels

Supplier shall respond to problems with the Software identified by an Authorized User in no more than one (1) hour after notification. Supplier shall resolve all problems according to the following:

- i. Priority 1 (Software inoperable) within six (6) hours
- ii. Priority 2 (certain processing interrupted or malfunctioning but Software able to process) within 24 hours
- iii. Priority 3 (minor intermittent malfunctioning, Software able to process data) within three (3) days.

The level of severity (e.g., 1, 2, 3), shall be defined by such Authorized User.

E. Warranty Remedies

If the Software fails to conform in all material respects to the Requirements or the applicable order or SOW, Authorized User shall provide written notification of the failure to Supplier. If Supplier is unable to make the Software conform within 30 calendar days of receiving Authorized User's notice, Supplier shall cancel the license to the Software and accept return of the Software and Documentation at the Authorized User's request. Supplier shall return all monies paid by the affected Authorized User for the non-conforming Software and Documentation and any other related Service(s) rendered unusable.

11. MAINTENANCE SERVICES

At any time during the Maintenance Coverage Period, Authorized User may purchase Maintenance Services to maintain the Software in accordance with the Requirements and to provide upgrades, updates, and new releases as they are made generally available.

Throughout the MCP, Authorized User may purchase Maintenance Services at the prices identified by Supplier in applicable order or SOW.

A. In addition to the minimum Maintenance Services described on an agreed upon order or SOW, Supplier may offer additional maintenance and support services. These additional offerings, and Supplier's responsibilities as well as remedies available to the Authorized User in the event Supplier fails to perform its maintenance obligations shall be included on the agreed upon order or SOW. Ordering Maintenance Services

An Authorized User may order Maintenance Services for any Software in accordance with the Software Publisher's Maintenance policies. Each order shall identify:

- i. Software product and number of units for which Maintenance Services shall be provided,
- ii. Maintenance Level to be provided, and
- iii. MCP for Software Maintenance.

Authorized User may elect, at any time, an alternate Maintenance Level offered by Supplier. Such amendment shall take effect within thirty (30) days following Supplier's receipt of Authorized User's written notice, in the form of a modification to an order.

Unless otherwise agreed by the Authorized User and Supplier, the Maintenance Period for a unit of Software shall be 1 year from the effective date of any executed order for Maintenance on such Software product.

B. Software Evolution

Should Supplier merge or splinter the Software previously provided to any Authorized User, such action on the part of Supplier shall not in any way result in any Authorized User being charged

additional license or support fees in order to receive enhancements, releases, upgrade or support for the Software.

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

C. Escalation Procedures

[To be provided by Supplier.]

D. Maintenance Remedies

If the Software fails to conform, in all material respects, to the Requirements, Authorized User shall provide written notification of the failure to the Supplier. If the Supplier is unable to make the Software conform within 30 calendar days of receiving Authorized User's notice, Supplier shall, at such Authorized User's request, accept cancellation of the license to the non-conforming Software and (i) return all monies paid by such Authorized User for the cancelled license, prorated using the straight-line method for an estimated software life cycle of five (5) years, or, if a term license, shall return the prorated license fee for the remainder of the license term; and (ii) return the prorated maintenance charge for the remainder of the MCP. The prorated amount due an Authorized User shall be calculated from the date on which the Software ceased operating in accordance with the Requirements. The remedies in this section will be in addition to, and not in lieu of, any remedies described in Exhibit C of this Contract.

12. FEES, ORDERING AND PAYMENT PROCEDURE

A. Fees and Charges

In consideration for the Supplier's performance obligations under this Contract, an Authorized User shall pay Supplier the fee(s) owed pursuant to the schedule of fees and charges as set forth on the applicable order or SOW. Supplier will only be entitled to those fees owed for Supplier's performance obligations and any additional Products and Services provided to an Authorized User in accordance with the scope of this Contract and the Requirements, as authorized by this Contract, and per the Authorized User's order or SOW. The fees, and any associated discounts, will be applicable throughout the Term of this Contract unless otherwise modified pursuant to the terms and conditions below. In the event the fees or discounts apply for any period less than the entire Term, Supplier agrees that it will not increase the fees during the first twelve (12) month period following the Effective Date, and will not increase the fees more than once in any subsequent twelve (12) month period thereafter. No increase in fee amounts will exceed the lesser of three percent (3%) or the annual increase in the Consumer Price Index for All Urban Consumers (CPI-U), U.S. City Average, All Items, Not Seasonally Adjusted, as published by the Bureau of Labor Statistics of the Department of Labor (<http://www.bls.gov/cpi/home.htm>), for the date of the increase compared with the same index one (1) year prior. Supplier must submit any change in price in writing to VITA and to the Authorized User if the change impacts any SOW or order and in accordance with the above and will not become effective for 60 calendar days thereafter. Supplier agrees to offer price reductions to ensure compliance with the "Competitive Pricing" section of this Contract below.

B. Ordering

Notwithstanding all Authorized User's rights to license or purchase Supplier's products or services under this Contract, an Authorized User is under no obligation to purchase or license from Supplier any of Supplier's products or services. This Contract is optional use and non-exclusive, and all Authorized Users may, at their sole discretion, purchase, license or otherwise receive benefits from third Party suppliers of products and services similar to, or in competition with, the products and services provided by Supplier. Supplier is required to accept any order or placed by an Authorized User through the eVA electronic procurement website portal (<http://www.eva.virginia.gov/>). eVA is the Commonwealth of Virginia's e-procurement system. Agencies, as defined by §2.2-2006 of the Code of Virginia and legislative, judicial and

independent agencies of the Commonwealth, shall order through eVA. All other Authorized Users are encouraged to order through eVA, but may order through the following means:

- i. Purchase Order (PO): An official PO form issued by an Authorized User.
- ii. Any other order/payment charge or credit card process, such as AMEX, MASTERCARD, or VISA under contract for use by an Authorized User.

