State of Maine

Master Agreement

Effective Date: 04/02/19   **Expiration Date:** 06/30/20

Master Agreement Description: Handheld Fingerprint Scanners

Buyer Information

Justin Franzose   207-624-7337 **ext.**   justin.franzose@maine.gov

Issuer Information

JAYE PARKER   207-626-3831 **ext.**   jaye-ellen.parker@maine.gov

Requestor Information

Matthew Ruel   207-624-7241 **ext.**   matthew.r.ruel@maine.gov

Authorized Departments

16A   PUBLIC SAFETY

Vendor Information

Vendor Line #: 1

Vendor ID   **Vendor Name**
VC0000202501   IDEMIA IDENTITY & SECURITY USA LLC

                                   Alias/DBA

Vendor Address Information

5515 E LA PALMA AVE SUITE 100

ANAHEIM, CA 92807

US

Vendor Contact Information

MICHAEL LESTER

877-512-6962 **ext.**

BILLINGACCOUNTS@MORPHOTRUST.COM

Commodity Information

Vendor Line #: 1

Vendor Name: IDEMIA IDENTITY & SECURITY USA LLC

Commodity Line #: 1

Commodity Code: 68000

Commodity Description: Handheld Fingerprint Scanners

Commodity Specifications:
Commodity Extended Description: Subject to quote IDME-M030419-01

Quantity	**UOM**	**Unit Price**
0.00000		$0.00

Delivery Days   **Free on Board**

Contract Amount	**Service Start Date**	**Service End Date**
$0.00	04/02/19	06/30/20

Catalog Name   **Discount**
                                   0.0000   **%**

Discount Start Date   **Discount End Date**

5515 East La Palma Avenue
Suite 100
Anaheim, CA 92807

March 13, 2019

Mr. Matt Ruel
Director
Maine State Police
42 State House Station
Commerce Drive
Augusta, ME, 04333
Tel: (207) 624-7241
Email: Matthew.R.Ruel@maine.gov

Reference No. IDME-M030419-01

Dear Mr. Ruel:

IDEMIA is pleased to provide Maine State Police with the following proposal for IDEMIA's cutting-edge-technology product, MorphoIDent™.

MorphoIDent promotes officer safety with its ease of use and overall intuitiveness, and minimizes training requirements. The MorphoIDent Device ("MorphoIDent") provides excellent visibility – even in direct sunlight – with its large 2-inch LCD screen.

The MorphoIDent captures an individual's fingerprints and submits a data packet to the MorphoMobile Software on the Maine State Police workstation via the Bluetooth/USB connection.

The MorphoMobile Software generates a accepted standard Maine State Police / Tri-State AFIS profiles for submission directly to the Tri-State (Maine, New Hampshire, Vermont) AFIS System - compliant ANSI/NIST file and submits the search request to the Tri-State AFIS system for identification. Results are returned to the MorphoMobile application screen and to the MorphoIDent for notification and positive identification, if available.

Solution Description and Pricing

IDEMIA proposes the equipment and services described in Table 1.

MorphoIDent

Table 1. Solution Pricing

Description	Qty	Unit Price
MorphoIDent Solution [MI01-000005-02] including: ◆ MorphoIDent Device ◆ MorphoMobile Windows Software Application ◆ USB 2.0 Data Cable ◆ MorphoIDent Quick Start Guide	**1-500**	$1,700
Black Polymer Device Sleeve [MI00-0EBW0B-C]	**1-500**	$45
Warranty: 1 Year *Advantage* warranty Freight	**Included**	Included
Sub-total		$1,745
Less Strategic discount		($895)
Total		$850
Optional Maintenance		
Maintenance: 1 Year *Advantage* Maintenance		$175

IDEMIA is offering a pre-negotiated per unit price with the Maine State Police of $850 to all agencies in the State of Maine.

This quotation is valid for all government agencies operating in the State of Maine and will remain valid through June 30, 2020, after which availability and / or prices are subject to change

Options and Pricing

IDEMIA equipment options and pricing are described in Table 2.

Table 2. Options Pricing

Description		Unit Price
SMID-ENTBT0-0	Bluetooth 2.1 USB Micro Adapter	$25
MI00-0EBW0B-D	Battery 5 Pack Replacement	$160

Standard shipping is 30 days after receipt of order, or as otherwise scheduled.

IDEMIA will include documentation and /or support to facilitate the Maine State Police's installation of the MorphoMobile Software on the Maine State Police-provided workstation.

Advantage Solution Support   Table 3

The following table provides a summary of the maintenance services and support available during warranty and following warranty expiration. Initial warranty period is one (1) year from the date of delivery.

Support Features	Warranty	Post Warranty
Telephone Technical Support	**Included in Warranty**	**Available for purchase**
Parts Support	**Included in Warranty**	**Available for purchase**
Advanced Exchange Parts Replacement	√	√
Telephone Technical Support for Parts Replacement	√	√

Customer Responsibilities

Maine State Police / End-user Agency is responsible for the following:

- End-user training
- Ensuring the required inter-agency agreements are in place between itself and Tri-State, local, state and government AFIS
- Ensuring Maine State Police / End-user Agency-provided workstations support at minimum Bluetooth 2.0 or USB 2.0. If USB 2.0, at least one (1) available port is required.
- Ensuring Maine State Police / End-user Agency workstations are able to connect to the Tri-State network
- Ensuring that the Wireless Wide Area Network (WWAN) will support either HTTP/HTTPS or SMTP/S-MIME data protocols to exchange data between MorphoMobile and the Tri-State AFIS
- Executing a Memo of Understanding (MOU) with Tri-State for access to the Tri-State AFIS and FBI RISC for the purpose of mobile search requests.
- Installing MorphoMobile Application Software on each Maine State Police / End-user Agency workstation or smart phone
- Pairing each MorphoIDent with each Maine State Police / End-user Agency- provided workstation via Bluetooth or USB
- Provide the necessary network connectivity between the Maine State Police / End-user Agency LAN and incoming WAN transactions including requisite backend connectivity
- Testing the MorphoIDent and MorphoMobile Software as per the Quick Start Guide
- Battery replacement is handled as a consumable and is outside the scope of warranty and annual maintenance coverage

Assumptions

IDEMIA has designed the MorphoIDent products to eliminate recurring cellular costs by integrating into an existing secure wireless wide area network (WWAN). As such, the pricing does not include network/data provisioning or maintenance and the proposed solution assumes the following:

- The wireless wide area network (WWAN) will support a minimum data throughput of 56 kbit/s with 115 kbit/s or faster recommended. The WWAN should be cellular or Wi-Fi.
- The MorphoMobile Software can be installed on the Maine State Police workstation.
- The mugshot images that will be available with the "hit" respondent data will come from the Tri-State AFIS.

System Requirements – IDEMIA confirms the following system requirements: **Table 4**

Minimum System Requirement	
MorphoMobile on a workstation	- Windows 10 SP1 operating systems, with all security patches installed. - Support for Bluetooth 2.0 or later.

IDEMIA will provide documentation and /or support is to facilitate the Maine State Police / End-user Agency installation of the MorphoMobile Application on the Maine State Police / End-user Agency-provided workstation.

IDEMIA offers Professional Services for deployment. Should Maine State Police / End-user Agency desire for IDEMIA to provide the deployment of the MorphoIDent, IDEMIA can price those options separately on an as requested basis.

Available IDEMIA Professional Services The below services can be custom quoted. **Table 5**

- Program Management
- Installation and Test (IAT)
- Network connectivity design, review, troubleshooting
- Software installation, test, and troubleshooting on a sample set or full deployment set on-site or in the field
- Train-the-Trainer user training sessions
- On-site full staff user training
- On-site integration services

Additional engineering effort by IDEMIA beyond the scope of the standard product will be quoted at a firm fixed price based on our current service rates in effect at the time of the change, plus any related travel or administrative expenses. Assistance with training and questions for the Maine State Police / End-user Agency's database or any programming, scripting, or review of programs beyond work quoted above are excluded from this offer.

IDEMIA reserves the right to substitute hardware of equal value with equal or better capability, based upon market availability. If, however such equipment is unavailable, IDEMIA will makes its best effort to provide a suitable replacement.

Prices are exclusive of any and all state, or local taxes, or other fees or levies. Customer payments are due to IDEMIA within 20 days after the date of the invoice.

Product purchase will be governed by the IDEMIA Agreement, a copy of which is attached for your convenience. Firm delivery schedules will be provided upon receipt of a purchase order. No subsequent purchase order can override such terms. Nothing additional shall be binding upon IDEMIA unless a subsequent agreement is signed by both parties.

Proposal Expiration: June 30, 2020

Purchase orders should be sent to IDEMIA by electronic mail, facsimile or U.S. mail. Please direct all questions and order inquiries and correspondence, including Purchase Order, to:

> **Jayne Goodall**
> **IDEMIA**
> **5515 East La Palma Avenue, Suite 100**
> **Anaheim, CA 92807**
> **Email: jayne.goodall@idemia.com | Tel: (714) 575-2956**

We look forward to working with you.

Sincerely,

Michael Kato
Vice President of Public Security, State & Local Government - IDEMIA

By signing this signature block below, **Maine State Police** agrees to the terms and pricing stated in this proposal for the product and services as referenced above. My signature below constitutes the acceptance of this order and authorizes IDEMIA, LLC to ship and provide these product and services:

Signature Authorization for Order:

Signature	_____
Name	_____
Date	_____

Total Purchase Price (including any Options): $ _____

Please provide Billing Address:

_____

_____

_____

_____

Check if Billing Address is same as Shipping Address: ☐

Please provide Shipping Address (if different from Billing Address):

_____

_____

_____

_____

PLEASE PROVIDE A COPY OF YOUR CURRENT TAX EXEMPTION CERTIFICATE (if applicable).

MorphoIDent

Detailed Product Description

MorphoIDent is IDEMIA's line of cutting-edge mobile identification technology; the latest in handheld mobile identification devices for law enforcement use. This terminal is designed specifically for public safety officers, enabling real-time identification based on IDEMIA's world class fingerprint recognition technology. Compact, accurate and easy to use, MorphoIDent has been designed by people who know what it is like to work in the field.

Modern design - MorphoIDent benefits from state-of-the-art technology and a look and feel that maximizes user acceptance.

FBI certified optical PIV sensor, including real-time automated quality check, local 1:n onboard matching capability built-in

Large Color Screen, clearly visible outdoors

6 Function Keypad

Mini-USB Connection

Optimal ease of use in the field - MorphoIDent offers an intuitive user interface and a large color screen that is clearly visible outdoors. In addition, MorphoIDent is so compact it fits in a shirt pocket.

Extreme accuracy - Field-proven IDEMIA biometrics technology is packed into the most widely used optical fingerprint sensor on the market.

