

TIPS VENDOR AGREEMENT

TIPS RFP 230105 Technology Solutions, Products, and Services

The following Vendor Agreement (“Agreement”) creates a legal agreement between The Interlocal Purchasing System (“TIPS”), a government purchasing cooperative and Department of Texas Region 8 Education Service Center and (INSERT ENTITY NAME):

JTS

(ENTER ENTITY NAME]

its owners, agents, subsidiaries, and affiliates (together, “Vendor”) (individually, “Party”, and collectively the “Parties”) and this agreement shall exclusively govern the contractual relationship (“Agreement”) between the Parties.

TIPS, a governmental entity and a national purchasing cooperative seeks to provide a valuable and necessary solution to public entities and qualifying non-profits by performing the public procurement solicitation process and awarding compliant contracts to qualified vendors. Then, where the law of a customer’s jurisdiction allows, instead of public entities and qualifying non-profits expending time, money, and resources on the extensive public procurement process, the use of TIPS allows public entities to quickly select and purchase their preferred products or services from qualified, competitively evaluated vendors through cooperative purchasing.

1. **Purpose.** The purpose of this Agreement is to identify the terms and conditions of the relationship between TIPS and Vendor. Public entities and qualifying non-profits that properly join or utilize TIPS “(TIPS Members”) may elect to “piggyback” off of TIPS’ procurements and agreements where the laws of their jurisdiction allow. TIPS Members are not contractual parties to this Agreement although terms and conditions of this Agreement may ensure benefits to TIPS Members.
2. **Authority.** The Parties agree that the signatories below are individual authorized to enter into this Agreement on behalf of their entity and that they are acting under due and proper authority under applicable law.
3. **Definitions.**
 - a. **TIPS Pricing:** The specific pricing, discounts, and other pricing terms and incentives which Vendor submitted and TIPS approved for each respective TIPS Contract awarded to Vendor and all permissible, subsequent pricing updates submitted by Vendor and accepted by TIPS, if any.
 - b. **Authorized Reseller:** A reseller or dealer authorized and added by a Vendor through their online TIPS Vendor Portal to make TIPS sales according to the terms and conditions herein.
4. **Entire Agreement.** This Agreement resulted from TIPS posting a “TIPS Solicitation” (RFP, RCSP, RFQ, or other) and Vendor submitting a proposal in response to that posted TIPS Solicitation for evaluation and award. The Parties agree that this Agreement consists of the provisions set forth herein and: (1) The TIPS solicitation document resulting in this Agreement; (2) Any addenda or clarifications issued in relation to the TIPS solicitation; (3) All solicitation information provided to Vendor by TIPS through the TIPS eBid System; (3) Vendor’s entire proposal response to the TIPS solicitation including all accepted required attachments, acknowledged notices and certifications, accepted negotiated terms, pricing, accepted responses to questions, and accepted written clarifications of Vendor’s proposal, and; any properly included attachments to this Agreement. All documentation and information listed is hereby incorporated by reference as if set forth herein verbatim. In the event of conflict between the terms herein and one of the incorporated documents the terms and conditions herein shall control.
5. **Vendor’s Specific Warranties, Terms, and License Agreements.** Because TIPS serves public entities and non-profits throughout the nation all of which are subject to specific laws and policies of their jurisdiction, as a matter of standard practice, TIPS does not typically accept a Vendor’s specific “Sale Terms” (warranties, license agreements, master agreements, terms and conditions, etc.) on behalf of all TIPS Members. TIPS may permit Vendor to attach those to this Agreement to display to interested customers what terms may apply to their Supplemental Agreement with Vendor (if submitted by Vendor for that purpose). However, unless this term of the Agreement is negotiated and modified to state otherwise, those specific Sale Terms are not accepted by TIPS on behalf of all TIPS Members and each Member may choose whether to accept, negotiate, or reject those specific Sale Terms, which must be reflected in a separate agreement between Vendor and the Member in order to be effective.

- 6. Vendor Identity and Contact Information.** It is Vendor's sole responsibility to ensure that all identifying vendor information (name, EIN, d/b/a's, etc.) and contact information is updated and current at all times within the TIPS eBid System and the TIPS Vendor Portal. It is Vendor's sole responsibility to confirm that all e-correspondence issued from tips-usa.com, ionwave.net, and tipsconstruction.com to Vendor's contacts are received and are not blocked by firewall or other technology security. Failure to permit receipt of correspondence from these domains and failure to keep vendor identity and contact information current at all times during the life of the contract may cause loss of TIPS Sales, accumulating TIPS fees, missed rebid opportunities, lapse of TIPS Contract(s), and unnecessary collection or legal actions against Vendor. It is no defense to any of the foregoing or any breach of this Agreement that Vendor was not receiving TIPS' electronic communications issued by TIPS to Vendor's listed contacts.
- 7. Initiation of TIPS Sales.** When a public entity initiates a purchase with Vendor, if the Member inquires verbally or in writing whether Vendor holds a TIPS Contract, it is the duty of the Vendor to verify whether the Member is seeking a TIPS purchase. Once verified, Vendor must include the TIPS Contract Number on all purchase communications and sales documents exchanged with the TIPS Member.
- 8. TIPS Sales and Supplemental Agreements.** The terms of the specific TIPS order, including but not limited to: shipping, freight, insurance, delivery, fees, bonding, cost, delivery expectations and location, returns, refunds, terms, conditions, cancellations, order assistance, etc., shall be controlled by the purchase agreement (Purchase Order, Contract, Invoice, etc.) (hereinafter "Supplemental Agreement") entered into between the TIPS Member Customer and Vendor only. TIPS is not a party to any Supplemental Agreement. All Supplemental Agreements shall include Vendor's Name, as known to TIPS, and TIPS Contract Name and Number. Vendor accepts and understands that TIPS is not a legal party to TIPS Sales and Vendor is solely responsible for identifying fraud, mistakes, unacceptable terms, or misrepresentations for the specific order prior to accepting. Vendor agrees that any order issued from a customer to Vendor, even when processed through TIPS, constitutes a legal contract between the customer and Vendor only. When Vendor accepts or fulfills an order, even when processed through TIPS, Vendor is representing that Vendor has carefully reviewed the order for legality, authenticity, and accuracy and TIPS shall not be liable or responsible for the same. In the event of a conflict between the terms of this TIPS Vendor Agreement and those contained in any Supplemental Agreement, the provisions set forth herein shall control unless otherwise agreed to and authorized by the Parties in writing within the Supplemental Agreement.
- 9. Right of Refusal.** Vendor has the right not to sell to a TIPS Member under the awarded agreement at Vendor's discretion unless otherwise required by law.
- 10. Reporting TIPS Sales.** Vendor must report all TIPS Sales to TIPS. If a TIPS sale is initiated by Vendor receiving a TIPS Member's purchase order from TIPS directly, Vendor may consider that specific TIPS Sale reported. Otherwise, with the exception of TIPS Automated Vendors, who have signed an exclusive agreement with TIPS regarding reporting, all TIPS Sales must be reported to TIPS by either: (1) Emailing the purchase order or similar purchase document (with Vendor's Name, as known to TIPS, and the TIPS Contract Name and Number included) to TIPS at tipspo@tips-usa.com with "Confirmation Only" in the subject line of the email within three business days of Vendor's acceptance of the order, or; (2) Within 3 business days of the order being accepted by Vendor, Vendor must login to the TIPS Vendor Portal and successfully self-report all necessary sale information within the Vendor Portal and confirm that it shows up accurately on your current Vendor Portal statement. No other method of reporting is acceptable unless agreed to by the Parties in writing. Failure to report all sales pursuant to this provision may result in immediate cancellation of Vendor's TIPS Contract(s) for cause at TIPS' sole discretion. Please refer to the TIPS [Accounting FAQ's](#) for more information about reporting sales and if you have further questions, contact the Accounting Team at accounting@tips-usa.com.
- 11. TIPS Administration Fees.** The collection of administrative fees by TIPS, a government entity, for performance of these procurement services is required pursuant to Texas Government Code Section 791.011 et. seq. The administration fee ("TIPS Administration Fee") is the amount legally owed by Vendor to TIPS for TIPS Sales made by Vendor. The TIPS Administration Fee amount is typically a set percentage of the amount paid by the TIPS Member for each TIPS Sale, less shipping cost, bond cost, and taxes if applicable and identifiable, which is legally due to TIPS, but the exact TIPS Administration Fee for this Contract is published in the corresponding solicitation and is incorporated herein by reference. TIPS Administration Fees are due to TIPS immediately upon Vendor's receipt of payment, including partial payment, for a TIPS Sale. The TIPS Administration Fee is assessed on the amount paid by the TIPS Member, not on the Vendor's cost or on the amount for which the Vendor sold the item to a dealer or Authorized Reseller. Upon receipt of payment for a TIPS Sale, including partial payment (which renders TIPS Administration Fees immediately due), Vendor shall issue to TIPS the corresponding TIPS Administration Fee payment as soon as possible but not later than thirty-one calendar days following Vendor's receipt of payment. Vendor shall pay TIPS via check unless otherwise agreed to by the Parties in writing. Vendor shall include clear documentation with the issued payment dictating to which sale(s) the amount should be applied. Vendor may create a payment report within their TIPS Vendor Portal which is the preferred documentation dictating to which TIPS Sale(s) the amount should be applied. Failure to pay all TIPS Administration Fees pursuant to this provision may result in immediate cancellation of Vendor's TIPS Contract(s) for cause at TIPS' sole discretion as well as the initiation of collection and legal actions by TIPS against Vendor to the extent permitted by law. Any overpayment of participation fees to TIPS by Vendor will be refunded to the Vendor

within ninety (90) days of receipt of notification if TIPS receives written notification of the overpayment not later than the expiration of six (6) months from the date of overpayment and TIPS determines that the amount was not legally due to TIPS pursuant to this agreement and applicable law. Any notification of overpayment received by TIPS after the expiration of six (6) months from the date that TIPS received the payment will render the overpayment non-refundable. Region 8 ESC and TIPS reserve the right to extend the six (6) month deadline if approved by the Region 8 ESC Board of Directors. TIPS reserves all rights under the law to collect TIPS Administration Fees due to TIPS pursuant to this Agreement.

- 12. Term of the Agreement.** This Agreement with TIPS is for approximately five years with a one-year, consecutive option for renewal as described herein. Renewal options are not automatic and shall only be effective if offered by TIPS at its sole discretion. If TIPS offers a renewal option, the Vendor will be notified via email issued to Vendor's then-listed Primary Contact. The renewal option shall be deemed accepted by Vendor unless Vendor notifies TIPS of its objection to the renewal option in writing and confirms receipt by TIPS.

Actual Effective Date: Agreement is effective upon signature by authorized representatives of both Parties. The Effective Date does not affect the "Term Calculation Start Date."

Term Calculation Start Date: To keep the contract term consistent for all vendors awarded under a single TIPS contract, Vendor shall calculate the foregoing term as starting on the last day of the month that "Award Notifications" are anticipated as published in the Solicitation, regardless of the actual Effective Date.

Example of Term Calculation Start Date: If the anticipated "Award Date" published in the Solicitation is May 22, 2023, but extended negotiations delay award until June 27, 2023 (Actual Effective Date), the Term Calculation Start Date shall be May 31, 2023 in this example.

Contract Expiration Date: To keep the contract term consistent for all vendors awarded under a single TIPS contract, the term expiration date shall be five-years from the Term Calculation Start Date.

Example of Contract Expiration Date: If the anticipated "Award Date" published in the Solicitation is May 22, 2023, but extended negotiations delay award until June 27, 2023 (Actual Effective Date), the Term Calculation Start Date shall be May 31, 2023 and the Contract Expiration Date of the resulting initial "five-year" term, (which is subject to an extension(s)) will be May 31, 2028 in this example.

Option(s) for Renewal: Any option(s) for renewal shall begin on the Contract Expiration Date, or the date of the expiration of the prior renewal term where applicable, and continue for the duration specified for the renewal option herein.

Example of Option(s) for Renewal: In this example, if TIPS offers a one-year renewal and the Contract Expiration Date is May 31, 2028, then the one-year renewal is effective from May 31, 2028 to May 31, 2029.

TIPS may offer to extend Vendor Agreements to the fullest extent the TIPS Solicitation resulting in this Agreement permits.

- 13. TIPS Pricing.** Vendor agrees and understands that for each TIPS Contract that it holds, Vendor submitted, agreed to, and received TIPS' approval for specific pricing, discounts, and other pricing terms and incentives which make up Vendor's TIPS Pricing for that TIPS Contract ("TIPS Pricing"). Vendor confirms that Vendor will not add the TIPS Administration Fee as a charge or line-item in a TIPS Sale. Vendor hereby certifies that Vendor shall only offer goods and services through this TIPS Contract if those goods and services are included in or added to Vendor's TIPS Pricing and approved by TIPS. TIPS reserves the right to review Vendor's pricing update requests as specifically as line-item by line-item to determine compliance. However, Vendor contractually agrees that all submitted pricing updates shall be within the original terms of the Vendor's TIPS Pricing (scope, proposed discounts, price increase limitations, and other pricing terms and incentives originally proposed by Vendor) such that TIPS may accept Vendors price increase requests as submitted without additional vetting at TIPS discretion. Any pricing quoted by Vendor to a TIPS Member or on a TIPS Quote shall never exceed Vendor's TIPS Pricing for any good or service offered through TIPS. Vendor certifies by signing this agreement that Vendor's TIPS Pricing for all goods and services included in Vendor's TIPS Pricing shall either be equal to or less than Vendor's current pricing for that good or service for any other customer. TIPS Pricing price increases and modifications, if permitted, will be honored according to the terms of the solicitation and Vendor's proposal, incorporated herein by reference.

- 14. Indemnification of TIPS.** VENDOR AGREES TO INDEMNIFY, HOLD HARMLESS, AND DEFEND TIPS, TIPS MEMBERS, TIPS OFFICERS, TIPS EMPLOYEES, TIPS DIRECTORS, AND TIPS TRUSTEES (THE "TIPS INDEMNITEES") FROM AND AGAINST ALL CLAIMS AND SUITS BY THIRD-PARTIES FOR DAMAGES, INJURIES TO PERSONS (INCLUDING DEATH), PROPERTY DAMAGES, LOSSES, EXPENSES, FEES, INCLUDING COURT COSTS, ATTORNEY'S FEES, AND EXPERT FEES, ARISING OUT OF OR RELATING TO VENDOR'S PERFORMANCE UNDER THIS AGREEMENT (INCLUDING THE PERFORMANCE OF VENDOR'S OFFICERS, EMPLOYEES, AGENTS, AUTHORIZED RESELLERS, SUBCONTRACTORS, LICENSEES, OR INVITEES), REGARDLESS OF THE NATURE OF THE CAUSE OF ACTION,

INCLUDING WITHOUT LIMITATION CAUSES OF ACTION BASED UPON COMMON, CONSTITUTIONAL, OR STATUTORY LAW OR BASED IN WHOLE OR IN PART UPON ALLEGATIONS OF NEGLIGENT OR INTENTIONAL ACTS OR OMISSIONS ON THE PART OF VENDOR, ITS OFFICERS, EMPLOYEES, AGENTS, AUTHORIZED RESELLERS, SUBCONTRACTORS, LICENSEES, OR INVITEES. NO LIMITATION OF LIABILITY FOR DAMAGES FOR PERSONAL INJURY OR PROPERTY DAMAGE ARE PERMITTED OR AGREED TO BY TIPS. APART FROM THIS INDEMNIFICATION PROVISION REQUIRING INDEMNIFICATION OF THE TIPS INDEMNITEES' ATTORNEY'S FEES AS SET FORTH ABOVE, RECOVERY OF ATTORNEYS' FEES BY THE PREVAILING PARTY IS AUTHORIZED ONLY IF AUTHORIZED BY TEX. EDUC. CODE § 44.032(F).

- 15. Indemnification and Assumption of Risk – Vendor Data.** VENDOR AGREES THAT IT IS VOLUNTARILY PROVIDING DATA (INCLUDING BUT NOT LIMITED TO: VENDOR INFORMATION, VENDOR DOCUMENTATION, VENDOR'S PROPOSALS, VENDOR PRICING SUBMITTED OR PROVIDED TO TIPS, TIPS CONTRACT DOCUMENTS, TIPS CORRESPONDENCE, VENDOR LOGOS AND IMAGES, VENDOR'S CONTACT INFORMATION, VENDOR'S BROCHURES AND COMMERCIAL INFORMATION, VENDOR'S FINANCIAL INFORMATION, VENDOR'S CERTIFICATIONS, AND ANY OTHER VENDOR INFORMATION OR DOCUMENTATION, INCLUDING WITHOUT LIMITATION SOFTWARE AND SOURCE CODE UTILIZED BY VENDOR, SUBMITTED TO TIPS BY VENDOR AND ITS AGENTS) ("VENDOR DATA") TO TIPS. FOR THE SAKE OF CLARITY, AND WITHOUT LIMITING THE BREADTH OF THE INDEMNITY OBLIGATIONS IN SECTION 13 ABOVE, VENDOR AGREES TO PROTECT, INDEMNIFY, AND HOLD THE TIPS INDEMNITEES HARMLESS FROM AND AGAINST ANY AND ALL LOSSES, CLAIMS, ACTIONS, DEMANDS, ALLEGATIONS, SUITS, JUDGMENTS, COSTS, EXPENSES, FEES, INCLUDING COURT COSTS, ATTORNEY'S FEES, AND EXPERT FEES AND ALL OTHER LIABILITY OF ANY NATURE WHATSOEVER ARISING OUT OF OR RELATING TO: (I) ANY UNAUTHORIZED, NEGLIGENT OR WRONGFUL USE OF, OR CYBER DATA BREACH INCIDENT AND VIRUSES OR OTHER CORRUPTING AGENTS INVOLVING, VENDOR'S DATA, PRICING, AND INFORMATION, COMPUTERS, OR OTHER HARDWARE OR SOFTWARE SYSTEMS, AND; (II) ALLEGATIONS OR CLAIMS THAT ANY VENDOR DATA INFRINGES ON THE INTELLECTUAL PROPERTY RIGHTS OF A THIRD-PARTY OR VENDOR.
- 16. Procedures Related to Indemnification.** In the event that an indemnity obligation arises, Vendor shall pay all amounts set forth in Section 13 and 14 above (including any settlements) and – if it has accepted its indemnity obligation without qualification – control the legal defense to such claim or cause of action, including without limitation attorney selection, strategy, discovery, trial, appeal, and settlement, and TIPS shall, at Vendor's cost and expense (with respect to reasonable out of pocket costs and expenses incurred by TIPS which shall be reimbursed to TIPS by Vendor), provide all commercially reasonable assistance requested by Vendor. In controlling any defense, Vendor shall ensure that all assertions of governmental immunity and all applicable pleas and defenses shall be promptly asserted.
- 17. Indemnity for Underlying Sales and Supplemental Agreements.** Vendor shall be solely responsible for any customer claims or any disputes arising out of TIPS Sales or any Supplemental Agreement as if sold in the open-market. The Parties agree that TIPS shall not be liable for any claims arising out of Vendor's TIPS Sales or Supplemental Agreements, including but not limited to: allegations of product defect or insufficiency, allegations of service defect or insufficiency, allegations regarding delivery defect or insufficiency, allegations of fraud or misrepresentation, allegations regarding pricing or amounts owed for TIPS sales, and/or allegations regarding payment, over-payment, under-payment, or non-payment for TIPS Sales. Payment/Drafting, overpayment/over-drafting, under-payment/under-drafting, or non-payment for TIPS Sales between customer and Vendor and inspections, rejections, or acceptance of such purchases shall be the exclusive respective obligations of Vendor/Customer, and disputes shall be handled in accordance with the terms of the underlying Supplemental Agreement(s) entered into between Vendor and Customer. Vendor acknowledges that TIPS is not a dealer, subcontractor, agent, or reseller of Vendor's goods and services and shall not be responsible for any claims arising out of alleged insufficiencies or defects in Vendor's goods and services, should any arise.
- 18. Confidentiality of Vendor Data.** Vendor understands and agrees that by signing this Agreement, all Vendor Data is hereby released to TIPS, TIPS Members, and TIPS third-party administrators to effectuate Vendor's TIPS Contract except as provided for herein. The Parties agree that Vendor Data is accessible by all TIPS Members as if submitted directly to that TIPS Member Customer for purchase consideration. If Vendor otherwise considers any portion of Vendor's Data to be confidential and not subject to public disclosure pursuant to Chapter 552 Texas Gov't Code (the "Public Information Act") or other law(s) and orders, Vendor must have identified the claimed confidential materials through proper execution of the Confidentiality Claim Form which is required to be submitted as part of Vendor's proposal resulting in this Agreement and incorporated by reference. The Confidentiality Claim Form included in Vendor's proposal and incorporated herein by reference is the sole indicator of whether Vendor considers any Vendor Data confidential in the event TIPS receives a Public Information Request. If TIPS receives a request, any responsive documentation not deemed confidential by you in this manner will be automatically released. For Vendor Data deemed confidential by you in this manner, TIPS will follow procedures of controlling statute(s) regarding any claim of confidentiality and shall not be liable for any release of information required by law, including Attorney General determination and opinion. In the event that TIPS receives a written request for information pursuant to the Public Information Act that affects Vendor's interest in any information or data furnished to TIPS by Vendor, and TIPS requests an opinion from the Attorney General, Vendor may, at its own option and expense, prepare comments and submit information directly to the Attorney General stating why the requested information is exempt from disclosure pursuant to the requirements of the

Public Information Act. Vendor is solely responsible for submitting the memorandum brief and information to the Attorney General within the time period prescribed by the Public Information Act. Notwithstanding any other information provided in this solicitation or Vendor designation of certain Vendor Data as confidential or proprietary, Vendor's acceptance of this TIPS Vendor Agreement constitutes Vendor's consent to the disclosure of Vendor's Data, including any information deemed confidential or proprietary, to TIPS Members or as ordered by a Court or government agency, including without limitation the Texas Attorney General. Vendor agrees that TIPS shall not be responsible or liable for any use or distribution of information or documentation by TIPS Members or as required by law.

19. Vendor's Authorized Resellers. TIPS recognizes that many vendors operate in the open market through the use of resellers or dealers. For that reason, TIPS permits Vendor to authorize Authorized Resellers within its Vendor Portal and make TIPS Sales through the Authorized Reseller(s). Once authorized by Vendor in the Vendor Portal, the Authorized Reseller(s) may make TIPS sales to TIPS Members. However, all purchase documents must include: (1) Authorized Reseller's Name; (2) Vendor's Name, as known to TIPS, and; (3) Vendor's TIPS Contract Name and Number under which it is making the TIPS Sale. Either Vendor or Reseller may report the sale pursuant to the terms herein. However, Vendor agrees that it is legally responsible for all reporting and fee payment as described herein for TIPS Sales made by Authorized Resellers. The TIPS Administration Fee is assessed on the amount paid by the TIPS Member, not on the Vendor's cost or on the amount for which the Vendor sold the item to a dealer or Authorized Reseller. The Parties intend that Vendor shall be responsible and liable for TIPS Sales made by Vendor's Authorized Resellers. Vendor agrees that it is voluntarily authorizing this Authorized Reseller and in doing so, Vendor agrees that it is doing so at its own risk and agrees to protect, indemnify, and hold TIPS harmless in accordance with Sections 14-17 above related to Authorized Reseller TIPS Sales made pursuant to this Agreement or purporting to be made pursuant to this Agreement that may be asserted against Vendor whether rightfully brought or otherwise. The Parties further agree that it is no defense to Vendor's breach of this Agreement that an Authorized Reseller caused Vendor of breach this Agreement.

20. Circumvention of TIPS Sales. When a public entity initiates a purchase with Vendor, if the Member inquires verbally or in writing whether Vendor holds a TIPS Contract, it is the duty of the Vendor to verify whether the Member is seeking a TIPS purchase. Any request for quote, customer communication, or customer purchase initiated through or referencing a TIPS Contract shall be completed through TIPS pursuant to this Agreement. Any encouragement or participation by Vendor in circumventing a TIPS sale being completed may result in immediate termination of Vendor's TIPS Contract(s) for cause as well as preclusion from future TIPS opportunities at TIPS sole discretion.

21. State of Texas Franchise Tax. By signature hereon, Vendor hereby certifies that Vendor is not currently delinquent in the payment of any franchise taxes owed to the State of Texas under Chapter 171 of the Texas Tax Code.

22. Termination.

- A) Termination for Convenience. TIPS may, by written notice to Vendor, terminate this Agreement for convenience, in whole or in part, at any time by giving thirty (30) days' written notice to Vendor of such termination, and specifying the effective date thereof.
- B) Termination for Cause. If Vendor fails to materially perform pursuant to the terms of this Agreement, TIPS shall provide written notice to Vendor specifying the default. If Vendor does not cure such default within thirty (30) days, TIPS may terminate this Agreement, in whole or in part, for cause. If TIPS terminates this Agreement for cause, and it is later determined that the termination for cause was wrongful, the termination shall automatically be converted to and treated as a termination for convenience.
- C) Vendor's Termination. If TIPS fails to materially perform pursuant to the terms of this Agreement, Vendor shall provide written notice to TIPS specifying the default ("Notice of Default"). If TIPS does not cure such default within thirty (30) days, Vendor may terminate this Agreement, in whole or in part, for cause. If TIPS terminates this Agreement for cause, and it is later determined that the termination for cause was wrongful, the termination shall automatically be converted to and treated as a termination for convenience.
- D) Upon termination, all TIPS Sale orders previously accepted by Vendor shall be fulfilled and Vendor shall be paid for all TIPS Sales executed pursuant to the applicable terms. All TIPS Sale orders presented to Vendor but not fulfilled by Vendor, prior to the actual termination of this agreement shall be honored at the option of the TIPS Member. TIPS shall submit to Vendor an invoice for any outstanding TIPS Administration Fees and approved expenses and Vendor shall pay such fees and expenses within 30 calendar days of receipt of such valid TIPS invoice. Vendor acknowledges and agrees that continued participation in TIPS is subject to TIPS' sole

discretion and that any Vendor may be removed from the TIPS program at any time with or without cause. This termination clause does not affect TIPS Sales Supplemental Agreements pursuant to this term regarding termination and the Survival Clause term

- E) Vendor hereby waives any and all claims for damages, including, but not limited, to consequential damages or lost profits, that might arise from TIPS' act of terminating this Agreement.