This ordering authority is limited to issuing orders or SOWs for the contractual offerings and Requirements available under the scope of this Contract. Under no circumstances shall any Authorized User have the authority to modify this Contract. An order or SOW from an Authorized User may contain additional terms and conditions; however, to the extent that the terms and conditions of the Authorized User's order or SOW are inconsistent with the terms and conditions of this Contract, the terms of this Contract shall supersede. Notwithstanding the foregoing, Supplier shall not accept any order or SOW from an Authorized User if such order or SOW is to be funded, in whole or in part, by federal funds and if, at the time the order or SOW is placed, Supplier is not eligible to be the recipient of federal funds as may be noted on any of the Lists of Parties Excluded from Federal Procurement and Non-procurement Programs.

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

C. Reproduction Rights for Supplier-Provided Software

At an Authorized User's request, and if available from the Software Publisher, Supplier shall provide the Authorized User with a reproducible CD-ROM or flash storage drive of Software and Updates.

D. Reimbursement of Expenses

If allowable pursuant to an Authorized User's Statement of Work, such Authorized User shall pay, or reimburse Supplier, for all reasonable and actual travel-related expenses for greater than thirty (30) miles from portal to portal incurred by Supplier during the relevant period; provided, however, that such Authorized User shall only be liable to pay for Supplier's travel-related expenses, including transportation, meals, lodging and incidental expenses, that have been authorized by such Authorized User in advance in the Statement of Work and which will be reimbursable by such Authorized User at the then-current per diem amounts as published by the Virginia Department of Accounts (<http://www.doa.virginia.gov/>, or a successor URL(s)). Authorized Users who are not public bodies may have their own per diem amounts applicable to Supplier's pre-approved travel expenses.

All reimbursed expenses will be billed to the Authorized User on a pass-through basis without any markup by Supplier. At Authorized User's request, Supplier shall provide copies of receipts for all travel expenses over US\$30.00.

E. Demonstration and/or Evaluation

If the Supplier's contractual obligations include the provision of a Solution, an Application and Licensed Services, or Software-as-a-Service, at the request of any Authorized User, Supplier shall perform a demonstration of its Solution, or its Application and Licensed Services or Software-as-a Service at such Authorized User's location and at no charge, if Software Publisher has provided Supplier the ability to do so.

If the Supplier's contractual obligations include the provision of Software, if permitted by the Software Publisher, the Supplier shall make available to any Authorized User the Software for evaluation purposes at no charge. The evaluation period will be determined by the Software Publisher..

F. Supplier Quote and Request for Quote

An Authorized User, may at its sole discretion, issue a Request for Quote ("RFQ") for any combination of the Solution, Product, or Services provided under this Contract. Supplier shall respond to the RFQ by providing a written quote. Supplier's quote must include (a) a detailed description of each product or service proposed, including any applicable components, at

the Exhibit B line item fee level; (b) the quantity of each line item; (c) the total contract price; (d) any additional percentage discount offered; (e) an extended price; (f) any optional or alternate pricing; and (g) any pricing assumptions. If requested by the Authorized User, Supplier's quote must also include a detailed description of the approach Supplier plans to take in developing, implementing, and maintaining its offering pursuant to the RFQ for the Authorized User. If Supplier is unable to meet the requirements of the RFQ, Supplier shall notify the Authorized User in writing of its inability to perform the work requested by the Authorized User, and provide the reasons for its inability to perform, prior to the due date for the submission of quotes in response to the RFQ. Supplier's failure to respond to an RFQ may be deemed a breach of this Contract.

Competitive Request for Quotes

User determines that a competitive process is required to ensure it receives the best value for any combination of its needed Solution, Product, or Services under this Contract, then the Authorized User may, at its sole discretion, use a Competitive Request for Quote ("CRFQ") process to obtain identical or similar Solutions, Products, or Services to those provided by Supplier pursuant to this Contract. The CRFQ will clearly outline the project timing and requirements. If the Authorized User is not able to identify the exact specifications required, then the CRFQ respondents will be given the opportunity to identify and propose their recommended specifications.

G. Request for Quote for SaaS Solution

If an Executive Branch Agency or a public body in-scope to VITA determines that a SaaS solution is required for COTS Software under this Contract, then such Authorized User shall use a RFQ process to obtain identical or similar SaaS COTS Software to those provided by Supplier pursuant to this Contract.

The RFQ will clearly outline the SaaS COTS Software requirement.

Supplier shall respond to the RFQ by providing a quote, which must include (a) a detailed description of each product proposed, including any applicable components, at the Exhibit B line item fee level; (b) the quantity of each line item; (c) the total contract price; (d) any additional percentage discount offered; (e) an extended price; (f) any optional or alternate pricing; and (g) any pricing assumptions. Supplier's quote must also include the contact information for the SaaS Software Publisher.

Utilize Exhibit E for instructions on Executive Branch Agency SaaS COTS Software purchases.

H. Invoice Procedures

Supplier shall remit each invoice to the "bill-to" address provided with the order promptly after all Supplier's performance obligations have been accepted and in accordance with the milestone payment schedule, if any, in the applicable order or SOW. Payment for any support services, as authorized in the Contract and the Authorized User's applicable order or SOW, shall be annually in arrears unless otherwise stated herein, or in any order or SOW referencing this Contract. No invoice shall include any costs other than those identified in the executed order or SOW, which costs shall be in accordance with Exhibit B. Without limiting the foregoing, all shipping costs are the Supplier's responsibility except to the extent such charges are identified in Exhibit B, or as noted in any executed order or SOW referencing this Contract. Invoices issued by the Supplier shall identify at a minimum:

- i. Dates/periods that invoice covers, including any service or subscription periods, as applicable.
- ii. Line item description of the Software as applicable to this Contract, including components thereof or service type, and, if applicable, the project milestone.
- iii. Quantity, charge and extended pricing for each line item
- iv. Applicable order and/or SOW date
- v. This Contract number and the applicable order number and/or SOW number
- vi. Supplier's Federal Employer Identification Number (FEIN)

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

I. Purchase Payment Terms

Supplier is responsible for the accuracy of its billing information. Supplier agrees not to issue invoices hereunder until all Supplier's performance obligations have been accepted and in accordance with the milestone payment schedule, if any, in the applicable order or SOW, or until after services have been rendered. Charges for Deliverables, components or services accepted more than 180 days prior to receipt of a valid invoice may not be paid..

