

**AGREEMENT
TO PROVIDE SERVICES/SUPPLIES PURSUANT TO A
COOPERATIVE PURCHASING CONTRACT
(Taser-brand Cameras and Storage)**

This Agreement To Provide Services/Supplies Pursuant to a Cooperative Purchasing Contract for Taser-brand cameras and storage, hereinafter (“Contract”) is made and entered into on this ____ day of _____, 2018 (“Effective Date”), by and between the Town of Paradise Valley, an Arizona municipal corporation, hereinafter designated as the “Town” and Axon Enterprise, Inc., a Delaware corporation authorized to do business in Arizona, hereinafter designated as the “Contractor.”

Recitals

A. On September 9, 2014, Contractor entered into an agreement with the State of Arizona to provide Taser Brand Conducted Electrical Weapons and Accessories, including cameras and storage, as described in the Solicitation No. ADSPO14-00004248 and Contract/Master Blank Purchase Order No. ADSPO15-080208, see attached **Exhibit A**, hereinafter the “Cooperative Purchasing Contract,” attached and incorporated herein; and

B. The Cooperative Purchasing Contract permits its cooperative use by other governmental agencies, including the Town.

C. Pursuant to A.R.S. § 41-2631 et seq. and Town of Paradise Valley Resolution Nos. 1205 and 1207, the Town has authority to utilize cooperative purchasing contracts of the Federal government and State of Arizona public agencies and public procurement units, including Mohave Educational Services Cooperative, Inc., and engage contractors under the terms thereof.

NOW, THEREFORE, in consideration of the foregoing recitals, which are hereby incorporated by reference, and the covenants and promises contained in this Contract, Contractor and the Town agree as follows:

1. Scope of Work; Terms; Conditions, and Specifications.

1.1 Contractor shall provide the following services, materials and/or equipment: Taser brand body worn cameras and accessories, evidence storage, and system software and maintenance according to the Cooperative Purchasing Contract for the specific products and services contained in the Axon-Paradise Valley Police Dept.-AZ Quote, Issued 10/17/2018, attached hereto as **Exhibit B**, and incorporated herein by this reference (“Scope of Work”).

1.2 Contractor agrees to comply with all terms, conditions and specifications of the Cooperative Purchasing Contract and Solicitation. Such terms, conditions and

specifications are specifically incorporated into and are an enforceable part of this Contract as though fully set forth herein, except as otherwise provided for in this Contract.

1.3 For purposes of this Contract, all references to the "State" or "State of Arizona" in the Cooperative Purchasing Contract shall mean the Town of Paradise Valley, Arizona.

1.4 Contractor shall comply with all specific requirements and/or options of the Town, as specified in **Exhibit C** attached hereto and incorporated herein by reference.

2. Payment. The Contract Fee is not to exceed One Hundred Twenty Thousand Dollars (\$120,000.00). Payment to the Contractor for the services, materials and/or equipment provided, shall be made in accordance with the price list and quote (see **Exhibit B**) and terms set forth in the Cooperative Purchasing Contract.
3. Certificates of Insurance. All insurance provisions of the Cooperative Purchasing Contract shall apply, including without limitation, the requirement to name the Town, and its elected officials, officers, employees, volunteers and agents as additional insureds. Prior to commencing work under this Contract, Contractor shall furnish the Town with Certificates of Insurance as required by the Cooperative Purchasing Contract, issued by the Contractor's insurer(s) as evidence that policies providing the required coverages, conditions and limits required by the Contract are in full force and effect.
4. Israel Boycott Prohibited. As required by A.R.S. § 35-393.01, the person affixing his/her signature to this Contract certifies that Contractor is not currently engaged in and agrees for the duration of the Contract to not engage in, a boycott of Israel. A "boycott" is defined in A.R.S. § 35-393 and means engaging in a refusal to deal, terminating business activities or performing other actions that are intended to limit commercial relations with Israel or with persons or entities doing business in Israel or in territories controlled by Israel, if those actions are taken either:
 - a) In compliance with or adherence to calls for a boycott of Israel other than those boycotts to which 50 United States Code section 4607(c) applies.
 - b) In a manner that discriminates on the basis of nationality, national origin or religion and that is not based on a valid business reason.
5. Contract Term and Renewal. The term of this Contract shall commence upon the Effective Date and continue for five years, unless canceled, terminated or extended as otherwise provided in the Cooperative Purchasing Contract.

(Signatures on the Following Page)

IN WITNESS WHEREOF, the parties have hereunto subscribed their names this _____ day of _____, 2018.

TOWN OF PARADISE VALLEY:

CONTRACTOR:

By: _____
Brian Dalke
Interim Town Manager

By: _____
Title: _____

ATTEST:

APPROVED AS TO FORM

Town Clerk

Andrew Miller
Town Attorney

EXHIBIT A
COOPERATIVE PURCHASING CONTRACT

Attached (excerpts): State of Arizona contract for Taser Brand Conducted Electrical Weapons and Accessories as described in Solicitation No. ADSPO14-00004248 and Contract/Master Blank Purchase Order No. ADSPO15-080208



Master Blanket Purchase Order ADSPO15-080208

Header Information

Purchase Order Number:	ADSPO15-080208	Release Number:	0	Short Description:	Taser Brand - Conducted Electrical Weapons and Accessories
Status:	3PS - Sent	Purchaser:	William Loveland	Receipt Method:	Quantity
Fiscal Year:	2015	PO Type:	Blanket	Minor Status:	
Organization:	State of Arizona	Location:	SPO - State Procurement Office	Type Code:	Statewide
Department:	ADSPO - State Procurement Office	Entered Date:	09/11/2014 10:46:30 AM	Control Code:	
Alternate ID:		Retainage %:	0.00%	Discount %:	0.00%
Print Dest Detail:	If Different	Release Type:	Direct Release	Pcard Enabled:	No
Catalog ID:		Tax Rate:		Actual Cost:	\$716,309.29
Contact Instructions:	william.loveland@azdoa.gov				
Master Blanket/Contract End Date (Maximum):	09/10/2019 08:34:00 AM				
Project No.:					
Building Code:					
Cost Code:					
Special Purchase Types:					
PIJ NUMBER:					
Coop Spend To Date:					
Commodity Reference Id:					
PO External Doc Type:					
Agency Attachments:	<p><u>PO Terms & Conditions - OLD Taser Offer.pdf</u> <u>Contract - ADSPO14-00004248.pdf</u> <u>Contract Pricing 2014-ADSPO14-00004248.pdf</u> <u>COI-Expires 9.11.2015.pdf</u> <u>Change Order Summary No. 1 - Additional Line items.pdf</u> <u>Change Order Summary No. 2 - Additional Line items.pdf</u> <u>COI expires 12.15.2015.pdf</u> <u>request to add Proforce as Subcontractor - Change order no. 3.pdf</u> <u>Change Order Summary No. 4 ADSPO15-080208 - Contract Extension.pdf</u> <u>Change Order Summary No. 5 ADSPO15-080208 - X3 Trade in Promo.pdf</u> <u>X3 Trade-In Promotion.pdf</u> <u>Change Order No. 6 - Price increases.pdf</u> <u>Price-increase-AZ-August 2015.pdf</u> <u>COI Change Order Summary No.7 ADSPO15-080208 - COI Expires 9.11.2016.pdf</u> <u>COI-Expires 9.11.2016.pdf</u> <u>COI expires 12.15.2016.pdf</u> <u>Taser AZ Pricing 91416.pdf</u> <u>Change Order Summary</u></p>				



Invitation For Bids

Solicitation No.: **ADSP014-00004248**

Description: Taser Brand – Conducted Electrical Weapons and Accessories

State of Arizona
State Procurement Office
100 N. 15th Ave, Suite 201
Phoenix, AZ 85007

Notice of Invitation for Bid

In accordance with A.R.S. § 41-2533, competitive sealed bids for the materials or services specified, will be received by the State Procurement Office **online** through the State's e-Procurement system, ProcureAZ (<https://procure.az.gov>) at the date and time posted in ProcureAZ. Bids received by the correct time and date will be opened and the name of each Offeror will be publically available. **Bids must be in the actual possession of the State on or prior to the time and date and at the location indicated in the Notice.**

LATE BIDS SHALL NOT BE CONSIDERED.

Persons with a disability may request a reasonable accommodation, such as a sign language interpreter, by contacting the appropriate Procurement Agency. Requests should be made as early as possible to allow time to arrange the accommodation. A person requiring special accommodations may contact the solicitation contact person responsible for this procurement as identified above.

OFFERORS ARE STRONGLY ENCOURAGED TO CAREFULLY READ THE ENTIRE SOLICITATION.



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	Offer and Acceptance	State of Arizona State Procurement Office 100 N. 15th Ave, Suite 201 Phoenix, AZ 85007
	Solicitation No.: ADSP014-00004248 Description: Taser Brand- Conducted Electrical Weapons and Accessories	

OFFER

TO THE STATE OF ARIZONA:

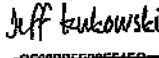
The Undersigned hereby offers and agrees to furnish the material, service or construction in compliance with all terms, conditions, specifications and amendments in the Solicitation and any written exceptions in the offer. Signature also certifies Small Business status.

TASER International, Inc.
Company Name

17800 N. 85th Street
Address

Scottsdale Arizona 85255
City State Zip

Contracts@TASER.com
Contact Email Address

DocuSigned by:

Signature of Person Authorized to Sign Offer

Jeff Kukowski
Printed Name

COO
Title

Phone: 800-978-2737

Fax: 480-991-0791

By signature in the Offer section above, the Offeror certifies:

1. The submission of the Offer did not involve collusion or other anticompetitive practices.
2. The Offeror shall not discriminate against any employee or applicant for employment in violation of Federal Executive Order 11246, State Executive Order 2009-09 or A.R.S. §§ 41-1461 through 1465.
3. The Offeror has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the submitted offer. Failure to provide a valid signature affirming the stipulations required by this clause shall result in rejection of the offer. Signing the offer with a false statement shall void the offer, any resulting contract and may be subject to legal remedies provided by law.
4. The Offeror certifies that the above referenced organization **IS NOT** a small business with less than 100 employees or has gross revenues of \$4 million or less.

ACCEPTANCE OF OFFER

The Offer is hereby accepted.


The Contractor is now bound to sell the materials or services listed by the attached contract and based upon the solicitation, including all terms, conditions, specifications, amendments, etc., and the Contractor's Offer as accepted by the State.

This Contract shall henceforth be referred to as Contract No _____

The effective date of the Contract shall be: _____

The Contractor has been cautioned not to commence any billable work or to provide any material or service under this contract until Contractor receives purchase order, contact release document or written notice to proceed.

State of Arizona
 Awarded this 9th day of September 2014


 Procurement Officer



Specifications

Solicitation No.: **ADSP014-00004248**

Description: Taser Brand - Conducted Electrical Weapons and Accessories

State of Arizona
State Procurement Office
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Phoenix, AZ 85007

1. INTRODUCTION/BACKGROUND

Pursuant to A.R.S. 41-2501, The Arizona Department of Administration, State Procurement Office (The State) is seeking to establish statewide contract(s) for Taser Brand- Conducted Electrical Weapons and Accessories necessary to support all State Agencies, Boards and Commissions and participating Cooperative Members (collectively hereinafter referred to as Eligible Agencies). The Special Terms and Conditions provide a more detailed definition of Eligible Agencies. A list of all State Agencies and Cooperative Members may be found on the State Procurement Office's Website. The State intends to award a contract(s) to qualified vendors in accordance with the terms, conditions and provisions set forth herein.

The awarded contract(s) shall replace existing contracts for Taser Brand-Electronic Control Devices and Accessories set to expire on September 10, 2014. The State desires to enter into contract(s) for all name brand Core Items listed on ProcureAZ and a Catalogue / Price list Percentage Discount not limited to holsters and all other related accessories, on Attachment I, with reliable and capable vendors who can manage multiple agency accounts and delivery points located throughout the state, have sufficient statewide delivery capabilities, and offers supplies, as stated in this solicitation. The estimated dollar volume of products and equipment purchased under the proposed contract(s) is \$500,000 - \$1 million annually based on historical usage data and anticipated volumes from State Agencies. This amount does not include any estimated spend from State Cooperative members which could be substantial volumes. Because this contract(s) will be used on an as needed basis, the State makes no guarantee as to actual spend under any resultant contract.

2. REQUIREMENTS

2.1 Contractor Capacity. The Contractor shall have certain capacities and support mechanisms in place for the successful performance of this contract on a statewide basis.

2.1.1 The Contractor shall have the ability to ensure acceptable performance under a statewide contract including the ability to create and manage numerous individual accounts for order placement, billing and reporting purposes and the ability to provide a full range of products, offered in order to meet the demands of all eligible agencies. This shall include the ability to resolve customer disputes, handle multiple communications from accounts and provide excellent customer service.

2.1.2 The Contractor shall have inventory sufficient to meet statewide eligible agencies demands as stated in this solicitation.

2.1.3 Ordering Capabilities- The Contractor shall have the ability to handle electronic, P-Card, hard copy and phone orders as described within this solicitation. This includes providing and maintaining electronic and hardcopy catalogues along with a toll-free phone customer service for ordering support and also may include web based catalogues that are maintained for the sole purpose of the State of Arizona Contract products and services.

2.2 Trade-Ins - Contractor is being requested to submit prices for trade-ins(s) with Attachment I, section A. Whether materials will actually be traded is at the option of the State and/or utilizing agency.

2.3 Core Items. The State has determined that only the identified Brand Name, Core Items List will satisfy the State's needs. The Contractor shall provide discounted firm fixed pricing for the core items identified by the manufacturer product number. The Core Items List reflects those items anticipated to be the most common or frequently purchased products under this contract and those that have been tested and approved by the Arizona Department of Public Safety for use in satisfying the needs of the State. The State reserves the right to add or remove items to the core items list during the duration of the awarded contract.