- 23. Survival Clause.** It is the intent of the Parties that this Agreement and procurement method applies to any TIPS Sale made during the life of this Agreement even if made on or near the Contract Expiration Date as defined herein. Thus, all TIPS Sales, including but not limited to: leases, service agreements, license agreements, open purchase orders, warranties, and contracts, even if they extend months or years past the TIPS Contract Expiration Date, shall survive the expiration or termination of this Agreement subject to the terms and conditions of the Supplemental Agreement between Customer and Vendor or unless otherwise specified herein.
- 24. Audit Rights.** Due to transparency statutes and public accountability requirements of TIPS and TIPS Members, Vendor shall at their sole expense, maintain documentation of all TIPS Sales for a period of three years from the time of the TIPS Sale. In order to ensure and confirm compliance with this agreement, TIPS shall have authority to conduct audits of Vendor's TIPS Pricing or TIPS Sales with thirty-days' notice unless the audit is ordered by a Court Order or by a Government Agency with authority to do so without said notice. Notwithstanding the foregoing, in the event that TIPS is made aware of any pricing being offered to eligible entities that is materially inconsistent with Vendor's TIPS Pricing, TIPS shall have the ability to conduct the audit internally or may engage a third-party auditing firm to investigate any possible non-compliant conduct or may terminate the Agreement according to the terms of this Agreement. In the event of an audit, the requested materials shall be reasonably provided in the time, format, and at the location acceptable to TIPS. TIPS agrees not to perform a random audit the TIPS transaction documentation more than once per calendar year, but reserves the right to audit for just cause or as required by any governmental agency or court with regulatory authority over TIPS or the TIPS Member. These audit rights shall survive termination of this Agreement for a period of one (1) year from the effective date of termination.
- 25. Conflicts of Interest.** The Parties confirm that they have not offered, given, or accepted, nor intend to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, service to the other in connection with this Agreement. Vendor affirms that, to the best of Vendor's knowledge, this Agreement has been arrived at independently, and is awarded without collusion with anyone to obtain information or gain any favoritism that would in any way limit competition or give an unfair advantage over other vendors in the award of this Agreement. Vendor agrees that it has disclosed any necessary affiliations with Region 8 Education Service Center and the TIPS Department, if any, through the Conflict of Interest attachment provided in the solicitation resulting in this Agreement.
- 26. Volume of TIPS Sales.** Nothing in this Agreement or any TIPS communication may be construed as a guarantee that TIPS or TIPS Members will submit any TIPS orders to Vendor at any time.
- 27. Compliance with the Law.** The Parties agree to comply fully with all applicable federal, state, and local statutes, ordinances, rules, and regulations applicable to their entity in connection with the programs contemplated under this Agreement.
- 28. Severability.** If any term(s) or provision(s) of this Agreement are held by a court of competent jurisdiction to be invalid, void, or unenforceable, then such term(s) or provision(s) shall be deemed restated to reflect the original intention of the Parties as nearly as possible in accordance with applicable law and the remainder of this Agreement, and the remainder of the provisions of this Agreement shall remain in full force and effect and shall in no way be affected, impaired or invalidated, unless such holding causes the obligations of the Parties hereto to be impossible to perform or shall render the terms of this Agreement to be inconsistent with the intent of the Parties hereto.
- 29. Force Majeure.** If by reason of Force Majeure, either party hereto shall be rendered unable wholly or in part to carry out its obligations under this Agreement through no fault of its own then such party shall give notice and full particulars of Force Majeure in writing to the other party within a reasonable time after occurrence of the event or cause relied upon. Upon delivering such notice, the obligation of the affected party, so far as it is affected by such Force Majeure as described, shall be suspended during the continuance of the inability then claimed but for no longer period, and such party shall endeavor to remove or overcome such inability with all reasonable dispatch. In the event that Vendor's obligations are suspended by reason of Force Majeure, all TIPS Sales accepted prior to the Force Majeure event shall be the legal responsibility of Vendor and the terms of the TIPS Sale Supplemental Agreement shall control Vendor's failure to fulfill for a Force Majeure event.
- 30. Immunity.** Vendor agrees that nothing in this Agreement shall be construed as a waiver of sovereign or government immunity; nor constitute or be construed as a waiver of any of the privileges, rights, defenses, remedies, or immunities available to Region 8 Education

Service Center or its TIPS Department. The failure to enforce, or any delay in the enforcement of, any privileges, rights, defenses, remedies, or immunities available to Region 8 Education Service Center or its TIPS Department under this Agreement or under applicable law shall not constitute a waiver of such privileges, rights, defenses, remedies, or immunities or be considered as a basis for estoppel.

- 31. Insurance Requirements.** Vendor agrees to maintain the following minimum insurance requirements for the duration of this Agreement. All policies held by Vendor to adhere to this term shall be written by a carrier with a financial size category of VII and at least a rating of "A-" by A.M. Best Key Rating Guide. The coverages and limits are to be considered minimum requirements and in no way limit the liability of the Vendor(s). Any immunity available to TIPS or TIPS Members shall not be used as a defense by the contractor's insurance policy. Only deductibles applicable to property damage are acceptable, unless proof of retention funds to cover said deductibles is provided. "Claims made" policies will not be accepted. Vendor's required minimum coverage shall not be suspended, voided, cancelled, non-renewed or reduced in coverage or in limits unless replaced by a policy that provides the minimum required coverage except after thirty (30) days prior written notice by certified mail, return receipt requested has been given to TIPS or the TIPS Member if a project or pending delivery of an order is ongoing. Upon request, certified copies of all insurance policies shall be furnished to the TIPS or the TIPS Member. Vendor agrees that when Vendor or its subcontractors are liable for any damages or claims, Vendor's policy, shall be primary over any other valid and collectible insurance carried by the Member or TIPS.

General Liability: \$1,000,000 each Occurrence/Aggregate
Automobile Liability: \$300,000 Includes owned, hired & non-owned
Workers' Compensation: Statutory limits for the jurisdiction in which the Vendor performs under this Agreement. If Vendor performs in multiple jurisdictions, Vendor shall maintain the statutory limits for the jurisdiction with the greatest dollar policy limit requirement.
Umbrella Liability: \$1,000,000 each Occurrence/Aggregate

- 32. Waiver.** No waiver of any single breach or multiple breaches of any provision of this Agreement shall be construed to be a waiver of any breach of any other provision. No delay in acting regarding any breach of any provision shall be construed to be a waiver of such breach.
- 33. Binding Agreement.** This Agreement shall be binding and inure to the benefit of the Parties hereto and their respective heirs, legal successors, and assigns.
- 34. Headings.** The paragraph headings contained in this Agreement are included solely for convenience of reference and shall not in any way affect the meaning or interpretation of any of the provisions of this Agreement.
- 35. Choice of Law and Venue.** This Agreement shall be governed by, construed, and enforced in accordance with the laws of the State of Texas. Any proceeding, claim, action, or alternative dispute resolution arising out of or relating to this Agreement or involving TIPS shall be brought in a State Court of competent jurisdiction in Camp County, Texas, or if Federal Court is legally required, a Federal Court of competent jurisdiction in the Eastern District of Texas, and each of the Parties irrevocably submits to the exclusive jurisdiction of said court in any such proceeding, waives any objection it may now or hereafter have to venue or to convenience of forum, agrees that all claims in respect of the proceeding shall be heard and determined only in any such court, and agrees not to bring any proceeding arising out of or relating to this procurement process or any contract resulting from or and contemplated transaction in any other court. The Parties agree that either or both of them may file a copy of this paragraph with any court as written evidence of the knowing, voluntary and freely bargained for agreement between the Parties irrevocably to waive any objections to venue or to convenience of forum.
- 36. Relationship of the Parties.** Nothing contained in this Agreement shall be construed to make one Party an agent of the other Party nor shall either party have any authority to bind the other in any respect, unless expressly authorized by the other party in writing. The Parties are independent contractors and nothing in this Agreement creates a relationship of employment, trust, agency or partnership between them.
- 37. Assignment.** No assignment of this Agreement or of any duty or obligation of performance hereunder, shall be made in whole or in part by a Party hereto without the prior written consent of the other Party. Written consent of TIPS shall not be unreasonably withheld.
- 38. Minimum Condition and Warranty Requirements for TIPS Sales.** All goods quoted or sold through a TIPS Sale shall be new unless clearly stated otherwise in writing. All new goods and services shall include the applicable manufacturers minimum standard warranty unless otherwise agreed to in the Supplemental Agreement.

- 39. Minimum Customer Support Requirements for TIPS Sales.** Vendor shall provide timely and commercially reasonable support for TIPS Sales or as agreed to in the applicable Supplemental Agreement.
- 40. Minimum Shipping Requirements for TIPS Sales.** Vendor shall ship, deliver, or provide ordered goods and services within a commercially reasonable time after acceptance of the order. If a delay in delivery is anticipated, Vendor shall notify the TIPS Member as to why delivery is delayed and provide an updated estimated time for completion. The TIPS Member may cancel the order if the delay is not commercially acceptable or not consistent with the Supplemental Agreement applicable to the order.
- 41. Minimum Vendor License Requirements.** Vendor shall maintain, in current status, all federal, state, and local licenses, bonds and permits required for the operation of the business conducted by Vendor. Vendor shall remain fully informed of and in compliance with all ordinances and regulations pertaining to the lawful provision of goods or services under the TIPS Agreement. TIPS and TIPS Members reserve the right to stop work and/or cancel a TIPS Sale or terminate this or any TIPS Sale Supplemental Agreement involving Vendor if Vendor's license(s) required to perform under this Agreement or under the specific TIPS Sale have expired, lapsed, are suspended or terminated subject to a 30-day cure period unless prohibited by applicable statute or regulation.
- 42. Minimum Vendor Legal Requirements.** Vendor shall remain aware of and comply with this Agreement and all local, state, and federal laws governing the sale of products/services offered by Vendor under this contract. Such applicable laws, ordinances, and policies must be complied with even if not specified herein.
- 43. Minimum Site Requirements for TIPS Sales (*when applicable to TIPS Sale*).**

Cleanup: When performing work on site at a TIPS Member's property, Vendor shall clean up and remove all debris and rubbish resulting from their work as required or directed by the TIPS Member or as agreed by the parties. Upon completion of work, the premises shall be left in good repair and an orderly, neat, clean and unobstructed condition.

Preparation: Vendor shall not begin a project for which a TIPS Member has not prepared the site, unless Vendor does the preparation work at no cost, or until TIPS Member includes the cost of site preparation in the TIPS Sale Site preparation includes, but is not limited to: moving furniture, installing wiring for networks or power, and similar pre-installation requirements.

Registered Sex Offender Restrictions: For work to be performed at schools, Vendor agrees that no employee of Vendor or a subcontractor who has been adjudicated to be a registered sex offender will perform work at any time when students are, or reasonably expected to be, present unless otherwise agreed by the TIPS Member. Vendor agrees that a violation of this condition shall be considered a material breach and may result in the cancellation of the TIPS Sale at the TIPS Member's discretion. Vendor must identify any additional costs associated with compliance of this term. If no costs are specified, compliance with this term will be provided at no additional charge.

Safety Measures: Vendor shall take all reasonable precautions for the safety of employees on the worksite, and shall erect and properly maintain all necessary safeguards for protection of workers and the public. Vendor shall post warning signs against all hazards created by the operation and work in progress. Proper precautions shall be taken pursuant to state law and standard practices to protect workers, general public and existing structures from injury or damage.

Smoking: Persons working under Agreement shall adhere to the TIPS Member's or local smoking statutes, codes, ordinances, and policies.

- 44. Payment for TIPS Sales.** TIPS Members may make payments for TIPS Sales directly to Vendor, Vendor's Authorized Reseller, or as otherwise agreed to in the applicable Supplemental Agreement after receipt of the invoice and in compliance with applicable payment statutes. Regardless of how payment is issued or received for a TIPS Sale, Vendor is responsible for all reporting and TIPS Administration Fee payment requirements as stated herein.
- 45. Marketing.** Vendor agrees to allow TIPS to use their name and logo within the TIPS website, database, marketing materials, and advertisements unless Vendor negotiates this term to include a specific acceptable-use directive. Any use of TIPS' name and logo or any form of publicity, inclusive of press release, regarding this Agreement by Vendor must have prior approval from TIPS which will not be unreasonably withheld. Request may be made by email to tips@tips-usa.com. For marketing efforts directed to TIPS Members, Vendor must request and execute a separate Joint Marketing Disclaimer, at marketing@tips-usa.com, before TIPS can release contact information for TIPS Member entities for the purpose of marketing your TIPS contract(s). Vendor must adhere to strict Marketing Requirements once a disclaimer is executed. The Joint Marketing Disclaimer is a supplemental agreement specific to joint marketing efforts and has no effect on the terms of the TIPS Vendor Agreement. Vendor agrees that any images, photos, writing, audio, clip art,

music, or any other intellectual property ("Property") or Vendor Data utilized, provided, or approved by Vendor during the course of the joint marketing efforts are either the exclusive property of Vendor, or Vendor has all necessary rights, license, and permissions to utilize said Property in the joint marketing efforts. Vendor agrees that they shall indemnify and hold harmless TIPS and its employees, officers, agents, representatives, contractors, assignees, designees, and TIPS Members from any and all claims, damages, and judgments involving infringement of patent, copyright, trade secrets, trade or services marks, and any other intellectual or intangible property rights and/or claims arising from the Vendor's (including Vendor's officers', employees', agents', Authorized Resellers', subcontractors', licensees', or invitees') unauthorized use or distribution of Vendor Data and Property.

- 46. Tax Exempt Status of TIPS Members.** Most TIPS Members are tax exempt entities and the laws and regulations applicable to the specific TIPS Member customer shall control.
- 47. Automatic Renewal Limitation for TIPS Sales.** No TIPS Sale may incorporate an automatic renewal clause that exceeds month to month terms with which the TIPS Member must comply. All renewal terms incorporated into a TIPS Sale Supplemental Agreement shall only be valid and enforceable when Vendor received written confirmation of acceptance of the renewal term from the TIPS Member for the specific renewal term. The purpose of this clause is to avoid a TIPS Member inadvertently renewing an Agreement during a period in which the governing body of the TIPS Member has not properly appropriated and budgeted the funds to satisfy the Agreement renewal. Any TIPS Sale Supplemental Agreement containing an "Automatic Renewal" clause that conflicts with these terms is rendered void and unenforceable.
- 48. Choice of Law Limitation for TIPS Sales.** Vendor agrees that if any "Choice of Law" provision is included in any TIPS Sale agreement/contract between Vendor and a TIPS Member, that clause must provide that the "Choice of Law" applicable to the TIPS Sale agreement/contract between Vendor and TIPS Member shall be the state where the TIPS Member operates unless the TIPS Member expressly agrees otherwise. Any TIPS Sale Supplemental Agreement containing a "Choice of Law" clause that conflicts with these terms is rendered void and unenforceable.
- 49. Venue Limitation for TIPS Sales.** Vendor agrees that if any "Venue" provision is included in any TIPS Sale Agreement/contract between Vendor and a TIPS Member, that clause must provide that the "Venue" for any litigation or alternative dispute resolution shall be in the state and county where the TIPS Member operates unless the TIPS Member expressly agrees otherwise. Any TIPS Sale Supplemental Agreement containing a "Venue" clause that conflicts with these terms is rendered void and unenforceable.
- 50. Indemnity Limitation for TIPS Sales.** Texas and other jurisdictions restrict the ability of governmental entities to indemnify others. Vendor agrees that if any "Indemnity" provision which requires the TIPS Member to indemnify Vendor is included in any TIPS sales agreement/contract between Vendor and a TIPS Member, that clause must either be stricken or qualified by including that such indemnity is only permitted, "to the extent permitted by the laws and constitution of [TIPS Member's State]" unless the TIPS Member expressly agrees otherwise. Any TIPS Sale Supplemental Agreement containing an "Indemnity" clause that conflicts with these terms is rendered void and unenforceable.
- 51. Arbitration Limitation for TIPS Sales.** Vendor agrees that if any "Arbitration" provision is included in any TIPS Sale agreement/contract between Vendor and a TIPS Member, that clause may not require that the arbitration is mandatory or binding. Vendor agrees that if any "Arbitration" provision is included in any TIPS Sale agreement/contract between Vendor and a TIPS Member, that clause provides for only voluntary and non-binding arbitration unless the TIPS Member expressly agrees otherwise. Any TIPS Sale Supplemental Agreement containing a "Arbitration" clause that conflicts with these terms is rendered void and unenforceable.

In Witness Whereof, the parties hereto, each acting under due and proper authority, have signed this Agreement.

TIPS VENDOR AGREEMENT SIGNATURE FORM

TIPS RFP 230105 Technology Solutions, Products, and Services

JTS

Vendor Name: _____

5310 S. Cockrell Hill Road

Vendor Address: _____

Dallas

TX

75236

City: _____ State: _____ Zip Code: _____

Thomas Emerick

Vendor Authorized Signatory Name: _____

CIO/Co-Owner

Vendor Authorized Signatory Title: _____

972-620-1435

Vendor Authorized Signatory Phone: _____

tom.emerick@jts.net

Vendor Authorized Signatory Email: _____

Vendor Authorized Signature:  Date: 2/9/2023

(The following is for TIPS completion only)

TIPS Authorized Signatory Name: Dr. David Fitts

TIPS Authorized Signatory Title: Executive Director

TIPS Authorized Signature:  Date: 5/5/2023



230105
JTS
Johnston Technical Services, Inc.
Supplier Response

Event Information

Number: 230105

Title: Technology Solutions, Products, and Services

Type: Request for Proposal

Issue Date: 1/5/2023

Deadline: 2/17/2023 03:00 PM (CT)

Notes: This is a solicitation issued by The Interlocal Purchasing System (TIPS), a department of Texas Region 8 Education Service Center. It is an Indefinite Delivery, Indefinite Quantity ("IDIQ") solicitation. It will result in contracts that provide, through adoption/"piggyback" an indefinite quantity of supplies/services, during a fixed period of time, to TIPS public entity and qualifying non-profit "TIPS Members" throughout the nation. Thus, there is no specific project or scope of work to review. Rather this solicitation is issued as a prospective award for utilization when any TIPS Member needs the goods or services offered during the life of the agreement.

IF YOU CURRENTLY HOLDS TIPS CONTRACT 200105 TECHNOLOGY SOLUTIONS, PRODUCTS, AND SERVICES ("200105"), YOU MUST RESPOND TO THIS SOLICITATION TO PREVENT LAPSE OF CONTRACT UNLESS YOU HOLD ANOTHER CURRENT TIPS CONTRACT THAT COVERS ALL OF YOUR TECHNOLOGY OFFERINGS. THIS AWARDED CONTRACT WILL REPLACE YOUR EXPIRING TIPS CONTRACT 200105.

IF YOU HOLD A TIPS "TECHNOLOGY SOLUTIONS, PRODUCTS,

AND SERVICES" CONTRACT OTHER THAN 200105 AND YOU CHOOSE TO RESPOND HEREIN, YOUR EXISTING TIPS "TECHNOLOGY SOLUTIONS, PRODUCTS, AND SERVICES" CONTRACT WILL BE TERMINATED AND REPLACED BY THIS CONTRACT.

IF YOU HOLD ANOTHER TIPS CONTRACT OTHER THAN 200105 WHICH COVERS ALL OF YOUR TECHNOLOGY OFFERINGS AND YOU ARE SATISFIED WITH IT, THERE IS NO NEED TO RESPOND TO THIS SOLICITATION UNLESS YOU PREFER TO HOLD BOTH CONTRACTS OR REPLACE YOUR EXISTING TIPS "TECHNOLOGY SOLUTIONS, PRODUCTS, AND SERVICES" CONTRACT.

Contact Information

Address: Region 8 Education Service Center
4845 US Highway 271 North
Pittsburg, TX 75686
Phone: +1 (866) 839-8477
Email: bids@tips-usa.com

JTS Information

Address: 5310 S. Cockrell Hill Road
Dallas, TX 75236
Phone: (972) 620-1435 x125
Fax: (972) 247-5023
Toll Free: (800) 327-1423
Web Address: www.jts.net

By submitting your response, you certify that you are authorized to represent and bind your company.

Kyle Evan Fuller
Signature

kyle.fuller@jts.net
Email

Submitted at 2/16/2023 09:01:30 AM (CT)

Requested Attachments

Pricing Form 1

230105 Pricing Form 1.xlsx

Pricing Form 1 must be downloaded from the "Attachments" section of the IonWave eBid System, reviewed, properly completed as instructed, and uploaded to this location.

Pricing Form 2

230105 Pricing Form 2.xlsx

Pricing Form 2 must be downloaded from the "Attachments" section of the IonWave eBid System, reviewed, properly completed as instructed, and uploaded to this location.

Alternate or Supplemental Pricing Documents

No response

Optional. If when completing Pricing Form 1 & Pricing Form 2 you direct TIPS to view additional, alternate, or supplemental pricing documentation, you may upload that documentation.

Vendor Agreement

230105 Vendor Agreement.pdf

The Vendor Agreement must be downloaded from the "Attachments" section of the IonWave eBid System, reviewed, Vendor Name placed in the line provided at the top, and uploaded to this location. If Vendor has proposed deviations to the Vendor Agreement, Vendor may assert so in the Attribute Questions and those shall be addressed during evaluation.

Vendor Agreement Signature Form

JTS_TIPS Sig Form.pdf

The Vendor Agreement Signature Form must be downloaded from the "Attachments" section of the IonWave eBid System, reviewed, properly completed, and uploaded to this location. If Vendor has proposed deviations to the Vendor Agreement, Vendor may leave the signature line of this page blank and assert so in the Attribute Questions and those shall be addressed during evaluation.

Reference Form

JTS_230105 Reference Form.xlsx

The Reference Form must be downloaded from the "Attachments" section of the IonWave eBid System, reviewed, properly completed, and uploaded to this location. The Reference Form must be uploaded in Excel format.

Required Confidentiality Claim Form

JTS_TIPS Conf Claim Form Signed.pdf

The Required Confidentiality Claim Form must be downloaded from the "Attachments" section of the IonWave eBid System, reviewed, properly completed, and uploaded to this location. This is the only way for Vendor to assert confidentiality of any information submitted.

Conflict of Interest Questionnaire - Form CIQ

No response

Do not upload this form unless you have a reportable conflict with TIPS. There is an Attribute entitled "Conflict of Interest Questionnaire Requirement" immediately followed by an Attribute entitled "Conflict of Interest Questionnaire Requirement – Form CIQ – Continued." Properly respond to those Attributes and only upload this form if applicable/instructed. If upload is required based on your response to those Attributes, the Conflict of Interest Questionnaire – Form CIQ must be downloaded from the "Attachments" section of the IonWave eBid System, reviewed, properly completed, and uploaded at this location.

Disclosure of Lobbying Activities - Standard Form - LLL

No response

Do not upload this form unless Vendor has reportable lobbying activities. There are Attributes entitled, "2 CFR Part 200 or Federal Provision - Byrd Anti-Lobbying Amendment – Continued." Properly respond to those Attributes and only upload this form if applicable/instructed. If upload is required based on your response to those Attributes, the Disclosure of Lobbying Activities – Standard Form - LLL must be downloaded from the "Attachments" section of the IonWave eBid System, reviewed, properly completed, and uploaded to this location.

Current Form W-9

W 9-3.pdf

Vendor must upload their current IRS Tax Form W-9. The legal name, EIN, and d/b/a's listed should match the information provided herein exactly. This form will be utilized by TIPS to properly identify your entity.

Certificates & Licenses (Supplemental Vendor Information Only)

No response

Optional. If Vendor would like to display any applicable certificates or licenses (including HUB certificates) for TIPS and TIPS Member Customer consideration, Vendor may upload those at this location. These supplemental documents shall not be considered part of the TIPS Contract. Rather, they are Vendor Supplemental Information for marketing and informational purposes only.

Vendor's Warranties, Terms, and Conditions (Supplemental Vendor Information Only)

Warranty_Statements.pdf

Optional. If Vendor would like to display any standard warranties, terms, or conditions which are often applicable to their offerings for TIPS and TIPS Member Customer consideration, Vendor may upload those at this location. These supplemental documents shall not be considered part of the TIPS Contract. Rather, they are Vendor Supplemental Information for marketing and informational purposes only.

Supplemental Vendor Information (Supplemental Vendor Information Only)

JTS_Proposed_Goods.pdf

Optional. If Vendor would like to display or include any brochures, promotional documents, marketing materials, or other Vendor Information for TIPS and TIPS Member Customer consideration, Vendor may upload those at this location.

These supplemental documents shall not be considered part of the TIPS Contract. Rather, they are Vendor Supplemental Information for marketing and informational purposes only.

Vendor Logo (Supplemental Vendor Information Only)

JTSLogoCMYK.jpg

Optional. If Vendor desires that their logo be displayed on their public TIPS profile for TIPS and TIPS Member viewing, Vendor may upload that logo at this location. These supplemental documents shall not be considered part of the TIPS Contract. Rather, they are Vendor Supplemental Information for marketing and informational purposes only.

Bid Attributes

1 Disadvantaged/Minority/Women Business & Federal HUBZone

Some participating public entities are required to seek Disadvantaged/Minority/Women Business & Federal HUBZone ("D/M/WBE/Federal HUBZone") vendors. Does Vendor certify that their entity is a D/M/WBE/Federal HUBZone vendor?

If you respond "Yes," you must upload current certification proof in the appropriate "Response Attachments" location.

2 Historically Underutilized Business (HUB)

Some participating public entities are required to seek Historically Underutilized Business (HUB) vendors as defined by the Texas Comptroller of Public Accounts Statewide HUB Program. Does Vendor certify that their entity is a HUB vendor?

If you respond "Yes," you must upload current certification proof in the appropriate "Response Attachments" location.

3 National Coverage
Can the Vendor provide its proposed goods and services to all 50 US States?

4 States Served
If Vendor answered "No" to the question entitled "National Coverage," please list all states where vendor can provide the goods and services proposed directly below. Your response may dictate which potential TIPS Member customers consider purchasing your offerings.

5 Description of Vendor Entity and Vendor's Goods & Services
If awarded, this description of Vendor and Vendor's goods and services will appear on the TIPS website for customer/public viewing.

6 Primary Contact Name
Please identify the individual who will be primarily responsible for all TIPS matters and inquiries for the duration of the contract.

7 Primary Contact Title
Primary Contact Title

8 Primary Contact Email
Please enter a valid email address that will definitely reach the Primary Contact.

9 Primary Contact Phone
Numbers only, no symbols or spaces (Ex. 8668398477). The system will auto-populate your entry with commas once submitted which is appropriate and expected (Ex. 8,668,398,477).

Please provide the accurate and current phone number where the individual who will be primarily responsible for all TIPS matters and inquiries for the duration of the contract can be reached directly.

10 Primary Contact Fax
Numbers only, no symbols or spaces (Ex. 8668398477). The system will auto-populate your entry with commas once submitted which is appropriate and expected (Ex. 8,668,398,477).

1 1	Primary Contact Mobile Numbers only, no symbols or spaces (Ex. 8668398477). The system will auto-populate your entry with commas once submitted which is appropriate and expected (Ex. 8,668,398,477). <input type="text" value="2143346136"/>
----------------------	---

1 2	Secondary Contact Name Please identify the individual who will be secondarily responsible for all TIPS matters and inquiries for the duration of the contract. <input type="text" value="John Thompson"/>
----------------------	--

1 3	Secondary Contact Title Secondary Contact Title <input type="text" value="General Manager"/>
----------------------	---

1 4	Secondary Contact Email Please enter a valid email address that will definitely reach the Secondary Contact. <input type="text" value="John.thompson@jts.net"/>
----------------------	--

1 5	Secondary Contact Phone Numbers only, no symbols or spaces (Ex. 8668398477). The system will auto-populate your entry with commas once submitted which is appropriate and expected (Ex. 8,668,398,477). Please provide the accurate and current phone number where the individual who will be secondarily responsible for all TIPS matters and inquiries for the duration of the contract can be reached directly. <input type="text" value="9726201435"/>
----------------------	--

1 6	Secondary Contact Fax Numbers only, no symbols or spaces (Ex. 8668398477). The system will auto-populate your entry with commas once submitted which is appropriate and expected (Ex. 8,668,398,477). <input type="text" value="No response"/>
----------------------	---

1 7	Secondary Contact Mobile Numbers only, no symbols or spaces (Ex. 8668398477). The system will auto-populate your entry with commas once submitted which is appropriate and expected (Ex. 8,668,398,477). <input type="text" value="9032354191"/>
----------------------	---

1 8	Administration Fee Contact Name Please identify the individual who will be responsible for all payment, accounting, and other matters related to Vendor's TIPS Administration Fee due to TIPS for the duration of the contract. <input type="text" value="Sandy Sheffler"/>
----------------------	--

1 9	Administration Fee Contact Email Please enter a valid email address that will definitely reach the Administration Fee Contact. <input type="text" value="accounting@jts.net"/>
----------------------	---

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Administration Fee Contact Phone

Numbers only, no symbols or spaces (Ex. 8668398477). The system will auto-populate your entry with commas once submitted which is appropriate and expected (Ex. 8,668,398,477).