Fully certified – PIV, FBI, EC, and FCC certified – ready to use.

Pictograms and positive feedback - MorphoIDent provides easy to understand pictograms and vibration feedback when a quality fingerprint is captured and again when a hit/no-hit message is received.

Features

The new MorphoIDent mobile devices provide on-the-spot identity checks in real-time. The biometric and demographic data captured by the MorphoIDent device are transferred via Bluetooth™ or USB to a PC, workstation, smart-phone, or PDA running the MorphoMobile application. This application provides a secure connection to the AFIS, in addition to configuration and device management.

Battery Status and Bluetooth™ Connection Status Indicators

Live print image display and accurately captured indicators. Match candidate portrait display

Virtual keypad (visualization of key actions)

MorphoIDent and MorphoMobile Features

MorphoIDent Features
◆ Handheld device:
◆ Multiple finger acquisition
◆ Multiple case acquisition (up to 15 cases)
◆ Data transfer to host (MorphoMobile) via Bluetooth/USB
◆ Acquisition and results interface
◆ IDEMIA optical fingerprint sensor (CBM-E). Deployed in thousands of access control installations.
◆ Cradle design around the FBI certified optical sensor
◆ Integrated Design with Fingerprint Sensor
◆ Sleek design, glossy finish
◆ Compact (fits in a pocket)
◆ Large 2.4'' VGA color screen
◆ Clearly visible outdoors
◆ User friendly
◆ Multi-case management
◆ Vibration alert (capture and identification result)
◆ Intuitive end-user actions
◆ Pictograms
◆ Six (6) function keys
◆ Data transfer to host via :
◆ Bluetooth 2.0
◆ USB 2.0
◆ Use of existing infrastructure for AFIS interface
◆ No additional wireless recurring cost for the customer
◆ MorphoIDent eliminates the need to add a separate wireless account for each mobile device
◆ LiveFeed of fingerprint
◆ Mugshot and name returned in search results, if available

MorphoMobile Host Application Features
◆ MorphoIDent configuration and management ◆ Standard NIST file generation and management ◆ Remote identification on central AFIS database ◆ HTTP/HTTPS, SMTP/SMTPS Interface with AFIS Server ◆ Match candidate portrait and demographic information display ◆ Receive fingerprints from terminal (MorphoIDent) ◆ Create search requests with fingerprints to AFIS

System Diagram

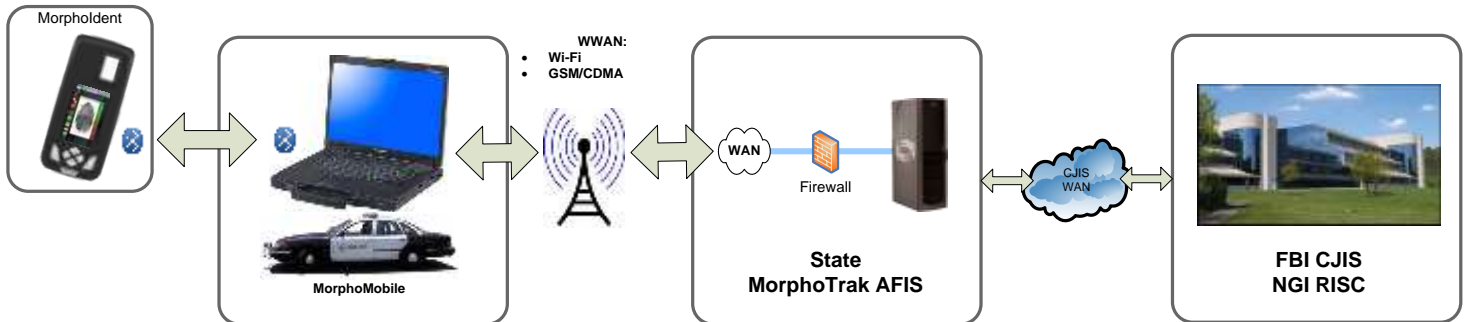The proposed MorphoIDent system configuration is illustrated below.

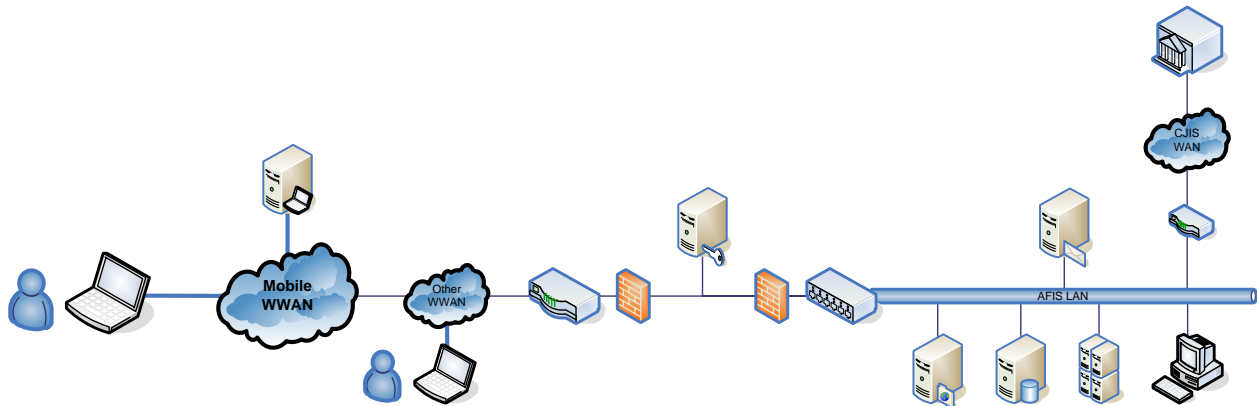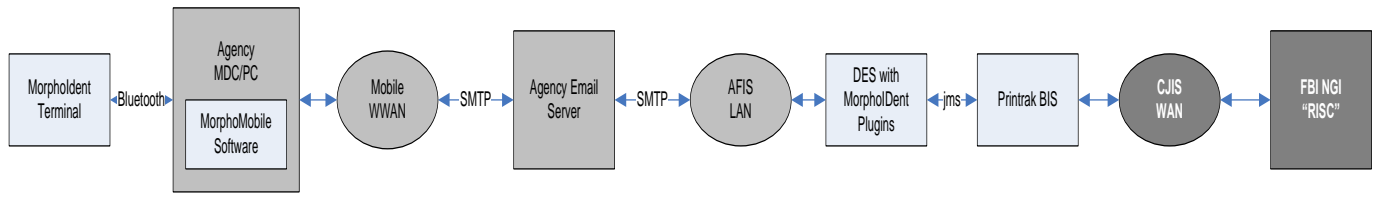**Figure 1: Maine State Police MorphoIDent Configuration**

MorphoIDent Workflow

Figure 2a and 2b: Maine State Police MorphoIDent Configuration

Idemia Identity & Security USA LLC
Biometrics Products and System Sales Agreement
Idemia Identity & Security USA LLC, ("IDEMIA" or "Seller") having a place of business at 5515 East La Palma Avenue, Suite 100, Anaheim CA 92807 and _____

_____, ("Customer"), having a place of business at _____

_____, enter into this Biometrics Products and System Sales Agreement ("Agreement"), pursuant to which Customer will purchase and Seller will sell the System or Products, as described below. Seller and Customer may be referred to individually as "party" and collectively as "parties." For good and valuable consideration, the parties agree as follows:

SECTION 1. EXHIBITS

The Exhibits listed below are incorporated into and made a part of this Agreement. In interpreting this Agreement and resolving any ambiguities, the main body of this Agreement will take precedence over the Exhibits and any inconsistency between Exhibits A through E will be resolved in the order in which they are listed.

Exhibit A - IDEMIA "Software License Agreement"
Exhibit B - "Payment Schedule"

SECTION 2. DEFINITIONS

Capitalized terms used in this Agreement shall have the following meanings:

2.1   "Acceptance Tests" means those tests described in the Acceptance Test Plan.

"Beneficial Use" means when Customer first uses the System or a Subsystem for operational purposes (excluding training or testing).

2.2   "Contract Price" means the price for the System or Products, exclusive of any applicable sales or similar taxes and freight charges.

2.3   "Effective Date" means that date upon which the last party to sign this Agreement has executed it.

2.4   "Equipment" means the equipment listed in the List of Deliverables or List of Products that Customer is purchasing from Seller under this Agreement.

2.5   "Infringement Claim" means a third party claim alleging that the Equipment manufactured by IDEMIA or the IDEMIA Software infringes upon the third party's United States patent or copyright.

2.6   "IDEMIA" means IDEMIA Identity & Security USA LLC, a Delaware limited liability company.

2.7   "IDEMIA Software" means Software that IDEMIA or Seller owns.

2.8   "Non-IDEMIA Software" means Software that a party other than IDEMIA or Seller owns.

2.9   "Open Source Software" means software that has its underlying source code freely available to evaluate, copy, and modify. Open Source Software and the terms "freeware" or "shareware" are sometimes used interchangeably.

2.11   "Products" means the Equipment and Software provided by Seller under this Agreement.

2.12   "Proprietary Rights" means the patents, patent applications, inventions, copyrights, trade secrets, trademarks, trade names, mask works, know-how, and other intellectual property rights in and to the Equipment and Software, including those created or produced by IDEMIA or Seller under this Agreement and any corrections, bug fixes, enhancements, updates or modifications to or derivative works from the Software whether made by IDEMIA or another party.

2.13   "Software" means the IDEMIA Software and Non-IDEMIA Software in object code format that is furnished with the System or Equipment and which may be listed on the List of Deliverables or List of Products.

2.14   "Specifications" means the functionality and performance requirements described in the Technical and Implementation Documents.

2.15   "Subsystem" means a major portion of the entire System that performs specific functions or operations as described in the Technical and Implementation Documents.

2.16   "System" means the Equipment, Software, services, supplies, and incidental hardware and materials combined together into a system as more fully described in the Technical and Implementation Documents.

2.17   "System Acceptance" means the Acceptance Tests have been successfully completed.

SECTION 3. SCOPE OF AGREEMENT AND TERM

3.1.   SCOPE OF WORK. For System sales, Seller will provide, ship, install and test the System, and perform its other contractual responsibilities, all in accordance with this Agreement. Customer will perform its contractual responsibilities in accordance with this Agreement. For Product sales, Seller will provide, ship, and install (if applicable) the Products, and perform its other contractual responsibilities, all in accordance with this Agreement. Customer will perform its contractual responsibilities in accordance with this Agreement.

3.2.   CHANGE ORDERS. Either party may request changes within the general scope of this Agreement. If a requested change causes an increase or decrease in the cost or time required to perform this Agreement, Seller and Customer will agree to an equitable adjustment of the Contract Price, Performance Schedule, or both, and will reflect such adjustment in a change order. Neither party is obligated to perform requested changes unless both parties execute a written change order.