13. REPORTING

Supplier shall submit to VITA a monthly report containing data on:

- i. Amount of Realized Sales; and
- ii. Small Business Procurement and Subcontracting Spend

This report must be submitted in accordance with the instructions and further detailed requirements, and on the templates set forth on the "Supplier Reporting" webpage located at the following URL: <https://www.vita.virginia.gov/supply-chain/supplier-reporting/>, or any successor URL(s). Supplier is encouraged to review the site periodically for updates on Supplier reporting requirements and methods. Supplier's failure to comply with all reporting, payment, and other requirements in this section may be deemed by VITA, in its sole discretion, to be a breach of the Contract.

A. Amount of Realized Sales

Supplier shall submit to VITA a monthly report of all Realized Sales under this Contract.

In connection to the monthly report of Realized Sales, Supplier shall pay to VITA the following monthly fees in accordance with instructions described on the "Supplier Reporting" webpage located at: <https://www.vita.virginia.gov/supply-chain/supplier-reporting/>. The monthly report of Realized Sales must include these fees and percentages:

- IFA: 2% of monthly sales

B. Small Business Procurement and Subcontracting Spend

Supplier shall provide to VITA a report of monthly subcontracting spend data. This data must include the spend with all Subcontractors who provide direct performance for obligations under this Contract. Supplier's monthly subcontracting spend data must be submitted via the SRS webpage located at: <http://vita2.virginia.gov/procurement/srs/>.

In addition, every twelve (12) months following the Effective Date, Supplier shall submit to VITA a "SWaM Subcontracting Certification of Compliance" ("SSCC") certifying that Supplier has fully complied with the Contract's Supplier Procurement and Subcontracting Plan ("Plan"). A copy of Supplier's Plan is attached to this Contract as Exhibit H, and is incorporated by reference. The SSCC must include a written explanation of any variances of greater than 20% between the Plan and the actual subcontractor spend by Supplier. Supplier's SSCC will be maintained by VITA in the Supplier's procurement file. Supplier must submit the SSCC to the following address: SCMInfo@vita.virginia.gov. In the event that Supplier fails to comply with its contractually obligated Plan spend or fails to report its contractually obligated Plan spend, VITA may, at its sole discretion, prohibit or delay any renewals or extensions of the Contract, withhold any final payments due, or both. Supplier's failure to comply will be considered in the prospective award of any future contracts with Supplier.

14. TRAINING AND DOCUMENTATION

Pursuant to a mutually agreed upon schedule in an order or SOW, Supplier shall provide personnel sufficiently experienced and qualified to conduct training. Available optional training, and applicable pricing and discounts, are described in Exhibit B or on the applicable order or SOW.

15. AUTHORIZED USER SELF-SUFFICIENCY

Prior to or at any time during Supplier's performance of an order or SOW issued pursuant to this Contract, an Authorized User may require that Supplier provide to Authorized User a detailed plan to develop Authorized User self-sufficiency and to transition operation and management to Authorized User or its Agent, which Agent may be VITA, or an agent of VITA, or a third Party provider under contract with Authorized User. At Authorized User's request and pursuant to an order or SOW for Supplier's Services issued hereunder, Supplier shall provide all assistance reasonably required by Authorized User to develop Authorized User's self-sufficiency in operating and managing the Solution, Software, Products and/or Services that Supplier provided to Authorized User under the applicable order or SOW. During and/or after the transition period, Authorized User may, at its sole discretion, elect to order or continue Maintenance Services from Supplier, if authorized under the scope of the Contract, for any of the Software or hardware Product, components or Solution Components delivered to Authorized User by Supplier.

16. CONFIDENTIALITY

A. Treatment and Protection

Each Party shall (i) hold in strict confidence all Confidential Information of any other Party, (ii) use the Confidential Information solely to perform or to exercise its rights under this Contract, and (iii) not transfer, display, convey or otherwise disclose or make available all or any part of such Confidential Information to any third-Party. However, an Authorized User may disclose the Confidential Information as delivered by Supplier to subcontractors, contractors or agents of such Authorized User that are bound by non-disclosure contracts with such Authorized User. Each Party shall take the same measures to protect against the disclosure or use of the Confidential Information as it takes to protect its own proprietary or confidential information (but in no event shall such measures be less than reasonable care).

B. Exclusions

The term "Confidential Information" shall not include information that is:

- i. in the public domain through no fault of the receiving Party or of any other person or entity that is similarly contractually or otherwise obligated;
- ii. obtained independently from a third-Party without an obligation of confidentiality to the disclosing Party and without breach of this Contract;
- iii. developed independently by the receiving Party without reference to the Confidential Information of the other Party; or
- iv. required to be disclosed under The Virginia Freedom of Information Act (§§2.2-3700 et seq. of the Code of Virginia) or similar laws or pursuant to a court order.

C. Return or Destruction

Upon the termination or expiration of this Contract or upon the earlier request of the disclosing Authorized User, Supplier shall (i) at its own expense, (a) promptly return to the disclosing Authorized User all tangible Confidential Information (and all copies thereof except the record required by law) of the disclosing Authorized User, or (b) upon written request from the disclosing Authorized User, destroy such Confidential Information and provide the disclosing Authorized User with written certification of such destruction, and (ii) cease all further use of the Authorized User's Confidential Information, whether in tangible or intangible form. Notwithstanding the foregoing, Supplier may be required to retain Confidential Information to comply with law and/or audit requirements. In the event that Supplier may be required to retain any Confidential Information, Supplier shall immediately notify VITA or the Authorized User of any materials Supplier is required to retain.