2.4 Brand Name Only: Alternate products for core items, listed with product numbers, will not be considered.

2.5 Price List / catalogue Discounts. The Contractor shall provide an established catalogue/price list containing a comprehensive selection of products, including but not limited to holsters and all other related accessories available for purchase. Pricing for all catalogue items not contained in the Core Items List shall be based on a discount percentage (%) off of a the catalogue/price list provided by the Contractor. Price List/Catalogues shall be made available in both electronic and hardcopy formats upon request from an Eligible Agency. An accessible website that contains a downloadable Price List / Catalogue or an interactive web Price List / Catalogue shall also be available for use by Eligible Agencies. Contractor may offer a percentage discount off all products in the catalogue or discounts off product categories within the catalogue.



Specifications

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2..6 Authorized Dealers, Distributors and/or Manufacturers: In order to maintain an ongoing supply of Conducted Electrical Weapon Devices under any subsequent contract the Contractors shall be one or more of the following, regarding the products the Contractor is offering:

- 2.6.1 Current authorized dealers;
- 2.6.2 Current authorized distributors; or
- 2.6.3 Product manufacturers.

The Contractor shall provide necessary documentation affirming their status upon the request of the State .

2.7 Standards: All equipment/services supplies shall meet or exceed all industry standards, such as but may not be limited to any governing (ANSI), American Society for Testing and Materials (ASTM), and any applicable Occupational Safety and Health Administration (OSHA) standards



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1. CONTRACT

- 1.1 **Contract.** The contract between the State of Arizona and the Contractor shall consist of the solicitation as amended, any requests for clarifications, the offer submitted by the Contractor including any Final Proposal Revisions, and their responses to any requests for clarifications. In the event of a conflict in language between the documents referenced above, the provisions and requirements set forth and/or referenced in the solicitation as amended shall govern. However, the State reserves the right to clarify any contractual requirement in writing, and such written clarification shall govern in case of conflict with the applicable requirements stated in the solicitation as amended or the Contractor's proposal. In all other matters not affected by the written clarification, if any, the solicitation shall govern.
- 1.1.1 The State's primary contact for this solicitation and resultant contracts shall be the Procurement Officer assigned to the contract and listed in ProcureAZ.
- 1.1.2 The Contractor's primary contact shall be the contact information contained in the ProcureAZ vendor profile or as stated in the submitted Attachment B of this solicitation
- 1.2 **Contract Term.** The contract term shall commence upon award and will continue for one (1) year unless canceled, terminated or extended as otherwise provided herein.
- 1.3 **Contract Extension.** The initial contract term is subject to additional successive one-year periods or portions thereof with a maximum aggregate contract term including all extensions not to exceed five (5) years.
- 1.4 **Contract Type.** The contract is a firm fixed-price for Core Items and a Percent(%) discount from list for all other catalogue items.
- 1.5 **Amendments.** Any change in the Contract, including but not limited to the Specifications described herein, whether by modification or supplementation, must be accomplished by a formal contract amendment or change order approved by and between the duly authorized representatives of the Contractor and the Arizona State Procurement Office. The Contractor expressly and explicitly understands and agrees that no other method and/or no other document, including correspondence, acts, and oral communications by or from any person, shall be used or construed as an amendment to the contract.
- 1.6 **Contract Changes.** The State reserves the right to modify this contract as circumstances may require without penalty to fulfill the needs of the State. The Contractor shall be notified prior to any changes in the contract and shall be accomplished by a contact amendment.
- 1.7 **Eligible Agencies.** This contract shall be for the use of all State of Arizona departments, agencies, commissions and boards. In addition, eligible State Purchasing Cooperative members may participate at their discretion. In order to participate in this contract, a cooperative member shall have entered into a Cooperative Purchasing Agreement with the Department of Administration, State Procurement Office as required by Arizona Revised Statutes § 41-2632.
- Membership in the State Purchasing Cooperative is available to all Arizona political subdivisions including cities, counties, school districts and special districts. Membership is also available to all non-profit organizations, as well as State governments, the US federal Government and Tribal Nations. Non-profit organizations are defined in A.R.S. §41-2631(4) as any non-profit corporation as designated by the internal revenue service under section 501(c)(3) through 501(c)(6)
- 1.8 **Estimated Quantities.** The State makes no guarantee or commitment of any kind is made concerning the quantity or monetary value of activity actually initiated and completed.



Special Terms and Conditions

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- 1.9 **Non-Exclusive Contract.** This contract has been awarded with the understanding and agreement that it is for the sole convenience of the State of Arizona. The State reserves the right to obtain like goods or services from another source when necessary.
- 1.10 **Compliance with Applicable Laws.** The Materials and services supplied under this Contract shall comply with all applicable Federal, state and local laws, and the Contractor shall maintain all applicable license and permit requirements.
- 1.11 **Confidentiality of Records.** The Contractor shall establish and maintain procedures and controls that are acceptable to the State for the purpose of assuring that no information contained in its records or obtained from the state or from others in carrying out its functions under the contract shall be used or disclosed by it, its agents, officers, or employees, except as required to efficiently perform duties under the Contract. Persons requesting such information should be referred to the State. The Contractor also agrees that any information pertaining to individual persons shall not be divulged other than to employees or officers of the Contractor as needed for the performance of duties under the Contract, unless otherwise agreed to in writing by the State. Contractor shall get approval from the State prior to releasing any personnel information to satisfy any auditing requirements of the contractor.
- 1.12 **Acceptance.** Determination of the acceptability of goods and services shall be made by the sole judgment of the State. Acceptance criteria shall include, but not be limited to conformity to the scope of work, quality of workmanship and successfully performing all required Tasks. Nonconformance to any of the stated acceptance and performance criteria of both services and or products as required shall result in a delay for payment. Payment shall not be made until nonconformance to the criteria is corrected as determined by the State.
- 1.13 **Cancellation.** The State reserves the right to cancel the whole or any part of the contract if, at any time during the performance of the Contract, Contractor initiates or is party to actions including, but shall not limited to;
- 1.13.1 Providing personnel that do not meet the requirements of the contract or attempting to impose on the State, personnel of unacceptable quality,
 - 1.13.2 Failure to provide the State with acceptable proof of compliance with prescribed insurance required
 - 1.13.3 Failure in a material way to correct services not in conformance with the Contract or Purchase Orders;
 - 1.13.4 Repeated failure to comply with the requirements of the Contract;
 - 1.13.5 Material disregard of or failure to comply with any applicable Federal, State or Local law, regulation or ordinance
 - 1.13.6 Failure, neglect, or refusal to proceed with the performance of the Contract in a prompt, safe and diligent manner;
 - 1.13.7 Failure to promptly pay all monies due to subcontractors, vendors, or others for materials and services in connection with the Work; and
 - 1.13.8 Attempting to assign this Contract without obtaining the State's prior consent.
- 1.14 **Contract Personnel.**
- 1.14.1 It is essential that the Contractor provide an adequate staff of experienced personnel, capable of and devoted to the successful accomplishment of work to be performed under this contract. The Contractor shall provide mentally alert, physically fit and qualified individuals to ensure contracted services progress in a safe, orderly and timely manner.
 - 1.14.2 During the course of the contract, the State reserves the right to require the contractor to remove from the project contractor employees found unacceptable by the State. The State may require that the Contractor remove from the Contract employees who endanger persons or property or whose continued employment under this Contract is inconsistent with the interests of the State. The State shall not unreasonably exercise this right without valid justification.



Special Terms and Conditions

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1.15 Licenses. The contractor shall maintain in current status, all federal, state and local licenses and permits required for the operation of the business conducted by the contractor in performance under this contract.

2. ADMINISTRATIVE FEE / USAGE

2.1 Contractor shall assess an administrative fee in the amount of one (1%) against all contract sales to members of the State Purchasing Cooperative – including cities, counties, school districts and other qualified members. The administrative fee is calculated against all sales under this contract minus any taxes or regulatory fees, minus any returns or credits, and minus any shipping charges not already included in the unit prices. An updated list of State Purchasing Cooperative members may be found at <https://spo.az.gov/procurement-services/cooperative-procurement/state-purchasing-cooperative>.

2.2 At its option, the State may expand or narrow the applicability of this fee. The State shall provide thirty (30) days written notice prior to exercising or changing this option.

2.3 The Administrative Fee shall be a part of the Contractor's unit prices and is not to be charged directly to the customer in the form of a separate line item. Statewide contracts shall not have separate prices for State Agency customers and State Purchasing Cooperative customers.

2.4 Contractors shall submit a Quarterly Usage Report documenting all contract sales. The proper Usage Report Forms may be found on the State Procurement Office's web site http://spo.az.gov/Contractor_Resources/Admin_Fee/. Any alternate Quarterly Usage Report format shall be approved by the Procurement Officer. If there are no contract sales during a quarter a quarterly Usage Report indicating "no contract sales" shall be submitted to satisfy this requirement.

2.5 The applicable Administrative Fee shall be submitted, along with a Quarterly Usage Report to the State Procurement Office no later than the last day of the month following the end of each calendar quarter. Administrative Fees shall be submitted to the following address:

Arizona Department of Administration
State Procurement Office
Attention: 'Statewide Contract Administrative Fee
100 N. 15th Avenue, Suite 201
Phoenix, AZ 85007.

2.6 The submission schedule for Administrative Fees and Usage reports shall be as follows:

FY Q1 (July–Sept.)	Due October 31
FY Q2 (Oct. – Dec.)	Due January 31
FY Q3 (Jan.-March)	Due by April 30
FY Q4 (April – June)	Due by July 31

2.7 Contractor's failure to remit accurate administrative fees and quarterly usage reports in a timely manner consistent with the contract's requirements may result in the State exercising any recourse available under the contract or as provided for by law.

2.8 Annual Itemized Spend Report. The contractor shall furnish the State an annual report delineating the acquisition activity under the contract. This report shall be submitted electronically and in a format approved by the State. At a minimum, it shall disclose all purchased items, unit cost, and quantity, as well as, individual purchasing Agency, for all sales transacted within the year. The volume sales report shall be submitted annually 30 days before the end of the contract term.



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2.9 Additional Reports. The contractor shall furnish additional reports relating to contract usage as requested

3. PRICING

3.1 General Catalogue/Category Pricing. All non-core items within an established catalogue/price list shall be priced based on the single discount percent (%) from the catalogue/list price. List price shall be defined as the pricing regularly maintained by either the manufacturer or the contractor and shall be published or otherwise available for inspection by Customers

3.2 Core Items Pricing. All core items prices shall be a firm fixed price.

3.3 Pricing - All Inclusive. Pricing is all-inclusive, including any ancillary fees and costs required to accomplish the Specifications and all aspects of the Contractor's offer as accepted by the State. Details of service not explicitly stated in the Specifications or in the Contractor's Offer, but necessarily a part of, are deemed to be understood by the Contractor and included herein. All administrative, reporting or other requirements, all overhead costs and profit and any other costs towards the accomplishment of the requirements in this Contract are included in the pricing provided.

3.4 Price Adjustment. The State Procurement Office may review a fully documented request for a price increase. A price increase adjustment shall only be considered at the time of a contract extension and shall be a factor in the extension. The requested increase shall be in writing and be based upon a cost increase to the contractor that was clearly unpredictable at the time of the offer and is directly correlated to the price of the product concerned.

3.4.1 Initial Catalogue/ Price Lists submitted at the time of offer shall be held and honored for a minimum of 6 months after award of contract.

3.4.2 The request shall be submitted from 90-120 days prior to the anniversary or contract renewal date of the contract and shall be a factor in the extension review process.

3.4.3 Failure to submit the request within the stated timeframe and/or failure to supply adequate information with the request may result in the state not considering the request.

3.4.4 The State, at its sole option shall determine whether the requested price adjustment or an alternate option is in the best interest of the state. All price adjustments will be implemented by a formal contract change order. Upon approval by the State, the Contractor shall make available all electronic and hard copy catalogue/pricelist updates to the State and all contract customers at no additional cost to the State.

3.5 Price Reductions. Price reductions may be submitted to the state for consideration at any time during the contract period. The contractor shall offer the state a price reduction on the contract product(s) concurrent with a published price reduction made to other customers. The state at its own discretion may accept a price reduction. The price reduction request shall be in writing and include documentation showing the actual reduction of cost. Sales promotions requests shall include difference in pricing, begin and end date of promotion along with the products covered.