3.3.   TERM. For System sales: Unless otherwise terminated in accordance with the provisions of this Agreement or extended by mutual agreement of the parties, the term of this Agreement shall begin on the Effective Date and shall continue until the date of System Acceptance or expiration of the warranty period as set forth in Section 9, whichever occurs last. For Product sales: Unless otherwise terminated in accordance with the provisions of this Agreement or extended by mutual agreement of the parties, the term of this Agreement shall begin on the Effective Date and shall continue until the expiration of the warranty period or three (3) years from the Effective Date, whichever occurs last.

3.4.   ADDITIONAL   EQUIPMENT,   SOFTWARE,   OR SERVICES. For three (3) years after the Effective Date of this Agreement, Customer may order additional Equipment, Software, or services provided they are then available. Each order must refer to this Agreement and must specify the pricing and delivery terms. Notwithstanding any additional or contrary terms in the order, the applicable provisions of this Agreement (except for pricing, delivery, passage of title and risk of loss to Equipment, warranty commencement, and payment terms) will govern the purchase and sale of the additional Equipment, Software, or services. Title and risk of loss to additional Equipment will pass at shipment; warranty will commence upon delivery; and payment is due within twenty (20) days after the invoice date. Seller will send Customer an invoice as the additional Equipment is shipped, Software is licensed, or services are performed.

3.5.   MAINTENANCE SERVICE.
3.5.1.   System Sales   After the warranty period, Customer may purchase maintenance and support services for the Equipment and IDEMIA Software by executing the Maintenance and Support Agreement.

3.5.2.   Product Sales   This Agreement does not cover maintenance or support of the Products except as provided under the warranty. If Customer wishes to purchase maintenance or support, Seller will provide a separate maintenance and support proposal upon request.

3.6.   IDEMIA SOFTWARE. Any IDEMIA Software, including subsequent releases, is licensed to Customer solely in accordance with the Software License Agreement. Customer hereby accepts and agrees to abide by all of the terms and restrictions of the Software License Agreement.

3.7.   NON-IDEMIA SOFTWARE. Any Non-IDEMIA Software is licensed to Customer in accordance with the standard license, terms, and restrictions of the copyright owner on the Effective Date unless the copyright owner has granted to IDEMIA the right to sublicense the Non-IDEMIA Software pursuant to the Software License Agreement, in which case it applies and the copyright owner will have all of Licensor's rights and protections under the Software License Agreement. IDEMIA makes no representations or warranties of any kind regarding Non-IDEMIA Software. Non-IDEMIA Software may include Open Source Software. All Open Source Software is licensed to Customer in accordance with, and Customer agrees to abide by, the provisions of the standard license of the copyright owner and not the Software License Agreement. Upon request by Customer, IDEMIA will use commercially reasonable efforts to (i) determine whether any Open Source Software will be provided under this Agreement; and if so, (ii) identify the Open Source Software and provide to Customer a copy of the applicable standard license (or specify where such license may be found); and (iii) provide to Customer a copy of the Open Source Software source code if it is publicly available without charge (although a distribution fee or a charge for related services may be applicable).

3.8.   SUBSTITUTIONS. At no additional cost to Customer, Seller reserves the right to substitute any Equipment, Software, or

services to be provided by Seller, provided that the substitute meets or exceeds the Specifications and is of equivalent or better quality to the Customer. Any such substitution will be reflected in a change order.

3.9.   OPTIONAL EQUIPMENT OR SOFTWARE. This paragraph applies only if a "Priced Options" exhibit is shown in Section 1 of this Agreement, or if the Parties amend this Agreement to add a Priced Options exhibit. During the term of the option as stated in the Priced Options exhibit (or if no term is stated, then for one (1) year after the Effective Date), Customer shall have the right and option to purchase the equipment, software, and related services that are described and listed in the Priced Options exhibit. Customer may exercise this option by giving written notice to Seller which must designate what equipment, software, and related services Customer is selecting (including quantities, if applicable). To the extent they apply, the terms and conditions of this Agreement will govern the purchase of the selected equipment, software, and related services. However, the parties acknowledge that certain contractual provisions must be agreed upon, and they agree to negotiate those in good faith promptly after Customer delivers to Seller the option exercise notice. Examples of provisions that may need to be negotiated are: specific lists of deliverables, statements of work, acceptance test plans, delivery and implementation schedules, payment terms, maintenance and support provisions, additions to or modifications of the Software License Agreement, hosting terms, and modifications to the acceptance and warranty provisions.

SECTION 4. PERFORMANCE SCHEDULE

Seller and Customer agree that they will perform their respective responsibilities substantially in accordance with the Performance Schedule. By executing this Agreement, Customer authorizes Seller to proceed with performance of this Agreement.

SECTION 5. CONTRACT PRICE, PAYMENT, AND INVOICING

5.1.   CONTRACT PRICE. The Contract Price in U.S. dollars is SPELL OUT PRICE ($_), or if applicable, the Contract Price is as stated in the Payment Schedule. A pricing summary may be included with the Payment Schedule. If there is a reduction in the services, Software, and/or Equipment quantities, it may affect the overall Contract Price, including discounts if applicable.

5.2.   INVOICING AND PAYMENT. Seller will submit invoices to Customer according to the Payment Schedule. Except for a payment that is due on the Effective Date, Customer will make payments to Seller within twenty (20) days after the date of each invoice. Customer will make payments when due in the form of a wire transfer, check, or cashier's check from a U.S. financial institution. Overdue invoices will bear simple interest at the rate of ten percent (10%) per annum, unless such rate exceeds the maximum allowed by law, in which case it will be reduced to the maximum allowable rate. For Customer's reference, the Federal Tax Identification Number for IDEMIA Identity & Security USA LLC is 04-3320515.

5.3   FREIGHT, TITLE, AND RISK OF LOSS. Unless otherwise stipulated with the Buyer when an Order is accepted, the Equipment will be delivered by Seller "FCA (Free Carrier), with named place being the Seller's premises where the Goods are being dispatched, (Incoterms 2010). Title to the Equipment will pass to Customer upon payment in full of the Contract Price as outlined in Section 5.1 above, except that title to Software will not pass to Customer at any time. Risk of loss will pass to Customer upon delivery of the Equipment to the Customer at the agreed named place of delivery in accordance with the Incoterm in the contract. Seller will pack and ship all Equipment in accordance with good commercial practices.

5.4   INVOICING AND SHIPPING ADDRESSES. Invoices will be sent to the Customer at the following address:

_____

The city which is the ultimate destination where the Equipment will be delivered to Customer is: _____

The Equipment will be shipped to the Customer at the following address (insert if this information is known):

_____

Customer may change this information by giving written notice to IDEMIA.

SECTION 6. SITES AND SITE CONDITIONS

6.1.   ACCESS TO SITES. In addition to its responsibilities described elsewhere in this Agreement, Customer will provide (i) a designated project manager; (ii) all necessary construction and building permits, zoning variances, licenses, and any other approvals that are necessary to develop or use the sites; and (iii) access to the work sites identified in the Technical and Implementation Documents as reasonably requested by Seller so that it may perform its duties in accordance with the Performance Schedule and Statement of Work.

6.2.   SITE CONDITIONS. Customer will ensure that all work sites it provides will be safe, secure, and in compliance with all applicable industry and OSHA standards. To the extent applicable and unless the Statement of Work specifically states to the contrary, Customer will ensure that these work sites will have (i) adequate physical space for the installation, use and maintenance of the System; (ii) adequate air conditioning and other environmental conditions; (iii) adequate electrical power outlets, distribution and equipment for the installation, use and maintenance of the System; and (iv) adequate telephone or other communication lines for the installation, use and maintenance of the System, including modem access, and adequate interfacing networking capabilities. Before installing the Equipment or Software at a work site, Seller will inspect the work site and advise Customer of any apparent deficiencies or non-conformities with the requirements of this Section.

6.3.   SITE ISSUES. If Seller or Customer determines that the sites identified in the Technical and Implementation Documents are no longer available or desired, or if subsurface, structural, adverse environmental or latent conditions at any site differ from those indicated in the Technical and Implementation Documents, Seller and Customer will promptly investigate the conditions and will select replacement sites or adjust the installation plans and Specifications as necessary. If such change in sites or adjustment to the installation plans and Specifications causes a change in the cost or time to perform, the parties will equitably amend the Contract Price or Performance Schedule, or both, by a change order.

SECTION 7. TRAINING

Any training to be provided by Seller to Customer under this Agreement will be described in a written training plan that is part of the Statement of Work. Customer will notify Seller immediately if a date change for a scheduled training program is required. If Seller incurs additional costs because Customer reschedules a training program less than thirty (30) days before its scheduled start date, Seller is entitled to recover these additional costs.

SECTION 8. ACCEPTANCE

8.1   SYSTEM ACCEPTANCE

8.1.1   COMMENCEMENT OF ACCEPTANCE TESTING. Seller will provide to Customer at least ten (10) days notice before the Acceptance Tests commence. System testing will occur only in accordance with the Acceptance Test Plan.

8.1.2   SYSTEM ACCEPTANCE. System Acceptance will occur upon successful completion of the Acceptance Tests described in the Acceptance Test Plan. Upon System Acceptance, the parties will memorialize this event by promptly executing a System Acceptance Certificate. If the Acceptance Test Plan includes separate tests for individual Subsystems or phases of the System, acceptance of the individual Subsystem or phase will occur upon the successful completion of the Acceptance Tests for such Subsystem or phase, and the parties will promptly execute an acceptance certificate for the Subsystem or phase. If Customer believes that the System has failed the completed Acceptance Tests, Customer will provide to Seller a written notice that includes the specific details of such failure. If Customer does not provide to Seller such notice within ten (10) business days after completion of the Acceptance Tests, System Acceptance will be deemed to have occurred as of the completion of the Acceptance Tests. Minor omissions or variances in the System that do not materially impair the operation of the System as a whole will not postpone System Acceptance or Subsystem acceptance, but will be corrected according to a mutually agreed schedule.

8.1.3   BENEFICIAL USE. Customer acknowledges that Seller's ability to perform its implementation and testing responsibilities under this Agreement may be impeded if Customer begins using the System before System Acceptance. Therefore, Customer will not commence Beneficial Use before System Acceptance without Seller's prior written authorization, which Seller will not unreasonably withhold. Seller is not responsible for System performance deficiencies that occur during unauthorized Beneficial Use. Upon commencement of Beneficial Use, Customer assumes responsibility for the use and operation of the System and payment in full is due.