17. VITA OR THE AUTHORIZED USER SHALL RETAIN AND DISPOSE OF SUPPLIER'S CONFIDENTIAL INFORMATION IN ACCORDANCE WITH THE COMMONWEALTH OF VIRGINIA'S RECORDS RETENTION POLICIES OR, IF AUTHORIZED USER IS NOT SUBJECT

**TO SUCH POLICIES, IN ACCORDANCE WITH SUCH AUTHORIZED USER'S OWN RECORDS
RETENTION POLICIES. INDEMNIFICATION AND LIABILITY**

A. Indemnification

Supplier agrees to indemnify, defend and hold harmless the Commonwealth Indemnified Parties against any third-party Claims and shall indemnify all Commonwealth Indemnified Parties from all any and all damages, liabilities, costs, and expenses resulting from any Claims that are incurred by, borne by or asserted against any of Commonwealth's Indemnified Parties to the extent such Claims in any way relate to, arise out of or result from:

(i) any intentional or willful conduct or negligence of any employee, agent, or subcontractor of Supplier,

(ii) any act or omission of any employee, agent, or subcontractor of Supplier,

(iii) breach of any representation, warranty or covenant of Supplier contained herein,

(iv) any defect in the Supplier-provided services, or

(v) any actual or alleged infringement or misappropriation of any third Party's intellectual property rights by any of the Supplier-provided services.

Selection and approval of counsel and approval of any settlement shall be accomplished in accordance with all applicable laws, rules and regulations. For agencies the applicable laws include §§ 2.2-510 and 2.2-514 of the Code of Virginia. In all cases involving the Commonwealth or agencies, the selection and approval of counsel and approval of any settlement shall be satisfactory to the Commonwealth. In the event of a settlement between Supplier and a private institution of higher education who is an Authorized User of this contract, such settlement shall be satisfactory to that institution.

In the event that a Claim is commenced against any of Commonwealth's Indemnified Parties alleging that use of the Supplier-provided services, including any components thereof, or that the Supplier's performance or delivery of any product or service under this Contract infringes any third Party's intellectual property rights and Supplier is of the opinion that the allegations in such Claim in whole or in part are not covered by this indemnification provision, Supplier shall immediately notify VITA and the affected Authorized User(s) in writing, via certified mail. If the Supplier believes it is obligated to defend and indemnify under the terms and conditions of this Contract the Supplier shall protect the interests of the Commonwealth's Indemnified Parties and secure a continuance to permit VITA and the affected Authorized User(s) to appear and defend their interests in cooperation with Supplier as is appropriate, including any jurisdictional defenses VITA or the affected Authorized User(s) may have.

In the event of a Claim pursuant to any actual or alleged infringement or misappropriation of any third Party's intellectual property rights by any of the Supplier-provided Deliverables, Services, as applicable, or Supplier's performance, and in addition to all other obligations of Supplier in this Section, Supplier shall at its expense, either (a) procure for all Authorized Users the right to continue use of such infringing Deliverables, Services, as applicable, or any component thereof; or (b) replace or modify such infringing Deliverables, Services, as applicable, or any component thereof, with non-infringing Deliverables, Services, as applicable, satisfactory to VITA..

And in addition, Supplier shall provide any Authorized User with a comparable temporary replacement services.. If Supplier cannot accomplish any of the foregoing within a reasonable time and at commercially reasonable rates, then Supplier shall accept the return of the infringing Deliverables, Services, as applicable, or any component thereof, along with any other components rendered unusable by any Authorized User as a result of the infringing component, and refund the price paid to Supplier for such components.

B. Liability

Except for liability with respect to:

(i) any intentional or willful misconduct or negligence of any employee, agent, or subcontractor of Supplier,

(ii) any act or omission of any employee, agent, or subcontractor of Supplier,

(iii) claims for bodily injury, including death, and real and tangible property damage caused by Supplier or Supplier personnel,

(iv) Supplier's indemnification obligations,

(v) Supplier's confidentiality obligations,

(vi) Supplier's security compliance obligations, and

(vii) Supplier's data privacy and security obligations as specified under this Contract, Supplier's liability shall be limited to twice the aggregate value of the delivered and accepted Deliverables, Products, Software, Services, Solution, including Solution Components, Application and Licensed Services, as applicable, provided by Supplier to all Authorized Users under this Contract. Supplier agrees that it is fully responsible for all acts and omissions of its employees, agents, and subcontractors, including their gross negligence or willful misconduct. The limitation shall apply on a per-incident basis, it being understood that multiple losses stemming from the same root cause constitute a single incident.

FOR ALL OTHER CONTRACTUAL CLAIMS, IN NO EVENT WILL ANY PARTY BE LIABLE TO ANY OTHER PARTY FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES, INCLUDING (WITHOUT LIMITATION) LOSS OF PROFIT, INCOME OR SAVINGS, EVEN IF ADVISED OF THE POSSIBILITY THEREOF, EXCEPT WHEN SUCH DAMAGES ARE CAUSED BY THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF THE PARTY, ITS EMPLOYEES, AGENTS OR SUBCONTRACTORS.

18. INSURANCE

In addition to the insurance coverage required by law as referenced in the "Incorporated Contractual Provisions" section of this Contract, Supplier shall carry:

Errors and omissions insurance coverage in the amount of \$2,000,000 per occurrence.

19. SECURITY COMPLIANCE

Supplier shall comply with all provisions of the then-current Commonwealth security procedures, published by VITA and which may be found at: <https://www.vita.virginia.gov/it-governance/itm-policies-standards/>, or any successor URL(s), as are pertinent to Supplier's operation. Further, Supplier shall comply with all applicable provisions of the relevant Authorized User's then-current security procedures as are pertinent to Supplier's operation and that have been provided to Supplier by the Authorized User. Supplier shall also comply with all applicable federal, state, and local laws and regulations. Any unauthorized release of proprietary or Personal information by the Supplier or any Supplier Personnel shall constitute a breach of Supplier's obligations under this Section and the Contract.

Supplier shall ensure performance of an audit of Supplier's environment at least annually to provide assurance of "Controls Relevant to Security, Availability, Processing Integrity, Confidentiality or Privacy" in accordance with the then-current standards set forth by the American Institute of CPAs.

VITA reserves the right to review Supplier's information security program prior to the commencement of Licensed Services and at least once annually during the term of this Agreement. During the performance of the Licensed Services, and on an annual basis, VITA will be entitled, at its own expense, to perform, or to have performed, an on-site audit of Supplier's information security program. In lieu of an on-site audit, upon request by VITA, Supplier shall implement any reasonably required safeguards as identified by any program audit.