9726201435

2
1

Purchase Order and Sales Contact Name

Please identify the individual who will be responsible for receiving and processing purchase orders and sales under the TIPS Contract.

Kyle Fuller

2
2

Purchase Order and Sales Contact Email

Please enter a valid email address that will definitely reach the Purchase Order and Sales Contact.

sales@jts.net

2
3

Purchase Order and Sales Contact Phone

Numbers only, no symbols or spaces (Ex. 8668398477). The system will auto-populate your entry with commas once submitted which is appropriate and expected (Ex. 8,668,398,477).

9726201435

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4

Company Website

Company Website (Format - www.company.com)

www.jts.net

2
5

Entity D/B/A's and Assumed Names

You must confirm that you are responding to this solicitation under your legal entity name. Go now to your Supplier Profile in this eBid System and confirm that your profile reflects your "Legal Name" as it is listed on your W9.

In this question, please identify all of your entity's assumed names and D/B/A's. Please note that you will be identified publicly by the Legal Name under which you respond to this solicitation unless you organize otherwise with TIPS after award.

Johnston Technical Services, Inc. (d.b.a. JTS)

2
6

Primary Address

Primary Address

5310 S. Cockrell Hill Road

2
7

Primary Address City

Primary Address City

Dallas

2
8

Primary Address State

Primary Address State (2 Digit Abbreviation)

TX

29	Primary Address Zip
	Primary Address Zip <input type="text" value="75236"/>

30	Search Words Identifying Vendor
	Please list all search words and phrases to be included in the TIPS database related to your entity. Do not list words which are not associated with the bid category/scope (See bid title for general scope). This will help users find you through the TIPS website search function. You may include product names, manufacturers, specialized services, and other words associated with the scope of this solicitation. <input type="text" value="microwave, broadband, network, wireless, integration, tower, antenna, radio, Cambium, Ceragon, Siklu, Aviat, Tessco, Rohn, Sabre, Trylon, Airspan, Mimosa, RFS, licensed, unlicensed, Redline, Siemens, Ruggedcom, Radwin, Proxim, Mimomax"/>

31	Certification of Vendor Residency (Required by the State of Texas)
	Does Vendor's parent company or majority owner: (A) have its principal place of business in Texas; or (B) employ at least 500 persons in Texas? Texas Education Code Section 44.031 requires that this information be considered in evaluation for certain contracts. However, Vendor response does not affect points, scoring, or potential award. <input type="text" value="Yes"/>

32	Vendor's Principal Place of Business (City)
	In what city is Vendor's principal place of business located? <input type="text" value="Dallas"/>

33	Vendor's Principal Place of Business (State)
	In what state is Vendor's principal place of business located? <input type="text" value="TX"/>

34	Vendor's Years in Business
	How many years has the business submitting this proposal been operating in its current capacity and field of work? <input type="text" value="35"/>

35	Certification Regarding Entire TIPS Agreement
	Vendor agrees that, if awarded, Vendor's final TIPS Contract will consist of the provisions set forth in the finalized TIPS Vendor Agreement, Vendor's responses to these attribute questions, and: (1) The TIPS solicitation document resulting in this Agreement; (2) Any addenda or clarifications issued in relation to the TIPS solicitation; (3) All solicitation information provided to Vendor by TIPS through the TIPS eBid System; (3) Vendor's entire proposal response to the TIPS solicitation including all accepted required attachments, acknowledged notices and certifications, accepted negotiated terms, accepted pricing, accepted responses to questions, and accepted written clarifications of Vendor's proposal, and; any properly included attachments to the TIPS Contract. Does Vendor agree? <input type="text" value="Yes"/>

**3
6** Minimum Percentage Discount Offered to TIPS Members on all Goods and Services (READ CAREFULLY)

Please read thoroughly and carefully as an error on your response can render your contract award unusable.

TIPS Members often turn to TIPS Contracts for ease of use and to receive discounted pricing.

What is the minimum percentage discount that you can offer TIPS Members off of all goods and service pricing that you offer?

Vendor must respond with a percentage from 0%-100%. The percentage discount that you input below will be applied to your "Catalog Pricing", as defined in the solicitation, for all TIPS Sales made during the life of the contract. You cannot alter this percentage discount once the solicitation legally closes. You will always be required to discount every TIPS Sale by the percentage included below. If you add goods or services to your "Catalog Pricing" during the life of the contract, you will be required to sell those new items with this discount applied.

Example: In this example, you enter a 10% minimum percentage discount below. In year-one of your TIPS Contract, your published "Catalog Pricing" (website/store/published pricing) for "Tablet A" is \$100 and for "Tablet Set-Up Service" is \$100. In this example, you must sell those items under the TIPS Contract at the proposed 10% discounted price of: "Tablet A" - \$90, "Tablet Set-Up Service" - \$90. In year two of your TIPS Contract, you update your "Catalog Pricing" with the market. You add "Tablet B" to your "Catalog Pricing" for \$200 and have increased the price of "Tablet A" to \$110 and the price of "Tablet Set-Up Service" to \$110. In this example, after the "Catalog Pricing" update, you must still sell those items under the TIPS Contract at the proposed 10% discounted price of: "Tablet A" - \$99, "Tablet Set-Up Service" - \$99, and "Tablet B" - \$180.00.

If you cannot honor the discount on all goods and items now included or which may be added in the future with certainty, then you should offer a lesser discount percentage below.

What is the minimum percentage discount that you can offer TIPS Members off of all goods and service pricing that you offer?

**3
7** Honoring Vendor's Minimum Percentage Discount

Vendor is asked in these Attribute Questions to provide a Minimum Percentage Discount offered to TIPS Members on all goods and services sold under the TIPS Contract. Points will be assigned for your response and scoring of your proposal will be affected. A "YES" answer will be awarded the maximum 10 points and a "NO" answer will be awarded 0 points.

Does Vendor agree to honor the Minimum Percentage Discount off of their TIPS "Catalog Pricing" that Vendor proposed for all TIPS Sales made for the duration of the TIPS Contract?

**3
8** Volume and Additional Discounts

In addition to the Minimum Percentage Discount proposed herein, does Vendor ever expect and intend to offer additional, greater, or volume discounts to TIPS Members?

Point(s) may be assigned for your response in the category of "Pricing" during scoring and evaluation.

3
9

"Catalog Pricing" and Pricing Requirements

This is a requirement of the TIPS Contract and is non-negotiable.

In this solicitation and resulting contract, "Catalog Pricing" shall be defined as:

"The then available list of goods or services, in the most current listing regardless of date, that takes the form of a catalog, price list, price schedule, shelf-price or other viewable format that:

- A. is regularly maintained by the manufacturer or Vendor of an item; and
- B. is either published or otherwise available for review by TIPS or a customer during the purchase process;
- C. to which the Minimum Percentage Discount proposed by the proposing Vendor may be applied.

If awarded on this TIPS Contract, for the duration of the contract, Vendor agrees to provide, upon request, their then current "Catalog Pricing." Or, in limited circumstances where Vendor has proposed the Percentage Mark-Up method of pricing in this proposal, proof of Vendor's "cost" may be accepted by TIPS in place of catalog pricing.

YES

4
0

EXCEPTIONS & DEVIATIONS TO TIPS STANDARD TERMS AND CONDITIONS

Vendor agrees that, if awarded, Vendor's final TIPS Contract will consist of the provisions set forth in the finalized TIPS Vendor Agreement, Vendor's responses to these attribute questions, and: (1) The TIPS solicitation document resulting in this Agreement; (2) Any addenda or clarifications issued in relation to the TIPS solicitation; (3) All solicitation information provided to Vendor by TIPS through the TIPS eBid System; (3) Vendor's entire proposal response to the TIPS solicitation including all accepted required attachments, acknowledged notices and certifications, accepted negotiated terms, accepted pricing, accepted responses to questions, and accepted written clarifications of Vendor's proposal, and; any properly included attachments to the TIPS Contract. In the event of conflict between the terms of the finalized Vendor Agreement and one of the incorporated documents the terms and conditions which are in the best interest of governmental/qualifying non-profit TIPS Members shall control at TIPS sole discretion.

If Vendor responds, "No, Vendor does not agree" to this Attribute, after this solicitation legally closes and TIPS begins evaluating Vendor's file, TIPS will provide Vendor with a draft Word Document version of the Vendor Agreement and will be instructed to include all requested negotiations as redline edits for TIPS consideration. This is the only proper way to submit proposed deviations for TIPS consideration. TIPS reserves the right to accept, decline, or modify Vendor's requested negotiated terms. For this reason, answering "No, Vendor does not agree" may ultimately delay or prevent award.

Does Vendor agree with TIPS standard terms and conditions as presented in the TIPS solicitation document (RFP, RCSP, RFQ, or other) and the TIPS Vendor Agreement document?

Yes

**4
1** **TIPS Sales Reporting Requirements**

This is a requirement of the TIPS Contract and is non-negotiable.

By submitting this proposal, Vendor certifies that Vendor will properly report all TIPS sales. With the exception of TIPS Automated Vendors, who have signed an exclusive agreement with TIPS regarding reporting, all TIPS Sales must be reported to TIPS by either:

(1) Emailing the purchase order or similar purchase document (with Vendor's Name, as known to TIPS, and the TIPS Contract Name and Number included) to TIPS at tipspo@tips-usa.com with "Confirmation Only" in the subject line of the email within three business days of Vendor's acceptance of the order, or;

(2) Within 3 business days of the order being accepted by Vendor, Vendor must login to the TIPS Vendor Portal and successfully self-report all necessary sale information within the Vendor Portal and confirm that it shows up accurately on your current Vendor Portal statement.

No other method of reporting is acceptable unless agreed to by the Parties in writing. Failure to report all sales pursuant to this provision may result in immediate cancellation of Vendor's TIPS Contract(s) for cause at TIPS' sole discretion.

**4
2** **TIPS Administration Fee Requirement and Acknowledgment**

This is a requirement of the TIPS Contract and is non-negotiable.

The collection of fees by TIPS, a government entity, for performance of these procurement services is required pursuant to Texas Government Code Section 791.011 et. seq. The TIPS Administration Fee is the amount legally owed by Vendor to TIPS for TIPS Sales made by Vendor. The TIPS Administration Fee amount is typically a set percentage of each TIPS Sale legally due to TIPS, but the exact TIPS Administration Fee for this Contract is published in the corresponding RFP or RCSP document. TIPS Administration Fees are due to TIPS immediately upon Vendor's receipt of payment, including partial payment, for a TIPS Sale.

By submitting a proposal, Vendor agrees that it has read, understands, and agrees to the published TIPS Administration Fee amount, calculation, and payment requirements. By submitting a proposal Vendor further confirms that all TIPS Pricing includes the TIPS Administration Fee and Vendor will not show adding the TIPS Administration Fee as a charge or line-item in any TIPS Sale.

**4
3** **TIPS Member Access to Vendor Proposal & Documentation**

This is a requirement of the TIPS Contract and is non-negotiable.

Notwithstanding any other information provided in this solicitation or Vendor designation of certain documentation as confidential or proprietary, Vendor's submission of this proposal constitutes Vendor's express consent to the disclosure of Vendor's comprehensive proposal, including any information deemed confidential or proprietary, **to TIPS Members**. The proposing Vendor agrees that TIPS shall not be responsible or liable for any use or distribution of information or documentation to TIPS Members or by TIPS Members. By submitting this proposal, Vendor certifies the foregoing.

4 Non-Collusive Bidding Certificate

4

This is a requirement of the TIPS Contract and is non-negotiable.

By submission of this proposal, the Vendor certifies that:

- 1) This proposal has been independently arrived at without collusion with any other entity, bidder, or with any competitor;
- 2) This proposal has not been knowingly disclosed and will not be knowingly disclosed, prior to the opening of bids, or proposals for this project, to any other bidder, competitor or potential competitor;
- 3) No attempt has been or will be made to induce any other person, partnership or corporation to modify, submit, or not to submit a bid or proposal; and
- 4) The person signing this bid or proposal certifies that they are duly authorized to execute this proposal/contract on behalf of Vendor and they have fully informed themselves regarding the accuracy of the statements contained in this certification, and under the penalties being applicable to the bidder as well as to the person signing in its behalf;

4 Antitrust Certification Statements (Tex. Government Code § 2155.005)

5

This is a requirement of the TIPS Contract and is non-negotiable.

By submission of this bid or proposal, Vendor certifies under penalty of perjury of the laws of the State of Texas that:

- (1) I am duly authorized to execute this proposal/contract on my own behalf or on behalf of the company, corporation, firm, partnership or individual (Vendor) identified herein;
- (2) In connection with this proposal, neither I nor any representative of Vendor has violated any provision of the Texas Free Enterprise and Antitrust Act, Tex. Bus. & Comm. Code Chapter 15;
- (3) In connection with this proposal, neither I nor any representative of the Vendor has violated any federal antitrust law;
- (4) Neither I nor any representative of Vendor has directly or indirectly communicated any of the contents of this bid to a competitor of the Company or any other company, corporation, firm, partnership or individual engaged in the same line of business as the Company.

4 Limitation on Out-of-State Litigation - Texas Business and Commerce Code § 272

6

This is a requirement of the TIPS Contract and is non-negotiable.

Texas Business and Commerce Code § 272 prohibits a construction contract, or an agreement collateral to or affecting the construction contract, from containing a provision making the contract or agreement, or any conflict arising under the contract or agreement, subject to another state's law, litigation in the courts of another state, or arbitration in another state. If included in Texas construction contracts, such provisions are voidable by a party obligated by the contract or agreement to perform the work.

By submission of this proposal, Vendor acknowledges this law and ***if Vendor enters into a construction contract with a Texas TIPS Member*** under this procurement, Vendor certifies compliance.

**4
7** Required Confidentiality Claim Form

This is a requirement of the TIPS Contract and is non-negotiable.

TIPS provides the required TIPS Confidentiality Claim Form in the "Attachments" section of this solicitation. Vendor must execute this form by either signing and waiving any confidentiality claim, or designating portions of Vendor's proposal confidential. If Vendor considers any portion of Vendor's proposal to be confidential and not subject to public disclosure pursuant to Chapter 552 Texas Gov't Code or other law(s) and orders, Vendor must have identified the claimed confidential materials through proper execution of the Confidentiality Claim Form.

If TIPS receives a public information act or similar request, any responsive documentation not deemed confidential by you in this manner will be automatically released. For Vendor documents deemed confidential by you in this manner, TIPS will follow procedures of controlling statute(s) regarding any claim of confidentiality and shall not be liable for any release of information required by law, including Attorney General determination and opinion.

Notwithstanding any other Vendor designation of Vendor's proposal as confidential or proprietary, Vendor's submission of this proposal constitutes Vendor's agreement that proper execution of the required TIPS Confidentiality Claim Form is the only way to assert any portion of Vendor's proposal as confidential.

**4
8** Non-Discrimination Statement and Certification

This is a requirement of the TIPS Contract and is non-negotiable.

In accordance with Federal civil rights law, all U.S. Departments, including but not limited to the USDA, USDE, FEMA, are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by federal funds (not all bases apply to all programs).

Vendor certifies that Vendor will comply with applicable Non-Discrimination and Equal Opportunity provisions set forth in TIPS Member Customers' policies and other regulations at the local, state, and federal levels of governments.

Yes, I certify (Yes)

**4
9** Limitation of Vendor Indemnification and Similar Clauses

This is a requirement of the TIPS Contract and is non-negotiable.

TIPS, a department of Region 8 Education Service Center, a political subdivision, and local government entity of the State of Texas, is prohibited from indemnifying third-parties (pursuant to the Article 3, Section 52 of the Texas Constitution) except as otherwise specifically provided for by law or as ordered by a court of competent jurisdiction. Article 3, Section 52 of the Texas Constitution states that "no debt shall be created by or on behalf of the State ... " and the Texas Attorney General has opined that a contractually imposed obligation of indemnity creates a "debt" in the constitutional sense. Tex. Att'y Gen. Op. No. MW-475 (1982). Thus, contract clauses which require TIPS to indemnify Vendor, pay liquidated damages, pay attorney's fees, waive Vendor's liability, or waive any applicable statute of limitations must be deleted or qualified with "to the extent permitted by the Constitution and Laws of the State of Texas."

Does Vendor agree?

Yes, I Agree (Yes)

50

Alternative Dispute Resolution Limitations

This is a requirement of the TIPS Contract and is non-negotiable.

TIPS, a department of Region 8 Education Service Center, a political subdivision, and local government entity of the State of Texas, does not agree to binding arbitration as a remedy to dispute and no such provision shall be permitted in this Agreement with TIPS. Vendor agrees that any claim arising out of or related to this Agreement, except those specifically and expressly waived or negotiated within this Agreement, may be subject to non-binding mediation at the request of either party to be conducted by a mutually agreed upon mediator as prerequisite to the filing of any lawsuit arising out of or related to this Agreement. Mediation shall be held in either Camp or Titus County, Texas. Agreements reached in mediation will be subject to the approval by the Region 8 ESC's Board of Directors, authorized signature of the Parties if approved by the Board of Directors, and, once approved by the Board of Directors and properly signed, shall thereafter be enforceable as provided by the laws of the State of Texas.

Does Vendor agree?

51

No Waiver of TIPS Immunity

This is a requirement of the TIPS Contract and is non-negotiable.

Vendor agrees that nothing in this Agreement shall be construed as a waiver of sovereign or government immunity; nor constitute or be construed as a waiver of any of the privileges, rights, defenses, remedies, or immunities available to Region 8 Education Service Center or its TIPS Department. The failure to enforce, or any delay in the enforcement, of any privileges, rights, defenses, remedies, or immunities available to Region 8 Education Service Center or its TIPS Department under this Agreement or under applicable law shall not constitute a waiver of such privileges, rights, defenses, remedies, or immunities or be considered as a basis for estoppel.

Does Vendor agree?

Yes, Vendor agrees (Yes)

52

Payment Terms and Funding Out Clause

This is a requirement of the TIPS Contract and is non-negotiable.

Vendor agrees that TIPS and TIPS Members shall not be liable for interest or late-payment fees on past-due balances at a rate higher than permitted by the laws or regulations of the jurisdiction of the TIPS Member.

Funding-Out Clause: Vendor agrees to abide by the applicable laws and regulations, including but not limited to Texas Local Government Code § 271.903, or any other statutory or regulatory limitation of the jurisdiction of any TIPS Member, which requires that contracts approved by TIPS or a TIPS Member are subject to the budgeting and appropriation of currently available funds by the entity or its governing body.

Does Vendor agree?

Yes, Vendor agrees (Yes)

53

Certification Regarding Prohibition of Certain Terrorist Organizations (Tex. Gov. Code 2270)

Vendor certifies that Vendor is not a company identified on the Texas Comptroller's list of companies known to have contracts with, or provide supplies or services to, a foreign organization designated as a Foreign Terrorist Organization by the U.S. Secretary of State.

Does Vendor certify?

5 **Certification Regarding Prohibition of Boycotting Israel (Tex. Gov. Code 2271)**

4

If (a) Vendor is not a sole proprietorship; (b) Vendor has ten (10) or more full-time employees; and (c) this Agreement or any agreement with a TIPS Member under this procurement has value of \$100,000 or more, the following certification shall apply; otherwise, this certification is not required. Vendor certifies, where applicable, that neither the Vendor, nor any affiliate, subsidiary, or parent company of Vendor, if any, boycotts Israel, and Vendor agrees that Vendor and Vendor Companies will not boycott Israel during the term of this Agreement. For purposes of this Agreement, the term “boycott” shall mean and include refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory but does not include an action made for ordinary business purposes.

When applicable, does Vendor certify?

5 **Certification Regarding Prohibition of Contracts with Certain Foreign-Owned Companies (Tex. Gov. Code 2274)**

5

Certain public entities are prohibited from entering into a contract or other agreement relating to critical infrastructure that would grant Vendor direct or remote access to or control of critical infrastructure in this state, excluding access specifically allowed by a customer for product warranty and support purposes.

Vendor certifies that neither it nor its parent company nor any affiliate of Vendor or its parent company, is (1) owned by or the majority of stock or other ownership interest of the company is held or controlled by individuals who are citizens of China, Iran, North Korea, Russia, or a designated country; (2) a company or other entity, including governmental entity, that is owned or controlled by citizens of or is directly controlled by the government of China, Iran, North Korea, Russia, or a designated country; or (3) headquartered in China, Iran, North Korea, Russia, or a designated country.

For purposes of this certification, “critical infrastructure” means “a communication infrastructure system, cybersecurity system, electric grid, hazardous waste treatment system, or water treatment facility.” Vendor certifies that Vendor will not grant direct or remote access to or control of critical infrastructure, except for product warranty and support purposes, to prohibited individuals, companies, or entities, including governmental entities, owned, controlled, or headquartered in China, Iran, North Korea, Russia, or a designated country, as determined by the Governor.

When applicable, does Vendor certify?

**5 Certification Regarding Prohibition of Discrimination Against Firearm and Ammunition Industries (Tex.
6 Gov. Code 2274)**

If (a) Vendor is not a sole proprietorship; (b) Vendor has at least ten (10) full-time employees; and (c) this Agreement or any Supplemental Agreement with certain public entities have a value of at least \$100,000 that is paid wholly or partly from public funds; (d) the Agreement is not excepted under Tex. Gov. Code 2274 and (e) the purchasing public entity has determined that Vendor is not a sole-source provider or the purchasing public entity has not received any bids from a company that is able to provide this written verification, the following certification shall apply; otherwise, this certification is not required.

Vendor certifies that Vendor, or association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or limited liability company, including a wholly owned subsidiary, majority-owned subsidiary parent company, or affiliate of these entities or associations, that exists to make a profit, does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association and will not discriminate during the term of this contract against a firearm entity or firearm trade association.

For purposes of this Agreement, “discriminate against a firearm entity or firearm trade association” shall mean, with respect to the entity or association, to: “(1) refuse to engage in the trade of any goods or services with the entity or association based solely on its status as a firearm entity or firearm trade association; (2) refrain from continuing an existing business relationship with the entity or association based solely on its status as a firearm entity or firearm trade association; or (3) terminate an existing business relationship with the entity or association based solely on its status as a firearm entity or firearm trade association.”

“Discrimination against a firearm entity or firearm trade association” does not include: “(1) the established policies of a merchant, retail seller, or platform that restrict or prohibit the listing or selling of ammunition, firearms, or firearm accessories; and (2) a company’s refusal to engage in the trade of any goods or services, decision to refrain from continuing an existing business relationship, or decision to terminate an existing business relationship to comply with federal, state, or local law, policy, or regulations or a directive by a regulatory agency, or for any traditional business reason that is specific to the customer or potential customer and not based solely on an entity’s or association’s status as a firearm entity or firearm trade association.”

When applicable, does Vendor certify?

Yes

Certification Regarding Termination of Contract for Non-Compliance (Tex. Gov. Code 552.374)

If Vendor is not a governmental body and (a) this Agreement or any Supplemental Agreement with a public entity has a stated expenditure of at least \$1 million in public funds for the purchase of goods or services by certain public entities; or (b) this Agreement or any Supplemental Agreement results in the expenditure of at least \$1 million in public funds for the purchase of goods or services by certain public entities in their fiscal year, the following certification shall apply; otherwise, this certification is not required.

As required by Tex. Gov. Code 552.374, the following statement is included in the RFP and the Agreement (unless the Agreement is (1) related to the purchase or underwriting of a public security; (2) is or may be used as collateral on a loan; or (3) proceeds from which are used to pay debt service of a public security of loan): "The requirements of Subchapter J, Chapter 552, Government Code, may apply to this solicitation and Agreement and the Vendor agrees that this Agreement and any applicable Supplemental Agreement can be terminated if Vendor knowingly or intentionally fails to comply with a requirement of that subchapter."

Pursuant to Chapter 552 of the Texas Government Code, Vendor certifies that Vendor shall: (1) preserve all contracting information related to this Agreement as provided by the records retention requirements applicable to TIPS or the purchasing TIPS Member for the duration of the Agreement; (2) promptly provide to TIPS or the purchasing TIPS Member any contracting information related to the Agreement that is in the custody or possession of Vendor on request of TIPS or the purchasing TIPS Member; and (3) on completion of the Agreement, either (a) provide at no cost to TIPS or the purchasing TIPS Member all contracting information related to the Agreement that is in the custody or possession of Vendor, or (b) preserve the contracting information related to the Agreement as provided by the records retention requirements applicable to TIPS or the purchasing TIPS Member.

When applicable, does Vendor certify?

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8

Certification Regarding Prohibition of Boycotting Certain Energy Companies (Tex. Gov. Code 2274)

If (a) Vendor is not a sole proprietorship; (b) Vendor has ten (10) or more full-time employees; and (c) this Agreement or any Supplemental Agreement with certain public entities has a value of \$100,000 or more that is to be paid wholly or partly from public funds, the following certification shall apply; otherwise, this certification is not required.

Vendor certifies that Vendor, or any wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of these entities or business associations, if any, do not boycott energy companies and will not boycott energy companies during the term of the Agreement or any applicable Supplemental Agreement.

For purposes of this certification the term "company" shall mean an organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or limited liability company, that exists to make a profit.

The term "boycott energy company" shall mean "without an ordinary business purpose, refusing to deal with, terminating business activities with, or otherwise taking any action intended to penalize, inflict economic harm on, or limit commercial relations with a company because the company (a) engages in the exploration, production, utilization, transportation, sale, or manufacturing of fossil fuel-based energy and does not commit or pledge to meet environmental standards beyond applicable federal and state law, or (b) does business with a company described by paragraph (a)." (See Tex. Gov. Code 809.001).

When applicable, does Vendor certify?

5
9

Felony Conviction Notice - Texas Education Code 44.034

Texas Education Code, Section 44.034, Notification of Criminal History, Subsection (a), states, "a person or business entity that enters into a contract with a school district must give advance notice to the district if the person or an owner or operator of the business entity has been convicted of a felony. The notice must include a general description of the conduct resulting in the conviction of a felony."

Subsection (b) states, "a school district may terminate a contract with a person or business entity if the district determines that the person or business entity failed to give notice as required by Subsection (a) or misrepresented the conduct resulting in the conviction. The district must compensate the person or business entity for services performed before the termination of the contract."

Subsection (c) states, "This section does not apply to a publicly held corporation."