8.2   PRODUCT ACCEPTANCE

8.2.1.   Acceptance of the Products will occur upon delivery to Customer unless the Statement of Work provides for acceptance verification or testing, in which case acceptance of the Products will occur upon successful completion of the acceptance verification or testing. Notwithstanding the preceding sentence, Customer's use of the Products for their operational purposes will constitute acceptance.

SECTION 9. REPRESENTATIONS AND WARRANTIES

9.1. SYSTEM FUNCTIONALITY (System sales only). Seller represents that the System will perform in accordance with the Specifications in all material respects. Upon System Acceptance or Beneficial Use, whichever occurs first, this System functionality representation is fulfilled. Seller is not responsible for System performance deficiencies that are caused by ancillary equipment not furnished by Seller attached to or used in connection with the System or for reasons beyond Seller's control, such as (i) an earthquake, adverse atmospheric conditions, or other natural causes; (ii) Customer changes to load usage or configuration outside the Specifications; or (iii) any acts of parties who are beyond Seller's control.

9.2. EQUIPMENT WARRANTY.

9.2.1. System Sales   For one (1) year from the date of System Acceptance or Beneficial Use, whichever occurs first, Seller warrants that the Equipment under normal use and service will be free from material defects in materials and workmanship. If System Acceptance is delayed beyond six (6) months after shipment of the Equipment by events or causes within Customer's control, this warranty expires eighteen (18) months after the shipment of the Equipment.

9.2.2. Product Sales   For one (1) year from the date of shipment, Seller warrants that the Equipment under normal use and service will be free from material defects in materials and workmanship.

9.3. IDEMIA SOFTWARE WARRANTY.

9.3.1 System Sales   Unless otherwise stated in the Software License Agreement, for one (1) year from the date of System Acceptance or Beneficial Use, whichever occurs first, Seller warrants the IDEMIA Software in accordance with the terms of the Software License Agreement and the provisions of this Section 9 that are applicable to the IDEMIA Software. If System Acceptance is delayed beyond six (6) months after shipment of the IDEMIA Software by events or causes within Customer's control, this warranty expires eighteen (18) months after the shipment of the IDEMIA Software.

9.3.2. Product Sales   Unless otherwise stated in the Software License Agreement, for one (1) year from the date of shipment, Seller warrants the IDEMIA Software in accordance with the terms of the Software License Agreement and the provisions of this Section that are applicable to the IDEMIA Software.

9.4. EXCLUSIONS TO EQUIPMENT AND IDEMIA SOFTWARE WARRANTIES. These warranties do not apply to: (i) defects or damage resulting from use of the Equipment or IDEMIA Software in other than its normal, customary, and authorized manner; (ii) defects or damage occurring from misuse, accident, liquids, neglect, or acts of God; (iii) defects or damage occurring from testing, maintenance, disassembly, repair, installation, alteration, modification, or adjustment not provided or authorized in writing by Seller; (iv) breakage of or damage to antennas unless caused directly by defects in material or workmanship; (v) defects or damage caused by Customer's failure to comply with all applicable industry and OSHA standards; (vi) Equipment that has had the serial number removed or made illegible; (vii) batteries (because they carry their own separate limited warranty); (viii) freight costs to ship Equipment to the repair depot; (ix) scratches or other cosmetic damage to Equipment surfaces that does not affect the operation of the Equipment; and (x) normal or customary wear and tear.

9.5. WARRANTY CLAIMS. For Customer to assert a claim that the Equipment or IDEMIA Software does not conform to these warranties, Customer must notify Seller in writing of the claim before the expiration of the warranty period.. Upon receipt of such notice, Seller will investigate the warranty claim. If this investigation confirms a valid warranty claim, Seller will (at its option and at no additional charge to Customer) repair the defective Equipment or IDEMIA Software, replace it with the same or equivalent product, or refund the price of the defective Equipment or IDEMIA Software. Such action will be the full extent of Seller's liability hereunder. If this investigation indicates the warranty claim is not valid, then Seller may invoice Customer for responding to the claim on a time and materials basis using Seller's current labor rates. Repaired or replaced product is warranted for the balance of the original applicable warranty period. All replaced products or parts will become the property of Seller.

9.6. ORIGINAL END USER IS COVERED. These express limited warranties are extended by Seller to the original user purchasing the System or Products for commercial, industrial, or governmental use only, and are not assignable or transferable.

9.7. DISCLAIMER OF OTHER WARRANTIES. THESE WARRANTIES ARE THE COMPLETE WARRANTIES FOR THE EQUIPMENT AND IDEMIA SOFTWARE PROVIDED UNDER THIS AGREEMENT AND ARE GIVEN IN LIEU OF ALL OTHER WARRANTIES. SELLER DISCLAIMS ALL OTHER WARRANTIES OR CONDITIONS, EXPRESS OR IMPLIED, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

SECTION 10. DELAYS

10.1. FORCE MAJEURE. Neither party will be liable for its non-performance or delayed performance if caused by a "Force Majeure" which means an event, circumstance, or act of a third party that is beyond a party's reasonable control, such as an act of God, an act of the public enemy, an act of a government entity, strikes or other labor disturbances, hurricanes, earthquakes, fires, floods, epidemics, embargoes, war, riots, or any other similar cause. Each party will notify the other if it becomes aware of any Force Majeure that will significantly delay performance. The notifying party will give such notice promptly (but in no event later than fifteen days) after it discovers the Force Majeure. If a Force Majeure occurs, the parties will execute a change order to extend the Performance Schedule for a time period that is reasonable under the circumstances.

10.2. PERFORMANCE SCHEDULE DELAYS CAUSED BY CUSTOMER (System Sales Only). If the Performance Schedule is delayed because of Customer (including any of its other contractors), (i) Customer will make the promised payments according to the Payment Schedule as if no delay occurred; and (ii) the parties will execute a change order to extend the Performance Schedule and, if requested by Seller, compensate Seller for all reasonable charges incurred because of such delay. Delay charges may include costs incurred by Seller or its subcontractors for additional freight, warehousing and handling of Equipment; extension of the warranties; travel; suspending and re-mobilizing the work; additional engineering, project management, and standby time calculated at then current rates; and preparing and implementing an alternative implementation plan.

SECTION 11. DISPUTES

11.1. SETTLEMENT PREFERRED. Seller and Customer, through their respective project managers, will attempt to settle any dispute arising from this Agreement (except for a claim relating to intellectual property or breach of confidentiality provisions) through consultation and negotiation in good faith and a spirit of mutual cooperation. The dispute will be escalated to appropriate higher-level managers of the parties, if necessary. If cooperative efforts fail, the dispute will be mediated by a mediator chosen jointly by Seller and Customer within thirty (30) days after notice by one of the parties demanding non-binding mediation. Seller and Customer will not unreasonably withhold consent to the selection of a mediator, and they will share the cost of the mediation equally. The parties may postpone mediation until they have completed some specified but limited discovery about the dispute. The parties may also replace mediation with some other form of non-binding alternative dispute resolution ("ADR").

11.2. LITIGATION. Any claim relating to intellectual property or breach of confidentiality provisions and any dispute that cannot be resolved between the parties through negotiation or mediation within two (2) months after the date of the initial demand for non-binding mediation as described above in Section 11.1 may be submitted by either party to a court of competent jurisdiction in the state in which the System or Product is installed. Each party consents to jurisdiction over it by such a court. The use of ADR procedures will not be considered under the doctrine of laches, waiver, or estoppel to affect adversely the rights of either party. Either party may resort to the judicial proceedings described in this section before the expiration of the two-month ADR period if (i) good faith efforts to resolve the dispute under these procedures have been unsuccessful; or (ii) interim relief from the court is necessary to prevent serious and irreparable injury to such party or any of its affiliates, agents, employees, customers, suppliers, or subcontractors.

SECTION 12. DEFAULT AND TERMINATION

12.1. DEFAULT BY A PARTY. If either party fails to perform a material obligation under this Agreement, the other party may consider the non-performing party to be in default (unless a Force Majeure causes such failure) and may assert a default claim by giving the non-performing party a written and detailed notice of default. Except for a default by Customer for failing to pay any amount when due under this Agreement which must be cured immediately, the defaulting party will have thirty (30) days after receipt of the notice of default to either (i) cure the default or (ii) if the default is not curable within thirty (30) days, to provide a written cure plan. The defaulting party will begin implementing the cure plan immediately after receipt of notice by the other party that it approves the plan. If Customer is the defaulting party, IDEMIA may stop work on the project until it approves the Customer's cure plan.

12.2. FAILURE TO CURE. If a defaulting party fails to cure the default as provided above in Section 12.1, unless otherwise agreed in

writing, the non-defaulting party may terminate any unfulfilled portion of this Agreement. In the event of such termination, the defaulting party will promptly return to the non-defaulting party any of its Confidential Information (as defined in Section 15.1).

For System sales: If Customer is the non-defaulting party, terminates this Agreement as permitted by this Section, and completes the System through a third party, Customer may as its exclusive remedy recover from Seller either (i) the diminution of value of the System due to the breach if it does not complete the System through a third party, or (ii) the reasonable costs incurred to complete the System to a capability not exceeding that specified in this Agreement less the unpaid portion of the Contract Price if it completes the System through a third party. In either case, Customer agrees to use its best efforts to mitigate damages and to provide Seller with detailed records substantiating the damages claim.

SECTION 13. INDEMNIFICATION
13.1.   GENERAL INDEMNITY BY SELLER. Seller will indemnify and hold Customer harmless from any and all liability, expense, judgment, suit, cause of action, or demand for personal injury, death, or direct damage to tangible property which may accrue against Customer to the extent it is caused by the negligence of Seller, its subcontractors, or their employees or agents, while performing their duties under this Agreement, provided that Customer gives Seller prompt, written notice of any such claim or suit. Customer shall cooperate with Seller in its defense or settlement of such claim or suit. This section sets forth the full extent of Seller's general indemnification of Customer from liabilities that are in any way related to Seller's performance under this Agreement.

13.2.   PATENT AND COPYRIGHT INFRINGEMENT.

13.2.1.   Seller will defend at its expense any suit brought against Customer to the extent that it is based on an Infringement Claim, and Seller will indemnify Customer for those costs and damages finally awarded against Customer for an Infringement Claim. Seller's duties to defend and indemnify are conditioned upon: (i) Customer promptly notifying Seller in writing of such Infringement Claim; (ii) Seller having sole control of the defense of such suit and all negotiations for its settlement or compromise; (iii) Customer providing to Seller cooperation and, if requested by Seller, reasonable assistance in the defense of the Infringement Claim.

13.2.2.   If an Infringement Claim occurs, or in Seller's opinion is likely to occur, Seller may at its option and expense procure for Customer the right to continue using the Equipment or IDEMIA Software, replace or modify it so that it becomes non-infringing while providing functionally equivalent performance, or grant Customer a credit for such Equipment or IDEMIA Software as depreciated and accept its return. The depreciation amount will be calculated based upon generally accepted accounting standards for such Equipment and IDEMIA Software.