20. BANKRUPTCY

If Supplier becomes insolvent, takes any step leading to its cessation as a going concern, fails to pay its debts as they become due, or ceases business operations continuously for longer than 15 business days, then VITA may immediately terminate this Contract, and an Authorized User may terminate an order or SOW, on notice to Supplier unless Supplier immediately gives VITA or such Authorized User adequate assurance of the future performance of this Contract or the applicable order or SOW. If bankruptcy proceedings are commenced with respect to Supplier, and if this Contract has not otherwise terminated, then VITA may suspend all further performance of this

Contract until Supplier assumes this Contract and provides adequate assurance of performance thereof or rejects this Contract pursuant to Section 365 of the Bankruptcy Code or any similar or successor provision, it being agreed by VITA and Supplier that this is an executory contract. Any such suspension of further performance by VITA or Authorized User pending Supplier's assumption or rejection shall not be a breach of this Contract, and shall not affect the rights of VITA or any Authorized User to pursue or enforce any of its rights under this Contract or otherwise.

21. GENERAL PROVISIONS

A. Relationship Between VITA and Authorized User and Supplier

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

B. Incorporated Contractual Provisions

The contractual provisions at the following URL, or any successor URL(s), are mandatory contractual provisions, required by law or by VITA, and any provisions applicable to the Services are incorporated by reference: <https://www.vita.virginia.gov/media/vitavirginiagov/supply-chain/pdf/StatutorilyMandatedTsandCs.pdf>, except for Section 10, titled "Non-Visual Access".

The contractual claims provision of § 2.2-4363 of the Code of Virginia and the required eVA provisions found at <https://www.vita.virginia.gov/media/vitavirginiagov/supply-chain/pdf/eVATsandCs.pdf>, or any successor URL(s), are also incorporated by reference.

IRS Publication 1075 applies to any orders or SOWs issued by an Authorized User under the Contract that will or may include the entry, handling, processing, storage, movement, sharing of, or access to, FTI by Supplier, or any Subcontractor of Supplier, in any manner. The Tax Information Security Guidelines for Federal, State and Local Agencies – Exhibit 7, Safeguarding Contract Language, as appropriate, and the requirements specified in Exhibit 7 in accordance with IRC§ 6103(n) are included by reference and are located at:

https://www.vita.virginia.gov/media/vitavirginiagov/supply-chain/pdf/Mandatory_IRS_Pub_1075_for_FTI_data.pdf, or any successor URL(s). Supplier hereby acknowledges that it will comply with all applicable requirements of these terms and IRS Publication 1075 in its entirety. Non-compliance with the terms and IRS Publication 1075 may be deemed, solely by VITA, as a material breach of the applicable order or SOW or of the Contract. Supplier is responsible for verifying the correct and current version of this IRS publication and related safeguarding terms language and acknowledges that any Authorized User issuing the order or SOW will be held harmless.

The terms and conditions in documents posted to the aforereferenced URLs are subject to change pursuant to action by the legislature of the Commonwealth of Virginia, change in VITA policy, adoption of revised eVA business requirements, or change to IRS Publication 1075. Supplier is responsible for verifying the correct and current version of this IRS publication and related safeguarding terms language and acknowledges that VITA Authorized User issuing the order or SOW will be held harmless. If a change is made to the mandatory terms and conditions, a new effective date will be noted in the document title. Supplier is advised to check the URLs periodically.

C. Compliance with the Federal Lobbying Act

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

D. Governing Law

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

E. Dispute Resolution

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

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

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

In the event of any breach by a public body or a private institution, Supplier's remedies shall be limited to claims for damages and Prompt Payment Act interest and, if available and warranted, equitable relief, all such claims to be processed pursuant to this Section. In no event shall Supplier's remedies include the right to terminate any license or support services hereunder.

F. Advertising and Use of Proprietary Marks

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

G. Notices

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

i. To VITA and to Supplier, if Supplier is incorporated in the Commonwealth of Virginia, to the addresses shown on the signature page.

ii. To Supplier, if Supplier is incorporated outside the Commonwealth of Virginia, to the Registered Agent registered with the Virginia State Corporation Commission.

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

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

H. No Waiver

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

I. Assignment

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

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

J. Severability

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

K. Survival

Any provisions of this Contract regarding Software License, Rights To Work Product, Warranty, Escrow, Confidentiality, Content Privacy and Security, Liability, Indemnification, Transition of Services, and the General Provisions shall survive the expiration or termination of this Contract.

L. Force Majeure

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

M. Remedies

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

N. Right to Audit

VITA reserves the right to audit those Supplier records that relate to the Contract or any SOWs or orders issued there under, no more than once per calendar year. VITA's right to audit shall be limited as follows:

- i. 3 years from end date of the Contract;
- ii. Performed at Supplier's premises, during normal business hours at mutually agreed upon times; and
- iii. Excludes access to Supplier cost information. In no event shall Supplier have the right to audit, or require to have audited, VITA or any Authorized User.

O. Taxes

The Commonwealth is exempt from Federal excise and all State and Local taxes and any such taxes may not be included in Contract prices. Tax certificates of exemption, Form ST-12 can be obtained from Authorized Users upon request. Deliveries against this Contract shall be free of Federal excise and transportation taxes. The Commonwealth's excise tax exemption registration number is 54-73-0076K.

P. Currency

All prices, costs, or fees in this Contract and all exhibits, schedules, orders, or SOWs will be in United States dollars.

Q. Contract Administration

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

R. Captions

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

S. Entire Contract

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

Exhibit A – Software Functional Requirements

Exhibit B – Software Product List, License Fee and Service Charges

Exhibit C – Software Maintenance Services description

Exhibit E – Executive Branch Agency - SaaS ordering instructions

Exhibit F - Certification Regarding Lobbying

Exhibit G - Supplier Procurement and Subcontracting Plan

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

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

T. Order of Precedence

In the event of a conflict, the following order of precedence shall apply: this Contract document, Exhibit A, Exhibit B, Exhibit C, any individual SOW then any project specific order. In the event of a conflict or inconsistency between the negotiated terms of this Contract and any provision incorporated by reference into the Contract (e.g., a section of a License Agreement), the negotiated terms of this Contract will take precedence. For purposes of this section, a "conflict" exists with respect to a subject that has been comprehensively addressed in the Contract when supplementary terms contained in a provision incorporated by reference would alter the rights and obligations of the Parties set forth in the Contract.