3.6 Sales Promotions- In addition to decreasing contract pricing in accordance with the provision entitled price reductions, the contractor may conduct sales promotions involving specific products or groups of products specified herein for specified time periods. If electing to exercise this provision the contractor shall submit:

3.6.1 A formal request that identifies the affected contract product or product groups;

3.6.2 The promotional price vs. the existing contract price.

3.6.3 The start and end date of the sales promotion

4. PRODUCTS



Special Terms and Conditions

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- 4.1 **Product Removal.** The contractor shall not cancel or remove products without prior approval of the State. The contractor shall notify the State 30 days prior to removal date. The contractor shall provide an equal or acceptable replacement approved by the State if available. The removal of products may only be accomplished through a formal amendment or change order.
- 4.2 **Product Discontinuance.** In the event that a product or groups of products are discontinued by a manufacturer, written notice shall be submitted to the State within 5 business days of notification from manufacturer. The State at its sole discretion may allow the Contractor to provide replacements for the discontinued product(s) or allow the deletion of such products from the contract. Approval shall be in the form of a contract amendment or change order and shall become effective upon execution of the amendment or change order, unless otherwise stated. Upon approval by the State, the Contractor shall make available all electronic and hard catalogue/price list updates to all eligible at no additional cost to the State. The request may be submitted at any time during the contract period and shall be supplemented with the following information. Failure to supply any of the following information with the request may result in the State not considering the request.
- A formal announcement or documentation from the manufacturer stating that the product(s) have been discontinued.
 - Documentation describing any replacement product providing clear evidence that the replacement product(s) meets or exceeds the specifications of the discontinued product(s) while remaining in the same product group(s) as the discontinued item, and;
 - Documentation confirming that the price for the replacement product(s) is equivalent or less than the discontinued item.
- 4.3 **Inventory.** The State of Arizona has an ongoing requirement for the material indicated in this solicitation. It is an express condition of any award that a Contractor shall maintain a reasonable stock on hand for delivery to the requesting agency. Failure to maintain such a stock may result in contract cancellation.
- 4.4 **Current Products.** All products being offered in this contract shall be in current and ongoing production; shall be formally announced for general marketing purposes; shall be a model or type currently functioning in a user (paying customer) environment and capable of meeting or exceeding all specifications and requirements set forth in this contract.
- 4.5 **New Products.** The State, at its sole discretion, reserves the right to include additional products or product categories that are within the scope of work and in the best interest of the State. Approval(s) shall be in the form of a contract amendment or change order and shall become effective on the date specified in the amendment or change order. Upon approval by the State, the contractor shall make available all catalogue/price list updates to all eligible agencies at no additional cost to the State. Pricing shall be in line with current contract pricing. Contractor's request for new products shall include the following information;
- 4.5.1 Documentation that provides clear evidence that the new products are those that are within the scope of awarded contract. NO products outside the scope of the original award shall be allowed.
- 4.5.2 That states prices at which sales are currently or were last made to a significant number of category of buyers or buyers constituting the general buying public for the materials or supplies involved and that will be sold at the existing discount (percent %) form list price as existing products.
- 4.6 **Defective Products.** All defective products shall be replaced and exchanged by the contractor. The cost of transportation, unpacking, inspection, repacking, reshipping or other like expenses shall be paid by the contractor. All replacement products must be received by the state within fourteen (14) days of initial notification.
- 4.7 **Forced Substitutions.** Forced substitutions shall not be allowed. The contractor shall obtain prior written approval from the Eligible Agency before any substitution may be made for an out of stock item.



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4.8 **Recall Notices.** In the event of any recall notice, technical service bulletin, or other important notification affecting a product offered under this contract, a notice shall be sent to the Eligible Agency listed on each applicable purchase order. Each notice shall reference the affected purchase order and product being recalled.

5. DELIVERY

- 5.1 Pricing shall include shipping FOB destination statewide: Contract pricing shall be F.O.B. Destination to any delivery location in the State of Arizona, delivered to the specified receiving point as required by the customer (eligible agency) at the time or order. All pricing shall be firm, fixed and inclusive of all freight, delivery, unloading and all other costs incidental to the products purchased. Contractor shall retain title and control of all goods until they are delivered, received and contract of coverage has been completed. All risk of transportation and all related charges shall be the responsibility of the contractor. All claims for visible and concealed damage shall be filed by the contractor. The State will notify the contractor promptly of any damaged goods and shall assist the contractor in arranging for inspection.
- 5.2 Delivery Commitments. Contractor shall have clear policies in place for delivery completion time frames and minimum delivery commitment to any eligible agency.
- 5.2.1 Delivery shall be made within 90 days or as mutually agreed upon in writing between the ordering agency and the contractor.
- 5.2.2 The ordering agency shall have the right to cancel all orders that are not delivered within the 90 days or mutually agreed upon time frame with no penalty.
- 5.3 Packing Slips: Each shipment shall include a packing slip showing the contract number, item, price, and the quantity shipped.

6. WARRANTY

All equipment supplied under this specification shall be fully guaranteed by the contractor for a period equal to the manufacturer warranty from the date of acceptance by the state. Any defects of design, workmanship, or materials, which would result in non-compliance with the contract specification, shall be fully corrected by the contractor (including parts and labor) without cost to the state. The written warranty shall be included with the delivered products to the using entity.

7. SERIAL NUMBERS

The contract is for equipment on which the original manufacturers' serial number has not been altered in any way. Throughout the contract term, the state reserves the right to reject any altered equipment.

8. SUBCONTRACTS

8.1 **Subcontractor Approval.** Supplemental to the Uniform Terms and Conditions, Section 5.2, Subcontracts, Contractor shall not enter into any Subcontract under this Contract, for the performance of services under this Contract, without the advance written approval of the Procurement Officer. The contractor shall submit a formal written request on company letterhead and including an Attachment D, Proposed Subcontractors, or a document containing the information requested in Attachment D.

8.2 With the request, Contractor shall certify that all Subcontracts incorporate by reference the terms and conditions of this Contract. The issuance of subcontracts shall not relieve Contractor of any of its obligations under the Contract, including, among other things, the obligation to properly supervise and coordinate the work of subcontractors performing for the Contractor under this Contract. Nothing contained in any subcontract shall create a contractual relationship between any subcontractor and the State.



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9. INVOICE - BILLING

- 9.1 All billing notices or invoices shall be sent to the eligible using agency whose address appears on the contract release order/purchase order as the bill to address and should contain, at a minimum, the following information:
- Both the contract number and contract release/purchase order number
 - Name and address of the contractor
 - The contractor's remittance address
 - Contractor's representative to contact concerning billing questions
 - Contractual payment terms
 - Applicable taxes
- 9.2 Invoices not sent to the proper address, or not containing the necessary and required information may delay payment to the contractor. A contractor whose payments are delayed due to improper invoicing shall make no claim against the using agency or the State for late or finance charges.
- 9.3 The State will make every effort to process payment for the purchase of product within thirty (30) calendar days after the State has conducted the necessary reviews and inspections as described herein. Completion of the services provided to the State does not constitute acceptance, therefore, only the State acceptance date will be a valid date for starting the thirty (30) day calendar payment period.

10. ORDERING

- 10.1 Purchase Order Sufficiency. This contract was awarded in accordance with the Arizona Procurement Code and all transactions and procedures required by the code for competitive source selection have been met. A contract release order/purchase order, initiated in accordance with the requirements contained herein, that cites the correct Arizona contract number is the only document required for an Eligible Agency to order and the contractor to deliver the material and /or service. No additional memberships or agreements shall be permitted to use this contract. The contractor may use application type forms but shall only be used to set up accounts.
- 10.2 Non Contract Items.
- 10.2.1 Any attempt to knowingly represent any material and/or service not specifically awarded, as being under contract with the State of Arizona is a violation of the contract and the Arizona Procurement Code. Any such action is subject to the legal and contractual remedies available to the state inclusive of, but not limited to, contract cancellation, suspension and/or debarment of the contractor.
- 10.3 Ordering Requirements. The Contractor shall provide a comprehensive selection of products in accordance to the requirements stated herein. Contract Pricing for the core items list listed in Attachment II shall be given as best pricing from the contractor. Pricing for all other products outside of the core items list provided under this contract shall be based on a single fixed discount percent (%) off an established price list / catalogue.
- 10.3.1 The Contractor shall accept orders from any eligible agency as defined in Section 1.7 of the Special Terms and Conditions, titled Eligible Agencies.
- 10.3.2 The Contractor shall provide and maintain applicable toll-free telephone numbers, email addresses, and at least one (1) electronic ordering system through the following methods:
- Electronic – email or online through a website maintained by the Contractor
 - Hard copy purchase orders (PO's)
 - Phone
 - Purchasing Card-The Contractor shall have the ability to receive payments from eligible agencies via purchasing card in the same manner as other cards. No additional fee shall be allowed for using this method of payment.

Failure to maintain this service may be cause for cancellation of the contract..



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10.4 Minimum Orders. No minimum dollar or item count shall be allowed on orders from Eligible Agencies.

10.5 Order Acknowledgement. Contractor shall acknowledge receipt of all Orders. Contractor shall notify the Customer, in writing or electronically, within two (2) days of Order receipt. Customers may accept verbal Order acknowledgment when time and circumstances require.

10.6 Return Policy. In the event ordered and delivered items are returned to the supplier due solely to a management decision by the Eligible Agency and not due to any fault or error by the supplier, the freight cost for the return of the items plus any cost necessary to insure receipt of the returned items by the supplier shall be paid by the ordering agency. Items returned under this provision must be shipped back to the supplier by the ordering agency not later than 30 calendar days after initial receipt of the items from the supplier and must be returned unused in the original packaging including any instruction manuals or other material accompanying the initial shipment. The Supplier shall not be entitled to a restocking fee.

11. PRICE LIST / CATALOGUES (ELECTRONIC/HARD COPY)

11.1 Price List / Catalogue. An established price list / catalogue shall be defined as the price included in a price list or catalogue that:

11.1.1 Is regularly maintained by a manufacturer, distributor or Contractor;

11.1.2 Is either published or otherwise available for inspection by customers; and

11.1.3 States prices at which sales are currently or were last made to the general buying public for the items involved.

11.2 Copies of Price Lists / Catalogues. The contractor shall supply, at no charge to the State, price lists / catalogues of contracted items or notices of change to Eligible Agencies upon contract effective date, upon request, or as price lists / catalogues are incorporated into the contract.

11.3 Price List / Catalogue Maintenance. The contractor shall provide and maintain electronic and hard copy versions of all contracted price lists / catalogues during the contract term. The State may review a fully documented request to incorporate a revised/replacement Price List/Catalogue at any time during the contract period. The request shall affirm the new price list/catalogue meets the requirements as stated in paragraph 12.1 above and the request shall be made a minimum of 30 days prior to the proposed effective date. Electronic versions shall be in either of the following formats.

11.3.1 Internet versions available through a Universal Resource Locator (URL) link, or;

11.3.2 Portable Document Format (pdf) versions attached to the contract

11.3.3 Excel worksheet

11.4 One Version. The State, at its sole discretion, may maintain the contractor's electronic catalogue/price list data or provide electronic links to it through our ProcureAZ web-site. Regardless of the number and types of links to the contractor's electronic catalogue/price list, the contractor shall ensure that all eligible agencies are able to access one, and only one, version of contracted catalogue/price list.

12. CONTRABAND

Any person who takes into or out of, or attempts to take into or out of a correctional facility or the grounds belonging to or adjacent to a correctional facility, any item not specifically authorized by the correctional facility shall be prosecuted under the provisions of the Arizona Revised Statutes. All persons, including employees and visitors, entering upon these confines are subject to routine searches of their person, vehicles, property of packages

12.1 DEFINITION – A.R.S. § 13-2501.

Contraband means any dangerous drug, narcotic drug, intoxication liquor of any kind, deadly weapon, dangerous instrument, explosive or any other article whose use or possession would endanger the safety, security, or preservation of



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order in a correctional institution or any person therein. (Any other article includes any substance which could cause abnormal behavior, i.e. marijuana, nonprescription medication, etc.)

12.2 PROMOTING PRISON CONTRABAND – A.R.S. § 13-2505

12.2.1 A person, not otherwise authorized by law, commits promoting prison contraband:

- By knowingly taking contraband into a correctional facility or the grounds of such a facility; or
- By knowingly conveying contraband to any person confined in a correctional facility; or
- By knowingly making, obtaining or possessing contraband while being confined in a correctional facility.

12.2.2 Promoting prison contraband is a Class 5 felony.

13. PANDEMIC CONTRACTUAL PERFORMANCE

13.1 The Contractor shall have a plan that illustrates how the contractor shall perform up to contractual standards in the event of a pandemic. The state may require a copy of the plan at anytime prior or post award of a contract. At a minimum, the pandemic performance plan shall include:

- Key succession and performance planning if there is a sudden significant decrease in contractor's workforce;
- Alternative methods to ensure there are products in the supply chain; and
- An up to date list of company contacts and organizational chart.

13.2 In the event of a pandemic, as declared by the Governor of Arizona, U.S. Government or the World Health Organization, which makes performance of any term under this contract impossible or impracticable, the State shall have the following rights:

- After the official declaration of a pandemic, the State may temporarily void the contract(s) in whole or specific sections if the contractor cannot perform to the standards agreed upon in the initial terms;
- The State shall not incur any liability if a pandemic is declared and emergency procurements are authorized by the director as per § 41-2537 of the Arizona Procurement Code; and
- Once the pandemic is officially declared over and/or the contractor can demonstrate the ability to perform, the State, at its sole discretion may reinstate the temporarily voided contract(s).

13.3 The State, at any time, may request to see a copy of the written plan from the contractor. The contractor shall produce the written plan within 72 hours of the request.

14. RISK AND LIABILITY

14.1 INDEMNIFICATION:

To the extent allowed by law, Contractor shall defend, indemnify, and hold harmless the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees (hereinafter referred to as "Indemnitee") from and against any and all claims, actions, liabilities, damages, losses, or expenses (including court costs, attorneys' fees, and costs of claim processing, investigation and litigation) (hereinafter referred to as "Claims") for bodily injury or personal injury (including death), or loss or damage to tangible or intangible property caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of Contractor or any of its owners, officers, directors, agents, employees or subcontractors. This indemnity includes any claim or amount arising out of, or recovered under, the Workers' Compensation Law or arising out of the failure of such contractor to conform to any federal, state or local law, statute, ordinance, rule, regulation or court decree. It is the



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specific intention of the parties that the Indemnitee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnitee, be indemnified by Contractor from and against any and all claims. It is agreed that Contractor will be responsible for primary loss investigation, defense and judgment costs where this indemnification is applicable. In consideration of the award of this contract, the Contractor agrees to waive all rights of subrogation against the State of Arizona, its officers, officials, agents and employees for losses arising from the work performed by the Contractor for the State of Arizona.

The parties to this contract agree that the State of Arizona, its departments, agencies, boards and commissions shall be indemnified and held harmless by the Contractor for the liability of the State as a result of entering into this contract. However, the parties further agree that the State of Arizona, its departments, agencies, boards and commissions shall be responsible for its own negligence. Each party to this contract is responsible for its own negligence

This indemnity shall not apply if the contractor or sub-contractor(s) is/are an agency, board, commission or university of the State of Arizona.

14.2 INSURANCE REQUIREMENTS:

Contractor (Vendor) shall procure and maintain, until all of their obligations, including any warranty periods under this Contract, are satisfied, insurance against claims for injury to persons or damage to property that may arise from or in connection with the purchase and or use of the commodity.