Vendor certifies one of the following:

- A. My firm is a publicly held corporation; therefore, this reporting requirement is not applicable, or;
- B. My firm is not owned nor operated by anyone who has been convicted of a felony, or;
- C. My firm is owned or operated by the following individual(s) who has/have been convicted of a felony.

If Vendor responds with Option (C), Vendor is required to provide information in the next attribute.

60 Felony Conviction Notice - Texas Education Code 44.034 - Continued

If Vendor selected Option (C) in the previous attribute, Vendor must provide the following information herein:

1. Name of Felon(s)
2. The Felon(s) title/role in Vendor's entity, and
3. Details of Felon(s) Conviction(s).

61 Conflict of Interest Questionnaire Requirement

Vendor agrees that it has looked up, read, and understood the current version of Texas Local Government Code Chapter 176 which generally requires disclosures of conflicts of interests by Vendor hereunder if Vendor:

- (1) has an employment or other business relationship with a local government officer of our local governmental entity, or a family member of the officer, described by Section 176.003(a)(2)(A);
- (2) has given a local government officer of our local governmental entity, or a family member of the officer, one or more gifts with the aggregate value specified by Section 176.003(a)(2)(B), excluding any gift described by Section 176.003(a-1); or
- (3) has a family relationship with a local government officer of our local governmental entity.
- (4) Any other financial, commercial, or familial relationship with our local government that may warrant reporting under this statute.

Does Vendor certify that it has NO reportable conflict of interest?

62 Conflict of Interest Questionnaire Requirement - Form CIQ - Continued

If you responded "No, Vendor does not certify - VENDOR HAS CONFLICT" to the Conflict of Interest Questionnaire question above, you are required by law to fully execute and upload the form attachment entitled "Conflict of Interest Questionnaire - Form CIQ." If you accurately claimed no conflict above, you may disregard the form attachment entitled "Conflict of Interest Questionnaire - Form CIQ."

Have you uploaded this form if applicable?

63 Upload of Current W-9 Required

Vendors are required by TIPS to upload a current, accurate W-9 Internal Revenue Service (IRS) Tax Form for your entity. This form will be utilized by TIPS to properly identify your entity.

You must confirm that you are responding to this solicitation under your legal entity name. Go now to your Supplier Profile in this eBid System and confirm that your profile reflects your "Legal Name" as it is listed on your W9.

64 Regulatory Good Standing Certification

Does Vendor certify that its entity is in good standing with all government entities and agencies, whether local, state, or federal, that regulate any aspect of Vendor's field of work or business operations?

If Vendor selects "No", Vendor must provide explanation on the following attribute question.

6
5 **Regulatory Good Standing Certification - Explanation - Continued**

If Vendor responded to the prior attribute that "No", Vendor is not in good standing, Vendor must provide an explanation of that lack of good standing here for TIPS consideration.

No response

6
6 **Instructions Only - Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion**
Instructions for Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion

1. By answering yes to the next Attribute question below, the vendor and prospective lower tier participant is providing the certification set out herein in accordance with these instructions.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification in addition to other remedies available to the federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension and / or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participants," "person," "primary covered transaction," "principal," "proposal" and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this form that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this form that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction" without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible or voluntarily excluded from participation in this transaction, in addition to other remedies available to the federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension and / or debarment.

6 **Suspension or Debarment Certification**

7

Read the instructions in the attribute above and then answer the following accurately.

Vendor certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

Does Vendor certify?

6 **Vendor Certification of Criminal History - Texas Education Code Chapter 22**

8

Texas Education Code Chapter 22 requires entities that contract with school districts to provide services to obtain criminal history record information regarding covered employees. Contractors must certify to the district that they have complied. Covered employees with disqualifying criminal histories are prohibited from serving at a school district pursuant to this law.

DEFINITIONS

Covered employees: Employees of a contractor or subcontractor who have or will have continuing duties related to the service to be performed at the District and have or will have direct contact with students. The District will be the final arbiter of what constitutes direct contact with students.

Disqualifying criminal history: Any conviction or other criminal history information designated by the District, or one of the following offenses, if at the time of the offense, the victim was under 18 or enrolled in a public school: (a) a felony offense under Title 5, Texas Penal Code; (b) an offense for which a defendant is required to register as a sex offender under Chapter 62, Texas Code of Criminal Procedure; or (c) an equivalent offense under federal law or the laws of another state.

Vendor certifies:

NONE (Section A): None of the employees of Vendor and any subcontractors are covered employees, as defined above. If this box is checked, I further certify that Contractor has taken precautions or imposed conditions to ensure that the employees of Vendor and any subcontractor will not become covered employees. Contractor will maintain these precautions or conditions throughout the time the contracted services are provided under this procurement.

OR

SOME (Section B): Some or all of the employees of Vendor and any subcontractor are covered employees. If this box is checked, I further certify that: (1) Vendor has obtained all required criminal history record information regarding its covered employees. None of the covered employees has a disqualifying criminal history; (2) If Vendor receives information that a covered employee subsequently has a reported criminal history, Vendor will immediately remove the covered employee from contract duties and notify the purchasing entity in writing within 3 business days; (3) Upon request, Vendor will provide the purchasing entity with the name and any other requested information of covered employees so that the purchasing entity may obtain criminal history record information on the covered employees; (4) If the purchasing entity objects to the assignment of a covered employee on the basis of the covered employee's criminal history record information, Vendor agrees to discontinue using that covered employee to provide services at the purchasing entity.

Which option does Vendor certify?

69 Certification Regarding "Choice of Law" Terms with TIPS Members

Vendor agrees that if any "Choice of Law" provision is included in any sales agreement/contract between Vendor and a TIPS Member, that clause must provide that the "Choice of Law" applicable to the sales agreement/contract between Vendor and TIPS Member shall be the state where the TIPS Member operates unless the TIPS Member expressly agrees otherwise. Any TIPS Sale Supplemental Agreement containing a "Choice of Law" clause that conflicts with these terms is rendered void and unenforceable.

If Vendor disagrees, after this solicitation legally closes and TIPS begins evaluating Vendor's file, TIPS will provide Vendor with a draft Word Document version of the Vendor Agreement and will be instructed to include all requested negotiations as redline edits for TIPS consideration.

Does Vendor agree?

70 Certification Regarding "Venue" Terms with TIPS Members

Vendor agrees that if any "Venue" provision is included in any sales agreement/contract between Vendor and a TIPS Member, that clause must provide that the "Venue" for any litigation or alternative dispute resolution is shall be in the state and county where the TIPS Member operates unless the TIPS Member expressly agrees otherwise. Any TIPS Sale Supplemental Agreement containing a "Venue" clause that conflicts with these terms is rendered void and unenforceable.

If Vendor disagrees, after this solicitation legally closes and TIPS begins evaluating Vendor's file, TIPS will provide Vendor with a draft Word Document version of the Vendor Agreement and will be instructed to include all requested negotiations as redline edits for TIPS consideration.

Does Vendor agree?

71 Certification Regarding "Automatic Renewal" Terms with TIPS Members

Vendor agrees that no TIPS Sale may incorporate an "Automatic Renewal" clause that exceeds month to month terms with which the TIPS Member must comply. All renewal terms incorporated into a TIPS Sale Supplemental Agreement shall only be valid and enforceable when Vendor received written confirmation of acceptance of the renewal term from the TIPS Member for the specific renewal term. The purpose of this clause is to avoid a TIPS Member inadvertently renewing a Supplemental Agreement during a period in which the governing body of the TIPS Member has not properly appropriated and budgeted the funds to satisfy the Agreement renewal. Any TIPS Sale Supplemental Agreement containing an "Automatic Renewal" clause that conflicts with these terms is rendered void and unenforceable.

If Vendor disagrees, after this solicitation legally closes and TIPS begins evaluating Vendor's file, TIPS will provide Vendor with a draft Word Document version of the Vendor Agreement and will be instructed to include all requested negotiations as redline edits for TIPS consideration.

Does Vendor agree?

**7
2 Certification Regarding "Indemnity" Terms with TIPS Members**

Texas and other jurisdictions restrict the ability of governmental entities to indemnify others. Vendor agrees that if any "Indemnity" provision which requires the TIPS Member to indemnify Vendor is included in any sales agreement/contract between Vendor and a TIPS Member, that clause must either be stricken or qualified by including that such indemnity is only permitted, "to the extent permitted by the laws and constitution of [TIPS Member's State]" unless the TIPS Member expressly agrees otherwise. Any TIPS Sale Supplemental Agreement containing an "Indemnity" clause that conflicts with these terms is rendered void and unenforceable.

If Vendor disagrees, after this solicitation legally closes and TIPS begins evaluating Vendor's file, TIPS will provide Vendor with a draft Word Document version of the Vendor Agreement and will be instructed to include all requested negotiations as redline edits for TIPS consideration.

Does Vendor agree?

**7
3 Certification Regarding "Arbitration" Terms with TIPS Members**

Vendor agrees that if any "Arbitration" provision is included in any TIPS Sale agreement/contract between Vendor and a TIPS Member, that clause may **not** require that the arbitration is mandatory or binding. Vendor agrees that if any "Arbitration" provision is included in any TIPS Sale agreement/contract between Vendor and a TIPS Member, that clause provides for only voluntary and non-binding arbitration unless the TIPS Member expressly agrees otherwise. Any TIPS Sale Supplemental Agreement containing a "Arbitration" clause that conflicts with these terms is rendered void and unenforceable.

If Vendor disagrees, after this solicitation legally closes and TIPS begins evaluating Vendor's file, TIPS will provide Vendor with a draft Word Document version of the Vendor Agreement and will be instructed to include all requested negotiations as redline edits for TIPS consideration.

Does Vendor agree?

**7
4 2 CFR PART 200 AND FEDERAL CONTRACT PROVISIONS EXPLANATION**

TIPS and TIPS Members will sometimes seek to make purchases with federal funds. In accordance with 2 C.F.R. Part 200 of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (sometimes referred to as "EDGAR"), Vendor's response to the following questions labeled "2 CFR Part 200 or Federal Provision" will indicate Vendor's willingness and ability to comply with certain requirements which may be applicable to TIPS purchases paid for with federal funds, if accepted by Vendor.

Your responses to the following questions labeled "2 CFR Part 200 or Federal Provision" will dictate whether TIPS can list this awarded contract as viable to be considered for a federal fund purchase. **Failure to certify all requirements labeled "2 CFR Part 200 or Federal Provision" will mean that your contract is listed as not viable for the receipt of federal funds. However, it will not prevent award.**

If you do enter into a TIPS Sale when you are accepting federal funds, the contract between you and the TIPS Member will likely require these same certifications.

7 5 2 CFR Part 200 or Federal Provision - Vendor Willingness to Accept Federal Funds

This certification is not required by federal law. However, TIPS Members are public entities and qualifying non-profits which often receive federal funding and grants (ESSER, CARES Act, EDGAR, etc.) **Accepting such funds often requires additional required certifications and responsibilities for Vendor.** The following attribute questions include these required certifications. Your response to this questions, the following certifications, and other factors will determine whether your contract award will be deemed as eligible for federal fund expenditures by TIPS Members.

If awarded, is Vendor willing to accept payment for goods and services offered under this contract paid for by a TIPS Member with federal funds?

7 6 2 CFR Part 200 or Federal Provision - Contracts

Contracts for more than the simplified acquisition threshold currently set at \$250,000 (2 CFR § 200.320), which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

Notice: Pursuant to the above, when federal funds are expended by ESC Region 8 and TIPS Members, ESC Region 8 and TIPS Members reserve all rights and privileges under the applicable laws and regulations with respect to this procurement in the event of breach of contract by either party.

Does vendor agree?

7 7 2 CFR Part 200 or Federal Provision - Termination

Termination for cause and for convenience by the grantee or subgrantee including the manner by which it will be effected and the basis for settlement. (All contracts in excess of \$10,000)

Pursuant to the above, when federal funds are expended by ESC Region 8 and TIPS Members, ESC Region 8 and TIPS Members reserve the right to terminate any agreement in excess of \$10,000 resulting from this procurement process for cause after giving the vendor an appropriate opportunity and up to 30 days, to cure the causal breach of terms and conditions. ESC Region 8 and TIPS Members reserve the right to terminate any agreement in excess of \$10,000 resulting from this procurement process for convenience with 30 days notice in writing to the awarded vendor. The Vendor would be compensated for work performed and goods procured as of the termination date if for convenience of the ESC Region 8 and TIPS Members. Any award under this procurement process is not exclusive and the ESC Region 8 and TIPS reserves the right to purchase goods and services from other vendors when it is in the best interest of the ESC Region 8 and TIPS.

Does vendor agree?

7 **2 CFR Part 200 or Federal Provision - Clean Air Act**

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Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended—Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

Pursuant to the Clean Air Act, et al above, when federal funds are expended by ESC Region 8 and TIPS Members, ESC Region 8 and TIPS Members require that the proposer certify that during the term of an award by the ESC Region 8 and TIPS Members resulting from this procurement process the vendor agrees to comply with all of the above regulations, including all of the terms listed and referenced therein.

Does vendor agree?

7 **2 CFR Part 200 or Federal Provision - Byrd Anti-Lobbying Amendment**

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Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

Pursuant to the above, when federal funds are expended by ESC Region 8 and TIPS Members, ESC Region 8 and TIPS Members require the proposer certify that during the term and during the life of any contract with ESC Region 8 and TIPS Members resulting from this procurement process the vendor certifies that it is in compliance with all applicable provisions of the Byrd Anti-Lobbying Amendment (31 U.S.C. 1352).

Does Vendor agree?

8 2 CFR Part 200 or Federal Provision - Byrd Anti-Lobbying Amendment - Continued

Applicable to Grants, Subgrants, Cooperative Agreements, and Contracts Exceeding \$100,000 in Federal Funds

Submission of this certification is a prerequisite for making or entering into this transaction and is imposed by the Byrd Anti-Lobbying Amendment (31 U.S.C. 1352). This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. 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.

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

(1) No Federal appropriated funds have been paid or will be paid by or on behalf of the undersigned, 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 the awarding of a Federal contract, the making of a Federal grant, the making of a Federal loan, the entering into a cooperative agreement, and the extension, continuation, renewal, amendment, or modification of a Federal contract, grant, loan, or cooperative agreement.

(2) 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 grant or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all covered subawards exceeding \$100,000 in Federal funds at all appropriate tiers and that all subrecipients shall certify and disclose accordingly.

Does Vendor certify that it has NOT lobbied as described herein?

8 2 CFR Part 200 or Federal Provision - Byrd Anti-Lobbying Amendment - Continued

If you answered "No, Vendor does not certify - Lobbying to Report" to the above attribute question, you must download, read, execute, and upload the attachment entitled "Disclosure of Lobbying Activities - Standard Form - LLL", as instructed, to report the lobbying activities you performed or paid others to perform.

8 2 CFR Part 200 or Federal Provision - Federal Rule

Compliance with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15). (Contracts, subcontracts, and subgrants of amounts in excess of \$100,000)

Pursuant to the above, when federal funds are expended by ESC Region 8 and TIPS Members, ESC Region 8 and TIPS Members requires the proposer certify that in performance of the contracts, subcontracts, and subgrants of amounts in excess of \$250,000, the vendor will be in compliance with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15).

Does vendor certify compliance?

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2 CFR Part 200 or Federal Provision - Procurement of Recovered Materials

A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include: (1) procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; (2) procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

Does vendor certify that it is in compliance with these provisions?

Yes

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2 CFR Part 200 or Federal Provision - Rights to Inventions

If the Federal award meets the definition of “funding agreement” under 37 CFR §401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.

Pursuant to the above, when the foregoing applies to ESC Region 8 and TIPS Members, Vendor certifies that during the term of an award resulting from this procurement process, Vendor agrees to comply with all applicable requirements as referenced in the Federal rule above.

Does vendor certify?

Yes

2 CFR Part 200 or Federal Provision - Domestic Preferences for Procurements and Compliance with Buy America Provisions

As appropriate and to the extent consistent with law, TIPS Member Customers, to the greatest extent practicable under a Federal award, may provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). Vendor agrees that the requirements of this section will be included in all subawards including all contracts and purchase orders for work or products under this award, to the greatest extent practicable under a Federal award. For purposes of 2 CFR Part 200.322, "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States. Moreover, for purposes of 2 CFR Part 200.322, "Manufactured products" means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum, plastics and polymer-based products such as polyvinyl chloride pipe, aggregates such as concrete, glass, including optical fiber, and lumber.

Vendor certifies that it is in compliance with all applicable provisions of the Buy America Act. Purchases made in accordance with the Buy America Act must still follow the applicable procurement rules calling for free and open competition. For purposes of 2 CFR Part 200.322,

"Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

"Manufactured products" means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

Pursuant to the above, when federal funds are expended by ESC Region 8 and TIPS Members, Vendor certifies that to the greatest extent practicable Vendor will provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products).

Does Vendor Certify?

8 2 CFR Part 200 or Federal Provision - Ban on Foreign Telecommunications

ESC 8 and TIPS Members are prohibited from obligating or expending Federal financial assistance, to include loan or grant funds, to: (1) procure or obtain, (2) extend or renew a contract to procure or obtain, or (3) enter into a contract (or extend or renew a contract) to procure or obtain, equipment, services, or systems that use "covered telecommunications" equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. "Covered telecommunications" equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities), and physical security surveillance of critical infrastructure and other national security purposes, and video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities) for the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes detailed in 2 CFR § 200.216.

Pursuant to the above, when federal funds are expended by ESC Region 8 and TIPS Members, Vendor certifies that Vendor will not purchase equipment, services, or systems that use "covered telecommunications", as defined by 2 CFR §200.216 equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

Does vendor certify?

8 2 CFR Part 200 or Federal Provision - Contract Cost & Price

For contracts more than the simplified acquisition threshold currently set at \$250,000, a TIPS Member may, in very rare circumstances, be required to negotiate profit as a separate element of the price pursuant to 2 C.F.R. 200.324(b). Under those circumstances, Vendor agrees to provide information and negotiate with the TIPS Member regarding profit as a separate element of the price. However, Vendor certifies that the total price charged by the Vendor shall not exceed the Vendor's TIPS pricing and pricing terms proposed.

Does Vendor certify?

8 2 CFR Part 200 or Federal Provision - Equal Employment Opportunity

Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

Pursuant to the above, when federal funds are expended by ESC Region 8 and TIPS Members on any federally assisted construction contract, the equal opportunity clause is incorporated by reference here.

Does Vendor Certify?

8 2 CFR Part 200 or Federal Provision - Davis Bacon Act Compliance

Texas Statute requires compliance with Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146- 3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non- Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

Pursuant to state and federal requirements, Vendor certifies that it will be in compliance with all applicable Davis-Bacon Act provisions if/when applicable.

Does Vendor certify?

9 2 CFR Part 200 or Federal Provision - Contract Work Hours and Safety Standards

Where applicable, all contracts awarded by ESC 8 and TIPS Members in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

Pursuant to the above, when federal funds are expended by ESC Region 8 and TIPS Members, Vendor certifies that during the term of an award for all contracts resulting from this procurement process, Vendor will be in compliance with all applicable provisions of the Contract Work Hours and Safety Standards Act.

Does Vendor certify?

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2 CFR Part 200 or Federal Provision - FEMA Fund Certification & Certification of Access to Records

If and when Vendor accepts a TIPS purchase paid for in full or part with FEMA funds, Vendor certifies that:

(1) Vendor agrees to provide the TIPS Member, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to and rights to reproduce any books, documents, papers, and records of the Contractor which are directly pertinent to this contract, or any contract resulting from this procurement, for the purposes of making audits, examinations, excerpts, and transcriptions. This right also includes timely and reasonable access to Vendor's personnel for the purpose of interview and discussion relating to such documents. Vendor agrees to provide the FEMA Administrator or an authorized representatives access to construction or other work sites pertaining to the work being completed under the contract. Vendor acknowledges and agrees that no language in this contract or the contract with the TIPS Member is intended to prohibit audits or internal reviews by the FEMA Administrator or the Comptroller General of the United States.

(2) The Vendor shall not use the Department of Homeland Security's seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.

(3) The Vendor will comply with all applicable Federal law, regulations, executive orders, FEMA policies, procedures, and directives.

(4) The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from the contract.

(5) The Vendor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the Vendor's actions pertaining to this contract.

Does Vendor certify?

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2 CFR Part 200 or Federal Provision - Certification of Compliance with the Energy Policy and Conservation Act

When appropriate and to the extent consistent with the law, Vendor certifies that it will comply with the Energy Policy and Conservation Act (42 U.S.C. 6321 et seq; 49 C.F.R. Part 18) and any state mandatory standards and policies relating to energy efficiency which are contained in applicable state energy conservation plans issued in compliance with the Act.

Does Vendor certify?

9 3 2 CFR Part 200 or Federal Provision - Certification of Compliance with Never Contract with the Enemy

Where applicable, all contracts awarded by ESC 8 and TIPS Members in excess of \$50,000.00, within the period of performance, and which are performed outside of the United States, including U.S. territories, are subject to the regulations implementing Never Contract with the Enemy in 2 CFR part 183. Per 2 CFR part 183, in the situation specified, ESC 8 and TIPS Members shall terminate any contract or agreement resulting from this procurement which violates the Never Contract with the Enemy regulation in 2 CFR part 183, including if Vendor is actively opposing the United States or coalition forces involved in a contingency operation in which members of the the Armed Forces are actively engaged in hostilities. Vendor certifies that it is neither an excluded entity under the System for Award Management (SAM) nor Federal Awardee Performance and Integrity Information System (FAPIS) for any contract terminated due to Never Contract with the Enemy as a Termination for Material Failure to Comply.

Does Vendor certify?

9 4 2 CFR Part 200 or Federal Provision - Certification of Compliance with EPA Regulations

For contracts resulting from this procurement, in excess of \$100,000.00 and paid for with federal funds, Vendor certifies that Vendor will comply with all applicable standards, orders, regulations, and/or requirements issued pursuant to the Clean Air Act of 1970, as amended (42 U.S.C. 1857(h)), Section 508 of the Clean Water Act, as amended (33 U.S.C. 1368), Executive Order 117389 and Environmental Protection Agency Regulation, 40 CFR Part 15.

Does Vendor certify?

9 5 2 CFR Part 200 or Federal Provision - Record Retention Requirements

For contracts resulting from this procurement, paid for by ESC 8 or TIPS Members with federal funds, Vendor certifies that Vendor will comply with the record retention requirements detailed in 2 CFR § 200.334. Vendor certifies that Vendor will retain all records as required by 2 CFR § 200.334 for a period of three years after final expenditure or financial reports, as applicable, and all other pending matters are closed.

Does Vendor certify?

9 6 2 CFR Part 200 or Federal Provision - Subcontracting and Affirmative Steps for Small and Minority Businesses, Women's Business Enterprises, and Labor Surplus Area Firms.

Do you ever anticipate the possibility of subcontracting any of your work under this award if you are successful?

If you respond "Yes", you must respond to the following attribute question accurately. If you respond "No", you may skip the following attribute question.

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2 CFR Part 200 or Federal Provision - If "Yes" Response to Above Attribute - Continued - Subcontracting and Affirmative Steps for Small and Minority Businesses, Women's Business Enterprises, and Labor Surplus Area Firms.

Only respond to this question if you responded "Yes" to the attribute question directly above. Skip this question if you responded "No" to the attribute question directly above.

Does Vendor certify that it will follow the following affirmative steps? Federal Regulation 2 CFR §200.321 Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms. (a)The non-Federal entity must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible.

(b) Affirmative steps must include:

- (1) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
- (2) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
- (3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
- (4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;
- (5) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce ; and
- (6) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs(1) through (5) of this section.

Does Vendor certify?

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ACKNOWLEDGMENT & BINDING CORPORATE AUTHORITY

By submitting this proposal, the individual(s) submitting on behalf of the Vendor certify that they are authorized by Vendor to complete and submit this proposal on behalf of Vendor and that this proposal was duly submitted on behalf of Vendor by authority of its governing body, if any, and within the scope of its corporate powers.

Vendor further certifies that it has read, examined, and understands all portions of this solicitation including but not limited to all attribute questions, attachments, solicitation documents, bid notes, and the Vendor Agreement(s). Vendor certifies that, if necessary, Vendor has consulted with counsel in understanding all portions of this solicitation.

TIPS 230105 Technology Solutions, Products, and Services	JTS			
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TIPS REFERENCE FORM

All requested information must be typed and uploaded in Excel format. Do not handwrite or upload in any format other than Excel. Emails provided must be current and active. Do not include TIPS/Region 8 employees as a reference. The entities that you provide must be paying customers, not affiliates/partners/manufacturers/resellers, etc.

You must provide below at least three (3) references from three different entity customers, preferably government or non-profit entities, who have purchased goods or services from your vendor entity within the last three years.

<u>Customer Entity Name</u>	<u>Customer Contact</u>	<u>Valid Contact Email</u>	<u>Valid Contact Phone</u>
<u>City of Frisco</u>	<u>Casey Lawson</u>	<u>clawson@friscotexas.gov</u>	<u>972-292-6485</u>
<u>City of Lewisville</u>	<u>Chris Lee</u>	<u>clee@cityoflewisville.com</u>	<u>972-219-5042</u>
<u>Upper Trinity Regional Water District</u>	<u>Mark Skaggs</u>	<u>muskaggs@utrwd.com</u>	<u>972-219-1228</u>
<u>City of Denton</u>	<u>Kyle Young</u>	<u>kyle.young@cityofdenton.com</u>	<u>214-693-8097</u>
<u>City of Midlothian</u>	<u>Mike Weiss</u>	<u>Mike.Weiss@Midlothian.tx.us</u>	<u>972-775-7111</u>

REQUIRED CONFIDENTIALITY CLAIM FORM

(VENDOR MUST COMPLETE THE FOLLOWING VENDOR INFORMATION)

Vendor Entity Name: JTS
 Vendor Authorized Signatory Name: Thomas Emerick
 Vendor Authorized Signatory Title: CIO/Co-Owner
 Vendor Authorized Signatory Email: tom.emerick@jts.net
 Vendor Address: 5310 S. Cockrell Hill Road
 City: Dallas State: TX Zip Code: 75236

Vendor agrees that it is voluntarily providing its data (including but not limited to: Vendor information, Vendor documentation, Vendor’s proposal, Vendor pricing submitted or provided to TIPS, TIPS contract documents, TIPS correspondence, Vendor logos and images, Vendor’s contact information, Vendor’s brochures and commercial information, Vendor’s financial information, Vendor’s certifications, and any other Vendor information or documentation submitted to TIPS by Vendor and its agents) (Hereinafter, “Vendor Data”) to TIPS. Vendor understands and agrees that TIPS is a government entity subject to public information laws including but not limited to Texas Government Code (TGC) Chapter 552. Vendor agrees that regardless of confidentiality designations herein, Vendor’s submission of a proposal constitutes Vendor’s consent to the disclosure and release of Vendor’s Data and comprehensive proposal, including any information deemed confidential or proprietary herein, to and by TIPS Members.