U. Counterparts and Electronic Signatures

This Contract may be executed in multiple counterparts, each of which, when assembled to include an original signature for each Party to this Contract, will constitute a complete and fully executed original. All fully executed original counterparts will collectively constitute a single agreement. Signatures transmitted by fax or electronic mail (in portable data format (PDF)) are also permitted as binding signatures to this Contract.

V. Opportunity to Review

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

[SIGNATURE PAGE(S) TO FOLLOW]

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

SHI International Corp

VITA

By: 

(Signature)

Name: Cassie Skelton

(Print)

Title: Contracts Manager

Date: 09/10/18

Address for Notice:

290 Davidson Avenue

Somerset, NJ 08873

Attention: Contract Department

By: 

(Signature)

Name: Nelson P. Mor

(Print)

Title: CFO of The Commonwealth

Date: 9/17/18

Address for Notice:

Attention: Contract Administrator

	5.1 General	A	B
5.1.1	<p>Does your Solution comply with all current COV ITRM Policies and Standards, as applicable, found at: http://www.vita.virginia.gov/library/default.aspx?id=537.</p> <p>If proposed solution does not, please provide details that specify the Standard/Policy and how Supplier's solution does not comply.</p>	Yes	
5.1.2	<p>Do your proposed interfaces, to Commonwealth systems, comply with or have approved exceptions to all applicable Commonwealth Data Standards as found at: http://www.vita.virginia.gov/oversight/default.aspx?id=10344</p> <p>If not, please explain.</p>	yes	

5.1.3	<p>Does your Solution provide effective, interactive control and use with nonvisual means and provide 508 Compliance in accordance with the following standard regarding IT Accessibility and 508 Compliance:</p> <p>http://www.vita.virginia.gov/uploadedFiles/Library/AccessibilityStandard_GOV103-00_Eff_11-04-05.pdf (Refer to www.section508.gov and www.access-board.gov for further information)</p> <p>If yes, please describe how this functionality is achieved and include a completed Voluntary Product Accessibility Template (VPAT) with your proposal: (The VPAT template is located in APPENDIX C of the Accessibility Standard (GOV103-00)).</p> <p>If no, does your solution/application/product provide alternate accessibility functionality? Please describe.</p> <p>If not applicable to this procurement, mark "N/A."</p>		
5.1.4	<p>Does your Solution require incorporating subcontractors or alliances to provide sales/service coverage for the entire Commonwealth of Virginia or will you provide all in-house sale/service personnel? Please explain.</p>	No	<p>SHI is not the manufacturer for the products requested and is therefore not responsible for the products IT Accessibility and 508 Compliance. Upon award, SHI can work with manufacturers to gather this information for VITA as needed.</p> <p>SHI will serve the Commonwealth with our in-house sale/service personnel. Additional information about the team is included in our Supplier Profile portion of our response. If at any time during the life of this contract SHI needs to add subcontracts, we will focus our efforts of local Virginia based partners and include VITA in the process and ensure all proper information is provided.</p>

5.1.5	VITA encourages Suppliers to develop a catalog website that <i>interfaces</i> with eVA. Can your Solution produce a punch-out catalog website? Refer to: http://www.eva.virginia.gov/vendors/pages/catalogcreation.htm Please provide either screen shots or a link to serve as an example.	Yes	SHI currently provides the Commonwealth with a catalog website. We will continue to offer the same capabilities. Screen shots have been included in the Additional Information section of our response.
5.1.6	Does your Solution include a detailed comprehensive list of COTS software available under each manufacturer that your firm is authorized to sell? Please provide details.	Yes	SHI's current catalog includes almost 14,000 Software partners. On average, SHI is able to sell between 75%-100% of our partners' product lines. SHI has included a list of COTS software with our pricing spreadsheet. This master publisher list is able to evolve and grow to meet the needs of the Commonwealth and its agencies. Any additions or subtractions to this list will be made in close partnership with VITA. Due to the number of authorizations, SHI has included a zip file with all of our letters of authorizations. Should VITA need additional letters, we will provide upon request.
5.1.7	Does your Solution have the ability to have a catalog website up, functioning and interfacing with eVA within 30 days of contract award? Please provide details.	Yes	SHI currently provides the Commonwealth with a catalog website. We will continue to offer the same capabilities. We are happy to meet with the Commonwealth to review the current site and discuss future updates when applicable.
5.1.8	Does your Solution have the ability to have individual portals for each agency to view purchase history, updates and expirations to maintain compliance? Please provide details.	Yes	As we provide today, agencies will have the ability to create unique log-ins that are specific to them and allow them to review purchase history, updates, and expirations.
5.1.9	Does your Solution include a dedicated account management team? Please provide details.	Yes	The Commonwealth has a dedicated account team led by Erik Schroeder. A complete overview of the Account Team and how SHI supports the Supplier Profile section of our response.

5.1.10	Does your Solution include an account management team with experience working with State and local government ? Please provide details.	Yes	SHI has been supporting Public Sector customers for over 20 years. Erik Schroeder is responsible for the overall relationship between the Commonwealth of Virginia and SHI with a specific focus on State and Local Government. Since 2006, Erik has been the primary contact and the face of SHI in Virginia public sector.
5.1.11	Does your Solution include more than one field account executive? Please provide details.	Yes	Please see a complete list of the team dedicated to the Commonwealth in the Supplier Profile section of our response.
5.1.12	Does your Solution have the marketing ability and resources to promote this contract to schools, universities, localities and state agencies? Please provide marketing plan and examples of marketing tools.	Yes	SHI has provided a complete marketing plan in the Additional Information portion of our Technical Response.
5.1.13	Does your Solution allow the use of purchasing cards, credit cards and eVA for small purchases? Please provide details.	Yes	SHI accepts purchasing cards/credit cards for payment and will work with each individual agency to ensure that these purchases are transacted in a fast and secure manner. SHI is eVA registered and has been transacting business via the eVA procurement system for over a decade in the Commonwealth.