13.2.3.   Seller will have no duty to defend or indemnify for any Infringement Claim that is based upon (i) the combination of the Equipment or IDEMIA Software with any software, apparatus or device not furnished by Seller; (ii) the use of ancillary equipment or software not furnished by Seller and that is attached to or used in connection with the Equipment or IDEMIA Software; (iii) any Equipment that is not Seller's design or formula; (iv) a modification of the IDEMIA Software by a party other than Seller; or (v) the failure by Customer to install an enhancement release to the IDEMIA Software that is intended to correct the claimed infringement. The foregoing states the entire liability of Seller with respect to infringement of patents and copyrights by the Equipment and IDEMIA Software or any parts thereof.

SECTION 14. LIMITATION OF LIABILITY
This limitation of liability provision shall apply notwithstanding any contrary provision in this Agreement. Except for personal injury or death, Seller's total liability, whether for breach of contract, warranty, negligence, strict liability in tort, indemnification, or otherwise, will be limited to the direct damages recoverable under law, but not to exceed the price of the Equipment, Software, or services with respect to which losses or damages are claimed. ALTHOUGH THE PARTIES ACKNOWLEDGE THE POSSIBILITY OF SUCH LOSSES OR DAMAGES, THEY AGREE THAT SELLER WILL NOT be liable for any commercial loss; inconvenience; loss of use, time, data, goodwill, revenues, profits or savings; or other SPECIAL, incidental, INDIRECT, OR consequential damages IN ANY WAY RELATED TO OR ARISING FROM THIS AGREEMENT, THE SALE OR USE OF THE EQUIPMENT OR SOFTWARE, OR THE PERFORMANCE OF SERVICES BY SELLER PURSUANT TO THIS AGREEMENT. This limitation of liability will survive the expiration or termination of this Agreement. No action for breach of this Agreement or otherwise relating to the transactions contemplated by this Agreement may be brought more than one (1) year after the accrual of such cause of action, except for money due upon an open account.

SECTION 15. CONFIDENTIALITY AND PROPRIETARY RIGHTS
15.1.   CONFIDENTIAL INFORMATION.
15.1.1.   During the term of this Agreement, the parties may provide each other with Confidential Information. For the purposes of this Agreement, "Confidential Information" is any information disclosed in written, graphic, verbal, or machine-recognizable form, and is marked, designated, labeled or identified at the time of disclosure as being confidential or its equivalent; or if in verbal form is identified as confidential or proprietary at the time of disclosure and confirmed in writing within thirty (30) days of such disclosure. Notwithstanding any other provisions of this Agreement, Confidential Information shall not include any information that: (i) is or becomes publicly known through no wrongful act of the receiving party; (ii) is already known to the receiving party without restriction when it is disclosed; (iii) is, or subsequently becomes, rightfully and without breach of this Agreement, in the receiving party's possession without any obligation restricting disclosure; (iv) is independently developed by the receiving party without breach of this Agreement; or (v) is explicitly approved for release by written authorization of the disclosing party.

15.1.2.   Each party will: (i) maintain the confidentiality of the other party's Confidential Information and not disclose it to any third party, except as authorized by the disclosing party in writing or as required by a court of competent jurisdiction; (ii) restrict disclosure of Confidential Information to its employees who have a "need to know" and not copy or reproduce such Confidential Information; (iii) take necessary and appropriate precautions to guard the confidentiality of Confidential Information, including informing its employees who handle such Confidential Information that it is confidential and not to be disclosed to others, but such precautions shall be at least the same degree of care that the receiving party applies to its own confidential information and shall not be less than reasonable care; and (iv) use such Confidential Information only in furtherance of the performance of this Agreement. Confidential Information is and shall at all times remain the property of the disclosing party, and no grant of any proprietary rights in the Confidential Information is hereby given or intended, including any express or implied license, other than the limited right of the recipient to use the Confidential Information in the manner and to the extent permitted by this Agreement.

15.2.   PRESERVATION OF PROPRIETARY RIGHTS.

15.2.1.   IDEMIA, the third party manufacturer of any Equipment, and the copyright owner of any Non-IDEMIA Software own and retain all of their respective Proprietary Rights in the Equipment and Software. Nothing in this Agreement is intended to restrict the Proprietary Rights of IDEMIA, any copyright owner of Non-IDEMIA Software, or any third party manufacturer of Equipment. All intellectual property developed, originated, or prepared by IDEMIA in connection with providing to Customer the Equipment, Software, or related services remain vested exclusively in IDEMIA, and this Agreement does not grant to Customer any shared development rights of intellectual property.

15.2.2.   Except as explicitly provided in the Software License Agreement, nothing in this Agreement will be deemed to grant, either directly or by implication, estoppel, or otherwise, any right, title or interest in the Proprietary Rights of IDEMIA or Seller. Customer agrees not to modify, disassemble, peel components, decompile, otherwise reverse engineer or attempt to reverse engineer, derive source code or create derivative works from, adapt, translate, merge with other software, reproduce, or export the Software, or permit or encourage any third party to do so. The preceding sentence shall not apply to Open Source Software which is governed by the standard license of the copyright owner.

SECTION 16. MISCELLANEOUS
16.1.   TAXES. The Contract Price does not include any amount for federal, state, or local excise, sales, lease, service, rental, use, property, occupation, or other taxes, assessments or duties (other than federal, state, and local taxes based on Seller's income or net worth), all of which will be paid by Customer except as exempt by law. If Seller is required to pay or bear the burden of any such taxes, it will send an invoice to Customer and Customer will pay to it the amount of such taxes (including any applicable interest and penalties) within twenty (20) days after the date of the invoice. Customer will be solely responsible for reporting the Equipment for personal property tax purposes.

16.2.   ASSIGNABILITY. Neither party may assign this Agreement without the prior written consent of the other party, except that Seller may assign this Agreement to any successor of Seller's biometrics business or to any party acquiring the assets used by Seller in conducting such biometrics business or otherwise performing Seller's obligations under this Agreement..

16.3.   SUBCONTRACTING. Seller may subcontract any portion of the work, but such subcontracting will not relieve Seller of its duties under this Agreement.

16.4   WAIVER. Failure or delay by either party to exercise any right or power under this Agreement will not operate as a waiver of such right or power. For a waiver of a right or power to be effective, it must be in writing signed by the waiving party. An effective waiver of a right or power shall not be construed as either (i) a future or continuing waiver of that same right or power, or (ii) the waiver of any other right or power.

16.5.   SEVERABILITY. If a court of competent jurisdiction renders any provision of this Agreement (or portion of a provision) to be invalid or otherwise unenforceable, that provision or portion of the provision will be severed and the remainder of this Agreement will continue in full force and effect as if the invalid provision or portion of the provision were not part of this Agreement.

16.6.   INDEPENDENT CONTRACTORS. Each party shall perform its activities and duties hereunder only as an independent contractor. The parties and their personnel shall not be considered to be employees or agents of the other party. Nothing in this Agreement shall be interpreted as granting either party the right or authority to make commitments of any kind for the other. This Agreement shall not constitute, create, or in any way be interpreted as a joint venture, partnership or formal business organization of any kind.

16.7.   HEADINGS AND SECTION REFERENCES. The section headings in this Agreement are inserted only for convenience and are not to be construed as part of this Agreement or as a limitation of the scope of the particular section to which the heading refers. This Agreement will be fairly interpreted in accordance with its terms and conditions and not for or against either party.

16.8.   GOVERNING LAW. This Agreement and the rights and duties of the parties will be governed by and interpreted in accordance with the laws of the State in which the System is installed or the State where the Product is delivered, to the extent they do not conflict with the laws of the United States.

16.9.   ENTIRE AGREEMENT. This Agreement, including all Exhibits, constitutes the entire agreement of the parties regarding the subject matter hereof and supersedes all previous agreements, proposals, and understandings, whether written or oral, relating to such subject matter. This Agreement may be altered, amended, or modified only by a written instrument signed by authorized representatives of both parties. The preprinted terms and conditions found on any Customer purchase order, acknowledgment or other form will not be considered an amendment or modification of this Agreement, even if a representative of each party signs such document.

16.10.   NOTICES. Notices required under this Agreement to be given by one party to the other must be in writing and either delivered in person or sent to the address shown below by certified mail, return receipt requested and postage prepaid (or by a recognized courier service with an asset tracking system, such as Federal Express, UPS, or DHL), or by facsimile with correct answerback received, and shall be effective upon receipt:

Customer

_____

IDEMIA

EXHIBIT A - SOFTWARE LICENSE AGREEMENT

In this Exhibit A, the term "Licensor" means IDEMIA Identity & Security USA LLC, ("IDEMIA"); "Licensee," means the Customer; "Primary Agreement" means the agreement to which this exhibit is attached (Biometrics Products and System Sales Agreement); and "Agreement" means this Exhibit and the applicable terms and conditions contained in the Primary Agreement. The parties agree as follows:

For good and valuable consideration, the parties agree as follows:

SECTION 1. DEFINITIONS
1.1   "Designated Products" means products provided by IDEMIA to Licensee with which or for which the Software and Documentation is licensed for use.

1.2   "Documentation" means product and software documentation that specifies technical and performance features and capabilities, and the user, operation and training manuals for the Software (including all physical or electronic media upon which such information is provided).

1.3   "Open Source Software" means software with either freely obtainable source code, license for modification, or permission for free distribution.

5515 East La Palma Avenue, Suite 100, Anaheim CA 92807

with copy to:

IDEMIA Identity & Security USA LL, Legal Department, ATTN: General Counsel, 1255 23rd Street NW, Suite 100, Washington, DC 20037

16.11.   COMPLIANCE WITH APPLICABLE LAWS. Each party will comply with all applicable federal, state, and local laws, regulations and rules concerning the performance of this Agreement or use of the System or Product, to the extent they do not conflict with the laws of the United States.

16.12.   AUTHORITY TO EXECUTE AGREEMENT. Each party represents to the other that (i) it has obtained all necessary approvals, consents and authorizations to enter into this Agreement and to perform its duties under this Agreement; (ii) the person executing this Agreement on its behalf has the authority to do so; (iii) upon execution and delivery of this Agreement by the parties, it is a valid and binding contract, enforceable in accordance with its terms; and (iv) the execution, delivery, and performance of this Agreement does not violate any bylaw, charter, regulation, law or any governing authority of the party.

16.13.   PREVAILING PARTY. In the event of any dispute arising out of the subject matter of this Agreement, the prevailing party shall recover, in addition to any other damages assessed, its reasonable attorneys' fees and court costs incurred in arbitrating, litigating, or otherwise settling or resolving such dispute.