Notwithstanding the foregoing permissible release to TIPS Members, if Vendor considers any portion of Vendor’s proposal to be otherwise confidential and not subject to public disclosure pursuant to public information laws, including but not limited to TGC Chapter 552, Vendor must properly execute **Option 1 only** below, attach to this PDF all documents and information that Vendor deems confidential, and upload the consolidated documentation. Regardless of the Option selected below, this form must be completed and uploaded to the “Response Attachments” section of the eBid System entitled “Required Confidentiality Claim Form.” Execution and submission of this form is the sole indicator of whether Vendor considers any Vendor Data confidential in the event TIPS receives a request, a Public Information Request, or subpoena. If TIPS receives a request, any responsive documentation not deemed confidential by you through proper execution of Option 1 of this form will be automatically released. For information deemed confidential by you through proper execution of Option 1 of this form, TIPS will follow procedures of controlling statute(s) regarding withholding that documentation and shall not be liable for any release of information required by law, including Attorney General opinion or court order.

(VENDOR MUST COMPLETE ONE OF THE TWO OPTIONS AND UPLOAD IN THE EBID SYSTEM)

OPTION 1 – DESIGNATING CONFIDENTIAL MATERIALS – YES, VENDOR HAS ATTACHED CONFIDENTIAL MATERIALS

OPTION 2 – WAIVER OF CONFIDENTIALITY – NO, VENDOR HAS NOT ATTACHED CONFIDENTIAL MATERIALS

(Confirm each bullet point and sign below)

(Confirm each bullet point and sign below)

- Vendor claims some Vendor Data confidential to the extent permitted by TGC Chapter 552 and other applicable law.
- Vendor attached to this PDF all potentially confidential Vendor Data and listed the number of attached pages below.
- Vendor’s authorized signatory has signed below and shall upload this document in the proper location in the eBid System.
- Vendor agrees that TIPS shall not be liable for any release of confidential information required by law.

By signing for Option 2 below, Vendor expressly waives any confidentiality claim for all Vendor Data submitted in relation to this proposal and resulting contract. Vendor confirms that TIPS may freely release Vendor Data submitted in relation to this proposal or resulting contract to any requestor. Vendor agrees that TIPS shall not be responsible or liable for any use or distribution of Vendor Data by TIPS or TIPS Members.

- Vendor’s authorized signatory has signed below and shall upload this document in the proper location in the eBid System.
- Vendor agrees that TIPS shall not be liable for any release of confidential information required by law.

Number of pages attached deemed confidential: _____

Authorized Signature: _____

Authorized Signature:  _____

VENDOR SUPPLEMENTAL INFORMATION

TIPS permits Vendors to submit supplemental documentation and information (“Vendor Supplemental Information”) with their proposals to display to TIPS Member Customers their qualifications, offerings, and special terms. The following documents are for marketing and informational purposes only. They are not terms of Vendor’s TIPS Contract. If the Vendor Supplemental Information herein contains any warranties, terms, or conditions, the TIPS Member Customer may review and determine whether or not those are applicable and acceptable for any TIPS purchase before proceeding. If the Vendor Supplemental Information contains any licenses or certificates, TIPS encourages the TIPS Member Customer to ensure current accuracy at the time of a TIPS purchase.

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Aviat Networks The Leading Microwave Networking Specialist

Smarter Microwave Networking Solutions

Thanks to our 50 years of industry experience, Aviat Networks knows microwave transmission better than anyone, and now we are delivering the next generation of LTE Proven and Mission Critical microwave networking solutions that bring together high performance radio transmission, advanced data networking and smart network evolution to all-IP.

With locations across the world, Aviat works by the side of our customers, offering a wide spectrum of service and support solutions that allows them to quickly seize new market opportunities and deliver the highest quality of experience to their customers.

Made in the USA

Our radios are designed, built and supported all within the USA. Aviat's nationwide presence includes Corporate Headquarters and R&D center, manufacturing, and comprehensive in-country deployment services and after-sales support network.



Aviat's global headquarters is located in Santa Clara, California, which includes Sales, corporate customer Training Center, our primary Research and Development center, Interoperability Lab, and a fully-outfitted Tier III Technical Assistance Center. In Texas, Aviat's facilities support Manufacturing, System Integration and our Customer Network Operations Center (NOC).

Constant Innovation

We have a long list of industry firsts, including the first split-munt microwave radio, the first embedded management system, the first 38 GHz 128QAM OC3 radio, and the first compact hybrid nodal microwave platform. Now we are working on the next generation of microwave networking, which includes a new range of high capacity, zero-footprint radios that deliver high performance with integrated Carrier Ethernet networking, and the world's first ultra-slim E-Band radio, the first product to incorporate an integrated flat panel antenna.

Financial Strength

Aviat Networks is a specialist microwave company – it's all that we do. Our aim is to provide the most innovative wireless solutions to solve our customers backhaul challenges at the very lowest total cost of ownership. Profitable, financially stable and secure, Aviat has a strong balance sheet, minimal debt and a healthy cash position.

The Most Trusted Name in Microwave

Aviat has more experience than any other microwave vendor in providing mission critical microwave solutions for applications where lives are on the line. Whether you are a public safety agency with first responder assignments, a mobile service provider with a national footprint, or a utility co-op serving small rural locations, your business has critical applications that your customers depend on.

When you choose Aviat Networks you are assured of robust, secure and powerful microwave radios, offering unrivalled peace of mind where reliability is paramount and service to customers cannot be compromised, even in the most difficult conditions.

But Aviat's Mission Critical Microwave credentials are more than just market-leading radio's performance or superior technical support:

- Our mindset that integrates our uncompromised commitment to design and build the most robust, secure and dependable microwave radios.
- Our engineering professionals are there at your side before, during and after any equipment deployment, to help

you at every step of the way.

- It is our focus to deliver the most innovative microwave products for your critical applications.

Strong Service Portfolio

With over 40 locations across the world, Aviat works by the side of our customers, offering a wide spectrum of service and support solutions that allows them to quickly seize new market opportunities and deliver the highest quality of experience to their customers, while also optimizing and reducing their network operational costs.

Our service offering spans the full network lifecycle, including design, deployment, optimization and maintenance. Aviat also provides a suite of Managed Service options, where Aviat can handle everything from spares management to network monitoring, operations and control from our own Network Operations Centers (NOC).

Our Markets

LTE Proven Mobile Backhaul

Mobile service providers have a new sense of urgency to invest in their backhaul network to avoid the capacity crunch being driven by the explosion in bandwidth demand as a result of the introduction of new smart devices and the evolution of networks to LTE. At the same time these operators must address the so-called "Revenue Gap" – the widening divergence between increasing network operational costs and flat subscriber revenue.

Aviat has been supplying microwave backhaul solutions for mobile networks for more than 20 years, and into 300 mobile networks around the world. Our LTE-proven microwave backhaul solutions provide the most comprehensive IP transport features of any other wireless backhaul solution in its class, giving operators the peace of mind that the solution that they deploy today will provide a smooth migration path to all-IP networks needed tomorrow, extending life of their existing infrastructure and without having to make a risky early leap to all-IP.

Public Safety and Government Agencies

Government agencies, public safety and first responders all have very similar operational requirements for their networks - highest equipment reliability and uncompromising security for mission critical communication services. With budget tightening more commonly seen now at many levels of government operations, government agencies are demanding innovative solutions that can also achieve lower total cost of ownership.

Aviat Networks is the leading and most trusted provider of wireless solutions for the transport of high-speed Ethernet data, video and voice services to meet the stringent demands for public safety and first responders, border security, defense agencies and local/city government agencies.

Smart Utility Networks

The imminent modernization of the utility grid represents a great opportunity for advancement and change. The telecom network underpins the promise of a Smart Grid to ultimately change the way energy is consumed and delivered including initiatives such as smart meters, substation automation and distribution automation.

Aviat's wireless solutions build on existing deployed infrastructure for seamless migration, high interoperability and a single management view of entire networks. Wireless is the ideal solution for smart grid deployments due to its lower cost compared to fiber, ease of deployment and proven reliability. Aviat offers a suite of wireless product solutions that includes wireless backhaul, IP/MPLS networking, network management, Network Operations Center (NOC) Services, and turnkey Services.

Proven Experience in Private Networks

Aviat has a long proven record of supplying microwave communications solutions and services into a wide variety of other private network applications, such as infrastructure for broadcast networks, oil and gas installations (on and off-shore), campus and enterprise networks, low latency solutions for high speed trading networks, and railways/transportation.

Our Products and Solutions

Aviat's portfolio of microwave networking products covers an extensive spectrum of frequencies, capacities and applications. This advanced line of microwave backhaul products is optimized for last mile and aggregation sites, and high capacity trunking radios for the core network.

Our products are designed to support smooth migration from TDM to Carrier Ethernet/IP, utilizing either a hybrid design that supports full native support for legacy and new IP traffic with maximum efficiency, or all-IP for operators seeking to deploy all-packet links. Aviat has a powerful product roadmap that drives further integration of microwave and Layer 2/3 and IP/MPLS networking, along with market leading radio performance, efficiency and reliability.

The Aviat Advantage

Our global reach and strong portfolio accelerates time to market and ensures a scalable, high-performance network. Unlike monolithic telecommunications vendors who subscribe to a “one size fits all” approach to serving operators, large and small, which results in vendor lock-in, Aviat is known for its highly individualized experience that nets better results.

In an environment of uncertainty and unrelenting competitive pressures, Aviat has the experience and agility to anticipate what’s coming to help our customers make the right choices so that their investments today aren’t left stranded tomorrow. Because we’re thinking ahead, our products and services are designed for flexible evolution, so no matter what the future brings operators will have all options that they need to move forward and thrive.

And with local presence on the ground worldwide, our microwave experts understand specific local requirements and customs. We work by the side of our customers with personal attention and collaboration to understand and meet the unique challenges of their business and markets.

We Make Broadband Networks Work

Aviat Networks is enabling the broadband future. From fixed networks to broadband mobility, from TDM to all Ethernet/IP, from public to private, from planning to managed services, from the core to the edge – we help customers create, expand and manage the best networks for their markets and their bottom lines.

us.aviatnetworks.com

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Web: <http://www.us.aviatnetworks.com>, Email: webmaster@aviatnet.com

Fiber-Fast Fixed Wireless Broadband



WHAT SETS US APART



PERFORMANCE

Carrier-grade, delivering gigabit speeds with Spectrum Reuse Sync (SRS)



VALUE

Industry-leading cost-to-performance ratio with award winning support



EASE OF USE

Comprehensive, simple scalable network and device management

THE MARKET

The high cost of fiber-to-the-home and the declining share of internet traffic carried over mobile networks has reinvigorated demand for a disruptive alternative in fixed broadband. In the U.S., over 80% of the population lives in cities or suburbs, and incredibly, over half of those areas have only one ISP option for high-speed internet.

THE SOLUTION

Visionary in our approach, Mimosa Networks is reimagining how people get amazing internet access. Mimosa enables fiber-fast broadband connectivity for dense urban and hard-to-reach rural areas for a fraction of the cost of traditional wireline solutions. We aim to make internet access faster, stronger, and more accessible than it is today. We believe the internet should be incredibly scalable, with gigabit speeds available anywhere in the world.

THE BUSINESS

Our talented and diverse team designs and delivers products to enable a new generation of internet providers to meet the demands for high-speed internet. The opportunity is huge—high-density cities, poorly-connected suburbs, and streaming video are all driving incredible demand, along with rural communities ripe for fiber-fast internet. Large enterprise customers, municipalities and public entities including schools, hospitals and city offices also look to Mimosa for their connectivity.

Mimosa Networks, a division of Airspan, is the global technology leader in wireless broadband solutions, enabling service providers to connect dense urban and hard-to-reach rural homes at a fraction of the cost of fiber. Mimosa Networks was acquired in 2018 by Airspan, the leading vendor of 4G/5G wireless densification solutions.

Mimosa Point-to-Point (PTP) Solutions



High-Performance PTP Backhaul Radios

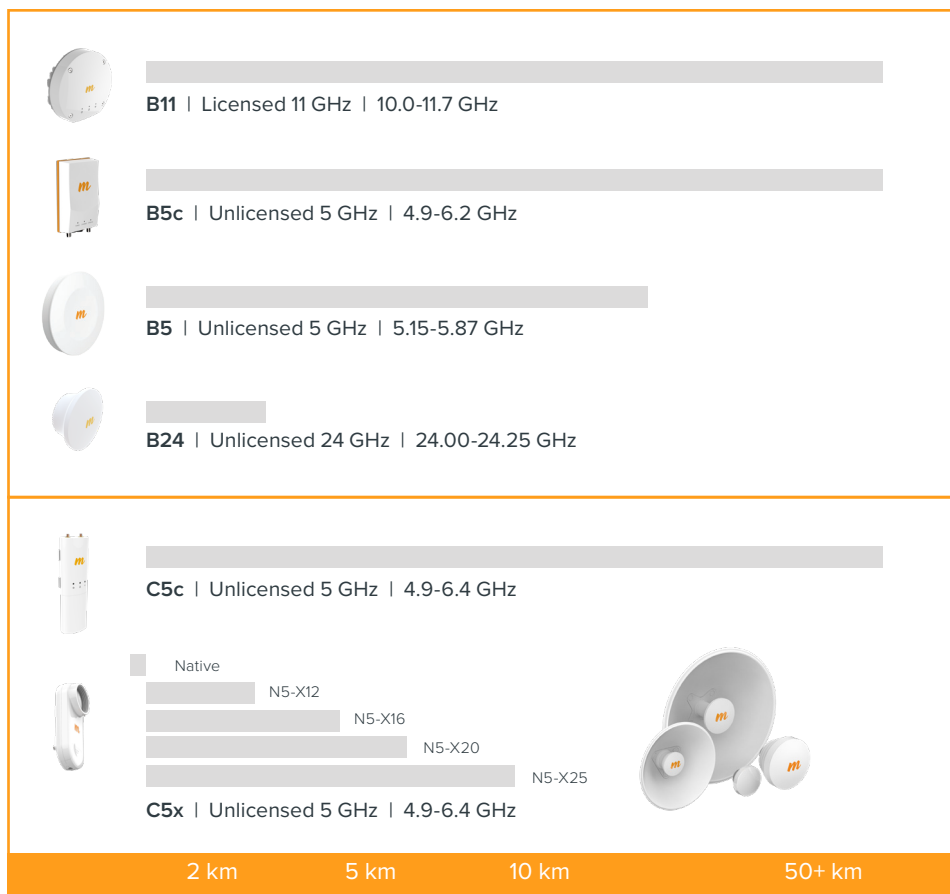
The B11, B5c, B5 and B24 deliver aggregate speeds of up to 1.5 Gbps, with less than 1 ms of latency. Mimosa's unique GPS Sync technology allows collocation and channel reuse.

- 1.7 Gbps (PHY)
- 1.5 Gbps (IP)
- GPS Sync
- Dual-Link
- IP67

High-Value PTP Backhaul Radios

Offering industry-leading price performance, the C5c and modular C5x deliver up to 700 Mbps, and supports an extended frequency range.

- 866 Mbps (PHY)
- 700 Mbps (IP)
- Low Power Draw
- IP55



Mimosa Networks, a division of Airspan, is the global technology leader in wireless broadband solutions, enabling service providers to connect dense urban and hard-to-reach rural homes at a fraction of the cost of fiber. Mimosa Networks was acquired in 2018 by Airspan, the leading vendor of 4G/5G LTE small cells and backhaul technologies.

Mimosa Point-to-Multipoint (PTMP) Solutions

Compact and elegant, Mimosa’s point-to-multipoint (PTMP) solutions enable operators to provide fiber-fast connectivity to residential and business subscribers. Providing the highest bandwidth per client deployments in the extended frequency range from 4.9 up to 6.4 GHz, it integrates SRS (GPS sync) for spectrum reuse.



Tower (Long-Range) Architecture

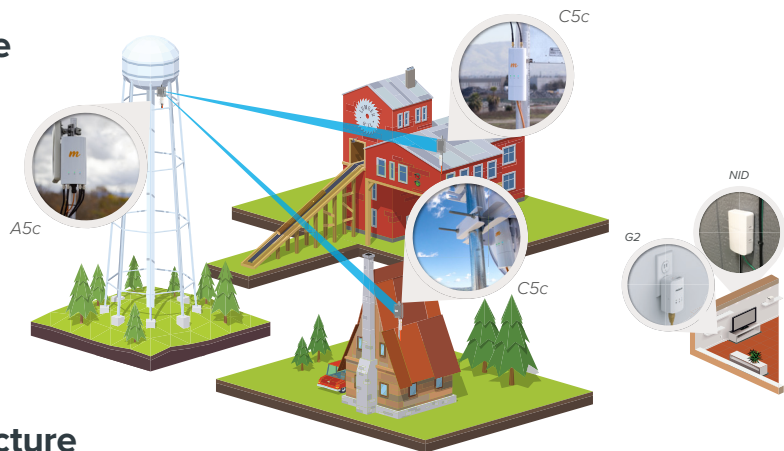
Supports massive scaling of subscribers and capacity at existing towers, as well as easy build-out of new tower locations closer to potential subscribers—all by smartly reusing scarce wireless spectrum resources.

Access Points

- A5x + N5-45x2
- A5c + N5-45x2
- A5c + N5-45x4

Client Radios

- C5c
- C5x + N5-x25



MicroPoP (Short-Range) Architecture

Designed for dense urban and suburban neighborhoods, our multipoint solution targets 250-500 Mbps client speeds. Disruptively priced, and powerful enough to compete against DSL, cable, and FTTH.

Access Points

- A5
- A5x + N5-45x2
- A5c + N5-45x2
- A5c + N5-45x4
- A5c + N5-360

Client Radios

- C5c
- C5x (Native)
- C5x + N5-X12
- C5x + N5-X16
- C5x + N5-X20



Mimosa Networks, a division of Airspan, is the global technology leader in wireless broadband solutions, enabling service providers to connect dense urban and hard-to-reach rural homes at a fraction of the cost of fiber. Mimosa Networks was acquired in 2018 by Airspan, the leading vendor of 4G/5G LTE small cells and backhaul technologies.



CRITICAL

INFRASTRUCTURE

CONNECTIVITY

CONNECT **ANYWHERE** FOR **ANY** APPLICATION

POWERFUL. VERSATILE. RELIABLE.

redline[®]
communications

CONNECT ANYWHERE FOR ANY APPLICATION

Redline outdoor wireless networks provide your critical infrastructure connectivity for any application in any environment.



■ PUBLIC SAFETY

Municipal Video Surveillance

- Clear images, smooth PTZ and video analytics
- Highest number of HD video cameras per link
- Small footprint installs on street furniture/buildings
- Low power suitable for solar applications



■ UTILITIES

Telemetry, Telecontrol and Automation

- Site uplink/downlink TCP/IP starting at 2 Mbps
- Connect in real-time to site Ethernet and serial bus devices
- Flexible all-outdoor and split outdoor/in-cabinet architecture
- Kits include everything needed for installation



■ BUSINESS ACCESS

Premium Access and Trunking

- Tiered differentiated high margin services
- Pay-as-you-grow speeds and features
- Fast deployment to add new sites
- Comprehensive tracking of active customer SLAs



■ PORT AUTHORITY

Visual Management and Access Control

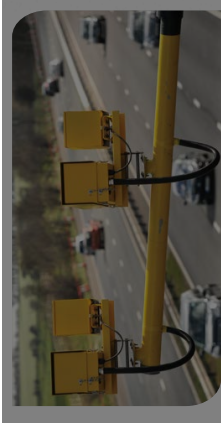
- Clear images, smooth PTZ and video analytics
- Highest number of HD video cameras per link
- Long distance point-to-multipoint connections
- Low power suitable for solar deployments



■ EDUCATION

Access Rural Locations

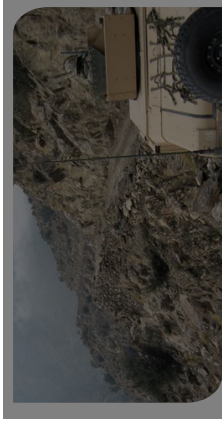
- High speed access to remote and isolated locations
- Video conferencing and interactive distance-learning
- No recurring leased-line and satellite costs
- Extendable to other remote locations (multi-hop)



■ TRANSPORTATION

Intelligent Transportation Systems

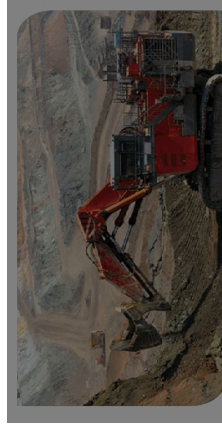
- Sharp images for viewing and analytics
- Long range and non line of sight deployments
- Small footprint and low power suitable for solar deployments
- Durable all-weather enclosure



■ MILITARY

Secure High Speed Wireless Transport

- FIPS 140-2 certified platform
- High capacity backbone point-to-point links
- Ad hoc point-to-multipoint networks
- Portable nomadic access up to 18 miles



■ MINING

Full Site Integration

- Voice, video and data services to remote and isolated sites
- Site-wide fully integrated monitoring and safety systems
- Real-time access to large off-site geological databases
- Auto-acquire portable network access for temporary offices and service vehicles

Wirelessly connect your critical applications with the Redline RDL-3000 family of outdoor wireless base stations, fixed subscribers/data terminals and portable auto-acquire terminals that operate from UHF/Whitespaces to 6 GHz. 



THE REDLINE ADVANTAGE

Total Wireless Network Solution

RDL-3000 software-defined wireless systems are highly adaptable to meet your unique operating, deployment, and budgeting requirements. Purchase only essential features and speeds to start and upgrade over-the-air using software keys.

Application Transparency

Redline enables all networks to be wireless even under very challenging conditions. These extremely reliable network systems, with scalable performance and superior cyber and physical security, provide flexibility not available with fiber.

Superior Range, Capacity and Reliability

Superior range and performance reduce the required number of primary transmitters while providing increased flexibility at remote deployment sites.

Take Your Solution Everywhere

With Redline's patented Universal Wireless Technology™ (UWT™) you can take your proven Redline wireless network solution and replicate it in other regions and other countries using locally allowed frequency bands from UHF to 6 GHz.

Expert Service and Advice

Better network performance equates to lower operating costs and accelerated ROI. Redline is ready to assist with the tasks of designing, building, and optimizing your Redline wireless network.

ABOUT REDLINE COMMUNICATIONS

Redline Communications (www.rdlcom.com) is the creator of powerful wide-area wireless networks for the world's most challenging applications and locations. Used by oil and gas companies, militaries, municipalities and telecom service providers, Redline's powerful and versatile networks securely and reliably deliver M2M, voice, data and video communications.



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Rugged Communications for Harsh Environments

Company Overview

RuggedCom is a leading provider of rugged communications networking solutions designed for mission-critical applications in harsh environments. Our robust technology solutions include Ethernet switches, network routers, wireless devices, serial servers, media converters, software (proprietary embedded software and application software) and professional services. RuggedCom products are designed for use in harsh environments such as those found in electrical power substations, oil refineries, military applications, roadside traffic control cabinets and metals and minerals processing. RuggedCom is well positioned to capitalize on emerging trends within the rugged communications industry, including the growing worldwide demand for IP-based communications networks suitable for harsh environments and the global initiative to integrate communications networks with electric power grids, known as "Smart Grids".

Our solutions facilitate the extension of Internet Protocol ("IP") based communications networks from benign office environments to harsh non-office environments. IP-based communications networks are faster, more flexible and offer greater functionality than the legacy, serial, low-speed communications systems currently used in most harsh environments. The extension of IP-based communications networks enables the seamless flow of information between an enterprise's non-office environment and its office environment. Moreover, the implementation of a common networking technology and infrastructure across an entire enterprise improves overall efficiency, increases the ability to monitor and secure operational assets and reduces costs associated with installation, integration, maintenance, parts and training.

About RuggedCom

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Industry Overview

IP-based communications networks utilize a standard communications protocol as the basis of sending and receiving data packets across a network, making use of devices such as network routers, Ethernet switches, wireless devices, serial servers and media converters. IP-based communications networks have existed since the 1970's and have become the dominant communications networking technology for corporate/office networks. Business enterprises rely upon these networks for corporate communication, automation, control, surveillance and other mission-critical networking needs.

The rugged communications networking industry utilizes specialized equipment designed to operate reliably in harsh environments. These environments are characterized by high levels of electromagnetic interference, wide variations in temperature and humidity, high levels of vibration or shock, and/or exposure to airborne and particulate matter (e.g. dust, corrosive gasses, water, etc.). Harsh environments require networking equipment that is significantly more robust and which contains specialized component parts that are less susceptible to failure to ensure that the network remains efficient, secure and operational.

Target Markets

Rugged communications networks are increasingly being deployed across a number of major markets including electric power, transportation systems, military, industrial processes (chemical, oil & gas, metals & mining, pulp & paper) and discrete manufacturing (automotive, food & beverage, electronics & semi-conductors, machinery, pharmaceuticals). RuggedCom targets specific markets that we believe have the greatest need for rugged communications networking solutions, are underserved and enable us to leverage our core proprietary technology platform. These markets currently include electric power, transportation systems, military applications and industrial processes such as chemical, oil & gas, and metals & mining. We believe that these markets offer high growth potential in terms of size of market opportunity and are well suited to our competitive strengths.

Smart Grid Opportunity

An important trend within the North American and European electric power markets is the Smart Grid initiative. The term "Smart Grid" refers to the integration of communications networks with the power grid allowing real time information, monitoring and power exchange status and allows for operator or automatic intervention, when necessary, to maintain the network. For example, by facilitating controlled local black-outs and real-time operator intervention, the Smart Grid is intended to prevent the type of conditions that resulted in the electricity black-out that occurred in Northeast United States and parts of Eastern Canada on August 14, 2003. The integrated communications infrastructure must enable various intelligent electronic devices, smart meters, control centers, protection systems and users to communicate as a network.

The "Smart Grid" concept is currently being implemented in the United States with the support of the United States federal government. The Energy Policy Act of 2005 (United States) was enacted, in part, to encourage investment in all sectors of the energy industry, including the electric power market. In his testimony to the Congress of the United States House of Representatives in September 2003, T.J. Gauthier, President and Chief Executive Officer of the Electricity Innovation Institute Affiliate of EPRI, estimated that approximately US\$100 billion would have to be spent over the next ten years in order to upgrade the United States power grid to a Smart Grid. Similar initiatives in the European Union would result in expenditures of approximately €500 Billion between 2003 to 2030 according to the European Commission, Directorate General for Research in its 2006 report "European Smart Grids Technology Platform — Vision and Strategy for Europe's Electricity Networks of the Future". Because of our leadership in the electric utility market in substation automation, we are uniquely well positioned to capitalize on this significant market trend.

RuggedCom Inc. | 300 Applewood Crescent, Concord, Ontario, Canada, L4K 5C7 | Tel: +1 (905) 856-5288 | Fax: +1 (905) 856-1995 | Toll Free: 1 (888) 264-0006

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Company Profile

**Transforming Wireless Connectivity
with Millimeter Waves**



Our Revolution in Ultra High Capacity Wireless

Millimeter wave frequencies were the Antarctica of telecoms before Siklu – very few went there and those who did paid a lot for it. Then we invented our all-silicon radio and started a revolution: prices were sliced by 90% and more, devices shrunk in size, performance skyrocketed – and a market was born.

Our Gigabit throughput E-band (70/80 Ghz) and V-band (60 Ghz) radios are the market's most cost-effective solutions for short-range wireless ultra-high capacity point-to-point links. Based on more than 30 patents, they include the first SiGe E-band chip and other unique achievements.