5.1.14	Does your Solution provide product incentives, credits and or rebate programs? Please provide details.	Yes	<p>SHI will work closely with the Publishers to identify best possible pricing available to the Government and Education customers in the Commonwealth of Virginia. We will identify the following on behalf of our customers and extend accordingly:</p> <ul style="list-style-type: none"> -Available volume licensing programs that offer additional discounts -Manufacturer specific discount programs -Manufacturer specific specials and promotional pricing -Overall volume discounts <p>In particular, if we see an option to work with VITA as a master agreement holder for a particular software partner, we will engage with you to review how signing on to that particular program will benefit not only VITA but any public body that is able to affiliate and take advantage of additional volume discounts. In short, SHI will make every effort to help you to aggregate purchases on behalf of other public bodies if it is of interest to VITA and serves to provide better pricing to your agencies and public bodies.</p>
5.1.15	Does your Solution provide additional discounts on software maintenance? Please describe.	Yes	<p>SHI will strive to maintain the proposed discount level for the maintenance purchases as well as the license purchases for the software providers in our response. Every attempt has been made to reflect this in our overall discount structure so that we can offer the greatest available variety of software, maintenance, support and services for the lifetime of this contract.</p>
5.1.16	Does your Solution offer a comprehensive catalog of COTS Software? Please describe.	Yes	<p>SHI's current catalog includes almost 14,000 Software partners.</p>

	5.2 Reports	A	B
5.2.1	Does your Solution include standardized invoicing and reporting formats to VITA and all other public bodies?	Yes	Please see the Additional Information section of our Technical Response for complete overview of our invoicing capabilities.
5.2.2	Does your Solution include reports on request to users detailing software products that have been placed in any of their locations? Please provide examples.	Yes	SHI provides online order status and reporting for all orders placed with SHI, whether the orders are submitted online or directly to the Account Team. Access to the order information is controlled by the permissions assigned to each individual user name. The order data is tied to a specific customer account and the individual accounts are then grouped together to accommodate reporting groups that match the customer's organizational hierarchy. We have created our databases to remain flexible enough to be able to incorporate any organizational structure and to provide reports on any level within the organization. We begin with the most granular reporting level, this can be by department or local government entity and then SHI groups the ordering units to the Commonwealth-wide level. In addition, we capture the contract number, allowing us to run a report across all purchases made under the contract. SHI has the capability to collect customized data fields, which can be established at the Commonwealth or Executive Level, the Agency/Department Level, and /or per individual customer. SHI makes it simple for all contract users to access the reporting information that they need. Whether the reporting requirement is for a single agency looking for the

5.2.3	Does your Solution include additional reports that would be an added value to the Commonwealth? Please describe and provide examples.	Yes	<p>SHI fully understand s your need for flexibility in reporting, as well as your need for reports from the highest organizational level to the most granular. We have created our databases to remain flexible enough to be able to incorporate any organizational structure and to provide reports on any level within the organization.</p> <p>Please see the Additional Information section of our Technical Response for complete overview of our reporting capabilities.</p>
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	5.3 Services	A	B
5.3.1	Does your Solution include COTS software installation services? Please provide details.	Yes	SHI can resell installation services for f the software being offered as part of this response. Due to the large number of products available, SHI cannot provide details for each product. Upon award, SHI can provide installation services information as requested.
5.3.2	Does your Solution include COTS software training services? Please provide details.	Yes	SHI can resell any software training services provided by the software manufacturer. Due to the large number of products available, SHI cannot provide details for each product. Upon award, SHI can provide training services information as requested.
5.3.3	Does your Solution include software maintenance that offers online self help functions? Please provide details.	Yes	Online self help is available from many of the software products included with this solution. Due to the large number of products available, SHI can provide specific details as requested.
5.3.4	Does your Solution include software maintenance support via email? Please provide details.	Yes	Maintenance support via email is available from many of the software products included with this solution. Due to the large number of products available, SHI can provide specific details as requested.
5.3.5	Does your Solution include remote technical support? Please provide details.	Yes	SHI can resell any technical support that is available. Due to the large number of products available, SHI cannot provide details for each product. Upon award, SHI can provide technical support information as requested.
5.3.6	Does your Solution include a customer support program? Please describe your firm's ability to keep users informed of new products, changes in technology, advanced specification documentation and other market information.	Yes	VITA's dedicated account team, as identified in our Supplier Profile, will meet regularly with VITA customers to provide updates on current products, known changes, and other marketing information. In addition, SHI account team can include representatives from requested manufacturers at meetings to allow for fuller product discussions and additional market information.

5.3.7	Does your Solution respond to an order within two (2) business hours? Please provide detail on how this will be accomplished.	Yes	SHI realizes VITA's needs for exceptional responses in terms of technical issues, product delivery, billing, and requests regarding Statements of Work. We also understand the need for communication of timely information in order to keep your projects moving forward. The first step to ensure success in these areas is to collaboratively and clearly define SLAs. Generally, our response turnaround is articulated as such: <ul style="list-style-type: none"> • Email and Phone requests – Respond to all email and phone requests within 2-4 hours; • Orders – Process orders within 24 hours of receipt, unless additional information is required first; • Pending request – Provide daily updates (every 24 hours),
5.3.8	Does your Solution include 8am to 5pm EST software support? Please provide details.	Yes	The dedicated SHI Account team will be available to provide support during 8am - 5pm EST and if necessary additional hours. Manufacturer software support will vary, SHI will work with VITA to identify any that do not adhere to the requested time.
5.3.9	Does your Solution include after hours software support? Please provide details.	Yes	As needed SHI will work with VITA and the manufacturer to provide after hours support.
5.3.10	Does your Solution's installation and maintenance technicians have and maintain current industry certifications? Please provide details and types of certifications.	Yes	When SHI resells manufacturer services, they are responsible for their technicians maintaining the necessary certifications. When SHI provides services through our Solutions team, we will ensure necessary certification. Please see the Additional Information Section of the Technical Reponse for more information.
5.3.11	Does your Solution have an in-house order tracking system that can be accessed 24 x7 by a user? Please provide details.	Yes	Please see the Additional Information Section of the Technical Reponse for more information.