The *insurance requirements* herein are minimum requirements for this Contract and in no way limit the indemnity covenants contained in this Contract. The State of Arizona in no way warrants that the minimum limits contained herein are sufficient to protect the Vendor from liabilities that might arise out of the purchase and use of the commodities sold under this Contract by the Vendor, his agents, representatives, employees or subcontractors and Vendor is free to purchase such additional insurance as may be determined necessary.

A. **MINIMUM SCOPE AND LIMITS OF INSURANCE:** Contractor shall provide coverage with limits of liability not less than those stated below.

1. Commercial General Liability – Occurrence Form

Policy shall include bodily injury, property damage, personal and advertising injury and broad form contractual liability coverage.

- | | |
|----------------------------------------------------|-------------|
| • General Aggregate | \$2,000,000 |
| • Products – Completed Operations Aggregate | \$1,000,000 |
| • Personal and Advertising Injury | \$1,000,000 |
| • Fire Legal Liability | \$ 50,000 |
| • Blanket Contractual Liability – Written and Oral | \$1,000,000 |
| • Each Occurrence | \$1,000,000 |

a. The policy shall be endorsed (**Blanket Endorsements are not acceptable**) to include the following additional insured language: *“The State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees shall be named as additional insureds with respect to liability arising out of the activities performed by or on behalf of the Contractor.”* Such additional insured shall be covered to the full limits of liability purchased by the Contractor, even if those limits of liability are in excess of those required by this Contract.

b. Policy shall contain a waiver of subrogation endorsement (**Blanket Endorsements are not acceptable**) in favor of the “State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees” for losses arising from work performed by or on behalf of the Contractor.

2. Business Automobile Liability



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Bodily Injury and Property Damage for any owned, hired, and/or non-owned vehicles used in the performance of this Contract.

- Combined Single Limit (CSL) \$1,000,000
 - a. The policy shall be endorsed (**Blanket Endorsements are not acceptable**) to include the following additional insured language: *"The State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees shall be named as additional insureds with respect to liability arising out of the activities performed by or on behalf of the Contractor, involving automobiles owned, leased, hired or borrowed by the Contractor."* Such additional insured shall be covered to the full limits of liability purchased by the Contractor, even if those limits of liability are in excess of those required by this Contract.
 - b. Policy shall contain a waiver of subrogation endorsement (**Blanket Endorsements are not acceptable**) in favor of the "State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees" for losses arising from work performed by or on behalf of the Contractor.
 - c. Policy shall contain a severability of interest provision.

3. Worker's Compensation and Employers' Liability

- Workers' Compensation Statutory
- Employers' Liability

Each Accident	\$ 1,000,000
Disease -- Each Employee	\$ 1,000,000
Disease -- Policy Limit	\$ 1,000,000

 - a. Policy shall contain a waiver of subrogation endorsement (**Blanket Endorsements are not acceptable**) in favor of the "State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees" for losses arising from work performed by or on behalf of the Contractor.
 - b. This requirement shall not apply to: Separately, EACH contractor or subcontractor exempt under A.R.S. § 23-901, AND when such contractor or subcontractor executes the appropriate waiver (Sole Proprietor/Independent Contractor) form.

B. **ADDITIONAL INSURANCE REQUIREMENTS:** The policies are to contain, or be endorsed (**Blanket Endorsements are not acceptable**) to contain, the following provisions:

1. The Contractor's policies shall stipulate that the insurance afforded the Contractor shall be primary insurance and that any insurance carried by the Department, its agents, officials, employees or the State of Arizona shall be excess and not contributory insurance, as provided by the A.R.S. § 41-621 (E).
2. Coverage provided by the Contractor shall not be limited to the liability assumed under the indemnification provisions of this Contract.

C. **NOTICE OF CANCELLATION:** With the exception of (10) day notice of cancellation for non-payment of premium, any changes material to compliance with this contract in the insurance policies above shall require (30) days written notice to the State of Arizona. Such notice shall be sent directly to the Department and shall be sent by certified mail, return receipt requested.

D. **ACCEPTABILITY OF INSURERS:** Contractors insurance shall be placed with companies duly licensed in the State of Arizona or hold approved non-admitted status on the Arizona Department of Insurance List of Qualified Unauthorized Insurers. Insurers shall have an "A.M. Best" rating of not less than A- VII or duly authorized to transact Workers' Compensation insurance in the State of Arizona. The State of Arizona in no way warrants that the above-required minimum insurer rating is sufficient to protect the Contractor from potential insurer insolvency.



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- E. **VERIFICATION OF COVERAGE:** Contractor shall furnish the State of Arizona with certificates of insurance (ACORD form or equivalent approved by the State of Arizona) as required by this Contract. The certificates for each insurance policy are to be signed by an authorized representative.

All certificates and endorsements (**Blanket Endorsements are not acceptable**) are to be received and approved by the State of Arizona before work commences. Each insurance policy required by this Contract must be in effect at or prior to commencement of work under this Contract and remain in effect for the duration of the project. Failure to maintain the insurance policies as required by this Contract, or to provide evidence of renewal, is a material breach of contract.

All certificates required by this Contract shall be sent directly to the Department. The State of Arizona project/contract number and project description shall be noted on the certificate of insurance. The State of Arizona reserves the right to require complete copies of all insurance policies required by this Contract at any time.

- F. **APPROVAL:** Any modification or variation from the *insurance requirements* in this Contract shall be made by the contracting agency in consultation with the Department of Administration, Risk Management Division. Such action will not require a formal Contract amendment, but may be made by administrative action.
- G. **EXCEPTIONS:** In the event the Contractor or sub-contractor(s) is/are a public entity, then the Insurance Requirements shall not apply. Such public entity shall provide a Certificate of Self-insurance. If the contractor or sub-contractor(s) is/are a State of Arizona agency, board, commission, or university, none of the above shall apply.



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Version 9 (Revised 7-1-2013)

1. Definition of Terms

As used in this Solicitation and any resulting Contract, the terms listed below are defined as follows:

- 1.1. "Attachment" means any item the Solicitation requires the Offeror to submit as part of the Offer.
- 1.2. "Contract" means the combination of the Solicitation, including the Uniform and Special Instructions to Offerors, the Uniform and Special Terms and Conditions, and the Specifications and Statement of Scope of Work; the Offer and any Best and Final Offers; and any Solicitation Amendments or Contract Amendments.
- 1.3. "Contract Amendment" means a written document signed by the Procurement Officer that is issued for the purpose of making changes in the Contract.
- 1.4. "Contractor" means any person who has a Contract with the State.
- 1.5. "Days" means calendar days unless otherwise specified.
- 1.6. "Exhibit" means any item labeled as an Exhibit in the Solicitation or placed in the Exhibits section of the Solicitation.
- 1.7. "Gratuity" means a payment, loan, subscription, advance, deposit of money, services, or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value is received.
- 1.8. "Materials" means all property, including equipment, supplies, printing, insurance and leases of property but does not include land, a permanent interest in land or real property or leasing space.
- 1.9. "Procurement Officer" means the person, or his or her designee, duly authorized by the State to enter into and administer Contracts and make written determinations with respect to the Contract.
- 1.10. "Services" means the furnishing of labor, time or effort by a contractor or subcontractor which does not involve the delivery of a specific end product other than required reports and performance, but does not include employment agreements or collective bargaining agreements.
- 1.11. "Subcontract" means any Contract, express or implied, between the Contractor and another party or between a subcontractor and another party delegating or assigning, in whole or in part, the making or furnishing of any material or any service required for the performance of the Contract.
- 1.12. "State" means the State of Arizona and Department or Agency of the State that executes the Contract.
- 1.13. "State Fiscal Year" means the period beginning with July 1 and ending June 30.

2. Contract Interpretation

- 2.1. Arizona Law. The Arizona law applies to this Contract including, where applicable, the Uniform Commercial Code



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as adopted by the State of Arizona and the Arizona Procurement Code, Arizona Revised Statutes (A.R.S.) Title 41, Chapter 23, and its implementing rules, Arizona Administrative Code (A.A.C.) Title 2, Chapter 7.

- 2.2. Implied Contract Terms. Each provision of law and any terms required by law to be in this Contract are a part of this Contract as if fully stated in it.
- 2.3. Contract Order of Precedence. In the event of a conflict in the provisions of the Contract, as accepted by the State and as they may be amended, the following shall prevail in the order set forth below:
 - 2.3.1. Special Terms and Conditions;
 - 2.3.2. Uniform Terms and Conditions;
 - 2.3.3. Statement or Scope of Work;
 - 2.3.4. Specifications;
 - 2.3.5. Attachments;
 - 2.3.6. Exhibits;
 - 2.3.7. Documents referenced or included in the Solicitation.
- 2.4. Relationship of Parties. The Contractor under this Contract is an independent Contractor. Neither party to this Contract shall be deemed to be the employee or agent of the other party to the Contract.
- 2.5. Severability. The provisions of this Contract are severable. Any term or condition deemed illegal or invalid shall not affect any other term or condition of the Contract.
- 2.6. No Parole Evidence. This Contract is intended by the parties as a final and complete expression of their agreement. No course of prior dealings between the parties and no usage of the trade shall supplement or explain any terms used in this document and no other understanding either oral or in writing shall be binding.
- 2.7. No Waiver. Either party's failure to insist on strict performance of any term or condition of the Contract shall not be deemed a waiver of that term or condition even if the party accepting or acquiescing in the nonconforming performance knows of the nature of the performance and fails to object to it.

3. Contract Administration and Operation

- 3.1. Records. Under A.R.S. § 35-214 and § 35-215, the Contractor shall retain and shall contractually require each subcontractor to retain all data and other "records" relating to the acquisition and performance of the Contract for a period of five years after the completion of the Contract. All records shall be subject to inspection and audit by the State at reasonable times. Upon request, the Contractor shall produce a legible copy of any or all such records.
- 3.2. Non-Discrimination. The Contractor shall comply with State Executive Order No. 2009-09 and all other applicable Federal and State laws, rules and regulations, including the Americans with Disabilities Act.
- 3.3. Audit. Pursuant to ARS § 35-214, at any time during the term of this Contract and five (5) years thereafter, the Contractor's or any subcontractor's books and records shall be subject to audit by the State and, where applicable, the Federal Government, to the extent that the books and records relate to the performance of the Contract or Subcontract.



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- 3.4. Facilities Inspection and Materials Testing. The Contractor agrees to permit access to its facilities, subcontractor facilities and the Contractor's processes or services, at reasonable times for inspection of the facilities or materials covered under this Contract. The State shall also have the right to test, at its own cost, the materials to be supplied under this Contract. Neither inspection of the Contractor's facilities nor materials testing shall constitute final acceptance of the materials or services. If the State determines non-compliance of the materials, the Contractor shall be responsible for the payment of all costs incurred by the State for testing and inspection.
- 3.5. Notices. Notices to the Contractor required by this Contract shall be made by the State to the person indicated on the Offer and Acceptance form submitted by the Contractor unless otherwise stated in the Contract. Notices to the State required by the Contract shall be made by the Contractor to the Solicitation Contact Person indicated on the Solicitation cover sheet, unless otherwise stated in the Contract. An authorized Procurement Officer and an authorized Contractor representative may change their respective person to whom notice shall be given by written notice to the other and an amendment to the Contract shall not be necessary.
- 3.6. Advertising, Publishing and Promotion of Contract. The Contractor shall not use, advertise or promote information for commercial benefit concerning this Contract without the prior written approval of the Procurement Officer.
- 3.7. Property of the State. Any materials, including reports, computer programs and other deliverables, created under this Contract are the sole property of the State. The Contractor is not entitled to a patent or copyright on those materials and may not transfer the patent or copyright to anyone else. The Contractor shall not use or release these materials without the prior written consent of the State.
- 3.8. Ownership of Intellectual Property. Any and all intellectual property, including but not limited to copyright, invention, trademark, trade name, service mark, and/or trade secrets created or conceived pursuant to or as a result of this contract and any related subcontract ("Intellectual Property"), shall be work made for hire and the State shall be considered the creator of such Intellectual Property. The agency, department, division, board or commission of the State of Arizona requesting the issuance of this contract shall own (for and on behalf of the State) the entire right, title and interest to the Intellectual Property throughout the world. Contractor shall notify the State, within thirty (30) days, of the creation of any Intellectual Property by it or its subcontractor(s). Contractor, on behalf of itself and any subcontractor(s), agrees to execute any and all document(s) necessary to assure ownership of the Intellectual Property vests in the State and shall take no affirmative actions that might have the effect of vesting all or part of the Intellectual Property in any entity other than the State. The Intellectual Property shall not be disclosed by contractor or its subcontractor(s) to any entity not the State without the express written authorization of the agency, department, division, board or commission of the State of Arizona requesting the issuance of this contract.
- 3.9. Federal Immigration and Nationality Act. The contractor shall comply with all federal, state and local immigration laws and regulations relating to the immigration status of their employees during the term of the contract. Further, the contractor shall flow down this requirement to all subcontractors utilized during the term of the contract. The State shall retain the right to perform random audits of contractor and subcontractor records or to inspect papers of any employee thereof to ensure compliance. Should the State determine that the contractor and/or any subcontractors be found noncompliant, the State may pursue all remedies allowed by law, including, but not limited to; suspension of work, termination of the contract for default and suspension and/or debarment of the contractor.
- 3.10. E-Verify Requirements. In accordance with A.R.S. § 41-4401, Contractor warrants compliance with all Federal immigration laws and regulations relating to employees and warrants its compliance with Section A.R.S. § 23-214, Subsection A.
- 3.11. Offshore Performance of Work Prohibited. Any services that are described in the specifications or scope of work that directly serve the State of Arizona or its clients and involve access to secure or sensitive data or personal client data shall be performed within the



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defined territories of the United States. Unless specifically stated otherwise in the specifications, this paragraph does not apply to indirect or 'overhead' services, redundant back-up services or services that are incidental to the performance of the contract. This provision applies to work performed by subcontractors at all tiers.