Best-Selling Millimeter Wave Radios

We've already sold thousands of radios worldwide to service providers, mobile operators, wireless security network operators, enterprises and governments. And with 30% market share, we firmly lead the millimeter wave radio market. Top operators have tested our radios rigorously, and they are now deployed in all climates, working smoothly even through monsoons and hurricanes.

When, who, where

Founded in 2008 by a team of wireless veterans experienced in consumer electronics, with the vision of using all-silicon technology advances from the consumer electronics industry to transform high capacity networks. They used cutting edge technology to reduce cost and increase reliability of carrier grade wireless connectivity. Privately held, Siklu is backed by leading investment funds and private investors, including Argonaut Private Equity, Evergreen Venture Partners, DFJ Tamir Fishman, Amity Ventures, Tamares Capital and a strategic investment by Qualcomm Ventures.

We're based near Tel Aviv, Israel.

5 Reasons to Contact Siklu:

1. Future-proof high capacity Gigabit solution
2. Proven millimeter wave solution with thousands of links deployed
3. Carrier class performance and carrier ready ROI
4. Operating over the interference-free and uncongested 60/70/80 GHz bands
5. Industry's smallest, lightest equipment



hello@siklu.com
www.siklu.com

JTS WARRANTY STATEMENT

Seller warrants that technical, consulting or installation service(s) furnished pursuant to this contract shall be performed by trained and qualified personnel and shall, where applicable, meet JTS' specifications therefore, and/or generally accepted industry standards of workmanship and quality. This warranty shall be effective for a period of one (1) year after completion of the installation service(s). Any service found, during the warranty period, to be nonconforming to the above stated warranty shall, at JTS' expense, be re-performed to meet the warranty requirements. Any technical service or consultation beyond the scope of this contract will be provided at prevailing time & material rates.



GLOBAL WARRANTY STANDARDS

STANDARD WARRANTY AND AVIATCARE PROGRAMS

GLOBAL WARRANTY PROGRAM

Aviat Networks provides industry-leading warranty coverage for all Aviat Networks' products we sell. This includes 24x7 access to the Aviat Networks online Technical Support website, remote access to the regional Technical Assistance Centers, and support from the global network of Product Repair Centers. A strong warranty program is an integral part of Aviat Networks total solutions approach to deliver unsurpassed expertise and exceptional value to our telecommunication customers. This is reflected in our focus on ensuring not only solid warranty coverage on Aviat Networks products but also any OEM products that are included in your total solution from Aviat Networks.

STANDARD WARRANTY PERIODS

Aviat Networks warranty periods vary by the type of product being provided and the region of the world in which the product is being deployed. In the United States, Canada and the Caribbean, the standard warranty on the equipment is 24 months from ship date or 36 months if the installation is performed by Aviat Networks. For the rest of the world, the standard warranty for the equipment is 15 months from ship date or 27 months if the installation is performed by Aviat Networks.

In addition, Aviat Networks also offers a number of standalone software products (such as ProVision) where a standard 90 day warranty is included.

Aviat Networks recommends that you check with your sales representative to understand better what warranty period is associated with the solution you are looking at from Aviat Networks.

GLOBAL WARRANTY COVERAGE

The standard warranty period begins from the date the product is shipped out to the customer. From that date until the standard warranty period ends, Aviat Networks will replace or repair, at our option, any failed equipment that is returned to one of our identified regional repair centers. In addition to repair services, Aviat Networks provides access during normal business hours to our award winning Technical Assistance Centers and the resources available in those centers for remote technical support.

Additionally, under our standard warranty program, a customer has 24x7 access to the AviatCare Online Customer Support site. Customers can open cases, request Return Material Authorizations (RMA), track orders, and access our knowledge base built from years of experience addressing technical issues raised by our customers.

For more information on the Standard Warranty policies and our support commitments, please speak with your local Aviat Networks sales representative. As a customer of Aviat Networks, you can find out more about our support policies at our support website: www.aviatcareonline.com

AVIATCARE - ENHANCING AND EXTENDING YOUR WARRANTY COVERAGE



Aviat Networks offers a comprehensive suite of support services that complement our standard warranty coverage or provide extended maintenance and support well after the warranty expires. These services fall under our AviatCare program. As the AviatCare name implies, Aviat Networks' careful commitment is to work with you as our customer in order to promote reliability and ensure availability of your network by leveraging a suite of services that bring a much higher level of prioritization, personalization and ultimately protection to your operational environment.

AVIATCARE PROTECT



AviatCare Networks understands that each of our customers is unique and requires a diverse suite of services to support their operations. As a result, we offer two support levels:

Extended Warranty Program

Aviat Networks will extend the standard warranty coverage timeframe. Customers receive the same level of support provided under the original Standard Warranty coverage. Technical support will change from standard 8x5 to 7x24x365 Priority Technical Support.

WarrantyPlus Program

Customers requiring a higher level of support beyond our Extended Warranty program can opt for the WarrantyPlus Program. This provides customers with the additional benefit of Repair Logistics, Advance Replacement, & Software Maintenance.

AVIATCARE MAINTAIN



The AviatCare Maintain portfolio of services is our most expansive suite of services focused on assisting a customer maintaining their network at its peak of performance. These services go beyond the reactive services of Repair and Technical Support that primarily make up the AviatCare Protect portfolio. In this portfolio you will find a range of more proactive and preventative based service offerings which build on and enhance the services outlined under the AviatCare Protect portfolio.

With AviatCare Maintain we add in a number of value-add services which not only focus on protecting your investment but also ensuring it maintains the high level of efficiency it was originally implemented with. These proactive services include Software Installation & Optimization, Remote Surveillance, Preventative and Corrective Maintenance, and Spares Parts Management.

Please speak with your local Aviat Networks sales representative about which support services might be right for you.

Additional information can be found on our AviatCare datasheet or at www.aviatcareonline.com

WWW.AVIATNETWORKS.COM

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Extended Warranty and Next Day Replacement (NDR) Documentation

If you purchased BridgeWave's Next Day Replacement (NDR-1) or Extended Warranty with Next Day Replacement (EWNDR-2, -3 or-5) services through a VAR then you should initially work through your VAR or Distributor to resolve your support issues. BridgeWave will work directly with the Distributor and VAR as required to assist and provide the necessary support to fulfill the services you have purchased.

BridgeWave's Standard Warranty is included in the shipping boxes. BridgeWave provides a 12-month limited warranty on millimeter wave (MMW) systems. BridgeWave's Standard Warranty is included in the initial purchase price and provides the following features:

Remote Technical Support: BridgeWave is committed to providing superior customer support Monday – Friday 8am – 5pm Pacific Time by phone to its certified Distributors and Value Added Resellers (VARs) on all warranted equipment. BridgeWave's technicians are skilled at answering installation, alignment, maintenance and configuration questions, as well as troubleshooting and diagnosing link failures.

The first person a customer speaks to will isolate and resolve the problem. BridgeWave's support technicians have access to resources across the entire company, including Engineering, Manufacturing and Network Architecture, and, if necessary, will pull these groups together to ensure the problem is resolved.

Warranty Claims Processing. If, as a result of troubleshooting a link outage, BridgeWave and the customer determine the cause to be failure of equipment under warranty, BridgeWave will issue the customer a Return Materials Authorization (RMA) number. BridgeWave will only accept return shipments with valid RMA numbers. BridgeWave's Warranty Claims Processing is available Monday – Friday 8am – 5pm Pacific Time by phone. The customer will pay for shipping.

30-Day Parts Replacement. If a defect is discovered, BridgeWave will ship a repaired or replacement unit within 30 days of receiving the defective unit. For defects identified within the first 30 days after shipment, a replacement will be sent the next business day. Standard replacement timeframe can be expedited by purchasing Next Day Replacement service. BridgeWave will pay for shipment of the product to the customer.

Software Releases For products with configurable software, BridgeWave will make new software releases and upgrades available to customers who are within warranty terms. Customers may access releases along with installation instructions via BridgeWave's web site or by purchasing an upgrade kit (including a CD-ROM, release notes and instructions for installing the new release) by calling Order Processing.

Extended Warranty

By purchasing BridgeWave's Extended Warranty, you extend the Standard Equipment Warranty coverage to the second and third year of operation of BridgeWave equipment. Extended Warranty provides the same features as the BridgeWave Standard Equipment Warranty with Next Day Replacement covering all three years.

Next Day Replacement

If you purchased Next Day Replacement service you will have an accelerated replacement timeframe. When Next Day Replacement is purchased, replacement parts are shipped within one business day for shipments within the United States and two business days to the shipping company for international destinations. Next Day Replacement is offered to complement the Standard Equipment Warranty for one year or complements Extended Warranty to cover all years (2, 3 or 5) and is included in the price of EWNDR services.

If BridgeWave is contacted and an RMA number is provided by 1:30PM Pacific Time (Monday - Friday non-Holidays), a replacement unit will be shipped for arrival Next Day (domestic US). For weekend or holiday delivery, special shipping arrangements will have to be made prior to BridgeWave providing a delivery date and time.

Next Day Replacement commences the day payment is received by BridgeWave and will terminate on the same date as the applicable Warranty service (Standard Warranty is 12 months from date of shipment and Extended Warranty is 24, 36 or 48 months from the date of shipment, depending on warranty purchased).

If the failed unit is not received within 10 days of the RMA number being provided, the distributor, VAR or customer, as appropriate, will be billed the List Price of the unit. All shipping instructions of the failed unit to BridgeWave will be covered by specific information provided when the RMA is assigned. BridgeWave pays the shipping costs of the replacement product within the United States and will work with international customers to coordinate pickup by their freight forwarder for further shipment abroad. All international customers will pay insurance, tariffs, duties and shipping fees.

Support Process

If your BridgeWave product is not functioning to specifications:

- refer to the Field Installation Service Manual (FISM) included in the shipping box for troubleshooting processes
- try to perform the troubleshooting processes to isolate the problem. If unable to resolve the problem,
- contact the VAR that sold you the BridgeWave product
- if unable to contact your VAR, contact the Distributor that the VAR purchased the product from if you know the Distributor

- if unable to contact your VAR or Distributor, contact BridgeWave Technical Support at (408) 567-6900
- BridgeWave will issue a Return Merchandise Authorization (RMA) number via the Distributor or VAR
- if an RMA is provided, you will need to repack the non-functioning product in a suitable box to protect it from damage and ship it freight prepaid to FOB BridgeWave’s dock:

Attention: RMA # _____
 BridgeWave Communications, Inc.
 3350 Thomas Road
 Santa Clara, CA 95054, USA

- If the customer purchased Next Day Replacement service, BridgeWave will ship a replacement product Next Business Day if the RMA is authorized before 1:30pm Pacific Time Monday – Friday. BridgeWave will prepay return freight charges on RMA products
- If the customer does NOT have Next Day Replacement service and the product is under warranty, BridgeWave will receive the failed product, repair or replace the failed product, notify the customer and ship the repaired or replacement product. It could take 14-30 days to perform these tasks. BridgeWave will prepay return freight charges on RMA products.
- your VAR or you will be expected to install the replacement product

The replacement product’s warranty shall expire on the later of ninety (90) days after shipment date or the last day of the Standard Equipment or Extended Warranty period with respect to the originally purchased product.

No Fault Found

If after the RMA product has been received and fully tested, it is determined that there is “No Fault Found” with the product; BridgeWave will contact the customer to further investigate the possible problems. If after further investigation the product still has a “No Fault Found” status and BridgeWave cannot replicate the problem, the customer will be contacted again and the product will be shipped back at the customer’s expense with an additional \$350 fee to cover the costs of technical support and shipping fees to receive the product.

Delivery Schedule

Service	RMA issued by 1:30pm PT (M-F)	RMA Issued after 1:30PT (M-F)
Standard Warranty (1st 12 months)	Delivery next business day within 1st 30 days; 2nd through 12 months upon repair of product (14-30 days)	Delivery 2 business days within 1st 30 days; 2nd through 12 months upon repair of product (14-30 days)
Next Day Replacement with Standard or Extended Warranty	Delivery next business day	Delivery 2 business days later

Terms and Conditions for Sale of Products and Services (GE MDS Warranty)
Form ES 104 (Rev. 4)

NOTICE: Sale of any Products or Services is expressly conditioned on Buyer's assent to these Terms and Conditions. Any acceptance of Seller's offer is expressly limited to acceptance of these Terms and Conditions and Seller expressly objects to any additional or different terms proposed by Buyer. No facility entry form shall modify these Terms and Conditions even if signed by Seller's representative. Any order to perform work and Seller's performance of work shall constitute Buyer's assent to these Terms and Conditions. Unless otherwise specified in the quotation, Seller's quotation shall expire 30 days from its date and may be modified or withdrawn by Seller before receipt of Buyer's conforming acceptance.

1. Definitions

"Buyer" means the entity to which Seller is providing Products or Services under the Contract.

"Contract" means either the contract agreement signed by both parties, or the purchase order signed by Buyer and accepted by Seller in writing, for the sale of Products or Services, together with these Terms and Conditions, Seller's final quotation, the agreed scope(s) of work, and Seller's order acknowledgement. In the event of any conflict, the Terms and Conditions shall take precedence over other documents included in the Contract.

"Contract Price" means the agreed price stated in the Contract for the sale of Products and Services, including adjustments (if any) in accordance with the Contract.

"Hazardous Materials" means any toxic or hazardous substance, hazardous material, dangerous or hazardous waste, dangerous good, radioactive material, petroleum or petroleum-derived products or by-products, or any other chemical, substance, material or emission, that is regulated, listed or controlled pursuant to any national, state, provincial, or local law, statute, ordinance, directive, regulation or other legal requirement of the United States ("U.S.") or the country of the Site.

"Insolvent/Bankrupt" means that a party is insolvent, makes an assignment for the benefit of its creditors, has a receiver or trustee appointed for it or any of its assets, or files or has filed against it a proceeding under any bankruptcy, insolvency dissolution or liquidation laws.

"Products" means the equipment, parts, materials, supplies, software, and other goods Seller has agreed to supply to Buyer under the Contract.

"Seller" means the entity providing Products or performing Services under the Contract.

"Services" means the services Seller has agreed to perform for Buyer under the Contract.

"Site" means the premises where Products are used or Services are performed, not including Seller's premises from which it performs Services.

"Terms and Conditions" means these "Terms and Conditions for Sale of Products and Services", including any relevant addenda pursuant to Article 18, together with any modifications or additional provisions specifically stated in Seller's final quotation or specifically agreed upon by Seller in writing.

2. Payment

2.1 Buyer shall pay Seller for the Products and Services by paying all invoiced amounts in U.S. dollars, without set-off for any payment from Seller not due under this Contract, within thirty (30) days from the invoice date. If the Contract Price is less than U.S. Two Hundred Fifty Thousand Dollars (\$250,000), Seller shall issue invoices upon shipment of Products and as Services are performed. If the Contract Price is U.S. Two Hundred Fifty Thousand Dollars (\$250,000) or more, progress payments shall be invoiced starting with twenty-five percent (25%) of the Contract Price for Products and Services upon the earlier of Contract signature or issuance of Seller's order acknowledgement and continuing such that ninety percent (90%) of the Contract Price for Products is received before the earliest scheduled Product shipment and Services are invoiced as performed ("Progress Payments"). For each calendar month, or fraction thereof, that payment is late, Buyer shall pay a late payment charge computed at the rate of 1.5% per month on the overdue balance, or the maximum rate permitted by law, whichever is less.

2.2 As and if requested by Seller, Buyer shall at its expense establish and keep in force payment security in the form of an irrevocable, unconditional, sight letter of credit or bank guarantee allowing for pro-rata payments as Products are shipped and Services are performed, plus payment of cancellation and termination charges, and all other amounts due from Buyer under the Contract ("Payment

Security"). The Payment Security shall be (a) in a form, and issued or confirmed by a bank acceptable to Seller, (b) payable at the counters of such acceptable bank or negotiating bank, (c) opened at least sixty (60) days prior to both the earliest scheduled shipment of Products and commencement of Services, and (d) remain in effect until the latest of ninety (90) days after the last scheduled Product shipment, completion of all Services and Seller's receipt of the final payment required under the Contract. Buyer shall, at its expense, increase the amount(s), extend the validity period(s) and make other appropriate modifications to any Payment Security within ten (10) days of Seller's notification that such adjustment is necessary in connection with Buyer's obligations under the Contract.

2.3 Seller is not required to commence or continue its performance unless and until any required Payment Security is received, operative and in effect and all applicable Progress Payments have been received. For each day of delay in receiving Progress Payments or acceptable Payment Security, Seller shall be entitled to a matching extension of the schedule. If at any time Seller reasonably determines that Buyer's financial condition or payment history does not justify continuation of Seller's performance, Seller shall be entitled to require full or partial payment in advance or otherwise restructure payments, request additional forms of Payment Security, suspend its performance or terminate the Contract.

3. Taxes and Duties

Seller shall be responsible for all corporate taxes measured by net income due to performance of or payment for work under this Contract ("Seller Taxes"). Buyer shall be responsible for all taxes, duties, fees, or other charges of any nature (including, but not limited to, consumption, gross receipts, import, property, sales, stamp, turnover, use, or value-added taxes, and all items of withholding, deficiency, penalty, addition to tax, interest, or assessment related thereto, imposed by any governmental authority on Buyer or Seller or its subcontractors) in relation to the Contract or the performance of or payment for work under the Contract other than Seller Taxes ("Buyer Taxes"). The Contract Price does not include the amount of any Buyer Taxes. If Buyer deducts or withholds Buyer Taxes, Buyer shall pay additional amounts so that Seller receives the full Contract Price without reduction for Buyer Taxes. Buyer shall provide to Seller, within one month of payment, official receipts from the applicable governmental authority for deducted or withheld taxes.

4. Deliveries; Title Transfer; Risk of Loss; Storage

4.1 For shipments that do not involve export, including shipments from one European Union ("EU") country to another EU country, Seller shall deliver Products to Buyer FCA Seller's facility or warehouse (Incoterms 2010). For export shipments, Seller shall deliver Products to Buyer FCA Port of Export (Incoterms 2010). Buyer shall pay all delivery costs and charges or pay Seller's standard shipping charges plus up to twenty-five (25%) percent. Partial deliveries are permitted. Seller may deliver Products in advance of the delivery schedule. Delivery times are approximate and are dependent upon prompt receipt by Seller of all information necessary to proceed with the work without interruption. If Products delivered do not correspond in quantity, type or price to those itemized in the shipping invoice or documentation, Buyer shall so notify Seller within ten (10) days after receipt.

4.2 For shipments that do not involve export, title to Products shall pass to Buyer upon delivery in accordance with Section 4.1. For export shipments from a Seller facility or warehouse outside the U.S., title shall pass to Buyer upon delivery in accordance with Section 4.1. For shipments from the U.S. to another country, title shall pass to Buyer immediately after each item departs from the territorial land, seas and overlying airspace of the U.S. The 1982 United Nations Convention of the Law of the Sea shall apply to determine the U.S. territorial seas. For all other shipments, title to Products shall pass to Buyer the earlier of (i) the port of export immediately after Products have been cleared for export or (ii) immediately after each item departs from the territorial land, seas and overlying airspace of the sending country. When Buyer arranges the export or intercommunity shipment, Buyer will provide Seller evidence of exportation or intercommunity shipment acceptable to the relevant tax and custom authorities. Notwithstanding the foregoing, Seller grants only a license, and does not pass title, for any software provided by Seller under this Contract, and title to any leased equipment remains with Seller.

4.3 Risk of loss shall pass to Buyer upon delivery pursuant to Section 4.1, except that for export shipments from the U.S., risk of loss shall transfer to Buyer upon title passage.

4.4 If any Products to be delivered under this Contract or if any Buyer equipment repaired at Seller's facilities cannot be shipped to or received by Buyer when ready due to any cause attributable to Buyer or its other contractors, Seller may ship the Products and equipment to a storage facility, including storage at the place of manufacture or repair, or to an agreed freight forwarder. If Seller places Products or equipment into storage, the following apply: (i) title and risk of loss immediately pass to Buyer, if they have not already passed, and delivery shall be deemed to have occurred; (ii) any amounts otherwise payable to Seller upon delivery or shipment shall be due; (iii) all expenses and charges incurred by Seller related to the storage shall be payable by Buyer upon submission of Seller's invoices; and (iv) when conditions permit and upon payment of all amounts due, Seller shall make Products and repaired equipment available to Buyer for delivery.

4.5 If repair Services are to be performed on Buyer's equipment at Seller's facility, Buyer shall be responsible for, and shall retain risk of loss of, such equipment at all times, except that Seller shall be responsible for damage to the equipment while at Seller's facility to the extent such damage is caused by Seller's negligence.

5. Warranty

5.1 Seller warrants that Products shall be delivered free from defects in material, workmanship and title and that Services shall be performed in a competent, diligent manner in accordance with any mutually agreed specifications.

5.2 The warranty for Products shall expire one (1) year from first use or twenty-four (24) months from delivery, whichever occurs first, except that software is warranted for ninety (90) days from delivery. The warranty for Services shall expire one (1) year after performance of the Service, except that software-related Services are warranted for ninety (90) days.

5.3 If Products or Services do not meet the above warranties, Buyer shall promptly notify Seller in writing prior to expiration of the warranty period. Seller shall (i) at its option, repair or replace defective Products and (ii) re-perform defective Services. If despite Seller's reasonable efforts, a non-conforming Product cannot be repaired or replaced, or non-conforming Services cannot be re-performed, Seller shall refund or credit monies paid by Buyer for such non-conforming Products and Services. Warranty repair, replacement or re-performance by Seller shall not extend or renew the applicable warranty period. Buyer shall obtain Seller's agreement on the specifications of any tests it plans to conduct to determine whether a non-conformance exists.

5.4 Buyer shall bear the costs of access for Seller's remedial warranty efforts (including removal and replacement of systems, structures or other parts of Buyer's facility), de-installation, decontamination, re-installation and transportation of defective Products to Seller and back to Buyer.

5.5 The warranties and remedies are conditioned upon (a) proper storage, installation, use, operation, and maintenance of Products, (b) Buyer keeping accurate and complete records of operation and maintenance during the warranty period and providing Seller access to those records, and (c) modification or repair of Products or Services only as authorized by Seller in writing. Failure to meet any such conditions renders the warranty null and void. Seller is not responsible for normal wear and tear.

5.6 This Article 5 provides the exclusive remedies for all claims based on failure of or defect in Products or Services, regardless of when the failure or defect arises, and whether a claim, however described, is based on contract, warranty, indemnity, tort/extra-contractual liability (including negligence), strict liability or otherwise. THE WARRANTIES PROVIDED IN THIS ARTICLE 5 ARE EXCLUSIVE AND ARE IN LIEU OF ALL OTHER WARRANTIES, CONDITIONS AND GUARANTEES WHETHER WRITTEN, ORAL, IMPLIED OR STATUTORY. NO IMPLIED OR STATUTORY WARRANTY, OR WARRANTY OR CONDITION OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE APPLIES.

6. Confidentiality

6.1 Seller and Buyer (as to information disclosed, the "Disclosing Party") may each provide the other party (as to information received, the "Receiving Party") with Confidential Information in connection with this Contract. "Confidential Information" means (a) information that is designated in writing as "confidential" or "proprietary" by Disclosing Party at the time of written disclosure, and (b) information that is orally designated as "confidential" or "proprietary" by Disclosing Party at the time of oral or visual disclosure and is confirmed to be "confidential" or "proprietary" in writing within twenty (20) days after the oral or visual disclosure. In addition, prices for Products and Services shall be considered Seller's Confidential Information.

6.2 Receiving Party agrees: (i) to use the Confidential Information only in connection with the Contract and use of Products and Services, (ii) to take reasonable measures to prevent disclosure of the Confidential Information to third parties, and (iii) not to disclose the Confidential Information to a competitor of Disclosing Party. Notwithstanding these restrictions, (a) Seller may disclose Confidential Information to its affiliates and subcontractors in connection with performance of the Contract, (b) a Receiving Party may disclose Confidential Information to its auditors, (c) Buyer may disclose Confidential Information to lenders as necessary for Buyer to secure or retain financing needed to perform its obligations under the Contract, and (d) a Receiving Party may disclose Confidential Information to any other third party with the prior written permission of Disclosing Party, and in each case, only so long as the Receiving Party obtains a non-disclosure commitment from any such subcontractors, auditors, lenders or other permitted third party that prohibits disclosure of the Confidential Information and provided further that the Receiving Party remains responsible for any unauthorized use or disclosure of the Confidential Information. Receiving Party shall upon request return to Disclosing Party or destroy all copies of Confidential Information except to the extent that a specific provision of the Contract entitles Receiving Party to retain an item of Confidential Information. Seller may also retain one archive copy of Buyer's Confidential Information.

6.3 The obligations under this Article 6 shall not apply to any portion of the Confidential Information that: (i) is or becomes generally available to the public other than as a result of disclosure by Receiving Party, its representatives or its affiliates; (ii) is or becomes available to Receiving Party on a non-confidential basis from a source other than Disclosing Party when the source is not, to the best of Receiving Party's knowledge, subject to a confidentiality obligation to Disclosing Party; (iii) is independently developed by Receiving Party, its representatives or affiliates, without reference to the Confidential Information; (iv) is required to be disclosed by law or valid legal process provided that the Receiving Party intending to make disclosure in response to such requirements or process shall promptly

notify the Disclosing Party in advance of such disclosure and reasonably cooperate in attempts to maintain the confidentiality of the Confidential Information.

6.4 Each Disclosing Party warrants that it has the right to disclose the information that it discloses. Neither Buyer nor Seller shall make any public announcement about the Contract without prior written approval of the other party. As to any individual item of Confidential Information, the restrictions under this Article 6 shall expire five (5) years after the date of disclosure. Article 6 does not supersede any separate confidentiality or nondisclosure agreement signed by the parties.

7. Intellectual Property

7.1 Seller shall defend and indemnify Buyer against any claim by a non-affiliated third party (a "Claim") alleging that Products or Services furnished under this Contract infringe a patent in effect in the U.S., an EU member state or the country of the Site (provided there is a corresponding patent issued by the U.S. or an EU member state), or any copyright or trademark registered in the country of the Site, provided that Buyer (a) promptly notifies Seller in writing of the Claim, (b) makes no admission of liability and does not take any position adverse to Seller, (c) gives Seller sole authority to control defense and settlement of the Claim, and (d) provides Seller with full disclosure and reasonable assistance as required to defend the Claim.

7.2 Section 7.1 shall not apply and Seller shall have no obligation or liability with respect to any Claim based upon (a) Products or Services that have been modified, or revised, (b) the combination of any Products or Services with other products or services when such combination is a basis of the alleged infringement, (c) failure of Buyer to implement any update provided by Seller that would have prevented the Claim, (d) unauthorized use of Products or Services, or (e) Products or Services made or performed to Buyer's specifications.

7.3 Should any Product or Service, or any portion thereof, become the subject of a Claim, Seller may at its option (a) procure for Buyer the right to continue using the Product or Service, or applicable portion thereof, (b) modify or replace it in whole or in part to make it non-infringing, or (c) failing (a) or (b), take back infringing Products or Services and refund the price received by Seller attributable to the infringing Products or Services.