16.14.   SURVIVAL OF TERMS. The following provisions shall survive the expiration or termination of this Agreement for any reason: Section 3.6 (IDEMIA Software); Section 3.7 (Non-IDEMIA Software); if any payment obligations exist, Sections 5.1 and 5.2 (Contract Price and Invoicing and Payment); Section 11 (Disputes); Section 14 (Limitation of Liability); Section 15 (Confidentiality and Proprietary Rights); and all of the General provisions in Section 16.

17.   SECTION 17. AGREEMENT EXECUTION
The parties hereby enter into this Agreement as of the Effective Date.

IDEMIA Identity & Security USA LLC ("SELLER"):

Signed _____

Name _____

Title _____

Date _____

NAME ("CUSTOMER")

Signed _____

Name _____

Title _____

Date _____

1.4   "Open Source Software License" means the terms or conditions under which the Open Source Software is licensed.

1.5   "Primary Agreement" means the agreement to which this exhibit is attached (Biometrics Products and System Sales Agreement).

1.6   "Security Vulnerability" means a flaw or weakness in system security procedures, design, implementation, or internal controls that could be exercised (accidentally triggered or intentionally exploited) and result in a security breach such that data is compromised, manipulated or stolen or the system damaged.

1.7   "Software" (i) means proprietary software in object code format, and adaptations, translations, de-compilations, disassemblies, emulations, or derivative works of such software; (ii) means any modifications, enhancements, new versions and new releases of the software provided by IDEMIA; and (iii) may contain one or more items of software owned by a third party supplier. The term "Software" does not include any third party software provided under separate license or third party software not licensable under the terms of this Agreement.

SECTION 2. SCOPE
IDEMIA and Licensee enter into this Agreement in connection with IDEMIA's delivery of certain proprietary Software or products containing embedded or pre-loaded proprietary Software, or both. This Agreement

contains the terms and conditions of the license IDEMIA is providing to Licensee, and Licensee's use of the Software and Documentation.

SECTION 3. GRANT OF LICENSE

3.1.   Subject to the provisions of this Agreement and the payment of applicable license fees, IDEMIA grants to Licensee a personal, limited, non-transferable (except as permitted in Section 7) and non-exclusive license under IDEMIA's copyrights and Confidential Information (as defined in the Primary Agreement) embodied in the Software to use the Software, in object code form, and the Documentation solely in connection with Licensee's use of the Designated Products. This Agreement does not grant any rights to source code.

3.2.   If the Software licensed under this Agreement contains or is derived from Open Source Software, the terms and conditions governing the use of such Open Source Software are in the Open Source Software Licenses of the copyright owner and not this Agreement. If there is a conflict between the terms and conditions of this Agreement and the terms and conditions of the Open Source Software Licenses governing Licensee's use of the Open Source Software, the terms and conditions of the license grant of the applicable Open Source Software Licenses will take precedence over the license grants in this Agreement. If requested by Licensee, IDEMIA will use commercially reasonable efforts to: (i) determine whether any Open Source Software is provided under this Agreement; (ii) identify the Open Source Software and provide Licensee a copy of the applicable Open Source Software License (or specify where that license may be found); and, (iii) provide Licensee a copy of the Open Source Software source code, without charge, if it is publicly available (although distribution fees may be applicable).

SECTION 4. LIMITATIONS ON USE

4.1.   Licensee may use the Software only for Licensee's internal business purposes and only in accordance with the Documentation. Any other use of the Software is strictly prohibited. Without limiting the general nature of these restrictions, Licensee will not make the Software available for use by third parties on a "time sharing," "application service provider," or "service bureau" basis or for any other similar commercial rental or sharing arrangement.

4.2.   Licensee will not, and will not allow or enable any third party to: (i) reverse engineer, disassemble, peel components, decompile, reprogram or otherwise reduce the Software or any portion to a human perceptible form or otherwise attempt to recreate the source code; (ii) modify, adapt, create derivative works of, or merge the Software; (iii) copy, reproduce, distribute, lend, or lease the Software or Documentation to any third party, grant any sublicense or other rights in the Software or Documentation to any third party, or take any action that would cause the Software or Documentation to be placed in the public domain; (iv) remove, or in any way alter or obscure, any copyright notice or other notice of IDEMIA's proprietary rights; (v) provide, copy, transmit, disclose, divulge or make the Software or Documentation available to, or permit the use of the Software by any third party or on any machine except as expressly authorized by this Agreement; or (vi) use, or permit the use of, the Software in a manner that would result in the production of a copy of the Software solely by activating a machine containing the Software. Licensee may make one copy of Software to be used solely for archival, back-up, or disaster recovery purposes; provided that Licensee may not operate that copy of the Software at the same time as the original Software is being operated. Licensee may make as many copies of the Documentation as it may reasonably require for the internal use of the Software.

4.3.   Unless otherwise authorized by IDEMIA in writing, Licensee will not, and will not enable or allow any third party to: (i) install a licensed copy of the Software on more than one unit of a Designated Product; or (ii) copy onto or transfer Software installed in one unit of a Designated Product onto another device. Licensee may temporarily transfer Software installed on a Designated Product to another device if the Designated Product is inoperable or malfunctioning, if Licensee provides written notice to IDEMIA of the temporary transfer and identifies the device on which the Software is transferred. Temporary transfer of the Software to another device must be discontinued when the original Designated Product is returned to operation and the Software must be removed from the other device. Licensee must provide prompt written notice to IDEMIA at the time temporary transfer is discontinued.

SECTION 5. OWNERSHIP AND TITLE

IDEMIA, its licensors, and its suppliers retain all of their proprietary rights in any form in and to the Software and Documentation, including, but not limited to, all rights in patents, patent applications, inventions, copyrights, trademarks, trade secrets, trade names, and other proprietary rights in or relating to the Software and Documentation (including any corrections, bug fixes, enhancements, updates,

modifications, adaptations, translations, de-compilations, disassemblies, emulations to or derivative works from the Software or Documentation, whether made by IDEMIA or another party, or any improvements that result from IDEMIA's processes or, provision of information services).

No rights are granted to Licensee under this Agreement by implication, estoppel or otherwise, except for those rights which are expressly granted to Licensee in this Agreement. All intellectual property developed, originated, or prepared by IDEMIA in connection with providing the Software, Designated Products, Documentation or related services, remains vested exclusively in IDEMIA, and Licensee will not have any shared development or other intellectual property rights.

SECTION 6. LIMITED WARRANTY; DISCLAIMER OF WARRANTY

6.1.   If Licensee is not in breach of any of its obligations under this Agreement, IDEMIA warrants that the unmodified Software, when used properly and in accordance with the Documentation and this Agreement, will be free from a reproducible defect that eliminates the functionality or successful operation of a feature critical to the primary functionality or successful operation of the Software. Whether a defect occurs will be determined by IDEMIA solely with reference to the Documentation. IDEMIA does not warrant that Licensee's use of the Software or the Designated Products will be uninterrupted, error-free, completely free of Security Vulnerabilities, or that the Software or the Designated Products will meet Licensee's particular requirements. IDEMIA makes no representations or warranties with respect to any third party software included in the Software.

6.2   IDEMIA's sole obligation to Licensee and Licensee's exclusive remedy under this warranty is to use reasonable efforts to remedy any material Software defect covered by this warranty. These efforts will involve either replacing the media or attempting to correct significant, demonstrable program or documentation errors or Security Vulnerabilities. If IDEMIA cannot correct the defect within a reasonable time, then at IDEMIA's option, IDEMIA will replace the defective Software with functionally-equivalent Software, license to Licensee substitute Software which will accomplish the same objective, or terminate the license and refund the Licensee's paid license fee.

6.3.   Warranty claims are described in the Primary Agreement.

6.4.   The express warranties set forth in this Section 6 are in lieu of, and IDEMIA disclaims, any and all other warranties (express or implied, oral or written) with respect to the Software or Documentation, including, without limitation, any and all implied warranties of condition, title, non-infringement, merchantability, or fitness for a particular purpose or use by Licensee (whether or not IDEMIA knows, has reason to know, has been advised, or is otherwise aware of any such purpose or use), whether arising by law, by reason of custom or usage of trade, or by course of dealing. In addition, IDEMIA disclaims any warranty to any person other than Licensee with respect to the Software or Documentation.

SECTION 7. TRANSFERS

Licensee will not transfer the Software or Documentation to any third party without IDEMIA's prior written consent. IDEMIA's consent may be withheld at its discretion and may be conditioned upon transferee paying all applicable license fees and agreeing to be bound by this Agreement.

SECTION 8. TERM AND TERMINATION

8.1   Licensee's right to use the Software and Documentation will begin when the Primary Agreement is signed by both parties and will continue for the life of the Designated Products with which or for which the Software and Documentation have been provided by IDEMIA, unless Licensee breaches this Agreement, in which case this Agreement and Licensee's right to use the Software and Documentation may be terminated immediately upon notice by IDEMIA.

8.2   Within thirty (30) days after termination of this Agreement, Licensee must certify in writing to IDEMIA that all copies of the Software have been removed or deleted from the Designated Products and that all copies of the Software and Documentation have been returned to IDEMIA or destroyed by Licensee and are no longer in use by Licensee.

8.3   Licensee acknowledges that IDEMIA made a considerable investment of resources in the development, marketing, and distribution of the Software and Documentation and that Licensee's breach of this Agreement will result in irreparable harm to IDEMIA for which monetary damages would be inadequate. If Licensee breaches this Agreement, IDEMIA may terminate this Agreement and be entitled to all available remedies at law or in equity (including immediate injunctive relief and repossession of all non-embedded Software and associated

Documentation unless Licensee is a Federal agency of the United States Government).

SECTION 9. UNITED STATES GOVERNMENT LICENSING PROVISIONS & RESTRICTED RIGHTS LEGEND
This Section applies if Licensee is the United States Government or a United States Government agency. Licensee's use, duplication or disclosure of the Software and Documentation under IDEMIA's copyrights or trade secret rights is subject to the restrictions set forth in subparagraphs (c)(1) and (2) of the Commercial Computer Software-Restricted Rights clause at FAR 52.227-19 (JUNE 1987), if applicable, unless they are being provided to the Department of Defense. If the Software and Documentation are being provided to the Department of Defense, Licensee's use, duplication, or disclosure of the Software and Documentation is subject to the restricted rights set forth in subparagraph (c)(1)(ii) of the Rights in Technical Data and Computer Software clause at DFARS 252.227-7013 (OCT 1988), if applicable. The Software and Documentation may or may not include a Restricted Rights notice, or other notice referring to this Agreement. The provisions of this Agreement will continue to apply, but only to the extent that they are consistent with the rights provided to the Licensee under the provisions of the FAR or DFARS mentioned above, as applicable to the particular procuring agency and procurement transaction.