4. Costs and Payments

- 4.1. Payments. Payments shall comply with the requirements of A.R.S. Titles 35 and 41, Net 30 days. Upon receipt and acceptance of goods or services, the Contractor shall submit a complete and accurate invoice for payment from the State within thirty (30) days.
- 4.2. Delivery. Unless stated otherwise in the Contract, all prices shall be F.O.B. Destination and shall include all freight delivery and unloading at the destination.
- 4.3. Applicable Taxes.
 - 4.3.1. Payment of Taxes. The Contractor shall be responsible for paying all applicable taxes.
 - 4.3.2. State and Local Transaction Privilege Taxes. The State of Arizona is subject to all applicable state and local transaction privilege taxes. Transaction privilege taxes apply to the sale and are the responsibility of the seller to remit. Failure to collect such taxes from the buyer does not relieve the seller from its obligation to remit taxes.
 - 4.3.3. Tax Indemnification. Contractor and all subcontractors shall pay all Federal, state and local taxes applicable to its operation and any persons employed by the Contractor. Contractor shall, and require all subcontractors to hold the State harmless from any responsibility for taxes, damages and interest, if applicable, contributions required under Federal, and/or state and local laws and regulations and any other costs including transaction privilege taxes, unemployment compensation insurance, Social Security and Worker's Compensation.
 - 4.3.4. IRS W9 Form. In order to receive payment the Contractor shall have a current I.R.S. W9 Form on file with the State of Arizona, unless not required by law.
- 4.4. Availability of Funds for the Next State fiscal year. Funds may not presently be available for performance under this Contract beyond the current state fiscal year. No legal liability on the part of the State for any payment may arise under this Contract beyond the current state fiscal year until funds are made available for performance of this Contract.
- 4.5. Availability of Funds for the current State fiscal year. Should the State Legislature enter back into session and reduce the appropriations or for any reason and these goods or services are not funded, the State may take any of the following actions:
 - 4.5.1. Accept a decrease in price offered by the contractor;
 - 4.5.2. Cancel the Contract; or
 - 4.5.3. Cancel the contract and re-solicit the requirements.

5. Contract Changes

- 5.1. Amendments. This Contract is issued under the authority of the Procurement Officer who signed this Contract. The Contract may be modified only through a Contract Amendment within the scope of the Contract. Changes to the Contract, including the addition of work or materials, the revision of payment terms, or the substitution of work or



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materials, directed by a person who is not specifically authorized by the procurement officer in writing or made unilaterally by the Contractor are violations of the Contract and of applicable law. Such changes, including unauthorized written Contract Amendments shall be void and without effect, and the Contractor shall not be entitled to any claim under this Contract based on those changes.

5.2. Subcontracts. The Contractor shall not enter into any Subcontract under this Contract for the performance of this contract without the advance written approval of the Procurement Officer. The Contractor shall clearly list any proposed subcontractors and the subcontractor's proposed responsibilities. The Subcontract shall incorporate by reference the terms and conditions of this Contract.

5.3. Assignment and Delegation. The Contractor shall not assign any right nor delegate any duty under this Contract without the prior written approval of the Procurement Officer. The State shall not unreasonably withhold approval.

6. Risk and Liability

6.1. Risk of Loss: The Contractor shall bear all loss of conforming material covered under this Contract until received by authorized personnel at the location designated in the purchase order or Contract. Mere receipt does not constitute final acceptance. The risk of loss for nonconforming materials shall remain with the Contractor regardless of receipt.

6.2. Indemnification

6.2.1. Contractor/Vendor Indemnification (Not Public Agency) The parties to this contract agree that the State of Arizona, its departments, agencies, boards and commissions shall be indemnified and held harmless by the contractor for the vicarious liability of the State as a result of entering into this contract. However, the parties further agree that the State of Arizona, its departments, agencies, boards and commissions shall be responsible for its own negligence. Each party to this contract is responsible for its own negligence.

6.2.2. Public Agency Language Only Each party (as 'indemnitor') agrees to indemnify, defend, and hold harmless the other party (as 'indemnitee') from and against any and all claims, losses, liability, costs, or expenses (including reasonable attorney's fees) (hereinafter collectively referred to as 'claims') arising out of bodily injury of any person (including death) or property damage but only to the extent that such claims which result in vicarious/derivative liability to the indemnitee, are caused by the act, omission, negligence, misconduct, or other fault of the indemnitor, its officers, officials, agents, employees, or volunteers."

6.3. Indemnification - Patent and Copyright. The Contractor shall indemnify and hold harmless the State against any liability, including costs and expenses, for infringement of any patent, trademark or copyright arising out of Contract performance or use by the State of materials furnished or work performed under this Contract. The State shall reasonably notify the Contractor of any claim for which it may be liable under this paragraph. If the contractor is insured pursuant to A.R.S. § 41-621 and § 35-154, this section shall not apply.

6.4. Force Majeure.

6.4.1 Except for payment of sums due, neither party shall be liable to the other nor deemed in default under this Contract if and to the extent that such party's performance of this Contract is prevented by reason of force majeure. The term "force majeure" means an occurrence that is beyond the control of the party affected and occurs without its fault or negligence. Without limiting the foregoing, force majeure includes acts of God; acts of the public enemy; war; riots; strikes; mobilization; labor disputes; civil disorders; fire; flood; lockouts; injunctions-intervention-acts; or failures or refusals to act by government authority; and other similar occurrences beyond the control of the party declaring force majeure which such party is unable to prevent by exercising reasonable diligence.



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6.4.2. Force Majeure shall not include the following occurrences:

6.4.2.1. Late delivery of equipment or materials caused by congestion at a manufacturer's plant or elsewhere, or an oversold condition of the market;

6.4.2.2. Late performance by a subcontractor unless the delay arises out of a force majeure occurrence in accordance with this force majeure term and condition; or

6.4.2.3. Inability of either the Contractor or any subcontractor to acquire or maintain any required insurance, bonds, licenses or permits.

6.4.3. If either party is delayed at any time in the progress of the work by force majeure, the delayed party shall notify the other party in writing of such delay, as soon as is practicable and no later than the following working day, of the commencement thereof and shall specify the causes of such delay in such notice. Such notice shall be delivered or mailed certified-return receipt and shall make a specific reference to this article, thereby invoking its provisions. The delayed party shall cause such delay to cease as soon as practicable and shall notify the other party in writing when it has done so. The time of completion shall be extended by Contract Amendment for a period of time equal to the time that results or effects of such delay prevent the delayed party from performing in accordance with this Contract.

6.4.4. Any delay or failure in performance by either party hereto shall not constitute default hereunder or give rise to any claim for damages or loss of anticipated profits if, and to the extent that such delay or failure is caused by force majeure.

6.5. Third Party Antitrust Violations. The Contractor assigns to the State any claim for overcharges resulting from antitrust violations to the extent that those violations concern materials or services supplied by third parties to the Contractor, toward fulfillment of this Contract.

7. Warranties

7.1. Liens. The Contractor warrants that the materials supplied under this Contract are free of liens and shall remain free of liens.

7.2. Quality. Unless otherwise modified elsewhere in these terms and conditions, the Contractor warrants that, for one year after acceptance by the State of the materials, they shall be:

7.2.1. Of a quality to pass without objection in the trade under the Contract description;

7.2.2. Fit for the intended purposes for which the materials are used;

7.2.3. Within the variations permitted by the Contract and are of even kind, quantity, and quality within each unit and among all units;

7.2.4. Adequately contained, packaged and marked as the Contract may require; and

7.2.5. Conform to the written promises or affirmations of fact made by the Contractor.

7.3. Fitness. The Contractor warrants that any material supplied to the State shall fully conform to all requirements of the Contract and all representations of the Contractor, and shall be fit for all purposes and uses required by the Contract.

7.4. Inspection/Testing. The warranties set forth in subparagraphs 7.1 through 7.3 of this paragraph are not affected by



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Phoenix, AZ 85007**

inspection or testing of or payment for the materials by the State.

7.5. Compliance With Applicable Laws. The materials and services supplied under this Contract shall comply with all applicable Federal, state and local laws, and the Contractor shall maintain all applicable license and permit requirements.

7.6. Survival of Rights and Obligations after Contract Expiration or Termination.

7.6.1. Contractor's Representations and Warranties. All representations and warranties made by the Contractor under this Contract shall survive the expiration or termination hereof. In addition, the parties hereto acknowledge that pursuant to A.R.S. § 12-510, except as provided in A.R.S. § 12-529, the State is not subject to or barred by any limitations of actions prescribed in A.R.S., Title 12, Chapter 5.

7.6.2. Purchase Orders. The Contractor shall, in accordance with all terms and conditions of the Contract, fully perform and shall be obligated to comply with all purchase orders received by the Contractor prior to the expiration or termination hereof, unless otherwise directed in writing by the Procurement Officer, including, without limitation, all purchase orders received prior to but not fully performed and satisfied at the expiration or termination of this Contract.

8. State's Contractual Remedies

8.1. Right to Assurance. If the State in good faith has reason to believe that the Contractor does not intend to, or is unable to perform or continue performing under this Contract, the Procurement Officer may demand in writing that the Contractor give a written assurance of intent to perform. Failure by the Contractor to provide written assurance within the number of Days specified in the demand may, at the State's option, be the basis for terminating the Contract under the Uniform Terms and Conditions or other rights and remedies available by law or provided by the contract.

8.2. Stop Work Order.

8.2.1. The State may, at any time, by written order to the Contractor, require the Contractor to stop all or any part, of the work called for by this Contract for period(s) of days indicated by the State after the order is delivered to the Contractor. The order shall be specifically identified as a stop work order issued under this clause. Upon receipt of the order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage.

8.2.2. If a stop work order issued under this clause is canceled or the period of the order or any extension expires, the Contractor shall resume work. The Procurement Officer shall make an equitable adjustment in the delivery schedule or Contract price, or both, and the Contract shall be amended in writing accordingly.

8.3. Non-exclusive Remedies. The rights and the remedies of the State under this Contract are not exclusive.

8.4. Nonconforming Tender. Materials or services supplied under this Contract shall fully comply with the Contract. The delivery of materials or services or a portion of the materials or services that do not fully comply constitutes a breach of contract. On delivery of nonconforming materials or services, the State may terminate the Contract for default under applicable termination clauses in the Contract, exercise any of its rights and remedies under the Uniform Commercial Code, or pursue any other right or remedy available to it.

8.5. Right of Offset. The State shall be entitled to offset against any sums due the Contractor, any expenses or costs incurred by the State, or damages assessed by the State concerning the Contractor's non-conforming performance or



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failure to perform the Contract, including expenses, costs and damages described in the Uniform Terms and Conditions.

9. Contract Termination

- 9.1. **Cancellation for Conflict of Interest.** Pursuant to A.R.S. § 38-511, the State may cancel this Contract within three (3) years after Contract execution without penalty or further obligation if any person significantly involved in initiating, negotiating, securing, drafting or creating the Contract on behalf of the State is or becomes at any time while the Contract or an extension of the Contract is in effect an employee of or a consultant to any other party to this Contract with respect to the subject matter of the Contract. The cancellation shall be effective when the Contractor receives written notice of the cancellation unless the notice specifies a later time. If the Contractor is a political subdivision of the State, it may also cancel this Contract as provided in A.R.S. § 38-511.
- 9.2. **Gratuities.** The State may, by written notice, terminate this Contract, in whole or in part, if the State determines that employment or a Gratuity was offered or made by the Contractor or a representative of the Contractor to any officer or employee of the State for the purpose of influencing the outcome of the procurement or securing the Contract, an amendment to the Contract, or favorable treatment concerning the Contract, including the making of any determination or decision about contract performance. The State, in addition to any other rights or remedies, shall be entitled to recover exemplary damages in the amount of three times the value of the Gratuity offered by the Contractor.
- 9.3. **Suspension or Debarment.** The State may, by written notice to the Contractor, immediately terminate this Contract if the State determines that the Contractor has been debarred, suspended or otherwise lawfully prohibited from participating in any public procurement activity, including but not limited to, being disapproved as a subcontractor of any public procurement unit or other governmental body. Submittal of an offer or execution of a contract shall attest that the contractor is not currently suspended or debarred. If the contractor becomes suspended or debarred, the contractor shall immediately notify the State.
- 9.4. **Termination for Convenience.** The State reserves the right to terminate the Contract, in whole or in part at any time when in the best interest of the State, without penalty or recourse. Upon receipt of the written notice, the Contractor shall stop all work, as directed in the notice, notify all subcontractors of the effective date of the termination and minimize all further costs to the State. In the event of termination under this paragraph, all documents, data and reports prepared by the Contractor under the Contract shall become the property of and be delivered to the State upon demand. The Contractor shall be entitled to receive just and equitable compensation for work in progress, work completed and materials accepted before the effective date of the termination. The cost principles and procedures provided in A.A.C. R2-7-701 shall apply.
- 9.5. **Termination for Default.**
- 9.5.1. In addition to the rights reserved in the contract, the State may terminate the Contract in whole or in part due to the failure of the Contractor to comply with any term or condition of the Contract, to acquire and maintain all required insurance policies, bonds, licenses and permits, or to make satisfactory progress in performing the Contract. The Procurement Officer shall provide written notice of the termination and the reasons for it to the Contractor.
- 9.5.2. Upon termination under this paragraph, all goods, materials, documents, data and reports prepared by the Contractor under the Contract shall become the property of and be delivered to the State on demand.
- 9.5.3. The State may, upon termination of this Contract, procure, on terms and in the manner that it deems appropriate, materials or services to replace those under this Contract. The Contractor shall be liable to the State for any excess costs incurred by the State in procuring materials or services in substitution for those due from the Contractor.



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9.6. Continuation of Performance Through Termination. The Contractor shall continue to perform, in accordance with the requirements of the Contract, up to the date of termination, as directed in the termination notice.

10. Contract Claims


All contract claims or controversies under this Contract shall be resolved according to A.R.S. Title 41, Chapter 23, Article 9, and rules adopted thereunder.