7.4 Article 7 states Seller's exclusive liability for intellectual property infringement by Products and Services.

7.5 Each party shall retain ownership of all Confidential Information and intellectual property it had prior to the Contract. All new intellectual property conceived or created by Seller in the performance of this Contract, whether alone or with any contribution from Buyer, shall be owned exclusively by Seller. Buyer agrees to deliver assignment documentation as necessary to achieve that result.

8. Indemnity

Each of Buyer and Seller (as an "Indemnifying Party") shall indemnify the other party (as an "Indemnified Party") from and against claims brought by a third party, on account of personal injury or damage to the third party's tangible property, to the extent caused by the negligence of the Indemnifying Party in connection with this Contract. In the event the injury or damage is caused by joint or concurrent negligence of Buyer and Seller, the loss or expense shall be borne by each party in proportion to its degree of negligence. For purposes of Seller's indemnity obligation, no part of the Products or Site is considered third party property.

9. Insurance

During the term of the Contract, Seller shall maintain for its protection the following insurance coverage: (i) Worker's Compensation, Employer's Liability and other statutory insurance required by law with respect to work related injuries or disease of employees of Seller in such form(s) and amount(s) as required by applicable laws; (ii) Automobile Liability insurance with a combined single limit of \$2,500,000.00; and (iii) Commercial General Liability or Public Liability insurance for bodily injury and property damage with a combined single limit of \$2,500,000.00. If required in the Contract, Seller shall provide a certificate of insurance reflecting such coverage.

10. Excusable Events

Seller shall not be liable or considered in breach of its obligations under this Contract to the extent that Seller's performance is delayed or prevented, directly or indirectly, by any cause beyond its reasonable control, or by armed conflict, acts or threats of terrorism, epidemics, strikes or other labor disturbances, or acts or omissions of any governmental authority or of the Buyer or Buyer's contractors or suppliers. If an excusable event occurs, the schedule for Seller's performance shall be extended by the amount of time lost by reason of the event plus such additional time as may be needed to overcome the effect of the event. If acts or omissions of the Buyer or its contractors or suppliers cause the delay, Seller shall also be entitled to an equitable price adjustment.

11. Termination and Suspension

11.1 Buyer may terminate the Contract (or the portion affected) for cause if Seller (i) becomes Insolvent/Bankrupt, or (ii) commits a material breach of the Contract which does not otherwise have a specified contractual remedy, provided that: (a) Buyer shall first provide

Seller with detailed written notice of the breach and of Buyer's intention to terminate the Contract, and (b) Seller shall have failed, within 30 days after receipt of the notice, to commence and diligently pursue cure of the breach.

11.2 If Buyer terminates the Contract pursuant to Section 11.1, (i) Seller shall reimburse Buyer the difference between that portion of the Contract Price allocable to the terminated scope and the actual amounts reasonably incurred by Buyer to complete that scope, and (ii) Buyer shall pay to Seller (a) the portion of the Contract Price allocable to Products completed, (b) lease fees incurred, and (c) amounts for Services performed before the effective date of termination. The amount due for Services shall be determined in accordance with the milestone schedule (for completed milestones) and rates set forth in the Contract (for work toward milestones not yet achieved and where there is no milestone schedule), as applicable or, where there are no milestones and/or rates in the Contract, at Seller's then-current standard time and material rates.

11.3 Seller may suspend or terminate the Contract (or any affected portion thereof) immediately for cause if Buyer (i) becomes Insolvent/Bankrupt, or (ii) materially breaches the Contract, including, but not limited to, failure or delay in Buyer providing Payment Security, making any payment when due, or fulfilling any payment conditions.

11.4 If the Contract (or any portion thereof) is terminated for any reason other than Seller's default under Section 11.1, Buyer shall pay Seller for all Products completed, lease fees incurred and Services performed before the effective date of termination, plus expenses reasonably incurred by Seller in connection with the termination. The amount due for Services shall be determined in accordance with the milestone schedule (for completed milestones) and rates set forth in the Contract (for work toward milestones not yet achieved and where there is no milestone schedule), as applicable or, where there are no milestones and/or rates in the Contract, at Seller's then-current standard time and material rates. In addition, Buyer shall pay Seller a cancellation charge equal to 80% of the Contract Price applicable to uncompleted made-to-order Products and 15% of the Contract Price applicable to all other uncompleted Products.

11.5 Either Buyer or Seller may terminate the Contract (or the portion affected) upon twenty (20) days advance notice if there is an excusable event (as described in Article 10) lasting longer than one hundred and twenty (120) days. In such case, Buyer shall pay to Seller amounts payable under Section 11.4, excluding the cancellation charge for uncompleted Products.

11.6 Buyer shall pay all reasonable expenses incurred by Seller in connection with a suspension, including, but not limited to, expenses for repossession, fee collection, demobilization/remobilization, and costs of storage during suspension. The schedule for Seller's obligations shall be extended for a period of time reasonably necessary to overcome the effects of any suspension.

12. Compliance with Laws, Codes and Standards

12.1 Seller shall comply with laws applicable to the manufacture of Products and its performance of Services. Buyer shall comply with laws applicable to the application, operation, use and disposal of the Products and Services.

12.2 Seller's obligations are conditioned upon Buyer's compliance with all U.S. and other applicable trade control laws and regulations. Buyer shall not trans-ship, re-export, divert or direct Products other than in and to the ultimate country of destination declared by Buyer and specified as the country of ultimate destination on Seller's invoice.

12.3 Notwithstanding any other provision, Buyer shall timely obtain, effectuate and maintain in force any required permit, license, exemption, filing, registration and other authorization, including, but not limited to, building and environmental permits, import licenses, environmental impact assessments, and foreign exchange authorizations, required for the lawful performance of Services at the Site or fulfillment of Buyer's obligations, except that Seller shall obtain any license or registration necessary for Seller to generally conduct business and visas or work permits, if any, necessary for Seller's personnel. Buyer shall provide reasonable assistance to Seller in obtaining such visas and work permits.

13. Environmental, Health and Safety Matters

13.1 Buyer shall maintain safe working conditions at the Site, including, without limitation, implementing appropriate procedures regarding Hazardous Materials, confined space entry, and energization and de-energization of power systems (electrical, mechanical and hydraulic) using safe and effective lock-out/tag-out ("LOTO") procedures including physical LOTO or a mutually agreed upon alternative method.

13.2 Buyer shall timely advise Seller in writing of all applicable Site-specific health, safety, security and environmental requirements and procedures. Without limiting Buyer's responsibilities under Article 13, Seller has the right but not the obligation to, from time to time, review and inspect applicable health, safety, security and environmental documentation, procedures and conditions at the Site.

13.3 If, in Seller's reasonable opinion, the health, safety, or security of personnel or the Site is, or is apt to be, imperiled by security risks, terrorist acts or threats, the presence of or threat of exposure to Hazardous Materials, or unsafe working conditions, Seller may, in addition to other rights or remedies available to it, evacuate some or all of its personnel from Site, suspend performance of all or any part

of the Contract, and/or remotely perform or supervise work. Any such occurrence shall be considered an excusable event. Buyer shall reasonably assist in any such evacuation.

13.4 Operation of Buyer's equipment is the responsibility of Buyer. Buyer shall not require or permit Seller's personnel to operate Buyer's equipment at Site.

13.5 Buyer will make its Site medical facilities and resources available to Seller personnel who need medical attention.

13.6. Seller has no responsibility or liability for the pre-existing condition of Buyer's equipment or the Site. Prior to Seller starting any work at Site, Buyer will provide documentation that identifies the presence and condition of any Hazardous Materials existing in or about Buyer's equipment or the Site that Seller may encounter while performing under this Contract. Buyer shall disclose to Seller industrial hygiene and environmental monitoring data regarding conditions that may affect Seller's work or personnel at the Site. Buyer shall keep Seller informed of changes in any such conditions.

13.7 Seller shall notify Buyer if Seller becomes aware of: (i) conditions at the Site differing materially from those disclosed by Buyer, or (ii) previously unknown physical conditions at Site differing materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract. If any such conditions cause an increase in Seller's cost of, or the time required for, performance of any part of the work under the Contract, an equitable adjustment in price and schedule shall be made.

13.8 If Seller encounters Hazardous Materials in Buyer's equipment or at the Site that require special handling or disposal, Seller is not obligated to continue work affected by the hazardous conditions. In such an event, Buyer shall eliminate the hazardous conditions in accordance with applicable laws and regulations so that Seller's work under the Contract may safely proceed, and Seller shall be entitled to an equitable adjustment of the price and schedule to compensate for any increase in Seller's cost of, or time required for, performance of any part of the work. Buyer shall properly store, transport and dispose of all Hazardous Materials introduced, produced or generated in the course of Seller's work at the Site.

13.9 Buyer shall indemnify Seller for any and all claims, damages, losses, and expenses arising out of or relating to any Hazardous Materials which are or were (i) present in or about Buyer's equipment or the Site prior to the commencement of Seller's work, (ii) improperly handled or disposed of by Buyer or Buyer's employees, agents, contractors or subcontractors, or (iii) brought, generated, produced or released on Site by parties other than Seller.

14. Changes

14.1 Each party may at any time propose changes in the schedule or scope of Products or Services. Seller is not obligated to proceed with any change until both parties agree upon such change in writing. The written change documentation will describe the changes in scope and schedule, and the resulting changes in price and other provisions, as agreed.

14.2 The scope, Contract Price, schedule, and other provisions will be equitably adjusted to reflect additional costs or obligations incurred by Seller resulting from a change, after Seller's proposal date, in Buyer's Site-specific requirements or procedures, or in industry specifications, codes, standards, applicable laws or regulations. However, no adjustment will be made on account of a general change in Seller's manufacturing or repair facilities resulting from a change in laws or regulations applicable to such facilities. Unless otherwise agreed by the parties, pricing for additional work arising from such changes shall be at Seller's time and material rates.

14.3 It shall be acceptable and not considered a change if Seller delivers a Product that bears a different, superseding or new part or version number compared to the part or version number listed in the Contract.

15. Limitations of Liability

15.1 The total liability of Seller for all claims of any kind arising from or related to the formation, performance or breach of this Contract, or any Products or Services, shall not exceed the (i) Contract Price, or (ii) if Buyer places multiple order(s) under the Contract, the price of each particular order for all claims arising from or related to that order and ten thousand US dollars (US \$10,000) for all claims not part of any particular order.

15.2 Seller shall not be liable for loss of profit or revenues, loss of use of equipment or systems, interruption of business, cost of replacement power, cost of capital, downtime costs, increased operating costs, any special, consequential, incidental, indirect, or punitive damages, or claims of Buyer's customers for any of the foregoing types of damages.

15.3 All Seller liability shall end upon expiration of the applicable warranty period, provided that Buyer may continue to enforce a claim for which it has given notice prior to that date by commencing an action or arbitration, as applicable under this Contract, before expiration of any statute of limitations or other legal time limitation but in no event later than one year after expiration of such warranty period.

15.4 Seller shall not be liable for advice or assistance that is not required for the work scope under this Contract.

15.5 If Buyer is supplying Products or Services to a third party, or using Products or Services at a facility owned by a third party, Buyer shall either (i) indemnify and defend Seller from and against any and all claims by, and liability to, any such third party in excess of the limitations set forth in this Article 15, or (ii) require that the third party agree, for the benefit of and enforceable by Seller, to be bound by all the limitations included in this Article 15.

15.6 For purposes of this Article 15, the term "Seller" means Seller, its affiliates, subcontractors and suppliers of any tier, and their respective employees. The limitations in this Article 15 shall apply regardless of whether a claim is based in contract, warranty, indemnity, tort/extra-contractual liability (including negligence), strict liability or otherwise, and shall prevail over any conflicting terms, except to the extent that such terms further restrict Seller's liability.

16. Governing Law and Dispute Resolution

16.1 This Contract shall be governed by and construed in accordance with the laws of (i) the State of New York if Buyer's place of business is in the U.S. or (ii) England if the Buyer's place of business is outside the U.S., in either case without giving effect to any choice of law rules that would cause the application of laws of any other jurisdiction (the "Governing Law"). If the Contract includes the sale of Products and the Buyer is outside the Seller's country, the United Nations Convention on Contracts for the International Sale of Goods shall apply.

16.2 All disputes arising in connection with this Contract, including any question regarding its existence or validity, shall be resolved in accordance with this Article 16. If a dispute is not resolved by negotiations, either party may, by giving written notice, refer the dispute to a meeting of appropriate higher management, to be held within twenty (20) business days after the giving of notice. If the dispute is not resolved within thirty (30) business days after the giving of notice, or such later date as may be mutually agreed, either party may commence arbitration or court proceedings, depending upon the location of the Buyer, in accordance with the following:

(a) if the Buyer's pertinent place of business is in the U.S., legal action shall be commenced in federal court with jurisdiction applicable to, or state court located in, either Cobb County, Georgia or the location of Buyer's principal place of business; or (b) if the Buyer's pertinent place of business is outside the U.S., the dispute shall be submitted to and finally resolved by arbitration under the Rules of Arbitration of the International Chamber of Commerce ("ICC"). The number of arbitrators shall be one, selected in accordance with the ICC rules, unless the amount in dispute exceeds the equivalent of U.S. \$5,000,000, in which event it shall be three. When three arbitrators are involved, each party shall appoint one arbitrator, and those two shall appoint the third within thirty (30) days, who shall be the Chairman. The seat, or legal place, of arbitration, shall be London, England. The arbitration shall be conducted in English. In reaching their decision, the arbitrators shall give full force and effect to the intent of the parties as expressed in the Contract, and if a solution is not found in the Contract, shall apply the governing law of the Contract. The decision of the arbitrator(s) shall be final and binding upon both parties, and neither party shall seek recourse to a law court or other authority to appeal for revisions of the decision.

16.3 Notwithstanding the foregoing, each party shall have the right at any time, at its option and where legally available, to immediately commence an action or proceeding in a court of competent jurisdiction, subject to the terms of this Contract, to seek a restraining order, injunction, or similar order to enforce the confidentiality provisions set forth in Article 6 and/or the nuclear use restrictions set forth in Section 19.1, or to seek interim or conservatory measures. Monetary damages shall only be available in accordance with Section 16.2.

17. Inspection and Factory Tests

Seller will apply its normal quality control procedures in manufacturing Products. Seller shall attempt to accommodate requests by Buyer to witness Seller's factory tests of Products, subject to appropriate access restrictions, if such witnessing can be arranged without delaying the work.

18. Software, Leased Equipment, Remote Diagnostic Services, PCB Services

If Seller provides any software to Buyer, the Software License Addendum shall apply. If Seller leases any of Seller's equipment or provides related Services to Buyer, including placing Seller's equipment at Buyer's site to provide remote Services, the Lease Addendum shall apply. If Seller provides remote diagnostic services to Buyer, the Remote Diagnostic Services Addendum shall apply. If Seller provides PCB Services to Buyer, the PCB Services Addendum shall apply. If there is any conflict between these "Terms and Conditions for the Sale of Products and Services, Form ES 104" and the terms of any addendum incorporated pursuant to this Article 18, the terms of the addendum shall take precedence with respect to the applicable scope.

19. General Clauses

19.1 Products and Services sold by Seller are not intended for use in connection with any nuclear facility or activity, and Buyer warrants that it shall not use or permit others to use Products or Services for such purposes, without the advance written consent of Seller. If, in breach of this, any such use occurs, Seller (and its parent, affiliates, suppliers and subcontractors) disclaims all liability for any nuclear or other damage, injury or contamination, and, in addition to any other rights of Seller, Buyer shall indemnify and hold Seller (and its parent,

Warranty

Mimosa End User Product Warranty

Products purchased from Mimosa Networks, Inc. ("Mimosa") are warranted against defects in material, and workmanship for a period of either (i) twelve (12) months from the date of first unlock, or (ii) thirty-six (36) months from the original date of shipment, whichever is earlier.

The sole responsibility of Mimosa under this warranty shall be limited to the repair or replacement of in-warranty defective product, at Mimosa's sole option.

Out of warranty products shipped to Mimosa will not be returned.

This warranty does not cover costs associated with the removal and/or reinstallation of the product for repair nor for any parts that are readily replaced in normal use.

Mimosa or its designated partner will repair or replace product found to be defective during the defined warranty period.

The End User is responsible for delivering defective product in accordance with Mimosa's published [Return Material Authorization \(RMA\) process](#).

Limitation of Warranty

Mimosa's product warranty is invalidated if the RMA product is altered or otherwise tampered with in a manner that modifies the product from its original shipping configuration and/or form factor, unless said activity was performed by or with the written authorization of a Mimosa representative.

Modifications include:

External surfaces that have been painted, labeled, or otherwise modified from the original shipping condition.

Modifications of the product with third party hardware, firmware, and/or software.

Any product subjected to abnormal physical or electric stress, including, but not limited to, lightning strikes, negligence, accident, or misuse.

Any product damaged due to incorrect installation, including, but not limited to, improper product mounting, cabling or connection to power.

Failure induced by connected third party products.

Mimosa will not warrant any product which has been installed without the use of shielded CAT 6 Ethernet cable and/or proper earth grounding.

For additional instructions or help, please contact support@mimosa.co.

Proxim General Warranty Policy

The following is a general summary of warranties Proxim Wireless Corporation (Proxim) provides for its products. This document itself does not create any warranty rights or obligations. Contractual warranty provisions are contained in Proxim's agreements with its direct customers, who (if distributors or resellers) then typically pass the benefits of the warranties through to their customers. In the event of any inconsistency between the terms of this summary of general warranty policies and contractual warranty provisions, the contractual warranty provisions control.

Scope of Hardware Warranty:

Proxim generally warrants that its broadband wireless hardware products:

- will perform in accordance with the products' specifications,
- are free and clear of any security interest, lien, or encumbrance,
- are free from factory defects in material and workmanship, and
- are manufactured, labeled, and packaged in compliance with any applicable United States federal laws and regulations in effect at the date of delivery of the products to Proxim's customer.

Duration of Hardware Warranty:

The duration of Proxim's warranties for its broadband wireless hardware products is generally **one (1) or two (2) years**, provided that some products have different warranty periods as established by Proxim from time to time such as:

- Cables and Other Accessories: **Thirty (30) days – One (1) year**
- Software: **Ninety (90) days**

The warranty period generally starts on the date of delivery by Proxim to Proxim's direct customer (typically a distributor), but in some situations for shorter - term warranty products (one year or less), the warranty may start from the date of delivery by Proxim's direct customer to the initial purchaser of the products from Proxim's direct customer.

Repair or Replacement of Non-Conforming Product:

When Proxim determines that a returned product does not meet the warranted criteria during the warranty period, Proxim, at its option, will either: (a) repair the defective product; (b) replace the defective product with a new or refurbished product that is at least equivalent to the original; or (c) refund the price paid for the defective product. Generally, products are repaired or replaced within thirty (30) business days of receipt of the product at a Proxim Logistical/Repair Center. The warranty period for repaired or replacement products is ninety (90) days or the remainder of the original warranty period, whichever is longer. These three alternatives constitute the customer's sole and exclusive remedy and Proxim's sole and exclusive liability under warranty provisions.

In-Warranty Repair or Replacement Procedures:

If a direct or indirect customer has a Proxim product which they believe is still in warranty but does not meet the warranted criteria, that person can contact a Proxim Customer Service Center either by telephone or via the Internet. Calls for warranty issues for products that are near the end of their warranty period should be made no later than seven (7) days after expiration of warranty. Contact information is shown below.

- Domestic (United States) calls: 866-674-6626
- International calls: +1(408) 383-7700; 088-916475 (France); 8-800-100-9485 (Russia)

When contacting the Customer Service Center for support, please be prepared to provide the product description and serial number and a description of the problem. The serial number should be on the product.

In the event the Customer Service Center determines that the problem can be corrected with a software update, you may be instructed to download the update from Proxim's web site or, if that's not possible, the update will be sent to you. In the event the Customer Service Center instructs you to return the product to Proxim for repair or replacement, the Customer Service Center will provide you with a Return Material Authorization ("RMA") number and shipping instructions. **No product will be accepted for repair or replacement by Proxim without a RMA number.** The product must be returned to Proxim, properly packaged to prevent damage, shipping and handling charges prepaid, with the RMA number prominently displayed on the outside of the container. If Proxim determines that a returned product is not defective or is not covered by the terms of the warranty, you will be charged a service charge and return shipping charges.

Additional support information can be found at Proxim's web site at <http://my.proxim.com> .

Extended Warranty / Out-of-Warranty:

Repair of products that are out of warranty will be subject to a repair fee. Proxim does offer extended warranties and enhanced service options for its direct and indirect customers who desire those enhanced features. Please contact Proxim Customer Service Center either by telephone or via the Internet if you would like more information about these options.

Software-Specific Provisions:

Proxim generally warrants that its standalone software products will perform substantially in accordance with the applicable Proxim documentation for the software product for a period of ninety (90) days from delivery to Proxim's direct customer.

If Proxim software fails to comply with the warranty set forth above, Proxim will, at its discretion and as the customer's exclusive remedy, (i) make a reasonable effort to cause the software to perform substantially in accordance with the applicable documentation or (ii) return the purchase price. This limited warranty applies only if all copies of the product, together with proof of purchase, are returned to Proxim during the warranty period.

1.0 RedCare Standard Warranty, Protection and Bundled Plans

RedCare Standard Warranty, Protection & Bundled Plans offer flexible maintenance services for your field and operations personnel and enable you to selectively tailor the required protection & support plans to meet your operations specific requirements.

1.1 Standard Warranty

All Redline products have a 12-month limited standard warranty included as part of the equipment purchase price. Redline products are warranted to be free from defects in material and workmanship under normal use and service for a period of twelve months following shipment of product.

Standard Warranty provides for repair & return of hardware defects, correctional software (as deemed necessary by Redline) and excludes user induced or environmental damage. Shipping of the defective unit to Redline is the responsibility of the Customer and return shipment of the repaired unit is the responsibility of Redline.

1.2 RedCare Extended Warranty Plan

RedCare Hardware Protection Plan offers continued warranty coverage for repair & return of RDL-3000 hardware defects in one year increments up to a maximum period of four additional years following the Standard Warranty term and can be purchased at the time of product purchase or at any subsequent date provided the product's Standard Warranty is in effect.

Excludes user induced or environmental damage.

1.3 RedCare Bundled Protection Plan

The **RedCare** Bundled Protection Plan is a sound choice for clients who want full product protection and require technical support services from Redline. The **RedCare** Bundled Protection Plan is a bundled plan comprising of 3 key protection & support services; is available in 1 year terms up to 5 years and can be purchased at the time of initial product purchase or any subsequent date provided the product's Standard Warranty is in effect.

The **RedCare** Bundled Protection Plan includes the following:

- Hardware Protection
 - Offers coverage for repair & return of RDL-3000 standard power hardware defects. Excludes user induced or environmental damage.
- Software Protection
 - Offers all software releases (correctional, updates & upgrades) associated with your installed RDL-3000 standard power hardware. With this plan you are provided advanced notification of new features & functionality and the flexibility to choose the right time to install new software to increase the efficiency of your network, achieve



higher performance levels, improve overall network manageability or add new functionality.

- Unlimited Remote TAC Support
 - Provides unlimited remote access to Redline's Technical Assistance Centre (TAC) for support assistance and technical advice to resolve problems.
- On-line Portal Access for Trouble Ticket & RMA Reporting/Tracking
- Management VPN to provide secured remote access for Redline's TAC support technicians.



2.0 General Terms and Processes

2.1 General Terms

A **RedCare** Plan may be started or modified at any time for any number of Redline Fixed Wireless or Nomadic systems that are currently supported under Standard Warranty or an existing **RedCare** Plan. The minimum term for a **RedCare** Plan is one year.

RedCare Plans are product agnostic. All serial numbers of the products to be covered under a plan must be registered with Redline.

Prior to the activation of a **RedCare** Plan, Redline may (at their discretion) check the supportability status of the equipment involved. Should the Standard Warranty or existing **RedCare** Plan have expired, Redline may request validation that the product is operating satisfactorily to complete registration. Redline may choose to authenticate the applicability of the equipment by performing a network audit of all systems to be covered in the **RedCare** Plan contract. The fee for the network audit is incremental to the **RedCare** plan and will be recovered as part of a Professional Service which must be completed prior to the initialisation of the **RedCare** Plan.

RedCare Plans provide coverage for all registered Redline fixed and nomadic wireless devices with the exception of any device that has reached Manufacture Discontinued prior to the beginning of the contract.

Exclusions to Standard Warranty and **RedCare** Plans:

- Defects or damage resulting from improper/non-standard use of the product
- Defects or damage occurring from improper or unauthorized testing, operation, maintenance, service, repair, installation, alteration, modification or adjustment
- Defects or damage resulting from environmental impact (lightning, power surge, water ingress)
- Illegal or unauthorized alteration of the products software/firmware
- Normal and customary wear & tear

2.2 RMA Process

2.2.1 Return Material Authorization for Replacement of Defective Units

The Return Material Authorization (RMA) process is used to repair or replace product defects that:

- have failed standardized bench testing when performed by Redline or a Redline Authorized Partner
- have been recommended as part of a trouble ticket investigation by the Redline Customer Support Team (TAC)
- Redline is in receipt of a PO for Out-of-Warranty Repair Service

The RMA process involves requesting a Return Material Authorization (RMA) case number via the Support Portal. Upon approval, Redline will provide a case number, authorization code, and shipping instructions. Upon receipt of the authorization code and shipping instructions the suspected unit is sent to Redline. Once received, Redline will verify that the fault is covered under warranty or a **RedCare** plan,



make the necessary repairs and return the unit. If the unit cannot be repaired a replacement will be shipped. For Out-of-Warranty – refer to section 2.3 of this document.

2.2.2 RMA Shipping Costs and Disbursements

The Customer/Partner is responsible for paying all applicable shipping costs to the Redline shipping point for repair. For equipment covered by Standard Warranty or a **RedCare** Plan, Redline will pay for the return shipping of repaired or replacement equipment to the customer premise or to the partner point of sale.

2.2.3 No Defect Found Charges

When an RMA returned unit is tested and no defect is found matching the RMA description, the unit is rigorously tested in accordance with factory quality tests. If no errors are found, the unit is declared “No Defect Found” (NDF). A no defect found charge of \$350 is levied. NDF charges will only be waived when Redline Customer Support personnel have recorded that the RMA is recommended in a support ticket.

2.3 Out-of-Warranty Repair Service

Out-of-warranty repair service is a per-use service that provides repair or replacement of defective product that is not covered under the Standard Warranty or a **RedCare** Plan. Out-of-warranty repair provides a 90 day warranty for the repaired or replaced product. The repair will be completed within 60 days from the time the unit is received by Redline’s RMA coordinator. Redline will provide the details for the cost of repairs and shipping and a PO will be required from the Customer prior to the commencement of any repair work or if repairs cannot be undertaken shipment of a replacement unit.

The provisions of this **RedCare** Overview Guide are subject to the agreement between the Customer and Redline under which Redline agrees to provide the services that are described in this Guide (the provisions of this Guide are also subject to Redline Communications' standard Terms and Conditions). In the event of any conflict, the provisions of the agreement shall (including the standard Terms and Conditions) govern over the provisions of this Guide. Redline Communications may change the provisions of this Guide from time to time in its sole discretion.