5.3.12	Does your Solution offer any additional license tracking and inventory management services that would be an added value to the Commonwealth? Please describe and provide examples.	Yes	Please see the Additional Information Section of the Technical Reponse for more information.
5.3.13	Does your Solution provide any additional services that would be an added value to the Commonwealth? Please describe and provide examples.	Yes	Please see the Additional Information Section of the Technical Reponse for more information.

Appendix C Pricing

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

Enter discounts for publishers

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

Publisher	Gov't Discount %	Academic Discount %
ABSOLUTE	20%	20%
Adobe	2%	2%
Articulate	3%	3%
Autodesk	2%	1%
CA TECHNOLOGIES	2%	2%
Checkpoint	3%	3%
Citrix (Excluding Online)	10%	10%
CommVault	10%	10%
Corel	4%	5%
FARONICS	4%	4%
Filemaker	5%	5%
FourWinds	7%	7%
Google	0%	0%
IPSwitch	1%	1%
KOFAX	0%	0%
McAfee	20%	20%
Nuance	5%	5%
ONSSI	10%	10%
Papercut	4%	4%
Parallels	5%	5%
Quest	0%	0%
Red Hat	5%	5%
SAP	5%	5%
SilverPeak	5%	5%
SMART Technologies	0%	0%
SOLARWINDS	5%	5%
SonicWall	0%	0%
Sophos	10%	10%
Symantec	16%	16%
Techsmith	10%	10%
Tenable	0%	0%
TREND MICRO	17%	17%
Veeam	0%	0%
VERITAS	3%	3%
VMWare	5%	5%

Title	Gov't Discount %	Gov't Price \$	Academic Discount %	Academic Price \$
Absolute DDS	20%	\$ 29.46	20%	\$ 33.43
Adobe Acrobat Professional	2%	\$ 169.40	2%	\$ 173.71
Adobe Creative Cloud for Teams	2%	\$ 940.68	2%	\$ 410.16
Arcserve - CA Technologies	10%	\$ 519.62	10%	\$ 519.62
Sharefile - Citrix	10%	\$ 137.39	10%	\$ 137.39
Citrix XenApp	10%	\$ 281.94	10%	\$ 281.94
Citrix XenDesktop	10%	\$ 158.82	10%	\$ 158.82
Citrix XenServer	10%	\$ 640.76	10%	\$ 640.76
VM Backup - Commvault	10%	\$ 1,342.46	10%	\$ 1,342.46
Draw - Corel	4%	\$ 460.53	5%	\$ 93.94
Deep Freeze	4%	\$ 65.67	4%	\$ 32.97
Filemaker Pro	5%	\$ 161.56	5%	\$ 99.13
Google Chrome Management	10%	\$ 118.20	10%	\$ 25.33
Whatsup Gold	1%	\$ 2,622.16	1%	\$ 2,622.16
VitualRescan - Kofax	0%	\$ 711.46	0%	\$ 711.46
McAfee Complete Endpoint Threat Protection	20%	\$ 80.52	20%	\$ 80.52
McAfee Endpoint Threat Defense and Response	20%	\$ 50.18	20%	\$ 50.08
Dragon Naturally Speaking	16%	\$ 140.75	16%	\$ 140.75
Ocularis - OnSSI	10%	\$ 523.60	10%	\$ 523.60
Print Management - Papercut	4%	\$ 410.15	4%	\$ 485.58
Parallels Desktop	8%	\$ 91.66	8%	\$ 45.83
Quest TOAD for Oracle Base Edition	0%	\$ 974.15	0%	\$ 974.15
Red Hat Enterprise Linux Server	10%	\$ 679.77	10%	\$ 679.77
Red Hat Enterprise Linux Developer Suite	7%	\$ 91.79	7%	\$ 91.79
Crystal Reports	5%	\$ 390.20	5%	\$ 390.20
Unity Edge Connect - Silver Peak	5%	\$ 2,242.91	5%	\$ 2,242.91
SolarWinds Network Configuration Manager	13%	\$ 2,478.34	13%	\$ 2,478.34
Network Performance Monitor - Solar Winds	13%	\$ 2,529.70	13%	\$ 2,529.70
Sophos Central Endpoint Advanced	20%	\$ 34.98	20%	\$ 20.08
Symantec Endpoint Protection	30%	\$ 28.21	30%	\$ 28.21
Symantec Protection Suite Enterprise Edition	30%	\$ 54.09	30%	\$ 54.09
Snagit	18%	\$ 34.94	18%	\$ 24.37
Tenable Nessus Professional	15%	\$ 1,844.70	15%	\$ 1,844.70
Trend Micro Deep Security Network Security	22%	\$ 204.68	22%	\$ 204.68
Veeam Availability Suite Enterprise for Vmware	15%	\$ 1,364.57	15%	\$ 1,364.57
Veeam Backup & Replication Enterprise for Vmware	15%	\$ 1,137.15	15%	\$ 1,137.15
Veritas NetBackup Enterprise Client	20%	\$ 1,730.67	20%	\$ 1,730.67
Veritas Backup Exec Agent for Windows	20%	\$ 353.49	20%	\$ 353.49
VMware vSphere Enterprise Plus Edition	5%	\$ 3,190.93	5%	\$ 1,910.46
VMware vSphere Essentials Kit	5%	\$ 451.94	5%	\$ 269.16
Vsphere	5%	\$ 908.43	5%	\$ 543.89

*Please provide link to publicly available price list.

Pricing is available at www.shi.com

**Warranty is software publisher's warranty.*

**Delivery Terms (If Applicable): F.O.B. Destination.*

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

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

EXHIBIT F: CERTIFICATION REGARDING LOBBYING

The undersigned certifies, to the best of his or her knowledge and belief, that:

- i). No Federal appropriated funds have been paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee or an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal Contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal Contract, grant, loan, or cooperative agreement.
- ii). If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal Contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- iii). The undersigned shall require that the language of this certification be included in the award documents for all sub awards at all tiers (including subcontracts, sub grants, and Contracts under grants, loans and cooperative agreements) and that all sub recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Signature: _____



Printed Name: _____

Meghan Flisakowski

Organization: _____

SHI International Corp

Date: _____

6/18/2018