11. Arbitration

The parties to this Contract agree to resolve all disputes arising out of or relating to this contract through arbitration, after exhausting applicable administrative review, to the extent required by A.R.S. § 12-1518, except as may be required by other applicable statutes (Title 41).

12. Comments Welcome

The State Procurement Office periodically reviews the Uniform Terms and Conditions and welcomes any comments you may have. Please submit your comments to: State Procurement Administrator, State Procurement Office, 100 North 15th Avenue, Suite 201, Phoenix, Arizona, 85007.

	Contract Amendment		AZ DEPT. OF ADMINISTRATION STATE PROCUREMENT OFFICE 100 N. 15 TH AVE., STE. 402 Phoenix, AZ 85007
	CONTRACT NO.: ADSP015-080208	PAGE 1	
	AMENDMENT NO.: 1 (ONE)	OF 1	

CONTRACTOR: AXON ENTERPRISE INC 17800 N. 85 th Street Scottsdale, AZ 85255 CONTACT: PHONE: (800) 978-2737 EMAIL: contracts@taser.com	STATE AGENCY: AZ Department of Administration (ADOA) State Procurement Office 100 N. 15 th Ave., Ste.402 Phoenix, AZ 85007 CONTACT: William Loveland PHONE: (602) 542-9158 EMAIL: william.loveland@azdoa.gov
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Taser Brand - Conducted Electrical Weapons and Accessories

1. In accordance with Uniform Terms and Conditions Section 5.1 (Amendments), the Contract now contains a new Section in the Special Terms and Conditions as follows, which modifies Uniform Terms and Conditions Section 4.5:

4.8 Availability of Funds for the current State fiscal year Should the State Legislature enter back into session and reduce the appropriations or for any reason and these goods or services are not funded, the State may take any of the following actions:

- 4.8.1. Accept a decrease in price offered by the contractor;
- 4.8.2. Cancel the Contract; or
- 4.8.3. Cancel the contract and re-solicit the requirements.
- 4.8.4. In the event the Agency provides notice of termination for non-appropriation pursuant to this Section, the parties shall negotiate in good faith to determine a mutually agreeable settlement payment for the TASER 60 Products accepted by the Agency, but not yet paid for before the date of the notice of termination for non-appropriation.

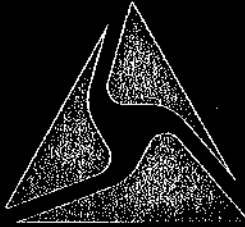
All other terms, conditions and provisions remain unchanged

**ALL OTHER REQUIREMENTS, SPECIFICATIONS, TERMS AND CONDITIONS REMAIN UNCHANGED
 ACKNOWLEDGEMENT AND AUTHORIZATION**

This change order shall be fully executed upon the approval electronically in ProcureAZ by an authorized representative of the Contractor and applied to the contract in ProcureAZ by the Procurement Officer or delegate.

EXHIBIT B

Attached: Axon-Paradise Valley Police Dept.-AZ Quote, Issued 10/17/18



AXON

Paradise Valley Police Dept. - AZ

AXON SALES REPRESENTATIVE

Jared Zygowicz

(480) 468-2189

jzygowicz@axon.com

ISSUED

10/17/2018

Q:146427-48690734UZ



Axon Enterprise, Inc.
 17800 N 85th St.
 Scottsdale, Arizona 85255
 United States
 Phone: (800) 978-2737

Q-146427-43390.734JZ

Issued: 10/17/2018

Quote Expiration: 10/31/2018

Account Number: 115132

Start Date: 11/01/2018

Payment Terms: Net 30

Delivery Method: Fedex - Ground

SALES REPRESENTATIVE

Jared Zygowicz
 Phone: (480) 463-2139
 Email: jzygowicz@axon.com
 Fax:

PRIMARY CONTACT

Michael Cole
 Phone: (480) 348-3504
 Email: mcole@paradisevalleyaz.gov

SHIP TO

Michael Cole
 Paradise Valley Police Dept. - AZ
 6433 E. Lincoln Drive
 Paradise Valley, AZ 85253
 US

BILL TO

Paradise Valley Police Dept. - AZ
 6433 E. Lincoln Drive
 Paradise Valley, AZ 85253
 US

Due Net 30

Item	Description	Quantity	List Unit Price	Net Unit Price	Total (USD)
Axon Plans & Packages					
87026	TASER ASSURANCE PLAN DOCK 2 ANNUAL PAYMENT	5	336.00	204.93	1,024.65
85070	TASER ASSURANCE PLAN ANNUAL PAYMENT, BODYCAM	32	240.00	193.55	6,193.60
80022	PRO EVIDENCE.COM LICENSE: YEAR 1 PAYMENT	3	468.00	444.02	1,332.06
80012	BASIC EVIDENCE.COM LICENSE: YEAR 1 PAYMENT	32	180.00	170.78	5,464.96
85110	EVIDENCE.COM INCLUDED STORAGE	320	0.00	0.00	0.00
85110	EVIDENCE.COM INCLUDED STORAGE	90	0.00	0.00	0.00
85035	EVIDENCE.COM STORAGE	5,000	0.75	1.42	7,100.00
Hardware					
74001	AXON CAMERA ASSEMBLY, ONLINE, AXON BODY 2, BLK	32	499.00	0.00	0.00
74020	MAGNET MOUNT, FLEXIBLE, AXON RAPIDLOCK	32	0.00	0.00	0.00
74021	MAGNET MOUNT, THICK OUTERWEAR, AXON RAPIDLOCK	32	0.00	0.00	0.00
11553	SYNC CABLE, USB A TO 2.5MM	32	0.00	0.00	0.00
73004	WALL CHARGER, USB SYNC CABLE, FLEX	32	0.00	0.00	0.00
70033	WALL MOUNT BRACKET, ASSY, EVIDENCE.COM DOCK	5	42.00	0.00	0.00
74008	AXON DOCK, 6 BAY + CORE, AXON BODY 2	5	1,495.00	0.00	0.00

Due Net 30 (Continued)

Item	Description	Quantity	List Unit Price	Net Unit Price	Total (USD)
Other					
71019	NORTH AMERICA POWERCORD, 6.5FT	5	10.00	0.00	0.00
Services					
85144	AXON STARTER	1	2,500.00	2,371.88	2,371.88
Subtotal					23,487.15
Estimated Shipping					0.00
Estimated Tax					1,736.43
Total					25,223.58

Spare Axon Body2

Item	Description	Quantity	List Unit Price	Net Unit Price	Total (USD)
Hardware					
74001	AXON CAMERA ASSEMBLY, ONLINE, AXON BODY 2, BLK	4	0.00	0.00	0.00
11553	SYNC CABLE, USB A TO 2.5MM	4	0.00	0.00	0.00
74021	MAGNET MOUNT, THICK OUTERWEAR, AXON RAPIDLOCK	4	0.00	0.00	0.00
74020	MAGNET MOUNT, FLEXIBLE, AXON RAPIDLOCK	4	0.00	0.00	0.00
73004	WALL CHARGER, USB SYNC CABLE, FLEX	4	0.00	0.00	0.00
Subtotal					0.00
Estimated Tax					0.00
Total					0.00

Year 2- 2019

Item	Description	Quantity	List Unit Price	Net Unit Price	Total (USD)
Axon Plans & Packages					
80023	PRO EVIDENCE.COM LICENSE: YEAR 2 PAYMENT	3	468.00	444.02	1,332.06
80013	BASIC EVIDENCE.COM LICENSE: YEAR 2 PAYMENT	32	180.00	170.78	5,464.96
87026	TASER ASSURANCE PLAN DOCK 2 ANNUAL PAYMENT	5	336.00	204.93	1,024.65
85070	TASER ASSURANCE PLAN ANNUAL PAYMENT, BODYCAM	32	240.00	193.44	6,190.08
85110	EVIDENCE.COM INCLUDED STORAGE	90	0.00	0.00	0.00
85110	EVIDENCE.COM INCLUDED STORAGE	320	0.00	0.00	0.00

Year 2- 2019 (Continued)

Item	Description	Quantity	List Unit Price	Net Unit Price	Total (USD)
Axon Plans & Packages (Continued)					
85035	EVIDENCE.COM STORAGE	5,000	0.75	1.42	7,100.00
				Subtotal	21,111.75
				Estimated Tax	1,736.15
				Total	22,847.90

Year 3- 2020

Item	Description	Quantity	List Unit Price	Net Unit Price	Total (USD)
Axon Plans & Packages					
80024	PRO EVIDENCE.COM LICENSE: YEAR 3 PAYMENT	3	468.00	444.02	1,332.06
80014	BASIC EVIDENCE.COM LICENSE: YEAR 3 PAYMENT	32	180.00	170.78	5,464.96
85070	TASER ASSURANCE PLAN ANNUAL PAYMENT, BODYCAM	32	240.00	193.44	6,190.08
87026	TASER ASSURANCE PLAN DOCK 2 ANNUAL PAYMENT	5	336.00	204.93	1,024.65
85110	EVIDENCE.COM INCLUDED STORAGE	90	0.00	0.00	0.00
85110	EVIDENCE.COM INCLUDED STORAGE	320	0.00	0.00	0.00
85035	EVIDENCE.COM STORAGE	5,000	0.75	1.42	7,100.00
				Subtotal	21,111.75
				Estimated Tax	1,736.15
				Total	22,847.90

Year 4- 2021

Item	Description	Quantity	List Unit Price	Net Unit Price	Total (USD)
Axon Plans & Packages					
80025	PRO EVIDENCE.COM LICENSE: YEAR 4 PAYMENT	3	468.00	444.02	1,332.06
80015	BASIC EVIDENCE.COM LICENSE: YEAR 4 PAYMENT	32	180.00	170.78	5,464.96
87026	TASER ASSURANCE PLAN DOCK 2 ANNUAL PAYMENT	5	336.00	204.93	1,024.65
85070	TASER ASSURANCE PLAN ANNUAL PAYMENT, BODYCAM	32	240.00	193.44	6,190.08
85110	EVIDENCE.COM INCLUDED STORAGE	90	0.00	0.00	0.00
85110	EVIDENCE.COM INCLUDED STORAGE	320	0.00	0.00	0.00
85035	EVIDENCE.COM STORAGE	5,000	0.75	1.42	7,100.00
				Subtotal	21,111.75
				Estimated Tax	1,736.15
				Total	22,847.90

Year 5- 2022

Item	Description	Quantity	List Unit Price	Net Unit Price	Total (USD)
Axon Plans & Packages					
80026	PRO EVIDENCE.COM LICENSE: YEAR 5 PAYMENT	3	468.00	444.02	1,332.06
80018	BASIC EVIDENCE.COM LICENSE: YEAR 5 PAYMENT	32	180.00	170.78	5,464.96
87026	TASER ASSURANCE PLAN DOCK 2 ANNUAL PAYMENT	5	336.00	204.93	1,024.65
85070	TASER ASSURANCE PLAN ANNUAL PAYMENT, BODYCAM	32	240.00	193.44	6,190.08
85110	EVIDENCE.COM INCLUDED STORAGE	320	0.00	0.00	0.00
85110	EVIDENCE.COM INCLUDED STORAGE	90	0.00	0.00	0.00
85035	EVIDENCE.COM STORAGE	5,000	0.75	1.42	7,100.00
				Subtotal	21,111.75
				Estimated Tax	1,736.15
				Total	22,847.90

Grand Total	116,615.18
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Discounts (USD)

Quote Expiration: 10/31/2018

List Amount	127,573.00
Discounts	19,638.85
Total	107,934.15

**Total excludes applicable taxes and shipping*

Summary of Payments

Payment	Amount (USD)
Due Net 30	25,223.58
Spare Axon Body2	0.00
Year 2- 2019	22,847.90
Year 3- 2020	22,847.90
Year 4- 2021	22,847.90
Year 5- 2022	22,847.90
Grand Total	116,615.18

Notes

State of Arizona Contract No. ADSPO15-080208 used for pricing and purchasing justification.

EXHIBIT C
SPECIFIC REQUIREMENTS/OPTIONS OF TOWN

1. Notices: All notices required under the Contract shall be sent to:

Town Manager
Town of Paradise Valley
6401 E. Lincoln Drive
Paradise Valley, Arizona 85253

With mandatory copy to:

Town Attorney
Town of Paradise Valley
6401 E. Lincoln Drive
Paradise Valley, Arizona 85253

Delivery Location: Town of Paradise Valley

Police Department
6433 East Lincoln Drive
Paradise Valley, AZ 85253

2. Equal Treatment of Workers: Contractor shall keep fully informed of all federal and state laws, county and local ordinances, regulations, codes and all orders and decrees of bodies or tribunals having any jurisdiction or authority, which in any way affect the conduct of performance under the Contract. Contractor shall at all times observe and comply with all such laws, ordinances, regulations, codes, orders and decrees; this includes, but is not limited to laws and regulations ensuring equal treatment for all employees and against unfair employment practices, including the Occupational Safety and Health Administration (“OSHA”) and the Fair Labor Standards Act (“FLSA”). Contractor shall protect and indemnify the Town and its representatives against any claim or liability arising from or based on the violation of such, whether by Contractor or its employees.

3. Indemnification. Paragraph 14.1 of the Cooperative Purchasing Contract, Special Terms and Conditions, is hereby replaced in its entirety with the following:

To the fullest extent permitted by law, Contractor, its successors, assigns and guarantors, shall pay defend, indemnify and hold harmless the Town, its agents, representatives, officers, directors, officials and employees from and against all allegations, demands, proceedings, suits, actions, claims, including claims of patent or copyright infringement, damages, losses, expenses, including but not limited to, attorney fees court costs, and the cost of appellate proceedings, and all claim adjusting and handling expense, related to, arising from or out of or resulting from any negligent actions, negligent acts, errors, mistakes or omissions caused in whole or part by Contractor relating to work, services and/or products provided in the performance of this Contract, including but not limited to, any subcontractor or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable and any injury or damages claimed by any of the Contractor’s and subcontractor’s employees. It is agreed that Contractor will be

responsible for primary loss investigation, defense and judgment costs where this indemnification is applicable. The Contractor agrees to waive all rights of subrogation against the Town, its agents, representatives, officers, directors, officials, employees and volunteers for losses arising from the work performed by Contractor for the Town.