1. All quotation, proposals, prices, or other terms are made for acceptance within 30 days (after 30 days, prices in effect at time of shipment will apply) and shipment within 30 days of purchase order date, unless otherwise stated. They are subject to change without notice; however, ROHN invites your request for an extension. They are also subject to Credit and Marketing Department approval prior to acceptance. No other price protection is available.

2. Every effort will be made to maintain shipping schedules, either on ROHN equipment or via common carrier. ROHN cannot be responsible for delays in shipping caused by state or local agencies with regard to permits, routing, weather, detours, etc. All deliveries and schedules are contingent on availability of raw materials, fuel, and transportation. ROHN will not be liable for damages on account of any delays or abnormalities caused in shipping due to causes beyond our reasonable control. ROHN reserves the right to make partial shipments and to submit invoices accordingly.

3. Changes or modifications to orders can be made only by written agreement executed by all parties affected thereby, which agreement shall include any price modification.

4. ROHN's responsibility ceases upon delivery of all shipments to the carrier. The unloading of all shipments is the responsibility of the Buyer, not the carrier or ROHN. Buyer is warned against receipting for merchandises until careful inspection has been made. Any claim made against ROHN must be made within 90 days after receipt of merchandise. All merchandise leaving ROHN's factory has been carefully inspected and ROHN does not assume responsibility for damages or shortages which occur in transit. Buyer must make all claims and report all damages and losses to the delivering transportation company.

5. No federal, state, or local taxes are included in quoted prices. All quotations, proposals, prices, or other terms are subject to increase without notification by the amount of any sales, excise, or other tax levied or charged to seller by any governmental agency and any such tax will be passed onto purchaser as a tax or as an addition to the selling price. This also applies to all costs incurred due to local statutes or governmental regulations.

6. Orders are not subject to cancellation by Buyer except by written agreement with seller. Any order canceled, after any work has been done by ROHN, such as drawings, production, etc., will have a cancellation charge, to be determined solely at the discretion of ROHN for whatever work has been performed with a minimum of 25% of the purchase order price. If Buyer so chooses, he shall have the right to receive the material already performed at time of cancellation at the quoted price. If an order is canceled before any work has been done by ROHN, a \$200 cancellation charge will apply.

7. Material received may not be returned by Buyer except by written agreement with seller. In all cases, permission must be secured from ROHN prior to the returning of any goods for credit. All returned goods are subject to a minimum service charge of 25%, plus all transportation charges, and are subject to inspection by ROHN. Returned goods will be offered and paid for only upon proof of purchase (i.e. invoice no.) and credit will be issued against invoice value. ROHN reserves the sole right to determine amount of credit to be issued on all goods returned for credit. Only standard, currently manufactured ROHN products may be considered for return and credit. Unsaleable products will be scrapped and no credit will be received. If returned goods are determined to have no value and Buyer wishes them returned, the Buyer will be charged return freight. Safety equipment, erection equipment, insulators, transformers, nuts and bolts are not returnable.

8. ROHN warrants the commercial items of its manufacture only, to be reasonably fit for the purpose for which they are manufactured and sold, provided, however, that this warranty shall be effective only if purchaser installs all material according to ROHN's recommendations and specifications and that purchaser during the warranty period shall regularly, not less than semi-annually, inspect and properly maintain all items. Any item found unfit for its purpose within 12 months from date of delivery will be repaired or replaced free of charge, F.O.B. ROHN's plant. ROHN shall be immediately notified in writing of such unfitness. ROHN reserves the sole right to determine if any material is to be repaired or replaced free of charge or to be supplied at ROHN's standard prices. Such obligation shall be limited to parts returned for inspection, properly packed and expenses prepaid, and providing inspection shall satisfactorily indicate defects. The warranty herein made is in lieu of all other warranties and, except as expressly stated herein, ROHN does not make and there are no warranties or obligations of any kind or nature whatsoever either expressed or implied including, but not restricted to, warranty or obligations as to product, material, workmanship, or manufacture or as to the use of the items covered hereby. ROHN shall not under any circumstances be liable to third persons for any claims for damages including direct, special, indirect, or consequential damages for any reason. The Buyer agrees to indemnify and to hold ROHN harmless for, of, and from any loss, claims, damages, expenses and attorney's fees, including but not limited to, any fines, penalties and corrective measures ROHN may sustain by reason of Buyer's failure to comply with said laws, rules, and regulations in connection with the performance of this sale. The above warranty warranted applies only to items manufactured by ROHN. Items not manufactured by ROHN are guaranteed only to the extent and in the manner warranted and guaranteed to ROHN by the manufacturer of

such items and then only to the extent ROHN is liable to enforce such warranty or guarantee. ROHN will assume no responsibility for the adequacy of any product if material is used which is not totally supplied by ROHN. The above sets forth the only warranty made by ROHN in connection with items manufactured or sold by it, and any provisions in any proposals, specifications, advertising, or other provisions hereof, are merely descriptive and are not to be construed as warranties made by ROHN. All warranties are void on drawings made by others, whether by a professional engineer, sealed or not, that are not rechecked by ROHN and approved by ROHN. ROHN assumes no liability for the adequacy of the drawings or the product. Without limiting the generality of the foregoing, the Buyer hereby indemnifies ROHN and hold ROHN harmless from any and all claims and/or damages (including direct, special, indirect or consequential damages, attorneys' fees and costs) relating to or arising out of any highway structure or component not designed by ROHN. ROHN hereby disclaims any and all warranties, including express or implied warranties of merchantability and fitness for any particular purpose, relating to or arising out of metal fatigue.

9. ROHN reserves the right to change or modify the product and construction of any product manufactured by ROHN and to substitute material equal to or superior to that originally specified.

10. Buyer agrees not to disclose or make available to any third party processes, drawings, specifications, reports, photographs, data and other technical or proprietary information relating to ROHN products without obtaining prior written consent of ROHN.

11. No proposal, order, quotation, or acceptance may be changed or varied by verbal agreement, and all orders are accepted only under the provisions set forth herein.

12. Purchase orders and requests for quotations must be submitted in writing to ROHN. It is the responsibility of the Buyer or Buyer Representative to provide ROHN design criteria (environmental loads, equipment loads, operational limitations, geotechnical information, etc.) based on site-specific data. In designing the product for the Buyer, ROHN is relying solely and entirely on design criteria provided by the Buyer to ROHN. Without limiting the generality of the indemnities in these Terms & Conditions, the Buyer hereby indemnifies ROHN and holds ROHN harmless from and against any and all claims and/or damages (including direct, special, indirect or consequential damages, attorneys' fees and costs) relating to or arising out of any inaccuracy or incompleteness in design criteria provided to ROHN by the Buyer, and the Buyer waives all claims against ROHN for same.

13. If outside source inspection, assembly, etc. is required prior to shipment of an order, \$50.00 per man hour (plus equipment time, if applicable) is chargeable, with \$300.00 as a minimum.

14. Any welding inspection required by Buyer or Buyer's specifications must be done at ROHN's plant prior to packing and shipment of material from ROHN's plant.

15. A minimum charge of \$25.00 will be billed for special handling and preparation of material for air shipments.

16. ROHN reserves the right to apply all remittances and credit memos to the oldest outstanding balance in your account. No credits will be issued for any reason against a purchase order whose billing is more than 90 days old. Buyer corrections or complaints must be made within this period of time.

17. Standard catalog prices do not include special drawings or product evaluations. If any are required, there will be a charge.

18. ROHN at all times reserves the right to take pictures of any or all of its products after installation for advertising purposes, except those which are under classified governmental control.

19. The Buyer will be responsible for any extra charges incurred on prepaid shipments.

20. A service charge not to exceed 2% per month or maximum allowable per State law will be billed on all accounts not paid within 30 days of invoice date.

21. Minimum total net worth of merchandise which can be ordered is \$100.00. Any orders placed for less will be billed at \$100.00.

22. Storage charges will be .02% of invoice amount per day with a minimum charge of \$8.00 a day. These charges will be invoiced on a monthly basis for material requested to be withheld from shipment starting 30 days from the initial notification from ROHN, that the material was available for shipment.

23. All CIA requirements must be met with certified checks or money orders to insure prompt shipment.

24. All expenses incurred by ROHN during any collection effort shall be charged to the Buyer.

25. There will be a minimum of a \$100 fee per truck or container, for ROHN to receive, handle and pack for reshipment, any material not purchased through ROHN, but drop shipped to ROHN for shipment with a ROHN structure. This includes light kits, platforms, mounts, rigging equipment, etc. that is provided by others. There will be a minimum \$250 per truck or container for those drop shipped items that must be handled with ROHN forklifts or other mechanical device.

General Terms and Conditions of Sale for RUGGEDCOM Products

The following terms and conditions of sale shall apply to any sale of goods and services by Siemens Canada Limited (hereinafter called "Siemens"). Purchaser shall be deemed to have full knowledge of the terms and conditions herein and such terms and conditions shall be binding if either the goods and services referred to herein are delivered to and accepted by Purchaser, or if Purchaser does not within five days from the date hereof deliver to Siemens written objection to said terms and conditions or any part thereof.

1. GENERAL In the event of any conflict or inconsistency between the terms and conditions of sale herein and the terms and conditions contained in Purchaser's order or in any other form issued by Purchaser, whether or not any such form has been acknowledged or accepted by Siemens, Siemens' terms and conditions herein shall prevail. No waiver, alteration or modification of these terms and conditions shall be binding upon Siemens unless made in writing and signed by a duly authorized representative of Siemens.
2. QUOTATIONS Unless otherwise stated, Siemens' quotation shall be null and void unless accepted by Purchaser within thirty (30) days from the date of quotation.
3. PRICES / COST OF TRANSPORTATION All quoted prices are based on the current exchange rates, tariffs and costs of manufacture. Unless otherwise stated in the quotation, quoted prices are subject to change by Siemens with or without notice until Purchaser's acceptance. Prices are subject to correction for error. Unless otherwise stated, all prices are FCA factory Incoterms 2010 and include domestic packing. Customary methods of transportation shall be selected by Siemens and such transportation will be at Purchaser's expense. Special methods of transportation will be used upon Purchaser's request and at Purchaser's additional expense provided reasonable notice of Purchaser's transportation requirements are given by Purchaser to Siemens prior to shipment.
4. TAXES Prices do not include Goods & Services Tax, Provincial or Municipal sales, use, value-added or similar tax. Accordingly, in addition to the price specified herein, the amount of any present or future sales, use, value-added or similar tax applicable to the sale of the goods hereunder to or the use of such goods by Purchaser shall be paid by Purchaser to the entire exoneration of Siemens.
5. DELIVERY Delivery schedules are approximate and are based on prevailing market conditions applicable respectively at the time of Siemens' quotation and Siemens' acceptance of Purchaser's order. Delivery shall also depend on the prompt receipt by Siemens of the necessary information to allow maintenance of the manufacturer's engineering and manufacturing schedules. Siemens may extend delivery schedules or may, at its option, cancel Purchaser's order in full or in part without liability other than to return any deposit or prepayment which is unearned by reason of the cancellation.
6. FORCE MAJEURE Siemens shall not be responsible or liable for any loss or damage incurred by Purchaser herein resulting from causes beyond the reasonable control of Siemens including, but without limitation, acts of God, war, invasion, insurrection, riot, the order of any civil or military authority, fire, flood, weather, acts of the elements, delays in transportation, unavailability of equipment or materials, breakdown, sabotage, lock-outs, strikes or labour disputes, faulty castings or forgings, or the failure of Siemens' suppliers to meet their delivery promises. The acceptance of delivery of the equipment by Purchaser shall constitute a waiver of all claims for loss or damage due to any delay whatsoever.
7. SHIPMENT/DAMAGES OR SHORTAGES IN TRANSPORT/RISK Except for obligations stated under "Warranty" herein, Siemens' responsibility for goods ceases upon delivery to the carrier. In the event of loss or damage during shipment, Purchaser's claim shall be against the carrier only. Siemens will, however, give Purchaser any reasonable assistance to secure adjustment of Purchaser's claim against the carrier provided immediate notice of such claim is given by Purchaser to Siemens. Claims for shortages must be made in writing within ten (10) days after receipt of goods by Purchaser. If Siemens does not receive written notification of such shortages within such ten (10) days, it shall be conclusively presumed that the goods were delivered in their entirety. Unless agreed upon otherwise in writing, Siemens reserves the right to make partial shipments and to submit invoices for partial shipments.
8. TITLE Title to the goods or any part thereof shall not pass from Siemens to Purchaser until all payments due hereunder have been duly made in cash, except as otherwise expressly stipulated herein. The goods shall be and remain personal or moveable property, notwithstanding their mode of attachment to realty or other property. If default is made in any of the payments herein, Purchaser agrees that Siemens may retain all payments which have been made on account of the purchase price as liquidated damages, and Siemens shall be free to enter the premises where the goods may be located and remove them as Siemens' property, without prejudice to Siemens' right to recover any further expenses or damages Siemens may suffer by reason of such nonpayment.
9. LIABILITY Siemens shall not be liable for and shall be held harmless by Purchaser from any damage, losses or claims of whatever kind, contractual or delictual, consequential or incidental, direct or indirect, arising out of, in connection with or resulting from the sale governed hereby or the goods, including, but without limitation, the manufacture, repair, handling, installation, possession, use, operation or dismantling of the goods and any and all claims, actions, suits, and proceedings which may be instituted in respect to the foregoing.
10. WARRANTY Siemens warrants to Purchaser that Products are free from defects in material and workmanship for five (5) years after shipment. This warranty is conditioned upon proper storage, installation, connection, operation, and maintenance of Products, prompt written notice to Siemens of any defects, and, if required, prompt availability of Products to Siemens for correction.

In case of Products with removable modules designed for field modification, the warranty covers manufacturing defects only and can only be maintained if field modifications are conducted in accordance with the factory installation instructions provided, carried out by skilled technicians and appropriate ESD measures are applied. The warranty does not cover damage caused to the Product or to any module or component during modification. Siemens recommends that any Product modification be carried out in the factory to ensure Products get appropriately retested, configured, labelled, and meet applicable standards and safety certifications.

This warranty shall be void in its entirety in the event of any use of Products for any applications that require product listing or qualification not specifically included in the Siemens written quotation or proposal. If any Product fails to conform to this warranty, Purchaser properly notifies Siemens of such failure, and Purchaser returns the Product to the Siemens factory for diagnosis (and pays all expenses for such return), Siemens shall correct any such failure by, at its sole discretion, either repairing any defective or damaged Product part(s) or making available, any necessary replacement part(s). Any Product repaired by Siemens shall be covered by this warranty for the longer of one (1) year from date of repair or the remainder of the original five (5) year warranty period.

This warranty shall be exclusive and in lieu of all other warranties, whether statutory, express, oral or implied (including warranties of merchantability and fitness for particular purpose and warranties arising from course of dealing or usage of trade), except title and patent infringement. Siemens shall perform Services in a manner consistent with the degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances. Siemens does not warrant products or prototypes provided by Siemens for testing or marketing purposes. For components not supplied by Siemens, the original manufacturer's warranty shall apply to the extent assignable by Siemens. Purchaser shall assume all responsibility and expense for dismantling, removal, re-installation and freight in connection with the foregoing. The same obligations and conditions extend to replacement parts furnished by Siemens hereunder. Siemens does not assume liability for installation, labour or consequential damages. Siemens makes no warranty other than the one set forth herein. The warranty ceases to be effective if Purchaser fails to operate and use the goods sold hereunder in a safe and reasonable manner and in accordance with any written instructions from the manufacturers.

11. INSTALLATION Unless otherwise expressly stipulated, the goods shall be installed by and at the risk and expense of Purchaser. In the event that Siemens is requested to supervise such installation, Siemens' responsibility shall be limited to exercising that degree of skill customary in the trade in supervising installations of the same type. Purchaser shall remain responsible for all other aspects of the work including compliance with the local regulations.
12. RETURNED GOODS No goods may be returned to Siemens without Siemens' prior written permission. Siemens reserves the right to decline all returns or to accept them subject to a handling/restocking charge. Even after Siemens has authorized the return of goods for credit, Siemens reserves the right to adjust the amount of any credit given to Purchaser on return of the goods based on the conditions of the goods on arrival in Siemens' warehouse. Credit for returned goods will be issued to Purchaser only where such goods are returned by Purchaser and not by any subsequent owner of the goods. Goods will be considered for return only if they are in their original condition and packaging.
13. TERMS OF PAYMENT Unless otherwise stated, invoices on "open account" shipment are payable within thirty (30) days of invoice date. Unless specifically provided, no cash discount shall be available to Purchaser. When cash discount is offered, the discount price is computed from the date of invoice. Siemens does not offer cash discount on C.O.D. shipments.

Should payment not be made to Siemens when due, Siemens reserves the right, until the price has been fully paid in cash, to charge Purchaser with interest on such overdue payments at the rate of eighteen percent (18%) per annum. The charging of such interest shall not be construed as obligating Siemens to grant any extension of time in the terms of payment.

14. CHANGES AND CANCELLATION Orders accepted by Siemens are not subject to changes or cancellation by Purchaser, except with Siemens' written consent. In such cases where Siemens authorizes changes or cancellation, Siemens reserves the right to charge Purchaser with reasonable costs based upon expenses already incurred and commitments made by Siemens, including, without limitation, any labour done, material purchased and also including Supplier's usual overhead and reasonable profit and cancellation charges from Siemens' suppliers.

15. COMPLIANCE WITH EXPORT CONTROL REGULATIONS If Purchaser transfers goods (hardware and/ or software and/ or technology as well as corresponding documentation, regardless of the mode of provision) delivered by Siemens or works and services (including all kinds of technical support) performed by Siemens to a third party, Purchaser shall comply with all applicable national and international (re-) export control regulations. In any event, Purchaser shall comply with the (re-) export control regulations of Canada, of the Federal Republic of Germany, of the European Union and, to the extent permissible under Canadian law, of the United States of America. If required to conduct export control checks, Purchaser, upon request by Siemens, shall promptly provide Siemens with all information pertaining to the particular end customer, the destination and the intended use of goods, works and services provided by Siemens, as well as any export control restrictions existing. Purchaser shall indemnify and hold harmless Siemens from and against any claim, proceeding, action, fine, loss, cost and damages arising out of or relating to any noncompliance with export control regulations by Purchaser, and Purchaser shall compensate Siemens for all losses and expenses resulting thereof. This provision does not imply a change in burden of proof. Siemens shall not be obligated to fulfill this agreement if such fulfillment is prevented by any impediments arising out of national or international foreign trade or customs requirements or any embargoes or other sanctions.

16. PRIVACY Purchaser and Siemens are each responsible for complying with their respective obligations under applicable data and privacy protection laws.

17. THE AGREEMENT An acceptance and official confirmation of Purchaser's order by Siemens shall constitute the complete agreement, subject to the terms and conditions of sale herein set forth, and shall supersede all previous quotations, orders or agreements. The law of the Province of Ontario shall govern the validity, interpretation and enforcement of these terms and conditions of sale and of any contract of which these terms and conditions are a part.

25/10/2013 | Author: Name



Standard Warranty Services

Siklu shall provide customer with the warranty services detailed hereunder, for products purchased directly from Siklu by customer for the duration of the warranty period under the definition and conditions of its LIMITED PRODUCT WARRANTY detailed hereunder.

The delivery of support services by Siklu is subject to the payment of applicable service fees and the compliance of customer with the requirements detailed hereunder.

1. Definitions and Scope

1.1 Definitions

For purpose of providing the support services, the following capitalized terms shall have the following meanings:

1. "Business Day" means Monday through Friday, excluding US holidays (for customers in the US&Canada) and Sunday through Thursday, excluding Israeli holidays (for customers in the rest of the world).
2. "Business Hours" means 09:00-18:00, EST local time (GMT -5) of a Business Day (for customers in the US&Canada) and 09:00-18:00, Israel local time (GMT +2) of a Business Day (for customers in the rest of the world).
3. "Customer" means customer who purchases Products or Services from Siklu.
4. "End-Customer" means any third party who purchases Products or Services from Customer.
5. "Documentation" means the technical documentation of Products.
6. "Products" means Siklu's proprietary mmWave radio point-to-point and point-to-multipoint products and all related accessories, Hardware or Software, and Documentation.
7. "Services" means technical services, such as technical support, customer service and warranty services as described hereunder.
8. "Software" means software, computer programs, object code and firmware and the documentation thereof included as part of the Products, including all improvements, corrections, updates, new releases and new versions and any derivatives of such software programs and documentation.
9. "Spare Units" - means those Product and/or spare part units, which are used for the operation and maintenance of the Products at customer's or end-customer's service.

10. "Warranty Period" – means the first twelve (12) months, commencing the date shipment of Products from Siklu to Customer, unless otherwise agreed between the parties.

1.2 Support Tiers Definition and Responsibility

Customer shall provide Tier-1 and Tier-2 Support services for all the Products purchased and to its end-customers and Siklu will provide Tier-3 Support to the customer, according the definitions specified herein.

1. "Tier-1 Support" means receiving first customer report of problem or inquiry by phone, email or web as sole Point Of Contact, including
 - Recording all service calls on CRM system
 - Providing technical support to customer's service calls regarding problems or questions
 - Answering routine questions regarding the products operation and configuration
 - Verifying installation and configuration per Siklu's guidelines and documentation
 - Implementing all SW upgrades and patches
 - Providing on-site support for the products as necessary, including troubleshooting, parts replacement and commissioning
 - Managing and dispatching spare parts to sites
 - Providing installation and commissioning services for the products as necessary
 - Escalating service calls that could not be resolved to Tier-2 Support
2. "Tier-2 Support" means the first level of escalation for Tier-1 Support teams for service calls that could not be resolved. The Tier-2 Support team should have greater and in-depth knowledge and experience with the Products, with greater and more advanced troubleshooting, fault simulation, configuration and planning capabilities.
 - Answering routine questions regarding the products operation, features, configuration, interoperability and planning
 - Performing advance troubleshooting, via remote connection or on site, including loops and configuration changes,
 - Performing in-house fault simulation and configuration verification
 - Providing on-site support for the products as necessary
 - Performing interoperability testing with 3rd party products
 - Responsibility for providing all planning and pre-sales activities with its end-customers
 - Managing acceptance tests and product evaluation tests with its end-customers
 - Providing training and guidance for the products internally and to end-customers
 - Escalate service calls that could not be resolved to Siklu, following Siklu's escalation procedures, criteria and guidelines.

3. "Tier-3 Support" means the support services Siklu will provide the customer for service calls that could not be resolved, following Siklu's escalation procedures, criteria and guidelines.
 - Provide advance troubleshooting and in-depth analysis of faults that could not be resolved by Tier-1 and Tier-Support
 - Working together with the customer on resolving such faults, including remote connection and fault simulation till fault is resolved
 - Provide reasonable support answering customer's inquiries and requests
 - Facilitating together with the customer support procedures and workflows, network configurations and configuration guides

1.3 Customer's Obligations

1. Siklu shall provide customer with Tier-3 support services only. Tier-1 and Tier-2 support will be provided by customer to customer's end-customers.
2. Customer may escalate service call to Siklu's helpdesk providing all Siklu's guidelines and procedures followed.
3. Only trained and certified customer personnel with sufficient knowledge and experience with Siklu products that were certified and approved by Siklu may escalate service call to Siklu.
4. Customer shall purchase and maintain sufficient products as spare parts, required for the immediate maintenance of customer's network.
5. Customer shall purchase and maintain sufficient products, as per Siklu recommendation, dedicated for fault simulation and fault analysis.

2. Support Services Description

2.1 Technical Support Helpdesk

Siklu shall operate technical support helpdesk aimed to respond to service calls.

Customer may submit technical inquiries by email, phone call or web including questions or problem reports to Siklu's helpdesk during business hours, following Siklu's support procedures.

2.2 Software Maintenance

Siklu shall provide its customers with software maintenance updates, including defect correction and patches, upon release.

"Software Maintenance Updates" shall mean routine corrections for reproducible Software errors that Siklu generally incorporates into its Software version updates.

Siklu shall notify the customer about the availability of such software maintenance updates and provide customer with the associated documentation and release information.

SW upgrades, including additional features and functionality will be offered to customers for purchase.

2.3 Technical Updates

Siklu shall provide its customers from time to time with Product documentation updates, to the extent generally made available by Siklu.

Technical updates may include Product's manuals, guides, technical notes, technical alerts and maintenance procedures.

Technical updates shall be made available upon release, in a form of computer file, in English language, available for download from Siklu's partners site.

2.4 Hardware Warranty Repair

Siklu shall maintain hardware repair center to repair defective hardware.

Customer may raise a request for hardware repair, following Siklu's Return Material Authorization (RMA) procedure.

The authorization to return a part for repair will be after technical discussion of the case and only after Siklu's confirmation of the defect.



At Siklu's sole discretion, Siklu shall repair or replace the defective hardware within thirty (30) days from the arrival date of the defective part at Siklu's repair center until shipment of the part from Siklu's repair center.

RMA shipment charges shall be divided between the parties: shipment of the products to Siklu (DDU terms) shall be paid by the customer and shipment of the products to customer (DDU terms) shall be paid by Siklu.

In case no failure was identified by Siklu with the returned product (No Failure Found), the shipment charges of the product back to customer shall be paid by the customer.



3. Limited Product Warranty

Subject to the terms and conditions set forth below and in the distribution/purchase agreement signed between the parties, Siklu warrants to Customer that the Products will substantially conform to the applicable Documentation and will be free from material defects in workmanship under normal use and conditions for a period of twelve (12) months from the date of purchase from Siklu by Customer (the "Warranty Period"). The foregoing Warranty Period may be extended by Customer by additional twelve (12) month periods subject to payment to Siklu of applicable maintenance agreement fees, up to five additional twelve (12) months warranty periods

If during the Warranty Period (or extended warranty period, as applicable), a Product component should fail to comply with the foregoing warranty, Customer's sole remedy and Siklu's sole liability shall be for Siklu to repair or replace such component within 30 days of receipt of the defective Product without charge to Customer, subject to the terms and conditions set forth below.

For the avoidance of doubt, it is clarified that the Products are not authorized for use as critical components or services in life support devices or systems. Life support devices or systems are those which are intended to support or sustain life and whose failure to perform can be reasonably expected to result in a significant injury to the user. Critical components are those whose failure to perform can be reasonably expected to cause failure of a life support device or system or affect its safety or effectiveness.

Conditions of Limited Product Warranty:

1. Customer shall be responsible for administering and submitting all warranty claims to Siklu. Siklu will not process any claims received directly from a end-customer or other third party, and shall not be responsible for any shipping costs other than as set forth herein. Shipment of non-conforming Products under warranty from Customer to Siklu shall be to a place designated by Siklu, at Customer's expense, and repaired or replaced Products shall be shipped by Siklu to Customer at Siklu's expense. Repaired or replaced Products shall be warranted for an additional period of 3 months from delivery to Customer or the remainder of the original Warranty Period, whichever is longer.
2. This Limited Product Warranty shall not apply where (a) the defect is caused by the use of the Product contrary to the Documentation; (b) the defect is caused by negligence, misuse, improper installation, abnormal use, abuse or circumstances beyond Siklu' control, and/or (e) the Product has been modified, altered, opened, or serviced by anyone other than a service person authorized by Siklu.