SECTION 10. CONFIDENTIALITY
Licensee acknowledges that the Software and Documentation contain IDEMIA's valuable proprietary and Confidential Information and are IDEMIA's trade secrets, and that the provisions in the Primary Agreement concerning Confidential Information apply.

SECTION 11. GENERAL
11.1.   COPYRIGHT NOTICES. The existence of a copyright notice on the Software will not be construed as an admission or presumption of publication of the Software or public disclosure of any trade secrets associated with the Software.

11.2.   COMPLIANCE WITH LAWS. Licensee acknowledges that the Software is subject to the laws and regulations of the United States and Licensee will comply with all applicable laws and regulations, including export laws and regulations of the United States. Licensee will not, without the prior authorization of IDEMIA and the appropriate governmental authority of the United States, in any form export or re-export, sell or resell, ship or reship, or divert, through direct or indirect means, any item or technical data or direct or indirect products sold or otherwise furnished to any person within any territory for which the United States Government or any of its agencies at the time of the action, requires an export license or other governmental approval. Violation of this provision is a material breach of this Agreement.

11.3.   GOVERNING LAW. This Agreement is governed by the laws of the United States to the extent that they apply and otherwise by the internal substantive laws of the State to which the Software is shipped if Licensee is a sovereign government entity, to the extent they do not conflict with the laws of the United States, or the internal substantive laws of the State of Delaware if Licensee is not a sovereign government entity. The terms of the U.N. Convention on Contracts for the International Sale of Goods do not apply. In the event that the Uniform Computer Information Transaction Act, any version of this Act, or a substantially similar law (collectively "UCITA") becomes applicable to a party's performance under this Agreement, UCITA does not govern any aspect of this Agreement or any license granted under this Agreement, or any of the parties' rights or obligations under this Agreement. The governing law will be that in effect prior to the applicability of UCITA.

11.4.   THIRD PARTY BENEFICIARIES. This Agreement is entered into solely for the benefit of IDEMIA and Licensee. No third party has the right to make any claim or assert any right under this Agreement, and no third party is deemed a beneficiary of this Agreement. Notwithstanding the foregoing, any licensor or supplier of third party software included in the Software will be a direct and intended third party beneficiary of this Agreement.

11.5.   PREVAILING PARTY. In the event of any dispute arising out of the subject matter of this Agreement, the prevailing party shall recover, in addition to any other damages assessed, its reasonable attorneys' fees and court costs incurred in arbitrating, litigating, or otherwise settling or resolving such dispute.

11.6   SURVIVAL. Sections 4, 5, 6.3, 7, 8, 9, 10, and 11 survive the termination of this Agreement.

EXHIBIT B - PAYMENT SCHEDULE

This quote is subject to the following

1. One hundred percent (100%) of the purchase price of a subsystem, defined as individual Mobile Device will be invoiced upon acceptance of each subsystem site location.

2. Payment net twenty (20) days from receipt of invoice. [1]

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[1] Customer's payment shall be due and payable no later than twenty (20) days after date of IDEMIA's invoice. IDEMIA will accept a check payable to IDEMIA Identity & Security USA LLC or a wire transfer drawn on a United States financial institution. Any payment not received by IDEMIA on the twenty-first day shall accrue interest compounded at one and one-half percent (1-1/2%) per month. Any collection or attorney's fees incurred by IDEMIA seeking to enforce payment under this Agreement shall be reimbursed by Customer.

State of Maine Waiver of Competitive Bidding Request Form

Form Instructions: Please provide the requested information in the white boxes below. This form is to precede all contract requests that are not the direct result of a competitive bid process.

Requesting Department's Contract Administrator:	Matt Ruel Jaye Parker
Office/Division/Program of Contract Administrator:	Office of Public Safety – Maine State Police
Est. Contract Amount:	$ 0.00
Contract or RQS Number:	RQS-16A-20190315*0995 FOR MA Creation
Proposed Start Date:	4/30/2019
Proposed End Date:	6/30/2020
Vendor/Provider Name, City, State	Idemia Anaheim CA
Short Description of Good or Service:	Hand held Fingerprint scanners

Please note, for transparency purposes, Waivers of Competitive Bidding will be publicly posted. Public postings are placed on the Division of Procurement Services website for a period of seven consecutive calendar days.	**To be completed by the Division of Procurement Services** Posting dates on Division of **Procurement Services** website: From: 3/25/2019 To: 3/31/2019

Notice of Intent to Waive Competitive Bidding Number:	NOI# 0320190361

1. Statutory Justification

State of Maine statute (5 M.R.S. §1825-B(2)) allows waivers of competitive bidding only for the specific reasons listed below. Please mark the appropriate box (**X**) next to the justification which applies to this specific request.

	A.	The procurement of goods or services by the State for county commissioners pursuant to Title 30-A, section 124, involves the expenditure of $2,500 or less, and the interests of the State would best be served;
	B.	The Director of the Bureau of General Services is authorized by the Governor, or the Governor's designee, to make Procurement Services without competitive bidding because, in the opinion of the Governor or the Governor's designee, an emergency exists that requires the immediate procurement of goods or services;

If citing the above justification for this Waiver of Competitive Bidding request, please have the requesting Department's Commissioner or Chief Executive (as the Governor's "designee") sign and date on the right.	*By signing below, I signify as the Governor's designee there is an emergency that necessitates this non-competitive procurement.* **Signature:**
	Printed Name: **Date:**

X	C.	After reasonable investigation by the Director of the Bureau of General Services, it appears that any required unit or item of supply, or brand of that unit or item, is procurable by the State from only one source;
	D.	It appears to be in the best interest of the State to negotiate for the procurement of petroleum products;
	E.	The purchase is part of a cooperative project between the State and the University of Maine System, the Maine Community College System, the Maine Maritime Academy, or a private, nonprofit, regionally accredited institution of higher education with a main campus in this State involving: (1) An activity assisting a state agency and enhancing the ability of the university system, community college system, Maine Maritime Academy, or a private, nonprofit, regionally accredited institution of higher education with a main campus in this State to fulfill its mission of teaching, research, and public service; (2) A sharing of project responsibilities and, when appropriate, costs;
		If citing the above justification for this sole source request, please note that the specific approval of the Governor's Office is required, in accordance with Executive Order 26 FY 11/12, "An Order to Enhance Competitive Bidding". The approval must be documented on DAFS/BGS/Division of Procurement Services "GOVCOOP" form, found here: http://www.maine.gov/purchases/info/forms/govcoop.doc.
	F.	The procurement of goods or services involves expenditures of $10,000 or less, in which case the Director of the Bureau of General Services may accept oral proposals or bids;
	G.	The procurement of goods or services involves expenditures of $10,000 or less, and procurement from a single source is the most economical, effective and appropriate means of fulfilling a demonstrated need.
		If a different authorization specifically allows for this non-

State of Maine Waiver of Competitive Bidding Request Form

competitive procurement, please provide that reference here:

Please note that the following four points below (#2 through 5) all require a response.

2. Description of Specific Need
Please identify, and fully describe, the specific problem, requirement, or need the resulting non- competitive contract would address and which makes the goods or services necessary. Explain how the requesting Department determined that the goods or services are critical and/or essential to agency responsibilities or operations.

These devices can be used roadside to quickly identify individuals stopped by police who cannot provide identification and may be presenting as someone else to avoid apprehension. These devices connect to our state systems and to selected national databases that provide information on wants and warrants from across the country. Having access to this information saves time for the officers and contributes to public safety.

3. Availability of other Public Resources
Please explain how the requesting Department concluded that sufficient staffing, resources, or expertise is not available within the State of Maine's government, or other governmental entities (local, other state, or federal agencies) external to the requesting Department, which would be able to address the identified need more efficiently and effectively than the identified vendor.

This is not available by any state or federal entity.

4. Cost
Since a waiver of competitive bidding is being requested for this procurement, please explain how the requesting Department concluded the negotiated costs, fees, or rates are **fair and reasonable.**

Device cost was compared to pricing over the past couple of years, and was discussed with other states who use the same device to establish a fair and reasonable rate.

5. Future Competition
Please describe potential opportunities which may be available to foster competition for these goods or services in the future.

Currently, our AFIS system has just been replaced, is proprietary, and serves as the "backbone" of our biometric systems. We don't have a test system, and that prevents testing of any devices outside of our proprietary system. In addition, we are part of a tri-state partnership that doesn't want to allow "foreign" devices attached that could negatively impact system performance. Based upon these factors we don't have any plans to open this process up competitively to outside vendors.

Please note that only one of the two points below ("Uniqueness" or "Timeframe") requires a response. Requesting Departments are not required to respond to both points.

State of Maine Waiver of Competitive Bidding Request Form

6. Uniqueness
Please explain if the goods or services required are unique to a specific vendor. Describe the unique qualifications, abilities, and/or expertise of the vendor and how those particular unique factors address the specific need identified above. If the vendor has unique equipment, facilities, or proprietary data, also explain the necessity of these particular unique assets.
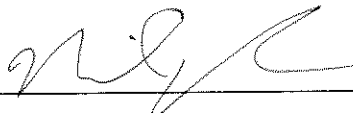
The device we are purchasing isn't unique, but the system that they connect to is unique. As a stated above, our AFIS system has just been replaced, is proprietary, and serves as the "backbone" of our biometric systems. We don't have a test system, and that prevents testing of any devices outside of our proprietary system. In addition, we are part of a tri-state partnership that doesn't want to allow "foreign" devices attached that could negatively impact system performance. These factors create a unique situation that by violating would be in opposition to our Tri-State agreement, and without purchasing a very expensive test system we could not certify that "outside" devices won't adversely impact our other biometric systems.

7. Timeframe (Complete only if B. is the Statutory Justification marked on Page 1)
Please explain if time is of the essence and an emergency exists which requires the immediate procurement of goods or services. Describe the nature of this emergency, provide the date by which the goods or services must be delivered, and explain how that date was determined and its significance (i.e. impact if delayed beyond this date). Also, provide information as to how it was determined this vendor is the best option to address this time-sensitive procurement.