Contractor is responsible for compliance with the Patient Protection and Affordable Care Act (ACA), for its employees in accordance with 26 CFR §54.4980H. Additionally, Contractor is responsible for all applicable IRS reporting requirements related to ACA. If Contractor or any of Contractor's employees is certified to the Town as having received a premium tax credit or cost sharing reduction which contributes to or triggers an assessed penalty against the Town, or Contractor fails to meet reporting requirements resulting in a penalty to Town, Contractor indemnifies Town from and shall pay any assessed tax penalty.

4. Warranties.

4.1. **Hardware Limited Warranty.** In addition to Warranties provided in the Cooperative Purchasing Contract, Axon warrants that its law enforcement hardware Products are free from defects in workmanship and materials for a period of ONE (1) YEAR from the date of receipt. Extended warranties run from the date of purchase of the extended warranty through the balance of the 1-year limited warranty term plus the term of the extended warranty measured from the date of expiration of the 1-year limited warranty. CEW cartridges and Smart cartridges that are expended are deemed to have operated properly. Axon-manufactured accessories are covered under a limited 90-DAY warranty from the date of receipt. If Axon determines that a valid warranty claim is received within the warranty period, as further described in the Warranty Limitations section, Axon agrees to repair or replace the Product. Axon's sole responsibility under this warranty is to either repair or replace with the same or like Product, at Axon's option.

4.2. **Warranty Limitations.**

4.2.1. The warranties do not apply to and Axon will not be responsible for any loss, data loss, damage, or other liabilities arising from damage: (a) from failure to follow instructions relating to the Product's use; (b) caused by use with non-Axon products or from the use of cartridges, batteries or other components that are not manufactured or recommended by Axon; (c) caused by abuse, misuse, intentional or deliberate damage to the Product, or force majeure; (d) to a Product or part that has been repaired or modified by persons other than Axon authorized personnel or without the written permission of Axon; or (e) to any Axon Product whose serial number has been removed or defaced.

4.2.2. To the extent permitted by law, the warranties and the remedies set forth above are exclusive and Axon disclaims all other warranties, remedies, and conditions, whether oral or written, statutory, or implied, as permitted by applicable law. If statutory or implied warranties cannot be lawfully disclaimed, then all such warranties are limited to the duration of the express warranty described above and limited by the other provisions contained in this Contract.

4.2.3. Axon's cumulative liability to any Party for any loss or damage resulting from any claims, demands, or actions arising out of or relating to any Axon Product will not exceed the Grand Total price stated on the Axon-Paradise Valley Police Dept.-AZ Quote, issued 10/17/2018, attached hereto as **Exhibit B**. In no event will either Party be liable for any direct, special, indirect, incidental, exemplary, punitive or consequential damages, however caused, whether for breach of warranty, breach of contract, negligence, strict liability, tort or under any other legal theory.

4.3 **Warranty Returns.** If a valid warranty claim is received by Axon within the warranty period, Axon agrees to repair or replace the Product that Axon determines in its sole discretion to be defective under normal use, as defined in the Product instructions. Axon's sole responsibility under this warranty is to either repair or replace with the same or like Product, at Axon's option.

4.3.1 For warranty return and repair procedures, including troubleshooting guides, please go to Axon's websites www.axon.com/support or www.evidence.com, as indicated in the appropriate Product user manual or quick start guide.

4.3.2 Before delivering Product for warranty service, it is the Agency's responsibility to upload the data contained in the Product to the Evidence.com Service or download the Product data and keep a separate backup copy of the contents. Axon is not responsible for any loss of software programs, data, or other information contained on the storage media or any other part of the Product.

4.3.3 A replacement Product will be new or like new and have the remaining warranty period of the original Product or 90 days from the date of replacement or repair, whichever period is longer. When a Product or part is exchanged, any replacement item becomes Agency's property and the replaced item becomes Axon's property.

5. **IP Rights.** Axon owns and reserves all right, title, and interest in the Axon Products and Services, and related software, as well as any suggestions made to Axon.

6. **Agency Responsibilities.** Except as provide in Section 6.3, Uniform Terms and Conditions, of the Cooperative Purchasing Contract, the Agency is responsible for (i) use of Axon Products (including any activities under the Agency Evidence.com account and use by Agency employees and agents), (ii) breach of this Contract or violation of applicable law by the Agency or any of the Agency's end users, (iii) Agency Content or the combination of Agency Content with other applications, content or processes, including any claim involving alleged infringement or misappropriation of third party rights by Agency Content or by the use of Agency Content, (iv) a dispute between the Agency and any third party over Agency use of Axon Products or the collection or use of Agency Content, (v) any hardware or networks that the Agency connects to the Evidence.com Service, and (vi) any security settings the Agency establishes to interact with or on the Evidence.com Service.

7. **Termination.**

7.1. By Either Party. Either Party may terminate for cause upon 30 days' advance notice to the other Party if there is any material default or breach of this Contract by the other Party, unless the defaulting Party has cured the material default or breach within the 30-day

notice period. In the event that the Agency terminates this Contract due to Axon's failure to cure the material breach or default, Axon will issue a refund of any prepaid amounts on a prorated basis from the date of notice of termination.

7.2. **By Agency.** The Agency is obligated to pay the fees under this Contract as may lawfully be made from funds budgeted and appropriated for that purpose during the Agency's then current fiscal year. In the event that sufficient funds will not be appropriated or are not otherwise legally available to pay the fees required under this Contract this Contract may be terminated by the Agency. The Agency agrees to deliver notice of termination under this Section at least 90 days prior to the end of the Agency's then current fiscal year, or as soon as reasonably practicable under the circumstances.

7.3. **Effect of Termination.** Upon any termination of this Contract: (a) all Agency rights under this Contract immediately terminate; (b) the Agency remains responsible for all fees and charges incurred through the date of termination; and (c) Payment Terms, Warranty, Product Warnings, Indemnification, and Agency Responsibilities Sections, as well as the Evidence.com Terms of Use Appendix Sections on Agency Owns Agency Content, Data Storage, Fees and Payment, Software Services Warranty, IP Rights and License Restrictions will continue to apply in accordance with their terms. If the Agency purchases Products for a value less than the Manufacturer's

7.4. **Suggested Retail Price (MSRP)** and this Contract is terminated before the end of the term then (a) the Agency will be invoiced for the depreciated value of the Products received and not already paid for, using the MSRP for the Products at the Effective Date depreciated by 20% annually; or (b) only in the case of termination for non-appropriations, return the Products to Axon within 30 days of the date of termination. For bundled Products, the MSRP is the value of all standalone components of the bundle.

8. **Subcontractors.** Except for the use of third parties for the purpose of storage of Agency Content ("Third Party for Data Storage"), Contractor shall not use any third party or enter into any subcontract under this Contract for the performance of this Contract ("Subcontract") without the advance written approval of the Town's Procurement Officer. Any contract with a third party, including any Third Party for Data Storage, and any Subcontract shall incorporate by reference the terms and conditions of this Contract, including but not limited to provisions for insurance, indemnification, and data privacy.

Evidence.com Terms of Use Appendix

1 **Evidence.com Subscription Term.** The Evidence.com Subscription Term will begin after shipment of the Axon body worn cameras. If shipped in 1st half of the month, the start date is on the 1st of the following month. If shipped in the last half of the month, the start date is on the 15th of the following month. For phased deployments, the Evidence.com Subscription begins upon the shipment of the first phase. For purchases that consist solely of Evidence.com licenses, the Subscription will begin upon the Effective Date.

2 **Access Rights. "Agency Content"** means software, data, text, audio, video, images or other Agency content or any of the Agency's end users (a) run on the Evidence.com Service, (b) cause to interface with the Evidence.com Service, or (c) upload to the Evidence.com Service under the Agency account or otherwise transfer, process, use or store in connection with the Agency account. Upon the purchase or granting of a subscription from Axon and the opening of an Evidence.com account, the Agency will have access and use of the Evidence.com Service for the storage and management of Agency Content during the Evidence.com Subscription Term.

The Evidence.com Service and data storage are subject to usage limits. The Evidence.com Service may not be accessed by more than the number of end users specified in the Quote. If Agency becomes aware of any violation of this Contract by an end user, the Agency will immediately terminate that end user's access to Agency Content and the Evidence.com Services. For Evidence.com Lite licenses, the Agency will have access and use of Evidence.com Lite for only the storage and management of data from TASER CEWs and the TASER CAM during the subscription Term. The Evidence.com Lite Service may not be accessed to upload any non-TASER CAM video or any other files.

3 **Agency Owns Agency Content.** The Agency controls and owns all right, title, and interest in and to Agency Content and except as otherwise outlined herein, Axon obtains no interest in the Agency Content, and the Agency Content are not business records of Axon. The Agency is solely responsible for the uploading, sharing, withdrawal, management and deletion of Agency Content. Axon will have limited access to Agency Content solely for providing and supporting the Evidence.com Service to the Agency and Agency end users. The Agency represents that the Agency owns Agency Content; and that none of Agency Content or Agency end users' use of Agency Content or the Evidence.com Service will violate this Contract or applicable laws.

4 **Evidence.com Data Security.**

4.1. Generally. Axon will implement commercially reasonable and appropriate measures designed to secure Agency Content, including Personal Information, Entity Identifying Information and Personal Identifying Information as defined in A.R.S. §§ 18-521, -551 and § 13-2001, against accidental or unlawful loss, access or disclosure. Axon will maintain a comprehensive Information Security Program (**ISP**) that includes logical and physical access management, vulnerability management, configuration management, incident monitoring and response, encryption of digital evidence uploaded, security education, risk management, and data protection. In the event of a security system breach as described in A.R.S. § 18-551, Axon is required to comply with the requirement of A.R.S. § 18-552, including but not limited to conducting a reasonable investigation and providing notice to affected individuals when it becomes aware of an incident of unauthorized acquisition or access to unencrypted or unredacted computerized data that includes an individual's personal information. Agency reserves the right to seek any and all other remedies in the event of unauthorized access to Agency Content. The Agency is responsible for maintaining the security of end user names and passwords and taking steps to maintain

appropriate security and access by end users to Agency Content. Login credentials are for Agency internal use only and Agency may not sell, transfer, or sublicense them to any other entity or person. The Agency agrees to be responsible for all activities undertaken by the Agency, Agency employees, Agency contractors or agents, and Agency end users that result in unauthorized access to the Agency account or Agency Content. Audit log tracking for the video data is an automatic feature of the Services that provides details as to who accesses the video data and may be downloaded by the Agency at any time. The Agency shall contact Axon immediately if an unauthorized third party may be using the Agency account or Agency Content or if account information is lost or stolen.

4.2. FBI CJIS Security Addendum. Axon agrees to the terms and requirements set forth in the Federal Bureau of Investigation (**FBI**) Criminal Justice Information Services (**CJIS**) Security Addendum for the Term of this Contract.

4.3. Additional Security Features. Axon takes several precautions to ensure the security of data within Evidence.com. Evidence data is encrypted during transfer: SSL with RSA 2048 bit key, 256-bit ciphers, TLS 1.2, Perfect Forward Secrecy. Data at rest is encrypted in storage: 256-bit Advanced Encryption Standard (AES-256). Evidence.com also supports Dual-Factor Authentication, IP Restrictions, and robust approval workflow when attempting to delete evidence data. Evidence data is hashed (SHA) to ensure a robust chain of custody. Original evidence data is never changed. All modifications are handled by creating new, derivative files. Detailed audit logs track all evidence access.

4.4. Geographically Redundant Storage. During the Term, Axon will utilize multiple geographically separate storage locations to ensure the security of Agency Content.

5. Axon's Support. Axon will make available updates as released by Axon to the Evidence.com Services. The Agency is responsible for maintaining the computer equipment and Internet connections necessary for use of the Evidence.com Services.

5.1. Support of Android Applications. For Android applications, including Axon View, Axon Device Manager, and Axon Capture, Axon will use reasonable efforts to continue supporting previous version of such applications for 45 days after the change. In the event Agency does not update their Android application to the most current version within 45 days of release, Axon may disable the application or force updates to the non-supported application.

6. Data Privacy. Axon will not disclose Agency Content or any information about the Agency except as compelled by an order of a court of competent jurisdiction or administrative body. Axon will give notice at least 10 days' notice prior to disclosure of any Agency Content and as soon as practicable upon receipt of any request for disclosure of any Agency Content so the Agency may file an objection with the court or administrative body or seek other appropriate remedy. With prior written consent of the Agency, Axon may access information from the Agency in order to: (a) perform troubleshooting services upon request or as part of Axon's regular diagnostic screenings; (b) enforce this Contract or policies governing use of Evidence.com Services; or (c) perform analytic and diagnostic evaluations of the systems.

7. Data Storage. Axon will determine the locations of the data centers in which Agency Content will be stored and accessible by Agency end users. For United States customers, Axon will ensure that all Agency Content stored in the Evidence.com Services remains within the United States, including any backup data, replication sites, and disaster recovery sites. Axon may transfer Agency Content to third parties for the purpose of storage of Agency Content. Third party subcontractors responsible for storage of Agency Content are contracted by Axon for data storage services. Ownership of Agency Content remains with the Agency.

For use of an Unlimited Evidence.com License, unlimited data may be stored in the Agency's Evidence.com account only if the data originates from an Axon Body Worn Camera or Axon Capture device. Axon reserves the right to charge additional fees for exceeding purchased storage amounts or for Axon's assistance in the downloading or exporting of Agency Content. Axon may place into archival storage any data stored in the Agency's Evidence.com accounts that has not been viewed or accessed for 6 months. Data stored in archival storage will not have immediate availability, and may take up to 24 hours to access.

- 8** **Suspension of Evidence.com Services.** Axon may suspend Agency access or any end user's right to access or use any portion or all of the Evidence.com Services immediately upon notice, in accordance with the following:
- 8.1.** The Termination provisions of the Cooperative Purchasing Contract apply;
 - 8.2.** The Agency or an end user's use of or registration for the Evidence.com Services (i) poses a security risk to the Evidence.com Services or any third party, (ii) may adversely impact the Evidence.com Services or the systems or content of any other customer, (iii) may subject Axon, Axon's affiliates, or any third party to liability, or (iv) may be fraudulent;
 - 8.3.** If Axon suspends the right to access or use any portion or all of the Evidence.com Services and such access or use is reinstated, the Agency remains responsible for all fees and charges incurred through the date of suspension without any credits for any period of suspension. Axon will not delete any of Agency Content on Evidence.com as a result of a suspension, except as specified elsewhere in this Contract.
- 9** **Software Services Warranty.** Axon warrants that the Evidence.com Services will not infringe or misappropriate any patent, copyright, trademark, or trade secret rights of any third party. Axon disclaims any warranties or responsibility for data corruption or errors before the data is uploaded to the Evidence.com Services.
- 10** **License Restrictions.** Neither the Agency nor any Agency end users (including, without limitation, employees, contractors, agents, officers, volunteers, and directors), may, or may attempt to: (a) permit any third party to access the Evidence.com Services, except as permitted in this Contract; (b) modify, alter, tamper with, repair, or otherwise create derivative works of any of the Evidence.com Services; (c) reverse engineer, disassemble, or decompile the Evidence.com Services or apply any other process or procedure to derive the source code of any software included in the Evidence.com Services, or allow any others to do the same; (d) access or use the Evidence.com Services with the intent to gain unauthorized access, avoid incurring fees or exceeding usage limits or quotas; (e) copy the Evidence.com Services in whole or part, except as expressly permitted in this Contract; (f) use trade secret information contained in the Evidence.com Services, except as expressly permitted in this Contract; (g) resell, rent, loan, or sublicense the Evidence.com Services; (h) access the Evidence.com Services in order to build a competitive product or service or copy any features, functions, or graphics of the Evidence.com Services; (i) remove, alter, or obscure any confidentiality or proprietary rights notices (including copyright and trademark notices) of Axon's or Axon's licensors on or within the Evidence.com Services or any copies of the Evidence.com Services; or (j) use the Evidence.com Services to store or transmit infringing, libelous, or otherwise unlawful or tortious material, to store or transmit material in violation of third party privacy rights, or to store or transmit malicious code. All licenses granted in this Contract are conditional on continued compliance with this Contract, and will immediately and automatically terminate if the Agency does not comply with any term or condition of this Contract. The Agency may only use Axon's trademarks in accordance with the Axon Trademark Use Guidelines (located at www.axon.com).
- 11** **After Termination.** Axon will not delete any Agency Content as a result of a termination during a period of 90 days following termination. During this 90-day period the Agency may retrieve

Agency Content only if all amounts due have been paid (there will be no application functionality of the Evidence.com Services during this 90-day period other than the ability to retrieve Agency Content). The Agency will not incur any additional fees if Agency Content is downloaded from Evidence.com during this 90-day period. Axon has no obligation to maintain or provide any Agency Content after this 90-day period and will thereafter, unless legally prohibited delete all of Agency Content stored in the Evidence.com Services. Such destruction of data shall be in compliance with all applicable law, including but not limited to A.R.S. § _____. Upon request, Axon will provide written proof that all Agency Content has been successfully deleted and fully removed from the Evidence.com Services.

- 12** **Post-Termination Assistance.** Axon will provide Agency with the same post-termination data retrieval assistance that Axon generally makes available to all customers. Requests for Axon to provide additional assistance in downloading or transferring Agency Content, including requests for Axon's Data Egress Services, will result in additional fees and Axon will not warrant or guarantee data integrity or readability in the external system.

Professional Services Appendix

- 1 **Professional Services Term.** Amounts pre-paid for professional services as outlined in the Quote and the Professional Service Appendix must be used within 6 months of the Effective Date.
- 2 **Body Worn Camera 1-Day Service (BWC 1-Day).** The BWC 1-Day Package includes one day of on-site services and a professional services manager who will work closely with the Agency to assess the Agency's deployment scope and determine which services are appropriate. If more than one (1) day of on-site services is needed, additional on-site assistance is available for \$2,500 per day. The BWC 1-Day Package options include:

<p>System set up and configuration (Remote Support)</p> <ul style="list-style-type: none"> • Setup Axon Mobile on smart phones (if applicable) • Configure categories & custom roles based on Agency need • Troubleshoot IT issues with Evidence.com and Evidence.com Dock (Dock) access • Work with IT to install Evidence Sync software on Agency computers (if applicable)
<p>Dock configuration</p> <ul style="list-style-type: none"> • Work with Agency to decide ideal location of Dock setup and set configurations on Dock if necessary • Authenticate Dock with Evidence.com using "Administrator" credentials from Agency • Does not include physical mounting of docks
<p>Axon instructor training (Train the Trainer)</p> <p>Training for Agency's in-house instructors who can support the Agency's Axon camera and Evidence.com training needs after Axon's Professional Service team has fulfilled its contracted on-site obligations</p>
<p>End user go live training and support sessions</p> <ul style="list-style-type: none"> • Assistance with device set up and configuration • Training on device use, Evidence.com and Evidence Sync
<p>Implementation document packet</p> <p>Evidence.com administrator guides, camera implementation guides, network setup guide, sample policies, and categories & roles guide</p>

- 3 **Out of Scope Services.** Axon is responsible to perform only the Services described on the Quote and in this Appendix. Any additional services will be considered out of the scope.
- 4 **Delivery of Services.**
 - 4.1. **Hours and Travel.** Axon personnel will work within normal business hours, Monday through Friday, 8:30 a.m. to 5:30 p.m., except holidays, unless otherwise agreed in advance. All tasks on-site will be performed over a consecutive timeframe, unless otherwise agreed to by the Parties in advance. Travel time by Axon personnel to Agency premises will not be charged as work hours performed.
 - 4.2. **Changes to Services.** Changes to the scope of Services must be documented and agreed upon by the Parties in a change order. Changes may require an equitable adjustment in the charges or schedule.
- 5 **Authorization to Access Computer Systems to Perform Services.** The Agency authorizes Axon to access relevant Agency computers and network systems, solely for performing the Professional Services. Axon will work diligently to identify as soon as reasonably practicable the resources and information Axon expects to use, and will provide an initial itemized list to the Agency. The Agency is responsible for, and assumes the risk of any problems, delays, losses, claims, or expenses resulting from the content, accuracy, completeness, and consistency of all data, materials, and information

supplied by the Agency.

- 6 Site Preparation and Installation.** Prior to delivering any Services, Axon will provide 1 copy of the then-current user documentation for the Services and related Products in paper or electronic form (**Product User Documentation**). The Product User Documentation will include all environmental specifications that must be met in order for the Services and related Products to operate in accordance with the Product User Documentation. Prior to the installation of Product (whether performed by the Agency or Axon), the Agency must prepare the location(s) where the Products are to be installed (**Installation Site**) in accordance with the environmental specifications set forth in the Product User Documentation. Following the installation of the Products, the Agency must maintain the Installation Site where the Products have been installed in accordance with the environmental specifications set forth in the Product User Documentation. In the event that there are any updates or modifications to the Product User Documentation for any Products provided by Axon under this Contract, including the environmental specifications for the Products, Axon will provide the updates or modifications to Agency when they are generally released by Axon to Axon customers.
- 7 Acceptance Checklist.** Axon will present an Acceptance Form (**Acceptance Form**) upon completion of the Services. The Agency will sign the Acceptance Form acknowledging completion of the Services once the on-site service session has been completed. If the Agency reasonably believes that Axon did not complete the Services in substantial conformance with this Contract, the Agency must notify Axon in writing of the specific reasons for rejection of the Services within 7 calendar days from delivery of the Checklist. Axon will address the issues and then will re-present the Acceptance Form for approval and signature. If Axon does not receive the signed Acceptance Form or a written notification of the reasons for the rejection of the performance of the Services within 7 calendar days of delivery of the Acceptance Form, the absence of the Agency response will constitute affirmative acceptance of the Services, and a waiver of any right of rejection.
- 8 Liability for Loss or Corruption of Data.** For any work performed by Axon transiting or making use of Agency's network, maintenance and functionality of the network are the sole responsibility of the Agency. Axon shall not be liable for loss, damage, or corruption of Agency's network infrastructure except in the case of gross negligence or willful misconduct by Axon, its employees, subcontracts, and agent.

Technology Assurance Plan Appendix

The Technology Assurance Plan ("TAP") is an optional plan the Agency may purchase. If TAP is included on the Quote, this TAP Appendix applies. TAP may be purchased as a standalone plan. TAP for Axon body worn cameras is also included as part of the Unlimited Evidence.com License, as well as under the Officer Safety Plan. TAP provides hardware extended warranty coverage, Spare Products, and a hardware refresh. TAP only applies to the Axon hardware Products listed in the Quote.

- 1** **TAP Warranty Coverage.** TAP includes the extended warranty coverage described in the current hardware warranty. TAP warranty coverage starts at the end of the Hardware Limited Warranty term and continues as long as the Agency continues to pay the required annual fees for TAP. TAP for Axon body worn cameras also includes free replacement of the Axon Flex controller battery and Axon Body battery during the TAP Term for any failure that is not specifically excluded from the Hardware Warranty.
- 2** **TAP Term.** The TAP Term start date is based upon the shipment date of the hardware covered under TAP. If the shipment of the hardware occurred in the first half of the month, then the Term starts on the 1st of the following month. If the shipment of the hardware occurred in the second half of the month, then the Term starts on the 15th of the following month.
- 3** **SPARE Product.** Axon will provide a predetermined number of spare Products for those hardware items and accessories listed in the Quote (**Spare Products**) to keep at the Agency location to replace broken or non-functioning units in order to improve the availability of the units to officers in the field. The Agency must return to Axon, through Axon's Return Merchandise Authorization (**RMA**) process, any broken or non-functioning units for which a Spare Product is utilized, and Axon will repair the non-functioning unit or replace with a replacement Product. Axon will repair or replace the unit that fails to function for any reason not excluded by the TAP warranty coverage, during the TAP Term with the same Product or a like Product, at Axon's sole option.
- 4** **TAP Upgrade Models.** Any Products replaced within 6 months prior to the scheduled upgrade will be deemed the upgrade. Within 30 days of receiving an upgrade, the Agency must return the original Products to Axon or destroy the Products locally and provide a certificate of destruction to Axon that includes the serial numbers for the destroyed Products. If the Agency does not return the Products to Axon or destroy the Products, Axon will deactivate the serial numbers for the Products received by the Agency.
- 5** **TAP for Axon Body Worn Cameras.** If the Agency purchases 3 years of Evidence.com Unlimited Licenses or TAP as a stand-alone service and makes all payments, Axon will provide the Agency with a new Axon body worn camera (**Body Worn Upgrade Model**) 3 years after the TAP Term begins. If the Agency purchases 5 years of Evidence.com Unlimited Licenses, OSP, or TAP as a stand-alone service and makes all payments, Axon will provide the Agency with a Body Worn Upgrade Model 2.5 years after the TAP Term begins and once again 5 years after the TAP Term begins.
 - 5.1.** **TAP as a stand-alone.** If the Agency purchased TAP for Axon cameras as a stand-alone service, then Axon will upgrade the Axon camera (and controller if applicable), free of charge, with a new on-officer video camera that is the same Product or a like Product, at Axon's sole option. Axon makes no guarantee that the Body Worn Upgrade Model will utilize the same accessories or Dock. If the Agency would like to change product models for the Body Worn Upgrade Model, then the Agency must pay the price difference in effect at the time of the upgrade between the MSRP for the offered Body Worn Upgrade Model and the MSRP for the model that will be acquired. No refund will be provided if the MSRP

of the new model is less than the MSRP of the offered Body Worn Upgrade Model.

5.2. OSP or Unlimited TAP. If the Agency purchased an Unlimited License or OSP, then Axon will upgrade the Axon camera (and controller if applicable), free of charge, with a new on-officer video camera of the Agency's choice.

6 TAP Dock Upgrade Models. If the Agency purchased TAP for the Axon Docks, or if the Agency purchased OSP, Axon will upgrade the Dock free of charge, with a new Dock with the same number of bays that is the same product or a like product, at Axon's sole option (**Dock Upgrade Model**). If the Agency purchased 3 years of Dock TAP, Axon will provide the Dock Upgrade Model 3 years after the TAP term begins. If the Agency purchased 5 years of Dock TAP, Axon will provide the Dock Upgrade Model 2.5 years after the TAP Term begins and once again 5 years after the TAP Term begins. If the Agency would like to change product models for the Dock Upgrade Model or add additional bays, then the Agency must pay the price difference in effect at the time of the upgrade between the MSRP for the offered Dock Upgrade Model and the MSRP for the model desired. No refund will be provided if the MSRP of the new model is less than the MSRP of the offered Dock Upgrade Model.

7 TAP Termination. If an invoice for TAP is more than 30 days past due or the Agency defaults on its payments for the Evidence.com Services, then Axon may terminate TAP and all outstanding Product related TAPs. Axon will provide notification that TAP coverage is terminated. Once TAP coverage is terminated for any reason, then:

7.1. TAP coverage will terminate as of the date of termination and no refunds will be given.

7.2. Axon will not and has no obligation to provide the free upgrades.

7.3. The Agency will be invoiced for and are obligated to pay to Axon the MSRP then in effect for all Spare Products provided under TAP. If the Spare Products are returned within 30 days of the Spare Product invoice date, credit will be issued and applied against the Spare Product invoice.

7.4. The Agency will be responsible for payment of any missed payments due to the termination before being allowed to purchase any future TAP.