Signature of requesting Department's Commissioner or Chief Executive (or designee within the Commissioner's Office):	*By signing below, I signify that my Department requests, and I approve of, this Waiver of Competitive Bidding.*
Printed Name:	Michael J. Sauschuck
Date:	3-19-19

STATE OF MAINE

GENERAL TERMS AND CONDITIONS FOR GOODS AND/OR SERVICES UNDER BUYER PURCHASE ORDERS (BPOs) AND MASTER AGREEMENTS (MAs)

1. **DEFINITIONS**: The following definitions are applicable to these standard terms and conditions:
   a. The term "Buyer" or "State" shall refer to the Government of the State of Maine or a person representing the Government of the State of Maine.
   b. The term "Department" or "DAFS" shall refer to the State of Maine Department of Administrative and Financial Services.
   c. The term "Bureau" or "BGS" shall refer to the State of Maine Bureau of General Services.
   d. The term "Division" shall refer to the State of Maine Division of Purchases.
   e. The term "Contractor", "Vendor", or "Provider" shall refer to the organization that is providing goods and/or services through the contract to which these standard terms and conditions have been attached and incorporated.
   f. The term "Contract" or "Agreement" shall refer to the contract document to which these standard terms and conditions apply, taking the format of a Buyer Purchase Order (BPO) or Master Agreement (MA) or other contractual document that is mutually agreed upon between the State and the Contractor.

2. **WARRANTY**: The Contractor warrants the following:
   a. That all goods and services to be supplied by it under this Contract are fit and sufficient for the purpose intended, and
   b. That all goods and services covered by this Contract will conform to the specifications, drawing samples, symbols or other description specified by the Division, and
   c. That such articles are merchantable, good quality, and free from defects whether patent or latent in material and workmanship, and
   d. That all workmanship, materials, and articles to be provided are of the best grade and quality, and
   e. That it has good and clear title to all articles to be supplied by it and the same are free and clear from all liens, encumbrances and security interest.

Neither the final certificate of payment nor any provision herein, nor partial nor entire use of the articles provided shall constitute an acceptance of work not done in accordance with this agreement or relieve the Contractor liability in respect of any warranties or responsibility for faulty material or workmanship. The Contractor shall remedy any defects in the work and pay any damage to other work resulting therefrom, which shall appear within one year from the date of final acceptance of the work provided hereunder. The Division of Purchases shall give written notice of observed defects with reasonable promptness.

3. **TAXES**: Contractor agrees that, unless otherwise indicated in the order, the prices herein do not include federal, state, or local sales or use tax from which an exemption is available for purposes of this order. Contractor agrees to accept and use tax exemption certificates when supplied by the Division as applicable. In case it shall ever be determined that any tax included in the prices herein was not required to be paid by Contractor, Contractor agrees to notify the Division and to make prompt application for the refund thereof, to take all proper steps to procure the same and when received to pay the same to the Division.

4. **PACKING AND SHIPMENT**: Deliveries shall be made as specified without charge for boxing, carting, or storage, unless otherwise specified. Articles shall be suitably packed to secure lowest

transportation cost and to conform to the requirements of common carriers and any applicable specifications. Order numbers and symbols must be plainly marked on all invoices, packages, bills of lading, and shipping orders. Bill of lading should accompany each invoice. Count or weight shall be final and conclusive on shipments not accompanied by packing lists.

5. DELIVERY: Delivery should be strictly in accordance with delivery schedule. If Contractor's deliveries fail to meet such schedule, the Division, without limiting its other remedies, may direct expedited routing and the difference between the expedited routing and the order routing costs shall be paid by the Contractor. Articles fabricated beyond the Division's releases are at Contractor's risk. Contractor shall not make material commitments or production arrangements in excess of the amount or in advance of the time necessary to meet delivery schedule, and, unless otherwise specified herein, no deliveries shall be made in advance of the Division's delivery schedule. Neither party shall be liable for excess costs of deliveries or defaults due to the causes beyond its control and without its fault or negligence, provided, however, that when the Contractor has reason to believe that the deliveries will not be made as scheduled, written notice setting forth the cause of the anticipated delay will be given immediately to the Division. If the Contractor's delay or default is caused by the delay or default of a subcontractor, such delay or default shall be excusable only if it arose out of causes beyond the control of both Contractor and subcontractor and without fault of negligence or either of them and the articles or services to be furnished were not obtainable from other sources in sufficient time to permit Contractor to meet the required delivery schedule.

6. FORCE MAJEURE: The State may, at its discretion, excuse the performance of an obligation by a party under this Agreement in the event that performance of that obligation by that party is prevented by an act of God, act of war, riot, fire, explosion, flood or other catastrophe, sabotage, severe shortage of fuel, power or raw materials, change in law, court order, national defense requirement, or strike or labor dispute, provided that any such event and the delay caused thereby is beyond the control of, and could not reasonably be avoided by, that party. The State may, at its discretion, extend the time period for performance of the obligation excused under this section by the period of the excused delay together with a reasonable period to reinstate compliance with the terms of this Agreement.

7. INSPECTION: All articles and work will be subject to final inspection and approval after delivery, notwithstanding prior payment, it being expressly agreed that payment will not constitute final acceptance. The Division of Purchases, at its option, may either reject any article or work not in conformity with the requirements and terms of this order, or re-work the same at Contractor's expense. The Division may reject the entire shipment where it consists of a quantity of similar articles and sample inspection discloses that ten (10%) percent of the articles inspected are defective, unless Contractor agrees to reimburse the Division for the cost of a complete inspection of the articles included in such shipment. Rejected material may be returned at Contractor's risk and expense at the full invoice price plus applicable incoming transportation charges, if any. No replacement of defective articles of work shall be made unless specified by the Division.

8. INVOICE: The original and duplicate invoices covering each and every shipment made against this order showing Contract number, Vendor number, and other essential particulars, must be forwarded promptly to the ordering agency concerned by the Vendor to whom the order is issued. Delays in receiving invoice and also errors and omissions on statements will be considered just cause for withholding settlement without losing discount privileges. All accounts are to be carried in the name of the agency or institution receiving the goods, and not in the name of the Division of Purchases.

9. ALTERATIONS: The Division reserves the right to increase or decrease all or any portion of the work and the articles required by the bidding documents or this agreements, or to eliminate all or any portion of such work or articles or to change delivery date hereon without invalidating this Agreement. All such alterations shall be in writing. If any such alterations are made, the contract amount or amounts shall be adjusted accordingly. In no event shall Contractor fail or refuse to continue the performance of the work in providing of articles under this Agreement because of the inability of the parties to agree on an adjustment or adjustments.

10. TERMINATION: The Division may terminate the whole or any part of this Agreement in any one of the following circumstances:
   a. The Contractor fails to make delivery of articles, or to perform services within the time or times specified herein, or
   b. If Contractor fails to deliver specified materials or services, or
   c. If Contractor fails to perform any of the provisions of this Agreement, or
   d. If Contractor so fails to make progress as to endanger the performance of this Agreement in accordance with its terms, or
   e. If Contractor is adjudged bankrupt, or if it makes a general assignment for the benefit of its creditors or if a receiver is appointed on account of its insolvency, or
   f. Whenever for any reason the State shall determine that such termination is in the best interest of the State to do so.

In the event that the Division terminates this Agreement in whole or in part, pursuant to this paragraph with the exception of 8(f), the Division may procure (articles and services similar to those so terminated) upon such terms and in such manner as the Division deems appropriate, and Contractor shall be liable to the Division for any excess cost of such similar articles or services.

11. NON-APPROPRIATION: Notwithstanding any other provision of this Agreement, if the State does not receive sufficient funds to fund this Agreement and other obligations of the State, if funds are de-appropriated, or if the State does not receive legal authority to expend funds from the Maine State Legislature or Maine courts, then the State is not obligated to make payment under this Agreement.

12. COMPLIANCE WITH APPLICABLE LAWS: Contractor agrees that, in the performance hereof, it will comply with applicable laws, including, but not limited to statutes, rules, regulations or orders of the United States Government or of any state or political subdivision(s) thereof, and the same shall be deemed incorporated herein by reference. Awarding agency requirements and regulations pertaining to copyrights and rights in data. Access by the grantee, the subgrantee, the Federal grantor agency, the Comptroller General of the United States, or any of their duly authorized representatives to any books, documents, papers and records of the Contractor which are directly pertinent to that specific contract for the purpose of making audit, examination, excerpts, and transcriptions. Retention of all required records for three years after grantees or subgrantees make final payments and all other pending matters are closed. Compliance with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h), section 508 of the Clean Water Act, (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15). (Contracts, subcontracts, and subgrants of amounts in excess of $100,000). Mandatory standards and policies relating to energy efficiency which are

contained in the state energy conservation plan issued in compliance with Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871).

13. INTERPRETATION: This Agreement shall be governed by the laws of the State of Maine as to interpretation and performance.

14. DISPUTES: The Division will decide any and all questions which may arise as to the quality and acceptability of articles provided and installation of such articles, and as to the manner of performance and rate of progress under this Contract. The Division will decide all questions, which may arise as to the interpretation of the terms of this Agreement and the fulfillment of this Agreement on the part of the Contractor.

15. ASSIGNMENT: None of the sums due or to become due nor any of the work to be performed under this order shall be assigned nor shall Contractor subcontract for completed or substantially completed articles called for by this order without the Division's prior written consent. No subcontract or transfer of agreement shall in any case release the Contractor of its obligations and liabilities under this Agreement.

16. STATE HELD HARMLESS: The Contractor agrees to indemnify, defend, and save harmless the State, its officers, agents, and employees from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, material men, laborers and other persons, firm or corporation furnishing or supplying work, services, articles, or supplies in connection with the performance of this Agreement, and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by the Contractor in the performance of this Agreement.

17. SOLICITATION: The Contractor warrants that it has not employed or written any company or person, other than a bona fide employee working solely for the Contractor to solicit or secure this Agreement, and it has not paid, or agreed to pay any company, or person, other than a bona fide employee working solely for the Contractor any fee, commission, percentage, brokerage fee, gifts, or any other consideration, contingent upon, or resulting from the award for making this Agreement. For breach or violation or this warranty, the Division shall have the absolute right to annul this agreement or, in its discretion, to deduct from the Agreement price or consideration, or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gifts, or contingent fee.

18. WAIVER: The failure of the Division to insist, in any one or more instances, upon the performance of any of the terms, covenants, or conditions of this order or to exercise any right hereunder, shall not be construed as a waiver or relinquishment of the future performance of any such term, covenant, or condition or the future exercise of such right, but the obligation of Contractor with respect to such future performance shall continue in full force and effect.

19. MATERIAL SAFETY: All manufacturers, importers, suppliers, or distributors of hazardous chemicals doing business in this State must provide a copy of the current Material Safety Data Sheet (MSDS) for any hazardous chemical to their direct purchasers of that chemical.

20. COMPETITION: By accepting this Contract, Contractor agrees that no collusion or other restraint of free competitive bidding, either directly or indirectly, has occurred in connection with this award by the Division of Purchases.

21. INTEGRATION: All terms of this Contract are to be interpreted in such a way as to be consistent at all times with this Standard Terms and Conditions document, and this document shall take precedence over any other terms, conditions, or provisions incorporated into the Contract.